



# Agenda

## CITY OF MILLERSBURG City Council Regular Meeting

Electronic Meeting  
March 09, 2021 @ 6:30 PM

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**This meeting will be held remotely. Instructions for joining the meeting can be found at <https://www.cityofmillersburg.org/citycouncil/page/city-council-regular-meeting-5>. If you do not have access to a phone or computer, or need additional support, please contact City Hall prior to 5:00 p.m. on Monday, March 8.**

**Meeting link to join via computer:**

**<https://aspenuc.accessionmeeting.com/j/1161717173>**

**Phone number to join meeting: 503-212-9900**

**Meeting ID: 116 171 7173**

### CALL TO ORDER

### ROLL CALL

### CHANGES AND ADDITIONS TO THE AGENDA

### CONSENT AGENDA

- 1) Approval of February 9, 2021 City Council Meeting Minutes
  - 2) Approval of February 16, 2021 Special City Council Public Hearing Minutes
- Action: \_\_\_\_\_

### GUEST PRESENTATIONS

- 3) Linn County Sheriff's Office Monthly Report

### PUBLIC COMMENT

*The public has the opportunity to address the Council during "Public Comment" while in the virtual meeting by virtually signaling by unmuting first, then those who call in will be acknowledged, or if the public prefers, may send written comments by email to [cityclerk@cityofmillersburg.org](mailto:cityclerk@cityofmillersburg.org). Please limit comments to one page and include your name and address. Emails received before 5:00 p.m. on the day of the meeting will be included and read into the record for comments by the Council.*

### COUNCIL MEMBER AND STAFF COMMENTS

- 4) Management Contract - Mayor

**CITY MANAGER'S REPORT**

- [5\)](#) Project Updates
- [6\)](#) Budget Calendar

**CITY ATTORNEY'S REPORT**

**UNFINISHED BUSINESS**

**NEW BUSINESS**

- [7\)](#) Enterprise Zone Resolutions – Agility Robotics and Frank Pellets – Resolutions 2021-01 and 2021-02  
Action:\_\_\_\_\_
- [8\)](#) Water and Sewer Rates - Resolutions 2021-03, 04, 05, 06  
Action:\_\_\_\_\_
- [9\)](#) Charter Amendments  
Action:\_\_\_\_\_
- [10\)](#) Water Rights  
Action:\_\_\_\_\_
- [11\)](#) MMC Chapter 11.01 Water System Rules and Regulations - Ordinance 182-01  
Action:\_\_\_\_\_

**CLOSING PUBLIC COMMENT**

**CLOSING COUNCIL COMMENT**

**ADJOURNMENT**

*Note: Council may adjourn to executive session in accordance with ORS 192.660.*

**Upcoming Meetings & Events:**

March 11, 2021 @ 6:00 p.m. - Events Planning Committee Meeting

March 16, 2021 @ 6:00 p.m. - Planning Commission Meeting (tentative)

**Rules of Conduct for Public Hearings**

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.

4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

*The location of the meeting is accessible to the disabled. If you have a disability that requires accommodation to attend or participate, please notify the Millersburg City Hall in advance by calling 458-233-6300.*



## CITY COUNCIL MEETING & PUBLIC HEARING

Electronic Meeting

February 9, 2021 @ 6:30 p.m.

A. CALL TO ORDER Meeting called to order by Mayor Lepin at 6:31 p.m.

B. ROLL CALL

Councilors Present: Mayor Jim Lepin, Councilors Scott Cowan, Dave Harms, Scott McPhee, John Sullivan

Councilors Absent: None

Staff Present: Kevin Kreitman, City Manager; Janelle Booth, Assistant City Manager/City Engineer; Forrest Reid, City Attorney; Kimberly Wollenburg, City Recorder

Presenters: Linn County Sheriff Sergeant Beth Miller  
Deb Galardi, Galardi Rothstein Group

C. CHANGES AND ADDITIONS TO THE AGENDA

D. CONSENT AGENDA

1) Approval of January 12, 2021 City Council Meeting Minutes

2) Acceptance of Report on City Accounts Payable

Action: **Motion to Accept Consent Agenda as Presented made by Councilor Scott Cowan; seconded by Councilor John Sullivan.**

**Mayor Jim Lepin: Aye**

**Councilor Scott Cowan: Aye**

**Councilor Dave Harms: Aye**

**Councilor Scott McPhee: Aye**

**Councilor John Sullivan: Aye**

Motion PASSED: 5/0

E. GUEST PRESENTATIONS

1) Linn County Sheriff's Office Monthly Report

Sergeant Beth Miller reviewed the January 2021 monthly report. Sergeant Miller specifically referenced the increase theft of catalytic converters and said this was common within the County. She also noted three Millersburg residents reporting of fraudulent unemployment claims being filed under their names with the Oregon Unemployment Division.

F. PUBLIC COMMENT

1) Kevin and Laurie Hackstedt asked about the status of constructing a sidewalk on Woods Road – if there is an upcoming project for that. Assistant City Manager/City Engineer Booth shared our Capital Improvements Program includes a proposed future multi-use path along Woods Road, from Alexander Lane to Sonora Dr.

Laurie Hackstedt spoke about the speeding on Alexander Lane near Woods Road and noted that it seems people do better in 25 mph zones and asked if Alexander Lane speed could be lowered. Councilor Cowan shared that years ago, the Council tried to have the speed reduced to 25 but learned there is an extensive and detailed process to have the speed reduced. Booth said the process has changed and recommends that we wait to see how traffic is affected by the new development then evaluate making changes

Mayor Lepin opened the public hearing at 6:47 p.m. Then reviewed the purpose of the public hearing and the process for commenting.

G. PUBLIC HEARING – Water and Sewer Rates

Assistant City Manager/City Engineer Booth gave a brief presentation on the proposed revisions to the water and sewer rates. There was some discussion regarding rates and issues with FOG and disposable wipes in system.

There was no comment from public.

Mayor Lepin closed the public hearing at 7:16 p.m.

H. COUNCIL MEMBER AND STAFF COMMENTS

None

I. CITY MANAGER'S REPORT

1) Project Updates

Assistant City Manager/City Engineer Booth reviewed the project updates memo. She reviewed the key dates for the Fire Station project bidding, award, and notice to proceed. She also spoke about the upcoming public hearing on February 16 for exemption to the competitive bidding project.

City Manager Kreitman spoke about the request from Mary Klages, the first mayor of Millersburg, family about the possibility of having a park bench installed near the playground in dedication of her service and her 80<sup>th</sup> birthday. After discussion, the Council agreed to have the City purchase the bench, with the family providing the concrete pad for installation and engraving of the bench.

J. CITY ATTORNEY'S REPORT

None

K. UNFINISHED BUSINESS

None

L. NEW BUSINESS

1) OMI DRC Contract

City Manager Kreitman and Assistant City Manager/City Engineer Booth reviewed the need for the amendment and explained the need for the change.

Action: **Motion for the Approval of Amendment 4 and Authorization for the City Manager to Sign Amendment 4 to the Professional Services Agreement with OMI made by Councilor Cowan; seconded by Councilor McPhee.**

**Mayor Jim Lepin: Aye**

**Councilor Scott Cowan: Aye**

**Councilor Dave Harms: Aye**  
**Councilor Scott McPhee: Aye**  
**Councilor John Sullivan: Aye**

Motion PASSED: 5/0

2) CH2M (Jacobs) Contract Amendment

Assistant City Manager/City Engineer Booth reviewed the background behind the request for the contract amendment to allow the City to have continuing support for ongoing projects

Action: **Motion for the Approval of and Authorization for the City Manager to Sign Amendment 12 to the CH2M Hill, Inc. Contract for Professional Services made by Councilor Cowan; seconded by Councilor McPhee.**

**Mayor Jim Lepin: Aye**  
**Councilor Scott Cowan: Aye**  
**Councilor Dave Harms: Aye**  
**Councilor Scott McPhee: Aye**  
**Councilor John Sullivan: Aye**

Motion PASSED: 5/0

3) Galardi Rothstein Group Contract Amendment – Parks SDCs

Assistant City Manager/City Engineer Booth reminded Council the parks SDCs were not included in the recent rates and SDC study because the parks master plan had not been completed. Mayor Lepin asked if there was a timeline for the study. City Manager Kreitman said staff will need to have a discussion with Council on a few items which will determine the study timeline. Ms. Galardi spoke about the process for the study then timeline for when the study can be approved once it's ready.

Action: **Motion for the Approval of the Parks SDC Study Proposal with Galardi Rothstein Group and Authorize the City Manager to Enter into a Contract Amendment with Galardi Rothstein Group for said Services made by Councilor Cowan; seconded by Councilor Harms.**

**Mayor Jim Lepin: Aye**  
**Councilor Scott Cowan: Aye**  
**Councilor Dave Harms: Aye**  
**Councilor Scott McPhee: Aye**  
**Councilor John Sullivan: Aye**

Motion PASSED: 5/0

4) Health Insurance – Information Only

City Manager Kreitman provided Council with information regarding the upcoming medical insurance benefits renewal and some of the impacts noting the increases were below expectations and the funds budgeted.

5) YMCA Facility Discussion

City Manager Kreitman provided background to the YMCA request for consideration of city participation in the development of a facility in Millersburg. Staff shared the discussion that has taken place and the interest in locating a facility on the property currently occupied by our temporary fire station.

Action: **Motion to Direct the City Manager to Continue Working with YMCA Leadership to Support Development if Project Funding can be secured, and will Commit to Negotiate Potential Lease Language for City Property on the South Side**

**of Conser Road for Council Consideration made by Councilor Harms; seconded by Councilor McPhee.**

<b>Mayor Jim Lepin:</b>	<b>Aye</b>
<b>Councilor Scott Cowan:</b>	<b>Aye</b>
<b>Councilor Dave Harms:</b>	<b>Aye</b>
<b>Councilor Scott McPhee:</b>	<b>Aye</b>
<b>Councilor John Sullivan:</b>	<b>Aye</b>

Motion PASSED: 5/0

M. CLOSING PUBLIC COMMENT

N. CLOSING COUNCIL COMMENT

1) Councilor Cowan let the Council know he would be joining his first Events Planning Committee meeting this coming Thursday.

O. ADJOURNMENT Mayor Lepin adjourned the meeting at 8:35 p.m.

Respectfully submitted:

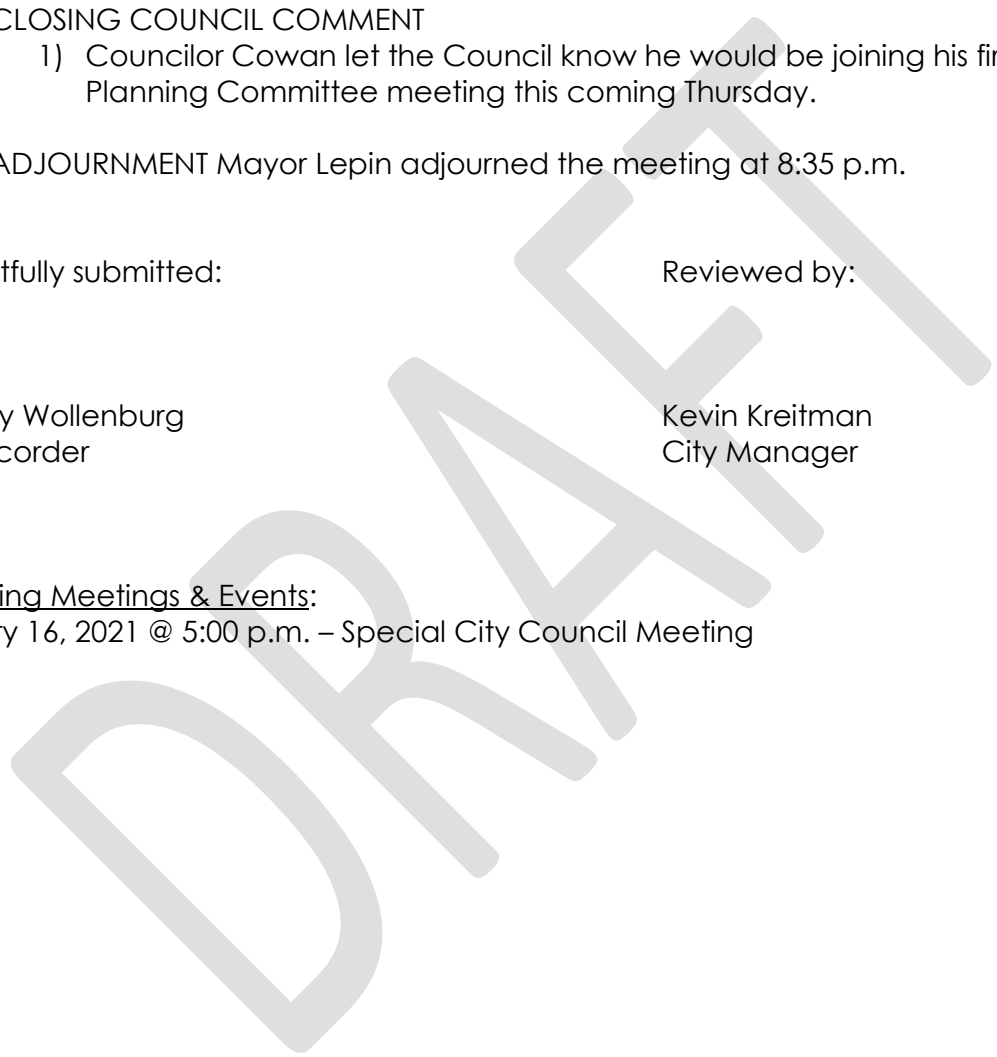
Reviewed by:

Kimberly Wollenburg  
City Recorder

Kevin Kreitman  
City Manager

Upcoming Meetings & Events:

February 16, 2021 @ 5:00 p.m. – Special City Council Meeting





**SPECIAL CITY COUNCIL PUBLIC HEARING**

**Electronic Meeting**

February 16, 2021 @ 5:00 p.m.

- A. CALL TO ORDER Meeting called to order by Mayor Lepin at 5:03 p.m.
- B. ROLL CALL
  - Councilors Present: Mayor Jim Lepin, Councilors Scott Cowan, Dave Harms, Scott McPhee, John Sullivan
  - Councilors Absent: None
  - Staff Present: Kevin Kreitman, City Manager; Janelle Booth, Assistant City Manager/City Engineer; Forrest Reid, City Attorney; Kimberly Wollenburg, City Recorder
- C. CHANGES AND ADDITIONS TO THE AGENDA
- D. PUBLIC COMMENT
  - No public in attendance.

Mayor Lepin opened the public hearing at 5:04 p.m. Then reviewed the purpose of the public hearing and the process for commenting.

- E. PUBLIC HEARING – Consideration of Exemption of a Public Improvement Project from the Competitive Bidding Requirement  
 Assistant City Manager/City Engineer Booth reviewed the findings for exemption to competitive bidding requirements in accordance with ORS 279C.335.

There was no comment from public.

Mayor Lepin closed the public hearing at 5:12 p.m.

**Action: Motion to Approve the Findings Published on January 29, 2021 in Accordance with the Requirements of ORS 279C.335 and Exempt the Millersburg Fire Station 15 Project from Competitive Bidding Requirements in Accordance with ORS 279C.335 made by Councilor Cowan; seconded by Councilor McPhee.**

<b>Mayor Jim Lepin:</b>	<b>Aye</b>
<b>Councilor Scott Cowan:</b>	<b>Aye</b>
<b>Councilor Dave Harms:</b>	<b>Aye</b>
<b>Councilor Scott McPhee:</b>	<b>Aye</b>
<b>Councilor John Sullivan:</b>	<b>Aye</b>

Motion PASSED: 5/0



F. CLOSING COUNCIL COMMENT

- 1) Councilor Cowan thanked City Manager Kreitman and Maintenance Supervisor Shearer for their efforts during the Friday night and Saturday storm cleanup. Mayor Lepin noted that Assistant Manager/City Engineer Booth, City Recorder Wollenburg, and Maintenance Assistant Patton were also involved in cleanup efforts. City Manager Kreitman noted that the parks would continue to be closed through the end of the current week as they are unable to isolate damaged trees enough to make the parks safe for residents and visitors.
- 2) Councilor McPhee asked about lot coverage and noted that he's getting a lot of questions from residents who want to do things like cover a concrete pad already in existence (for example) and how that affects the 50% lot coverage code. Assistant Manager/City Engineer Booth noted that the lot coverage standard has been around for many years but not enforced in the past; however, it is now being checked when residents submit building permits. She also clarified that the lots already over the 50% are not considered in compliance with the code and will be required to come into compliance prior to receiving a building permit.

