

ORDINANCE NO. 1292-2020

AN ORDINANCE AMENDING ARTICLE 13.02 "UTILITY POLICY", DIVISION 2 "WATER SERVICE POLICY" SPECIFICALLY UNDER SECTION 13.02.032 "DELINQUENT CHARGES" AND SECTION 13.02.033 "PAYMENT ARRANGEMENTS"; REPEALING THE FORMER ORDINANCES IN CONFLICT THEREOF; 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 Section 13.02.032 "Delinquent Charges" of the Water Service Policy as amended the due date changes depending on when the bills are sent out that is frustrating to the customers not having a set date; and

WHEREAS, staff is recommending modifications to Section 13.02.032 "Delinquent Charges" to include set dates for each district for bills to be produced, due dates and the date of delinquency; and

WHEREAS, pursuant to Section 13.02.032 "Delinquent Charges" of the Water Service Policy as amended, currently the due dates are the 15th and 29th of each month or closest business day; and

WHEREAS, with the adoption of this ordinance, Section 13.02.032(a) the billing dates will be the 15th and 30th of the month except for February that will be billed on the last day of the month either on the 28th or in leap year on the 29th of the month and by doing so all the confusion over the provisions for closest business day will be removed; and

WHEREAS, in addition, Section 13.02.032 "Delinquent Charges" shall be further modified in order to eliminate further confusion in that payments are due by the close of business at 5:00 P.M. on the due date and not the following morning at 6:00 A.M. when the office is not open for business; and

WHEREAS, in accordance with Section 13.02.033 "Payment Arrangements" utility customers assume they have 30-days to pay when making payment arrangements, however, there is no such time limit but rather it is stated it is for a limited extension of time only; and

WHEREAS, the payment arrangement needs to be completed before the next billing cycle to avoid customers that are just making payment arrangements in order to move and in so doing leave the city with owing two bills; and

WHEREAS, by establishing a 20-day limit to make payment from the date the bill is due, this will avoid delinquent accounts extending over into the next billing cycle; and

WHEREAS, pursuant to Section 13.02.033 (f) & (g) the city manager is authorized without city council approval to approve payment arrangements in excess of 30-days upon a case-by-case basis and may be granted in length from 0 to 180 days and should include the exception unless otherwise approved by the City Council or during times that

a disaster has been issued giving the city manager authority to act alone during a proclaimed disaster; and

WHEREAS, wherever in both sections subject to revision with the adoption of this ordinance, Section 13.02.032 "Delinquent Charges" and Section 13.02.033 "Payment Arrangements" that references utility payments, those payments are due by 5:00 P.M. on the due date.

WHEREAS, these changes are to assist utility customers to make payments on time and to avoid late fees and disconnection of service;

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 the water utility policy to establish set billing dates every month and revise the payment arrangement policy for a set time frame that will not extend over into the next billing cycle.

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

SECTION 1.

With the adoption of this ordinance, Article 13.02 "Utility Policy", Division 2 "Water Service Policy", Section 13.02.032 "Delinquent Charges" subsections (a), (b), (c) and (d) of the River Oaks Code of Ordinances (2006) as adopted and as amended shall be revised to now read as follows:

"Section 13.02.032 – Delinquent Charges

(a) There are four water districts in the city. The billing dates for each district are as follows:

District	Billing Date	Due Date	Delinquency
1	15th of each month	30th of each month *except February	25 days after the billing date of the month
2	15th of each month	30th of each month *except February	25 days after the billing date of the month
3	30th of each month *except February	15th of each month	25 days after the billing date of the month
4	30th of each month or *except February	15th of each month	25 days after the billing date of the month

** February has 28 days or in leap year there are 29 days, for the month of February the billing date and due date will always be on the last day of February.*

(b) Charges for the city's water and sanitary sewer services furnished become past due fifteen (15) days after the billing date if the city does not receive payment by no later

than 5:00 p.m. on the due date. If the customer fails to pay the bill and has an account balance of \$5.00 or greater, the account shall be assessed a late charge of 10% of the past due amount or \$5.00, whichever is greater. Payments received in the mail drop box at city hall after 5:00 p.m. on the 15th day will be past due. (Payments received in the mail drop box at city hall after 5:00 p.m. on the 15th day will be past due.)

