

Town of Nespelem

Ordinance 2022-03

*An Ordinance of the Town of Nespelem, Washington,
Establishing Utility Billing and Termination Procedures.
And Repealing Ordinance No. 14-01 in Conflict Therewith.*

WHEREAS, The Town of Nespelem, Washington, hereinafter referred to as "Town" is required to provide notice of termination of utilities pursuant to RCW 35.21.217 and established case law, and

WHEREAS, Town Council for the Town of Nespelem approved Ordinance 14-01, adopted February 11, 2014, which established utility billing, and termination procedures, and

WHEREAS, Town Council has determined the need to repeal said Ordinance 14-01 and replace it with a new ordinance which adopts utility billing, and termination procedures, and

NOW THEREFORE, be it ordained by Town Council for the Town of Nespelem, Washington, as follows:

Section 1 – Responsibility for Payment:

All water user charges contained in the utility billing from the Town shall be the responsibility of the property owner for the purposes of liens which may be assessed by the Town as provide by law. However, duplicate utility billing may be mailed to tenants or residents of commercial or residential property under the following conditions, but not to relieve the property owner from liability for charges incurred.

- i. Upon the request of the owner or tenant of the real property, billing may be sent to the tenant or the agent of the owner; provided, that a current address of owner is maintained with the Town, which is the responsibility of the owner, and any changes in the residents or tenant of the property are made known to the Town by the owner.
- ii. Such billing, when sent to the tenant or agent, will become the responsibility of the tenant or agent, as well as the property owner, and each can be held jointly and severally liable for such billing.
- iii. The owner and tenant or agent shall sign an application form giving their consent for the utility service to be billed as provide in this section and giving the address of each. Copies of such forms shall be provided to both the owner of the real property and the tenant or resident, and such forms shall also contain notification of the right of owner or tenant to dispute termination of water service.
- iv. Hereinafter, owner, tenant, resident, or agent shall be referred to as "customer."

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Section 2 – Billing Frequency and Due Date:

Billing for utility service shall be mailed to the provided address monthly rendered to the customer pursuant to the provisions of Section 1. All utility chargers shall be due and payable on or before the 15th day of each month.

Section 3 – Utility Rate:

All water supplied to any property connected with the Town water mains shall be charged a rate determined by the Towns current Water Rate Ordinance. The said rate shall be charged to the applicant and against the property so supplied.

Section 4 – Delinquency Charges:

In the event that any water service charges in a utility account shall remain unpaid on the first day of the next month a delinquent late fee shall be assessed. The Towns current Fee Schedule Resolution shall determine the delinquent late fee.

Section 5 – Termination Notice:

If said delinquent utility account is not paid by the 15th of said month, a termination notice shall be mailed and/or personally served upon the customer, informing those affected that water service shall be turned off in five (5) days. The notice of termination shall contain the following:

- i. The amount of past and current amount due including any fees.
- ii. The date of termination. Which shall be not less than five (5) calendar days from the date of notice.
- iii. Notice that unless the Town receives complete payment of the past due amount prior to the date of termination, water service shall be terminated.
- iv. Notice that in lieu of paying the entire amount shown, a customer, prior to the date of termination, may notify the Town that they disputes the correctness of all, or part of the amount shown, if all or part of the amount shown was not the subject of a previous dispute.
- v. Notice that a service fee will be assessed for turning any water service back on.
- vi. In the event the Town should proceed to terminate water service to any property which has failed to pay said delinquent amount after delivery of written notice, the maintenance employee for the Town shall make a reasonable effort to inform the customer that water service is being terminated. The employee shall not accept payment of the delinquent amount for the customer, but employee shall not terminate water service until the customer has been afforded an opportunity of not less than one hour to reach Town Hall and arrange to bring the account current.

Section 6: – Dispute Resolution:

- 1) At any time before the date of termination of water service for nonpayment of the amount shown on a utility bill or notice of termination, a customer may dispute the

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correctness of all or part of said amount. A customer shall not be entitled to dispute the correctness of all or part of the amount if all or part of the amount was subject of a previous dispute under this section.

