

ORDINANCE NO. 46-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, CHAPTER 50 "UTILITIES GENERALLY; PUBLIC SERVICE TAX", SUBHEADING "GENERAL PROVISIONS", BY CREATING A NEW SECTION 50.04, "REVIEW AND ADJUSTMENT OF USER CHARGES," TO ESTABLISH PROVISIONS FOR ADMINISTRATIVE ADJUSTMENTS TO WATER CHARGES DUE TO LEAKS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the Code of Ordinances of the City of Delray Beach does not provide a process for administrative adjustments to water charges due to leaks; and

WHEREAS, the City Commission recognizes that water leaks can be a very costly and unexpected expense to customers of a public utility; and

WHEREAS, the City Commission further recognizes that, under certain circumstances, City staff should have the administrative ability to adjust water charges where it has been determined after an investigation that a leak occurred on a customer's side of the water meter through no fault of the customer and the cause of the leak has been timely repaired; and

WHEREAS, the City Commission finds that adoption of this Ordinance to be in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitations set forth above are incorporated herein.

Section 2. Chapter 50, "Utilities Generally; Public Service Tax," is hereby amended to create a new Section 50.04 of the City Code of Ordinances to read as follows:

Sec. 50.04. – REVIEW AND ADJUSTMENT OF USER CHARGES.

(A) Duty to inspect and repair. Any customer who believes that there is a leak or the water facilities serving their account on the user's side of the meter are in need of repair shall be required to obtain the services of a certified plumber to inspect and repair the leak or problem, if necessary. The inspection and/or repair shall occur within seven (7) days of discovering or receiving notice of a leak or need for repair. Failure to make needed repairs in a timely manner will void any request for a billing adjustment.

- (B) Application. Any customer may request a review of their utility bill by submitting: 1) a copy of the contested utility bill; 2) a paid invoice from a certified plumber (if applicable); and 3) a leak adjustment request within 30 days of the date of the contested utility bill. The City will review the request and may conduct a field investigation if deemed necessary by the City.

- (C) Adjustments due to leak on customer's side of meter. If it is determined that a leak occurred on the customer's side of the water meter which was not caused by any act or omission of the customer, and the customer made needed repairs within seven (7) days of discovering the leak or receiving their water bill, the charges may be adjusted to credit one hundred percent (100%) of all water and sewer usage in excess of average billing (a minimum six-month average, but not to exceed 12 months). An adjustment will not exceed two (2) billing cycles. Such an adjustment may be made only once within a three-year period.

- (D) Final approval. The City Manager, or designee, shall have the sole discretion to approve any adjustment of charges pursuant to this Section. The decision of the City Manager, or his or her designee, shall be final and is not subject to appeal.

Section 3. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 4. Should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 5. Specific authority is hereby given to codify this Ordinance.

Section 6. This Ordinance shall become effective upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2023.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

First Reading _____

Second Reading _____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney