

ORDINANCE NUMBER 22 - 29

AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AMENDING VARIOUS SECTIONS OF THE VILLAGE OF EAST DUNDEE VILLAGE CODE REGARDING UTILITY BILLING POLICIES AND ACCOUNTS RECEIVABLE AND COLLECTION OF DELINQUENT DEBT POLICIES

WHEREAS, the Village of East Dundee (“Village”) is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Village desires to implement a new utility billing policy and accounts receivable and collection of delinquent debt policy; and

WHEREAS, amendments are necessary to the Village of East Dundee Village Code (“Village Code”) to allow for the implementation of these policies; and

WHEREAS, the President and Board of Trustees of the have determined that granting of said amendments to the Village Code is in the best interest of the Village;

NOW THEREFORE BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:

SECTION 1: Incorporation. That each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

SECTION 2: Village Code Amendments. That the Village Code is hereby amended as follows:

Amendment One:

Section 51.38 of the Village Code, entitled “Billing Provisions,” is hereby amended as follows, with additions underlined and deletions struck through:

- A) It is hereby made the duty of the ~~Clerk~~ Director of Finance or his or her designee to render bills for service and for all rates and charges in connection therewith and to collect all monies due thereon.

- B)
 - 1) The rates or charges for service shall be payable bi-monthly depending upon the classification of service for which bills are rendered.

2) The owner of the premises, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service to such premises and the service furnished to the premises by the village only upon the condition that the owner of the premises, occupant and user of the services are jointly and severally liable therefor to the village.

3) All water bills are due and payable 21 days after being sent out.

~~Every person utilizing the water service of the village shall return to the Director of Finance or his or her designee Clerk the water meter reading card, properly filled out within ten days from the receipt of the card, if required.~~

C) ~~A fee of 10% shall be added to the bill if it remains unpaid for a period of 21 days from the date of the mailing of the bill. A 10% late penalty shall be assessed to the account if payment is not received prior to issuance of the next bill.~~

D) A penalty sum established in the annual fee schedule for any check returned for non-sufficient funds shall be added to any bill to which attempted prior payment was made by the non-sufficient check. If there are two (2) checks returned from the bank within a one-year time period, no further checks shall be accepted from the customer unless the checks are certified, until there is an acceptable payment history for a continuous one-year period.

E) Whenever a bill for water service remains unpaid for three consecutive billing cycles for the bi-monthly service after it has been rendered it shall be deemed and is hereby declared delinquent, as provided by law. The Director of Finance or his or her designee may, in his or her discretion, send the unpaid invoices to a collection agency, proceed with water service termination, file with the county recorder of deeds a statement of lien claim or proceed with any other remedy available to the Village under this Code or state or federal law.

F) Shut-Off for Nonpayment

1) If payment is not received by the due date of the bill, a late penalty fee as set forth in subsection (C) shall be assessed to the account at the time set forth in subsection (C). The customer shall have one more billing cycle to make payment on the past due amount. If the past due amount owed is not paid by the due date on the third billing statement if the rates or charges for service are not paid within 42 days after rendition of the bill for the services, the Clerk, Director of Finance or his or her

designee is hereby authorized to notify, in writing, the owner of the premises, the occupant thereof and the user of the service that the delinquency exists and that service shall be disconnected without further notice. If a payment plan is required and obtained, the late fee shall be waived after successful repayment.

- 2) The Director of Finance or his or her designee shall also cause a shut off notice to be posted on the property.
- 3) Ten (10) days after the shut off notice has been posted, and payment not received, all applicable utility services shall be terminated.
- 4) ~~The notices shall be as follows:~~
 - a) ~~Notice of collection letter~~

~~—Dear Customer,~~

~~Our records show payment on water and/or sewer bill due 21 days ago has not yet been received. You may have overlooked this matter. Unless full payment is received within 14 days, you will receive a post card in the mail requesting payment within 5 days. If your payment is not received within 5 days, your service will be disconnected, no further notice may be made.~~

~~You may request a hearing with the Director of Public Works to dispute this bill within the next 14 days as set forth in § 51.42 of the Village Code of Ordinances.~~

~~—There will be a (fee established in the annual fee schedule) re-connection fee added onto your past due balance that must be paid before service will be restored.~~

~~If our correspondence has crossed in the mail, please disregard this letter.~~

~~—Sincerely,~~

~~—Water and Sewer Department~~

1. ~~In the event that the charge remains unpaid on the fifteenth day after the date of the aforesaid notice, the following notice shall be mailed ordinary to the owner of the premises, occupant and user of the service.~~
2. ~~This notice shall also be thumb tacked or taped to the front door or the rear door of the building or housing unit within a building no later than seven days prior to termination~~

~~b) Notice of termination.~~

~~— You are hereby notified that there has been no response to the notice of delinquency in the payment of the water charges and the 7-day period therein stated has lapsed. You are hereby notified that on (insert date 14 days after service of this notice) the village will physically disconnect the service to which it is connected and will declare the building located at (insert address) as “unfit for human occupancy.”~~

~~— Dated:~~

~~— By: Village of East Dundee~~

~~— Water and Sewer Department~~

- G) Upon the disconnection of any services, a charge should be as provided for in the Village annual fee schedule shall be made for reconnecting the same after settlement of the delinquent account.
- H) Any person wishing to discontinue service shall give notice to the Clerk Director of Finance or his or her designee prior to the expiration of the time for which payment has been made or become due and remaining unpaid; otherwise, he or she shall be liable for the charge for the ensuing billing period.

