

ORDINANCE NO 2022-13-O

AN ORDINANCE AMENDING CHAPTERS 13.12 AND 13.18 LINDON CITY CODE, CLARIFYING PROCEDURES FOR TERMINATION OF UTILITY SERVICES FOR NON-PAYMENT OF UTILITY FEES.

WHEREAS, Title 13 of the Lindon City Code the Lindon City Council to set and modify utility rates as needed and to act as the Board of Equalization for utility fee to make adjustments to such fees as equity and fairness may require; and

WHEREAS, Chapters 13.12 and 13.18 of the Lindon City Code designate the City Council as the appellate body for decision on the termination of utility services for non-payment of utility fees, which are set by the City Council, thereby creating a potential conflict in the appellate procedures of the City; and

WHEREAS, the Lindon City Council desires to set forth a procedure to allow residents to seek temporary relief and assistance in paying utility fees if they encounter temporary financial difficulties;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Lindon City, Utah County, State of Utah, as follows:

PART ONE: AMENDMENT OF SECTION 13.12.050 OF THE LINDON CITY CODE.

Section 13.12.050 of the Lindon City Code, is hereby amended as follows:

13.12.050 TERMINATION – NOTICE.

~~According to terms established within the utility agreement,~~ At least ten calendar days prior to a proposed termination of water service for nonpayment of water fees, the city shall give written notice of proposed termination date for nonpayment to the account holder. The ~~notice time~~ ten-day period shall be computed from the date such notice is deposited in the mail or sent electronically. The notice shall be given by either first-class mail, electronically (for those receiving electronic billing statements), or posted on the premises and shall contain a summary of the following information:

1. The date of proposed termination.
2. The amount of the delinquency.
3. A copy description of the ~~account holder's appeal rights~~ the city's policies for temporary relief and deferred payment plans for missed utility payments.

PART TWO: AMENDMENT OF SECTION 13.12.060 OF THE LINDON CITY CODE.

Section 13.12.060 of the Lindon City Code, is hereby amended as follows:

13.12.060 TERMINATION – TEMPORARY RELIEF --APPEAL

1. Temporary Relief. Any person whose water service is to be terminated for nonpayment ~~may appeal to the city council, acting as the board of equalization, by filing a written appeal in the office of the city administrator within ten (10) days of the receipt of the notice of proposed termination. Any appeal shall be solely for the purpose of reviewing the interpretation given the terms of this chapter by the city and not to vary the terms in any way. Such appeal shall be considered by the city council within thirty (30) days of receipt of notice. Upon filing of the appeal, the city shall take no further action with regard to the termination until the city council makes a final decision on the appeal. If the city council affirms the decision of the city, the water may be shut off, shall, upon written request to the city, be granted temporary relief from termination of their water service upon the following conditions:~~
 - a. The request for relief must be made prior to the termination of water services in the form provided by the Lindon City utility clerk;
 - b. Past due balances for water services must be made up within six months of the relief being granted, with one sixth of the original outstanding balance added to each monthly bill for ongoing water services;
 - c. Payments for ongoing water services must be kept current.
 - i. Failure to stay current on payments for ongoing services will result in termination of water services pursuant to 13.12.050.
 - d. A request for relief may only be granted once every six months and may not be granted if any previous deferred payments are outstanding.
2. Appeal. Any person denied temporary relief from termination of their water services as provided in subsection (1) may appeal to the Lindon City Finance Director.
 - a. A written appeal must be submitted to the Finance Director within 5 business days of the denial of temporary relief;
 - b. Excepted as provided in subsection (c), the sole purpose of this appeal shall be to review the application of provision of this Section, but not to vary the terms and conditions established in this Section.
 - c. Under proof of a unique and extraordinary hardship, as determined by the City Finance Director, the grant of an extension for a deferred payment plan may be extended for longer than six months, but not longer than 12 months.
 - i. With the exception of the time for repayment, all other provisions subsection (1) shall apply to relief granted by the Finance Director on an appeal.

PART THREE: AMENDMENT OF SECTION 13.18.220 OF THE LINDON CITY CODE.

