

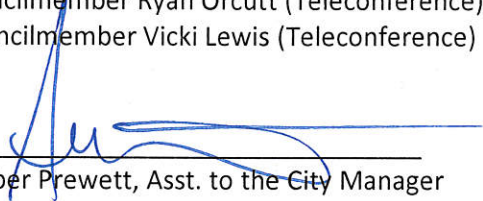


**NOTICE OF SPECIAL MEETING AND AGENDA
OF THE MIAMI CITY COUNCIL
WEDNESDAY, MAY 27, 2020
4:00 PM**

**MIAMI CIVIC CENTER
129 5th Avenue Northwest, Miami, Oklahoma**

Filed in the Office of the City Clerk and displayed in the main lobby of the Miami Civic Center and by posting on www.miamiokla.net starting at 1:45 AM/PM on May 25, 2020, pursuant to 25 O.S. § 311(9) (a) and (b). The meeting may include teleconferencing or videoconferencing with the following members possibly appearing remotely:

- a. Mayor Rudy Schultz (Teleconference)
- b. Councilmember David Davis (Teleconference)
- c. Councilmember Doug Weston (Teleconference)
- d. Councilmember Ryan Orcutt (Teleconference)
- e. Councilmember Vicki Lewis (Teleconference)


Amber Prewett, Asst. to the City Manager

THE COUNCIL MAY DISCUSS, CONSIDER, AND VOTE ON ANY ITEM LISTED IN THIS AGENDA:

- | | |
|---|---------------|
| 1. Call to Order | Mayor Schultz |
| 2. Report From City Manager of all Waivers Pursuant to Ordinance 2020-04 | Dean Kruthof |
| 3. Ordinance 2020-02(d) Creating an Emergency, Temporary, Non-Codified Ordinance; Declaring an Emergency Related to the Threat of COVID-19 to the People of the City of Miami, Oklahoma; Suspending Various Utility Rate Hikes; Authorizing a Temporary Method of Resolution of Outstanding Utility Debt by Temporarily Amending Section 24-33 (Interruption of Service for Failure to Pay and Discontinuance and Final Billing) of Division 1 (Generally) of Article II (Rates and Charges) of Chapter 24 (Utilities); Providing a Termination Date; Providing Severability; Providing for Conflicting Provisions; and Establishing an Emergency | Ben Loring |
| 4. Emergency Clause for Ordinance 2020-02(d) Ordinance 2020-02(d) Creating an Emergency, Temporary, Non-Codified Ordinance; Declaring an Emergency Related to the Threat of COVID-19 to the People of the City of Miami, Oklahoma; Suspending Various Utility Rate Hikes; Authorizing a Temporary Method of Resolution of Outstanding Utility Debt by Temporarily Amending Section 24-33 (Interruption of Service for Failure to Pay and Discontinuance and Final Billing) of Division 1 (Generally) of Article II (Rates and Charges) of Chapter 24 (Utilities); Providing a Termination Date; Providing Severability; Providing for Conflicting Provisions; and Establishing an Emergency | Ben Loring |
| 5. The Meeting Will be Continued From Council Chambers and Reconvened in the Staff Room for Purposes of the Executive Session | Mayor Schultz |
| 6. Executive Session Pursuant to 25 O.S. 307(B)(1) for Purposes of Discussing the Employment, Hiring, Appointment, Promotion, Demotion, Disciplining, or Resignation of any Individual Salaried | |



Public Officer or Employee, to wit: City Manager, Interim City Manager

7. Possible Action on Matters Addressed in Executive Session Agenda Item Number 6 **City Council**

8. Adjournment **City Council**

The Mayor and City Council of the City of Miami are committed to making this meeting accessible to all citizens and if special assistance or accommodations are required, please submit your request to the city manager's office. We also ask that those in attendance turn off or place on silent all cell phones or pagers.

**CITY OF MIAMI
ACTION/DECISION REQUEST**

COUNCIL

MEETING DATE: May 27, 2020

AGENDA TITLE:

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI, OKLAHOMA CREATING AN EMERGENCY, TEMPORARY, NON-CODIFIED ORDINANCE; DECLARING AN EMERGENCY RELATED TO THE THREAT OF COVID-19 TO THE PEOPLE OF THE CITY OF MIAMI, OKLAHOMA; SUSPENDING VARIOUS UTILITY RATE HIKES; AUTHORIZING A TEMPORARY METHOD OF RESOLUTION OF OUTSTANDING UTILITY DEBT BY TEMPORARILY AMENDING SECTION 24-33 (INTERRUPTION OF SERVICE FOR FAILURE TO PAY AND DISCONTINUANCE AND FINAL BILLING) OF DIVISION 1 (GENERALLY) OF ARTICLE II (RATES AND CHARGES) OF CHAPTER 24 (UTILITIES) OF THE CODE OF ORDINANCES; PROVIDING A TERMINATION DATE; PROVIDING SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; AND ESTABLISHING AN EMERGENCY.