G. ADJOURNMENT TO EXECUTIVE SESSION, AUTHORIZED AND IDENTIFIED IN THE OREGON REVISED STATUTES NOTED BELOW at 5:22 p.m.

**ORS 192.660(2)(e): Conduct deliberations with persons designated by the governing body to negotiate real property transactions.**

**ORS 192.660(2)(h): Consultation with legal counsel regarding the legal rights and duties of a public body with regard to current litigation or litigation to be filed.**

H. ADJOURNMENT FROM EXECUTIVE SESSION BACK INTO REGULAR SESSION AND MEETING ADJOURNED at 5:33 p.m.

Respectfully submitted:

Reviewed by:

Kimberly Wollenburg  
City Recorder

Kevin Kreitman  
City Manager



# LINN COUNTY SHERIFF'S OFFICE

**Jim Yon, Sheriff**

1115 S.E. Jackson Street, Albany, OR 97322  
Albany, OR. 97322  
Phone: 541-967-3950  
www.linnsheriff.org

## 2021

### MONTHLY REPORT TO THE CITY OF MILLERSBURG FROM THE LINN COUNTY SHERIFF'S OFFICE

**FOR THE MONTH OF: February**

<b>TRAFFIC CITATIONS:</b> _____	<b>9</b>
<b>TRAFFIC WARNINGS:</b> _____	<b>11</b>
<b>TRAFFIC CRASHES:</b> _____	<b>3</b>
<b>ADULTS CITED/VIOLATIONS:</b> _____	<b>2</b>
<b>ADULTS ARRESTED :</b> _____	<b>5</b>
<b>JUVENILES CITED/VIOLATIONS:</b> _____	<b>0</b>
<b>JUVENILES ARRESTED:</b> _____	<b>0</b>
<b>COMPLAINTS/INCIDENTS INVESTIGATED:</b> _____	<b>146</b>

**TOTAL HOURS SPENT: MILLERSBURG 174.5**

**CONTRACT HOURS = 153 HOURS**

**Jim Yon,  
Sheriff, Linn County**

**By: Sergeant Beth Miller**



TO: Millersburg City Council

VIA: Kevin Kreitman, City Manager

FROM: City Staff

DATE: March 3, 2021 for Council Meeting March 9, 2021

SUBJECT: Project Updates Memo

### **Monthly Update on Projects:**

Staff are currently in the process of implementing many projects and activities in the City to address objectives of the Strategic Plan, direction from Council, and needs staff have identified. In order to facilitate tracking these tasks, a Gantt chart has been developed. As staff continue to work on these tasks, the Gantt chart will be periodically updated and provided for Council and public information. The most recent version of the Gantt chart is attached to this memo. Tasks in blue are complete, tasks in yellow are in progress, and tasks that are not colored have not been started.

The Gantt chart is being updated and will be provided prior to the Council meeting.

There are many tasks currently in progress. An overview of several specific tasks and projects is provided below.

### **Fire Station Project**

The Fire Station project bids and qualifications are due on March 9, 2021. Bids will be reviewed, and staff will provide a recommendation to award at a special Council meeting on March 15, 2021. If awarded on this date, notice to proceed could be issued as early as April 6, 2021.

### **Upcoming Projects**

The permanent repair of concrete pavement in Kathryn Avenue has been awarded to BRX Construction, and the work is scheduled for late March.

The City Hall Parking Lot Repair project quotes are due March 5, for construction later in the spring. This project is budgeted for FY 2020-21.

### **New Utility Billing and Online Payment Systems**

Utility customers now have access to the new online payment portal via Xpress Bill Pay and are able to schedule automatic payments. To date, approximately 75 customers have signed up for electronic billing and paperless billing. Responses from customers to the new system have been very positive.

### **Farmers Market**

A group is working to organize and run a farmers' market in Millersburg this summer. The market is tentatively planned for Wednesday late afternoons/evenings in June, July, and August and will be held in the Millersburg City Park.

Staff are working to coordinate with the organizers, park operations, and other groups who use the park (youth sports) to insure a positive experience for all.

**February Ice Storm**

At approximately 11 p.m. on Friday February 12<sup>th</sup> staff received the first report of multiple trees down and blocking Millersburg Drive just west of Morningstar Road associated with the freezing rain episode. Staff responded and began addressing downed trees throughout the City that did not have hazards associated with downed power lines. Staff spent the greater part of Friday night and early Saturday morning identifying hazardous trees and opening roads blocked or partially blocked by fallen trees.

Once daylight arrived, staff conducted a windshield inventory of all City streets for damaged trees which presented a hazard to vehicles or pedestrians accessing our streets or sidewalks. Upon completion, staff prioritized the work needing to be done and concentrated on addressing the hazards of greatest concern, including removal and cleaning of fallen debris off streets and sidewalks, and posting closed areas with aerial hazards. Staff was able to address all immediate hazards that presented risks to the community by 7 p.m. Saturday evening. In total, over 90 trees were damaged which affected City property or right-of-way and required City intervention in some form, including 15 in Millersburg Park and 3 in Acorn Park.

Staff and R&R Tree Service have worked the last two weeks addressing the remaining hazards, with 153.5 hours of staff time logged to date for storm damage and clean up. R&R Trees Service has completed 125 hours of labor addressing trees outside of our capabilities, with a total bill for personnel and equipment of \$12,500.00. Additional work by R&R Tree Service will be required at a later date in City-owned open space and rights-of-way to address remaining issues that were not deemed a high priority or immediate risk.

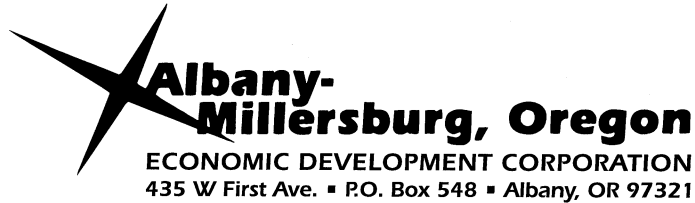


# CITY OF MILLERSBURG

4222 NE Old Salem Road  
 Albany Oregon, 97321  
 (458) 233-6300  
[www.cityofmillersburg.org](http://www.cityofmillersburg.org)

## 2021-2022 BUDGET CALENDAR

Target Dates	Action Items
April 17, 2021	Publish Notice of Budget Meetings on City website and in newspaper (5-30 days prior to the meeting)
April 27, 2021	First Budget Committee Meeting, Public Hearing Elect Chair Deliver budget message
May 4, 2021	Second Budget Committee Meeting and Public Hearing (if needed)
May 20, 2021	Publish Notice of Budget hearing and financial summary on website and newspaper (5-30 days prior to hearing)
June 8, 2021	City Council - Hold Budget Public Hearing Adoption of Resolution: Adopt Budget Appropriate Budget Levy Taxes
June 25, 2021	Submit Appropriation Resolution



## Memo

Date: February 24, 2021

To: Linn County Enterprise Zone Co-Sponsors  
Roger Nyquist Linn County  
Kevin Kreitman City of Millersburg

From: John Pascone, President

Subject: Agility Robotics Enterprise Zone Application and Action  
Approving an Extended Tax Abatement Agreement

Agility Robotics is planning on making an investment in Tangent of \$1.25 million which includes building modifications and installing new equipment. The investment is to expand and increase production. They have completed an Enterprise Zone Authorization Application dated January 26, 2021.

Under regular enterprise zone exemption rules the company is required to add 10% to their existing workforce in the zone, which is 29, so they would need to hire 3 additional employees, they plan on adding 25. The regular property tax exemption is for 3 years.

For companies that agree to hire and pay wages and benefits in excess of 150% of Linn County's Average Annual Wage, the firm can qualify for an additional 2 years. The current required number can be found in the agreement.

Attached is the draft resolution which need to be passed by each co-sponsor. The zone manager (me) and the county assessor's representative (Mark Wilkinson) cannot officially approve the company's application until the resolutions are approved by the co-sponsors.

Please contact me if you have any questions. When you have the matter scheduled let me know and I will attend to present it on behalf of the company.

Thank you,

John

**RESOLUTION 2021-01**

**A RESOLUTION APPROVING AN EXTENDED PROPERTY TAX ABATEMENT AGREEMENT BETWEEN LINN COUNTY, A COSPONSOR OF THE LINN COUNTY ENTERPRISE ZONE, AND AGILITY ROBOTICS, INC.**

**WHEREAS**, AGILITY ROBOTICS, INC. is expanding and investing in facility modifications and equipment; and,

**WHEREAS**, AGILITY ROBOTICS, INC. is required to add at least 3 employees but plans on adding 25; all new employees will be paid as required and described in the next paragraph; and,

**WHEREAS**, AGILITY ROBOTICS, INC. anticipates providing average pay and benefits to these employees, if any, equal to or greater than 150% of the Linn County average, as required under ORS 285C.160; and,

**WHEREAS**, AGILITY ROBOTICS, INC., which is located in Tangent, Oregon, has applied to extend the property tax abatement for which it qualifies through its inclusion in the Linn County Enterprise Zone; and,

**WHEREAS**, Linn County has requested support of this agreement from the other cosponsor, the City of Millersburg, of the Linn County Enterprise Zone; and,

**WHEREAS**, the City of MILLERSBURG is a cosponsor of the Linn County Enterprise Zone;

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILLERSBURG, OREGON**, that the attached Extended Abatement Agreement is hereby approved by the MILLERSBURG City Council.

**Effective Date:** This Resolution shall be effective upon its adoption.

**Duly Adopted** by the City Council this 9th day of March, 2021.

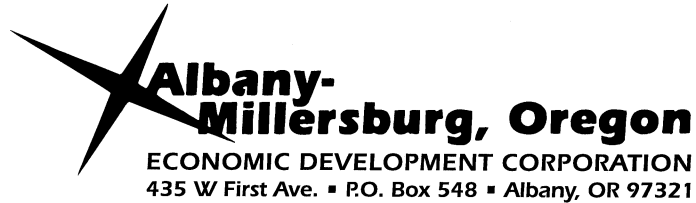
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Jim Lepin  
Mayor

Attest:

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Kimberly Wollenburg  
City Recorder



## Memo

Date: February 24, 2021

To: Linn County Enterprise Zone Co-Sponsors  
Roger Nyquist Linn County  
Kevin Kreitman City of Millersburg

From: John Pascone, President

Subject: Frank Pellets Enterprise Zone Application and Action  
Approving an Extended Tax Abatement Agreement

Frank Pellets is planning on making an investment in Mill City of \$830,000 which includes building modifications and installing new equipment. The investment is to increase output. They have completed an Enterprise Zone Authorization Application dated January 29, 2021.

Under regular enterprise zone exemption rules the company is required to add 10% to their existing workforce in the zone, which is 8, so they would need to hire 1 additional employee. The regular property tax exemption is for 3 years.

For companies that agree to hire and pay wages and benefits in excess of 150% of Linn County's Average Annual Wage, the firm can qualify for an additional 2 years. The current required number can be found in the agreement.

Attached is the draft resolution which need to be passed by each co-sponsor. The zone manager (me) and the county assessor's representative (Mark Wilkinson) cannot officially approve the company's application until the resolutions are approved by the co-sponsors.

Please contact me if you have any questions. When you have the matter scheduled let me know and I will attend to present it on behalf of the company.

Thank you,

John



**RESOLUTION 2021-02**

**A RESOLUTION APPROVING AN EXTENDED PROPERTY TAX ABATEMENT AGREEMENT BETWEEN LINN COUNTY, A COSPONSOR OF THE LINN COUNTY ENTERPRISE ZONE, AND FRANK PELLETS LLC.**

**WHEREAS**, FRANK PELLETS LLC is expanding and investing in facility modifications and equipment; and,

**WHEREAS**, FRANK PELLETS LLC is required to add at least 1 employee and any new employees will be paid as required and described in the next paragraph; and,

**WHEREAS**, FRANK PELLETS LLC anticipates providing average pay and benefits to these employees, if any, equal to or greater than 150% of the Linn County average, as required under ORS 285C.160; and,

**WHEREAS**, FRANK PELLETS LLC, which is located in Mill City, Oregon, has applied to extend the property tax abatement for which it qualifies through its inclusion in the Linn County Enterprise Zone; and,

**WHEREAS**, Linn County has requested support of this agreement from the other cosponsor, the City of Millersburg, of the Linn County Enterprise Zone; and,

**WHEREAS**, the City of MILLERSBURG is a cosponsor of the Linn County Enterprise Zone;

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILLERSBURG, OREGON**, that the attached Extended Abatement Agreement is hereby approved by the MILLERSBURG City Council.

**Effective Date:** This Resolution shall be effective upon its adoption.

**Duly Adopted** by the City Council this 9th day of March, 2021.

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Jim Lepin  
Mayor

Attest:

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Kimberly Wollenburg  
City Recorder



TO: Millersburg City Council  
 VIA: Kevin Kreitman, City Manager  
 FROM: Janelle Booth, Assistant City Manager/City Engineer  
 DATE: March 3, 2021 for the March 9, 2021 City Council Meeting  
 SUBJECT: Water and Sewer Rates

Action Requested:

Consideration of proposed water and sewer rate resolutions, including future planned rate increases.

Discussion:

In 2018, the City began a study of water and sewer rates in order to outline a path to ensure utility revenues are sufficient to cover expenditures over the next ten years. Through multiple public meetings, the plan was developed and reviewed and has now culminated in proposed water and sewer rate structure changes and rate increases.

Rate increases are proposed to take place over the following five years, per the schedule below.

**Proposed Rate Increase Schedule**

<b>Date</b>	<b>Water</b>	<b>Sewer</b>
February 1, 2022	3.0%	7.5%
February 1, 2023	3.0%	7.5%
February 1, 2024	3.0%	7.5%
February 1, 2025	3.0%	7.5%
February 1, 2026	3.0%	3.0%

Information on the changes to the rate structure framework and proposed increases has been communicated through public meetings, a flyer mailed to all utility customers in December, a virtual open house held on January 26, 2021, and a public hearing held on February 9, 2021. The rate structures and planned increases over the next five years are now presented for adoption, with the rate structure changes effective for the billing cycle beginning April 1, 2021; customers will see these changes for the first time on the bill they receive in early June.

Recommendation:

Adoption of

- Resolution 2021-03 Setting Rates for Water Use
- Resolution 2021-04 Sewer Rates for Sewer Use
- Resolution 2021-05 Planned Water Rate Increases
- Resolution 2021-06 Planned Sewer Rate Increases

Attachment(s):

- Resolution 2021-03 Setting Rates for Water Use
- Resolution 2021-04 Setting Rates for Sewer Use
- Resolution 2021-05 Planned Water Rate Increases
- Resolution 2021-06 Planned Sewer Rate Increases
- Materials presented at public hearing

**RESOLUTION 2021-03**

**A RESOLUTION SETTING RATES FOR WATER USE AND REPEALING  
RESOLUTION NO. 2012-4**

**WHEREAS**, the water fund is primarily dependent upon water rate revenues for its funding; and,

**WHEREAS**, the water rates have not been updated since March 13, 2012; and,

**WHEREAS**, to meet the requirements of OAR 690-086-0150 for Water Management and Conservation Plans, the Oregon Water Resources Department has recommended the City to adopt a flat or inclining block rate structure, rather than the current declining block structure to meet state mandated conservation goals; and,

**WHEREAS**, the rate-setting process conducted for rate modernization includes nationally accepted rate development procedures established by the American Water Works Association and includes development of annual system revenue requirements and the design of a new rate structure and rates designed to meet the annual revenue target; and,

**WHEREAS**, the revenue requirements for the City's water system were established through financial and master planning processes; a Water System Master Plan was adopted in 2017, and a 5-year Capital Improvement Plan was developed in 2018; and annual rate increases have been estimated to fund the projected capital costs associated with implementing these plans, along with ongoing system operation and maintenance; and,

**WHEREAS**, a new rate structure was developed following water utility standard practices in order to establish an equitable distribution of costs that considered the differences in providing service based on system usage and facility requirements and the preliminary results of this analysis were shared with Council in work sessions on June 25, 2019, July 30, 2019, May 26, 2020, and a Council meeting on November 10, 2020; and,

**WHEREAS**, the updated rate structure was designed to balance Council objectives, including:

- Fairness in the apportionment of total costs of service among different ratepayers
- Revenue stability and predictability
- Stability and predictability of the rates from unexpected or adverse changes
- Publicly acceptable
- Easy to understand and administer,

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILLERSBURG, OREGON, that:**

1. The City hereby adopts Attachment "A" to this Resolution that is the Water Rate Schedule that will be used for calculating billing rates beginning April 2021.
2. Staff shall maintain a copy of this Resolution in the City's administrative offices for public reference.
3. This Resolution supersedes Resolution Nos. 2012-04 and any previous resolutions setting forth water utility rates and administrative rules.

**Effective Date:** This Resolution shall be effective upon its approval and adoption.

**Duly Passed** by the City Council this 9th day of March, 2021.

---

Jim Lepin, Mayor  
City of Millersburg, Oregon

ATTEST:

---

Kimberly Wollenburg  
City Recorder

## Exhibit A

### City of Millersburg Water Utility Rates

#### **Residential, Multi-Family, Commercial, and Industrial Water Service Rates**

Applicable to all residential, multi-family, commercial, and industrial customers receiving water service within the Millersburg city limits.

A residential customer is defined as a customer whose meter serves only one single-family dwelling unit. All dwelling units served by individual meters shall be charged the residential rate for service. For example, the residential rate shall apply where separate water meters provide service to each side of a duplex.

Multifamily customers are defined as customers whose meter services more than one dwelling unit. For the purposes of this rate resolution, dwelling units shall be defined as any place of human habitation designed for occupancy based on separate leases, rental agreements, or other written instruments.

