

ORDINANCE NO. 2020-23

AN ORDINANCE AMENDING CHAPTER 114 OF THE CODE OF ORDINANCES OF THE CITY OF LEAGUE CITY, TEXAS ENTITLED “UTILITIES” BY ADJUSTING WATER METER AND RELATED FEES BASED ON WHOLESALE PRICES; 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 by deleting Section 114-2 entitled “*Water Wells*” it in its entirety and replacing it with the following:

Sec. 114-2. - Water wells.

- (a) *Permit required; fee; term; renewal.* All new water wells within the city limits shall require a permit approved by the city engineer or his designee. A fee for a city water well permit is required to obtain permit and such permits will expire five years after issuance. Permit renewals shall be obtained from the city water department. A copy of the city water well permit is on file in the city water department offices.
- (b) *Formal application required prior to review of permit request.* No new city water well permit request shall be reviewed by the city until a formal water well permit application has been filed with the city's water department.
- (c) *Approval by Harris-Galveston Subsidence District (H-GSD).* All new water wells must be permitted or registered by the H-GSD and meet all their regulatory criteria. An applicant may file for a new city water well permit only upon presentation of approval from H-GSD.
- (d) *Water tests.* All wells must be tested annually for total coliform bacteria and the results must be reported to the city's water department by January 31 of each year.
- (e) *Cross connections.* All cross connections with water wells and the city's water system are prohibited. The city's water department will perform periodic inspections for cross connections at locations having both city water and a water well. The penalty for violation of this subsection shall be the maximum allowed by law.
- (f) *Water source heat pump systems.* All water wells used for water source heat pump systems must meet the provisions of this section.
- (g) All water wells and related systems must meet all federal, state, county and city regulations regarding their care and operation.

Section 2. That the Code of Ordinances is hereby amended by deleting Section 114-40 entitled “*Fees*” it in its entirety and replacing it with the following:

Sec. 114-40. - Fees.

- (a) Where a building permit is required by the city to erect, construct, enlarge, alter, repair or improve any building or structure which utilizes a private wastewater facility, a fee over and above the required building permit fee shall be charged and collected by the health district.
- (b) There shall be no fee charged for any inspection as may be made under section 114-37(b).
- (c) If, after a final inspection is requested as outlined in section 114-38(a), the wastewater system does not meet all the requirements of this article, a notice in writing of the violations shall be given to the owner of the property or his agent, or to the permit holder or his agent, or to the person doing the work. For each additional inspection, a fee will be charged until the facilities meet all requirements of this article, and each inspection shall be requested as outlined in section 114-38(a).
- (d) All inspection fees and special inspection fees shall be collected on or before the final inspection and credited to the account of the county health district and added to other monthly payments as paid to the health district. Certified checks, cashier's checks, personal checks or money orders shall be sent to the Galveston County Health District, 1207 Oak Street (P.O. Box 939), La Marque, Texas 77568, and shall be made payable to the Galveston County Health District.
- (e) The director of the county health district shall keep a permanent and accurate accounting of all permit fees and other monies collected, the names of all persons upon whose account the fee was paid, the date and the amount therefor.

Section 3. That the Code of Ordinances is hereby amended by deleting Section 114-42 entitled "*Percolation tests*" it in its entirety and replacing it with the following:

Sec. 114-42. - Percolation tests.

- (a) The director of the health district may require, or the property owner may request, a percolation test on any lot or section, or any other previously untested area. The test shall be conducted under the direction of a sanitarian registered by the state or by any registered professional engineer licensed by the state.
- (b) It shall be the responsibility of the contractor or the property owner to prepare all test holes and provide adequate clean water necessary to conduct the percolation test.
- (c) The health district shall be paid a fee to recover the costs of administration and service performed for a percolation test.

Section 4. That the Code of Ordinances is hereby amended by deleting Section 114-116 entitled "*Deposit*" it in its entirety and replacing it with the following:

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 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 \$10,000.00. Deposits made by bond shall be made within 30 days after service start-up. If bond has not been furnished to the utility billing department by the end of 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 deposit, as set forth in the City's fee schedule, 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 30 days of account termination. All unpaid balances may be forwarded to a collection agency for pursuit of payment.

