RESOLUTION #2016-03 **FEBRUARY 9, 2016**

A RESOLUTION AMENDING AND ESTABLISHING THE UTILITY BILLING SYSTEM, PRACTICES, AND PROCEDURES OF THE CITY OF MILLWOOD; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING RESOLUTIONS, LAWS, AND REGULATIONS; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT RESOLVED by the Council of the City of Millwood, as follows:

Section 1. Purpose and Definition:

(a) The purpose of this resolution is to establish and amend procedures regarding utility billing practices of the City of Millwood (the "City"), including procedures for discontinuing, termination and resumption of utility services, and to accomplish the prompt and efficient collection of amounts owing on the accounts of the City.

(b) As used herein "customer" shall mean the owner of the premises or property served by utilities furnished by the City. All owners of premises or property shall remain ultimately and legally liable for payment of any and all bills, charges, fees, interest, or penalties related to utility service to such premises or property, regardless of whether such premises or property is a single-family dwelling or residence, multifamily dwelling or residence, apartment, apartment house, group home, or group-care home, as such terms may be defined pursuant to Title 17 Millwood Municipal Code, or for commercial, industrial, or other non-residential purposes.

(c) As used herein "Treasurer" shall mean Treasurer of the City, or his or her designee. The Treasurer is hereby granted authority to develop administrative procedures and to do all things necessary to effectuate the purposes of this resolution.

Section 2. Billing and Payments:

(a) Utility billings shall be issued on a monthly billing cycle. Charges for current utility services appearing on a utility bill issued by the City shall be itemized for said utilities. Past due charges may be included in a single delinquent balance.

(b) The utility billing statement shall be transmitted to the address requested by the customer. Duplicate utility billing statements transmitted to a different address shall be assessed a duplicate billing charge.

(c) The Treasurer shall provide residential customers the option of a written budget billing or equal payment plan pursuant to RCW 35.21.300(4), as currently enacted or hereafter amended, based on the consumption for the residential unit for the previous twelve (12) months and which is designed to address any past due bills and continued utility service. Utility service for customers for newly-constructed residential units or residential units for which there is no record of consumption for the previous twelve (12) months shall be based upon an estimate of the average utility service charges for a similar residential unit, as determined by the Treasurer. The customer shall agree in writing to such budget billing or payment plan and continued utility

service. If any delinquencies occur during the life of the budget billing or equal payment plan, the residential customer or property owner shall not be eligible for the protections under the plan until all delinquencies are paid. Quarterly adjustments shall be calculated into the plan to account for rate changes or changes in average monthly consumptions for the quarter.

(d) Unless authorized by the Treasurer, payments received shall be allocated as follows: (i) interest, (ii) penalties, (iii) taxes, (iv) miscellaneous fees, (v) sewer, (vi) improvements, and (vii) water.

(e) The outstanding balance for utility services is due upon transfer of ownership of the premises or property or the final billing for a customer.

Section 3. Estimation of Charges: When it is not reasonably possible to obtain information regarding actual usage of utility service, billings for utility items may be based on reasonable estimations, including but not limited to prior consumption readings, comparable usages, or estimated costs of other services to be provided.

Section 4. Fees:

(a) There shall be a fee of thirty-five dollars ($35.00) for each check tendered in payment of utility bills and said check is returned for insufficient funds or is otherwise not payable. Dishonored checks tendered may be retrieved at the City Hall upon payment of a dishonored check fee of thirty-five dollars ($35.00) and all other outstanding charges, fees, interest, and penalties. The City reserves the right to require payment by cash or certified funds from any customer who has previously tendered a dishonored check.

(b) There shall be a disconnect fee of twenty-five dollars ($25.00) resulting from the City's discontinuance, termination, or suspension utility service. There shall be a connect fee of twenty-five dollars ($25.00) for reconnections made during regular business hours of the City, and a connect fee of one hundred twenty-five dollars ($125.00) for reconnections made at a customer's written request outside of regular working hours.

(c) Said fees may be stated as a separate item on the utility bill.

(d) Consistent with Title 13 of the Millwood Municipal Code (including but not limited to Chapter 13.04, Section 13.12.050, Section 13.14.1401, and Chapter 13.16), the City may impose utility-related fees or charges, not otherwise addressed herein, as set by resolution adopted by the City Council. The utility fee and charges schedules effective as of the date of this resolution is set forth in Attachment 1, attached hereto and incorporated herein by this reference.

Section 5. Security

(a) A security deposit or advance payment may be required by the Treasurer from new or existing City utility customers to insure payment for utility services, labor, materials, or

other items furnished by the City to its utility customers. Such deposit, if required, shall be as follows:

(i) For domestic use, one hundred dollars ($100.00);

(ii) For business or commercial purposes, a sum equal to twice the average monthly bill of similar lines of business as determined by the Treasurer.

Upon termination of utility service to the customer, the amount of the deposit may be applied against any utility charges then due or to become due from the customer, including any connection or reconnection charges. If there is a balance remaining after payment of all utility charges then due or to become due, such balance shall be refunded to the customer.

If a new customer presents a letter of credit reference that is for the immediate prior twelve (12) months of continuous service from a comparable utility company and meets the definition of "good credit history," then the customer may be exempt from the requirement to make a deposit for utility services. For the purposes of this section, "good credit history" is defined as follows:

(a) One or fewer delinquent notices within the previous twelve (12) months;

(b) No disconnects for non-payment of a bill or deposit within the previous twelve (12) months;

(c) One or fewer checks returned to the City or prior utility for insufficient funds from his/her bank within the previous twelve (12) months; and

(d) No outstanding balances for utilities with the city within the last five (5) years.

Section 6. Delinquencies:

Utility bills are due and payable upon receipt and become delinquent the eleventh (11th) day of the month following the monthly billing. On the eleventh (11th) day of the first month of delinquency a past due notice shall be sent showing the amount owing. On the eleventh (11th) day of the second month of delinquency, notice in accordance with Section 9 of this Resolution will be transmitted to the customer showing the past due amount and the date utility services shall be terminated. There shall be a ten-dollar ($10.00) delinquency fee in connection with said notice. If the bill is not paid within fourteen (14) days, utility service shall be terminated on the fifteenth (15th) day of such delinquency.

Section 7. Refund, Credit or Adjustment

The City may authorize in writing a refund, credit or adjustment for any rate or charge when it is determined that an error, miscalculation, mistake or overpayment has occurred. No refund, credit or service charge adjustment may be authorized unless brought to the attention of the Treasurer in writing within three (3) years of the occurrence of the error, miscalculation,

mistake or overpayment. In any instance where refund or credit is authorized, accrued interest on the outstanding amount shall be waived. Any refund made by the City will be in the form of check payable only to the customer.

Section 8. Remedies for Delinquencies and Termination of Service:

(a) If an account becomes delinquent, no officer, agent or employee of the City may authorize or permit any further City service or process any application for a permit, license or similar authorization from the City, when such application has been requested by the customer whose account is delinquent; provided, however, such prohibition under this section shall be lifted when the account is paid in full. This section shall not apply to the provision of water, sewer or storm sewer service, but shall apply to connections, inspections, engineering and other similar services furnished in connection with water, sewer, and storm sewer services.

(b) In the case of delinquent accounts, the Treasurer may permit delayed termination of utility service upon execution of a written deferred payment agreement by the customer and a minimum of 50 percent payment of the utility account balance to avoid termination; PROVIDED, however, the Treasurer is under no obligation to enter into any such agreement with any customer who has not fully and satisfactorily complied with the terms of any previous agreement.

(c) Termination or discontinuance of service for any cause stated in this resolution shall not release the customer from any obligation to the City for payment of bills, charges, fees, interest, or penalties.

(d) The City may discontinue or terminate any or all utility services to a customer for failure to pay connection charges for any utility service furnished to a customer, or for the fraudulent, illegal or unauthorized use or abuse of any utility service, or the failure or refusal of the customer to comply with all rules, regulations, resolutions or ordinances pertaining to the receipt and use of utility services furnished by the City.

(e) If an account becomes delinquent and such account affects a residential rental unit occupied by a tenant that is not the customer, the affected tenant may request the City provide utility services to the service address on the same terms and conditions as other residential utility customers in the City, without requiring that such tenant pay delinquent amounts for utility services billed directly to the customer except as otherwise allowed by law and where the City offers the affected tenant the opportunity to set up a reasonable payment plan, in writing, for the delinquent amount legally due the City.

Section 9. Legal Action for Delinquency: Any previous customer, including the owner or occupant, knowingly permitting charges regularly listed upon their City utility billings to so accrue without making adequate provisions for the payment thereof shall be liable in an action brought in municipal court for the amount of the accrued delinquency plus all attorneys' fees and costs incurred by the City in relation to collection of such delinquency.

Section 10. Notice of Delinquency:

(a) Prior to termination of a customer's utility service for nonpayment, notice shall be given to the customer setting forth the unpaid charges considered delinquent, interest, penalties and fees; providing notice that the customer's utility service will be discontinued and shut off at the meter if such charges, interest, and penalties are not paid within a specified number of days; and providing notice that all outstanding charges, fees, interest, and penalties shall be paid before utility service may be resumed.

(b) Said notice may be mailed, faxed, personally delivered, or left or posted at the service address as shown in the files of the City. The notices shall be given no later than fifteen (15) days nor less than seven (7) business days prior to termination of service.

(c) Where the City has reason to believe that a termination of utility service will affect more than one residential rental unit or account at a given service address, the customer's address is not the same as the service address of a residential rental unit, or the City has been notified that a tenant resides at the service address, the City will make a good faith and reasonable effort to give written notice to the customer and each residential rental unit at a given service address of a pending termination of utility service in the manner provided in this section.

(d) Nothing herein shall require said notice to be given in cases of consent, vacant premises, emergency, or as may be required for repairs at the direction of the Public Works Director.

Section 11. Lien:

(a) As provided in the RCW 35.21.290 and RCW 35.21.300, as currently enacted or hereafter amended, the City shall have a lien against the premises and property being provided water utility services for four (4) months utility service charges therefore due or to become due, but not for any charges more than four (4) months past due.

(b) Subject to the provisions of this resolution, a lien arising as a result of water service may be enforced only by terminating or discontinuing the utility service until the delinquent and unpaid charges are paid. In the event of a disputed account and tender by the customer of the amount the customer claims to be due before the utility service is cut off, the right to refuse utility service to any premises or property shall not accrue until suit has been entered by the City in the Spokane County Superior Court and a judgment has been entered in the case.

(c) The provisions of this resolution shall not be construed to limit the exercise of other municipal rights and remedies with regard to the collection of delinquent accounts for utility services other than water service. In addition to any other remedies permitted by law, the City shall have a lien pursuant to Chapter 35.67 RCW, as currently enacted or hereafter amended, for all delinquent and unpaid storm and surface water rates and charges, including

interest at the statutory rate, against the developed parcel which is subject to the charge. The lien may be foreclosed pursuant to Chapter 35.67 RCW, as currently enacted or hereafter amended.

Section 12. Conflict with Contractual Obligations of the City: The City is a party to certain contracts and agreements with various parties in connection with the City's utility billing program, including but not limited to electronic or on-line payment by customer's of utility billing. To the extent such contracts or agreements impose duties or obligations on the part of the City that are contradictory or in addition to the terms of this resolution, the terms of such contract or agreement shall apply.

Section 13. Severability: If any section, sentence, clause, or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconditionally shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution.

Section 14. Repeal: All resolutions (including but not limited to Resolution No. 2015-01, laws, and regulations, or parts thereof in conflict with this resolution are, to the extent of said conflict, hereby repealed.

Section 15. Ratification: The City Council hereby ratifies all prior acts of the City consistent with this resolution.

Section 16. Effect: This resolution shall be in full force and effect from and after its adoption.

PASSED BY THE COUNCIL OF THE CITY OF MILLWOOD THIS 9th DAY OF FEBRUARY, 2016.

KEVIN FREEMAN, MAYOR

Attest:

Thomas G. Richardson, City Clerk

ATTACHMENT 1
Utility Fee Schedule

Service Fees

Account Servicing Fee	$25.00
Delinquency Notice Fee	$10.00
Disconnect Fee	$25.00
Reconnect Fee	$25.00
Service Call	$85.00 per hour + parts
Service Call (After hours)	$135.00 per hour + parts
Service Call (Team)	$185.00 per hour + parts
Service Call (Team after hours)	$235.00 per hour + parts
Meter Tampering Fee	$150.00 per occurrence
Duplicate Bill	$2.50 per month

Connection Fees

Plan Review Fee	$50.00
Permit Fee (Includes inspection)	$100.00
Documentation Fee	$50.00
System Connection Fee*	$1,000.00

* This does not include costs for meters, materials or labor. Estimates for these costs will be made on an individual basis.