

ORDINANCE NO. 2020-02-01

AN ORDINANCE OF THE CITY OF CUMBY, TEXAS ESTABLISHING RULES GOVERNING COLLECTION OF DELINQUENT UTILITY ACCOUNTS AND THE IMPOSITION OF LIENS ON OWNER'S PROPERTY FOR DELINQUENT MUNICIPAL UTILITY ACCOUNTS; PROVIDING A SEVERABILITY CLAUSE, EFFECTIVE DATE, AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the City of Cumby, Texas, desires to establish rules governing collection of delinquent municipal utility accounts through City-authorized collection agencies; and

WHEREAS, the City Council also desires to establish rules governing the imposition of liens on owner's property, pursuant to Chapter 402 of the Texas Local Government Code, for delinquent municipal utility accounts; and

WHEREAS, Chapter 402 of the Texas Local Government Code, a Texas municipality may by ordinance impose a lien for delinquent municipal utility accounts against an owner's property, unless it is a homestead as protected by the Texas Constitution, for delinquent bills for municipal utility service to the property; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CUMBY, TEXAS:

SECTION 1. Collection of unpaid charges by authorized collection agencies.

A. The City may, at its discretion, forward to City-authorized collection agencies, any delinquent municipal utility accounts for collection actions by said collection agencies for the benefit of the City.

B. For each account forwarded to a collection agency under this section, the City shall notify the owner of the delinquent municipal utility account in writing at the last known address of such owner of the City's decision to forward the delinquent account to such collection agency.

C. The method of selecting the collection agencies used for collection under this section shall be at the sole discretion of the City and may be amended or altered as determined by the City.

SECTION 2. Liens for unpaid charges.

A. Pursuant to chapter 402 of the Texas Local Government Code, the City may, at its discretion, impose a lien on each property that is served by the city's water

system to secure the payment of delinquent municipal utility accounts. This lien does not attach to property that is a homestead protected by the state constitution, nor does it secure the payment of any municipal utility bills that were incurred by a tenant of the property prior to the effective date of this ordinance.

B. The Mayor or the Mayor's designee shall perfect the city's lien by recording a notice in the real property records of the county that includes:

- 1) The name of the owner of the property;
- 2) The name of the person who received the service, if different than the owner;
- 3) The legal description of the property;
- 4) The amount owed to the city, including penalty, interest and collection costs; and
- 5) The type of service for which payment is delinquent.

C. The city's lien shall be inferior to a bona fide mortgage lien that is recorded prior to the date the city's lien is recorded in the real property records of the county, but shall be superior to all other liens, including previously recorded judgment liens and all liens recorded after the city's lien.

SECTION 3. Conflicting Ordinances. All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted herein are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern.

SECTION 4. Severability. That if any section, provision, subsection, paragraph, sentence, clause, phrase or word in this ordinance or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such holdings shall not affect the validity of the remaining portions of this ordinance, and the City Council of the City of Cumby, Texas hereby declares it would have enacted such remaining portions, despite such invalidity.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect immediately upon its passage in accordance with the provisions of the Tex. Loc. Gov't. Code.

SECTION 6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 14 day of January, 2020.



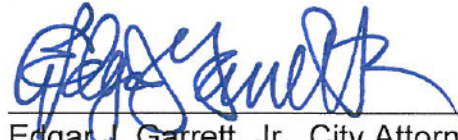
Douglas Simmerman, Mayor

ATTEST:



Codi Reynolds, City Secretary

APPROVED AS TO FORM:



Edgar J. Garrett, Jr., City Attorney