Section 5. That the Code of Ordinances is hereby amended by deleting Section 114-131 entitled “*Meter parts charges*” it in its entirety and replacing it with the following:

Sec. 114-131. - Meter parts charges.

A customer shall be responsible for the all repair costs for a water meter (and/or the electronics associated with the meter) that is damaged by a builder, contractor or customer. City personnel will replace/repair the meter and the repair/replacement costs will be added to the customer’s next bill. A customer must pay the repair costs in order to continue his/her water service.

Section 6. That the Code of Ordinances is hereby amended by deleting Section 114-141 entitled “*Water connections*” it in its entirety and replacing it with the following:

Sec. 114-141. - Water connections.

(a) *Connection standards and connection fee schedules.* The following service connection standards apply for connections to the city's water system. For the purpose of this section, the terms "tap" and "connection" shall be considered to mean the same thing. All fees are located on the City’s fee schedule and must be paid prior to receiving water service.

- (1) *For single-family residential services.* League City's minimum standard meter size and service connection for a single-family residence is $\frac{3}{4}$ inches. The fee is based on service connection size.
- (2) *For multiple unit dwellings services.* This includes, but is not limited to, condominiums, apartments, townhomes, mobile home parks, etc. The fee, which is assessed per connection, shall be based on the meter size, type of dwelling and the maximum number of dwelling units allowed to be served through the respective meter size and type.
- (3) *For commercial/industrial use.* The category applies, but is not limited, to restaurants, carwashes, laundries, schools, churches and other similar institutions. The fees are based on service connection size.
- (4) Single services with more than 220 equivalent units will be calculated case by case.
- (5) In addition to the connection fees required in subsections (a)(2), (a)(3), and (a)(4) of this section, payment is also required for the cost of all meters and fittings.
- (6) It is the responsibility of the customer/builder to provide a meter vault with a top inspected by the water department.

(b) *General requirements.*

- (1) The customer/builder must furnish an approved meter box and cover located in an approved location.
- (2) All meters greater than two inches in size, along with the appropriate vault or box and cover, shall be set by a licensed plumber, at the expense of the customer/builder.
- (3) Where a water service is to be connected to a property having a private water well, physical separation from the well must be verified.
- (4) It is unlawful to allow any other source of water to be interconnected to a city service.

- (5) Connection to the city's water system shall be at the customer's/builder's expense by a contractor approved by the city.
- (6) All connections to the city's water system shall be inspected by the city.
- (7) Customers/builders shall be responsible for any reinspection fee for water taps that fail inspections by the city's staff.
- (8) Failure to inform the city's water utilities department of a tap being made on a city water line prior to the work being performed will constitute a violation punishable by a fine of an amount up to the maximum allowed by law.

Section 7. That the Code of Ordinances is hereby amended by deleting Section 114-142 entitled “*Wastewater connections*” it in its entirety and replacing it with the following:

Sec. 114-142. - Wastewater connections.

- (a) Any structure previously served by a private septic tank disposal system shall have its service line routed in such a manner as to bypass the old system.
- (b) The customer is required to have the wastewater main tapped at his own expense by a contractor approved by the city in an approved manner, with inspection by the city and pay all appropriate connection fees.
- (c) Customers/builders shall be responsible for any reinspection fee for wastewater taps that fail inspections by the city's staff.
- (d) Failure to make the city water utilities department aware of a tap being made prior to work being performed will constitute a violation punishable by a fine of an amount up to the maximum allowed by law.

Section 8. That the Code of Ordinances is hereby amended by deleting Section 114-164 entitled “*Fees*” it in its entirety and replacing it with the following:

Sec. 114-164. – Capital Recovery Fees.

