

PASSED 8/7/17

ORDINANCE NO. 7 - 2017

AN ORDINANCE PROVIDING FOR ADJUSTMENTS IN
WATER AND SEWER SERVICE OVER BILLING OR UNDER BILLING
IN THE VILLAGE OF OAK HARBOR

WHEREAS, the Village of Oak Harbor currently has no Ordinance which addresses how to adjust water and sewer bills in situations where the bills are incorrect; and

WHEREAS, a recent U.S. Court of Appeals case for the Sixth Circuit, *Nibco Inc. v. City of Lebanon* (2017), U.S. Ct. of App. 6th Cir., Case No. 16-3395 [2017 WL 763908] held that if a utility provider did not have an Ordinance allowing for adjustments in bills, the provider is unable to adjust the bill; and

WHEREAS, the Village of Oak Harbor desires to amend its Ordinances to allow for adjustments in water and sewer bills when applicable.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF OAK HARBOR, OTTAWA COUNTY, OHIO:

Section 1.

If a customer has been overcharged for water and/or sewer service because of a malfunction in the metering system or a billing error, overcharges will be refunded to the customer for the entire period of inaccurate billing, if that period is discernible by the municipality. If the period of inaccurate billing is not discernible, overcharges will be calculated based on a time period that is the shortest of the time elapsed since the customer's service began, the date of installation of the faulty meter or implementation of the error resulting in the overcharge (if applicable), or 365 days.

Section 2.

If a customer has been undercharged for water and/or sewer service because of a malfunction in the metering system or a billing error, undercharges will be billed to the customer, and the customer shall pay the charges for the entire period of inaccurate billing, if that period is discernible by the municipality. If the period of inaccurate billing is not discernible, undercharges will be calculated based on a time period that is the shortest of the time elapsed since the customer's service began, the date of installation of the faulty meter or implementation of the error resulting in the undercharge (if applicable), or 365 days. Undercharges billed to residential customers shall in no event exceed a period of 365 days. Customers shall have the option to pay the amount undercharged in equal payments spread over the same number of months as the charges were accumulated.

Section 3.

This section does not serve as a limitation to billing for undercharges which are the result of tampering with utility equipment or theft of utility service, or where a physical act of a customer or its agent causes inaccurate or no recording of the meter reading, or inaccurate or no measurement of the water rendered.

Section 4.

This Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of Council, and of its committees, which result in formal action, were taken in full compliance with the applicable legal requirements.

Section 5.

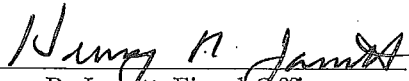
That this Ordinance shall take effect and be in full force and effect after the earliest date allowed by law.

Approved: August 7, 2017



Joseph W. Helle, Mayor

Attest:


Henry R. Jarrett, Fiscal Officer

Dated: August 7, 2017

First Reading: July 5, 2017

Second Reading: July 17, 2017

Third Reading: August 7, 2017

Adopted: August 7, 2017