

# Town of Elmer City Ordinance No. 376

*An Ordinance of the Town of Elmer City, Washington,  
Updating Utility Billing and Termination Procedures.*

**WHEREAS**, the Town of Elmer City, Washington, hereinafter referred to as “Town,” by Ordinance has previously established a system for compulsory water service, sewerage service, and solid waste collection and disposal; and

**WHEREAS**, the Town Council for the Town approved Ordinance No. 369 adopted December 8, 2022; and

**WHEREAS**, the Town has also provided by Ordinance the rates for water service, sewerage service, and solid waste collection and disposal, and

**WHEREAS**, the Town is required to provide notice of termination of utilities pursuant to RCW 35.21.217 and established case law; and

**WHEREAS**, the Town Council for the Town has determined the need to update said Ordinance No. 369; and

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

## **Section 1 – Definitions:**

- i. **Residential**: Property or building where people live or reside, such as, but not limited to; a single or multi family dwelling, house, or an apartment.
- ii. **Commercial**: Property or building used for commerce, trade, or business purposes.
- iii. **Customer**: Owner or tenant of a residential, commercial, or industrial property who is responsible for utility payments.
- iv. **Dwelling**: An independent living unit within a structure designed and intended for occupancy and having its own entrance, kitchen, bathroom, living space and bedroom.
- v. **Industrial**: Property or building used for manufacturing, warehousing, or assemblage of components.
- vi. **Inside City Limits**: Property located within the incorporated bound of Elmer City, Washington.
- vii. **Outside of City Limits**: Property located outside of the incorporated bound of Elmer City, Washington.
- viii. **Solid Waste**: All solid and semi-solid wastes as defined in RCW 81.77.010(9).

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- ix. Unit: A sperate dwelling within a residential, commercial, or industrial property or building.
- x. Utility Service Area: The area (see map) that the Town of Elmer City provides water and sewer services.

### **Section 2 – Water Service:**

- i. The Town of Elmer City municipal water system is the potable water system for the Elmer City utility service area (see map) and connection to the system for potable water service is mandatory.
- ii. Drilling and/or use of private water wells for any purpose within the service area is prohibited.
- iii. The owner(s) of any residential, commercial, and industrial lot or parcel of real property where there is situated any building or structure used for human occupancy, employment, or recreation or other purposes, situated within the water service area, is required to connect such facilities at the owner's expense, together with all other facilities therein.
- iv. All connections to the Town's water system will require a meter installed by a Town employee, including all properties within utility services area. The meter pit location will be in a right-of-way and/or an easement. No installation shall be done in a driveway or parking area.
- v. All new connections to the Town's water system are required to fill out an application. As a condition for the connection and use of said water, the application must contain the following.
  - a) The applicant must be the owner of the property or an authorized agent.
  - b) Give a location of the property where the water is to be used.
  - c) Must state all of the purpose for which the water shall be used for.
  - d) Must agree to comply with the established rules and regulations.
- vi. Any new connection that occurs will be charged a connection fee per the Town's current utility rate/fee Ordinance.
  - a) Connection outside of city limits the property owner shall pay all parts and labor costs to extend service from the nearest Town water line to the property.
  - b) The property owner shall also pay additional charges if the service line exceeds three-quarters of an inch.