(c) The water utility office, as a courtesy, will send out late notices ("second notice") to each premises in which the account has become past due at the time the account is assessed with the late charge. In addition to describing the late charge, the second notice will advise the customer that if the past due balance is not paid within 10 days (a total of 25 days after the billing date), then such delinquent utility accounts are subject to being scheduled for discontinued service or cut off at 8:00 a.m. the following day after the twenty-fifth (25th) day following the billing date if the city does not receive payment by 5:00 p.m. on the twenty-fifth (25th) day following the billing date. The account holder must contact the utility office in order to make any payments or payment arrangements prior to 5:00 p.m. on the twenty-fifth (25th) day following the billing date. Payments received in Drop Box after 5:00 p.m. on the twenty-fifth (25th) day) subject to disconnection at 8:00 a.m.

(d) If a customer's account is not paid by 5:00 p.m. on the twenty-fifth (25th) day following the billing date and has an account balance of \$20.00 or greater by this date or a written payment agreement with the city manager or designee has not been made on the twenty-fifth (25th) day at 5:00 p.m. following the billing date the customer will automatically be charged a \$25.00 administrative fee and the water service shall be disconnected on the following business day beginning at 8:00 a.m. Payments received in the Drop Box after 5:00 p.m. on the twenty-fifth (25th) day following the billing date and has an account balance of \$20.00 or greater shall be disconnected.

SECTION 2.

With the adoption of this ordinance, Article 13.02 "Utility Policy", Division 2 "Water Service Policy", Section 13.02.033 "Payment Arrangements" of the River Oaks Code of Ordinances (2006) as adopted and as amended shall be revised to now read as follows:

"Section 13.02.033 – Payment Arrangements

(a) In order to avoid utility service disconnection for a delinquent account, the account holder must contact the utility office prior to 5:00 p.m. on the twenty-fifth (25th) day following the billing date and make arrangements to pay the utility charges.

(b) The city maintains a form for such payment arrangements, and any payment arrangement must be documented on that written form, which is located at the city hall. The person whose name is recorded on the utility account must sign the payment arrangement form or other authorized responsible party as the responsible account holder including but not limited to the spouse or other responsible party.

(c) The city manager or designee is responsible for reviewing payment arrangement requests and must approve the payment arrangements before such arrangements are accepted on behalf of the city.

(d) The city reserves the right not to approve any payment arrangement in excess of four times in a calendar year or on any account that has a history of delinquency or if the city official determines that the reason for requesting a payment arrangement is not a legitimate reason for an extension of time.

(e) Payment arrangements with the city are allowed up to 20 days from the twenty-fifth (25th) day following the billing date, and failure to keep any payment arrangement with the city will result in disconnection of utility service without further notification.

(f) The city manager or designee can make payment arrangements exceeding thirty (30) days without city council authorization. Payment arrangements in excess of thirty (30) days are required to be made by written agreement signed by the account holder as the requestor and authorized by the city manager or designee.

(g) Payment arrangements are determined upon a case-by-case basis and may be granted in length from 0 to 180 days unless otherwise approved by the City Council or during times that a disaster has been issued giving the city manager authority to act alone during a proclaimed disaster.

(h) Any appeal of the payment arrangement as determined by the city manager or designee is to be made in writing to the city council. The city council's decision is final.

(i) If a customer's account is not paid by 5:00 p.m. on the twenty-fifth (25th) day following the billing date and has an account balance of \$5.00 or greater by this date or a written payment agreement with the city manager or designee has not been made by 5:00 p.m. on the twenty-fifth (25th) day following the billing date, the customer will automatically be charged a \$25.00 administrative fee and the water service shall be disconnected on the following business day beginning at 8:00 a.m.

(j) The city reserves the right not to make payment arrangements or approve any application for water and/or utility service when it is discovered that the account holder is not the person currently occupying the premises.

SECTION 3.

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 4.

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 5.

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 6.

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 7.

REPEALING CLAUSE

With the adoption of this ordinance, all ordinances or provisions previously adopted that are in conflict hereof, shall be repealed in their entirety. Ordinances numbers 1037-2014 and 1058-2015 are hereby repealed.

SECTION 8.

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 9.

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 22nd DAY OF SEPTEMBER 2020.


Mayor Herman Earwood

ATTEST:


Paula Luck
City Secretary