



ORDINANCE NO. 14 OF 2007

AN ORDINANCE ESTABLISHING CUSTOMER SERVICE RULES, REGULATIONS AND FEES OF THE CITY OF BENTON UTILITIES DEPARTMENT AND REPEALING CUSTOMER SERVICE RULES, REGULATIONS, AND FEES ADOPTED BY THE CITY IN ORDINANCE NO. 66 OF 2005; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, the City of Benton, Arkansas, owns and operates the city electric, water and sewer utilities systems; and,

WHEREAS, the City of Benton, Arkansas, has the power and authority vested within it to establish rules, regulations, and fees for customers of the city utilities systems; and,

WHEREAS, certain customer service rules, regulations and fees are necessary for providing efficient services and for the preservation of valuable revenues due the utilities system; and,

WHEREAS, a study performed by the Benton Public Utilities Commission has determined certain revisions to the existing customer service rules, regulations, and fees are necessary for the continued efficient operations of the utilities system;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTON, ARKANSAS:

SECTION 1: The revised customer service rules, regulations, and fees of the City of Benton, Arkansas utilities system attached hereto and marked Exhibit "A" is included by reference here in this section, as if such customer service rules, regulations, and fees were set forth line-for-line and word-for-word, and same are hereby adopted.

SECTION 2: The City Clerk shall cause a copy of such rules, regulations, and fees to be published in a newspaper of general circulation in Saline County, Arkansas, along with this ordinance.

SECTION 3: That Ordinance 66 of 2005 is hereby repealed. All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

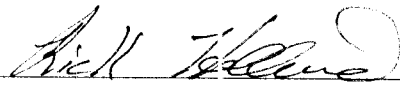
SECTION 4: If any section, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5: That the customer service rules, regulations and fees established by this ordinance shall apply to bills and fees rendered on or after March 1, 2007.

SECTION 6: It has been determined that it is necessary to adjust the customer service rules, regulations and fees for the City to continue to provide adequate services. Now therefore, an emergency is declared to exist and this Ordinance being necessary for the preservation of the

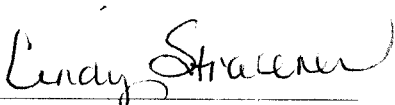
public peace, health and safety shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 22 day of January, 2007.



Mayor

ATTEST



City Clerk

EXHIBIT "A"

CUSTOMER SERVICE RULES, REGULATIONS AND FEES OF THE BENTON UTILITIES

I. NEW CUSTOMERS

1. New customers applying for utilities service must make application and sign a contract at the Benton Utilities Business Office prior to utilities service connection. The new customer must comply with all departmental policies with regard to utilities service. The new customer must provide proper identification and other required information at the time that application and contract are requested, or service will not be furnished.

Commercial Accounts require Personal Indemnity agreements on all accounts not opened in name of person signing the agreement with exception of National Corporations such as Home Depot and Office Depot.

2. Refusal to Serve an Applicant for Service

- (a) Reasons for Refusal to Provide Service:

- (1) Failure to pay a delinquent account for the same kind of service previously rendered by the Utility to the applicant, or any other person that is or will be a resident of the service location, or family member which also has an ownership interest at the service location, or any business in which the applicant was owner, co-owner, partner, executive officer of a Corporation, or business in which applicant had financial ownership interest. Accounts will not be opened in name of person not living or operating a business at the service location, however owner's of properties may open an account to provide services to the property for the owner's own use when a tenant is not in the unit.
 - (2) Failure to comply with the terms and conditions of a settlement agreement, delayed payment agreement, with respect to service previously rendered by the Utility to the applicant.
 - (3) Failure to post the required deposit for service.
 - (4) Misrepresentation of identity or facts for the purpose of obtaining the service or failure to provide a minimum of two (2) acceptable items of identification upon request by the Utility.

- (5) Unauthorized or fraudulent use or procurement of service or tampering with wires, transformers, meters, pipes or other Utility equipment within the previous three (3) years. (See Section 2, Item 5)
- (6) Violation of federal, state or local laws or regulations through previous use of service
- (7) Violation of the rules and regulations of the Utility.
- (8) Inability of the Utility, due to inadequate facilities, to provide the service requested.
- (9) Potential adverse effect of the service requested on service to other customers of the Utility.
- (10) Hazards associated with the requested installation or equipment of the applicant.
- (11) Causing injury, or threatening to cause injury, to an employee of the City of Benton, the family of an employee or the property of the Utility.
- (12) Lack of safe and convenient access to the meter location for maintenance or reading of the meter, including danger, real or perceived to Utility personnel assigned to maintenance or reading by reason of an unrestrained animal.

