

ORDINANCE NO. 2020-32

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING THE CODE OF ORDINANCES BY REPEALING SECTION 46.56 – DEPOSITS REQUIRED AND SECTION 46.57 – REFUND OF DEPOSITS, OF ARTICLE II, RATES AND CHARGES, OF CHAPTER 46, UTILITIES, IN THEIR ENTIRETY; ADOPTING A NEW SECTION 46.56 – UTILITY ACCOUNT DEPOSITS, ESTABLISHING THE TERMS AND CONDITIONS FOR UTILITY ACCOUNT DEPOSITS AND REFUNDS OF UTILITY ACCOUNT DEPOSITS; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

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WHEREAS, it is incumbent upon the City of Tomball, Texas (the “City”) to establish and/or update utility account deposits for water, wastewater, and sanitation;

WHEREAS, the City of Tomball desires to change the deposits required to obtain residential and commercial utility service in an effort to reduce financial losses incurred when customers fail to pay for utility services and to provide for a more uniform system of deposits and returns;

WHEREAS, the City Council of the City of Tomball, Texas, finds that it is in the best interest of the health, safety and welfare of the citizens to change the deposits required to obtain residential and commercial utility service and deposit returns as set forth in this ordinance; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters contained in the preamble to this ordinance are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by repealing Section 46.56 – Deposits Required and Section 46.57 – Refunds, of Article II, Rates and Charges, of Chapter 46, Utilities, as previously adopted on December 19, 1988 by Ordinance No. 1988-12, in their entirety. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 3. The Code of Ordinances of the City of Tomball, Texas, is further amended by adopting a new Section 46.56 – Utility Account Deposits, of Article II, Rates and Charges, of Chapter 46, Utilities, to read as follows:

“Section 46.56. – Utility Account Deposits.

- (a) Security Deposit.
1. *Residential.* A single-family residential unit shall, prior to obtaining water from the city, shall post a security deposit as provided for in the Master Fee Schedule as adopted or amended by the City Council. This security deposit shall be held by the City under the conditions and terms of subsection (b)(1). Residential security deposits may not be reassigned to another account; and in the event of a change of occupant the new occupant shall be required to post a new security deposit.
 2. *Commercial.* A commercial unit shall, prior to obtaining water from the City, post a security deposit as provided for in the Master Fee Schedule as adopted or amended by the City Council. This security deposit shall be held by the City under the conditions and terms of subsection (b)(2). Commercial security deposits may not be reassigned to another account; in the event of a change of occupancy the new occupant shall be required to post a new security deposit.
 3. *Temporary Fire Hydrant Meter.* Prior to obtaining a temporary Fire Hydrant Meter from the City, a security deposit shall be posted as provided for in the Master Fee Schedule as adopted or amended by City Council. This security deposit shall be held by the City under the conditions and terms of subsection (b)(3). Temporary Fire Hydrant Meter security deposits may not be reassigned to another account; and in the event of a change of contractor the new contract shall be required to post a new security deposit.

At any time the City Manager, or authorized representative, reserves the right to review required security deposits and make changes on a case by case basis.

(b) Security Deposit Return.

1. *Residential.* The residential security deposit shall be held by the City for a period of one (1) year. All residential accounts will be evaluated annually and those accounts maintaining an eligible account history with no more than one (1) late penalty assessment, one (1) disconnection for non-payment, and one (1) returned check, will receive a security deposit refund in the form of a credit to their utility account.
 - i. Residential accounts that are closed will receive a security deposit refund in the form of a check, after the final payment has been received and the account closed. If payment is not received within 30 days of the final bill being issued, the security deposit will be applied to the final balance and the remainder refunded.
2. *Commercial.* The commercial security deposit shall be held by the City for a period of five (5) years. All commercial accounts will be evaluated annually and those accounts maintaining an eligible account history with no more than one (1) late penalty assessment, one (1) disconnection for non-payment, and one (1) returned check, will receive a security deposit refunded in the form of a credit to their utility account.
 - i. Commercial accounts that are closed will receive a security deposit refund in the form of a check, after the final payment has been received and the account closed. If payment is not received within 30 days of the final bill being issued, the security deposit will be applied to the final balance and the remainder refunded.
3. *Temporary Fire Hydrant Meters.* The security deposit shall be held by the City for the duration of the account or until the contractor request the account to be closed and a final utility bill issued. Once final payment has been received the security deposit will be refunded in the form of a check. If payment is not received within 30 days of the final bill being issued, the security deposit will be applied to the final balance and the remainder refunded.”

Section 4. Any person who shall intentionally, knowingly, recklessly or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 5. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City's Home Rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 2ND DAY OF NOVEMBER 2020.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>NAY</u>
COUNCILMAN DEGGES	<u>ABSENT</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

SECOND READING:

READ, PASSED, AND ORDAINED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 16TH DAY OF NOVEMBER 2020.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>NAY</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

Gretchen Fagan
GRETCHEN FAGAN, Mayor
City of Tomball

ATTEST:

Tracylynn Garcia (for)
DORIS SPEER, City Secretary
City of Tomball