

ORDINANCE NO. 1027-2014

AN ORDINANCE AMENDING CHAPTER 13, "UTILITIES", DIVISION 2 "WATER SERVICE POLICY" OF THE RIVER OAKS CODE OF ORDINANCES (2006) AS AMENDED BY REVISING SECTION 13.02.044 "UTILITY CUSTOMERS WHO BECOME DECEASED" SPECIFICALLY IN SECTION 13.02.044 (d) "EXCEPTION" WHEN PERTAINING TO THE 45-DAY TIME LIMIT IN ORDER TO CHANGE THE NAME ON A DECEASED PERSON'S ACCOUNT; AUTHORIZING THE MAYOR OR CITY SECRETARY TO APPROVE EXTENSIONS UP TO 180-DAYS AFTER CONSIDERING CERTAIN FACTORS INCLUDING BUT NOT LIMITED TO PROBATING WILLS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of River Oaks is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, pursuant to the Water Service Policy upon the death of any utility customer, the administrator of the deceased customer's estate or relative of the deceased customer has 45 calendar days from the date of death to change the name on the utility account to the relative or administrator of the estate and pay the required utility deposits; and

WHEREAS, the 45-days in most cases does not allow sufficient time for the decedent's will to be probated or to determine the relative or person authorized to make decisions regarding the estate; and

WHEREAS, the City Council has concluded after due and careful consideration with the adoption of this ordinance to amend the River Oaks Code of Ordinances (2006) by revising Section 13.02.044 (d) "Exception" authorizing the Mayor or City Secretary to extend the 45-day time limit after considering such factors including probating wills and time involved in appointing administrators of an estate and in such cases where that time limit may exceed the 45-days to extend those time limits accordingly up to a maximum of 180-days.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVER OAKS:

SECTION 1.

With the adoption of this ordinance, Chapter 13 "Utilities", Division 2 "Water Service Policy", Section 13.02.044 " Utility Customers who become deceased" of the River Oaks Code of Ordinances (2006) as adopted and as amended that will read now as follows:

"Section 13.02.044 – Utility Persons who become deceased

(a) Upon the death of any utility customer, the administrator of the deceased customer's estate or relative of the deceased customer has 45 calendar days from the date of death to change the name on the utility account to the relative or administrator of the estate and pay the required utility deposits.

(b) If the name is changed within the 45-calendar days, the meter will be read and a final bill for the deceased customer will be generated with any deposits paid by the deceased customer applied to the final bill.

(1) Administrator of the deceased customer's estate or relative must provide the city with the appropriate address for the estate, so that the final utility bill can be mailed to the appropriate address for payment.

(2) Upon the date that the meter is read, the administrator or relative will begin to receive the utility bill in his/her name.

(c) If the name is not changed within 45 calendar days, then the account and corresponding utility service will be disconnected, [and] a final bill generated with any deposits paid by the deceased customer [will be] applied to the final bill. The final bill will be mailed to the last known address.

(d) Exception.

(1) The living spouse of a utility customer who has become deceased is required only to present a certified death certificate of the utility customer who has become deceased in lieu of applying for new water service.

(2) The Mayor or City Secretary may consider such factors including probating wills and time involved in appointing administrators of an estate and in such cases where that time limit would exceed the 45-days to be authorized without council approval to extend those time limits accordingly up to a maximum of 180-days."

SECTION 2.

Cumulative Clause

This Ordinance shall be Cumulative of all provisions of Ordinances and of the River Oaks Code of Ordinance, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances or Code, in which case the conflicting provisions of such Ordinances or Code are hereby repealed.

SECTION 3.

Severability Clause

It is hereby declared to be the intentions of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section..

SECTION 4.

SAVINGS

All rights and remedies of the City of River Oaks are expressly saved as to any and all violations of the provisions of the City of River Oaks Code of Ordinances (2006) or any other ordinances affecting Utility Policy procedures which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 5.

PENALTY

In accordance to Section 1.01.009, "General penalty for violations of code; continuing violations", of the City of River Oaks Code of Ordinances (2006) as adopted and as amended; whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars (\$500.00). Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.

SECTION 6.

PUBLICATION

The City Secretary of the City of River Oaks is hereby directed to publish in the official newspaper the caption, savings clause, penalty clause, publication clause and effective date clause of this ordinance one (1) time after the adoption of this ordinance as authorized by Chapter 5, Section 5.02(c) of the Charter of the City of River Oaks.

SECTION 7.


EFFECTIVE DATE

This Ordinance shall be in full force and effect after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED THIS THE 10th DAY OF JUNE 2014.


Mayor Herman Earwood

ATTEST:



Marvin C. Gregory III
City Secretary