BACKGROUND:

Since the start of the COVID-19 emergency in Miami, the Council has allowed tremendous flexibility in allowing customers to work out payment plans on their own terms in order to keep their service on when faced with financial hardships caused by the pandemic. Relatively few customers have taken advantage of those opportunities. The forbearance as set out in the previous amendments to Ord. 2020-02 to not have utilities shut off for nonpayment terminates as of June 3, 2020. In order to give delinquent utility customers one more chance to work with MSUA to enter into a payment plan, Council has requested staff to draft this ordinance to allow such a payment plan on MSUA's terms.

STAFFS RECOMMENDATION:

Approval of Ordinance

PRESENTER(S):

Ben Loring/Heather Bailey

ORDINANCE NO. 2020-02(d)

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI, OKLAHOMA CREATING AN EMERGENCY, TEMPORARY, NON-CODIFIED ORDINANCE; DECLARING AN EMERGENCY RELATED TO THE THREAT OF COVID-19 TO THE PEOPLE OF THE CITY OF MIAMI, OKLAHOMA; SUSPENDING VARIOUS UTILITY RATE HIKES; AUTHORIZING A TEMPORARY METHOD OF RESOLUTION OF OUTSTANDING UTILITY DEBT BY TEMPORARILY AMENDING SECTION 24-33 (INTERRUPTION OF SERVICE FOR FAILURE TO PAY AND DISCONTINUANCE AND FINAL BILLING) OF DIVISION 1 (GENERALLY) OF ARTICLE II (RATES AND CHARGES) OF CHAPTER 24 (UTILITIES) OF THE CODE OF ORDINANCES; PROVIDING A TERMINATION DATE; PROVIDING SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; AND ESTABLISHING AN EMERGENCY.

WHEREAS, Article 2, Section 6, subparagraph 2 of the City Charter provides that the Council may enact municipal legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law; and

WHEREAS, on March 11, 2020 the World Health Organization (WHO) declared the corona virus COVID-19 disease to be a pandemic; and

WHEREAS, on March 13, 2020 the President of the United States declared a National Emergency; due to the COVID-19 Virus pandemic; and

WHEREAS, on March 15, 2020, the Governor of the State of Oklahoma has declared an emergency caused by the impending threat of COVID-19 to the people of this State and the public's peace, health and safety; and

WHEREAS, on March 21, 2020, the City Council first enacted Ordinance No. 2020-02, declared an emergency caused by the impending threat of COVID-19 to the people of this City and the public's peace health and safety; and

WHEREAS, in that original Ordinance and through three separate amendments thereto, the City Council recognized that this pandemic, in addition to the public health and safety issues, also created economic hardships for many individuals and families in the City, many of which still exist; and

WHEREAS, in an effort to minimize those economic hardships, through the three prior amendments hereof, the City Council delayed the implementation of various other previously enacted Ordinances that would have raised utility rates and suspended various late payment penalties and utility shutoffs for non-payment; and

WHEREAS, the City Council allowed most of the provisions of Ordinance 2020-02 to expire as of April 30, 2020, except for those provisions thereof that dealt with the economic impact of the global pandemic and the economic hardships it created for Miami Special Utility Authority customers; and

WHEREAS, in a further effort to minimize those economic hardships, on May 5, 2020, the City Council enacted Ordinance No. 2020-04, which gave the city manager, acting as such and/or as the trust manager for the Miami Special Utility Authority greater flexibility to work with utility customers as to service deposits, late payment penalties, dispatch fees and payment plans; and

WHEREAS, some utility customers have taken advantage of the provisions of Ordinance No. 2020-04, however many who are behind on their utility payments have not; and

WHEREAS, the City Council wants to give those customers another opportunity to try to work with the City and the Miami Special Utility Authority to catch up on their utility debt

with minimum disruption of utility service as this is in the best interests of both the customers and the City and the Miami Special Utility Authority; and

WHEREAS, Oklahoma municipalities have the Constitutional authority to own and operate public utilities pursuant to Oklahoma Constitution Article 10, Section 27, 27A and 27B; and