II. METER DEPOSITS

1. The meter deposits for the indicated services shall be as shown below:

(a) WATER:

| | | |
|-----|-----------------|------------|
| (1) | ¾"by 5/8" METER | \$ 50.00 |
| (2) | 1" METER | \$ 75.00 |
| (3) | 1 ¼" | \$100.00 |
| (4) | 1 ½" | \$120.00 |
| (5) | 2" | \$160.00 |
| (6) | 3" | \$300.00 |
| (7) | 4" | \$500.00 |
| (8) | 6" | \$1,200.00 |

(b) ELECTRIC:

(1) RESIDENTIAL:

| | |
|--|----------|
| New Applicant | \$100.00 |
| Applicant with Adverse Credit History. | \$200.00 |

- (a) "Adverse Credit History" is defined as the applicant's past credit history with the Benton Utilities system only.
- (b) Homeowners and renters shall be required to pay meter deposits at the Residential Rates shown above. Deposits will be applied to the account of all residential customers, with the exception of fraudulent users and violators of the Utility's Rules and Regulations, who have not been delinquent on payment of the preceding twelve (12) billing periods. Delinquent is defined as not paying the monthly utility bill on or before the due date printed on the aforesaid monthly utility bill. Deposits are to be reinstated if customer's billing reflects three or more consecutive months of late payments.

(2) SINGLE METERED MULTIPLE UNIT DWELLING:

| | |
|------------------|------------------------------|
| 2-UNIT COMPLEX | \$200.00 |
| 3-UNIT COMPLEX | \$300.00 |
| 4-UNIT COMPLEX | \$400.00 |
| 5-UNIT COMPLEX | \$500.00 |
| 6-UNIT COMPLEX | \$600.00 |
| 7 OR MORE UNITS: | Must be individually metered |

(3) COMMERCIAL AND INDUSTRIAL: A cash deposit amount not to exceed two estimated maximum monthly Utility bills is to be obtained prior to furnishing service to a commercial or industrial customer. Deposit of less than 2 months may be granted upon approval by Public Utilities Commission of Benton if no Adverse Credit History with the City of Benton. As an alternative to a cash deposit, if the amount required exceeds three hundred dollars (\$300.00), the customer may furnish a surety bond, a certificate of deposit made jointly to the customer and Benton Utilities, or an irrevocable letter of credit from a local bank.

(4) The Billing Services Manager, or his/her designee, shall review all commercial and industrial deposits semi-annually to determine if the amount of deposit or surety bond on file is adequate in view of the then-current credit experience with the customer. A record of such review is to be noted on customer account history.

(5) Deposits will be applied to the account of all Commercial and Industrial customers, with the exception of fraudulent users and violators of the Utility's Rules and Regulations, who have not been delinquent on payment of their utility bill during the preceding twenty-four (24) billing periods. Surety Bonds will be relinquished and Letters of Credit will be cancelled after twenty-four (24) months of non delinquent payments. Delinquent is defined as not paying the monthly utility bill on or before the due date printed on the aforesaid monthly utility bill.

2. ADDITIONAL DEPOSITS:

(a) For existing customers, and as a condition for continuation of utilities service, the deposit amount may be increased if any of the following conditions occurred during the last twelve (12) months:

- 1) Service has been discontinued for failure to pay a past due billing; or
- 2) Two (2) insufficient funds checks have been returned from the bank to Benton Utilities; or
- 3) The customer has failed to pay his Utility bill by the due date three (3) consecutive months or six (6) or more times in past twelve (12) months; or
- 4) The customer has misrepresented himself for the purpose of obtaining service; or
- 5) The customer has engaged in unauthorized or fraudulent use, such as tampering with meters or other Benton Utilities property in an attempt to deprive Benton Utilities of utilities service revenue. If fraudulent use exists, Benton Utilities shall request an additional deposit, plus a non-refundable payment for damage, equal to three (3) times the highest monthly billing during the preceding twelve (12) months, plus proof of payment of all fees or fines assessed by the enforcement authorities.

(b) Residential Customers

Double normal deposit if Adverse Credit History includes a disconnect for non-payment of billing due or three (3) or more consecutive late payments or prior Deferred Payment Account in good standing in past 3 years.