Commercial customers are defined as mercantile establishments, professional offices, public or governmental buildings, schools, hospitals, nursing homes, retirement homes, churches, motels, manufacturing and processing uses not qualifying as seasonal food processing or industrial service. This includes all customers not defined as residential, multifamily, or industrial. Service to any of the above listed commercial services in combination with any residential use shall also be considered as commercial customers.

Industrial customers are defined as customers who receive water through a four-inch or larger meter for use in manufacturing or processing activities located on land designated for industrial use in the Millersburg Comprehensive Plan. If a customer's water use fluctuates significantly throughout the year, they may be reclassified, as determined by the City Engineer.

MONTHLY RATE:

	Customer Class		
	Residential	Multi-Family and Commercial	Industrial
<b>Base Charge (meter size)</b>	<b>(\$/month)</b>		
¾ inch	\$16.27	\$21.15	\$35.52
1 inch	\$21.47	\$30.89	\$51.87
1½ inch	\$32.21	\$70.41	\$118.22
2 inch	\$48.36	\$112.70	\$189.24
3 inch	--	\$225.63	\$378.85
4 inch	--	\$352.49	\$591.84
6 inch	--	\$704.75	\$1,183.32
<b>Volume Charge (\$/100 cubic feet)</b>	\$2.00	\$2.00	\$1.90

**Special Conditions Applying to all Customers**

If water service is provided through a single meter to a facility that contains a mixture of customer classes, the customer class with the higher consumption rates shall be used for calculating the consumption portion of the bill. For example, all water used in a building that contains both non-residential and multi-family uses will be billed at the non-residential consumption rate.

Meter readings from meters that measure flow in 1,000 gallon increments shall be converted to hundred cubic foot units prior to applying the appropriate consumption charge for calculating the water bill.

Water used during construction of a building shall be metered and billed at the rate appropriate for the type of facility being constructed. For example, water used during construction of a single-family residence will be billed at the residential rate. When, during construction, setting a meter is impracticable, the amount of water used shall be estimated and billed at the appropriate rate for the type of facility being constructed.

## RESOLUTION 2021-04

### A RESOLUTION ADOPTING A CONSUMPTION BASED BILLING POLICY FOR SANITARY SEWER

**WHEREAS**, the City of Millersburg desires to bill fair rates for sanitary sewer services; and

**WHEREAS**, the City of Millersburg wishes to adopt the Consumption Based Billing Policy the City will employ in calculating the bills for sanitary sewer service for all properties for which the City employs consumption-based billing; and,

**WHEREAS**, although rates have increased from time to time to consider rising costs of system operation and capital improvements, the rate structures for sewer has continued to include flat fees that are perceived to create inequities by not adequately considering use; and,

**WHEREAS**, the rate-setting process conducted for rate modernization includes nationally accepted rate development procedures established by the Water Environment Federation and includes development of annual system revenue requirements and the design of a new rate structure and rates designed to meet the annual revenue target; and,

**WHEREAS**, the revenue requirements for the City's sewer system were established through financial and master planning processes; a Sanitary Sewer System Master Plan was adopted in 2017, and a 5-year Capital Improvement Plan was developed in 2018; and annual rate increases have been estimated to fund the projected capital costs associated with implementing these plans, along with ongoing system operation and maintenance; and,

**WHEREAS**, a new rate structure was developed following wastewater utility standard practices in order to establish an equitable distribution of costs that considered the differences in providing service based on system usage and facility requirements and the preliminary results of this analysis were shared with Council in work sessions on June 25, 2019, July 30, 2019, May 26, 2020, and a Council meeting on November 10, 2020; and,

**WHEREAS**, the updated rate structure was designed to balance Council objectives, including:

- Fairness in the apportionment of total costs of service among different ratepayers
- Revenue stability and predictability
- Stability and predictability of the rates from unexpected or adverse changes
- Publicly acceptable
- Easy to understand and administer,

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILLERSBURG, OREGON, that:**

1. The City hereby adopts Attachment "A" to this Resolution that is the Consumption Based Billing Policy that will be used for calculating billing rates beginning April 2021.
2. Staff shall maintain a copy of this Resolution in the City's administrative offices for public reference.
3. This Resolution supersedes Resolution Nos. 2001-10, 2020-01 and any previous resolutions setting forth sewer utility rates and administrative rules.



**Effective Date:** This Resolution shall be effective upon its approval and adoption.

**Duly Passed** by the City Council this 9th day of March, 2021.

---

Jim Lepin, Mayor  
City of Millersburg, Oregon

ATTEST:

---

Kimberly Wollenburg  
City Recorder

**Attachment A**

**City of Millersburg  
Sewer Utility Rates and Charges**

Billings for customers include two components: Fixed rate and a volume charge based on the amount of water used. The two components are added together to compute an invoice for each customer.

1. Fixed rates are assessed per equivalent dwelling unit or nonresidential account, and include costs associated with customer services, billing, and a portion of other fixed costs, and are designed to maintain revenue stability.
2. Volume rates are assessed on billable volumes of water measured in 100 cubic feet (CCF).

\*An equivalent dwelling unit is equal to each dwelling unit for multifamily and mobile home properties, and each commercial and industrial unit served by multi-unit connections

**RESIDENTIAL SEWER ACCOUNTS**

For each residential customer, the monthly bill for wastewater service shall be computed as follows:

$$A = (\text{fixed charge} \times B) + (\text{volume rate} \times C)$$

- where:
- A = monthly bill
  - B = the number of dwelling units for residential customer
  - C = the monthly water consumption expressed in hundreds of cubic feet (Ccf)

and where: Fixed charges and volume rates by fiscal year are included in the rate schedule below.

RATE SCHEDULE

<b>Customer Class - Residential</b>	<b>FY 2020-21</b>
<b><i>Fixed Charge</i></b>	
Residential	<b>\$39.03</b>
<b><i>Volume Rate (\$/Ccf)<sup>1</sup></i></b>	
Residential	<b>\$ 2.70</b>

<sup>1</sup> Ccf = one hundred cubic feet or approximately 750 gallons

For purposes of clarifying wastewater fixed charges, “dwelling unit,” as that term is applied to duplexes, residential parks, and other multi-family units, shall be defined as any place of human habitation designed for occupancy based upon separate leases, rental agreements, or other written instruments. Current rental practices will not be dispositive of the question of how a dwelling is “designed” for occupancy.

Volume will be based on a 4-month winter averaging of water consumption. The winter average period will be defined as the 4-month period starting with the first full billing cycle starting on or after December

1<sup>st</sup> of each year. Beginning in April 2021 and each July following, the residential customer's wastewater bill will be adjusted using the monthly average water meter readings from those previous winter months.

Accounts with an average winter water usage of less than 1 CCF of water consumption are automatically assessed at the 5.0 CCF average.

Customers may request in writing to have the sewer based on actual usage if the property is vacant or consistently averages below 1 CCF per billing cycle over a 12-month period.

The assigned average for water consumption may be appealed to the City Recorder and could be modified pending a review of the account and findings thereof.

**COMMERCIAL SEWER ACCOUNTS**

For each commercial customer, the monthly bill for wastewater service shall be computed as follows:

$$A = (\text{fixed charge} \times B) + (\text{volume rate} \times C)$$

where: A = monthly bill

B = the number of commercial units served by the wastewater service

C = the monthly water consumption expressed in hundreds of cubic feet (Ccf).

and where: Fixed charge and volume rate for the customer class and fiscal year are included in the rate schedule below.

RATE SCHEDULE

<b>Customer Class - Commercial</b>	<b>FY 2020-21</b>
<b><i>Fixed Charges</i></b>	
Commercial	
Regular	<b>\$49.59</b>
High	<b>\$49.59</b>
<b><i>Volume Rates (\$/Ccf)<sup>1</sup></i></b>	
Commercial	
Regular	<b>\$ 4.64</b>
High	<b>\$ 8.58</b>

<sup>1</sup> Ccf = one hundred cubic feet or approximately 750 gallons

**Customer Classification:**

Commercial accounts will be classified according to their strength of wastewater as described in the Commercial Customer Classification List (Appendix A). If a commercial customer cannot be easily categorized, the customer will be asked to submit estimated wastewater flow and strength data with a description of the type of business activities to the City Engineer. The City Engineer will make the final determination of customer classification for each commercial customer.

For commercial customers where a single water meter serves a building with multiple commercial uses, the classification for the entire account will normally be based on the single highest classification within the building. For example, if a building contains both offices and restaurants, the entire account bill would be calculated using the rates for a restaurant customer. In addition, for commercial customers where a single water meter serves a building with multiple commercial uses, the monthly fixed charge will be based on the number of commercial units being served by the wastewater service.

For the purpose of clarifying wastewater fixed charges “commercial unit” shall be defined as each portion of a commercial use that has plumbing fixtures connected to the sanitary wastewater system and which is designated for occupancy based upon a property right. Property right for purposes of this definition includes ownership, a leasehold interest, or any contractually-based right to occupancy of 12 or more hours in any 24-hour period.

**Monthly Water Consumptive Use for Volume Rate:**

- Actual Water Use. The volume rates for most commercial customers will be calculated based on the actual water meter reading from the previous billing period. For commercial customers whose water

meter readings vary due to seasonal factors (irrigation), the volume rates will be calculated using the average winter water use.

- Average Winter Water Use. The winter average period will be defined as the 4-month period starting with the first full billing cycle starting on or after December 1st of each year. Beginning in April 2021 and each July following, the residential customer's wastewater bill will be adjusted using the monthly average water meter readings from those previous winter months.

## **INDUSTRIAL SEWER ACCOUNTS**

**Process Wastewater.** For process wastewater from each industrial customer, the monthly bill for wastewater service shall be computed as follows:

$$A = (\text{Flow} \times \text{Flow unit charge}) + (\text{BOD} \times \text{BOD unit charge}) + (\text{TSS} \times \text{TSS unit charge})$$

where: A = monthly bill

Flow, BOD, & TSS = data collected monthly from the industrial customer's waste stream

and where flow, BOD, & TSS unit charges for the industrial customer class are included in the monthly rate schedule below. For BOD and TSS charges, the City will apply the rates charged by the City of Albany.

### RATE SCHEDULE

#### **Customer Class**

#### ***Industrial Unit Charges***

Flow (\$/Ccf) <sup>1</sup>	<b>\$4.80</b>
Biochemical Oxygen Demand (BOD) (\$/lb.)	<b>\$1.015</b>
Total Suspended Solids (TSS) (\$/lb.)	<b>\$1.358</b>

<sup>1</sup> Ccf = one hundred cubic feet or approximately 750 gallons

**Non-Process Wastewater.** For industrial customers, the monthly bill for non-process wastewater service shall be computed as follows:

$$A = (\text{fixed charge} \times B) + (\text{volume rate} \times C)$$

where: A = monthly bill

B = the number of commercial units served by the wastewater service

C = the monthly water consumption expressed in hundreds of cubic feet (Ccf).

and where: Fixed charge and volume rate for the customer class and fiscal year are included in the rate schedule below.

### RATE SCHEDULE

#### **Customer Class - Industrial                      FY 2020-21**

#### ***Fixed Charges***

Industrial	
Regular	<b>\$49.59</b>
High	<b>\$49.59</b>

#### ***Volume Rates (\$/Ccf)<sup>1</sup>***

Industrial	
Regular	<b>\$ 8.41</b>
High	<b>\$ 9.60</b>

**Customer Classification:**

Industrial accounts will be classified according to their strength of wastewater as described in the Customer Classification List (Appendix A). If an industrial customer cannot be easily categorized, the customer will be asked to submit estimated wastewater flow and strength data with a description of the type of business activities to the City Engineer. The City Engineer will make the final determination of customer classification for each commercial customer.

For industrial customers where a single water meter serves a building with multiple uses, the classification for the entire account will normally be based on the single highest classification within the building. In addition, for industrial customers where a single water meter serves a building with multiple uses, the monthly fixed charge will be based on the number of units being served by the wastewater service.

For the purpose of clarifying wastewater fixed charges “industrial unit” shall be defined as each portion of an industrial use that has plumbing fixtures connected to the sanitary wastewater system and which is designated for occupancy based upon a property right. Property right for purposes of this definition includes ownership, a leasehold interest, or any contractually-based right to occupancy of 12 or more hours in any 24-hour period.

**Monthly Water Consumptive Use for Volume Rate:**

- Actual Water Use. For industrial customers, the volume rates will be calculated using the actual water meter reading from the previous billing period. In cases where an industrial customer is charged for process wastewater on the same water meter, the volume of water billed as process wastewater shall be subtracted from the volume calculated based on the water meter reading.

Wastewater Discharge Permit. A Wastewater Discharge Permit may be required for any significant industrial user (SIU) as defined by Chapter 10.20 of the Millersburg Municipal Code. Chapter 10.20 also defines the requirements and conditions that must be addressed by the permittee and provides the authority to establish a permit fee. The permit fee is designed only to recover the direct costs paid to the Oregon Department of Environmental Quality (DEQ) as follows:

Wastewater Discharge Permit Fee	
Annual Fee	
Significant	<b>\$723</b>
Industrial User	

Flow Monitoring. Additional flow monitoring may be required for certain industrial customers. If flow monitoring is required, the following cost shall be charged to the customer:

Flow Monitoring Fee	
Monthly Fee	
Industrial User	<b>\$49.59</b>

## **RECREATIONAL VEHICLE DUMP STATIONS**

For commercial recreational vehicle dump stations discharging waste from chemical toilets, or other waste as may be approved, the monthly bill for wastewater service for the recreational vehicle dump station shall be computed as a commercial customer with regular strength waste based upon a system-wide average.

## **ALL SEWER ACCOUNTS**

### **Less than four months data availability**

In not all cases will four months of winter season water consumption data be available. In these cases, a two-month minimum sample period shall be established between the dates December 1 through January 31, or the water meter reading dates most closely associated with that period of time. The two-month minimum measure of water consumption during the winter season shall be used as the basis for calculating the consumption portion of the sanitary sewer bill. A two-month period of time during the winter season shall be the minimum acceptable time period on which a sanitary sewer bill can be calculated based upon actual water consumption.

### **No data availability**

In cases where there is no applicable data available as a result of the use changing, the ownership changing, or other factors such as a structure newly connected to the system for which there is no historical water consumption, the City will bill the customer based upon a system-wide average which shall be calculated from an equivalent dwelling unit basis.

### **Exceptions**

Exceptions where winter season water consumption data is not available, applicable, and/or usable for the purposes of calculating the appropriate proportion of system operation cost allocable to a user are described as follows:

- a. Variations in usage. In order for the City to consider any water consumption exception, and thus bill recalculation, the exception must be greater than 25% of the historical monthly usage on a one-time event basis.
- b. Water usage not discharged to the sanitary sewer system. For the City to consider any request by a customer for credit against the amount of winter season water consumption as measured through the potable water meter or meters to the property in question, the customer must do the following:
  - 1) Customer must demonstrate to the City's satisfaction that the metered water measured which is in dispute as to whether or not the water was discharged to the sanitary system was not discharged to the sanitary system; and
  - 2) The customer must be able to determine the non-sanitary sewer service discharge accurately; and
  - 3) The City shall only deduct the provable non-sanitary sewer service usage from the winter consumption average.
- c. Recurring seasonal variations. Some commercial and industrial operations result in seasonal variations due to water usage that is not discharged to the sanitary sewer system. In cases where actual water usage is determined to be an inappropriate measure of sanitary sewer discharge, the City, at its discretion, may select a base period on which to calculate the sanitary sewer charge.



- d. New usage or change in ownership or usage of a structure mid-year.
- 1) At any time, the usage or ownership of property connected to the sanitary sewer system changes in a manner determined by the City to increase the flow discharged, the City shall have the right to recalculate the service charge to reflect a proportionate cost allocation.
  - 2) The City may, at its discretion, recalculate the winter season average water consumption at the user's request, when the new rate of usage is ongoing and constitutes at least a 25% variation from historical winter season use.
  - 3) In any recalculation of charges as contemplated in (1) and (2) above, the City may assign additional units or a reduction in units at any time a customer's usage changes which increases or decreases the estimated volume of water discharged to the sanitary sewer system.
- e. Discontinuance of service. A property owner whose property is connected to the sanitary sewer system may request discontinuance of sanitary sewer service for a variety of reasons. In order for the City to process such a request for discontinuance of service and deduct the variable portion of the sanitary sewer service charge associated with consumption-based billing, the following must occur:
- 1) All water meters serving the property must be out of service, be locked, and/or removed; and
  - 2) No alternative water supply can be available to the property; and
  - 3) No use or occupancy of the property shall occur.
- In all such cases where discontinuance is requested, and the structure remains connected to the sanitary sewer system and service is available, the base charge (fixed component) will continue. However, the variable component of the charge shall revert to zero for as long as the above conditions are satisfied.
- f. Disconnection of service. In all cases where water meters have been removed from the property in accordance with procedures, rules, and regulations of City of Millersburg, no sanitary sewer service will be billed where no discharge is possible to the sanitary sewer system.

### **Customer Claims.**

In the event a customer disputes the water consumption data available to the City for any of a variety of reasons, the City shall provide a claims form which shall outline the City's policy for addressing such claims and provide a format for the customer to respond to issues that are critical to the adjudication of the claim. All claims must be made within thirty (30) days of receipt of the water bill from the local water purveyor for which consumption data is being disputed. Claims for water consumption data that does not vary more than 25% from historical usage shall not be processed.

