

ORDINANCE NO. 332

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO HILLS, CALIFORNIA, AMENDING THE CHINO HILLS MUNICIPAL CODE, TITLE 13 (PUBLIC SERVICES), CHAPTER 13.05 (UTILITY BILLING), SECTION 13.05.100 (RETROACTIVE ADJUSTMENTS), TO BRING THE TIME PERIOD FOR RETROACTIVE ADJUSTMENTS INTO CONFORMITY WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 338(A)

WHEREAS, the utility billing rules and regulations were added to the Municipal Code of the City of Chino Hills on November 10, 2009; and

WHEREAS, California Code of Civil Procedure § 338(a) identifies the statute of limitations for any liability created by statute (other than a penalty or forfeiture) as being within three years; and

WHEREAS, the statute of limitations in California Code of Civil Procedure § 338(a) is broader than what is in the City's code. The City of Chino Hills Municipal Code provides a minimal statute of limitations for retroactive adjustments of utility bills whereas the state code provides a lengthened statute of limitations; and

WHEREAS, it is deemed to be in the City's best interest to adjust the time period in the Chino Hills Municipal Code for retroactive adjustments to be in conformity with California Code of Civil Procedure Section 338(a); and

WHEREAS, adoption of this Ordinance is not subject to review under the California Environmental Quality Act ("CEQA") under CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CHINO HILLS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. That Chapter 13.05, Utility Billing, is hereby amended to read as follows:

13.05.100 - Retroactive Adjustments

Retroactive adjustments will be provided to a customer's utility bill when an error in customer billing has occurred. The maximum period for retroactive adjustments is three (3) years before the date that the City is first notified in writing, in the form and manner prescribed by the Director, of the error. Any overpayment or under billing adjustments will be included as a credit or charge on the customer's future utility bill(s), unless other arrangements are requested by the customer and approved by the Director.

SECTION 2. Inconsistencies. Upon the effective date of this Ordinance, the provisions hereof shall supersede any inconsistent or conflicting provisions of the San Bernardino County Code as the same were adopted by reference by City Ordinance Nos. 91-01 and 92-02. Any provision of the Chino Hills Municipal Code (CHMC) or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. Interpretation. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 4. Effect of Repeal. Repeal of any provision of the CHMC does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 5. Effect of Invalidation. If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the CHMC or other City Ordinance by this Ordinance will be rendered void and cause such previous CHMC provision or other City Ordinance to remain in full force and effect for all purposes.

SECTION 6. Preservation. Repeal or amendment of any previous Code Sections does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 7. Severability. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 8. Certification. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Chino Hills's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 9. Effective Date. This Ordinance will take effect on the 30th day following its final passage and adoption.

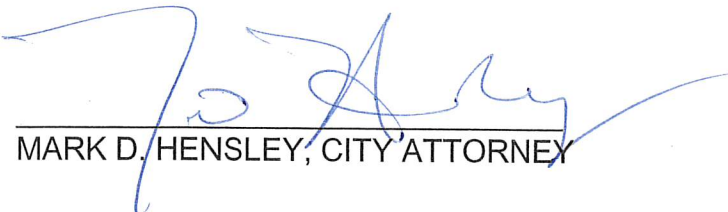
PASSED, APPROVED, AND ADOPTED THIS 13th day of November, 2018.

  
PETER J. ROGERS, MAYOR

ATTEST:

  
CHERYL BALZ, CITY CLERK

APPROVED AS TO FORM:

  
MARK D. HENSLEY, CITY ATTORNEY

STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO ) ss.  
CITY OF CHINO HILLS )

I, CHERYL BALZ, City Clerk of the City of Chino Hills, DO HEREBY CERTIFY that Ordinance No. 332 was duly introduced at a regular meeting held October 23, 2018; and adopted at a regular meeting of the City Council held on the 13th day of November 2018 by the following vote, to wit:


AYES: COUNCIL MEMBERS: ROGERS, MORAN, BENNETT, JOHSZ,  
MARQUEZ

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

  
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CHERYL BALZ, CITY CLERK

I hereby certify that the foregoing is the original of Ordinance No. 332 duly passed and adopted by the Chino Hills City Council at their regular meeting held on November 13, 2018 and that summaries of the Ordinance were published on November 3, 2018 and November 17, 2018 in the Chino Hills Champion newspaper.

  
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CHERYL BALZ, CITY CLERK