

ORDINANCE NO. 2020-03

AN ORDINANCE AMENDING CHAPTER 114 OF THE CODE OF ORDINANCES OF THE CITY OF LEAGUE CITY, TEXAS ENTITLED “UTILITIES” BY AMENDING ARTICLE IV THEREIN ENTITLED “RATES AND CHARGES”; PROVIDING FOR CODIFICATION, PUBLICATION, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEAGUE CITY, TEXAS, as follows:

Section 1. That the Code of Ordinances is hereby amended to AMEND Chapter 114 entitled “*Utilities*” by deleting Article IV entitled “*Rates and Charges*” in its entirety and replacing it with the language found in Exhibit A, which is attached and incorporated herein.

Section 2. Savings. All rights and remedies which have accrued in favor of the City under this Ordinance and amendments thereto shall be and are preserved for the benefit of the City.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Repealer. All other ordinances and parts of ordinances in conflict herewith are hereby repealed but only to the extent of such conflict.

Section 5. Codification. It is the intent of the City Council of the City of League City, Texas, that the provisions of this Ordinance shall be codified in the City's official Code of Ordinances as provided hereinabove.

Section 6. Publication and Effective Date. The City Secretary shall cause this Ordinance, or its caption, to be published in the official newspaper of the City of League City, upon passage of such Ordinance. The Ordinance shall take effective April 1, 2020.

PASSED first reading the ____ day of _____, 2020.

PASSED second reading the ____ day of _____, 2020.

PASSED AND ADOPTED the ____ day of _____, 2020.

PAT HALLISEY
Mayor

ATTEST:

DIANA M. STAPP
City Secretary

APPROVED AS TO FORM:

NGHIEM V. DOAN
City Attorney

Exhibit A

Chapter 114, Article IV

Sec. 114-111. - Application for service.

Application shall be made for water, wastewater, solid waste or any other utility service that may be furnished by the city to the city upon forms furnished therefor. Applicants shall submit application to the city via email, via phone, or in person. Such application shall state the name and address of the applicant, the type of utility service desired, the purposes for which the application is made, and such other information as the city may request.

Sec. 114-112. - Meter required.

Meters shall be required to measure the consumption of each utility service furnished by the city, except wastewater and solid waste service.

Sec. 114-113. - Installation and maintenance of meters.

All meters required by this chapter and used to measure the consumption of utility services furnished by the city shall be installed and maintained by the city. All fees regarding the installation of a meter must be paid before utility service will be furnished.

Sec. 114-114. - Ownership of meters.

All meters used for the measurement of the consumption of any utility service furnished by the city shall be the property of the city. The city will not recognize any non-city owned meter measurement.

Sec. 114-115. – Schedule of fees, charges and deposits.

The City Council shall establish, by resolution, a schedule of fees, charges, and deposits for water and wastewater (and any other City-owned utility service). The schedule shall be on file in the office of the City Secretary.

Sec. 114-116. - Deposit.

(a) Application for service

- (1) Any person, firm or corporation desiring water and/or wastewater service shall complete a customer application and shall fulfill all deposit requirements set forth in this section. Applications will be accepted in person at city hall, by phone, or by email. All

commercial, multi-family residential, and single-family residential accounts, including developers, builders, contractors, and real estate companies, must acquire service in the name of the corporation, company and/or individual who will be responsible for all charges incurred on the account(s), and provide all required information to the city. A list of all authorized representatives eligible to connect/disconnect service must be provided to the utility billing department.

- (2) All information requested must be provided in order to obtain service for the initial deposit amount as stated in this section.

(b) *Residential customers.*

- (1) Deposits shall be required for single-family residential customers to be serviced. Deposits can be made in person at city hall, or by U.S. mail, within four business days of connection date. Should the deposit not be received within that time frame, the deposit will be charged to the customer's account.
- (2) The director of finance, or his/her designee, will have authority to increase a deposit on an existing account, which has maintained poor credit history with the city.
- (3) All residential paid deposits will be applied to the final bill. Refunds of deposits made for utility service shall be made within thirty (30) days of termination of such utility service only after payment of all indebtedness to the city for such utility service. All unpaid balances may be forwarded to a collection agency for pursuit of payment.

