

**ORDINANCE
(AS AMENDED)
CITY OF NEW ORLEANS**

CITY HALL: October 6, 2022
CALENDAR NO. 33,937

NO. 29278 MAYOR COUNCIL SERIES

BY: COUNCILMEMBER MORRELL

AN ORDINANCE to amend and reordain Chapter 159, Sections 159-2 and 159-3, and ordain Sections 159-4 and 159-5 to establish the billing dispute and appeals procedures for the Sewerage and Water Board of New Orleans; and otherwise to provide with respect thereto.

1 **SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**
2 **ORDAINS**, That Sections 159-2 and 159-3 of the Code of the City of New Orleans are hereby
3 amended to read as follows:

4 **“ARTICLE II. – BILLING.**

5 **DIVISION 1. – GENERALLY.**

6 **Sec. 159-2. – Definitions.**

7 The following words, terms, phrases, and their derivations shall have the meanings
8 given herein. Capitalized terms used herein and not otherwise defined shall have the
9 meanings ascribed thereto throughout this Code of the City of New Orleans. When not
10 inconsistent with the context, words used in the present tense include the future tense,
11 words in the plural number include the singular number, and words in the singular number
12 include the plural number. The word “shall” is always mandatory and not merely directory.
13 The word “including” is not exclusive and shall be construed as “including but not limited
14 to”.

15 *Actual bill* means a SWBNO bill on which the billed amount for water usage is the
16 result of a physical reading the customer’s meter by a meter reader for the billing period.

17 *Amount in dispute or disputed amount* means the amount above the last actual bill
18 or the average of the last three undisputed estimated bills whichever is lower.

19 *Bill in dispute or disputed bill* means a SWBNO bill in which the customer has
20 contested the amount due to SWBNO and as further defined in section 159-4A.

21 *Billing cycle or billing period* means an interval of not less than twenty-five (25)
22 days nor more than thirty-five (35) days between successive billing dates.

23 *Collections or collection agency* means a third-party entity secured to recover
24 unpaid amounts related to a customer's account.

25 *Customer* means a person or entity with a SWBNO account.

26 *Hearing officer* means an impartial third party retained by SWBNO to preside over,
27 conduct, or otherwise adjudicate administrative hearings in accordance with section
28 159-5B.

29 *Service disconnect* means deliberately suspending water or sewer services to a
30 customer. This does not include interruptions in service caused by necessary repairs or
31 maintenance.

32 *Sewerage and Water Board of New Orleans or SWBNO* means the organization
33 established by City Charter Section 5-301 and La. Rev. Stat. § 33:4071 responsible for the
34 public water, sewer, and drainage systems of the City of New Orleans.

35 *Working Group or Group* means the SWBNO Billing Ordinance Advisory
36 Committee established by Motion No. M-22-360 or its successor organization as
37 established by the New Orleans City Council.

38 **Section 159-3. – Billing.**

39 A. SWBNO shall bill its customers monthly pursuant to established billing cycles.

40 Should SWBNO fail to bill customers for two or more consecutive billing
41 cycles, SWBNO thereby forfeits its right to collect payment for those billing
42 cycles.”

43 B. Beginning on May 1, 2023, if SWBNOs elect to send an estimated bill instead
44 of an actual bill, the billed amount shall equal the average of the last three
45 uncontested actual billed amounts. If a customer receives an estimated bill
46 calculated in any other manner, the customer shall only owe SWBNO the
47 average of the last three uncontested actual bill amounts, and SWBNO shall
48 recalculate the bill to reflect the correct amount owed.

49 C. In the event a customer elects to dispute a bill prior to May 1, 2023, SWBNO
50 shall initiate an investigation in accordance with section 159-5.”

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SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That the Code of the City of New Orleans, Louisiana is hereby amended by adding sections 159-4 and 159-5, which said sections shall read as follows:

“DIVISION 2. – BILLING DISPUTE PROCESS.

Sec. 159-4. – Disputed bill; definition.

A. Right to dispute – Any customer shall have the right to dispute an amount billed to such customer’s account. For purposes of these regulations, a bill is disputed when the customer has contested the amount due to SWBNO and has initiated a review of the bill through SWBNO customer service via phone, email, at an office location, by mail, or by fax. A bill is considered in dispute until any of the following events has occurred:

- (1) Forty-five days has lapsed since (a) the conclusion of an investigation by SWBNO and the customer has not requested a hearing with an administrative hearing officer; or (b) the administrative hearing officer issued a decision and the customer has not appealed that decision to the City Council; or
- (2) The customer pays the disputed amount or an amount agreed to by SWBNO to resolve the dispute. This does not include monthly payments made for utility services as a result of new charges not in dispute; or
- (3) The City Council issues a final decision on a customer’s appeal in accordance with section 159-5C.

B. Payment during dispute process – While a bill is in dispute as described in section 159-4A, a customer shall only be required to pay the amount of the last uncontested bill or the amount reflected on the current bill, whichever is lesser.

C. Interest, Fees, and Penalties – SWBNO shall not assess any interest, fees, adjustments, or other penalties on the amount in dispute.

D. Collections – SWBNO shall not refer a customer’s bill in dispute to a collection agency.

E. Service disconnect – SWBNO shall provide a customer including those enrolled in paperless billing, with notice in writing to the address of the account on file

31 of its intent to disconnect service to such customer at least 30 days prior to
32 discontinuing service. SWBNO shall not discontinue its service to a customer
33 with a bill in dispute.

34 **Sec. 159-5. – Investigation; hearing; appeal.**

35 **A. Investigation**

- 36 1. After a customer disputes a bill, SWBNO shall investigate the dispute,
37 including evaluating the customer's last actual bill and the average of
38 the last three undisputed estimated bills.
- 39 2. If the amount of the disputed bill is more than 20% higher than the
40 customer's last actual bill or the last three undisputed estimated bills,
41 SWBNO shall inspect and assess the customer's water meter, in which
42 event, SWBNO shall notify the customer 7 days in advance of the date
43 and time of such inspection and assessment, and that the customer has
44 the right to refuse the inspection.
- 45 3. If SWBNO finds that the customer's water meter is not functioning
46 properly, SWBNO shall repair or replace the meter at no cost to the
47 customer. Until the meter is repaired or replaced, the customer shall be
48 billed an amount equal to the lesser of the customer's last actual bill or
49 the last three undisputed estimated bills.
- 50 4. SWBNO shall provide the customer with documentation of each phase
51 of the investigation described in this section, including evidence that the
52 water meter inspected pursuant to paragraph (3) above is the meter
53 associated with the customer's account, within 30 days of the
54 conclusion of the investigation.
- 55 5. SWBNO shall complete the investigation within 90 days of the date the
56 customer first disputed the bill as provided in section 159-4.

57 **B. Administrative Hearing**

- 58 1. The customer has 45 days from receipt of the results of SWBNO's
59 investigation to appeal the results by requesting an administrative
60 hearing.

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2. SWBNO shall have 30 days from the date of the customer's appeal to schedule the hearing and shall provide the customer with an option of three (3) days and times for a hearing. The customer shall be provided an opportunity to request an alternate hearing date.
 3. SWBNO shall provide the hearing officer with all documentation related to its investigation conducted pursuant to this section.
 4. The hearing officer shall provide the customer and SWBNO with a written decision within 30 days of completion of the hearing.

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C. Appeal to the City Council

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1. The customer has 45 days from receipt of the hearing officer's written decision to appeal the decision to the City Council. In the event the customer requests a rehearing pursuant to Louisiana Revised Statutes Section 49:959(A), the 45-day period to appeal the hearing officer's decision to the Council shall toll until the rehearing process has concluded.
 2. The City Council shall retain the services of a third-party consultant to review SWBNO's investigation records, the administrative hearings records, and the hearing officer's written decisions on a quarterly basis. The consultant shall submit a recommendation on each customer appeal received during the calendar quarter, including directing SWBNO to adjust a billed amount and/or to reevaluate or replace the customer's meter. The consultant shall submit its recommendations to the Council no later than the last day of the subsequent quarter.
 3. Within 90 days of receipt of the consultant's recommendation, the Council may accept, modify, or reject the recommendation by motion. If the Council does not act within 90 days, the consultant's recommendation shall be deemed accepted as the Council's final decision. In accordance with Louisiana Revised Statutes Section

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49:964(B), a decision by the Council shall be treated as final and the customer shall have 30 days from the Council's decision to appeal that decision to district court."

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS DECEMBER 15, 2022

**HELENA MORENO
PRESIDENT OF THE COUNCIL**

DELIVERED TO THE MAYOR ON DECEMBER 16, 2022

**APPROVED:
DISAPPROVED: DECEMBER 20, 2022**

**LATOYA CANTRELL
MAYOR**

RETURNED BY THE MAYOR ON DECEMBER 20, 2022 AT 2:30 P.M.

**LORA W. JOHNSON
CLERK OF COUNCIL**

ROLL CALL VOTE:

**YEAS: Giarrusso, Harris, Moreno, Morrell, Thomas - 5
NAYS: 0
ABSENT: Green, King - 2
RECUSED: 0**

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY

Lora W. Johnson
CLERK OF COUNCIL