



## Board of Aldermen Request for Action

**MEETING DATE:** 9/5/2023

**DEPARTMENT:** Finance

**AGENDA ITEM:** Approve Bill No. 3002-23, Commercial Wastewater Adjustments – 2<sup>nd</sup> Reading

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**REQUESTED BOARD ACTION:**

A motion to approve Bill No. 3002-23, approving the changes to Section 705.110 Water and Wastewater Leak Adjustment. Second reading by title only.

**SUMMARY:**

At the end of last year, Hillside Development (which is the name of the commercial utility account for the strip of businesses located at 201 – 219 U.S. 169 Highway) experienced a large leak in one of their 2" waterlines. Once Hillside Development realized the leak was significant in nature, they worked with Hampton Plumbing out of Kearney to diagnose the situation and fixed the leak by replacing the 2" waterline.

In reviewing the utility bill for the account, in the January 2023 billing cycle, consumption totaled 201,200 gallons. In the February 2023 billing cycle, consumption totaled 315,500 gallons. With this much consumption, the total utility bill for the January 2023 cycle was \$3,553.02 and the total utility bill for the February 2023 cycle was \$5,552.83.

Both bills were much higher than the normal bill, which prompted an individual from Hillside Development to reach out to staff to inquire about a leak adjustment. Staff relayed that the Code of Ordinances only permitted wastewater adjustments for commercial businesses.

Given the ability to grant a leak adjustment, staff calculated the credit amount which Hillside Development would be eligible for. That calculation sheet, which is the same one used for calculating credits for leak adjustments, is included in your packet and indicates that the total credit would be in the amount of \$3,312.61 In addition, staff requested proof of repair of the 2" waterline to ensure a leak occurred. That receipt from Hampton Plumbing was provided by Hillside Development and is also included in your packet.

The crux of the issue pertains to the approval procedures outlined in the City Code of Ordinances. Leak adjustments granting credits to residential accounts must be approved by the Board of Aldermen. However, as stated, the Code does not specify or outline that wastewater adjustments for commercial accounts must be approved by the Board of Aldermen. In other words, authority to approve is with the City Administrator. Given the direction from the Work Session held on July 18, staff have drafted ordinance revisions for consideration by the Board of Aldermen.

If the ordinance revisions are approved, Hillside Development will re-apply for the commercial wastewater adjustment and staff will present the application to the Board of Aldermen for formal approval.

**PREVIOUS ACTION:**

The Board of Aldermen discussed the commercial wastewater adjustment procedure at the July 18, 2023, Work Session and recommended that staff draft ordinance language to create a formal consideration procedure for commercial wastewater leak adjustments.

**POLICY ISSUE:**

Consideration of Commercial Wastewater Leak Adjustments.

**FINANCIAL CONSIDERATIONS:**

Future commercial wastewater leak adjustments will go to the Board of Aldermen, just like residential leak adjustments do, for consideration. The Hillside Development request will be considered on its resolution for approval.

**ATTACHMENTS:**

- |                                               |                                   |
|-----------------------------------------------|-----------------------------------|
| <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Contract |
| <input type="checkbox"/> Resolution           | <input type="checkbox"/> Plans    |
| <input type="checkbox"/> Staff Report         | <input type="checkbox"/> Minutes  |
| <input type="checkbox"/> Other:               |                                   |

**AN ORDINANCE REPEALING ORDINANCE SECTION 705.110 WATER AND WASTEWATER LEAK ADJUSTMENT AND ENACTING IN ITS PLACE A NEW ORDINANCE SECTION 705.110 WATER AND WASTEWATER LEAK ADJUSTMENT**

**WHEREAS, SECTION 705.110 WATER AND WASTEWATER LEAK ADJUSTMENT** currently reads as follows:

**"Section 705.110 WATER AND WASTEWATER LEAK ADJUSTMENT**

*A. Definition and Conditions*

1. *As used in this Section, the following terms shall have the meanings indicated:*

**MONTHLY AVERAGE**

*The amount of water usage calculated in accordance with Section 705.050(C); or if no such average has been established in accordance with that Section, then the average shall be the total number of gallons of water used divided by the total number of months billed.*

**NON-RESIDENTIAL WASTEWATER ADJUSTMENT**

*A financial adjustment to an account not categorized as residential in the City utility billing system to the wastewater portion of a utility bill related to a water leak.*

**WATER AND WASTEWATER LEAK ADJUSTMENT**

*A financial adjustment to an account categorized as residential in the City utility billing system to a utility bill related to a water leak.*

2. *The Board of Aldermen may consider approving a leak adjustment under the following conditions:*
  - a. *The customer notifies the City staff of a water leak and requests a leak adjustment.*
  - b. *Water consumption for the month in question is more than two (2) times the monthly average for this property (for each month involved in the leak).*

- c. Leak adjustments may occur only once in any thirty-six-month period and shall cover a single event only [up to a maximum of two (2) monthly utility bills].*
- d. The adjustment request must include a plumber's repair receipt, material and supplies receipts or other proof that the leak has been repaired.*
- e. Upon receipt of the documentation and/or confirmation of billing history as required in Subsection (A)(2)(a) through (d) above, City staff will prepare a draft adjustment request in accordance with this policy for the Board of Aldermen agenda where the adjustment may be considered.*
- f. The resident shall be sent a copy of the adjustment request, and must attend the scheduled Board hearing on the matter. Failure to be present to provide information or answer questions at that hearing is cause for the Board to deny the request.*