(c) *Commercial and multiunit customers.*

- (1) Deposits for commercial industrial and multiple unit users shall be equal to three months' service charge for a like or similar commercial customer. When there is no like or similar commercial customer to use as a basis for determining the commercial deposit, such deposit shall be determined by the director of finance, or his/her designee, based on an estimate of the average expected three-month charge to the applicant.
- (2) Deposits may be made in the form of a surety bond guaranteeing payment by commercial and multiple unit users in lieu of a cash deposit. Such bond must be made by a financial institution or insurance carrier approved by the director of finance and be no less than ten thousand dollars (\$10,000.00). Deposits made by bond shall be made within thirty (30) days after service start-up. If bond has not been furnished to the utility billing department by the end of thirty (30) days, a cash deposit equaling three months, estimated usage will be required to maintain service.
- (3) Temporary service for a major construction job will require a fifteen hundred-dollar (\$1,500.00) deposit for meter and fittings and will require the contractor to report the readings monthly to the utility billing manager. Contractors not submitting readings for a period of three months or longer may be subject to forfeiture of their deposit at the discretion of the utility billing manager.
- (4) The director of finance, or his/her designee, will have authority to charge a deposit on an existing account which has maintained poor credit history with the city in order to protect the city's interests.
- (5) Customers maintaining an active commercial account, who require service at another commercial location may, with a history of timely payments for a minimum of one year at the original account address, obtain the additional service with no deposit required.

- (6) All commercial paid deposits will be applied to the final bill and any excess will be refunded within thirty (30) days of account termination. All unpaid balances may be forwarded to a collection agency for pursuit of payment.

Sec. 114-117. - Water tap charges.

The charges which shall be made by the city for every water tap connection made to the city's water mains shall be as determined by the city council from time to time and included in a resolution on file in the city secretary's office.

Sec. 114-117.1. - New service fee.

A new service fee shall be charged for each new service account requested. The fee may be paid at the time of the request or may be billed to the customer on the initial water bill.

Sec. 114-117.2 – Transfer service fee

A transfer service fee shall be charged for each service being transferred from one property to another within the jurisdiction of the City utility system. The fee may be paid at the time of the request or may be billed to the customer on the initial water bill.

Sec. 114-117.3 – Nonsufficient Funds Fee

- (1) A fee shall be assessed to a customer whose utility bill payment is returned from the financial institution for any reason including, but not limited to, insufficient funds and/or closed account.
- (2) The City may, at the request of the customer, re-run the payment. If the payment is accepted, the fee shall be waived. If the payment is returned again, the City shall require the bill and the fee herein established to be paid by cash, money order, cashier's check, or credit card.
- (3) Assessment of the fee herein shall not deprive the City of any remedy under the law, including prosecution for violation of the Texas Penal Code.
- (4) A customer who claims that his/her payment was returned due to an error of the financial institution may submit documentation of such error to the utility billing manager, who shall be authorized to waive the fee.
- (5) Any customer assessed the fee herein two (2) or more times within a twelve (12) month period may be required to make all payments for the following twelve (12) month period by cash, money order, cashier's check, and/or credit card.

Sec. 114-118. - Monthly wastewater rates and charges.

- (1) All wastewater rates are based upon water meter readings, except in those cases in which a city water meter does not exist.
- (2) Wastewater rates for residential and commercial customers shall be as shown in the City's fee schedule referenced in Sec. 114-115.
- (3) Industrial accounts shall contract with the city for rates varying from the foregoing wastewater rates depending upon the volume and strength of wastewater discharge.
- (4) A flat rate per month shall be charged to residential customers where water usage is not metered.
- (5) Upon the request of the city, a commercial or industrial wastewater user not serviced through a water meter must have a wastewater meter installed for the purpose of billing.

Sec. 114-119. - Monthly water rates.

All water rates for residential and commercial customers shall be as shown in the city's fee schedule referenced in Sec. 114-115.

Sec. 114-119.1. - Services provided by outside entities.

City residents who receive water and wastewater service from an outside entity and whose service is being billed and maintained by the city shall pay the greater of:

- (a) The rates for water and wastewater service as shown in the City's fee schedule referenced in Sec. 114-115; or
- (b) A comparable rate to offset (pass thru) the charge by the outside entity plus five percent (5%).

Sec. 114-119.2. - Additional service charges.

- (a) Once during any twelve (12) month period, a customer shall be entitled to request that a manual re-read and/or field testing of a water meter that is 2-inches or less, at no charge to said customer. A customer must pay a fee for any additional manual re-reads and/or field testing of a water meter that is 2-inches or smaller requested by the customer. Customer-requested manual re-read and/or field testing of meter that is larger than 2-inches shall be performed a city-hired contractor and charged to the customer.
- (b) Where a meter set is requested by a builder, contractor, or individual in a box that has been inspected and approved but later found non-compliant, or the lid has been removed, notification will be made by the utility billing department to raise or lower the box or replace the lid before the meter will be set. If, after a second request from builder or sub-contractor to set the meter, the box is out of compliance, a service charge shall be billed to the account per incident at that location. After corrections are made the meter will be set.

