

ORDINANCE NO. 5542

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE TITLE 11 TO MODIFY EXISTING LANGUAGE REGARDING THE ADJUSTMENT OF WATER BILLS AND FEES; TO ADD NEW LANGUAGE REGARDING THE CHARGING OF INTEREST; AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Albany wants to clarify how and when water bills will be adjusted and make the adjustment process more consistent among customer classes; and

WHEREAS, the Council of the City of Albany desires a fair and equitable system for administering fees and charges in the water system.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS.

Title 11 of the Albany Municipal Code is hereby amended to incorporate the changes noted herein:

11.01 060 Past due accounts

(1) A water account is **due and payable upon billing or 30 days following provision of service, whichever shall first occur. Water accounts shall bear interest at the rate of nine (9) percent per annum from the date payment is due. Interest shall not be charged if the account is brought current within 60 days after becoming due. If not so paid, interest shall accrue from the date payment was due.** ~~past due if it is not paid within 30 days following the date of billing of said account.~~

(2) A second notice (past due notice) will be mailed to all unpaid accounts on or about 30 days following the original billing date; said notice will state the amount past due and request that payment or arrangements for payment be made within 10 days of the past due notice date. This past due notice will be sent to the customer's mailing address

(3) A written warning notice to the customer shall be left at the premises on or about the 46th day following the original billing date stating that payment must be received in the City business office within 72 hours (three days) or water service will be terminated. In the case of a multi-family unit serviced by a single meter, the written warning notice will be left at each dwelling unit whether or not occupied

(4) In all cases of past due turn-offs, a notice shall be left on the door or mailed to the customer on or about the 49th day following the original billing date stating that water has been turned off and will remain turned off until all past due amounts and penalty charges are paid. Turn-off notices for multi-family units serviced by a single meter will be left at each dwelling unit whether or not occupied. A service charge established by Council resolution will be charged and collected for each past due or disconnection notice sent or delivered to the customer's premises.

(5) In all instances where water has been turned off because of nonpayment of a past due account, a service charge established by Council resolution will be collected in addition to the past due amount prior to restoring any service during regular working hours. An additional fee will be collected for restoration of service after regular working hours

(6) The City Manager or the City Manager's agent, in the case of extreme hardship or by prior arrangement with the user, shall have the discretion of renewing or not discontinuing service to a past due account upon acceptance of a valid plan for the payment of all past due, current, and future charges

(7) Notice shall be given with the past due notice that the customer shall have the opportunity, if they do not agree with the billing, to have a hearing on their account. The hearing shall be held by a Hearings

Officer appointed by the Finance Director and the Hearings Officer's decision shall be binding. Written notice to the utility by the customer of a request for a hearing must be given prior to the water service being disconnected; otherwise, the customer must pay all past due accounts plus any restoration charges prior to service being restored. If the hearing is held and the Hearings Officer finds in favor of the customer, any or all of the appropriate charges may be adjusted or returned to the customer based upon the findings of the Hearings Officer.

(8) If any unpaid account balance remains after the initial due date of the closing bill, the utility may:

- (a) Apply deposit.
- (b) Transfer any remaining balance to the customer's new water account
- (c) Initiate other collection action against the customer

(9) In cases where termination of service for a past due account may cause severe hardship or loss of life, the utility may initiate other collection action against its customers. This action may include the use of small claims court and/or district court, if appropriate (Ord. 4940 § 1, 1990; Ord. 4878, 1989, Ord. 4664, 1985).

11.01 095 Adjustments, **Back-billing, Credits and Refunds.**

(1) The Utility may make adjustments, **back-bill, apply credits**, pay refunds, or waive fees and charges in accordance with City Council policy. If no Council policy exists, the Utility may make adjustments where it is deemed necessary for the proper conduct of the business of the Utility. A full explanation of the reason for the adjustment or refund must be filed with the office records and will be made available upon request. Refunds are to be made to the party that made the payment

When the Utility determines that a customer has been **mistakenly** charged too much for water services, the **Utility will apply a credit to the account** ~~refund shall be~~ based on the date the error first occurred, **the date the current customer became responsible for the bill, or a period not to exceed six (6) years, whichever is less.** ~~or as best determined by the Utility from available records.~~ If the date cannot be reasonably determined, the Utility will estimate the amount of the refund based on a period not to exceed ~~three~~ **six (6) years**

When the Utility determines that a customer has not been charged or has not been charged enough for water services, the Utility will ~~adjust the bill~~ **back-bill the account** based on the date the error first occurred, the date the current customer became responsible for the bill, or a period not to exceed ~~three~~ **six (6) years, whichever is less.** If the date cannot be reasonably determined, the Utility will estimate the bill for a period not to exceed one year. Customers who receive such a delayed bill will be offered the opportunity to make arrangements for installment payments.

(2) Non-registering Meters. The utility may bill the customer for water consumed while the meter was not registering. The bill will be calculated using an estimate of consumption based either upon the customer's prior use during the same season of the year or upon a reasonable comparison with the use of other customers receiving the same class of service during the same period and under similar circumstances and conditions.

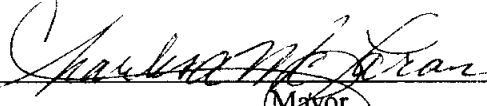
(3) Adjustments on Account of Leaks. Where it can be demonstrated that an existing leak on the customer's side of the meter has been repaired, the utility may allow an adjustment of up to 50 percent of the estimated excess consumption due to leakage, for no more than the last two billing periods. Adjustments shall not be permitted when the excess consumption is due to the apparent continued waste of water due to a negligent failure to repair the leak.

Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, safety, and health of the citizens of the City of Albany, Oregon, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by Council October 9, 2002

Approved by the Mayor: October 9, 2002

Effective Date. October 9, 2002



(Mayor)

ATTEST:



City Recorder Clerk