ORDINANCE 2011-10

ORDINANCE AMENDING TITLE 18, WATER AND SEWERS, OF THE MILLINGTON MUNICIPAL CODE TO REVISE VARIOUS SECTIONS RELATIVE TO FEES AND ADJUSTMENT TO FEES AND TO ESTABLISH EXEMPTION FROM SEWER FEES FOR IRRIGATION ONLY WATER SERVICE

WHEREAS, the Board of Mayor and Aldermen, after a work session and in consultation with City staff, has conducted a review of practices which have developed over the years with regard to billing for water, sewer, sanitation and storm water services and fees and has determined that some such practices have been inconsistent with the Millington Municipal Code; ; and

WHEREAS, the Board desires to adopt the amendments to the Millington Municipal Code proposed by City staff as set out herein to insure that City practices are consistent with said Code;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MILLINGTON, TENNESSEE, that Title 18, Water and Sewers, of the Millington Municipal Code, be and the same hereby is, amended as follows:

1. Chapter 1, Water and Sewers, Section 18-101 is amended by renumbering the existing language as Section 18-101(1) and by adding the following as new Section 18-101(2):

   "(2) The property owner is responsible for all plumbing beyond the meter and as such has a responsibility for water use caused by leaks or other malfunctions of the plumbing system. No service shall be provided to a new customer of residential or commercial rental property unless all previous balances, related to leaks or other malfunctions of the plumbing system, have been paid on service at that property location."

2. Chapter 1, Water and Sewers, Section 18-102 (4) is amended by deleting said part in its entirety and replacing it with the following new part (4):

   "Late date" shall mean the date through which water and sewer bills may be paid at the net amount. The date shall be shown on each monthly billing. The heading on the bill for this date is "Pay Gross After". This date shall be determined by City staff as the 10th of the month or the last city business day before the 10th in the event that the 10th is not a city business day. After this date, the gross amount, including a penalty of 10% shall be due.

3. Chapter 1, Water and Sewers, Section 18-103 is amended by adding the following language at the end of the Section:

   "No existing service may be changed to another customer without the approval of the current customer. Husband and wife are considered the same customer. A location is not deemed to have a customer if the property has been abandoned by the most recent non-owner customer and payment is delinquent."

4. Chapter 1, Water and Sewers, Section 18-113 is amended by deleting said Section in its entirety and replacing it with the following new Section 18-113:

   "18-113. Meter tests.

   (a) The City of Millington shall, at its own expense, make routine tests of water meters when it considers such tests to be desirable.

(b) In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size	Percentage
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

(c) The City will conduct a second meter reading at a customer's request without charge. The City will also make tests or inspections of its meters or switch out a meter at the request of a customer; provided that if a test requested by a customer shows the meter to be accurate within the limits set out in sub-section (b) above, the customer will be charged a meter testing associated with inaccurate meters will be borne by the City. The customer shall pay a meter change charge of $20.00 for each meter switched at the customer's request. Each test or re-test conducted for an accurate meter shall incur a meter testing charge of $20.00. If more than one test is requested within six (6) billing cycles, said testing charge shall be paid before the testing occurs."

5. Chapter 1, Water and Sewers, Section 18-117 is amended by adding the following new sub-sections thereto:

"(3) Users with a swimming pool may apply for a credit against sewer fees for the filling of the pool once in each calendar year. The credit shall be calculated based on the average usage for the previous six (6) months and validated by the size of the pool. The amount of the credit shall be approved by the Committee established in Section 18-127(3).

(4) Users with a water bill exceeding the previous month by at least 20% and who can document the repair of broken plumbing resulting in leakage not going into the sewer system may apply for a credit on the sewer portion of the bill once in each calendar year. The credit shall be calculated based on the average usage for the previous six (6) months. The amount of the credit shall be approved by the Committee established in Section 18-127(3).

(5) Non-residential customers with significant water usage that does not flow to the sewer system may elect with the approval of the City to have a meter installed, at the customer's cost, to measure inflows to the sewer system. A customer who installs such a meter shall be billed based on the metered inflows rather than on water purchased."