## APPENDIX A

**CITY OF MILLERSBURG COMMERCIAL AND INDUSTRIAL CUSTOMER  
CLASSIFICATION**

**COMBINED AVERAGE STRENGTH CATEGORIES & STANDARD INDUSTRIAL  
CLASSIFICATION**

**Waste Characteristic Allocation:**

The City of Millersburg does not have a monitoring program for all commercial and industrial customers and consequently does not have specific monitoring data on all of Millersburg's commercial and industrial customers. However, an extensive project was undertaken by the City of Portland Bureau of Environmental Services (BES) to determine wastewater characteristics by Standard Industry Classification (SIC) codes based upon monitoring data for Portland's customers and using data from other cities.

The City of Portland's wastewater characteristic study data is based on BOD and TSS information from commercial and industrial customers in Portland and 28 additional cities, and the customer list is representative of the Millersburg commercial businesses. The Cities of Salem and Albany are also using the Portland BES data to classify their commercial customers.

**COMMERCIAL AND INDUSTRIAL REGULAR-STRENGTH (UP TO 450 MG/L  
COMBINED BOD/TSS)****Offices & Services:**

Accounting, Auditing, and Bookkeeping Services (8721)

Adjustment and Collection Services (7322)

Amusement & Recreation Services NEC (7999)

Banks & Credit Unions (6021, 6022,6141)

Barber & Beauty Shops (7241, 7231)

Child Day Care Services (8351)

Computer and Computer Software Stores (5734)

Correctional Institutions (9223)

Employment Agencies (7361)

Engineering Services (8711)

Gasoline Service Stations (5541)

Individual and Family Social Services (8322)

Insurance Agents, Brokers, and Service (6411)

Investment Advice (6282)

Legal Services (8111)

Libraries (8231)

Medical & Dental Offices & Clinics (including chiropractors, health practitioners, optometrists)  
(8011, 8021, 8041, 8042, 8049)

Motels (7011)

Museums and Art Galleries (8412)

Nursing Care Facilities (8051)

Schools (Elementary & Secondary) and Educational Services (8211)

Taxicabs (4121)

Title Insurance (6361)

Trucking - local with storage (4214)

General Retail Businesses:

Apparel, Accessory, Jewelry & Shoe Stores (5699, 5641, 5651, 5944, 5661)

Auto equipment/supplies, new/used - NEC (5599)

Beer, Ale, & Liquor Stores - wholesale & distribution (5181 & 5921)

Boat Dealers (5551)

Book Stores (5942)

Coin-Operated Laundries (7215)

Department Stores (5311)

Floor Covering Stores (5713)

Florists (5992)

Groceries, wholesale & distribution (5141)

Hobby, Toy, and Game Shops (5945)

Home Furnishings & Hardware Stores (5719, 5251)

Miscellaneous food stores - minimarts without kitchens (5499)

Musical Instrument Stores (5736)

Paint, Glass, and Wallpaper Stores (sales but no mixing) (5231)

Sporting Goods Stores and Bicycle Shops (5941)

Tobacco Stores and Standards (5993)

Used Merchandise Stores (5932)

Video Tape Rental (7841)

**COMMERCIAL AND INDUSTRIAL HIGH-STRENGTH (GREATER THAN 451 MG/L  
COMBINED BOD/TSS)**

Automotive/Mechanical repair &/or wash:

Airports, Flying Fields, and Airport Terminal Services

Automotive Repair Shops NEC (7539)

Automotive Repair (7538-see printout), Automotive Services (7549), Armature Rewinding

Carwashes (7542)

Exhaust System Repair (7533), Transmission Repair (7537), Tire Shop (7534), General

Motor Vehicle Dealers - new cars (5511)

Motor Vehicle Dealers - used cars (5521)

Shop (7694)

Specialty:

Candy, Nut, and Confectionery Stores (5441)

Disinfecting and Pest Control Services (7342)

Dry Cleaning Facilities (7216)

Restaurants, Eating Places, Bars, & Taverns (5812)

Fire Protection (9224)

Funeral Services and Crematories (7261)

Grocery Stores with garbage disposals (5412)

Hospitals (8060)

Industrial Launderers (7218)

Junior Colleges and Technical Institutes (8222)

Malt Beverage Brewery (2082)

Meat and Fish Markets, Including Freezer Provisioners (5421)

Paints/Varnishes/Lacquers/Enamels mixing (2851)

Pharmaceutical Preparations (2834)

Photofinishing Laboratories (7384)

Recreational Vehicle Parks (7033)

Retail Bakeries - with kitchen (5461)

Printing & Stamping on Fabric Articles - silk screening (2396)

Trucking - local with storage (4212)

Trucking - long distance, not local (4213)

Passenger car rental, no drivers for hire (7514)

**RESOLUTION NO. 2021-05**

**A RESOLUTION OF THE CITY OF MILLERSBURG, OREGON, ADOPTING  
PLANNED WATER RATE INCREASES EFFECTIVE BEGINNING FEBRUARY 1, 2022**

**WHEREAS**, the City of Millersburg owns and operates a water utility; and,

**WHEREAS**, water user fees are collected to offset the operation and maintenance costs of the system, as well as provide a reserve for future capital projects; and,

**WHEREAS**, revenue from current water rates is not keeping up with annual operating costs; and,

**WHEREAS**, the City of Millersburg has completed a water and sewer rates study which included recommended rate increases to meet operating costs over the next five years;

**NOW, THEREFORE, BE IT RESOLVED** BY THE COUNCIL OF THE CITY OF MILLERSBURG that planned water rate increases per the table below are hereby adopted with the increased rates effective beginning February 1, 2022.

**Proposed Sewer Rate Increase Schedule**

<b>Date</b>	<b>Water</b>
February 1, 2022	3.0%
February 1, 2023	3.0%
February 1, 2024	3.0%
February 1, 2025	3.0%
February 1, 2026	3.0%

Duly passed by the City Council this 9<sup>th</sup> day of March, 2021.

\_\_\_\_\_  
Jim Lepin, Mayor  
City of Millersburg, Oregon

ATTEST:

\_\_\_\_\_  
Kimberly Wollenburg  
City Recorder

**RESOLUTION NO. 2021-06**

**A RESOLUTION OF THE CITY OF MILLERSBURG, OREGON, ADOPTING  
PLANNED SEWER RATE INCREASES EFFECTIVE BEGINNING FEBRUARY 1, 2022**

**WHEREAS**, the City of Millersburg owns and operates a wastewater utility; and,

**WHEREAS**, sewer user fees are collected to offset the operation and maintenance costs of the system, as well as provide a reserve for future capital projects; and,

**WHEREAS**, revenue from current sewer rates is not keeping up with annual operating costs; and,

**WHEREAS**, the City of Millersburg has completed a water and sewer rates study which included recommended rate increases to meet operating costs over the next five years;

**NOW, THEREFORE, BE IT RESOLVED** BY THE COUNCIL OF THE CITY OF MILLERSBURG that planned sewer rate increases per the table below are hereby adopted with the increased rates effective beginning February 1, 2022.

**Proposed Sewer Rate Increase Schedule**

<b>Date</b>	<b>Sewer</b>
February 1, 2022	7.5%
February 1, 2023	7.5%
February 1, 2024	7.5%
February 1, 2025	7.5%
February 1, 2026	3.0%

Duly passed by the City Council this 9<sup>th</sup> day of March, 2021.

\_\_\_\_\_  
Jim Lepin, Mayor  
City of Millersburg, Oregon

ATTEST:

\_\_\_\_\_  
Kimberly Wollenburg  
City Recorder

## Current and Proposed Water Rates

### Current Water Rate Schedule

Customer Class	Current Rates	
	Residential RES	Commercial <sup>1</sup> COM
<b>Fixed Charge (\$/meter/month)</b>		
3/4 inch	\$12.41	\$16.25
1 inch	\$16.37	\$23.73
1.5 inch	\$24.56	\$54.09
2 inch	\$36.88	\$86.58
3 inch		\$173.33
4 inch		\$270.78
6 inch		\$541.39
<b>Volume Charge (\$/ccf)</b>	\$2.55/\$2.20 <sup>2</sup>	\$2.55/\$2.00 <sup>2</sup>

<sup>1</sup>Under current rate structure, all customers not classified as residential are commercial

<sup>2</sup>Volume charges are Block 1/Block 2. The cutoff between Block 1 and Block 2 is 6 units or 600 cf.

### Proposed Water Rate Schedule

Customer Class	Revised Rates		
	Residential RES	Commercial COM	Industrial IND
<b>Fixed Charge (\$/meter/month)</b>			
3/4 inch	\$16.27	\$21.15	\$35.52
1 inch	\$21.47	\$30.89	\$51.87
1.5 inch	\$32.21	\$70.41	\$118.22
2 inch	\$48.36	\$112.70	\$189.24
3 inch		\$225.63	\$378.85
4 inch		\$352.49	\$591.84
6 inch		\$704.75	\$1,183.32
<b>Volume Charge (\$/ccf)</b>	\$2.00	\$2.00	\$1.90



## Current and Proposed Sewer Rates

### Current Sewer Rate Schedule

Customer Class	Code	Current Rates	
		Fixed	
Commercial	COM	Varies	
Industrial	IND	Varies	
Residential	RES	\$52.83	
Water Only Customer	WTR	0	

### Proposed Sewer Rate Schedule

Customer Class	Code	Revised Rates	
		Fixed	Volume <sup>1</sup>
Commercial - High	C-H	\$49.59	\$8.85
Commercial - Regular	C-R	\$49.59	\$4.64
Industrial - High	I-H	\$49.59	\$9.60
Industrial - Regular	I-R	\$49.59	\$8.41
Residential	R	\$39.03	\$2.70
water only customer	WTR	0	0

<sup>1</sup>Volume charges are based on winter average water use per unit or 100 cf.

# TOTAL WATER AND SEWER UTILITY BILL

## 2019-20 Average Monthly Utility Bills in Oregon Cities Single-Family Residential Customers - Total Water and Sewer Bill

Population 2018 PSU	City / District	800 cu ft	
		\$ / mo	Rank
9,225	Sweet Home	\$156.01	1
16,920	Lebanon	\$151.29	2
4,715	Philomath	\$126.80	3
53,145	Albany	\$117.17	4
3,366	Jefferson	\$108.60	5
2,615*	Millersburg - Proposed	\$92.90	6
2,615*	Millersburg - Current	\$84.94	7
165,265	Salem	\$75.51	8
59,280	Corvallis	\$72.40	9
	Average	\$109.51	

\*2019 PSU population

Rates are calculated on 3/4-inch meters for residential accounts only; all units calculated in cubic feet  
800 cubic feet is the comparison used by the League of Oregon Cities

**2019-20 Average Monthly Utility Bills in Oregon Cities**  
**Single-Family Residential Customers - Total Water and Sewer Bill**

Population 2018 PSU	City / District	Monthly		water 800 cu ft		sewer 800 cu ft	
		Base Rate	Rank	\$ / mo	Rank	\$ / mo	Rank
165,265	Salem	\$75.51	8	\$31.70	8	\$43.81	8
59,280	Corvallis	\$72.40	9	\$30.00	9	\$42.40	9
53,145	Albany	\$117.17	4	\$54.43	5	\$62.74	4
16,920	Lebanon	\$151.29	2	\$69.29	1	\$82.00	2
9,225	Sweet Home	\$156.01	1	\$66.24	2	\$89.77	1
4,715	Philomath	\$126.80	3	\$59.80	3	\$67.00	3
3,366	Jefferson	\$108.60	5	\$59.52	4	\$49.08	7
2,615*	Millersburg - Current	\$84.94	7	\$32.11	7	\$52.83	6
2,615*	Millersburg - Proposed	\$92.90	6	\$32.27	6	\$60.63	5
	Average	\$109.51		\$48.37		\$61.14	

\*2019 PSU population

Rates are calculated on 3/4-inch meters for residential accounts only; all units calculated in cubic feet  
 800 cubic feet is the comparison used by the League of Oregon Cities

## Sample Bill Impacts

### Comparison of Current and Revised Residential Monthly Bills (Combined)

	<b>Water</b>	<b>Sewer</b>	<b>Total</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Small User Winter (4 ccf); Summer (4 ccf)</b>					
Current	\$22.61	\$52.83	\$75.44		
Revised Structure	\$24.27	\$49.83	\$74.10	(\$1.33)	-1.8%
<b>Average Winter (5 ccf) and Summer (20 ccf)</b>					
Current	\$58.51	\$52.83	\$111.34		
Revised Structure	\$56.27	\$52.53	\$108.80	(\$2.53)	-2.3%
<b>Moderately High User: Winter (10 ccf); Summer (30 ccf)</b>					
Current	\$80.51	\$52.83	\$133.34		
Revised Structure	\$76.27	\$66.03	\$142.30	\$8.97	7%
<b>High User: Winter (15 ccf); Summer (40 ccf)</b>					
Current	\$102.51	\$52.83	\$155.34		
Revised Structure	\$96.27	\$79.53	\$175.80	\$20.46	13%

1 ccf = 100 cubic feet = 748 gallons



TO: Millersburg City Council  
FROM: Kevin Kreitman  
DATE: March 4, 2021 for March 9, 2021 Council Meeting  
SUBJECT: Proposed Charter Amendments

Action Requested:

Council consideration of proposed Charter Amendments.

Discussion:

Staff and Council have become aware of a number of minor modifications Council may wish to consider for changes within our City Charter. Some of the changes are associated with the prior change to a Council - Manager form of government, with the passage of Ordinance 120, by the City Council on October 11, 2016.

The proposed changes and process for adopting the changes, if desired, are identified in the attached memos from City Attorney Forrest Reid titled Charter Changes Procedures and Proposed Charter Amendments.

Budget Impact:

Costs associated with publication of the required Notice of Amendment of the Millersburg Charter, in the *Albany Democrat-Herald*.

Recommendation:

Staff requests Council review of the attached documents and provide direction to staff should Council wish to proceed with consideration of the proposed changes.

Attachment(s):

- Charter Changes Procedures
- Proposed Charter Amendments

March 1, 2021

To: Millersburg City Councilors  
 For: March 9, 2021 Council meeting  
 From: Forrest Reid, City Attorney

**Procedure for proposed changes to the City Charter**

Proposed amendments to Sections 12, 20, 23, 24, 31, and amending “Councilman” to “Councilor” throughout the entire Millersburg City Charter.

Briefly, the proposed changes are as follows:

**Section 12:** Hire a City Manager rather than a City clerk and recorder. Specify hiring duties of the City Manager.

**Section 20:** Indicate all Council meetings shall be conducted compliant with the Oregon Public Records and Meetings Law.

**Section 23:** Changing the word “He” to “the Mayor.”

**Section 24:** Recognize the Linn County Justice Court as the court of jurisdiction for violations of the Millersburg Municipal Code and/or City ordinances.

**Section 31:** Provide the option to not have an entire ordinance read during Council meetings.

**Also, changing the word “Councilman” to “Councilor” throughout the entire Millersburg City Charter.**

In order to amend the City Charter, Section 31 of the Millersburg City Charter requires the Council to follow a specific procedure. That procedure has three steps; they are as follows:

- 1) Posting notice in two public places of the current section and the proposed amending language;
- 2) Publishing the notice in a newspaper (ADH) for three consecutive weeks;
- 3) Provide two public hearings regarding the proposed amendment prior to a vote by the Council.

During the March 9, 2021, meeting, the Council may amend or approve as-is, any of the proposed amendments and then request staff to proceed with

030121

scheduling the future hearings (4/13/21, 5/11/21) on one or more of the proposed City Charter amendments.

The first public hearing will occur April 13, 2021, at the City Council meeting.

The second public hearing will occur May 11, 2021, during the City Council meeting.

The Notice of Amendment of the Millersburg City Charter would be published in the *Albany Democrat-Herald* for three consecutive weeks prior to the May 11, 2021, hearing. Recommended publication dates are the week of April 5, 2021, the week of April 12, 2021, and the week of April 19, 2021.

During each hearing (4/13/21, 5/11/21), the Council may discuss one or more of the proposed changes to the City Charter; the Council will then receive testimony from the audience regarding one or more of the proposed changes.

After the May 11, 2021, hearing, the Council, if it chooses, may vote to approve one or more of the proposed City Charter amendments.

The Notice of Amendment of the Millersburg City Charter shall also be posted at the Millersburg City Hall, the Firehouse Corner Deli, and on the City of Millersburg public access website.

**Pursuant to Section 35 of the Millersburg City Charter, Notice is hereby given that the Millersburg City Council may amend the Millersburg City Charter as follows:**

1)

Section 23 reads as follows:

The mayor shall appoint the committees provided by the rules of the Council. He shall sign all records of proceedings approved by the Council. He shall have no veto power and shall sign all ordinances passed by the Council within three days after their passage. After the Council approves a bond of a City officer or a bond for a license, contract, or proposal, the mayor shall endorse the bond.

