

ORDINANCE NO. 1408-2024

AN ORDINANCE AMENDING ARTICLE 13.02 "UTILITY POLICY" DIVISION 2 "WATER SERVICE POLICY" SPECIFICALLY REVISING SECTIONS 13.02.032 "DELINQUENT CHARGES", 13.02.033 "PAYMENT ARRANGEMENTS", 13.02.037 "DISCONNECTION OF UTILITY SERVICE" AND SECTION 13.02.045 "BILL DELAY PROCEDURES" IN SUBSECTION (b) "ELDERLY INDIVIDUAL" OF THE RIVER OAKS CODE OF ORDINANCES (2020) PURSUANT TO TITLE 16, PART 2 "PUBLIC UTILITY COMMISSION OF TEXAS" CHAPTER 24, SUBCHAPTER F RULE 24.165 AND 24.167 OF THE TEXAS ADMINISTRATIVE CODE; 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 24.165 of the Texas Administrative Code, the due date of the bill for utility service may not be less than 16 days after issuance unless the customer is a state agency and if the due date occurs on a weekend or holiday, for payment purposes the due date is the next business day following the due date; and

WHEREAS, pursuant to 24.167 of the Texas Administrative Code, discontinuance of Service requires proper notice to be mailed or hand delivered at least 10-days from the date notice is given that includes the intended date of disconnection; the office hours, telephone number, and address of the utility's local office, the total past due charges and all reconnect fees that will be required to restore water or sewer service if service is disconnected; and

WHEREAS, under the current Water Service Policy, the due date of the bill is 15-days and in order to comply with the Administrative Code, it is necessary that the City amend their existing utility policy to be 16 days from the billing date unless the due date falls on a holiday or weekend, then the due date is extended to the next business date; and

WHEREAS, under the current Water Service Policy, the disconnection date of the bill is 10-days from the date the bill is due, but in order to comply with the Administrative Code, it is necessary that the City amend their existing utility policy to be 26 days instead of 25-days from the billing date and if the disconnection date falls on a holiday or weekend, then the disconnection date is delayed until the next business date; 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 the water utility policy that charges for the city's water and sanitary sewer services furnished to become past due sixteen (16) days after the billing date if the city does not receive payment by the close of business unless it is on a weekend or holiday where the city business office is closed; 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 the water utility policy that if the past due balance is not paid within 10 days from the due date (a total of 26 days after the billing date), then such delinquent utility accounts are subject to being scheduled for discontinued service or cut off at 7:30 A.M. the following business day after the twenty-sixth (26th) day following the billing date if the city

does not receive payment by close of business on the twenty-sixth (26th) day unless it is on a weekend or holiday when the city business office is closed.

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” of the River Oaks Code of Ordinances (2020) 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	Disconnection Date
1	15th of each month	16 days after the billing date of the month**	26 days after the billing date of the month***
2	15th of each month	16 days after the billing date of the month**	26 days after the billing date of the month***
3	30th of each month *except February	16 days after the billing date of the month**	26 days after the billing date of the month***
4	30th of each month or *except February	16 days after the billing date of the month**	26 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.

**For the purpose of this Section, the due date is 16-days from the billing date at 5:30 P.M. unless the due date falls on a holiday or weekend, then the due date for payment purposes is extended to the next business day.

***In this Section, the disconnection date shall be the twenty-sixth (26th) day after the billing date or ten (10) days after the 10-day late notice is sent to the customer, whichever is later. If the disconnection date falls on a holiday or weekend, then the disconnection will be delayed to the next business day at 7:30 A.M.

(b) Charges for the city’s water and sanitary sewer services furnished shall be due on the sixteenth (16th) day after the billing date, unless the due date falls on a holiday or weekend, then the due date for payment purposes is the next business day. The account shall become past due sixteen (16) days after the billing date if the city does not receive payment by no later than 5:30 p.m. on the due date. If the customer fails to pay the bill by the due date 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 5:30 p.m. on the due date will be past due.

(c) The water utility office will send out late notices 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 late notice will advise the customer that if the past due balance is not paid by the disconnection date, then such delinquent utility accounts will be scheduled for disconnection at 7:30 a.m. the following day. If the disconnection date falls on a holiday or weekend, then the disconnection will be delayed until the next business day at 7:30 A.M. The account holder must contact the utility office in order to make any payments or payment arrangements prior to 5:30 p.m. on the disconnection date. Payments received in drop box after 5:30 p.m. on the disconnection date shall be scheduled for disconnection.

(d) If a customer’s account is not paid by 5:30 p.m. on the disconnection date and has an account balance of \$20.00 or greater or a written payment agreement with the city manager or designee has not been made by the 5:30 p.m. on the disconnection 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 7:30 a.m. Payments received in the Drop Box after 5:30 p.m. on the disconnection date for an account with a balance of \$20.00 or greater shall be scheduled for disconnection.

SECTION 2.

With the adoption of this ordinance, Article 13.02 "Utility Policy", Division 2 "Water Service Policy", Section 13.02.033 "Payment Arrangements" revising the River Oaks Code of Ordinances (2020) as adopted and as amended and subsection (i) 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 5:30 p.m. on the disconnection 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 to be extended for payment up to 20 days after the disconnection 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 deferred 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) If a payment arrangement is not paid by 5:30 p.m. on the scheduled date and has an account balance of \$5.00 or greater by this date and payment has not been made by 5:30 p.m. on the scheduled date, the water service shall be disconnected on the following business day beginning at 7:30 a.m. unless the disconnection date falls on a holiday or weekend, then the disconnection will be delayed until the next business day at 7:30 A.M. at the time of disconnection, the customer will automatically be charged a \$25.00 administrative fee and the arrangement will be deemed a failed payment arrangement. After a failed payment arrangement, a second request for a payment arrangement within the same calendar year must be pre-approved by the City Manager and is subject to a 20 percent down payment. Any payment arrangement requests within the same calendar year where there have already been 2 or more failed payment arrangements could be denied for the remainder of the calendar year.