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- c) All fees and costs must be paid in advance.
- vii. All residential, commercial, and industrial property connected to the Town's water system will pay a minimum operation and maintenance monthly fee for each separate unit dwelling, per the Town's current utility rate/fee Ordinance.
- viii. A monthly fee, per the Town's current utility rate/fee Ordinance will be applied to absence or vacancy of residential, commercial, or industrial property, where water service is turned off.
- ix. A delinquent fee, per the Town's current utility rate/fee Ordinance will be applied on accounts that are past due after the 25<sup>th</sup> of each month. On failure to pay the charges, rates or penalties for water service, the amount owed shall become a lien against the property.
- x. Whenever it becomes necessary for the Town's employee to re-read any meter that is covered by a vehicle, debris, dirt, or any material a service charge for re-reading an obstructed meter shall be charged for each time the Town's employee must return to the premises.
- xi. No owner, lessee or tenant of property supplied with water from the Town shall provide water to any other person or property without first obtaining written permission.
- xii. The Town reserves the right at any time without notice to shut off the water supply for repairs, extensions, nonpayment of rates, or any other reasonable reason, and the Town shall not be responsible for any damage, resulting from the shutting off of water.
- xiii. Water will be used for beneficial use; all wasteful use of water is prohibited.
- xiv. Washing of streets, parking lots, driveways, sidewalks, buildings, or other hardscape surfaces are prohibited, except as necessary for health, sanitation, or fire protection.
- xv. No water from the Towns' water system shall be used for dust control, compaction, or trench jetting, unless the Town approves the use.
- xvi. Water shall be confined to the customer's property and shall not be allowed to significantly run off to adjoining property or to the roadside ditch or gutter. Care shall be taken not to water past the point of saturation.

### **Section 3 – Sewerage System Service:**

- i. The owner(s) of any residential, commercial, and industrial lot or parcel of real property where there is situated any building or structure used for human occupancy, employment, or recreation or other purposes, situated within city limits or within the area served by the Town sewerage system, is required at the

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owner's expense to install suitable toilet facilities therein and shall connect such facilities, together with all other facilities therein, use of which results in the existence of sewerage with the Town's public sewer system within 90 days after the date of official notice to do so.

- ii. All property shall be deemed capable of being served by sewer lines of the Town if the first-floor plumbing of any building or structure located thereon can be drained into the Town's sewer lines by gravity flow, even though the basement drainage of such building or structure cannot be drained by gravity flow into the Town's sewer lines.
- iii. Whenever public sewer becomes available to a lot or parcel previously served by a private sewerage disposal system, a direct connection shall be made to the Town's sewerage system in compliance with this Ordinance, and any septic tanks, cesspools or similar private sewerage disposal facilities shall be abandoned and filled with suitable materials. For the purposes of this Ordinance, "becomes available" shall mean whenever there is a public sewerage line with two hundred feet of the property line of any lot or parcel, and within 90 days of notification to the property owner of such requirement to connect to the Town sewerage system.
- iv. In the event connection to the Town sewerage system is not made within the time herein provide, following a 30-day notice to the owner(s) of said lot or parcel, the Town is hereby authorized to file a statement with the Town Clerk/Treasurer and a warrant shall be issued under the direction of the Town Council for payment of such cost. Such amount, together with a penalty of ten (10%) percent thereof, plus interest at the rate of eight (8%) percent per annum upon the total amount of the costs and penalty, shall be assessed against the property upon which the sewer connection has not been placed as required, and shall become a lien thereon as herein provided.
- v. All new connections to the Town's sewage system will be charged a connection fee per the Town's current utility rate/fee Ordinance.
  - a) Connection outside of city limits, the property owner shall pay all parts and labor costs to extend service from the nearest Town water line to the property.
  - b) The property owner shall also pay additional charges if the service line exceeds three-quarters of an inch.
  - c) All fees and costs must be paid in advance.
- vi. All residential, commercial, and industrial property connected to the Town's sewerage system will pay a minimum operation and maintenance monthly rate for each sperate unit dwellings, per the Town's current utility rate/fee Ordinance.

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- vii. A monthly fee, per the Town's current utility rate/fee Ordinance will be applied to absence or vacancy of residential, commercial, or industrial property, where water service is turned off.
- viii. A delinquent fee, per the Town's current utility rate/fee Ordinance will be applied on accounts that are past due after the 25<sup>th</sup> of each month. On failure to pay the charges, rates or penalties for sewerage system service, the amount owed shall become a lien against the property.