The proposed Section 23 would read as follows:

The mayor shall appoint the committees provided by the rules of the Council. ~~He~~ *The mayor* shall sign all records of proceedings approved by the Council. ~~He~~ *The mayor* shall have no veto power and shall sign all ordinances passed by the Council within three days after their passage. After the Council approves a bond of a City officer or a bond for a license, contract, or proposal, the mayor shall endorse the bond.

2)

Section 24 reads as follows:

The City Council may appoint a municipal judge as the judicial officer of the City, whose qualifications shall be that he is a member of the Oregon State Attorney's Bar. The City Council may determine all matters with reference to his duties and conduct of a municipal court. The City Council may also enter into an agreement with Linn County, Oregon, that all offenses committed within the City that would fall within the jurisdiction of a municipal court will be prosecuted in the Linn County District Court by the City attorney and the City may enter into an agreement with the Linn County District Attorney's office that the district attorney will prosecute all such offenses. Such an agreement shall determine the distribution of all fines and forfeitures between the county and the City.

The proposed amended Section 24 would read as follows:

~~The City Council may appoint a municipal judge as the judicial officer of the City, whose qualifications shall be that he is a member of the Oregon State Attorney's Bar. The City Council may determine all matters with reference to his duties and conduct of a municipal court. The City Council may also enter into an agreement with Linn County,~~



~~Oregon, that all offenses committed within the City that would fall within the jurisdiction of a municipal court will be prosecuted in the Linn County District Court by the City attorney and the City may enter into an agreement with the Linn County District Attorney's office that the district attorney will prosecute all such offenses. Such an agreement shall determine the distribution of all fines and forfeitures between the county and the City.~~

*The Linn County Justice Court shall be the jurisdiction for prosecution of violations of the Millersburg Municipal Code and/or City Ordinances. The City Attorney shall represent the City in prosecution of any offenses prosecuted within the Linn County Justice Court or on appeal to the Linn County Circuit Court.*

3)

Section 31 reads as follows:

A proposed ordinance shall be read once in full at a Council meeting. An ordinance shall be passed by a majority vote of the Council. An ordinance shall become effective 30 days following passage by the Council, unless there is a provision included in said ordinance and the Council so determines that an emergency exists, and then the ordinance shall become effective upon passage by the Council and signature of the mayor. An ordinance may provide a later time for taking effect.

The proposed amended Section 31 would read as follows:

A proposed ordinance ~~may shall~~ be read ~~once in title only if no councilor present at the meeting requests that the ordinance be read in full once in full at a Council meeting.~~ An ordinance shall be passed by a majority vote of the Council. An ordinance shall become effective 30 days following passage by the Council, unless there is a provision included in said ordinance and the Council so determines that an emergency exists, and then the ordinance shall become effective upon passage by the Council and signature of the mayor. An ordinance may provide a later time for taking effect.

4)

Amend "Councilman" to "Councilor" throughout the entire Millersburg City Charter.

An official copy of these proposed charter amendments, with specific changes, will be posted in the Millersburg City Hall, on the City website, and in the Firehouse Corner Deli for inspection. Copies are also available to members of the public upon request by emailing [info@cityofmillersburg.org](mailto:info@cityofmillersburg.org).



TO: Millersburg City Council  
 FROM: Kevin Kreitman  
 DATE: March 4, 2021 for March 9, 2021 Council Meeting  
 SUBJECT: Ground Water Rights

Action Requested:

Consider the sale of ground water rights obtained through recent dedication of streets associated with West Valley Estates development.

Discussion:

Staff was contacted by Steve Helms, a local realtor who specializes in the sale of farm property, and who also owns property abutting the new West Valley Estates development off Millersburg Drive. Mr. Helms recently became aware that property he owns off Millersburg Drive and the property purchased by the West Valley developer has historic seasonal ground water irrigation rights, which can be transferred.

Mr. Helms shared that he was working with a water rights examiner and believed that based on the acreage represented by the new streets constructed in association with the new development (see attached map) the City now has ownership of 5.5 acres of water rights.

Staff and the City Attorney met with Steve Helms and two staff from Will McGill Surveying, who are certified water right examiners, on Monday, March 2<sup>nd</sup>. Will McGill explained to staff that the water rights being discussed (GR-1543) date back to 1950, are for seasonal irrigation, and were accessed by a well. Based on their research, the water rights remained with the property upon sale, or in the City's case, the transfer of the property associated with deeding of the right-of-way for the streets.

They also shared the water rights can be transferred for a like use downstream within the same water basin (Crooks Creek). In this case, Case Farms located in the Dever-Connor area, and within the Crooks Creek water basin, has expressed interest in obtaining the water rights. They are willing to cover all transfer costs and pay \$1,200 per acre for the water rights.

Staff does not believe the ground water rights would provide a benefit to the City for our use and that sale of these water rights would not adversely impact any City operations, either now or in the future. The sale of the water rights would allow the continued use of the rights for their original intended purpose for the irrigation of crops.

Budget Impact:

Sale of the water rights would represent income of \$6,600.00 to the City.

Recommendation:

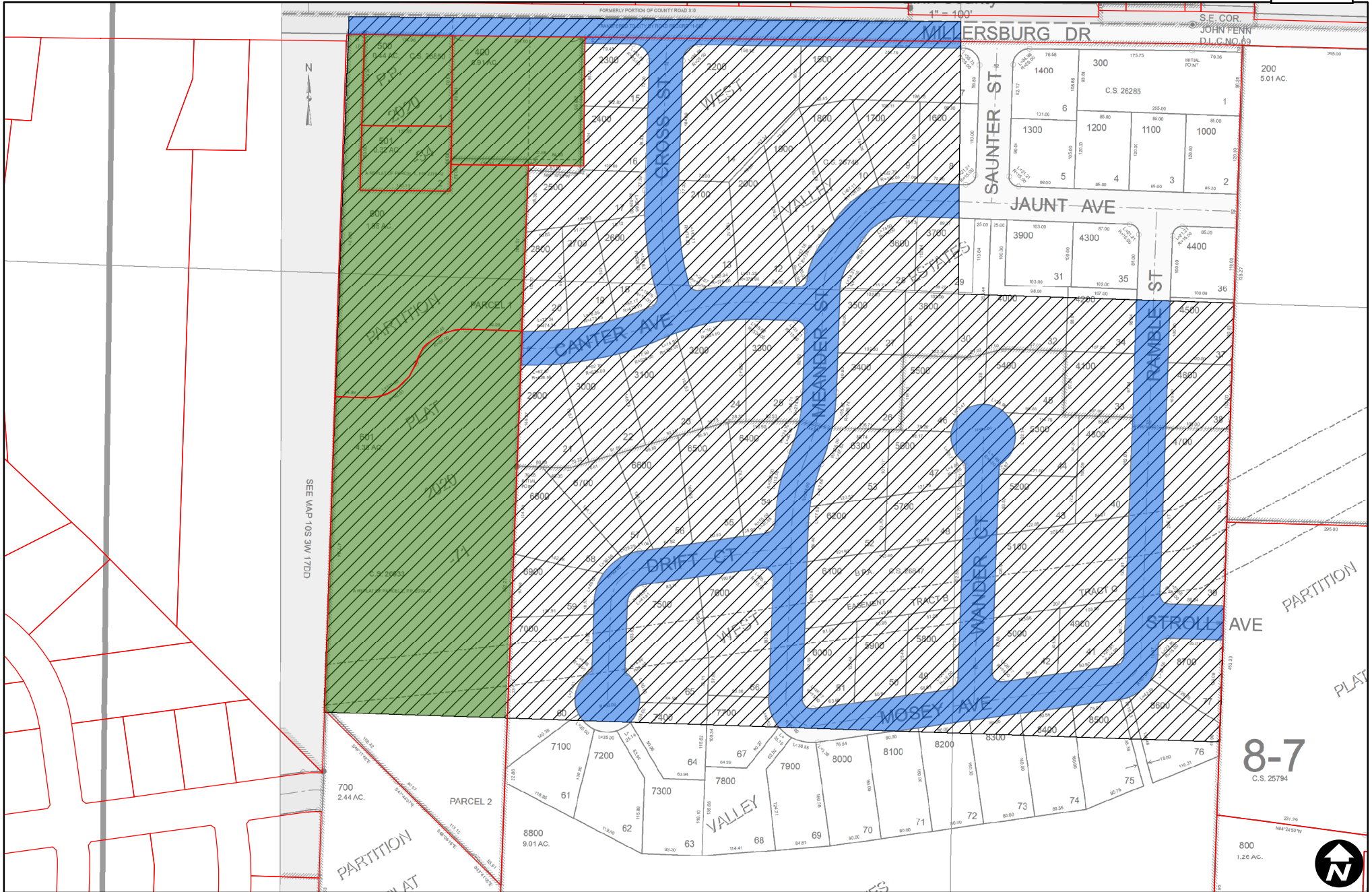
If Council should be in concurrence to approve the sale/transfer of the water rights to Case Farms (Case Family LLC), staff would recommend Council approve a motion granting the City Manager and City Attorney the authority to complete and sign required paperwork for the sale and transfer of the water rights the City obtained upon dedication of the street rights-of-way in the West Valley Estates development to Case Family LLC.

Attachment(s):

- Millersburg GR-1543 Modification Map
- Water Right GR-1543

# Millersburg - GR 1543

Item 10)



- City owned GR 1543 - 5.5 acres
- Other owners GR 1543 - 7.2 acres
- 2019 Taxlots
- GR 1543 - 30.0 acres total

1 inch = 200 feet

# Registration Statement

## OF CLAIMANT OF RIGHT TO APPROPRIATE GROUND WATER

TO THE STATE ENGINEER OF OREGON:

I, William Linnidge  
of Box 288C Albany Oregon County of Linn  
(Mailing address)

State of Ore, do hereby make application for a certificate of registration as evidence of a right to appropriate ground water.

- 1. Source from which water is withdrawn is Well (Flowing well, pump well, infiltration trench, or tunnel)
- 2. Location is: 3 mi West of Jefferson (Approximate distance and direction from nearest city or town)

and is more particularly described as follows:

(a) 1915' W 4 462'S from NE Corner DLC 59  
(Give distance and bearing to corner of section or other legal subdivision)  
being within SW 1/4 SW 1/4 of Sec. 16, Twp. 10S, Rge. 3W  
(Smallest legal subdivision) (N. or S.) (E. or W.)

or (b) within limits of recorded platted property, town or city:

in Lot \_\_\_\_\_, Block \_\_\_\_\_ of \_\_\_\_\_  
(Name of plat or addition)  
County of \_\_\_\_\_  
(If within city or town, give name)

3. Construction Work was begun on Feb 1950; was completed on 1950  
(Date) (Date)  
and the ground water claimed was first used for the purposes set out below on 1950  
(Date)  
since which time the water has been used intermittently during season  
(Continuously or intermittently)  
from 1960 to Oct 1957  
(Date) (Date)

4. Quantity of water claimed and used is 50 gallons per minute; \_\_\_\_\_ acre feet per year.

5. Purpose or Purposes for which water is used Irrigation  
(Domestic, irrigation, municipal, manufacturing, industrial, etc.)

6. Description of Well: Depth 30 feet. Type Drilled (Dug or drilled)  
diameter 10" inches. Elevation of ground at well site \_\_\_\_\_ feet, mean sea level.  
(As near as known)  
Depth to water table 8' feet.

7. Capacity of Well: \_\_\_\_\_ g.p.m. with \_\_\_\_\_ feet drawdown.  
\_\_\_\_\_ g.p.m. with \_\_\_\_\_ feet drawdown.

Date of test \_\_\_\_\_

If Flowing Well: Measured discharge \_\_\_\_\_ g.p.m. on \_\_\_\_\_ (Date)

Shut-in pressure at ground surface \_\_\_\_\_ lbs. per sq. in. on \_\_\_\_\_ (Date)

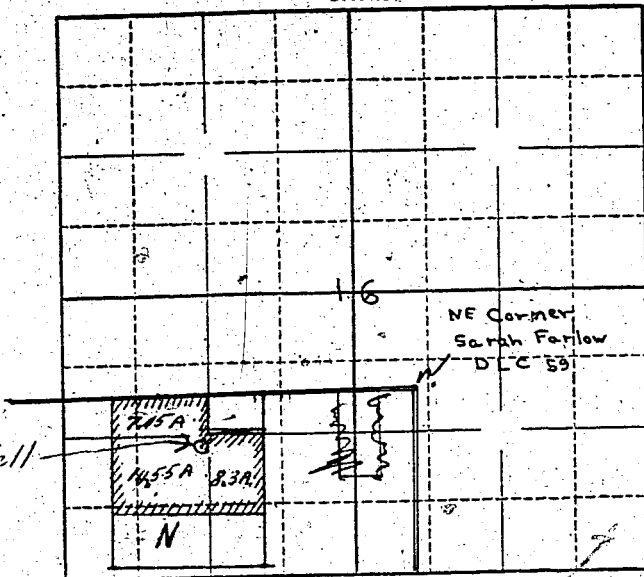
Water is controlled by \_\_\_\_\_ (Cap, valve, etc.)





Section 16

Township 105 Range 3W, W.M. North



Locate well and acreage of irrigated land on plat.

Scale: 2" = 1 Mile  
4"

STATE OF OREGON

County of

Marion

ss.

I, William Lunnidge, being first duly sworn, do hereby certify that I have read the foregoing Registration Statement and that all of the items therein contained are true to the best of my knowledge and belief.

William Lunnidge  
(Signature of Registrant)

Subscribed and sworn to before me this 2nd day of May, 1958.

My commission expires

12th June 196

Wm. J. Bartholomew  
(Notary Public)

(SEAL)

CERTIFICATE OF REGISTRATION

STATE OF OREGON

County of Marion

ss.

This is to certify that the foregoing Registration Statement was received in the office of the State Engineer on the 2nd day of May, 1958, at 2:30 o'clock A. M. and has been duly recorded in said office in Book No. 7 of Registration Statements on page GR-1486

Witness my hand this 1st day of December, 1958

Lewis A. Stanley  
(State Engineer)

By

(Deputy)



TO: Millersburg City Council  
VIA: Kevin Kreitman, City Manager  
FROM: Janelle Booth, Assistant City Manager/City Engineer  
DATE: March 3, for the March 9, 2021 City Council Meeting  
SUBJECT: Amending Millersburg Municipal Code – Replacing Chapter 11.10 with Chapter 11.01



Action Requested: Adoption of the attached Ordinance repealing Chapter 11.10, Water System – Rules and Regulations and adopting new Chapter 11.01, Water System Rules and Regulations.

Discussion: During the review of the City Municipal Code, we became aware that Chapter 11.10, Water System – Rules and Regulations was last updated in 1991 and requires updating for several items, including aligning Millersburg's curtailment plan with the City of Albany's curtailment plan. The entire chapter is also being renumbered from 11.10 to 11.01 to align with the City of Albany's code for ease of future updates that may be required as a part of our ongoing operation and maintenance agreements. Adoption of the attached Ordinance will include updates and the necessary information in the new Municipal Code Chapter 11.01.

Budget Impact:  
None.

Recommendation:  
Staff recommends adoption of Ordinance 182-21.

Attachment(s):

- Ordinance 182-21, Repealing Chapter 11.10 and Adopting Chapter 11.01
- Exhibit A, Chapter 11.01, Water System Rules and Regulations

**ORDINANCE NO. 182-21**

**AN ORDINANCE AMENDING THE MILLERSBURG MUNICIPAL CODE  
BY REPEALING CHAPTER 11.10, WATER SYSTEM – RULES AND REGULATIONS,  
AND ADOPTING CHAPTER 11.01, WATER SYSTEM RULES AND REGULATIONS**

**WHEREAS**, the City of Millersburg previously adopted Millersburg Municipal Code Chapter 11.10; and,

**WHEREAS**, the City wishes to amend the Millersburg Municipal Code by repealing Chapter 11.10 and adopting Chapter 11.01;

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF MILLERSBURG DO ORDAIN AS FOLLOWS:** Millersburg Municipal Code Chapter 11.10, Water System – Rules and Regulations, is hereby repealed;

**FURTHERMORE**, Chapter 11.01, Water System Rules and Regulations, is hereby adopted.

This Ordinance becomes effective 30 days from the date of passage.

**PASSED by the Council and approved by the Mayor this 9th day of March 2021.**

---

Jim Lepin  
Mayor

ATTEST:

---

Kimberly Wollenburg  
City Recorder

## Title 11 WATER

### Chapters:

#### 11.01 WATER SYSTEM RULES AND REGULATION

- [11.01.010](#) Definitions.
- [11.01.020](#) Service area.
- [11.01.030](#) Description of service.
- [11.01.040](#) Application for service.
- [11.01.050](#) Bills and payment.
- [11.01.051](#) In-lieu-of franchise fee.
- [11.01.060](#) Past due accounts.
- [11.01.070](#) Notices.
- [11.01.080](#) Discontinuance of service.
- [11.01.090](#) Meter testing.
- [11.01.095](#) Adjustments, back-billing, credits and refunds.
- [11.01.100](#) New service connections and meters.
- [11.01.110](#) Multiple-block dwellings.
- [11.01.120](#) Main extensions.
- [11.01.130](#) Special facilities.
- [11.01.140](#) Service outside City limits.
- [11.01.150](#) Fire protection service.
- [11.01.160](#) Temporary service.
- [11.01.170](#) Pools and tanks.
- [11.01.180](#) Fire hydrants.
- [11.01.190](#) Responsibility for equipment.
- [11.01.200](#) Damage to utility's property.
- [11.01.210](#) Customer control valves.
- [11.01.220](#) Cross-connections.
- [11.01.225](#) Backflow prevention requirements.
- [11.01.227](#) Water service denied upon failure to meet requirements.
- [11.01.230](#) Water waste prohibition authority.
- [11.01.235](#) Water Management and Curtailment Plan.
- [11.01.240](#) Access to premises.
- [11.01.250](#) Interruptions in service.
- [11.01.260](#) Resale of water.
- [11.01.270](#) Penalty.
- [11.01.280](#) Water main services and hydrants in local improvement districts.
- [11.01.285](#) Water curtailment authority.
- [11.01.287](#) Water curtailment measures.
- [11.01.290](#) Building over water mains prohibited.
- [11.01.295](#) Separation of water mains and services from other utilities.
- [11.01.300](#) Authority of utility.
- [11.01.310](#) Appeals.
- [11.01.320](#) Constitutionality – Savings clause.

## Chapter 11.01 WATER SYSTEM RULES AND REGULATION

### Sections:

- [11.01.010](#) Definitions.
- [11.01.020](#) Service area.
- [11.01.030](#) Description of service.
- [11.01.040](#) Application for service.
- [11.01.050](#) Bills and payment.
- [11.01.060](#) Past due accounts.
- [11.01.070](#) Notices.
- [11.01.080](#) Discontinuance of service.
- [11.01.090](#) Meter testing.
- [11.01.095](#) Adjustments, back-billing, credits and refunds.
- [11.01.100](#) New service connections and meters.
- [11.01.110](#) Multiple-block dwellings.
- [11.01.120](#) Main extensions.
- [11.01.130](#) Special facilities.
- [11.01.140](#) Service outside City limits.
- [11.01.150](#) Fire protection service.
- [11.01.160](#) Temporary service.
- [11.01.170](#) Pools and tanks.
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- [11.01.287](#) Water curtailment measures.
- [11.01.290](#) Building over water mains prohibited.
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- [11.01.300](#) Authority of utility.
- [11.01.310](#) Appeals.
- [11.01.320](#) Constitutionality – Savings clause.

### 11.01.010 Definitions.

For the purposes of this chapter, the words set out in this section shall have the following meanings:

(1) "Applicant" means a person, corporation, association, or agency applying for water service.

(2) "Base charge" means a periodic charge for water service charged in addition to the consumption charge.

(3) "City" means the City of Millersburg, a municipal corporation of the State of Oregon.

(4) "Commercial services" means provision of water to mercantile establishments, professional offices, public or governmental buildings, schools, hospitals, nursing homes, retirement homes, churches, motels, manufacturing and processing uses not qualifying as seasonal food processing or industrial service, and to multifamily dwellings and apartment houses except those in which each unit is metered separately. Service to any of the above listed commercial services in combination with any residential use shall also be considered as commercial service.

(5) "Council" means the City Council of the City of Millersburg.

(6) "Consumption charge" means a charge placed on every hundred cubic feet (HCF) of water delivered.

(7) "Cross-connection" means any physical arrangement whereby the public water supply is connected directly or indirectly with any nonpotable or unapproved water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, liquid, gases, sewage, or other waste of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow.

(8) "Customer" means a person, corporation, association, or agency receiving water service.

(9) "Domestic service" means the provision of a metered service to a single living unit for purposes of normal domestic consumption including such uses as sprinkling lawns, gardens, and shrubbery; the watering of livestock; the washing of vehicles; and other similar or customary uses.

(10) "Drop-in meter service" means a water service that may be provided by installing a meter in an existing meter box or vault at a service location where all of the service connection piping and appurtenances except the meter have previously been installed.

(11) "Frontage" means the total length for which a parcel abuts one or more than one public right-of-way plus that length for which a public water line is located on (or is proposed to be located on) a parcel.

(12) "High elevation service areas" means those areas served by the City's water utility that require secondary pumping to provide adequate service.

(13) "Industrial service" means the provision of water to a customer through a four-inch or larger meter for use in manufacturing or processing activities located on land designated for industrial use in the Millersburg Comprehensive Plan.

(14) "Low- and medium-density residential development" means residential development on land designated as Residential Low Density Zone (RL) or Residential Mixed Use Zone (RM) by the Millersburg Development Code (MMC Title 20).

(15) "Mains" means transmission or distribution pipelines located in streets, highways, and public and private rights-of-way which supply water for general public usage.

(16) "Main extensions" means extension of transmission or distribution pipelines, exclusive of service connections, beyond existing facilities.

(17) "Maximum flow" means the flow through each meter size as established by the American Water Works Association as listed in AWWA Standards, Section C700, and shown below.

<b>Meter Size Inches</b>	<b>Maximum Flow in Gallons Per Minute</b>
3/4	30
1	50
1-1/2	100
2	160
3	320
4	500
6	1,000
8	1,600
10	2,300

(18) "Minimum charge" means the dollar amount charged for water service when the sum of the base charge and the consumption charge for any period is less than the adopted minimum charge for the applicable class of service and meter size.

(19) "Multiple-blocks" means where more than one service unit exists per water meter.

(20) "Municipal or public use" means the provision of water to governmental or public entities.

(21) "Non-drop-in meter service" means a water service which requires installation of any piping or appurtenances before a meter can be provided and connected.

(22) "Non-essential water use" means water that is not required to maintain public health or safety.

(23) "Premises" means the property and/or unit(s) to which water service is being requested, or provided.

(24) "Rate schedules" means those rates, charges, rentals, and regulations as they are set forth and amended from time to time by the City Council.

(25) "Regular working hours" means the hours between 8:00 a.m. and 4:00 p.m., Monday through Friday, except City holidays.

(26) "Seasonal food processing service" means the provision of water to a customer through a two-inch or larger meter for use in primarily summer and fall

dry-season food processing activities located on land designated for industrial use in the Millersburg Comprehensive Plan.

(27) "Service connection" means the pipes, valves, meter boxes, and appurtenances necessary to supply water from mains through the meter, but this does not include the piping from the meters to the point of service.

(28) "Service line" means all piping and appurtenances from the meter to the point of service. The service line is privately owned and maintained.

(29) "Service unit" means each self-contained living unit or independent business activity that is served from a single meter.

(30) "Temporary service" means service that will not be of a permanent nature such as circuses, fairs, construction, etc.

(31) "Utility" means the City of Millersburg, a municipal corporation of the State of Oregon.

(32) "Water system facility plan" means the current version of the master plan for development of the water system as amended or updated.

#### **11.01.020 Service area.**

The area in which water service may be furnished at the utility's option, including all that territory within the corporate limits of the City of Millersburg and certain areas adjacent or in reasonable proximity thereto. Except as provided by service contract, the service area shall be limited to the Millersburg city limits.

#### **11.01.030 Description of service.**

(1) Supply. The utility will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to its customers and to avoid any interruption in the delivery of said service.

(2) Quality. The utility shall exercise reasonable diligence to supply safe and potable water at all times.

(3) Classes of Service. All service installed by the utility will be classified as follows:

(a) Private Fire Protection (Inside City Limits). Applies to standpipes, connections for automatic sprinkler systems, and fire hydrant service for private fire protection.

(b) Private Fire Protection (Outside City Limits). Applies to standpipes, connections for automatic sprinkler systems, and fire hydrant service for private fire protection.

(c) Single-family Residential (Inside City Limits). Applies to all single-family residences and to individual apartments or flats where service is furnished through a separate meter for each such individual apartment.

(d) Single-family Residential (Outside City Limits). Applies to all single-family residences and to individual apartments or flats where service is furnished through a separate meter for each such individual apartment.

(e) Multi-family Residential and Commercial (Inside City Limits). Applies to all commercial customers, including industrial seasonal food processing and mercantile establishments, stores, offices, public buildings not otherwise classified, public and private hospitals, schools, churches, mercantile and industrial

establishments combined with residences, and apartment houses except those in which service to each apartment is metered separately.

(f) Multi-family Residential and Commercial (Outside City Limits). Applies to all commercial customers, including industrial, seasonal food processing, and mercantile establishments, stores, offices, public buildings not otherwise classified, public and private hospitals, schools, churches, mercantile and industrial establishments combined with residences, and apartment houses except those in which service to each apartment is metered separately.

(g) Special Contracted Services. Applies to all residential, commercial, and industrial customers who have need for special services and for which rates will be negotiated.

#### **11.01.040 Application for service.**

(1) Application. Each applicant for water service may be required to sign a form provided by the utility setting forth:

- (a) Date of application.
- (b) Location of property to be served.
- (c) Date for which service is being requested.
- (d) Class of service (commercial, residential, etc.).
- (e) The address to which bills are to be delivered.
- (f) Whether the applicant is an owner or tenant of the property.
- (g) Owner of property, address, etc.
- (h) Credit information as pertinent to the customer account.
- (i) Where required, a waiver of remonstrance agreement form shall be

attached to the application for water service in conformance with MMC [11.01.100](#)(1)(d).

(j) An agreement to be jointly and severally obligated, along with all water customers receiving service at the location noted above, to abide by all applicable ordinances and regulations pertaining to water service, and to pay all costs, damages, and fees which may be incurred as a result of water service provided to this location until such time as the customer requests the termination of service.

- (k) Such other information as the utility may reasonably request.

#### **(2) Deposits.**

(a) Turn-ons. The utility may require a deposit with each application of service of each residential user and a deposit equal to an estimated three months' usage may be required of each commercial and industrial user within 72 hours of application of service except under the following circumstances:

(i) If the applicant presents satisfactory evidence of ownership of the property where service is to be provided unless other information exists that indicates that the applicant is not an acceptable credit risk.

(ii) Transfer. Deposits may be transferred from an existing account to a new account provided the existing account demonstrates a satisfactory credit record.



(b) Existing Users. All existing users, if service is discontinued for nonpayment, shall be required to comply with the deposit requirements of subdivision (a) of this subsection before service will be restored.

(c) Refund or Application of Deposits. Deposits will be refunded to the applicant or applied directly to the customer's account as follows:

(i) Refund: On termination of service, less any amount then due and payable.

(ii) Refund: On the 15th of the month following 24 months of continuous service, except under the following circumstance whereby the utility shall apply the deposit to the customer's account.

(A) Application of Deposit. The utility may on the 15th of the month following 24 months of continuous service apply the deposit directly to the customer's account if the account is found to be past due, or has been past due three times during a 12-month period, or if the account has been disconnected for nonpayment during a 12-month period.

(3) Changes in Customer's Equipment. A customer making material changes in the size, character, or extent of the equipment or operation utilizing water service, and if such change results in the consumption of larger or smaller amounts of water, said customer shall immediately give the utility written notice of the change. Changes shall be made in accordance with MMC [11.01.100](#)(5) and (6).

(4) Special Contracts. Contracts, other than applications, may be required prior to service where special circumstances warrant special consideration.

(5) New Account Fees. A charge determined by Council resolution will be collected for the activation of any account.

### **11.01.050 Bills and payment.**

#### (1) Rendering of Bills.

(a) Meter Readings. Meters will be read at regular intervals for the preparation of periodic bills and as required for the preparation of opening, closing, and special bills.

(b) Estimated Meter Readings. Meter readings will be estimated based upon the averaging of the customer's consumption records in the event that it is impossible or impractical to read a meter for the preparation of a water bill. Failure to read the water meter does not relieve the customer's obligation to pay for actual or estimated water use.

(c) Bills for Water Service. Bills will be rendered as established by Council resolution.

(d) New Accounts and Closing Accounts. Accounts will have the periodic base and minimum charges prorated through the day that service is terminated (for closing accounts) or on the day started (for new accounts).

#### (2) Payment of Bills.

(a) All bills are due and payable on presentation. Payment may be made at the utility's office.

(b) When bills are past due, the utility will follow the procedure as outlined in MMC [11.01.060](#).

(3) Billings of Separate Meters Not Combined. Each meter on a customer's premises will be considered separately, and the readings of two or more meters will not be combined.

(4) Individual and Joint Service. Two or more parties who join to make a single application of service shall be jointly and individually liable for all charges incurred on the account. Joint applications of service will only be sent a single bill.

#### **11.01.060 Past due accounts.**

(1) A water account is due and payable upon billing or 60 days following provision of service, whichever shall first occur. Water accounts shall bear interest at the rate of nine 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.

(2) A second notice (past due notice) will be mailed to all unpaid accounts on or about 45 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 forty-sixth 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 forty-ninth 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 City Manager 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 a collections agency, small claims court, and/or Linn County circuit court, if appropriate.

#### **11.01.070 Notices.**

(1) Notices required to be given by the utility to the customer will normally be given in writing, and may be delivered to the customer personally or by mail to the address for which service is rendered.

(2) Notice from the customer to the utility shall be given by the customer or authorized representatives orally or in writing at the utility's office.

#### **11.01.080 Discontinuance of service.**

(1) Nonpayment of Bills. A customer's water service may be discontinued if the water bill is not paid in accordance with the procedures as listed in MMC [11.01.060](#).

(a) Nonpayment of Deposit. A customer's water service may be discontinued if the deposit is not paid within 72 hours of application of service as listed in MMC [11.01.040](#).

(2) Unsafe Apparatus.

(a) The utility may refuse to furnish water and may discontinue service to any premises where apparatus, appliances, or equipment using water is dangerous, unsafe, or is being used in violation of laws, ordinances, or legal regulations.

(b) The utility does not assume liability for inspecting apparatus on the customer's property. The utility does reserve the right of inspection, however, if there is reason to believe that unsafe or illegal apparatus is in use.

(3) Service Detrimental to Others. The utility may refuse to furnish water and may discontinue service to any premises where excessive demands by one customer will result in inadequate service to others.

(4) Fraud and Abuse. The utility shall have the right to refuse or to discontinue water service to any premises to protect itself against fraud or abuse.

(5) Noncompliance. The utility may, unless otherwise provided, discontinue water service to a customer for noncompliance with any of these water system rules and regulations any time after giving written notice to the customer of the utility's intention to discontinue service. If such noncompliance affects matters of health or

safety or other conditions that warrant such action, the utility may discontinue water service immediately.

(6) Customer Request for Service Discontinuance.

(a) Customers may have their water service discontinued by notifying the utility during normal working hours and providing at least 24 hours' advance notice (excluding weekends) of the desired weekday date of discontinuance. The customer will be required to pay all water charges through the date of such discontinuance.

(b) If notice is not given to the utility, the customer will be required to pay for the water service through the date the utility has learned that the customer has vacated the premises or otherwise has discontinued service.

(7) Restoration – Reconnection Charge. The utility shall charge, as provided by Council resolution, for restoring water service which has been discontinued because of noncompliance with these rules. Water service which has been discontinued because of nonpayment or noncompliance with these rules shall not be restored in the name of any relative, friend, family member, nor in the same customer name when the head of the household has not changed or when the customer of record at that service location would continue to receive water service unless all charges have been paid.

(8) Penalty for Turning on Water Service Without Authority. Should the water be turned on by any water customer or other person without authority from the utility, the water may then be shut off at the main or the meter may be removed. The charge for shutting water off at the main shall be the actual cost plus 15 percent overhead. The charge for removing and/or reinstalling the meter shall be established by Council resolution. All such charges shall be chargeable to the customer, and water shall not again be furnished to the customer until said charges are paid.

(9) Tampering. Water services locked off for nonpayment or noncompliance will be subject to tampering fees as specified by Council resolution should any consumer or person without authority from the utility remove or destroy said locking devices in order to self-restore water service. Tampering charges and/or costs shall be chargeable to the customer.

**11.01.090 Meter testing.**

(1) Prior to installation, each meter will be tested, and no meter found to register more than two percent fast or slow under conditions of normal operation will be placed in service.

(2) On Customer Request.

(a) A customer may request the utility to test the meter serving the customer's premises.

(b) The utility may require the customer to deposit an amount to cover the reasonable cost of the test as established by Council resolution.

(c) This deposit will be returned if the meter is found to register more than two percent fast. This deposit will be forfeited if the meter is found to be accurate or slow.

(d) A written report giving the results of the test shall be available to the customer within 10 days after completion of the test.

(3) Utility Initiated Meter Testing.

(a) The utility may temporarily interrupt water service in order to test existing meters or make repairs.

(b) In lieu of subsection (3)(a) of this section, the utility may, at customer's expense, install bypass piping in order to maintain water service during meter testing or repairs.

**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 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 years, whichever is less. If the date cannot be reasonably determined, the utility will estimate the amount of the refund based on a period not to exceed six years.

When the utility determines that a customer has not been charged or has not been charged enough for water services, the utility will 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 six 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) Nonregistering 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 billing period. If consumption history is inconsistent, the average consumption from the same billing period of the prior year or an average consumption for the previous six (6) months shall be used. If a customer has less than six (6) months consumption history, they may resubmit their request following the establishment of six (6) months of service. 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.

### 11.01.100 New service connections and meters.

(1) The utility may furnish and install a service of such size and at such location as the applicant requests, provided:

(a) Such requests are reasonable.