6. Chapter 1, Water and Sewers, Section 18-118 is amended deleting the last sentence and replacing it with:

"If sewer fees remain unpaid after the 22nd of the month, water service to the property affected may be cut off. Through the close of business of the 20th customers may request a hearing to avoid services being cut off.

7. Chapter 1, Water and Sewers, Section 18-120 is amended by deleting the current section in its entirety and substituting the following new section 18-120:

"(1) There shall be a non-refundable water connection service charge of fifty dollars ($50.00) payable for each water service connection, either residential or commercial. New customers shall pay this service charge prior to the City's providing water service. If not paid in advance, this water connection service

charge will be billed to existing customers who move or who add one or more meters.

(2) Landlords with ten (10) or more single family or duplex properties and the Millington Housing Authority (MHA) may elect to have a special arrangement whereby tenants pay for water service directly to the City. If such arrangement is made, the City shall bill the tenant at the time service is requested, and billing shall automatically be made to the landlord or MHA, as applicable, upon the tenant's request to end service. Tenants who desire City water services will be required to pay the water connection service charge of fifty dollars ($50.00) as provided in this section prior to receiving service. A water connection service charge in the amount of twenty-five dollars ($ 25.00) shall be due and payable from the landlord or MHA, as applicable, upon the automatic transfer of billing after a tenant's request to end service. "

8. Chapter 1, Water and Sewers, Section 18-121 is amended by changing the name of the fund to account for the sewer system operations from the "Sewer Collection and Treatment Fund" to the "Sewer Fund," so that the heading and first sentence of said section read as follows:

   "Sewer Fund. All funds received by the City of Millington for the sewer service charge shall be placed by the City Treasurer in a special fund entitled "Sewer Fund.""

9. Chapter 1, Water and Sewers, Section 18-123 is amended by adding the following language at the end of said section:

   "Temporary fire hydrant meter connections for access to City owned fire hydrants shall only be for licensed contractors for construction sites. Each contractor who requests a temporary fire hydrant meter connection shall pay a deposit of $800.00, which will be held until the meter is returned in good working order. Failure to return the meter in good working order or provide meter readings as requested by the City shall result in forfeiture of the deposit and shall end the contractor's right to access fire hydrants."

10. Chapter 1, Water and Sewers, Section 18-127 is amended by deleting the current section in its entirety and substituting the following:

   "18-127. Billing. (1) Bills for residential water and sewer service will be rendered monthly and are due upon receipt. Bills for non-residential service may be rendered, weekly, semimonthly, or monthly, at the option of the municipality and are due upon receipt.

   Water and sewer charges shall be collected as a unit. Water service may be discontinued for non-payment of the combined water and sewer bill.

   If the employees of the Millington Water Department are unable to obtain access to the water meter to read same during regular business hours, or if a meter should for any reason fail to register or fail to correctly register the consumption, the Millington Water Department reserves the right to render a bill to the customer on the best information available.

   All city services are billed on a common bill which includes water and sewer service. The City shall apply all payments received on a prorated basis to the amounts due for the individual services on the account. (Example: Customer owes $44.53 with $10.00 for water, $7.10 for sewer, $24.00 for sanitation, $2.50 for storm water, and $.93 for sales tax. Customer remits $25.00. Payment allocated on a prorated basis is applied as $5.61 for water [10.00/44.53*25.00], $3.99 for sewer, $13.47 for sanitation, $1.40 for storm water, and $.52 for sales tax with a combined balance due before penalties of $19.53.)

   Payments shall be posted to customer accounts as received. Payments over the counter in City Hall will be applied immediately. Payments left in the

Payment Box in the City Hall Parking Lot by 8 AM each working day shall be applied as of the previous working day. Payments made through the City's online offered site will be posted as of the same business day that they are made online. Payments received in the mail will be posted on the day received in City Hall. City initiated bank drafts authorized by customers will be posted on the 8th of the month and scheduled to be deducted from the customer's bank account on that date.

In the event any bill or bills are not paid by the Late Date, a penalty of ten percent (10%) shall be added thereto. Customers may notify City Hall staff verbally or in writing and request a hearing prior to the 21st of each month if they seek to avoid service being discontinued for a delinquent account. In the event that a hearing is requested by a customer, it shall be conducted by one or more members of the Committee established in Code Section 18-127 (3) and held in City Hall during normal business hours at the date and time established by the City. The customer shall be entitled to one day notice of the scheduled time unless agreeing to an earlier time.

In the event any bill or bills are not paid by close of business on the 22nd of the month and the customer has not requested and received a hearing on their account, then same shall be delinquent and service shall be discontinued.

In the event a customer is rendered a bill in excess of his average bill, and said excess is due to a leak at the meter, damaged meter, or in any way the responsibility of the Millington Water Department, the bill is to be adjusted as so to make the amount due an average amount as ascertained by the previous six months' billing, or, if this information is not available, by the best information available.

Any customer's unpaid bill accrued at a prior address shall be added to the customer's bill for his current address, and be subject to any additional fees or penalties imposed by this chapter.

Any unpaid bill accruing at any address under a contract with any member of the customer's family, living as such, may be added to any unpaid bill for service contracted for by a customer at the same or any other address, and thereupon shall take the same status as if it had been charged to the customer requesting service.

(2) The penalties for late payment of bills for sewer service and refuse collection service shall be the same as the penalties for late payment of water service set out in this § 18-127, and such penalties shall be imposed on the total amount of the water, sewer and refuse collection bill.

(3) Notwithstanding the provisions Section 18-127 (1), circumstances may exist which require that judgment be exercised in the billing and collection process as well as in the decision to discontinue service for delinquent unpaid billing. The following considerations shall be available to all customers:

a) Customers may make partial payments.
b) Customer may request a waiver of one late fee after six (6) months of timely payments.
c) Customers with a history of no late payments in the last six months may arrange for a payment plan based on special situations. Such payment plan shall require the account be current at the end of three (3) months. Special situations shall be evaluated under the concept of the prudent man rule of common law. Payment plans must be reviewed and approved by a committee consisting of the City Finance Director, the City Clerk and the City Services Billing Supervisor. Customers who do not stay current on their payment plan shall have service immediately cut-off and shall be subject to all collection efforts of the City.
d) The committee consisting of the City Finance Director, the City Clerk and the City Services Billing Supervisor is authorized and required to review and approve adjustments and account write-offs including where an error has been made in billing or no method exists to collect amounts from previous customers.

e) A customer in good standing may request a waiver of the $50 connection fee for a new residence in the event their current residence is made uninhabitable due to natural disasters, fire, etc. as reviewed and approved by the panel outlined in paragraph c) above.

11. Chapter 1, Water and Sewers, Section 18-128 is amended by adding the following new paragraph after the first paragraph

"Service may be also discontinued or terminated by the City under the special circumstances described in this paragraph. In the event of the death of the account holder of record, unless there is a second account holder already on record with the City as guarantor of the account, the City shall mail notice to the premises served stating that if another party has not made arrangements with the City to become the new account holder of record for the premises within five (5) days of the date of the notice, service shall be terminated. Non-residential service shall be disconnected at the earlier of the date the City determines the entity has ceased to operate at the address of City service or at the entity's request per Code section 18-130. Prior to disconnection of non-residential service, the City shall mail notice to the premises served stating City's intent to disconnect service and giving the customer five (5) days from the date of the notice to request a hearing. "

12. Chapter 1, Water and Sewers, New Section 18-142 is added to Chapter 1, as follows:

"18-142. Irrigation Only Service. Customers with regular water service may request the setting of an additional meter for irrigation purposes only. Such meter may only be connected to customer owned water lines used for ground irrigation and may never connect to plumbing systems that may flow into the City's sewer system or any other sewer system. This meter and water used through it shall be exempt from the sewer fees established in Section 18-117. All other provisions and fees or charges contained in the Millington Municipal Code shall apply to this service."

13. Chapter 1, Water and Sewers, New Section 18-143 is added to Chapter 1, as follows:

"18-143. Residential Winter Moratorium. No residential service will be disconnected during the month of December because of delinquency in payment of December bills."

BE IT FURTHER ORDAINED that this Ordinance shall take effect ten (10) days after its final passage, the public welfare requiring it.

First Reading: November 7, 2011
Second Reading: December 5, 2011
Third Reading: December 20, 2011

Richard L. Hodges
Mayor

Bruce Rasmussen
City Clerk and Treasurer