### **Section 4 – Solid Waste:**

- i. The Town established a system of compulsory solid waste collection and disposal, which shall apply to all residential, commercial, and industrial properties or governmental facilities located within city limits.
- ii. The Town shall have the authority to buy, maintain, lease, or otherwise acquire and operate equipment for the removal and disposal of solid waste within the city limits, or alternatively to contract with public or private parties to provide for the removal and disposal of such solid waste. All parties that own or operate a residential, commercial, and industrial properties or governmental facilities located within city limits shall deposit all solid waste for collection in a container as approved by the Town or a public or private party providing removal and disposal of such solid waste within city limits, hereinafter "Solid Waste Collector."
- iii. For purposes of assessing or adjusting rates or fees of solid waste disposal, each residential, commercial, and industrial properties or governmental facilities that is serviced by a separate water meter shall be considered a separate billable unit. Each unit shall be billed separately, unless there is a single dumpster or container for all units, spaces, and dwellings.
- iv. Collection of solid waste shall be made at least once each week, upon a schedule as approved by the Town or as established by a solid waste collector. All cans or other solid waste containers are to be placed at the curb or alley line for pickup.
- v. All residential, commercial, and industrial property or governmental facilities located within city limits will pay the solid waste rate, per the Town's current utility rate/fee Ordinance.
- vi. A delinquent fee, per the Town's current utility rate/fee Ordinance will be applied on accounts that are past due after the 25<sup>th</sup> of each month. On failure to pay the charges, rates or penalties for solid waste collection, the amount owed shall become a lien against the property.

### **Section 5 – Senior Citizen Discount:**

Requirements to qualify for a twenty (20%) percent discount on water service, sewerage system service and solid waste collection and disposal rates, are as follows.

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- i. All parties in the household must be 65 years of age or older.
- ii. Proof of age and current income of all parties in the household must be established before the discount will be given.

### **Section 6 – Customer Utility Deposit:**

Each new customer shall deposit with the Town a customer utility deposit hereinafter

referred to as “deposit,” the amount shall equal one month’s water, sewer, and garbage charge, per the Town’s current utility rate/fee Ordinance.

- a) Deposited funds shall not earn interest.
- b) Upon discontinuance of service the deposit shall be refunded if no amount is owned. Any amount owned shall be applied to the account.
- c) Deposit shall be refunded to customers who establishes twelve consecutive months of service and who have not received a delinquent fee.
- d) Customers that have been refunded their deposit, and then have service terminated due to nonpayment shall be required to pay a new deposit before service is re-established.
- e) Customers whose service has been terminated due to nonpayment shall be required to pay a new utility customer deposit before service is re-established.

### **Section 7 – Combined Utility Billing:**

- i. Combined utility billing for water service, sewerage system service and solid waste collection and disposal service, hereinafter “utility services,” to the owner or tenant of real property shall be used by the Town. Billing shall be delivered to the owner or tenant by depositing the same in the US Postal Service, by first class, postage paid, shall be deemed full and complete notice to the owner or tenant of the nature and amount of any particular utility billing.
- ii. The combined billing for utility services shall be due and payable in full by the 25<sup>th</sup> of each month, unless that day is a weekend day or legal holiday, in which case the due date shall be the next business day. The utility billing, or any portion thereof, which is not paid by the said date shall be delinquent and will result in a penalty fee on the balance for each month of delinquency.

### **Section 8 – Responsibility for Payment:**

- i. Utility charges contained in the utility billing for the Town shall be the responsibility of the property owner for the purpose of liens which may be assessed by the Town as provided by law. However, duplicate utility billing may be mailed to tenants or residents under the following conditions, but not to relieve the property owner from liability for charges incurred.

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

### **Section 9 – Termination Notice:**

If said delinquent utility account is not paid by the 25<sup>th</sup> of said month, a termination notice shall be mailed and/or personally served upon the customer, informing those affected that water service shall be turned off in five (5) days. The notice termination shall contain the following.

