

ORDINANCE NO. 404

AN ORDINANCE OF THE CITY OF BONIFAY, FLORIDA, PROVIDING FOR PROCEDURES TO EFFECT COLLECTION OF PAST-DUE UTILITY PAYMENTS; PROVIDING FOR DUE DATE, DELINQUENCY DATE, DISCONNECTION OF SERVICE, SERVICE FEES, DISCONTINUANCE OF THE ACCOUNT AND ADDITIONAL COLLECTION PROCEDURES; PROHIBITING OBSTRUCTION OF METERS AND PROVIDING FOR ADMINISTRATIVE FEES AND PROCEDURES IN CONNECTION THEREWITH; PROVIDING FOR SEVERABILITY, FOR CODIFICATION, FOR CONFLICTS AND REPEALER, AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bonifay, a Florida municipal corporation, has authority pursuant to Florida Statutes Chapter 166, and Article VIII, Section 2 of the Florida Constitution, to implement regulations for the health, safety, and general welfare of its residents; and

WHEREAS, providing a cost-effective and financially prudent system for the funding of public utilities and the collection of past-due accounts are proper priorities for the City; and the City of Bonifay also seeks to ensure the fiscal stability of the municipal utility system;

WHEREAS, Florida Statutes Section 180.13(2) anticipates and authorizes the adoption of an ordinance is intended to formalize and establish procedures for such collections; and the City has previously enacted its Ordinance Number 235, providing generally for such collections, which Ordinance should be updated in accordance herewith; and

WHEREAS, it is the best interest of the residents of the City and of the users of the City's utility system to have fixed guidelines for the procedures, and with respect to obstruction of City utility meters and installations;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF BONIFAY, FLORIDA, AS FOLLOWS:

SECTION 1. Due date; delinquency date; late fee. The due date for payment of city utility bills shall be 4:00 PM Central Time on the first day of the following calendar month. In the event that the bill remains unpaid past 4:00 PM Central Time as of the 15th day of the following calendar month, the account shall be deemed delinquent, and an additional late fee in the amount of 10% of the amount owed shall also be due and owing and shall be assessed against and payable by each party or all parties obligated to pay the utility account (including, but not limited to, the customer of record with the City). The additional late fee may not be waived by the City Clerk or any other municipal officer, but only by formal action of the City Council of the City of Bonifay. Should either the first or the 15th day of the month fall on a Saturday, Sunday, or legal holiday, the due or delinquency date and time shall be deemed extended to 4:00 PM Central Time on the next succeeding business day.

SECTION 2. Use of City Hall Deposit Box. In addition, in the event that the amount due before either the first day or the 15th day of the month is placed in the City Hall Deposit Box after the close of business and before the opening of business at 8 AM Central Time, such

payment shall be credited as having been made on the prior day before the 4:00 PM close of business, without further penalty.

SECTION 3. Disconnection of service; reconnection. In the event that any bill for utility services (including any late fee) remain unpaid beyond 4:00 PM Central Time on the 24th day of the calendar month after which the bill was rendered, then an additional \$25.00 service fee shall be due and owing and payable (regardless of whether the service is disconnected). The City Clerk shall also arrange for the immediate disconnection and cessation of utility services to the premises. In the event that any service is discontinued because of non-payment of any bill or late fee, then such service shall be reconnected only upon the payment of all outstanding utility bills and late fees, plus the additional service fee stated above in the amount of \$25.00 if reconnection during regular business hours is requested and made; provided, that if reconnection during hours other than regular business hours is requested and made, the service fee shall be increased to \$50.00. City staff shall make its best effort to reconnect service within 24 hours of payment of all outstanding bills, late fees, and service fees.

SECTION 4. Notice of Discontinuation of service. In the event that service is disconnected as provided above, a notice shall be sent by mail to the party responsible for payment of the account indicating that, in the event the account is not paid in full within 30 calendar days from the disconnect date (the 25th of the month), the account will be closed and service discontinued at that address. The City Clerk shall apply any utility deposit to the unpaid account for which it was placed as a deposit, in the event that service is discontinued pursuant to this section.

SECTION 5. Additional collection procedures. In addition, on the recommendation of the City Clerk and in the discretion of the City Council, the City Council may refer the collection of past-due utility service fees, including late fees, either to a Florida-licensed commercial collection agency or credit bureau, or alternatively to the City Attorney for legal action. In the event of any such legal action, if the City prevails, the responsible party or parties (including, but not limited to, the customer or customers of record) shall also be required to pay and reimburse the City for all costs of collection, including all court costs and a reasonable attorney fee to be assessed by the court.

SECTION 6. Obstruction of meter. It is the intention and policy of the City Council and of the City of Bonifay that the obstruction of water meters by vehicles, structures, or any other manner or device interferes with the proper and efficient administration of the City's utility program, including billing. Accordingly, any person that shall intentionally obstruct, limit or prevent access by City personnel to city water meters at any time shall be guilty of a second degree misdemeanor.