- (a) *Capital Recovery Fees Assessed.*
 - (1) Customers/Builders shall pay the applicable capital recovery fees for residential properties, which are based on size of water meter purchased for the property.
 - (2) *Commercial/industrial/irrigation fees.* Customers/Builders shall pay the applicable capital recovery fees for commercial/industrial/irrigation. Such fees shall be determined by the size and type of water meter purchased for the property. Commingling of irrigation costs is prohibited. Separate meters must be purchased for irrigation uses.
- (b) *Fee unit defined.* For the purpose of this division only, the term "fee unit" shall mean a single unit of service as defined by continuous duty maximum flow rate in gallons per minute for a three-fourths-inch meter using American Water Works Association C700-C703 standards.

- (c) *Taps for fire protection.* No fee shall be assessed for the purchase of taps which shall be utilized to provide only fire protection capacity.

Section 9. That the Code of Ordinances is hereby amended by deleting Section 114-230 entitled “*Enforcement*” it in its entirety and replacing it with the following:

Sec. 114-230. - Enforcement.

- (a) *Generally.* No person shall knowingly or intentionally allow the use of water from the City of League City for residential, commercial, industrial, agricultural, governmental, or any other purposes in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the director, or his/her designee, in accordance with provisions of this plan.
- (b) *Criminal penalties.*
- (1) Any person who violates this plan is guilty of a Class C misdemeanor and, upon conviction, shall be punished by a fine of not less than \$100.00 and not more than \$2,000.00. Each day that one or more of the provisions in this plan is violated shall constitute a separate offense. Service may be discontinued upon issuance of a citation for the second violation. Service discontinued under such circumstances shall be restored only upon payment of a re-connection charge, and any other costs incurred by the City of League City in discontinuing service. Repeat offenses shall be subject to reconnect fees of twice the amount stated above. Severity considered warnings may be given at any time for informational purposes. Warnings are an attempt to inform the violator and do not count as a citable offense. In addition, suitable assurance by the violator must be given to the director that the same action will not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.
- (2) Any person, including a person classified as a water customer of the City of League City, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this plan and that the parent could not have reasonably known of the violation.
- (3) Any employee of the City of League City, police officer, or other employee designated by the city manager or his designee, may issue a citation to a person he/she reasonably believes to be in violation of this ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than five days nor more than 15 days from the date the citation was issued. The alleged violator shall be served a copy of the citation, which the city may deliver by certified mail to the address, if known, of the alleged violator. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this plan. If the alleged violator fails to appear in municipal

court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

(c) *Administrative remedies.*

- (1) The city may elect to exercise the following administrative remedies for violations of the city plan in lieu of pursuing criminal penalties against non-single family water account holders, such as business and professional parks, homeowners' associations, apartments, home builders, land developers, and entities other than customers residing at single family homes.
- (2) *Administrative fees.* The following administrative fees that will be added to the customer's regular monthly city utility bill shall apply:
 - a. First offense\$200.00
 - b. Second offense\$400.00
 - c. Third offense\$600.00
 - d. Fourth and subsequent offenses\$2,000.00
- (3) *Contesting violations.* A non-single family water customer as defined above may request a hearing before a hearing officer(s) appointed by the city manager within 15 business days after the date on the notice. The hearing officer(s) shall evaluate all information offered by the petitioner at the hearing. The customer shall bear the burden of proof to show why, by preponderance of the evidence, the administrative fee should not be assessed. The hearing officer(s) will render a decision in writing within three business days of the conclusion of the hearing. A customer may appeal the decision from the hearing officer(s) in writing to the city manager within three business days of the conclusion of the hearing. The decision by the city manager is final and binding.
- (4) *Paying assessed fees.* If, after the expiration of the 15 business days from the date on the notice, the customer has not requested an administrative hearing to contest the assessment of an administrative fee or paid the administrative fee, the city shall apply and charge the assessed administrative fee to the customer's next city utility bill. Unpaid assessed administrative fees related to violations of water use restrictions under the city plan shall incur late payment penalties and may result in termination of water service.

Section 10. 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 11. 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 12. Repealer. All other ordinances and parts of ordinances in conflict herewith are hereby repealed but only to the extent of such conflict.

Section 13. 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 13. 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 effect immediately upon passage.

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