*B. No adjustments shall occur when any of the following exist:*

- 1. Excessive use is due to the customer's usage decisions, such as seasonal use, sod watering, gardening, filling swimming pools/spas, etc.*
- 2. Excessive use is due to a third party from whom the customer can recover costs (theft, vandalism, construction damage, etc.).*
- 3. Excessive water volume extends beyond the first two (2) months of a multi-month leak.*
- 4. Leak adjustment has occurred for this property within the past thirty-six (36) months.*

*C. Adjustment Calculations*

- 1. The adjusted bill(s) shall charge the normal water rate on all water volume used up to two (2) times the average monthly water use for this property.*
- 2. The adjusted bill shall also charge the City's wholesale water purchase rate as listed in the Schedule of Fees on all water volumes greater than two (2) times the average monthly water use for this property.*
- 3. If the leak is inside the home, the wastewater bill shall not be adjusted because the water will have drained into the sanitary system of the home. If*

*the leak is outside the home, the wastewater portion of the bill will be adjusted to reflect the average monthly usage for the property.*

*D. Rules Upon Resolution of Request By the Board*

- 1. Upon resolution by the Board of Aldermen, the customer shall make payment in full or make payment arrangements with City Hall in accordance with the then current payment policies no later than ten (10) days following the Board hearing.*
- 2. If the customer fails to comply with the payment obligations above within the allotted ten (10) days, then the account shall be treated as past due and be subject to the imposition of late fees and discontinuance of service in accordance with the regular billing procedures of this Chapter.*

*E. Wastewater Adjustment On Non-Residential Utility Bills. Any non-residential utility account that experiences a water leak outside of the structure served by the account shall, upon submittal of proof of repair of such leak to the City, be entitled to an adjustment to the wastewater portion of such bill to an amount equal to the account's average monthly usage that existed prior to such leak, and in no event shall there be an adjustment to the water portion of the utility bill.”;*  
and,

**WHEREAS**, the City of Smithville wishes to clarify the procedure by which non-residential wastewater adjustments are approved by requiring the Board of Aldermen to consider and approve such requests.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI AS FOLLOWS:**

Section 1. That Section 705.110 of the Code of Ordinances of the City of Smithville is hereby deleted in its entirety and replaced with a new section to be read and numbered as follows:

**Section 705.110 WATER AND WASTEWATER LEAK ADJUSTMENT**

A. Definition and Conditions

1. As used in this Section, the following terms shall have the meanings indicated:

**MONTHLY AVERAGE**

The amount of water usage calculated in accordance with Section **705.050(C)**; or if no such average has been established in accordance with that Section, then

the average shall be the total number of gallons of water used divided by the total number of months billed.

### **NON-RESIDENTIAL WASTEWATER ADJUSTMENT**

A financial adjustment to an account not categorized as residential in the City utility billing system to the wastewater portion of a utility bill related to a water leak.

### **WATER AND WASTEWATER LEAK ADJUSTMENT**

A financial adjustment to an account categorized as residential in the City utility billing system to a utility bill related to a water leak.

2. The Board of Aldermen may consider approving a leak adjustment under the following conditions:
  - a. The customer notifies the City staff of a water leak and requests a leak adjustment.
  - b. Water consumption for the month in question is more than two (2) times the monthly average for this property (for each month involved in the leak).
  - c. Leak adjustments may occur only once in any thirty-six-month period and shall cover a single event only [up to a maximum of two (2) monthly utility bills].
  - d. The adjustment request must include a plumber's repair receipt, material and supplies receipts or other proof that the leak has been repaired.
  - e. Upon receipt of the documentation and/or confirmation of billing history as required in Subsection **(A)(2)(a)** through **(d)** above, City staff will prepare a draft adjustment request in accordance with this policy for the Board of Aldermen agenda where the adjustment may be considered.
  - f. The customer shall be sent a copy of the adjustment request, and must attend the scheduled Board hearing on the matter. Failure to be present to provide information or answer questions at that hearing is cause for the Board to deny the request.
3. No adjustments shall occur when any of the following exist:

a. Excessive use is due to the customer's usage decisions, such as seasonal use, sod watering, gardening, filling swimming pools/spas, etc.

b. Excessive use is due to a third-party from whom the customer can recover costs (theft, vandalism, construction damage, etc.).

c. Excessive water volume extends beyond the first two (2) months of a multi-month leak.

d. Leak adjustment has occurred for this property within the past thirty-six (36) months.

B. Adjustment Calculations for Residential and Non-Residential Accounts

1. For calculations to the water portion of a residential account, the adjusted bill(s) shall charge the normal water rate on all water volume used up to two (2) times the average monthly water use for this property and shall also charge the City's wholesale water purchase rate as listed in the Schedule of Fees on all water volumes greater than two (2) times the average monthly water use for this property. In no event shall a non-residential account be given an adjustment for water rates or usage caused by a leak.

2. For wastewater adjustment calculations to residential and non-residential accounts, if the leak is inside the building, the wastewater bill shall not be adjusted because the water will have drained into the sanitary system. If the leak is outside the building, the wastewater portion of the bill will be adjusted to reflect the average monthly usage for the property.

C. Rules Upon Resolution of Request By the Board

1. Upon resolution by the Board of Aldermen, the customer shall make payment in full or make payment arrangements with City Hall in accordance with the then current payment policies no later than ten (10) days following the Board hearing.

2. If the customer fails to comply with the payment obligations above within the allotted ten (10) days, then the account shall be treated as past due and be subject to the imposition of late fees and discontinuance of service in accordance with the regular billing procedures of this Chapter.

**PASSED** by the Board of Aldermen, and **APPROVED** by the Mayor, of the City of Smithville, Missouri, this 5<sup>th</sup> day of September, 2023.

(SEAL)

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Damien Boley, Mayor

ATTEST:

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Linda Drummond, City Clerk

First Reading: 8/28/2023

Second Reading: 9/05/2023