- (c) Where a first time only "meter set" is requested by a builder or developer or a homeowner, the cost of the meter shall be paid at the same time service connection fees are paid, prior to the meter being set.

Sec. 114-119.3. - Temporary service.

- (a) Temporary residential service shall be made available to all residential customers of the city water and wastewater systems. Initial charges for this service may be collected at the time service is requested or may be billed to the customer. The service period will be established at the time of request, not to exceed five business days.
- (b) All rates for temporary service customers shall be as shown in the city's fee schedule referenced in Sec. 114-115.
- (c) Additional consumption registered on the meter at the time of termination of temporary service shall be charged to the customer's active account at the current residential rates and will be due and payable at the time the account billing becomes due.

Sec. 114-120. - Due date for payment of charges.

All water, wastewater, and solid waste charges, as established by this chapter shall be billed on a monthly basis and shall be due within fifteen (15) business days of the billing date. Water, wastewater, and solid waste charges shall appear on one statement or bill, separately itemized, but shall be considered as one billing. Payment for one service shall be credited as a partial payment for all services where other services are received. Any bill not paid in full by the close of business on the due date will have a ten percent (10%) penalty charge added to the bill. This will be the policy unless other arrangements have been made with the utility billing manager.

Sec. 114-120.1. - Bill adjustments.

- (a) Subject to subsection (b), the city shall adjust a customer's account and issue a corrected bill if the city determines that the customer was overbilled or underbilled for utility service because of:
 - (1) a meter's failure to meet the accuracy standards of the American National Standards Institute or the American Water Works Association, as applicable;
 - (2) the application of an incorrect rate to the customer's account;
 - (3) an erroneous meter reading or the reading of a meter other than that through which the customer actually received service; or
 - (4) the failure of the city to include any utility or other service in the customer's account.
- (b) No billing adjustment shall be made, and no back bill or refund shall be issued, with respect to utility service provided:

- (1) more than twelve (12) months before the date the error or inaccuracy is discovered by or reported to the city;
 - (2) in the case of a residential customer, more than six (6) months before the date the error or inaccuracy is discovered by or reported to the city;
 - (3) to any customer other than the customer currently receiving service at the service address for the account to which the adjustment would be made; or
 - (4) under an account that has become inactive and for which a final bill was issued more than ninety (90) days before the error or inaccuracy was discovered by or reported to the city.
- (c) For an adjustment due to an inaccurate meter, the city may estimate the customer's utility consumption using prior consumption history, comparisons to similarly situated customers under similar weather conditions, readings from a replacement meter, or such other methods and information that it reasonably deems appropriate. In the case of the application of an incorrect rate, the city shall base the adjustment on the correct rate.
- (d) In event of an adjustment for water utility service, wastewater charges will be adjusted for the same period, if applicable.
- (e) If a customer is liable for a balance under an inactive account, the city may transfer that balance to any of the customer's active accounts. The time limitations in subsection (b) shall not apply to a transfer made under this subsection.

Sec. 114-120.2 - Adjustment of excess water bill if leaks are repaired.

- (a) A single-family residential customer who receives a water bill showing metered consumption that exceeds the customer's average usage at that service address for up to two (2) consecutive billing periods may apply for a bill adjustment under this section if:
- (1) The volume exceeding the customer's average usage was due to water leaks at the service address that were not caused by the customer;
 - (2) The customer exercised due diligence in repairing all such leaks and submits documentation of said repairs in a form acceptable to the utility billing manager within ninety (90) days of completion of such repairs; and
 - (3) The customer has not received any billing adjustment under this section within the preceding twelve (12) months.
- (b) For the purposes of this section, the utility billing manager will determine a customer's average usage for a given billing period by using one of the following methods:
- (1) Metered usage at the service address for the same month in the previous year;
 - (2) Average metered usage at the service address for the same month over multiple years;
 - (3) Average metered usage at the service address for similar seasonal months in prior years;
 - (4) Metered usage at the service address for subsequent similar months; or