(c) Commercial or Industrial customer deposits will be increased to three times (3) times the estimated maximum bill. The methodology for computing any additional deposit shall be to subtract from the sum determined by twice the highest bill for any one billing period the deposit on file, and rounding up to the nearest multiple of five dollars (\$5.00). For Example:

| | |
|--|------------------|
| Twice the highest month's bill (\$99.08 X 2) | =\$198.16 |
| Less current deposit | <u>- \$50.00</u> |
| | \$148.16 |
| Additional required deposit | \$150.00 |

(d) An additional deposit will not be required from a customer based on income, geographical location of service, family relationship, race, color, creed, religion, sex, marital status, age, public assistance, or other arbitrary criteria.

(e) The City of Benton pays no interest on any customer deposits.

(f) In all cases, deposits will be refunded when service is terminated and the final billing is paid in full. At the time of termination the customer may request that his/her deposit be applied to the final billing. If a credit balance remains it will be refunded at the time of the final billing.

(g) Failure to post the required deposit (or additional deposit) for service shall be a good and sufficient reason for refusing utilities service to a new applicant or to discontinue service to an existing customer.

3. ADDITIONAL DEPOSIT REQUIRED – RE-ORGANIZING OR BANKRUPT CUSTOMER

Customers filing proceedings pursuant to the Bankruptcy Reform Act of 1978 under either Chapter 11 or Chapter 13 will be treated in accordance with Section 366 of this act which provides:

(a) Except as provided in subsection (b) of this section, a Utility may not alter, refuse, or discontinue service to, or discriminate against, the trustee or the debtor solely on the basis that a debt owed by the debtor to such Utility for service rendered before the order for relief.

(b) Such Utility may alter, refuse, or discontinue service if neither the trustee nor the debtor, within 20 days after the order for relief, furnishes adequate assurance of payment, in the form of a deposit or other security, for service after such date. On request of a party in interest and after notice and a hearing, the court may order reasonable modification of the amount of the deposit or other security necessary to provide assurance of payment.

III. BILLING

(1) Rendering, Form of Bills and Payments

Bills to customers shall be rendered regularly at intervals of approximately one month and shall show the meter readings and dates for the period covered by the bill, the quantity consumed, the gross and net amount of the bill, the designation of the type of service and applicable rate schedule, and other facts essential to the bill. Payment can be made in person at the Utility Customer Service Office or by mail in the form of check or money order. Credit Cards are not accepted. Payments received after 5 p.m. will not be posted until the next regularly scheduled business day.

(2) Budget Billing

Budget Billing is defined as a twelve (12) month average with the settle up month being the April of each year. Budget Billing will be considered for residents of the City who have not been delinquent within the previous twelve (12) month period of billing history. Failure to pay the bill in full by the due date will result in termination of the billing status. Any balance owed or credited will be reflected on April's billing.

(3) Estimated Meter Readings

Normally, all meters shall be read each month. However, there may be occasions, primarily due to bad weather, when it becomes impossible to read meters. When this occurs, meter readings will be estimated based upon the customer's previous use, adjusted for weather conditions. Bills for which the consumption has been estimated will clearly state that the consumption has been estimated by the use of a code on the face of the bill. Customers receiving estimated bills will

then have the option of verifying the accuracy of the estimation and requesting reread and adjustment, if the estimated reading is in error to such an extent that a hardship is placed upon the customer to pay the bill.

(4) Separate Billing for Each Point of Delivery

Service at separate locations or addresses will not be combined for billing. At each point of delivery, service shall be metered and billed separately for each customer served. Whenever for any reason the Utility furnishes service to a single customer at two or more points of metering, each point of metering shall be considered a separate point of delivery and shall be covered by a separate agreement for service.

(5) Unauthorized Use of Utility Service

If Utilities service has been suspended, or the agreement for utilities service terminated, because of unauthorized use of such service by the customer, the Utility shall be entitled to collect from the customer at the appropriate rate for any service not properly recorded on the meter (the amount of which may be estimated by the Utility from the best available data) including all expenses incurred by the Utility on account of such unauthorized act or acts.

(6) Disconnects

Customers who fail to pay the billed utilities charges by the due date will be mailed a SHUT-OFF notice to pay the total charges with a 10% penalty added to the bill not to exceed \$25.00 maximum penalty charged. If the bill is still unpaid as of the specified SHUT-OFF date shown on the SHUT-OFF notice, the delinquent customer's utilities service is to be discontinued as soon as the departmental work schedule permits, allowing that no service shall be discontinued on a day after which no Utility personnel will be available to reconnect the service, or on a day when the outside temperature is 32° Fahrenheit or below as officially reported by the National Weather Service at 10:00 A.M. by the North Little Rock branch station. Failure of the Utility department to act at any time after rendering SHUT-OFF notice shall not affect any of the department's rights hereunder or constitute a waiver of any remedy or defense afforded by law.

In addition to non-payment of bills by due date, utilities service will be discontinued for the following reasons:

- (a) Failure to post the required deposit for service.
- (b) Misrepresentation of identity or facts for the purpose of obtaining service.
- (c) Fraudulent use of service by tampering with meter or other Utility property.
- (d) Refusal to allow City of Benton employees on the property for inspection, maintenance, replacement, or reading of the Utility equipment located on the customer's premises; or maintaining any obstruction that would deny access for these purposes.

- (e) Violation of the Utility's rules designed to prevent interference with the use of service by other customers, provided the customer first has been notified and given a reasonable opportunity to comply with these rules.
- (f) Violation of the Utility's rules pertaining to the operation of non-standard equipment or unauthorized attachments provided the customer has first been notified and given a reasonable opportunity to comply with such rules.
- (g) Violation of federal, state, or local laws through the use of utilities service.
- (h) Abandonment of the premises served.
- (i) Causing injury, or threatening to cause injury to an employee of the City of Benton or to the family of the employee.

(7) **DELAY OF TERMINATION ON GROUNDS OF SERIOUS ILLNESS**

- (a) The Utilities Department shall postpone termination of service to a residential customer, for a reasonable time for up to 6 weeks if the customer presents a certificate from a physician stating that it is likely that termination of service will either aggravate a serious illness or give rise to a substantial risk of death or a grave impairment of the health of a customer, or a member of the customer's family or of another permanent resident of the premises where service is rendered. The certificate shall identify the medical emergency, specify the effect of termination of service, and specify the time during which termination of service will aggravate the illness.

A customer's physician providing health care services must notify the Utility of a serious illness in writing.

- (b) The Utility Department will consider further extensions after careful review and consideration has been given and physician has notified the Utility Department in writing of continued illness or impairment.
- (c) Continuation or re-connection of service under this rule shall not in any way relieve the customer of liability incurred for utility services.

(8) **PROVISION FOR HARDSHIP CASES**

The City of Benton governing officials recognize the fact that customers are sometimes unable to pay their bills because of circumstances beyond their control. Benton Utilities will work with the bona fide hardship cases when referred by social organizations recognized by the City of Benton, such as; Churches Joint Council on Human Needs (CJOHN), Central Arkansas Development Council (CADC), Arkansas Department of Social Services, etc. in arranging for payment, Benton Utilities will consider ability to pay, amount of the unpaid account, previous payment record, and the length of time and reasons the account has not been paid. This procedure will require the customer to disclose information and furnish documents necessary to determine income level and ability to pay, if the customer provides false information or fails to comply with the terms of the

payment agreement; Benton Utilities may discontinue service and is not under obligation to enter into a second payment agreement.

(9) METER ERRORS – CORRECTIONS TO BILLS

(a) Conditions of bill correction:

A correction to a customer's account shall be made for meter error only when a customer's meter is tested by the Utilities Department and is found to be in error exceeding the tolerances allowed by these regulations. Provided, that if the error results in under billing, the Utilities Department may forgo the correction if, in its judgment, it would be economical or convenient to do so. When a customer requests a meter test and the meter is tested and found to be registering one hundred percent (100%) accuracy or slower, the customer will be billed the cost of such meter test.

(b) Meter Tolerances

(1) Electric Meters

(a) Watt-hour Meter

| | <u>TEST EQUIPMENT</u> | <u>POWER FACTOR</u> | <u>ACCURACY</u> |
|------------|---------------------------|-------------------------|-----------------|
| Heavy Load | 100% Test Amps | 1.0 | +/-2% |
| | 100% Test Amps | 0.5 | +/-2% |
| Light Load | 10% Test Amps | 1.0 | +/-2% |

(b) Demand Meter

The error of the demand register shall not exceed 4% of full scale value when tested between 25% and 100% of full scale value.

(2) Water Meters

The error of the service water meter shall not exceed +/- 3% when registering water at stream flow equivalent to approximately one-tenth (1/10), one-half (1/2), and full normal rating under average service pressure.

(c) Computation of billing correction

(1) If the date the meter first became inaccurate can be definitely ascertained, the correction shall be for the amount charged since that date over or below that which the billing would have been had the meter registered with one hundred percent (100%) accuracy.

(2) If the date the meter first became inaccurate cannot be definitely ascertained, the correction shall be based upon the customer's metered consumption for a period of two (2) months in cases of back billing, or six (6) months in cases of refunds. The rates effective

during said period shall be applied to this adjusted consumption and the difference between the amount so obtained and the actual billing shall be credited or charged to the customer.