WHEREAS, Oklahoma municipal utility operations are not regulated by the Oklahoma Corporation Commission pursuant to Oklahoma Constitution Article 9, Section 18; and

WHEREAS, the fixing of rates of municipally owned utilities is a legislative function and in the absence of a clear showing that the rates are unjust, unreasonable, or discriminatory, the courts may not interfere, see *Oklahoma City Hotel & Motor Hotel Association Inc., v. Oklahoma City*, 1974 OK 94, 531 P.2d 316 (Okla. 1974); and

WHEREAS, Article II, Section 6 of the City Charter authorizes the City Council to “raise revenue, make appropriations, regulate salaries and wages, and all other fiscal affairs of the city, subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law”; and

WHEREAS, it is proper for the City to amend those provisions of municipal Ordinance(s) which pertain to efficient billing practices upon the establishment of new or maintenance of existing electrical, sewer, sanitation and water and other municipal services.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI, OKLAHOMA:

Section 1 - - **Amendment**

DECLARATION OF EMERGENCY AND SUSPENSION OF VARIOUS UTILITY CHARGES

The COVID-19 pandemic is a catastrophic health emergency which justifies the following:

1. The utility rate increases set to begin as of April 1, 2020, as set out in Chapter 24, Section 64 (Ordinance 2018-04) are hereby suspended until June 3, 2020, and such Section is amended to reflect same **for the calendar year 2020 only**.
2. Demand changes from winter to summer rates set to begin as of May 1, 2020, as set out in Chapter 24, Section 64, Billing Tables (Ordinance 2018-04) are hereby suspended until June 3, 2020, and such Section is amended to reflect same **for the calendar year 2020 only**.
3. Utility penalties assessed as set out in Chapter 24, Section 32 (Ordinance 1561) as well as all utility shutoffs for nonpayment are hereby suspended until June 3, 2020, and all penalties assessed on utility bills that were due from March 17, 2020, until the enactment of this Ordinance shall be reversed and not charged. Such Section is amended to reflect same **for the calendar year 2020 only**.

Section 2 - **Amendment**

Section 24-33 of the Code of Ordinances is amended to read as follows:

Sec. 24-33. - Interruption of service for failure to pay and discontinuance and final billing.

(a) *Interruption of service for failure to pay.* It shall be the duty of the city manager or designee to cause any utility service furnished to any person to be interrupted, without further notice, if such person shall fail, refuse or neglect to pay on or before ten (10) days following the due date in which such utility service is furnished by the city. During the event of this process the following actions and fees may apply:

- (1) A delinquent call/text notification will be administered the next business day following the corresponding monthly due date and a fee equal to the city's computer system cost will be applied to all applicably tried accounts. The notification call/text will notify the customer of the intended cutoff date unless payment in full is received.
- (2) If a utility service bill is not fully paid on or before the tenth (10th) day following a billing due date, utility service will be interrupted for nonpayment and the utility account charged the dispatch-interrupt fee at the time the account is placed in the queue for utility service interruption.
- (3) If a utility service is interrupted pursuant to this section, the city, or its agents shall not restore the utility service until the full amount of the outstanding utility service bill with penalties provided in this section, and any applicable utility service charges to restore the service is paid.

(b) *Discontinuance and Final Billing.* The city manager or designee shall, in one (1) weeks' time from making the above interruption, discontinue the utility service and compute the amount due the city, with penalties thereon. They shall also credit the account with any monies, credit, or deposit in the hands of the city deposited by any such person as a meter deposit. If, thereafter, any such person shall request the city restore or re-establish utility services, such person shall pay all charges in arrears and pay a new meter deposit as is required by the city prior to dispatching for the connection/restore.

(c) *Interruption of service for failure to pay in the month of June 2020, only.* As an alternative to the payment in full provided for in subsection (a) (3) above, after an interruption of service for failure to pay in the month of June 2020 ONLY, any account holder may have the service restored prior to final billing by entering into a payment plan consistent with the following guidelines:

- (1) This payment plan option shall be available to each account holder based upon their specific billing cycle during the following time frames ONLY:

Cycle 4:	June 9 th - June 17 th , 2020
Cycle 1:	June 16 th - June 24 th , 2020
Cycle 2:	June 23 rd - July 1 st , 2020
Cycle 3:	June 30 th - July 8 th , 2020