Amendment Two:

Section 51.39 of the Village Code, entitled “Notice of Delinquency,” is hereby amended as follows, with additions underlined and deletions struck through:

- A) Whenever a bill for water service remains unpaid for three consecutive billing cycles~~42 days~~ for the bi-monthly service after it has been rendered, the Clerk Director of Finance or his or her designee may file with the County Recorder of Deeds, a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill and a notice that the village claims a lien for this amount as well as for all charges subsequent to the period covered by the bill. If the user whose bill is unpaid is not the owner of the premises and the village has notice of this, notice shall be mailed to the owner of the premises if his or her address be known to the Clerk Village, whenever the bill remains unpaid for the three consecutive billing cycles~~period 42 days~~ for a bi-monthly bill after it has been rendered. The failure of the Clerk Director of Finance or his or her designee to record the lien or to mail the notice or the failure of the owner to receive the notice shall not affect the right to foreclose the lien for unpaid bill as mentioned in the foregoing section. The cost of filing the lien shall be paid by the persons responsible for the charges covered by the unpaid bill.
- B) Property subject to a lien for unpaid charges shall be sold for non-payment of the same and the proceeds of the sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. The

foreclosure shall be by bill-in equity in the name of the village. The Village Attorney is hereby authorized and directed to institute the proceedings in the name of the village in any court having jurisdiction over such matters against any property for which the bill has remained unpaid for a time period as specified in the ILCS Chapter 65, Act 5, § 11-139-8.

Amendment Three:

Section 51.42 of the Village Code, entitled "Utility Disconnection," is hereby amended as follows, with additions underlined and deletions struck through:

- A) It is the policy of the Village to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The Village's form for application for utility service and all bills shall contain, in addition to the title, address, ~~room~~ apartment or unit number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:
- 1) That all bills are due and payable on or before the date set forth in ~~the notice of collection letter and~~ the notice of termination provided for by § 51.38; and
 - 2) That any customer disputing the correctness of the bill shall have a right to a hearing at which time the customer may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.
- B) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.
- C) When it becomes necessary for the Village to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge as determined from time to time by the Board of Trustees.

Amendment Four:

Section 53.063 of the Village Code, entitled "Billing Provisions," is hereby amended as follows, with additions underlined and deletions struck through:

- A) *Billing duties.* It is hereby made the duty of the ~~Clerk~~ Director of Finance or his or her designee to render bills for service and for all rates and charges in connection therewith and to collect all monies due thereon.
- B) *Manner of billing.*
- 1) Said rates or charges for service shall be payable bimonthly depending upon the classification of service for which bills are rendered. The owner of the premises, the occupant thereof, and the user of the service shall be jointly and severally liable to pay for the service to such premises, and the service is furnished to the premises by the village only upon the condition that the owner of the premises, occupant, and user of the services are jointly and severally liable therefor to the village.
 - 2) ~~Bills for sewer service shall be sent out by the Clerk on the 30th day of the month succeeding the period for which the service is billed.~~ All sewer bills are due and payable 44 21 days after being sent out.
- C) *Late penalty fee.* ~~A fee of 10% shall be added to said bill if it remains unpaid for a period of 21 days from the date of the mailing of the bill.~~ A 10% late penalty shall be assessed to the account if payment is not received prior to issuance of the next bill.
- D) *Non-sufficient funds fee.* A penalty sum of (established in the annual fee schedule) for any check returned for non-sufficient funds shall be added to any bill to which attempted prior payment was made by such non-sufficient check. If there are two (2) checks returned from the bank within a one-year time period, no further checks shall be accepted from the customer unless the checks are certified, until there is an acceptable payment history for a further one-year period.
- E) Whenever a bill for utility service remains unpaid for three consecutive billing cycles after it has been rendered it shall be deemed and is hereby declared delinquent, as provided by law. The Director of Finance or his or her designee may, in his or her discretion, send the unpaid invoices to a collection agency, proceed with utility service termination, file with the county recorder of deeds a statement of lien claim or proceed with any other remedy available to the Village under this Code or state or federal law.
- F) *Disconnection/termination of service.*
- 1) If the rates or charges for service or industrial cost recovery are not paid for three consecutive billing cycles ~~within 21 days after rendition of the bill for such services,~~ the Utility Clerk the Director of Finance or his or her designee, is hereby authorized to notify in writing the owner of the premises,

the occupancy thereof, and the user of the service, that such delinquency exists and that service shall be disconnected without further notice.

