

ORDINANCE NO. O-2024-63

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 19, "UTILITIES" ARTICLE III. "WATER AND SEWER SERVICES", DIVISION A., "WATER SERVICE", BY AMENDING AND ADOPTING PROVISIONS RELATED TO WATER SERVICE LEAKAGE AND PROVIDING FOR A LEAKAGE CREDIT UNDER CERTAIN CIRCUMSTANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety, and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to self-government; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government, and welfare of the City, and for the performance of the functions thereof; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City of Tyler may acquire, conduct, own, lease, operate, and regulate public utilities; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may create, provide for, construct, regulate, and maintain all things of the nature of public works and improvements; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by the State law and the Charter, all of the powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, the City Council is committed to ensuring a safe and dependable supply of water for the citizens of Tyler; and

WHEREAS, the City Council is committed to operating and maintaining a quality wastewater collection and treatment system for the protection of natural water quality; and

WHEREAS, the City of Tyler has established Tyler Water Utilities as the City department responsible for operating and maintaining the water resources of the City of Tyler; and

WHEREAS, Chapter 19 of the City of Tyler Code of Ordinances governs the operation and maintenance of Tyler Water Utilities; and

WHEREAS, Chapter 19, Section 19-33 establishes the rules and regulations for assigning responsibility for leakages in the water system and establishes certain credits that may be issued at the discretion of the Director of Utilities or the Water Business Office Manager; and

WHEREAS, the Director of Utilities and the Water Business Office Manager desire to amend such written policy and procedures to consistently evaluate and treat requests for credits to water bills from Tyler Water Utilities customers who have lost significant amounts of water due to a hidden or concealed leak in the customer's water line that was repaired within a reasonable time after discovery.

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

PART 1: That Tyler City Code Chapter 19, "Utilities", Article III., "Water & Sewer Service", Division A., "Water Service", is hereby amended by amending Section 19-33 to read as follows:

Sec. 19-33. Responsibility for leakage.

- a. Consumer responsibility for leakage. Tyler Water Utilities is not responsible for locating or repairing leaks on the customer's side of the meter. All property owners, their agents, and tenants shall be held responsible as consumers for loss of water due to visible leakage in

pipes, faulty or defective equipment such as toilets, faucets, sprinkler systems, and outdoor spigots, any unauthorized water use (i.e. theft, mischief, vandalism), or plumbing inside the discharge side of the meter on said property. In this instance, lost water will be billed according to the rates provided herein. If lost water is not paid for by the due date, Tyler Water Utilities reserves the right to suspend water service according to Sec. 19-63. Service will not be reconnected until all past due balances and any applicable fees are paid in full, and all leaks have been repaired to the satisfaction of the Director. If customers notice an abnormal water usage amount or a large billing discrepancy, the customer has a responsibility to inform Tyler Water Utilities.

- b. Process for seeking a leakage credit. Customers are responsible for keeping plumbing on their property in good working order and are encouraged to be aware of their average consumption of water and water use history. All property owners, their agents, and tenants may request an adjustment to a water bill, i.e., leakage credit, showing excessive use due to a loss of water attributable to a concealed or hidden leak. A concealed or hidden leak is defined as a leak that occurs generally underground, inside a wall, or hidden from view and is difficult to detect or locate, requiring disturbance of the wall to view or repair and would be unnoticed, unheard, or unseen by the customer. Leakage credits are offered as a courtesy to help residents recoup some unexpected repair and water service costs. Leakage credits are not guaranteed. A customer must complete and file the designated leakage credit form with Tyler Water Utilities within twelve (12) months of the date of repair. To apply for a leakage credit, the customer must file the Request For Leakage Credit form with Tyler Water Utilities. A customer may apply for no more than one Leakage Adjustment Credit in any twelve-month period for any one account. A leakage credit is available only for customers with at least three billing cycles of usage history on their account at the subject address at the time of the water loss. Customers are encouraged to file the leakage credit form promptly.
- c. Determination of leakage credit. Upon receipt of a properly completed leakage credit form, the Director or Business Office Manager shall review the form. To determine the amount of leakage credit, the Director or Business Office Manager shall verify the applicant's average water usage (based on historical usage and other relevant factors) prior to the billing cycle(s) in which the water loss occurred and consider all supporting documentation submitted with the leakage credit form. If the Director or Business Office Manager determines that water loss has occurred due to a concealed or hidden leak, without the knowledge of the customer, the Director or Business Office Manager may make an adjustment to no more than three (3) monthly water bills affected by the leak. After the account has been read for the next billing cycle, if the consumption use has returned to the normal average consumption use, any approved leakage credit will be applied to the account. Any approved leakage credit will not be applied while the consumption usage amount remains above the customer's normal average consumption amount. If the amount of consumption used remains above the customer's normal average consumption amount, the Director or Business Office Manager will review the leakage credit request within the next billing cycle. If the customer has already paid the bill for which a leakage credit is authorized, any excess amount actually paid by the customer shall be applied as a credit to the applicant's account. An actual payment refund will only be provided when the customer has closed the water account before the leakage credit process has been completed. Before the customer can request a refund check

for any remaining credit balances, the final bill would have to be issued by Tyler Water Utilities. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. 0-2004-93, 11/24/04) (Ord. No. 2009-7, 2/11/09) (Ord. No O-2024-63, 6/12/2024).

PART 2: That if any provision or any section of this Ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be June 14, 2024.

PASSED AND APPROVED this the 12th day of June, A.D., 2024.

DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK



DEBORAH G. PULLUM,
CITY ATTORNEY