Section 13.18.220 of the Lindon City Code, is hereby amended as follows:

13.18.220 WASTING OF WATER, FLOODING, OR USE OF WATER ON UNAUTHORIZED PROPERTY – TERMINATION NOTICE AND APPEAL

1. In the case of violations of provisions of this Chapter regarding the wasting of water, flooding, or the use of pressurized irrigation water on unauthorized property, the ~~City Administrator~~ Public Works Director shall give written notice of the termination for violations of provisions of this Chapter to the user. The notice shall be given by first class mail or delivery to the premises and shall contain a summary of the following information:
 - a. The date of the termination;
 - b. The alleged violation and the date or dates of the alleged violation;
 - c. A description of the account holder's Appeal rights.
2. In the case of violation of provisions of this Chapter regarding the wasting of water, flooding or use of water on unauthorized property, the user must appeal directly to the City Administrator within ~~48 hours~~ five days of the receipt of the notice of termination. The ~~City~~ Administrator may waive termination upon receipt of a signed written Agreement for Compliance from the user. The agreement shall be provided by the City and shall include language to ensure future compliance by the user. If the user's appeal is denied by the Administrator, the Administrator shall issue a written denial along with the reason for the denial to the user within 24 hours of the appeal.
3. If the user fails to appeal to the City Administrator within ~~48 hours~~ five days of receipt of the notice of termination, the user forfeits the right of appeal to the Administrator, is subject to immediate termination of pressurized irrigation water service. ~~and must appeal to the City Council by filing an appeal with the City Administrator as provided in Section 13.18.270.~~
4. If the user has made a timely appeal to the City Administrator ~~or the City Council~~, the user's pressurized water service will not be terminated while the user's appeal is pending under appeals procedures provided in this Chapter.

PART FOUR: AMENDMENT OF SECTION 13.18.260 OF THE LINDON CITY CODE.

Section 13.18.260 of the Lindon City Code, is hereby amended as follows:

13.18.260 TERMINATION FOR NONPAYMENT — NOTICE —

At least ten calendar days prior to a proposed termination for nonpayment of pressurized irrigation water service, the city ~~Treasurer~~ shall give written notice of proposed termination date for nonpayment to the account holder. The ten-day period shall be computed from the date such notice is deposited in the mail or the date of actual delivery, whichever occurs first. The notice shall be given by either first-class mail, electronically

(for those receiving electronic billing statements), or delivery to the premises and shall contain a summary of the following information:

- a. The date of the proposed termination;
- b. The amount of the delinquency;
- c. A ~~copy description~~ of the ~~account holder's appeal rights~~ the city's policies for temporary relief and deferred payment plans for missed utility payments.

PART FIVE: AMENDMENT OF SECTION 13.18.270 OF THE LINDON CITY CODE.

Section 13.18.270 of the Lindon City Code, is hereby amended as follows:

13.18.270 TERMINATION FOR NONPAYMENT ~~— TEMPORARY RELIEF —
APPEAL WASTING OF WATER, FLOODING, OR USE OF WATER ON
UNAUTHORIZED PROPERTY — APPEAL TO CITY COUNCIL.~~

1. ~~Temporary Relief—Termination.~~ Any person whose ~~water, sewer, or~~ pressurized irrigation water service is to be terminated for nonpayment, shall, upon written request to the city, be granted temporary relief from termination of their pressurized irrigation water service upon the following conditions:

- a. The request for relief must be made prior to the termination of pressurized irrigation water services in the form provided by the Lindon City utility clerk;
 - b. Past due balances for pressurized irrigation water services must be made up within six months of the relief being granted, with one sixth of the original outstanding balance added to each monthly bill for ongoing pressurized irrigation water services;
 - c. Payments for ongoing pressurized irrigation water services must be kept current.
 - ii. Failure to stay current on payments for ongoing services will result in termination of water pressurized irrigation services pursuant to Section 13.18.260.
 - d. A request for relief may only be granted once every six months and may not be granted if any previous deferred payments are outstanding.
2. Appeal. Any person denied temporary relief from termination of their pressurized irrigation water services as provided in subsection (1) may appeal to the Lindon City Finance Director.
- a. A written appeal must be submitted to the Finance Director with 5 days of the denial of temporary relief;
 - b. Except as provided in subsection (c), the sole purpose of this appeal shall be to review the application of provision of this Section, but not to vary the terms and conditions established in this Section.