(i) 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.

(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.

With the adoption of this ordinance, Article 13.02 "Utility Policy", Division 2 "Water Service Policy", Section 13.02.037 "Disconnection of Utility Service" revising the River Oaks Code of Ordinances (2020) as adopted and as amended and subsection (i) shall be revised to now read as follows:

"§ 13.02.037 – Disconnection of utility service

(a) All water accounts that are considered delinquent will be disconnected as of 7:30 a.m. on the following business day after the disconnection date unless the disconnection date falls on a holiday or weekend, then the disconnection will be delayed to the next business day at 7:30 A.M.

(1) Delinquent accounts are subject to be finaled 14 days following disconnection of utility service unless all delinquency is paid in full.

(2) Once finaled the delinquent amount owed will be deducted from the account deposit if there is sufficient amount from the deposit to cover the delinquent amount. Remaining overages, if any, from the water deposit after the delinquent amount is satisfied will be mailed to the customer at their last known mailing address. If the amount of the deposit does not cover the delinquency, the account holder will be responsible for the amount due.

(b) When it becomes necessary for the city to discontinue utility service to an account holder for a delinquency in their utility account or for nonpayment of bills, service will be reinstated only after all fees and bills for service then due have been paid and any deposit required has been made. Additional reasons for disconnection of service are:

- (1) Suspicion of leak (meter dial spinning, water running down the street, etc.);
- (2) Returned check not paid within 3 days of notification;
- (3) Customer request in writing;
- (4) Order of the building official due to substandard violations that constitutes a structure being unsafe to occupy;
- (5) Failure to comply with the backflow assembly testing requirements performed by a certified and registered backflow prevention assembly tester in accordance with the TCEQ regulations (Section 3.05.379 "Testing of Assemblies"); or
- (6) Backflow entering or threatening to enter the public water supply from any premises (Section 3.05.397 "Nuisance")

(c) Authorized city personnel are not required to knock on the door of customers for notification of service being discontinued.

(d) No payments may be taken in the field and the city employee will not delay the disconnection or return at a later time to allow the customer to go make payment.

(e) If the meter cannot be locked, the meter reader or authorized city personnel will make a note for office personnel. Follow-up on the account will be done on a daily basis to assure that the meter has not been turned back on until such time that the meter reader or authorized personnel can change out the meter so that it can be locked.

(f) In order to delay disconnection of water service for any reason as provided for in this policy for an extended period up to 48 hours, the account holder must provide a written and signed affidavit from a physician. Extended time limits over 48 hours can only be approved by the or city manager or designee and may require additional written documentation of support from the attending physician in accordance to law in order to be approved. All such extended requests are also subject to ratification by the city council at the next regular council meeting following the date of notice of extension by the account holder."

SECTION 4.

With the adoption of this ordinance, Article 13.02 "Utility Policy", Division 2 "Water Service Policy", Section 13.02.045 "Bill Delay Procedures" revising subsection (b) "Elderly Individual" of the River Oaks Code of Ordinances (2020) as adopted and as amended and subsection (b) shall be revised to now read as follows:

§ 13.02.045 Bill Delay Procedures

“(b) Elderly Individual. Pursuant to the Utilities Code in section 182.002 “delay of bill payment date for elderly individual,” the delay of bill payment date for the elderly individual, upon request by an elderly individual, a utility shall delay without penalty the payment of a utility bill for providing utility service for that elderly individual until the 26th day after the bill is issued as provided:

(1) Late penalty waiver. A customer who is 60 years of age or older may request, in writing, a standing waiver of the late penalty, for utility payments made after their due date. Late payments will still initiate a late notice, and the actual payment history will be recorded. Non-payment of the utility account by the disconnect date on the late notice will result in disconnection. The disconnection fee will not be waived.

(2) Age must be verifiable. Waiver applies only to the account holder; accountholder must occupy the entire residence for which the delay is requested. A utility may require an individual requesting a delay under this subchapter to present reasonable proof that the individual is 60 years of age or older.

(3) Request for delay. An elderly individual may request that the utility implement the delay for the most recent utility bill; or the most recent utility bill and each subsequent utility bill.

(4) Certification of applicant. A signature will be required to certify that customer has met all of the provisions as provided for in this section for the delay of bill payment date for elderly individuals; and met the city requirements and certify that they understand that the request is not transferable to any other person or tenant and if for any reason the status as the occupant ceases then any approval of this application is rescinded in its entirety.”

SECTION 5. 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 6. 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 7. 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 (2020), 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 8.
PENALTY**

In accordance with Section 1.01.009, "General penalty for violations of code; continuing violations", of the City of River Oaks Code of Ordinances (2020) 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 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 9.
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.

**SECTION 10.
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 11.
EFFECTIVE DATE**

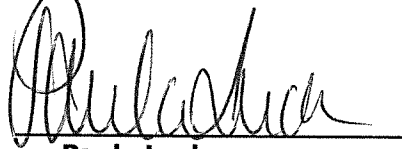
This Ordinance shall be in full force and effect on February 29, 2024 to coincide with the March 2024 Billing Cycle after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED THIS THE 6th DAY OF FEBRUARY 2024.



Mayor Darren Houk

ATTEST:



Paula Luck
City Secretary