



City of Woodland

REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: December 16, 2008

SUBJECT: Utility Services Ordinance Revision – Monthly Residential Utility
Billing

Report in Brief

Chapter 23C of the Municipal Code of the City of Woodland governs utility services provided by the City. Included in this chapter are sections regarding the procedure for billing of utility services, penalties, and methods of collection and enforcement for delinquent accounts. Certain changes are required to this chapter to allow the City to bill for utility services on a monthly basis.

Staff recommends that the City Council introduce and read by title only an Ordinance to amend Chapter 23C of the City of Woodland Municipal Code regarding utility services.

Background

Chapter 23C of the Municipal Code of the City of Woodland governs utility services provided by the City. Included in this chapter are sections regarding the procedure for billing of utility services, penalties, and methods of collection and enforcement for delinquent accounts. Under the current code, residential utility customers are charged a flat fee for water and sewer utility services and are billed on a bi-monthly basis.

As the Council is aware, state law requires the City to begin billing residential utility customers based on consumption, with the first phase beginning on January 1, 2010. To ease the transition associated with this process, the City Council has requested staff to implement a system to bill for utility services on a monthly basis. It is believed that monthly bills will provide customers with more regular and timely information regarding their water usage and its impact on the cost of consumptive use in comparison to a flat rate.

Discussion

The proposed ordinance will modify three sections of municipal code related to utility services:

1. Section 23C-2-6 will be amended to change the frequency of billing residential accounts from bi-monthly to monthly.
2. Section 23C-3-1 will be amended to modify the late-payment penalties the City would be permitted to assess on delinquent accounts by including a basic 10% per month late payment penalty, which may be increased should the relevant Government Code sections be modified in the future. A late payment penalty is a standard business practice for utility enterprises and similar services.
3. Section 23-3-2 will be modified to allow delinquent charges and penalties at October 1 of each year to constitute a special assessment upon the property, which would be included with and collected in the same manner as property taxes. The current ordinance allows the City to place a lien on a property; however, this lien is not included with property taxes and would only be required to be satisfied upon sale of the property. The current process for property liens is cumbersome, time intensive and does not provide assurance for collection of revenues in a timely manner. Over the last year in particular, the number of delinquent accounts and the related staff time and effort needed to address those accounts has risen dramatically. Staff believes the proposed change in the lien process could help to reduce the workload created by delinquent accounts. Application of liens will be applied with discretion; staff will consider the unique situations associated with individual customers before using this process.

Because utility customers are currently billed on a bi-monthly basis, the change to monthly billing will occur in two phases. It is anticipated that half of the residential customers will receive their first monthly bill in February 2009 and the remainder of the City will receive the first monthly bill in March 2009.

As water meters are installed on those properties identified in the first phase of the metering program, sample bills based on actual consumption will be mailed concurrently with the flat rate utility bills. This will allow customers to better prepare for the change in their monthly costs and provide an opportunity for households to alter their water use habits. The timing and length of parallel billing will depend upon the date of meter installation for each property.

Fiscal Impact

If approved, total annual charges and revenues for the utility funds would not be changed. However, staff believes that providing customers the opportunity to pay smaller monthly bills could reduce the number of delinquent accounts and relieve the staff time required to attend to those delinquencies.

Public Contact

Posting of the City Council agenda. If Council approves this modification, inserts will be placed in the current utility bills to inform customers of the change, a notification will be posted on the City website, and an advertisement will be placed in the Daily Democrat.

Alternative Courses of Action

1. Introduce and read by title only an Ordinance to amend Chapter 23C of the City of Woodland Municipal Code regarding utility services.
2. Cease further consideration of the proposed ordinance.

Recommendation for Action

Staff recommends that the City Council approve Alternative No. 1.

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Senior Accountant

Mark G. Deven
City Manager

Attachment

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
WOODLAND, CALIFORNIA, AMENDING CHAPTER 23C OF
THE WOODLAND MUNICIPAL CODE TO REVISE THE
PROCEDURE FOR UTILITY SERVICES BILLING**

WHEREAS, the City of Woodland (“City”) provides various utility services to customers within city limits, and bills those customers for the fees for the services provided; and

WHEREAS, the City Council wishes to amend the billing and collection procedures for utility services to better serve its customers, minimize the expense and disruption of turning off utility service for customers who fall behind on their utility bills, and provide for the recovery of the cost of recording and releasing liens on real property to secure payment of unpaid utility bills; and

WHEREAS, Government Code Section 54354.5 specifies procedures for the City to follow in providing notice of a hearing concerning the adoption of an ordinance declaring that delinquent charges and penalties shall constitute a lien upon the real property served; and