- 2) The Director of Finance or his or her designee shall also cause a disconnection notice to be posted on the property.
- 3) Ten (10) days after the shut off notice has been posted, and payment not received, all applicable utility services shall be terminated.
- 4) Such notices shall be as follows:

~~Our records show payment on water and/or sewer bill due 21 days ago has not yet been received. You may have overlooked this matter. Unless full payment is received within seven days, your service will be disconnected; no further notice may be made.~~

~~There will be a (fee established in the annual fee schedule) re-connection fee added onto your past due balance that must be paid before service will be restored.~~

~~If our correspondence has crossed in the mail, please disregard this letter.~~

~~—Sincerely,~~

~~Water and Sewer Department”~~

- 5) ~~In the event that such charge remains unpaid on the 30th day after posting of the aforesaid notice, the following notice shall be mailed by registered mail, return receipt requested, to the owner of the premises, occupant, and user of the service, and also thumbtacked or taped to the front door or the rear door of the building or housing unit within a building.~~

~~—“NOTICE OF TERMINATION~~

~~You are hereby notified that there has been no response to the Notice of Delinquency in the payment of the wastewater charges, and the 21-day period therein stated has lapsed. You are hereby notified that on (insert date 7 days after service of this notice) the village will physically disconnect the service to which it is connected and will declare the building located at (insert address) as "unfit for human occupancy."~~

~~Dated: _____ Village of East Dundee~~

~~By:~~

~~Water and Sewer Department”~~

- G) *Discontinuing service.* Any person wishing to discontinue service shall give notice to the Utility Clerk Director of Finance or his or her designee prior to the expiration of the time for which payment has been made or become due and remaining unpaid; otherwise, he or she shall be liable for the charge for the ensuing billing period.

Amendment Five:

Section 53.064 of the Village Code, entitled “Lien – Notice of Delinquency,” is hereby amended as follows, with additions underlined and deletions struck through:

- A) *Lien—notice of delinquency.*
- 1) Whenever a bill for sewer service remains unpaid for three consecutive billing cycles~~42 days~~ for the bi-monthly service after it has been rendered, the ~~Utility Clerk~~ Director of Finance or his or her designee may file with the County Recorder of Deeds, a legal statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the village claims a lien for this amount as well as for all charges subsequent to the period covered by the bill.
 - 2) If the user whose bill is unpaid is not the owner of the premises and the village has notice of this, notice shall be mailed to the owner of the premises if his or her address be known to the ~~Utility Clerk~~-Village, whenever such bill remains unpaid for three consecutive billing cycles~~the period of 42 days~~ for a bi-monthly bill after it has been rendered.
 - 3) The failure of the ~~Utility Clerk~~ Director of Finance or his or her designee to record such lien or to mail such notice or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for unpaid bill as mentioned in this section.
- B) *Foreclosure of lien.* Property subject to a lien for unpaid charges shall be sold for non-payment of the same, and the proceeds of the sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be bill-in equity in the name of the village. The Village Attorney is hereby authorized and directed to institute such proceedings in the name of the village in any court having jurisdiction over such matters against any property for which the bill has remained unpaid for a time period as specified in the ILCS Chapter 65, Act 5, §11-139-8.

Amendment Six:

Section 37.01(E)(4) of the Village Code, entitled “Reconnection of Service Fee,” is hereby amended as follows, with additions underlined and deletions struck through:

- (a) Fee to turn on during ~~8:00~~ 7:00 a.m. and ~~5:00~~ 3:00 p.m., Monday through Friday: \$75 plus account settlement and collection costs
- (b) Fee to turn on before ~~8:00~~ 7:00 a.m. or after ~~5:00~~ 3:00 p.m. and on Saturday and Sunday: \$150 plus account settlement and collection costs.

SECTION 3: Continuation. That all provisions of the Village Code not amended herein shall remain in full force and effect.

SECTION 4: Severability. That if any Section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 5: Repeal. That all ordinances, resolutions, motions or parts thereof in conflict with this Ordinance shall be and the same are hereby repealed.

SECTION 6: Effect. That this Ordinance shall be in full force and effect upon its adoption, approval and publication in pamphlet form as provided by law.

ADOPTED this 6th day of June, 2022 pursuant to a roll call vote as follows:

AYES: Mahony, Kunze, Brittin, Saviano and Sauder

NAYES: None

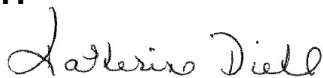
ABSENT: Treiber

APPROVED by me this 6th day of June, 2022.



Jeff Lynam, Village President

ATTEST:



Katherine Diehl, Village Clerk

Published in pamphlet form this 30th day of June, 2022, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on June 30, 2022.