- (5) Average metered usage at the service address for current seasonal months.
- (c) If the utility billing manager determines that the customer qualifies for a bill adjustment pursuant to this section, the utility billing manager will recalculate the bills for up to two (2) consecutive billing periods and charge the customer for the average usage.
- (d) If by using the adjusted total usage for a bill adjustment under this section the customer's corresponding wastewater usage would be lower than the usage originally billed to the customer, the utility billing manager may adjust the corresponding wastewater charges.
- (e) A customer who receives a bill adjustment under this section may not apply for an adjustment under Section 114-120.3 (*Adjustment of High-Volume Water Bill*) for the same billing period.
- (f) A customer seeking a bill adjustment pursuant to this section who fails to meet any filing request, or other requirement outlined in this section waives the customer's right to any further review.
- (g) A customer may appeal all bill adjustment decisions of the utility billing manager to the director of finance. The decision of the director of finance will be final.

Sec. 114-120.3 - Adjustment of high-volume water bill.

- (a) A single-family residential customer whose bill shows consumption at the service address for up to two (2) consecutive billing cycles that is at least three (3) times the average usage, and greater than 20,000 gallons in a monthly billing period, may apply to the utility billing manager for an adjustment to the bill under this section if:
 - (1) the customer files the request for an adjustment no later than ninety (90) days after the customer's bill date; and
 - (2) the customer has not received an adjustment under this section within the preceding thirty-six (36) months. The customer must have at least twelve (12) months of uninterrupted water billing history, in addition to the disputed period, at the service address for which the application is filed.
- (b) For the purposes of this section, the utility billing manager will determine a customer's average usage for a given billing period by using one of the following methods:
 - (1) Metered volume used at the service address in the same month in the previous year;
 - (2) Average metered usage at the service address in similar seasonal months in prior years;
 - (3) Metered usage at the service address for the same month in the prior two (2) years;
or
 - (4) Average usage volume at the service address for current seasonal months.
- (c) To apply for a bill adjustment under this section, the customer must use a form approved by the director of finance that includes a statement that the application is a governmental

- record subject to criminal prosecution for false statements under Chapter 37 of the Texas Penal Code.
- (d) Upon receiving an application, the utility billing manager will investigate the cause for excessive volume of consumption, which investigation may include, but is not limited to:
 - (1) inspection of the customer's water meter for indication of leaks, and accuracy testing;
 - (2) review of the customer's billing record including historical usage of the service address;
 - (3) review of meter readings to determine if any estimated readings affected the customer's bill;
 - (4) audit of the customer's irrigation system settings;
 - (5) review of any new construction conducted at the service address; and
 - (6) inspection of any new water consuming appliances installed in the past twelve (12) months.
 - (e) If the initial investigation reveals a billing or meter error, the utility billing manager shall proceed in accordance with Section 114-120.1 (*Bill Adjustments*).
 - (f) A customer is not eligible for a bill adjustment under this section if the utility billing manager determines that:
 - (1) the cause for any amount of the customer's excess consumption was a visible water leak, dripping faucet, broken sprinkler head, pool filling, pool crack, or malfunctioning pool auto-filler; or
 - (2) voluntary, customer-elected water intensive uses could be a cause for the excess metered consumption.
 - (g) If the utility billing manager determines that the customer qualifies for a bill adjustment under this section, the utility billing manager will recalculate the bills for up to two (2) consecutive billing periods and charge the customer for the expected volume.
 - (h) If by using the adjusted total usage for a bill adjustment under this section the customer's corresponding wastewater volume would be lower than the volume originally billed to the customer, the utility billing manager may adjust the corresponding wastewater charges.
 - (i) A customer who receives a bill adjustment under this section may not apply for an adjustment under Section 114-120.2 (*Adjustment of Excessive Water Bill if Leaks are Repaired*) for the same billing period.
 - (j) A customer seeking a bill adjustment pursuant to this section who fails to meet any filing request, or other requirement outlined in this section, waives the right to any further review.
 - (k) A customer may appeal all bill adjustment decisions of the utility billing manager to the director of finance. The decision of the director of finance is final.

Sec. 114-121. - Disconnection of service for nonpayment.

If any water, wastewater, or solid waste charge is not paid within ten (10) business days after the due date, such service may be discontinued.

Sec. 114-122. - Resumption of service after disconnection for nonpayment.

When any service is processed and/or discontinued for reason of nonpayment of charges, a processing fee shall be paid as well as the past due amount before service can be resumed. A customer, or an eligible representative, must be present at the property when service is resumed. Should the customer tamper with the meter or valves to restore service before charges have been paid, the meter will be removed, and a tamper fee shall be collected before service is resumed.