- c. Under proof of a unique and extraordinary hardship, as determined by the City Finance Director, the grant of an extension for a deferred payment plan may be extended for longer than six months, but not longer than 12 months.
 - i. With the exception of the time for repayment, all other provisions subsection (1) shall apply to any relief granted by the Finance Director on an appeal.

~~may appeal to the City Council by filing a written appeal in the office of the City Administrator within ten days of the effective date of the notice of proposed termination. Any person whose pressurized irrigation water service has been terminated due to violations of provisions of this Chapter regarding wasting of water, flooding, or use of pressurized irrigation service on unauthorized property, and whose appeal either has been denied by the City Administrator or who has failed to make a timely appeal to the City Administrator, may appeal to the City Council by filing a written appeal in the office of the City Administrator within ten days of the effective date of the termination, or the date of denial of the appeal by the City administrator, whichever is later. Any appeal shall be solely for the purpose of reviewing the interpretation given the terms of this chapter by the City Administrator and not to vary the terms in any way. Such appeal shall be considered by the City Council within thirty days of receipt of notice.~~

~~The person filing the appeal shall be provided with not less than five calendar days prior notice of the date, time and location of the hearing before the City Council. Notice of the hearing shall be given by first class mail or by delivery to the premises. Upon the filing of the appeal, the City Treasurer in the case of non payment, or the City Administrator in the case of all other violations of this Chapter, shall take no further action with regard to the termination until the City Council makes a final decision on the appeal. If the City Council affirms the decision of the City Administrator regarding the water of water, flooding, or use pressurized irrigation water service on unauthorized property, the pressurized irrigation water service shall remain shut off until the City Council deems that appropriate measures have been taken by the user to insure future compliance with the provisions of this Chapter and all applicable fees have been paid.~~

PART SIX: Severability.


Severability is intended throughout and within the provisions of this ordinance. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

PART SEVEN: Effective Date.

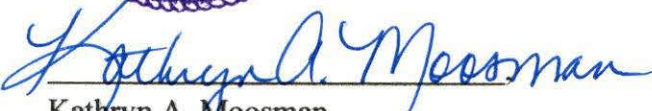
This ordinance shall take effect immediately upon its passage and posting as provided by law.

PASSED AND APPROVED AND MADE EFFECTIVE by the City Council of Lindon
City, Utah, this 19 day of September 2022.





JAKE HOYT
Lindon City Mayor Pro Tem



Kathryn A. Moosman
City Recorder

AFFIDAVIT OF POSTING

STATE OF UTAH }
 } ss.
COUNTY OF UTAH }

I, Kathryn A. Moosman, City Recorder of Lindon City, Utah do hereby certify and declare that I posted the attached ordinance in three public places on the 19th day of September 2022.

The three public places are as follows:

1. Lindon City Police Department
2. Lindon City Community Development Office
3. Lindon City Center

I further certify that the agenda of the meeting of the City Council containing notice of public hearing was published and posted according to law, and that copies of the ordinance so posted were true and correct copies of the original.

Kathryn A. Moosman
Kathryn A. Moosman, City Recorder

The foregoing instrument was acknowledged before me this 20 day of September 2022 by Kathryn A. Moosman.

My Commission expires: January 7, 2025 *Britni Laidler*
Notary Public

Residing at: Utah County



CERTIFICATE OF PASSAGE

STATE OF UTAH }
 }ss.
COUNTY OF UTAH }

I, Kathryn A. Moosman, City Recorder of Lindon City, Utah do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed and adopted by the City Council of Lindon City, Utah on the 19th day of September, 2022 entitled:

AN ORDINANCE OF THE CITY COUNCIL OF LINDON CITY, UTAH AMENDING CHAPTERS 13.12 AND 13.18 OF THE LINDON CITY CODE, CLARIFYING PROCEDURES FOR TERMINATION OF UTILITY SERVICES FOR NON-PAYMENT OF UTILITY FEES AND PROVIDING FOR AN EFFECTIVE DATE.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Lindon City, Utah, this 19th day of September, 2022.


Kathryn A. Moosman, City Recorder