(b) The location is such that the utility has in place a distribution main of sufficient size adequate to provide service to this location without detriment to existing customers. In all cases, the final location of the proposed meter shall be subject to approval.

(c) That such a distribution main is adjacent to and extends along the full length of the property frontage along the right-of-way.

(d) Where a parcel has more than 150 feet of frontage along a right-of-way and the parcel is being developed in phases; and the water line is not currently needed for the full length of the parcel to facilitate service to other properties, to provide fire protection, or to meet other utility system needs, the requirement of subsection (1)(c) of this section may be reduced, where approved, by delaying the requirement for a water main adjacent to that portion of the parcel which remains as an undeveloped portion of a future phase. Such delay, if authorized, is contingent upon the signing of a waiver of remonstrance agreement which commits the parcel to participate in a future local improvement (assessment) district for the extension of water main(s).

(e) Where the property abuts more than one street or right-of-way, water mains shall be extended for the full length of the property frontages along the rights-of-way for all frontages, unless it is determined that the extensions on the frontages from which service is not being taken is not currently needed for water pressure, system capacity, or fire protection, nor to facilitate service to other properties, and that said water mains may be completed at a future time. In that case, where authorized, the owners of the property to be serviced shall sign a waiver of remonstrance agreement which commits the parcel to participate in a future local improvement (assessment) district for the extension of this water main. This agreement may be incorporated into the water service application form.

(f) The utility shall be the sole judge in determining the meaning and provisions of, and conformance with, any conditions for providing service to a property.

(g) Service taps on 16-inch and larger mains shall include an accessible gate or butterfly valve in a valve box at the connection of the main and the service line. Direct taps on 16-inch and larger mains shall be minimized.

(h) The applicant shall provide and maintain an accessible, unflooded vault of a size as specified for all meters larger than two inches.

(2) A water system development charge, an installation fee, and a deposit is hereby established. The water system development charge shall be imposed upon all connections or intensification of use made to the water system of the City in accordance with Chapter [15.16](#) MMC. The water system development charge shall be deposited in the water improvement fee or water reimbursement fee funds. Such funds shall be accounted for separately. System development charge revenue shall only be used in accordance with Chapter [15.16](#) MMC. The water fees and deposits are established by Council resolution.

(3) Included in the charges are all meters and necessary appurtenances for installation and continued operation of the service which the utility will supply.

(4) All meters shall be sealed by the utility at the time of installation and no seal shall be altered or broken except by an authorized agent of the utility.

(5) Change in Location or Reduction in Meter Size or Service.

(a) Change in the location of service at the convenience or request of the customer shall be done at the customer's expense.

(b) Reduction in meter size requested by the customer shall be only if the request is reasonable and approved. Charges for these reductions are established by Council resolution.

(6) Increases in the Size of the Meter and Service. If a change in the size of a meter and service is requested and approved, the installation will be accomplished at a charge based upon time and material costs plus 15 percent overhead. Where the meter size increases, a system development charge shall also be charged, but a credit, equal to current system development charge for the existing meter, shall be given toward the system development charge for the new meter.

(7) Ownership. The service connection, whether located on public or private property, is the property of the utility and the utility reserves the right to repair, replace, and maintain it, as well as to remove it upon discontinuance of service.

(8) Charges for Service Pipes Connected without Permit. If the premises are connected without the application prescribed in this section, such premises shall be immediately disconnected. Before a new connection is made, the applicant shall pay double the rate for the estimated quantity of water consumed prior to the effective date of metered service, plus a tampering fee as authorized by Council resolution. A new connection shall only be made upon compliance with provisions of this Code.

(9) Abandoned and Nonrevenue-Producing Services. Where a service connection to any premises has been abandoned or not used for a period of one year or longer, the utility may remove such service or meter. If the service or meter has been removed, service shall be restored only upon the owner making application and paying all costs associated with the reinstallation.

(10) Leaking or Unused Services. Where there is a leak between the main and the meter, the utility shall make all repairs. When a service connection is damaged or destroyed by contractors or others, or where service connections are destroyed by electrolysis, the person, contractor, or company responsible for such damage or destruction shall pay the utility for the cost of repairing or replacing such connections on the basis of the direct cost to the utility in labor and in materials, plus 15 percent overhead. Where a customer service line is leaking or has a history of repair problems which has resulted in leak adjustments, service to this customer shall not be activated until the customer can demonstrate the problem has been eliminated. Action necessary may be in the form of partial or total replacement of the customer's plumbing and/or deposit of sufficient funds to cover estimated consumption.

Customers with serious water leaks which will cause extreme financial hardship or detrimental service to other customers may have their water service terminated

after 24 hours' notice. In cases of leakage causing severe detriment to other customers' service, water service may be terminated immediately.

#### **11.01.110 Multiple-block dwellings.**

(1) Number of Services to a Separate Unit. Separate service units under single or common control or management will each be supplied through individual service connections unless otherwise authorized.

(2) For division of multiple-block dwellings not under common management, new service must be supplied to each unit.

(3) Service to Multiple-block Dwellings. Separate houses, buildings, living, or business quarters on the same premises, or on adjoining premises, under a single control or management, may be served as authorized by either of the following methods:

(a) Through separate service connections to each or any unit if that pipeline system for each service is independent of the others and is not interconnected.

(b) Through a single service connection to each physically separated structure.

(c) The liability for payment of charges for all water furnished to combined units, supplied through a single service connection of approved capacity, is that of the owner of the property.

#### **11.01.120 Main extensions.**

(1) A main extension and/or special facilities shall be required to service all property which cannot obtain service as outlined in Section [11.01.100](#) of this code.

(2) The following rules shall apply to all extensions:

(a) The minimum size of the water main to be installed shall be six inches in diameter where a larger size is not needed to provide required fire flows, provide adequate system or customer flows and/or pressures, conform with the size of existing mains being connected to, meet future needs, or conform to the size specified by the utility's water system facility plan.

(b) All water mains shall be public, installed in public rights-of-way or public utility easements. The normal routing for the water main extension shall be in a dedicated street right-of-way.

(c) The City Engineer or Engineer's agent shall design or approve extensions to the water system and shall have the sole right to determine size, location, and type of facility to be constructed. All engineering shall be based on both domestic and fire protection design criteria. Those not designed by the City Engineer or Engineer's agent shall be designed by a registered engineer licensed in the State of Oregon to design these facilities. All water main extensions shall be designed and constructed to meet the approval of the utility and the Oregon State Health Division. All extensions shall be consistent with the water system facility plan.

(d) The installation of all water facilities shall be by City forces or through a bonded contractor.

(e) All main extensions shall extend to the extreme property line of the development or lot. If the property has excess frontage on the right-of-way and only partial development is to occur, then some consideration may be given to



shortening the extension, provided sufficient assurance is given to ensure the completion of the extension at the time other development occurs. Where mains are being extended into the interior of a property or development, the mains shall be extended through to the boundaries of the property at all such points as shall be determined as needed unless it is determined that the extensions are not needed to provide current or future looping of water mains, or to provide current or future service to adjacent properties.

(f) The utility may pay for the additional cost of materials due to the oversizing of main extensions over eight inches in low- and medium-density residential development, provided the petitioner's individual service and fire protection needs do not dictate a larger line size. The utility may pay for the additional cost of materials due to the oversizing of main extensions over 12 inches in diameter for all other land uses, provided the petitioner's individual service and fire protection needs do not dictate a larger line size. The oversize payment shall be limited to pipe and fitting material cost differences only.

(g) The utility may, at its option, supply materials for main extension projects. All material supplied by contractors must meet strict material specifications set forth by the utility. Failure to do so will result in nonacceptance of the projects. All materials supplied by the utility to any main extension project shall be billed at the utility's replacement cost, plus a 15 percent overhead and handling charge.

(h) All main extensions and system design shall include fire hydrants and other devices at intervals consistent with the recommendations of the water system facility plan, except as modified by the fire marshal. The fire hydrants shall be considered as incidental to the water mains. Where local improvement districts are established, the cost of fire hydrants shall be considered as part of the total assessable cost. Where mains are extended under permit, the cost of fire hydrants shall be the responsibility of the permittee. Where fire hydrants are installed on an existing water main to provide fire protection for a proposed development, the installed cost of the fire hydrants shall be the responsibility of the developer.

(i) Under conditions where hydrants are required within the property to be served, the main must be extended to the hydrant locations. Easements for these internal lines and hydrants must be provided by the developer.

(j) In large projects or projects where extensive engineering or design is required prior to preliminary estimates or design being obtained, a cash advance may be required to cover the cost of such engineering or design. All engineering drawings and documents and other work completed by the utility will be understood to be the property of the utility.

(k) In areas of service above the main system service elevation, special facilities will normally be required in addition to main extensions to provide service (MMC [11.01.130](#)).

(l) Financing of Extensions. There are two basic means of financing main extensions, as outlined below.

(i) Total Project Cost. Under this method the developer is required to pay the total cost of the project. An estimate covering approximate total costs related to the project may be supplied by the utility. If developers install the project themselves or through their own contractor and supply materials, a cash

advance sufficient to cover the estimated cost for the utility services needed on the project may be required prior to starting the project. Upon completion of the project, actual costs will be computed and an adjustment made to the contractor or to the utility appropriately. In the case of complex projects (projects involving disruption of or cutting into existing roadways, utilities, or pedestrian ways, or other projects where partial completion of the project could result in expense to the utility), the developer may be required to supply a bond to cover the estimated cost of engineering and construction.

(ii) Local Improvement Districts. Local improvement districts may be formed and bonds sold to fund main extensions and special facility projects.

(m) Subject to available funds, refunds may be made to the developer in areas where the developer is required to extend mains beyond the property frontage. If developers are to install the project themselves or through their own contractor and supply materials, they must secure three competitive bids for the total construction cost of the extension. These bids must be turned into the utility for review and approval of utility participation, prior to beginning work. Where approved for funding, an invoice shall be submitted to the utility after construction is completed for its portion of the project cost. The cost to the utility shall not exceed the cost determined using the lowest bid.

(n) Installers of any and all water lines or appurtenances must meet minimum standards. These standards shall include, but are not limited to, insurance requirements, bonding requirements, and experience in the field of water line installation. The water lines must be installed in accordance with the utility's specifications which are available upon request. Unless the work is being performed under a City contract, all main extensions shall require a "permit to construct public facilities" and the payment of the associated permit fee. The permit fee shall be 2.5 percent of the total construction cost unless otherwise set by Council resolution.

(o) If developers install and purchase the material themselves, they must guarantee the project for a period of one year from the date of acceptance of the project by the utility.

(p) A contract agreement between the developer and the utility outlining the above criteria must be signed before the start of the project.

#### **11.01.130 Special facilities.**

(1) In any high-elevation service area, special facilities in the form of booster pumps, storage tanks, control equipment, etc., may be required. The utility shall approve all special facilities and shall have the sole right to determine the size, location, and type of facility to be constructed.

(2) The party or parties requesting the service to the high-elevation service area shall pay the full cost of said facilities including materials, installation, engineering, surveying, etc., as may be required.

#### **11.01.140 Service outside City limits.**

(1) Application for Service. Each application for service outside the City may be acted upon on its merits without regard to any other past or present application or

service. If service is approved, the cost of service connection fees plus applicable rates will be those charges and regulations set forth and approved by the Council and the same as they may be amended from time to time unless otherwise set forth in a service contract.

(a) Service Limitation. The utility shall not provide water service to any property outside the Millersburg City limits when such property is contiguous to the City limits and eligible for annexation to the City of Millersburg unless Council finds that it is in the public interest to do so. The property owners requesting water service must submit a signed and notarized irrevocable request to annex before receiving water service.

(b) Users. No use or benefits of the City water system shall be extended to or made available to any property outside the City limits, except under a contractual agreement with the owners of said property, and only then when the property is not contiguous to the City of Millersburg at the time the water service is requested unless Council finds that it is in the public interest to do so.

(c) Contract. Use and benefits of the water system may be granted to property owners outside of the Millersburg City limits on a contractual basis only. Except for contracts with another public agency, the contract shall require that in order to continue to receive water service, the property owner shall annex the property to the City of Millersburg at the earliest date that the property becomes eligible for annexation under the laws of the State of Oregon. A contract for water service may further require provisions for financing of the water extensions, annexation of property served by contract to a public agency, termination of the service contract if any conditions are not met, and any other requirements which are deemed in the best interest of the utility.

(2) Rules and Regulations.

(a) All customers receiving water from the utility shall comply with and be bound by these rules and regulations.

(b) Customers shall cooperate to a reasonable and practical extent with other customers with regard to the extension or enlargement of common facilities.

**11.01.150 Fire protection service.**

Fire protection service shall be allowed under the following conditions:

(1) When the owner of a property or building desires such service and a main of sufficient size and volume is present, adjacent to or which may be extended to the property (See MMC [11.01.120](#), Main Extensions) in such a manner as to provide the service required.

The fee for fire services shall be an advance payment of the estimated cost, as specified by Council resolution, of the work to be done before the installation of the service connection. When the estimated cost is not sufficient to cover the actual cost, the deficit shall be billed to the applicant and must be paid prior to activation of the service. Any excess payment shall be returned to the applicant.

(2) The owner or agent of such a building shall agree that no water may be used from the system except for extinguishing fires or periodic testing. Before any water for testing can be used, the owner or agent must receive written permission.

(3) All fire systems and private hydrants, wet or dry, shall be equipped with the appropriate backflow prevention assemblies as set forth in MMC [11.01.225](#)(3).

(4) In the case of existing fire services which do not meet the conditions of subsection (3) of this section, the hydrants or hose connection may be sealed in such a manner as to indicate use thereof. If the seal is found to be broken, it will be assumed that water is being used from the fire service which is a violation of these rules and which results in action being taken as outlined in subsection (5) of this section.

(5) Where any violation of any of the above subsections exists, service may be immediately discontinued. In the case where no detector or proportional meter exists, then one will be required before service is restored. In cases where there is a detector or proportional meter, then the owner or agent must provide satisfactory assurances that the use of water will cease or appropriate means are provided to ensure payment for all the water used. The customer will also be required to pay for all water used. The utility shall estimate this amount in cases where it cannot be determined. The bill must be paid prior to service being restored.

(6) No charge will be made for water used in the extinguishing of fires.

(7) The cost of all detector checks, proportional meters, backflow devices, and related appurtenances shall be borne by the customer.

(8) Service connections and all equipment appurtenant thereto, including the meter, shall be the sole property of the utility.

(9) Standby charges for automatic fire service are established by Council resolution.

(10) Pressure and Supply. The utility assumes no responsibility for loss or damage because of lack of water or pressure and merely agrees to furnish such quantities and pressures as are available in its general distribution system. The service is subject to shutdowns and variations required by the operation of the system.

### **11.01.160 Temporary service.**

(1) Time Limit. Temporary service connections shall be disconnected and terminated within six months after installation unless extension of time is granted in writing by the utility.

(2) Charge for Water Served. Charges for water furnished through a temporary service connection shall be at the established rates for other customers.

(3) Installation Charge and Deposits. The applicant for temporary service will be required:

(a) To pay the utility in advance the estimated cost of installing and removing all facilities and overhead charges necessary to furnish such service; or if service is supplied through a fire hydrant, the applicant will be charged applicable fees as established by Council resolution.

(b) To deposit an amount sufficient to cover bills for water during the entire period such temporary service may be used, or to establish credit approved by the utility.

(c) To deposit with the utility an amount equal to the value of any equipment loaned by the utility to such applicant for use on temporary service. This deposit is refundable under terms of subsection (4) of this section.

(4) Responsibility for Meters and Installation. The customer shall use all possible care to prevent damage to the meter or to any other loaned facilities of the utility which are involved in furnishing the temporary service from the time they are installed until they are removed, or until 48 hours' notice in writing has been given to the utility that the contractor or other person is through with the meter or meters and the installation. If the meter or other facilities are damaged, the cost of making repairs, including overhead charges, shall be paid by the customer.

#### **11.01.170 Pools and tanks.**

When an abnormally large quantity of water is desired for filling a swimming pool, log pond, or for other purposes, arrangements must be made with the utility prior to taking such water.

Permission to take water in unusual quantities will be given only if it can be safely delivered through the utility's facilities and if other consumers are not inconvenienced.

#### **11.01.180 Fire hydrants.**

(1) Unauthorized Use of Fire Hydrant. No person or persons other than those designated and authorized by the proper authority, or by the utility, shall open any fire hydrant or attempt to draw water from it in any manner. Violation of this regulation will result in a water-use fee due and payable immediately. Any future water service request will be denied until this fee has been paid. Continual violation of this rule shall lead to prosecution.

(2) Damage of Fire Hydrants. No person or persons shall damage or tamper with any fire hydrant. Any violation of this regulation shall lead to prosecution.

(3) Authorized Use. In order to obtain authorization to use a fire hydrant, the customer must contact the utility. The utility will determine a hydrant the customer may use and may consult with the Fire Department.

At the time the customer signs up for temporary water supply from a fire hydrant, the customer must supply the utility with an estimate of water to be used, address and name of who will be responsible for the bill, and the time and date water will be taken from the system. This information will be placed on the appropriate form and signed by the customer or the authorized agent of the customer. The bill will be generated from metered usage readings after the service is used. If an account is to be active more than 60 days, a partial bill will be prepared.

