

ORDINANCE NO. 2015-8

AN ORDINANCE OF THE CITY OF BEASLEY, TEXAS, ESTABLISHING UTILITY LIENS AND PROVIDING PROCEDURES CONCERNING DELINQUENT WATER AND SEWER UTILITY ACCOUNTS; PROVIDING FOR THE IMPOSITION OF A LIEN ON AN OWNER'S PROPERTY, OTHER THAN HOMESTEAD AND RENTAL PROPERTY; PROVIDING FOR AN APPEAL PROCESS; AND PROVIDING FOR AN EFFECTIVE DATE OF JUNE 16, 2015.

WHEREAS, by Ordinance Nos. 9, 23, 141, 2008-9, and 2011-4, the City has adopted charges, regulations and rules regarding City of Beasley water and utility services; and

WHEREAS, the City of Beasley provides water and sewer utility services to properties and has experienced delinquencies in payments of utility accounts by property owners; and

WHEREAS, Texas Local Government Code Section 552.0025 gives a municipality the authority by ordinance to impose a lien on certain owners' property for delinquent bills for utility service to the property; and

WHEREAS, the City Council of the City of Beasley, Texas finds it in the best interest of its citizens to have the ability to impose liens on eligible properties as a means to secure payments of such delinquent utility accounts;

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

Section 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are adopted by the City Council and made a part hereof for all purposes.

Section 2. Utility Liens

(A) Water and Sewer Liens

- (1) As authorized by State law (Local Government Code Chapter 552), there is hereby imposed a lien on each property that is served by the City's water and/or sewer system to secure the payment of delinquent municipal utility services.
- (2) Said lien for delinquent utility bills shall not apply to any category of real property owner specifically exempted from such a lien pursuant to the provisions of State law, including:
 - (a) Homestead protected by the Texas Constitution;

- (b) Property of which service was connected in a tenant's name after notice by the property owner to the municipality that the property is a rental; or
 - (c) Property with delinquent bills incurred by a tenant of the property prior to the effective date of this ordinance.
- (3) The City's lien for delinquent utility bills shall be perfected by filing in the Real Property Records of Fort Bend County, Texas, a notice of lien containing the legal description of the property and the utility's account number for the delinquent charges. Said lien may include penalties, interest and collection costs. The Mayor and City Secretary are hereby authorized and directed to prepare and file such liens on behalf of the City.
 - (4) The City's lien shall be inferior to a bona fide mortgage lien that is recorded prior to the date of the City's lien is recorded in the Real Property Records of Fort Bend County, Texas, but shall be superior to all other liens, including previously recorded judgment liens and any liens recorded after the City's lien.
 - (5) The City shall refuse to connect or reconnect utility services to a property on which there is a City lien for delinquent utility bills.

(B) Notice and Appeal.

- (1) After the filing of a lien pursuant to this Ordinance, the City Secretary shall within thirty (30) days of the filing of the lien give the owner of the property and the account holder notice that such a lien or liens have been filed on that property and inform the owner and account holder of their rights of appeal by mailing notice to the owner at the addresses shown on the utility account and on the Fort Bend County tax roll for said property.
- (2) Within thirty (30) days of the postmark of the notice sent to the property owner or account holder, the property owner or account holder may appeal the decision to impose the lien on that property to the City Council. Further, any person refused utility service by any officer or employee of the City shall have the right of appeal of that decision to the City Council.
- (3) The City Council or its designee shall authorize the release of the lien if the property owner or account holder shows that no bill for the above-mentioned services to the owner's property encumbered by the lien or liens is owing, or if the property owner shows that the encumbered property is and at all times, from the hour of the filing of the lien until the time of the appeal, has been a homestead as defined by the Texas Constitution.
- (4) The City Council may modify or release the lien to reflect the true amount of delinquency in payment for service to the property if the owner or account holder demonstrated that a lesser bill is owing than the lien alleged.

- (5) The person listed on the Fort Bend County tax records as being the owner of any given piece of property shall be presumed to be the owner for purposes of this Section and the address listed for the owner of the Fort Bend County tax records shall be presumed to be the address of the Owner.

(C) Release of Lien.


- (1) Whenever a person or entity pays all principal, interest, and the filing fee of a lien validly filed pursuant to this Section, the Mayor or City Secretary shall execute a release of that lien and surrender it to the paying party.
- (2) The City shall not be responsible for filing the release.

Section 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

Section 4. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

Section 5. This Ordinance shall become effective immediately upon its approval and passage.

APPROVED and PASSED by the City Council of the City of Beasley, Texas, on the 16th day of June, 2015.


Kenneth Reid, Mayor

ATTEST:


G.B. Michulka, City Secretary