

ORDINANCE

AN ORDINANCE AMENDING SECTION 82-11 “RESPONSIBILITY OF CONSUMER FOR LOSS; AVERAGING OF CHARGES” OF DIVISION 1 “UTILITY CHARGES AND FEES” OF ARTICLE 1 “IN GENERAL” OF CHAPTER 82 “UTILITIES” OF THE CITY OF BURLESON CODE OF ORDINANCES TO UPDATE THE UTILITY CUSTOMER SERVICE LEAK ADJUSTMENT POLICY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCORPORATION OF THE RECITALS, DETERMINING THAT THE MEETINGS AT WHICH THIS ORDINANCE WAS PASSED WAS NOTICED AND OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson (“City”) 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 Texas Local Government Code; and

WHEREAS, the Burleson City Council employs its utility customer service leak adjustment policy to define eligibility criteria and procedures for Burleson's residents and businesses; and

WHEREAS, the Burleson City Council intends for the utility customer service leak adjustment policy to establish equitable and accountable procedures for managing scenarios where a business or property owner experiences abnormally high water bills due to undetected water leaks on their property; and

WHEREAS, the Burleson City Council desires to amend Chapter 82, "Utilities" Article 1, “In General” Division 1, “Utility Rates Charges and Fees” Section 82-11, “Responsibility of consumer for loss; averaging of charges” of the Code of Ordinances to update the utility customer service leak adjustment policy; and

WHEREAS, the City Council of the City of Burleson has determined that it is in the best interest of the citizens of the City of Burleson to amend Chapter 82 “Utilities” as provided herein, and has further determined that this ordinance will promote the health, safety and general welfare of the citizens of the City of Burleson and the general public;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, THAT:

SECTION 1.

Chapter 82, "Utilities" Article 1, “In General” Division 1, “Utility Rates Charges and Fees” of the Code of Ordinances, City of Burleson, Texas is hereby amended by repealing and replacing Section 82-11, “Responsibility of consumer for loss; averaging of charges.” to read as follows:

“§ 82-11. Responsibility of consumer for loss; averaging of charges.

- (a) A consumer shall be held responsible for loss of water including breakage in pipe or plumbing on the discharge side of the meter, and if this water is not paid for according to the established rates when it becomes due, the service shall be discontinued until all charges are paid.
- (b) All customers may request a “one-time every twenty-four (24) months” leak adjustment credit to their water utility account with the City of Burleson. Any request for adjustment must be initiated by submitting an acceptable form of documentation within ninety (90) days of the water loss incident. Acceptable forms of documentation are intended to provide proof of leak with adequate and responsible repairs and may include but are not limited to:
 - 1. A receipt for repairs accomplished by a licensed plumber
 - 2. Proof of leak and receipt showing parts purchased by homeowner
 - 3. Proof of leak and documentation by city records which reflect date and time called in for shutoff of water meter for repairs

All dates on documentation or city work orders must coincide with dates of high water usage. Failure to submit an acceptable form of documentation may result in denial of the “one-time every twenty-four (24) months” credit, but can be appealed to the city manager or his/her designee. The “one-time every twenty-four (24) months” credit will be applied to any water consumption surpassing the customer's average from the previous twelve (12) months. Any usage beyond this twelve-month average will be credited to the customer at a rate of fifty percent (50%), up to a total of five hundred dollars (\$500). Months in which a leak occurred will not factor into the calculation of this twelve-month average. In cases where a customer has not yet established a twelve-month average water consumption history, the city may consider any available historical data or utilize the citywide average. A credit may be applied for two months of usage if there is documentation or evidence indicating that a leak persisted throughout two consecutive billing periods. However, no credit for sewer charges will be extended to residential accounts, as the city employs "winter quarter averaging." Sewer credits may be considered for commercial accounts, provided the documentation demonstrates that the leak originated outside of the building and did not impact the sanitary sewer system.

- (c) Should any meter fail to register correctly the amount of water used by a consumer since the previous reading, the right shall exist on the part of the city water and sewer department to average the month and charge for water on the basis of same basis of the prior three months' average, twelve (12) months' average, or same month in previous year (whichever one of the three options appears to be the most accurate and fair for the customer).”

**SECTION 2.
CUMULATIVE**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Burleson, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

**SECTION 3.
SEVERABILITY**

It is hereby declared to be the intention 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 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.
RECITALS INCORPORATED

The findings and recitals set forth above in the preamble of this ordinance are incorporated into the body of this ordinance as if fully set forth herein.

SECTION 5.
OPEN MEETING

It is hereby officially found and determined that the meetings at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meetings was given as required by law.

SECTION 6.
EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED this the _____ day of _____, 20____.

First Reading: the _____ day of _____, 20____.

Final Reading: the _____ day of _____, 20____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney