

First Reading: 2/2/2016

Second Reading: 2/16/2016

ORDINANCE NO. 953

AN ORDINANCE OF THE CITY OF BENTON CITY, WASHINGTON, AMENDING SECTION 13A.16.040 "DELINQUENT PAYMENT- SERVICE SHUT OFF- HEARING"; 13A.16.070 ENTITLED "CREDIT FOR VACANT PREMISES"; SECTION 13A.28.040 ENTITLED "WATER CHARGE SCHEDULE"; SECTION 13A.28.130 ENTITLED "CREDIT FOR VACANT PREMISES"; SECTION 13A.28.150 ENTITLED "DUE DATE"; CREATING NEW CHAPTER 13A.28.240 ENTITLED "CHARGES FOR SERVICE-BUDGET PAYMENT"; NEW CHAPTER 13A.16.080 ENTITLED "DEFERRED PAYMENT AGREEMENT"; AND NEW CHAPTER 13A.28.250 ENTITLED "DEFERRED PAYMENT AGREEMENT"

WHEREAS, it has been recommended by City staff that certain changes be made to the water and sewer billing policies of the Benton City Municipal Code regarding flexibility for late payments and payment option; and

WHEREAS, to provide consistency in the billing of water and sewer utility services, it is in the best interest of the citizens of the City that amendments be made to the existing Code. NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. That Section 13A.16.040 entitled "Delinquent payment- Service shut off- Hearing" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

13A.16.040 Delinquent payment—Service shut off --Hearing.

- A. All charges for the public sewer service shall be due on the second working day of the month following the month the services were provided and payable at the office of the City Clerk. Charges for sewer services shall become delinquent if not received at City Hall by close of business as listed in Section 2.04.010 on or before the 20th day of the billing month. If the 20th day of the billing month falls on a Saturday, Sunday, or legal holiday, the sewer utility account shall be delinquent if not received by the City by close of business as listed in Section 2.04.010, on the first working day thereafter. Mail or deposit box payments will not be considered received by the City prior to delinquency unless actually received prior to the default date and time. A delinquent fee set by the most current City Fee Schedule Resolution shall be assessed on each sewer account not paid prior to the delinquency.

The delinquent fee shall be waived by the City if all of the following conditions apply:

1. The account holder does not have any previous water or sewer charge delinquencies on their account for the prior 12 month period.
2. The account holder contacts the City before the close of business of

last working day of the month the charges are due to request the waiver.

As an additional and concurrent method of enforcing the lien of the City for sewage services, the Mayor is authorized and directed to shut off the public sewer service from the premises and/or water services to the premises on the last working day of the month such charges are due. Such services to the premises shall not be restored until such time as all charges, costs, penalties, and interest, as provided by the current City Fee Schedule Resolution, together with any additional sums which may be charged for the disconnection, reconnection, or utility account reinstatement are paid in full.

If payment is not received by the City for such charges by the 20th day of the month, the sewer utility customer shall receive notice in writing, notification of the following:

1. Termination of sewer and/or water utility services.
 2. Right to a hearing before the Mayor for determination of a bona fide dispute concerning the correctness of the bill.
 3. That a request for the hearing must be made by the 15th of the month such payment is due. If the utility customer prevails and the utility bill is corrected, the delinquency penalty, as set forth in the most recent current City Fee Schedule Resolution, shall be waived.
- B. All persons requesting a hearing as to the correctness of the sewer utility bill shall be notified in writing of the hearing date set therefore before the Mayor, which hearing shall be held not less than seven (7) days prior to the date designated for the termination of services. The hearing shall be before the Mayor to correct the mistake and determination of the sewer utility bill. The determination of the Mayor shall be final and rendered to the utility customer in writing prior to the date designated as the termination of the services. (Ord. 899, Feb. 2012; Ord. 843, Nov. 2008; Ord 731, Sept. 2001; Ord 696, 2000; Ord. 667, 1998; Ord. 622, 1995; Ord. 572, 1992; Ord. 514, 1988; Ord. 494, 1986; Ord. 405 S1 (part), 1981.)

Section 2. That Section 13A.16.070 entitled "Credit for vacant premises" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

13A.16.070 Credit for vacant premises. Any residential premises which shall have been destroyed, removed, or unoccupied for a period of not less than 120 days, may, upon appropriate application and the payment of the fee established therefore, apply to suspend the accrual of public sewer services and charges therefore for the period that the premises is unoccupied. At the time of reoccupancy, notice shall be given to the City, and public sewer services and charges therefore shall be reinstated. If the period of suspension is less than 120 days, sewer charges shall accrue during the period of vacancy and shall be immediately due and payable upon the recommencement of services to the public sewer service. (Ord. 727, May, 2001; Ord. 696, 2000; Ord 667, 1998; Ord. 494, 1986.)

Section 3. That Section 13A.28.040 entitled "Water charge schedule" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

13A.28.040 **Water charge schedule.** Effective April 10, 1978, each lot or parcel of real estate which is connected to the public water system under this chapter or each additional connection made to serve such lot or parcel of real estate shall be charged for public water service pursuant to the current City Fee Schedule Resolution. The City shall suspend the accrual of public water services and charges to accounts that have been shut off for non-payment until services are reinstated and any fees and charges due pursuant to this chapter are paid in full. (Ord. 667, 1998; Ord. 622, 1995.)

Section 4. That Section 13A.28.130 entitled "Credit for vacant premises" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

13A.28.130 **Credit for vacant premises.** Any residential premises which shall have been destroyed, removed, or unoccupied for a period of not less than 120 days, may, upon appropriate application and the payment of the fee established therefore, apply to suspend the accrual of public water services and charges therefore for the period that the premises is unoccupied. At the time of reoccupancy, notice shall be given to the City, and public water services and charges therefore shall be reinstated. If the period of suspension is less than 120 days, water charges shall accrue during the period of vacancy and shall be immediately due and payable upon the recommencement of services. (Ord. 727, May, 2001; Ord. 667, 1998; Ord. 405 S1 (part), 1981.)

Section 5. That Section 13A.28.150 entitled "Due date" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

13A.28.150 **Due date.** All charges for the public water services shall be due on the second working day of the month following the month the services were provided and payable at the office of the City Clerk. Charges for public water services shall become delinquent if not received at City Hall by close of business as listed in Section 2.04.010 on or before the 20th day of the billing month. A late fee will be assessed at the beginning of the following working day of such month, and the City will mail a second notice, with the delinquent fee, on the following working day after the 20th.

If the 20th day of the billing month falls on a Saturday, Sunday or legal holiday, public water services shall be delinquent if not received by the City by close of business as listed in Section 2.04.010 on the first working day thereafter. Mail or deposit box payments will not be considered received by the City prior to delinquency unless actually received prior to the default date and time.

A delinquent fee set by the most current City Fee Schedule Resolution shall be assessed on each water account not paid prior to delinquency.

The delinquent fee shall be waived by the City if all of the following conditions apply:

1. The account holder does not have any previous water or sewer charge delinquencies on their account for the prior 12 month period.
2. The account holder contacts the City before the close of business of last working day of the month the charges are due to request the waiver.(Ord. 899, Feb. 2012; Ord. 843, November 2008; Ord. 792, April 2005; Ord. 732, September 2001; Ord. 703, 2000; Ord. 667, 1998; Ord 622, 1995; Ord. 549, 1991.)

Section 6. That a new Section 13A.28.240 entitled "Charges for service- Budget payment" of the Benton City Municipal Code shall be and hereby is created and shall read as follows:

13A.28.240 Charges for service—Budget payment.

- A. The City Clerk/Treasurer is hereby authorized to create and implement a budget payment plan for residential customers in accordance with state law. Such a plan shall permit the authorized customer to make payments of utility charges on an annual averaged basis rather than on a monthly basis, with at least one annual adjustment to ensure that the amount paid on an annual basis reflects the actual charges incurred. Such plan shall be offered to residential customers as provided for in RCW 35.21.300, and may be offered to all residential customers as provided for in the budget payment plan.

Section 7. That a new Section 13A.16.080 entitled "Deferred Payment Agreement" of the Benton City Municipal Code shall be and hereby is created and shall read as follows:

13A.16.080 Deferred Payment Agreement.

- A. The city shall enter into a deferral agreement with a customer of an active past-due account provided the customer requests the deferral and can demonstrate a bona fide economic hardship to the City. The customer shall pay a deferral agreement fee equal to the first month's installment before the deferral agreement is executed by the city, and a \$5 a month service charge.
- B. The following situations constitute a bona fide economic hardship to implement this section;
 - a. A serious illness or injury suffered by the customer or a member of the customer's household;
 - b. The death of a member of the customer's household;
 - c. Loss of employment or deportation;
 - d. Economic loss due to natural disaster;
 - e. Domestic violence against the customer; or
 - f. A commitment by an independent program to assist the customer with payment that requires terms other than those in the original deferred payment agreement
- C. The maximum term for a deferral agreement shall be six (6) months. Estimated future billings will be included into the payment plan so that the account is current at the end of the deferral agreement term.

D. The deferral agreement shall be in substantially the following form:

DEFERRAL AGREEMENT
DELINQUENT UTILITIES

Date: _____

IN ORDER TO PAY A DELINQUENT ACCOUNT BALANCE, _____, hereinafter "Maker", promises to pay to THE CITY OF BENTON CITY, hereinafter "Holder", the principal sum of _____ Dollars and NO/100----- (\$_____.00), together with a fee in the amount of \$____ each month, as follows:

1. INSTALLMENT PAYMENTS: Maker shall pay, (check one)

a. INSTALLMENTS of _____ dollars (\$_____) including a fee in the amount of \$_____ due monthly by the 20th of the month.

b. INSTALLMENTS of _____ dollars (\$_____)

calendar month

third calendar month

sixth calendar month

Other: _____

2. DUE DATE: The entire balance of this Note together with any and all fees accrued thereon shall be due and payable in full on _____ day of _____, 20__.

3. ALLOCATION OF PAYMENTS: Each payment shall be credited first to any late charge due, second to interest, and the remainder to principal.

4. PREPAYMENT: Maker may prepay all or part of the balance owed under this Note at any time without penalty.

5. CURRENCY: All principal and interest payments shall be made in lawful money of the United States.

6. LATE CHARGE: If Holder receives any installment payment more than ten days after its due date, then a late payment charge of \$25 shall be added to the scheduled payment.

7. ACCELERATION: If Maker fails to make any payment owed under this Note, and such default is not cured within ten days after written notice of such default, then Holder may, at its option, declare all outstanding sums owed on this Note to be immediately due and payable, and turn off the Maker's water, and terminate all other services provided to Maker under Title 13 of the Benton City Municipal Code.

Maker's initials _____

8. ATTORNEYS' FEES AND COSTS: Maker shall pay all costs incurred by Holder in collecting sums due under this Note after a default, including reasonable attorneys' fees, whether or not suit is brought. If Maker or Holder sues to enforce this Note or obtain a declaration of its rights hereunder, the prevailing party in any such proceeding shall be entitled to recover its reasonable attorneys' fees and costs incurred in the proceeding (including those incurred in any bankruptcy proceeding or appeal) from the non-prevailing party. In addition, Holder may contract with a collection agency in accordance with the procedures contained in RCW 19.16.500 to collect upon this note and add a reasonable fee in the maximum amount set forth in RCW 19.16.500.

9. WAIVER OF PRESENTMENTS: Maker waives presentment for payment, notice of dishonor, protest and notice of protest.

10. NON-WAIVER: No failure or delay by Holder in exercising Holder's rights under this Note shall be a waiver of such rights.

11. SEVERABILITY: If any clause or any other portion of this Note shall be determined to be void or unenforceable for any reason, such determination shall not affect the validity or enforceability of any other clause or portion of this Note, all of which shall remain in full force and effect.

12. INTEGRATION: There are no verbal or other agreements, which modify or affect the terms of this Note. This Note may not be modified or amended except by written agreement signed by Maker and Holder.

13. EXECUTION: Each Maker executes this Note as a principal and not as a surety. If there is more than one Maker, each such Maker shall be jointly and severally liable under this Note.

14. DEFINITIONS: The word Maker shall be construed interchangeably with the words Borrower or Payer and the word Holder shall be construed interchangeably with the words Lender or Payee. In this Note, singular and plural words shall be construed interchangeably as may be appropriate in the context and circumstances to which such words apply.

Maker (signatures)

INSERT PROPERTY OWNER'S NAME

INSERT PROPERTY OWNER'S NAME

Approved by:

CITY CLERK/TREASURER

Maker's address for all notices given by Holder under this Note:

Section 8. That a new Section 13A.28.250 entitled "Deferred Payment Agreement" of

the Benton City Municipal Code shall be and hereby is created and shall read as follows:

13A.28.250 Deferred Payment Agreement.