- (2) In order to execute a payment plan hereunder and restore service, the account holder shall do the following:
 - i. Execute the payment plan agreement drafted by the Miami Special Utility Authority pursuant to this Ordinance, and
 - ii. Make a payment towards the arrearage which is equal to one month's payment calculated pursuant to this subsection and any applicable dispatch restore fee pursuant to Sec. 24-35 (Account dispatch fees). The next payment (and all subsequent payments) shall be due (which is determined by the account holder's specific billing cycle) and payable as listed on each subsequent billing statement.
 - iii. Any such payment plan agreement entered into under this payment plan option shall supersede and nullify any and all prior payment agreements entered into by any account holder for that account. If an account holder has more than one account in arrears, to which this Ordinance would apply, that account holder must enter into a separate agreement for each account.
- (3) The amount of each monthly payment on the arrearage under this payment plan option shall be in addition to each future month's utility bill thereafter and shall be based on the

total arrearage amount owed, including all unpaid, applicable fees and penalties, pursuant to the following guidelines ONLY:

Range of amount owed	Repayment time frame in months
\$.01 – 299.99	3
\$300 – 499.99	4
\$500 – 799.99	5
\$800 – 999.99	6
\$1,000 – 1,999.99	7
\$2,000 and up	8

If, at any time after entering into such a payment plan as provided herein, any account holder fails to make any full payment as set out in this subsection, including full payment of the then due regular monthly bill, such payment plan shall immediately become null and void at the sole discretion the Miami Special Utility Authority. At that point, the Authority shall have all rights to interrupt service for failure to pay and may commence collection efforts against all account holders in accordance with the Miami Special Utility Authority regular policies and procedures.

- (4) For purposes of calculating the amount due under the provisions of this subsection, the dispatch fee for interruption of service during business hours in the amount of \$55.00, as provided in Section 24-35 (Account dispatch fees) shall be waived, but all other unpaid fees provided for in that Section which are otherwise applicable shall be used in such calculations.

Section 3 - Termination of Ordinance

Unless previously extended by specific action of the City Council, all provisions of this Ordinance shall terminate as of 12:00 a.m. (midnight) on **July 8, 2020**.

Section 4 - Codification

Because this Emergency Ordinance is temporary in nature, it shall not be codified in the Code of Ordinances.

Section 5 - Severability

If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

Section 6 - Conflicting Provisions

If any provision, paragraph, word, section or article of this Ordinance conflicts with the provisions of any other Ordinance, then the provisions of this Ordinance shall be deemed to have superseded all conflicting provisions previously entered into effect.

Section 7 - Declaration of Emergency

For the immediate preservation of the public peace safety, an emergency is hereby declared to exist whereby this Ordinance shall take effect immediately upon its passage. The question of emergency must be ruled upon separately and approved by the affirmative vote of at least $\frac{3}{4}$ of ALL the members of the City Council (4 affirmative votes required). As required by 11 O.S. §14-103, the reason for the emergency measure is in the public economic interest to enact this Ordinance immediately.

PASSED AND APPROVED this **27th day of May**, 2020.

Rudy Schultz, Mayor

ATTEST:

APPROVED:

Melissa Moore, City Clerk

Ben Loring, City Attorney

ORDINANCE NO. 2020-02(d)

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI, OKLAHOMA CREATING AN EMERGENCY, TEMPORARY, NON-CODIFIED ORDINANCE; DECLARING AN EMERGENCY RELATED TO THE THREAT OF COVID-19 TO THE PEOPLE OF THE CITY OF MIAMI, OKLAHOMA; SUSPENDING VARIOUS UTILITY RATE HIKES; AUTHORIZING A TEMPORARY METHOD OF RESOLUTION OF OUTSTANDING UTILITY DEBT BY TEMPORARILY AMENDING SECTION 24-33 (INTERRUPTION OF SERVICE FOR FAILURE TO PAY AND DISCONTINUANCE AND FINAL BILLING) OF DIVISION 1 (GENERALLY) OF ARTICLE II (RATES AND CHARGES) OF CHAPTER 24 (UTILITIES) OF THE CODE OF ORDINANCES; PROVIDING A TERMINATION DATE; PROVIDING SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; AND ESTABLISHING AN EMERGENCY.