(d) Correction of previous over or under billing repayment

(1) Over-billing – Refund to customer where the Utilities Department has over-billed a customer, the Utilities Department shall make at the discretion of the Billing Department Manager a lump sum payment or credit the account within thirty (30) days of discovering and computing the amount of over-billing.

(2) Under-billing – Back-bill charge to customer when the Utilities Department bills the customer an amount correcting a previous under-billing, the customer shall be permitted to pay such an amount pursuant to a delayed payment agreement that provides for repayment over a period at least equal to the period during which the under-billing occurred. If the previous under-billing was the fault of the Utilities Department or it is impossible to determine whether the under-billing was the fault of the Utilities Department shall impose no finance charge on such delayed payment.

The Utilities Department is not required to enter into a delayed payment agreement to pay an amount to correct a previous under-billing if the under-billing was caused by unauthorized or fraudulent use or procurement of service or tampering with wires, pipes, meters, or other Utility equipment.

IV. GENERAL FEES AND CHARGES
(GENERAL CUSTOMER ACTIVITY)

The following fees and charges will be made by the Utilities Department for the General Customer Activity indicated:

1. Reconnect Fee
 - (a) During regular working hours \$30.00
 - (b) Outside regular working hours \$80.00

2. Service Charge (Connect or Disconnect) \$15.00
 - (a) Charged on all new and final bills to cover the cost of dispatching servicemen for special trip to read meter and set up and special handling of account by officer personnel.
3. Credit Reference Letter Fee \$ 5.00
 - (a) Charged to customers who request credit reference when moving to location served by another utility which requires credit reference in lieu of arterial or full deposit with service application. Covers cost of researching customer history and preparation of correspondence.

4. Returned Check Charge \$30.00

(a) Utilities personnel shall not accept checks for payment of accounts that have been disconnected for reason of bad checks tendered in payment of bills. Before service can be turned on, payment must be paid in full by cash, cashier's check or money order.

(b) Service personnel dispatched to disconnect service for non-payment are allowed to accept cash or checks in payment of account. Note: A Customer who is disconnected for an insufficient check will be required to pay cash, cashier's check or money order.

(c) Customers who have three (3) insufficient checks returned from the bank to the Utilities Department in a six (6) month period shall be mailed a notice informing them that their checks will no longer be accepted in payment of their account and payment must be made by cash, cashier's check or money order.

5. New Utility Service Connection Fees for Residential Customers

(a) Electric Service \$200.00

(b) Water Service

| | |
|---------------------------|---------------------|
| (1) 3/4" X 5/8" Meter | \$200.00 |
| (2) 1" Meter | \$300.00 |
| (3) 1 1/2" Meter or above | Actual Cost + \$200 |

(c) Wastewater Service \$1,000.00

(1) Multi Family Units (apartments, condos, duplexes, triplexes etc.) \$1,000 for the first unit and \$500 for each additional unit per building for sewer connection

(d) Connection fees are to be used only for utility infrastructure improvements.

6. New Utility Service Connection Fees for Commercial and Industrial Customers

(a) Electric Service connection fees shall be \$350 + actual cost of Electrical Infrastructure to be negotiated with Benton Utility on an individual basis. The cost of service to the Industrial/Commercial business must be paid before installation.

(b) The cost to install primary electrical infrastructure in subdivisions will be at \$4.00 per foot. The cost to extend primary electric service to the subdivision shall be at Benton Utilities actual cost and must be paid for before installation.

* Developer will be responsible for opening and closing of ditch per Benton Utilities Specifications.

(c) Water Service Actual Cost + \$200

* Developer/Owner will be required to extend water infrastructure to the point of service at his expense

(d) Wastewater/Sewer

| | |
|--|--|
| Motels/Hotels | \$125 per unit/room - \$1,000 min. |
| Institutional Care Facilities | \$150 per unit/room - \$1,000 min. |
| Educational Institution | \$15 per student based on designed occupancy \$1,000 min. |
| Daycare Centers | \$1,500 |
| Strip Malls and/or Multi Unit Commercial Buildings | \$1,000 for the first unit and \$500 for each additional unit per building. |

All Other – Connection Fee’s for sewer will be based on the size of the water meter and to be negotiated with Benton Utility on an individual basis and installed as determined by Benton Utility Department.

* Developer/Owner will be required to extend wastewater infrastructure to the point of service at his expense

(7) Fees, Royalties and Bonds

Any fees assessed to the City or assessed by City will be assessed to the individual customer affected on each monthly billing.

(8) Meter Test Fee (Electric & Water) \$ 40.00

(a) Fee will be waived if test reveals meters are not within tolerances allowed in Sect. III (8) (b) (1) & (2).