- 2) The procedure for customer disputes shall be as follows:
 - i. Before the date of termination, the customer shall notify the Town Clerk in writing that the customer disputes all or part of the amount shown on the utility bill or notice of termination, stating as completely as possible the basis for the dispute.
 - ii. If Town Clerk determines the present dispute is untimely or the customer previous disputed the correction of all or part of the amount show, the Clerk shall mail a notice to the customer stating the present dispute is untimely or invalid. The Town shall proceed as if the customer had not notified the Town of the present dispute.
 - iii. If the Town Clerk determines the present dispute is timely or valid under this section, the Town, within seven (7) days after receipt of the customer's dispute notice, shall arrange an informal meeting between the customer and the Clerk.
 - iv. Based on the Town's records, the customer's allegations, and all other relevant materials available the Clerk shall resolve the dispute, attempting to do so in a manner satisfactory to both the Town and the customer.
 - v. Within seven (7) days of completion of the meeting the Clerk shall mail to the customer a copy of the decision resolving the dispute.
 - vi. Until the date of the decision the Town shall not terminate the water service of this customer and shall not issue a notice of termination for the nonpayment of the disputed amount.
 - vii. That decision shall be final and binding on the customer.
- 3) If it is determined the customer must pay some or the entire disputed amount the Town shall promptly mail or personally serve upon the customer a notice of termination, following the procedure set forth in section four of this ordinance.
- 4) Utilization of this dispute procedure shall not relive a customer of their obligation to timely and completely pay all other undisputed charges.

Section 7: – Termination of Water Service:

- 1) As an additional and concurrent method of enforcing a lien for water services charges, the Town shall terminate the water service to the premises to which services were provide, or remove the water meter thereto and, except as provide in

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this section. Such water service shall remain terminated until all water service charges plus penalties and fees thereon, together with a reconnected charge have been paid.

- 2) In the case involving public health or safety, or as otherwise provide in this Ordinance, the Town may terminate service to a residential tenant occupying a rented dwelling for delinquent water services charges. In the case of delinquency incurred by a property owner or prior tenant, and if requested, the Town shall allow tenants to open an account in their name and on the same terms and conditions as other residential utility customers, without requiring the tenant to pay the delinquent amount for water service charges billed directly to the property owner or a previous tenant, except as otherwise allowed by law and only when the Town offers the affected tenant to set up reasonable payment plan for the delinquent amounts legally owed. When a rented dwelling is occupied by a tenant who has opened an account in their name, no termination or the threat of termination will occur because of the tenant's landlord or the obligation of the prior occupant of the premises not currently residing therein: provided, however, the term "threat of termination" shall not include the notices authorized by this Ordinance.

Section 8: – Unlawful Acts:

- 1) It is unlawful for any person except when duly authorized by the city, or except when such person shall be a member of the fire department acting in their official capacity, to open, operate, close, turn on, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, stop valve or stopcock belonging to the city. Any person violating this subsection shall be subject to a C-10 penalty.
- 2) It is unlawful for any person to break or deface the seal of any meter; obstruct, alter, injure, or prevent the action of any meter or other instrument used to measure or register the quantity of water supplied to a consumer thereof; or prevent, by the erection of any device or construction or by any other means, free access to any meter or other instrument for registering or measuring the amount of water consumed, or interfere with, obstruct or prevent, by any means, the reading or inspection of such meter or instrument, by any of the officers or authorized employees of the Town. Any person violating this subsection shall be subject to a C-10 penalty.
- 3) It is unlawful for any person other than an employee of the city authorized to do so to either turn on or off water service to any property. Any person violating this subsection shall be subject to a C-10 penalty.
- 4) It is unlawful for any person to make connection with any fixture or connect any pipe with any water main or water pipe belonging to the Town water supply, without first obtaining the permission to do so from the Town. Any person violating this subsection shall be subject to a C-10 penalty.

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Section 9 – Repealer:

Ordinances 14-01 and any other ordinances or resolution or parts of an ordinance or resolution in conflict with this Ordinance are hereby repealed.

Section 10 – Severability:

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this Ordinance.

Section 11 – Effective Date:

This Ordinance shall take effect after its passage by the Town Council, approval by the Mayor for the Town of Nespelem, and publication as required by law.

Passed by Town Council for the Town of Nespelem, Washington at the regular meeting on this 13th day April of 2022.





DARCY EPPERSON, Mayor

Attest:



KELLY ROSS, Clerk/Treasurer