WHEREAS, Article 2, Section 6, subparagraph 2 of the City Charter provides that the Council may enact municipal legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law; and

WHEREAS, on March 11, 2020 the World Health Organization (WHO) declared the corona virus COVID-19 disease to be a pandemic; and

WHEREAS, on March 13, 2020 the President of the United States declared a National Emergency; due to the COVID-19 Virus pandemic; and

WHEREAS, on March 15, 2020, the Governor of the State of Oklahoma declared an emergency caused by the impending threat of COVID-19 to the people of this State and the public's peace, health and safety; and

WHEREAS, on March 21, 2020, the City Council first enacted Ordinance No. 2020-02, and declared an emergency caused by the impending threat of COVID-19 to the people of this City and the public's peace health and safety; and

WHEREAS, in that original Ordinance and through three separate amendments thereto, the City Council recognized that this pandemic, in addition to the public health and safety issues, also created economic hardships for many individuals and families in the City, many of which still exist; and

WHEREAS, in an effort to minimize those economic hardships, through the three prior amendments hereof, the City Council delayed the implementation of various previously enacted Ordinances that would have raised utility rates and also suspended various late payment penalties and utility shutoffs for nonpayment; and

WHEREAS, the City Council allowed most of the provisions of Ordinance 2020-02 to expire as of April 30, 2020, except for those provisions thereof that deal with the economic impact of the global pandemic and the economic hardships it created for Miami Special Utility Authority customers; and

WHEREAS, in a further effort to minimize those economic hardships, on May 5, 2020, the City Council enacted Ordinance No. 2020-04, which gave the city manager, acting as such and/or as the trust manager for the Miami Special Utility Authority greater flexibility to work with utility customers as to service deposits, late payment penalties, dispatch fees and payment plans; and

WHEREAS, some utility customers have taken advantage of the provisions of Ordinance No. 2020-04, however many who are behind on their utility payments have not; and

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with minimum disruption of utility service as this is in the best interests of both the customers and the City and the Miami Special Utility Authority; and

WHEREAS, Oklahoma municipalities have the Constitutional authority to own and operate public utilities pursuant to Oklahoma Constitution Article 10, Section 27, 27A and 27B; and

WHEREAS, Oklahoma municipal utility operations are not regulated by the Oklahoma Corporation Commission pursuant to Oklahoma Constitution Article 9, Section 18; and

WHEREAS, the fixing of rates of municipally owned utilities is a legislative function and in the absence of a clear showing that the rates are unjust, unreasonable, or discriminatory, the courts may not interfere, see *Oklahoma City Hotel & Motor Hotel Association Inc., v. Oklahoma City*, 1974 OK 94, 531 P.2d 316 (Okla. 1974); and

WHEREAS, Article II, Section 6 of the City Charter authorizes the City Council to “raise revenue, make appropriations, regulate salaries and wages, and all other fiscal affairs of the city, subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law”; and

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(c) *Interruption of service for failure to pay in the month of June 2020, only.* As an alternative to the payment in full provided for in subsection (a) (3) above, after an interruption of service for failure to pay in the month of June 2020 ONLY, any account holder may have the service restored prior to final billing by entering into a payment plan consistent with the following guidelines:

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 - i. Execute the payment plan agreement drafted by the Miami Special Utility Authority pursuant to this Ordinance, and
 - ii. Make a payment toward the arrearage which is equal to one month's payment calculated pursuant to this subsection and any applicable dispatch restore fee pursuant to Sec. 24-35 (Account dispatch fees). The next payment (and all subsequent payments) shall be due (which is determined by the account holder's specific billing cycle) and payable as listed on each subsequent billing statement.
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If, at any time after entering into such a payment plan as provided herein, any account holder fails to make any full payment as set out in this subsection, including full payment of the then due regular monthly bill, such payment plan shall immediately become null and void at the sole discretion the Miami Special Utility Authority. At that point, the Authority shall have all rights to interrupt service for failure to pay and may commence collection efforts against all account holders in accordance with the Miami Special Utility Authority regular policies and procedures.

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Section 3 - **Termination of Ordinance**

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Section 4 - **Codification**

Because this Emergency Ordinance is temporary in nature, it shall not be codified in the Code of Ordinances.

Section 5 - **Severability**

If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

Section 6 - **Conflicting Provisions**

If any provision, paragraph, word, section or article of this Ordinance conflicts with the provisions of any other Ordinance, then the provisions of this Ordinance shall be deemed to have superseded all conflicting provisions previously entered into effect.

Section 7 - **Declaration of Emergency**

For the immediate preservation of the public peace safety, an emergency is hereby declared to exist whereby this Ordinance shall take effect immediately upon its passage. The question of an emergency must be ruled upon separately and approved by the affirmative vote of at least $\frac{3}{4}$ of ALL the members of the City Council (4 affirmative votes required). As required by 11 O.S. §14-103, the reason for the emergency measure is in the public economic interest to enact this Ordinance immediately.

PASSED AND APPROVED this 27th day of May 2020.

Rudy Schultz, Mayor

ATTEST:

APPROVED:

Melissa Moore, City Clerk

Ben Loring, City Attorney