Any party using a hydrant must install an auxiliary control valve on the hydrant. This valve will be used to control the volume of water discharged from the hydrant. Where the use of the water from the hydrant requires backflow prevention, the customer is responsible for the proper installation and operation of the required backflow prevention assembly.

(4) Water Bill. The amount to be paid for the water used shall be based upon a standard account: Set-up fee plus a rate charge established by Council resolution.

(5) Moving of Fire Hydrants. When a fire hydrant has been installed in the location specified by the proper authority, the utility has fulfilled its obligation. If a property owner or other party desires a change in the size, location, or type of the hydrant, said property owner shall bear all costs of such changes. Any change in

the location of a fire hydrant must be approved by the utility and the Fire Department.

(6) Charge for Installation and Annual Maintenance for Rural Hydrants.

(a) All rural fire hydrants will be installed at cost, providing a utility water main of sufficient size is located in the desired hydrant location.

(b) All maintenance for public hydrants shall be the responsibility of the local governmental fire district or City Fire Department district in which they appear.

(c) A standby charge for each hydrant shall be charged per the rate resolution.

(7) All required new fire hydrants, shall be served by a public water main and shall be owned by the utility.

#### **11.01.190 Responsibility for equipment.**

(1) The customer shall, at the customer's own risk and expense, furnish, install, and keep in good and safe condition all equipment that may be required for receiving, controlling, applying, and utilizing water. For all services with meters larger than two inches, this shall include an accessible, unflooded, customer provided and maintained, utility vault of a size specified. Vault metering, piping, and valving shall be as specified. The utility shall not be responsible for any loss or damage caused by the improper installation of such water equipment, or the negligence, want of proper care, or wrongful act of the customer or any of customer's tenants or agents in installing, maintaining, using, operating, or interfering with such equipment. The utility shall not be responsible for damage to property caused by spigots, faucets, valves, and other equipment that are open when water is turned on at the meter, either when the water is turned on originally or when turned on after a temporary shutdown.

(2) No customer shall allow the extension of their service to another property or customer.

#### **11.01.200 Damage to utility's property.**

The customer shall be liable for any damage to a meter or other equipment or property owned by the utility which is caused by an act of the customer, customer's tenants, or agents. Such damage shall include the breaking or destruction of locks by the customer or others on or near a meter and any damage to a meter that may result from hot water or steam from a boiler or heater on the customer's premises. The utility shall be reimbursed by the customer for any such damage promptly on presentation of a bill.

#### **11.01.210 Customer control valves.**

The utility shall install a suitable control valve on all new customer service lines one inch and smaller. This valve shall be located in the meter box for the convenience of the customer in controlling the entire service line. The valve from that period forward shall be the responsibility of the customer to maintain. Where requested by the customer, the customer shall be responsible for installing a customer control valve on all existing service lines one inch and smaller.

All customers with services larger than one inch shall install their own customer control valve as close to the meter as possible. This valve shall be housed in a separate vault or box. The maintenance of this valve is also the responsibility of the customer.

The operation of the utility's angle meter valve located on the utility's side of the meter is not permitted.

#### **11.01.220 Cross-connections.**

Customer's responsibility.

(1) No customer shall establish or maintain a cross-connection to the public water supply.

(2) If a cross-connection is found in the customer's water system, the customer will be informed of this condition in writing and given 60 days to correct the problem or install an approved backflow prevention assembly. If the customer does not comply within the 60 days, the provisions of Section [11.01.227](#) shall be enforced.

(3) The customer shall comply with the provisions of Section [11.01.225](#) of this code.

(4) The customer shall own and maintain any required backflow prevention assemblies.

(5) The customer shall provide sufficient information for the utility to evaluate the degree of any potential, suspected, or actual cross-connection.

#### **11.01.225 Backflow prevention requirements.**

(1) All backflow prevention assemblies required herein shall be of a type and model approved by the Oregon State Human Resources Department, Health Division (OSHD), and shall be installed in accordance with OSHD requirements and the provisions of MMC [11.01.225](#)(3).

(2) Installation. Backflow prevention assemblies shall be installed by a State-licensed installer, at customer's expense, on each service line of the customer's system at or near the property line or, if approved, immediately inside the building being served, but in all cases, before the first branch line leading off the service line wherever any of the following conditions exist:

(a) Where there is an auxiliary water supply which is or can be connected to the potable water piping.

(b) Where there is piping for conveying fluids (liquids or gases) other than potable water and where that piping is installed and operated in a manner which could cause a cross-connection.

(c) Where there are intricate plumbing arrangements which make it impracticable to ascertain whether or not cross-connections exist.

(d) Where there has been a history of repeating the same or similar cross-connections even though these have been removed or disconnected.

(e) Where there is a building over three stories in height or any plumbing system that is greater than or equal to 30 feet above the main from which it is served.

(f) Where there is backflow or back siphonage potential.



(g) Where the system is not open for inspection.

(h) Where the system is subject to being submerged.

(3) Device Type. The type of protective assembly required under MMC [11.01.225](#)(2) shall be commensurate with the degree of hazard which exists as follows:

(a) Air Gap or Reduced Pressure Assembly. An approved air gap of at least twice the inside diameter, but not less than one inch, of the incoming supply line measured vertically above the top rim of the vessel or an approved reduced pressure principle backflow prevention (RP) assembly shall be installed where the substance which could backflow is a contaminant or hazardous to health. Examples of premises where these conditions may exist include, but are not limited to, sewage treatment plants, pump stations, sewage piping, chemical manufacturing plants, hospitals, mortuaries, plating plants, car washes, medical clinics, and auxiliary water systems.

(b) Double Check Valve or Double Detector Check Valve Assembly. An approved double check valve (DC) assembly or double detector check valve (DDC) assembly shall be installed where the substance which could backflow is a secondary contaminant or objectionable but does not pose an unreasonable risk to health.

(c) Pressure Vacuum Breaker or Atmospheric Vacuum Breaker. An approved pressure vacuum breaker or an atmospheric vacuum breaker shall be installed where the substance which could backflow is objectionable but does not pose an unreasonable risk to health and where there is no possibility of back pressure in the downstream piping. A shutoff or control valve may be installed on the line downstream of a pressure vacuum breaker but shall not be installed downstream of an atmospheric vacuum breaker.

(4) Locations. Examples of locations requiring backflow prevention assembly are listed below, but are not limited to:

(a) Irrigation Systems. In the case of irrigation systems, an approved atmospheric vacuum breaker or an approved pressure vacuum breaker may be authorized, provided no back pressure is possible and no chemical or material injection or mixing exists.

(b) Private Fire Protection Services. In the case of all private fire protection services, an approved backflow prevention assembly with a monitoring meter or detection system to detect unauthorized use or leakage within the system and a remote meter shall be required. The type of backflow prevention device shall be as follows:

(i) An approved double detector check valve assembly shall be required for low and medium hazards. Low and medium hazards are systems with or without pumper connection but no auxiliary water supplies available, chemical or additives, detectable cross-connection, and serving a building three stories or less.

(ii) An approved reduced pressure principle backflow prevention assembly and a single detector check shall be required for high hazards. High hazards are systems with auxiliary water supplies, chemical additives, detectable cross-connections, or a building exceeding three stories.



(c) New Construction. Where adequate plans and specifications are not available and no realistic evaluation of the proposed water uses can be determined, the installation of maximum backflow protection may be required at the water service connection.

(5) Inspections and Leakage Tests. It shall be the duty of the assembly owner at any premises where backflow protective assemblies are installed to have thorough inspections and leakage tests made immediately upon installation of assemblies, when assemblies are moved, and at least once a year, or more often in those instances where successive inspections indicate repeated failure. The frequency of these tests or the replacement of the assembly because of failure shall conform to State of Oregon regulations. The inspections, tests, repairs, and/or replacement of assemblies shall be at the expense of the assembly owner and shall be performed by an assembly tester who is licensed by the Oregon State Health Division. Test and repair or replacement shall be performed within 30 days from receipt of notice to test. The assembly owner is required to contact a tester who can perform the work in the necessary period. The assembly owner shall notify the utility a minimum of 48 hours in advance when the test is to be performed, so that the utility may witness the test if so desired. Records of such tests, repairs, and overhaul shall be kept by the owner and a copy submitted to the utility within 30 days of completed tests.

#### **11.01.227 Water service denied upon failure to meet requirements.**

Water service to the premises may be immediately discontinued or denied by a physical break in the service until the customer has corrected the following conditions as required in MMC [11.01.220](#) to [11.01.225](#):

(1) In the case of extreme emergency, or where a reduced pressure principle backflow assembly is required, and where an immediate threat to life or public health or water system operation is found to exist.

(2) In other cases after a reasonable length of time the test, repairs, and/or replacement of assemblies or any other requirement within these regulations are not performed.

#### **11.01.230 Water waste prohibition authority.**

(1) It is unlawful to allow waste of City water by knowingly or negligently causing, authorizing, or permitting such water to escape from its intended beneficial use into any river, creek, natural watercourse, depression, lake, reservoir, storm sewer, street, highway, road, or ditch.

(2) For the purpose of this section:

(a) "Waste" means the use of water in excess of the reasonable volume necessary to meet the beneficial use; and

(b) "Beneficial use" means the reasonably efficient use of water.

#### **11.01.235 Water Management and Curtailment Plan.**

The City has developed a Water Management Plan. The Water Management Plan includes a Water Curtailment Plan that meets the requirements of OAR [690-086-0160](#) (Municipal Water Curtailment Element).

#### **11.01.240 Access to premises.**

(1) The utility shall at all reasonable times have the right to enter or leave the customer's premises for any purpose properly connected with the service of water.

(2) Any inspection or recommendations made by the utility on plumbing or appliances or use of water on the customer's premises, either as the result of a complaint or otherwise, will be made or offered without charge.

#### **11.01.250 Interruptions in service.**

The utility shall not be liable for damage resulting from an interruption in service. Temporary shutdowns may be required for improvements and repairs. Whenever possible, and as time permits, all customers affected will be notified prior to such shutdowns. The utility will not be liable for interruption, shortage, or insufficiency of supply, or for any loss or damage occasioned thereby, if caused by accident, act of God, fire, strikes, riots, war, or any other cause not within its control.

#### **11.01.260 Resale of water.**

Except by special agreement with the utility, no customer shall resell any of the water received from the utility, nor shall water from the utility be delivered to premises other than those specified in the application for service.

#### **11.01.270 Penalty.**

Willful or continued violation of any of the provisions herein established shall be deemed a misdemeanor and anyone convicted of such misdemeanor shall be subject to penalties as provided in MMC [1.20](#).

#### **11.01.280 Water main services and hydrants in local improvement districts.**

(1) In areas of the City where property owners request local improvement districts in order to improve their streets, storm drainage, and/or sewer system, the following policy for water main and service replacement shall be in effect:

(a) Except as specified in MMC [11.01.120](#) (2)(f), in areas where no water main exists, such main shall be assessed to the benefitting properties in the local improvement district.

(b) In areas of the system where existing lines are of sufficient size but of such age or construction which require excessive maintenance, the replacement of such lines shall be at the utility's expense.

(c) In areas of the system where existing lines are adequate and the replacement or relocation of such lines are necessary primarily to conform to the street, storm, or sewer plans, all costs shall be included in the local improvement district assessments.

(d) The cost of all service relocations and/or replacements completed in conjunction with local improvement district projects shall be included in the local improvement district assessments.

(e) Where a particular property has frontage on intersecting public rights-of-way, and the property has previously been assessed or paid an in-lieu-of assessment for more than 50 linear feet of water line along either of the frontage, the first 50 linear feet of frontage from the other (second) frontage, may be excluded from the assessment calculation formula used in the establishment of the local improvement district.

(2) All fire hydrant requirements within local improvement districts shall be installed under the following policy:

(a) In areas where no fire hydrant exists, they shall be included in the local improvement district assessments.

(b) In areas where four-inch or smaller hydrants exist, they may be replaced at the utility's expense.

(c) In areas where hydrants exist which are adequate, six inches in size, and relocation or replacement is needed primarily to conform to street, storm, and/or sewer plans, all costs shall be included in the local improvement district assessments.

#### **11.01.285 Water curtailment authority.**

The City Engineer, or his or her designee, upon declaring a severe or critical water supply shortage, may activate some or all of the mandatory restrictions listed in MMC [11.01.287](#), in addition to any other curtailment measures the City Engineer deems necessary to respond to a specific event. In general, the Water Curtailment Plan developed under MMC [11.01.235](#) will be used to guide activation of curtailment measures. If curtailment measures are activated, the City Engineer shall immediately notify the City Manager and the City Council of the situation and submit a report at the next available meeting of the City Council.

#### **11.01.287 Water curtailment measures.**

The list below contains curtailment measures that may be activated by the City Engineer, or his or her designee, per MMC [11.01.285](#). Depending on the severity of the event the City Engineer may implement some or all of the curtailment measures. In addition, per MMC [11.01.285](#), the City Engineer may implement additional curtailment measures not listed below as required to respond to a specific event. Depending on the circumstances, curtailment measures may apply to the entire water system or smaller, more localized, portions of the water system.

(1) Implement an odd/even watering schedule.

(2) No watering or irrigating of lawns, grass, or turf unless it is:

(a) New lawn, grass, or turf that has been seeded or planted after March 1st of the current calendar year;

(b) Athletic fields frequently and currently used for organized play;

(c) Golf course tees and greens; and

(d) Park and recreation areas of a particular significance and value to the community as approved by the City Engineer.

(3) City-supplied water shall not be used to clean, fill, or maintain levels in decorative fountains in commercial or institutional settings, except for fountains that recycle their water.

(4) City-supplied water shall not be used to wash sidewalks, walkways, streets, driveways, parking lots, or other hard-surfaced areas except where necessary for public health or safety.

(5) City-supplied water shall not be used to wash vehicles, except for commercial carwash facilities that are using water-recycling equipment.

(6) For City parks supplied by City water, limit non-essential water use and/or irrigate only during off-peak hours as specified by the City Engineer.

(7) Hydrant and water main flushing shall be done for emergencies only.

(8) All outdoor non-essential water use shall be prohibited except where necessary for public health and safety.

(9) All large industrial and institutional accounts shall restrict water use to only fire protection and other critical functions as approved by the City Engineer.

(10) During a catastrophic loss of supply or when a drought declared preference for human consumption is implemented in accordance with OAR [690-019-0070](#), uses other than for human consumption and emergency services will not be allowed.

(11) In the event that a citation is issued during the period of activated emergency measures for a violation of this section or MMC [11.01.230](#), and the City Engineer determines that a second violation has occurred after the date of the citation and during the same emergency curtailment period, the City Engineer may:

- (a) Install a flow restrictor on the street side of the water meter; or
- (b) Terminate water service.

#### **11.01.290 Building over water mains prohibited.**

No structure requiring a building permit shall be constructed over or within 7.5 feet of a public water main.

#### **11.01.295 Separation of water mains and services from other utilities.**

Except for crossings, all utilities, piping, conduits, and other underground lines shall be installed at a minimum of five feet of horizontal clearance from all utility water mains and services unless a lesser distance is specifically approved in writing.

#### **11.01.300 Authority of utility.**

The utility shall have sole authority to make discretionary determinations required by this code. Such discretionary determinations are required where the code calls for approvals, determinations, reasonableness, authorization, standards (or reductions thereof), judgments, estimates, requirements, sufficiency, options, impacts upon the water system and/or customers thereof, and similar words or phrases. In each case where such words or phrases are stated or implied, they shall be understood to mean "subject to the approval or determination of the utility."

Said discretionary determinations shall be based upon the following criteria: anticipated impacts upon sufficiency and reliability of the water system; the water system facility plan; sound engineering practices in the field of municipal services; financial impacts; service to other properties; the potential to establish precedent; and the impacts of alternative actions.

#### **11.01.310 Appeals.**

The approvals and determinations referenced in MMC [11.01.300](#) shall be made by the City Manager of the City of Millersburg or the City Manager's authorized representative. Appeals of the decisions of the City Manager or the City Manager's authorized representative must be made to the City Council of the City

of Millersburg by filing a written notice of appeal with the City Recorder within 30 days of the initial determination by the City Manager or the City Manager's authorized representative. The notice of appeal shall include a brief statement of the action or decision from which the appeal is taken, the relief sought, and the material facts claimed to support the contentions of the appellant. Upon receipt of a notice of appeal, the City Council shall schedule a hearing on said appeal and notify the appellant thereof. A decision shall be rendered by the City Council on the appeal within 120 days of the filing of the notice of appeal. At the appeal hearing, the City Manager or the City Manager's authorized representative shall present to the City Council a response to the statement in the notice of appeal. Only those matters or issues specifically raised by the appellant in the notice of appeal or included in the response by the City Manager or the City Manager's authorized representative shall be considered in review of the appeal. The City Council may affirm the decision of the City Manager or the City Manager's authorized representative, modify the decision, or reverse the decision entirely. All decisions of the City Council shall be final.

**11.01.320 Constitutionality – Savings clause.**

If any clause, sentence, paragraph, section, article, or portion of this chapter for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of this chapter, but shall be confined in its operation to the clause, sentence, paragraph, section, or portion of this chapter directly involved in the controversy in which judgment is rendered.