

ORDINANCE NO. 1295-2020

AN ORDINANCE AMENDING ARTICLE 13.02 "UTILITY POLICY", DIVISION 2 "WATER SERVICE POLICY" SPECIFICALLY UNDER SECTION 13.02.038 "WAIVER OF CHARGES; ADJUSTMENTS TO BILL", OF THE RIVER OAKS CODE OF ORDINANCES BY REVISING SECTION 13.02.38(a) AND INCORPORATING A LEAK ADJUSTMENT POLICY; 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 13.02.038(a) "Responsibility for Leaks" "of the Water Service Policy as amended if the leak is on the customer's side of the meter, it is the customer's responsibility to have it repaired and no adjustment to the bill will be made; and

WHEREAS, the city council finds that there are unique situations in which the customer's leak could qualify for adjustment if it meets certain conditions; 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 (2020) by revising Section 13.02.038(a) "Responsibility for Leaks" by incorporating a Leak Adjustment Policy.

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 13.02.038(a) "Responsibility for Leaks" of the River Oaks Code of Ordinances as adopted and as amended shall be revised to now read as follows:

"Section 13.02.038 – Waiver of Charges; Adjustments to Bill

(a) Responsibility for Leaks. Responsibility for leaks lies with the customer from the meter to the house. If the leak is on the street side of the meter, it will not register on the meter and will not affect the customer's bill. If the leak is on the customer's side of the meter, it is the customer's responsibility to have it repaired and no adjustment to the bill will be made except that a customer may apply for an adjustment of the water bill for an account because of a significant increase in water consumption that can be proven to the City Manager or his or her designee to be the result of a leak past the water meter in the customer's water line serving the service address. *In order to qualify for an adjustment because of leaks, the following conditions otherwise known as the City's Leak Adjustment Policy must be met:*

(1) the customer may apply for a leak adjustment on forms provided by the City of River Oaks Water Department herein attached as "Exhibit A"; and

- (2) the account is a single-family residential account with a separate meter in which the customer has a good payment history at the same service address for at least one-year; and
- (3) the account for the service address must have an increase in consumption; or, usage for the billing period or periods for which the adjustment is sought that exceeds the average of the (12) previous billing periods by 33 percent or more; and
- (4) the adjustment to water charges because of leaks shall be made only once in a 12-month period at the service address and shall not be for more than two consecutive billing periods where a 33-percent or more increase in consumption occurs; and
- (5) the customer presents a receipt showing payment for work repairing leaks by a professional plumber at the service address within 30 days from the time the adjustment is sought; or the customer presents a receipt showing purchase of plumbing supplies and materials that would be necessary for the repair of the leak within 30 days from the time the adjustment is sought and if requested, furnishes proof to the Public Works Director or designee of actual parts and or pipe removed from the system that exhibit damage sufficient to cause a significant water loss; and
- (6) if the account qualifies for an adjustment, then the adjustment will be made for the two (2) highest qualifying billing periods as follows:
- (i) the average consumption for the twelve (12) months prior to the adjustment period shall be calculated and this average rounded to the nearest cubic feet shall be subtracted from the actual consumption for each billing period for which the adjustment is sought; and
- (ii) the result shall be divided by two (2) for and the resulting figure (amount of cubic feet of water) will be reimbursed to their account one half the water loss of the 2 highest bills during the "leak period"; and
- (iii) if the leak occurs in the sewer winter month averaging period (November, December, or January), the consumption for sewer calculations for those months shall be the adjusted amount in (6ii) above rounded to the nearest 100 cubic feet in accordance to the sewer rate chart. There shall be no adjustment for sewer outside of the winter month averaging period."

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 Clause**

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 as adopted and as amended 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 Clause**

In accordance to Section 1.01.009, "General penalty for violations of code; continuing violations", of the City of River Oaks Code of Ordinances 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 Clause**

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.

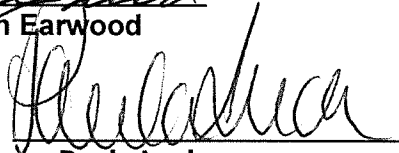
**SECTION 7.
Effective Date**

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 27th DAY OF OCTOBER 2020.


Mayor Herman Earwood

ATTEST:


Paula Luck
City Secretary



City of River Oaks, Texas
Water Department
4900 River Oaks Blvd
River Oaks, Texas 76114

CUSTOMER REQUEST FOR LEAK ADJUSTMENT

(Please read attached policy to determine if you have a qualifying leak)

Customer Name: _____

Service Address: _____

City: _____ State: _____ Zip Code: _____

Account#: _____ Telephone #: _____

Property Owner: (if different from above) _____

Date Leak Discovered: _____ Date Repaired: _____

Describe the location of the leak and the action you took to repair it. Please attach a copy of your receipt for materials and/or repair bill.

I, the undersigned customer, do swear that the above information is true and accurate to the best of my knowledge, and I do hereby request an adjustment to the water bill under the provisions of the City of River Oaks Water Use Adjustment Policy.

Customer Signature: _____ Date: _____

LEAK ADJUSTMENT POLICY OF THE CITY OF RIVER OAKS

Section 13.02.038 – Waiver of Charges; Adjustments to Bill

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- (3) the account for the service address must have an increase in consumption; or, usage for the billing period or periods for which the adjustment is sought that exceeds the average of the (12) previous billing periods by 33 percent or more; and
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If the account qualifies for an adjustment, then the adjustment will be made for the two (2) highest qualifying billing periods as follows:

- the average consumption for the twelve (12) months prior to the adjustment period shall be calculated and this average rounded to the nearest cubic feet shall be subtracted from the actual consumption for each billing period for which the adjustment is sought.
- the result shall be divided by two (2) for and the resulting figure (amount of cubic feet of water) (will be reimbursed to their account one half the water loss of the 2 highest bills during the "leak period"
- if the leak occurs in the sewer winter month averaging period (November, December, or January), the consumption for sewer calculations for those months shall be the adjusted amount above rounded to the nearest 100 cubic feet in accordance to the sewer rate chart. There shall be no adjustment for sewer outside of the winter month averaging period.