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

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### **Section 10 – Dispute Resolution:**

- i. At any time before the date of termination of water service for nonpayment of the amount shown on a utility bill or notice of termination, a customer may dispute the correctness of all or part of said amount. A customer shall not be entitled to dispute correctness of all or part of the amount if all or part of the amount was subjected of a previous dispute under this section.
  
- ii. The procedure for customer disputes shall be as follows:
  - a) Before the date of termination, the customer shall notify the Town Clerk in writing that the customer disputes all or part of the amount shown on the utility bill or notice of termination, stating as completely as possible the basis for the dispute.
  
  - b) If the Town Clerk determines the present dispute is untimely or the customer previously disputed the correction of all, or part of the amount shown the Clerk shall mail a notice to the customer stating the present dispute is untimely or invalid. The Town shall proceed as if the customer had not notified the Town of the present dispute.
  
  - c) If the Town Clerk determines the present dispute is timely and/or valid under this section, the Town within seven (7) days after receipt of the customer's dispute notice, shall arrange an informal meeting between the customer and the Clerk.
  
  - d) Based on the Town's records, the customer's allegations, and all other relevant materials available, the Clerk shall resolve the dispute, attempting to do so in a manner satisfactory to both the Town and the customer.
  
  - e) Within seven (7) days of completion of the meeting the Clerk shall mail to the customer a copy of the decision resolving the dispute.
  
  - f) Until the date of the decision the Town shall not terminate the water services of the customer and shall not issue a notice of termination for the nonpayment of the disputed amount.
  
  - g) That, the decision shall be final and binding on the customer.
  
- iii. If it is determined the customer must pay part or the entire disputed amount the Town shall promptly mail or personally serve upon the customer a notice of termination, following the procedure set forth in section eight (8) of this Ordinance.
  
- iv. Utilization of this dispute procedure shall not relieve a customer of their obligation to timely and completely pay all other undisputed charges.



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### **Section 11 – Termination of Water Service:**

- i. As an additional and concurrent method of enforcing a lien for utility services charges, the Town shall terminate the water service to which service were provide, or remove the water meter thereto and, except as provided in this section.
- ii. Such water service shall remain terminated until all utility services charges, plus penalties and fees, and utility customer deposit have been paid in full.
- iii. In the case involving public health or safety, or as otherwise provided in this Ordinance, the Town may terminate service to a residential tenant occupying a rented dwelling for delinquent utility service charges. In the case of delinquency incurred by a property owner or prior tenant, and if requested, the Town shall allow tenants to open an account in their name and on the same terms and conditions as other residential utility customers, without requiring the tenant to pay the delinquent amount for utility services charges billed directly to the property owner or a previous tenant, except as otherwise allowed by law and only when the Town offers the affected tenant the chance to set up a reasonable payment plan for the delinquent amounts legally owed. When a rented dwelling is occupied by a tenant who has opened an account in their name, no termination or threat of termination will occur because of the tenants' landlord or the obligation of the prior occupant of the premises not currently residing therein: provide, however, there term "threat of termination" shall not include the notices authorized by the Ordinance.

### **Section 12 – Unlawful Acts:**

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

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- v. Any person violating this subsection shall be subject to a C-10 penalty. And all costs for the repair or replacement shall be charged to and paid for by the property owner or consumer.

**Section 13 – Repealed:**

Ordinance No. 369 and all other Ordinances or resolution in conflict herewith are repealed.

**Section 14 – Severability:**

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

**Section 15– Saving Clause:**

Ordinance No. 369, which is repealed by this Ordinance, shall remain in full force and effect until the effective date of this Ordinance.

**Section 16 – Effective Date:**

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

**NOW THEREFORE, BE IT ORDAINED**, by the Council for the Town of Elmer City, Washington the attached Ordinance is adopted.

Approved this 12<sup>th</sup> day October of 2023.



TOWN OF ELMER CITY,  
ELMER CITY, WASHINGTON

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JESSE O. TILLMAN, Mayor

ATTEST:

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KELLY ROSS, Clerk/Treasurer