- A. The city shall enter into a deferral agreement with a customer of an active past-due account provided the customer requests the deferral and can demonstrate a bona fide economic hardship to the City. The customer shall pay a deferral agreement fee equal to the first month's installment before the deferral agreement is executed by the city, and a \$5 a month service charge.
- B. The following situations constitute a bona fide economic hardship to implement this section;
 - a. A serious illness or injury suffered by the customer or a member of the customer's household;
 - b. The death of a member of the customer's household;
 - c. Loss of employment or deportation;
 - d. Economic loss due to natural disaster;
 - e. Domestic violence against the customer; or
 - f. A commitment by an independent program to assist the customer with payment that requires terms other than those in the original deferred payment agreement
- C. The maximum term for a deferral agreement shall be six (6) months. Estimated future billings will be included into the payment plan so that the account is current at the end of the deferral agreement term.
- D. The deferral agreement shall be in substantially the following form:

DEFERRAL AGREEMENT
DELINQUENT UTILITIES

Date:

IN ORDER TO PAY A DELINQUENT ACCOUNT BALANCE, _____, hereinafter "Maker", promises to pay to THE CITY OF BENTON CITY, hereinafter "Holder", the principal sum of _____ Dollars and NO/100----- (\$_____.00), together with a fee in the amount of \$____ each month, as follows:

- 1. INSTALLMENT PAYMENTS: Maker shall pay, (check one)
 - a. INSTALLMENTS of _____ dollars (\$_____) including a fee in the amount of \$_____ due monthly by the 20th of the month.
 - b. INSTALLMENTS of _____ dollars (\$_____)
 - calendar month
 - third calendar month
 - sixth calendar month

() Other: _____

2. DUE DATE: The entire balance of this Note together with any and all fees accrued thereon shall be due and payable in full on _____ day of _____, 20__.

3. ALLOCATION OF PAYMENTS: Each payment shall be credited first to any late charge due, second to interest, and the remainder to principal.

4. PREPAYMENT: Maker may prepay all or part of the balance owed under this Note at any time without penalty.

5. CURRENCY: All principal and interest payments shall be made in lawful money of the United States.

6. LATE CHARGE: If Holder receives any installment payment more than ten days after its due date, then a late payment charge of \$25 shall be added to the scheduled payment.

7. ACCELERATION: If Maker fails to make any payment owed under this Note, and such default is not cured within ten days after written notice of such default, then Holder may, at its option, declare all outstanding sums owed on this Note to be immediately due and payable, and turn off the Maker's water, and terminate all other services provided to Maker under Title 13 of the Benton City Municipal Code.

Maker's initials _____

8. ATTORNEYS' FEES AND COSTS: Maker shall pay all costs incurred by Holder in collecting sums due under this Note after a default, including reasonable attorneys' fees, whether or not suit is brought. If Maker or Holder sues to enforce this Note or obtain a declaration of its rights hereunder, the prevailing party in any such proceeding shall be entitled to recover its reasonable attorneys' fees and costs incurred in the proceeding (including those incurred in any bankruptcy proceeding or appeal) from the non-prevailing party. In addition, Holder may contract with a collection agency in accordance with the procedures contained in RCW 19.16.500 to collect upon this note and add a reasonable fee in the maximum amount set forth in RCW 19.16.500.

9. WAIVER OF PRESENTMENTS: Maker waives presentment for payment, notice of dishonor, protest and notice of protest.

10. NON-WAIVER: No failure or delay by Holder in exercising Holder's rights under this Note shall be a waiver of such rights.

11. SEVERABILITY: If any clause or any other portion of this Note shall be determined to be void or unenforceable for any reason, such determination shall not affect the validity or enforceability of any other clause or portion of this Note, all of which shall remain in full force and effect.

12. INTEGRATION: There are no verbal or other agreements, which modify or affect the terms of this Note. This Note may not be modified or amended except by written agreement signed by Maker and Holder.

13. EXECUTION: Each Maker executes this Note as a principal and not as a surety. If there is more than one Maker, each such Maker shall be jointly and severally liable under this Note.

14. DEFINITIONS: The word Maker shall be construed interchangeably with the words Borrower or Payer and the word Holder shall be construed interchangeably with the words Lender or Payee. In this Note, singular and plural words shall be construed interchangeably as may be appropriate in the context and circumstances to which such words apply.

Maker (signatures)

INSERT PROPERTY OWNER'S NAME

INSERT PROPERTY OWNER'S NAME

Approved by:

CITY CLERK/TREASURER

Maker's address for all notices given by Holder under this Note:

Section 9. This Ordinance shall take full force and effect five (5) days after its approval, passage and publication as required by law.

PASSED by the City Council of the City of Benton City, Washington, and approved as provided by law this 16 day of February, 2016.



Linda Lehman,
Mayor

ATTEST:



Stephanie Haug, CMC
City Clerk/Treasurer

APPROVED AS TO FORM:



Leland B. Kerr,
City Attorney