In addition, the following shall apply:

a) In addition to the foregoing requirements, the utility customer or customers of record on the City's utility records for billing shall also be personally responsible for keeping all or any barriers from around or over a utility meter which prevent City utility officials from accessing the customer's meter for determining usage or any other purpose. If the meter is obstructed, the City utility official shall record in the City's books that "the meter cannot to read due to obstruction", giving the date and time thereof and affixing the signature of City utility official. The City utility official shall also take a photo of the obstruction as documentation and shall file

same in the City utility records. The City Police shall also be notified and requested to document a report with the Police Department indicating a first time occurrence of the obstruction of the utility meter. The Police Report shall be maintained by the City Police Department to document the obstruction of the utility meter. The City's utility billing office shall be allowed to and shall take the average usage (based on actual readings) for the previous twelve (12) months of water and sewer for the obstructed meter, plus a \$50.00 administrative fee which shall be assessed, the total of which shall be the amount due from the utility customer for the month's service. A letter from the City shall accompany the billing statement requiring the customer (or customers) to remove the obstruction of the utility meter.

b) In the event that access to a water meter remains obstructed or limited for the next succeeding month, so that usage again cannot be immediately determined by City personnel for the next billing cycle on the date scheduled to be read by City Utility Official, the City official shall again record in the City's books that "the meter cannot to read due to obstruction", giving the date and time thereof and affixing the signature of City utility official. The City utility official shall again take a photo of the obstruction as documentation and shall again file same in the City utility records. The City Police shall also again be notified to document a second report with the Police Department indicating a second occurrence of the obstruction of the utility meter. The Police Report shall be maintained for documentation as to the obstruction of utility meter. The Utility Billing Clerk shall take the average usage for the previously documented (based on actual readings) twelve (12) months of water and sewer for the obstructed meter, plus an additional \$250.00 administrative fee, the total of which shall be the amount due from the utility customer for that month's service. Upon the second such offense, the City shall send a certified letter (return receipt requested) indicating the obstruction must be removed by the first day of the next succeeding month. In the event that the obstruction is not removed on or before the first day of the next succeeding month, an additional administrative fee of \$250.00 per day shall be charged to and paid by the customer (or customers) of record, said daily fee to accrue until the obstruction is removed or the meter is removed. Upon removal of the meter obstruction, the utility meter shall then be removed and utility service discontinued. No deposits with the City for such discontinued utility service shall be refunded. All additional fees and all expenses and charges related to such removal shall also be billed in connection with and considered part of the utility service fees for that account.

c) Should any future utility user or customer request utility service at any location within the City where the service has been discontinued under subsection (b) above, a deposit in the amount of double the normal deposit rate shall be required, and a meter connect fee in the amount of double the normal rate shall be required. If any further obstruction occurs at that location within twelve months from the prior occurrence, City utility service shall be permanently discontinued for that customer (or those customers) of record, the meter from that location shall be removed, and the customer (or customers) of record shall not be again provided utility service by the City at any location.

d) All costs of the City to discontinue service and all reasonable attorney fees and litigation expenses related to or arising out of the obstruction of the meter or any violation of this Section shall be charged to the utility customer (or customers) of record on the City's utility records. In particular, should a new utility installation be required in order to bypass a customer's (or customers') obstruction of a utility meter in violation of this ordinance, the customer (or customers) of record for the property on which the obstruction exists shall be liable

for and shall pay all costs related to such installation for all costs associated with the new installation, including all costs of collection (including a reasonable attorney fee and all expenses of litigation).

SECTION 7. Worthless or Other Invalid Checks. In the event that any person shall deliver to the City, as payment for any utility services, any check or draft which is dishonored by the bank or credit union upon which it is drawn based upon insufficient funds, a stop payment order, a closed account, or any other reason, then such person shall be responsible for payment to the City of a \$50.00 returned check fee, in addition to all other sums owed. In addition, if the responsible person shall fail to deliver funds to the City in full payment of such check or draft, plus the returned check fee, within ten (10) calendar days from the date of the original delivery of the check or draft, then the City Clerk is directed to forward the matter for criminal prosecution to the State Attorney for the Fourteenth Judicial Circuit, in addition to any and all other remedies available under this ordinance or under law.

SECTION 8. Codification. It is the intention of the City Council that the provisions of this Ordinance shall become and be made a part of any city Code and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to section, article or such other appropriate word or phrase in order to accomplish such intentions.

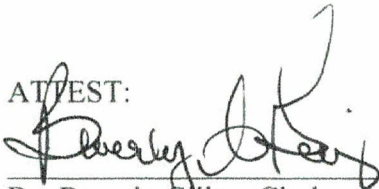
SECTION 9. Repealer and severability. If any section or portion of a section of this ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to impair the validity, force, or effect of any other section or part of this ordinance. All prior ordinances or portions of ordinances in conflict herewith be and the same are hereby repealed, to the extent of any such conflict.

SECTION 10. Effective Date. That this ordinance shall become effective immediately upon its passage and adoption.

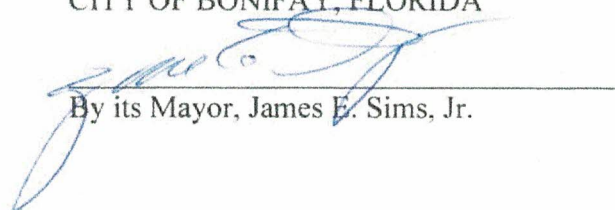
INTRODUCED on first reading in the City Council on September 10, 2018.

ADOPTED AND PASSED AFTER second reading by the City Council on September 24, 2018.

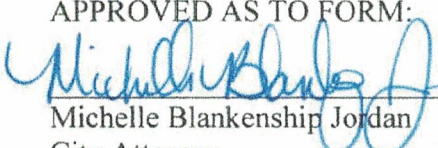
ATTEST:


By: Beverly Gilley, Clerk

CITY OF BONIFAY, FLORIDA


By its Mayor, James E. Sims, Jr.

APPROVED AS TO FORM:


Michelle Blankenship Jordan
City Attorney