Sec. 114-123. - Rates and charges of franchised public utilities to be fixed by city council.

The city council shall fix and approve the rates charged by any private public utility company franchised by the city and doing business within the city. It shall be unlawful for any such public utility company or any officer or employee thereof to assess or charge for services rendered any rate other than the rate so fixed or approved.

Sec. 114-124. - Voluntary discontinuance of service.

Any customer wishing to discontinue service shall give notice to the utility billing department; otherwise, the charges for the service as herein established shall continue to apply until such notice is given. If a request for discontinuance of services is made, the customer shall be refunded any deposits less any amount due to the city. Requests for discontinuance of service may be made either by phone, in person, in writing, or by fax, by the customer, spouse, or someone who has documented proof of acting on behalf of the customer due to illness, death, or other justifiable reason. Charges will be prorated for length of service.

Sec. 114-125. - Bankruptcy notice.

The utility billing department shall, upon notice of bankruptcy notice listing the city water department as part of its legal debt, immediately close the existing service account and create a new account, with the active date of the new account being the date of receipt of such notice unless otherwise directed in writing, by the person(s) filing the bankruptcy action. Deposits on record will be applied to the finalized account. A new deposit will apply for the new account. Balances due to closed accounts will remain in terminated account file until such time as balance is paid by debtor through reorganization or the city is notified that amounts will not be paid by debtor, per court order. Those balances will then be written off in the usual manner with approval of the mayor and city council and will be noted as bankruptcy on department record.

Sec. 114-126. - Write-offs.

Terminated accounts with balances over ninety (90) days past due may be submitted to a collection agency for pursuit of payment. Terminated accounts with balances from prior fiscal years may be submitted to the city council for approval to write off. All write-off balances must be paid in full and a higher deposit must be received before utility service may be restarted.

Sec. 114-127. - Transferring service.

Current customers transferring service from one location to another within the city may do so in person, by phone, or by email. If the customer currently has a deposit, that deposit will transfer to the new account.

Sec. 114-128. - After hour and same day service fees.

If city personnel are called out within sixty (60) minutes of the close of utility billing's normal business hours to re-set a water meter or resume water service, an after-hour fee will be charged to the customer's account.

New service requests seeking same day service shall be honored only for requests received prior to 1:00 p.m., Monday through Thursday working days. All same day service customers' requests made after 1:00 p.m. Monday through Thursday working days, and all-day Friday, are subject to an additional fee.

Sec. 114-129. - Tamper fee.

If it is determined that a meter has been tampered with, other than by city personnel, a tamper fee may be charged to the customer's account.

Sec. 114-129.2. - Tampering with or damaging waterworks or wastewater systems; unlawful use of water.

(a) It shall be unlawful for any person to tamper with, connect to, or alter any component of the city waterworks and wastewater system including valves, meters, meter boxes, lids, hydrants, lines, pump stations, ground storage tanks, and elevated storage tanks. This shall include efforts to initiate or restore water service without the approval of the city.

(b) A person commits an offense if, without the written consent of the city manager or designee, the person knowingly causes, suffers or permits the initiation or restoration of water service to premises after city termination of service. For purposes of this section it shall be presumed that the owner, occupant or person in control of the premises caused, suffered, or permitted the unlawful initiation or restoration of service.

(c) It shall be unlawful to cover, conceal, or allow any obstruction that hinders access to any water valve box, service, or meter box.

Sec. 114-130. - Fire hydrant meter rental fees.

A monthly, flat rate rental fee shall be charged to customers utilizing a city-owned, temporary fire hydrant meter for construction. Should the customer utilize the meter for less than thirty (30) days, the fee will not be pro-rated. A deposit must be paid upon start of service. Contractors not submitting meter readings for a period of three (3) months or longer may be subject to forfeiture of their deposit at the discretion of the utility billing manager. Upon return of the meter, any damage or missing parts will be assessed to the account.

Sec. 114-131. - Meter parts charges.

Should a customer, other than a builder or contractor, accidentally damage a water meter and/or the electronics associated with the meter, city personnel will replace and/or repair the meter at no charge after the first occasion a customer has damaged the meter. Any subsequent damage to the meter and/or electronics will incur a fee to the customer for the cost of the parts necessary to repair the meter. The cost of repairs to a meter will be assessed on any occasion in which damage to a meter has been caused by a builder or contractor.

Secs. 114-132—114-140. - Reserved.