WHEREAS, the City has complied with the notice requirements of Section 54354.5 by publishing notice of the hearing at least once per week for two weeks in a newspaper published in Woodland, with the first publication occurring at least 15 days prior to the hearing; and

WHEREAS, following compliance with the notice requirements, the City Council held a hearing at which all interested persons were heard concerning the proposed ordinance;

WHEREAS, at the conclusion of the hearing, pursuant to Government Code Section 54354.5(d), the City Council determined that the penalties and charges set forth in this Ordinance are not discriminatory or excessive, will comply with applicable law, and will be sufficient under the provisions or covenants of any outstanding revenue bonds of the local agency payable from the revenues of the water and sewer enterprise; and

NOW, THEREFORE, the City Council of the City of Woodland does hereby ordain as follows:

Section 1. Findings. The City Council hereby adopts the recitals set forth above as its findings for the adoption of this Ordinance.

Section 2. Purpose. The purpose of this Ordinance is to amend Chapter 23C to the Woodland Municipal Code to change the frequency with which utility services are billed and to revise the procedures for dealing with delinquent utility accounts.

Section 3. Authority. The City Council enacts this Ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution.

Section 4. CEQA. The adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be determined that the proposed project will not have a significant adverse effect on the environment, the project is not subject to CEQA. This Ordinance would change how utility service billing is undertaken, but does not change utility service rates nor propose nor authorize any action that would have the potential to cause a significant adverse effect on the environment. Thus, it can be established with certainty that this Ordinance will not have a significant adverse effect on the environment and is therefore not subject to CEQA. Pursuant to the foregoing, a Notice of Exemption has been prepared and completed in accordance with CEQA.

Section 5. Amendments. Sections 23C-2-6, 23C-3-1, 23C-3-2, and 23C-4-12 of Chapter 23C of the Woodland Municipal Code are hereby amended to read as shown in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 6. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 7. Effective Date and Publication. The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance to be posted or published as prescribed by law. This Ordinance shall take effect thirty (30) days following its adoption.

PASSED AND ADOPTED this _____ day of _____, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marlin H. Davies
Mayor

ATTEST:

Sue Vannucci
City Clerk

APPROVED AS TO FORM:

Andrew J. Morris
City Attorney

Exhibit A

AMENDMENTS TO CHAPTER 23C

Sec. 23C-2-6. Procedure for utility service billing.

- (a) Amount of Utility Service Bill. The amount of a consumer's utility service bill shall be determined as hereinafter provided in this chapter.
- (b) Person Billed for Utility Service. The billing for utility service shall go to the property owner unless the property owner specifies another person who occupies the premises and the finance officer (or another designated representative of the City), in his or her sole discretion, elects to bill the occupant of the premises rather than the property owner with the understanding that the property owner shall remain liable for all such utility service charges.
- (c) Frequency of Billing for Utility Service. Commercial accounts shall be billed every month for payment of utility service for the past month. Residential accounts shall be billed every month for advance payment of utility service for the next month.
- (d) Corrections to the Utility Service Bill. Reasonable opportunity shall be given to question the correctness of a utility service bill and when an error is shown to have been made the finance officer or his or her designated representative shall make necessary corrections.
- (e) Administrative Determination of Delinquency in Payment of a Utility Service Bill. When all or any part of a commercial account or a residential account is not paid for thirty (30) days after mailing of a billing therefor and no satisfactory explanation is given, as determined by the finance officer or his or her designated representative, such account shall be deemed delinquent until all past charges and penalties have been paid in full.
- (f) Notice of Delinquency. Upon administrative determination of delinquency in payment of a utility service bill, the consumer or occupant of the premises, whichever is appropriate, shall be sent written notice stating, at minimum, that:
- (1) Utility service may be terminated based on the determination of delinquent payment but termination shall occur no sooner than ten (10) days from the date of mailing written notice thereof, and after providing any notice required by law prior to terminating service.
 - (2) Failure to pay the utility service bill will result in late fees being assessed.
 - (3) The city may enforce payment pursuant to certain provisions in the city code, which shall be specified.
 - (4) The telephone number and address of the utility billing office shall be set forth and a short explanation of the procedure for protesting or seeking correction of a utility service bill shall be included.
 - (5) Those certain employees of the utility billing department designated to handle such protests and corrections shall be identified.
- (g) Decision to Use Enforcement Methods. When all past charges and penalties, have not been paid in full within ten (10) days after mailing of written notice that such account has been determined to be delinquent and no satisfactory explanation for nonpayment is given, as determined by the finance officer or his or her designated representative,

payment of such delinquent account shall be enforced by pursuing the enforcement measures hereinafter set forth in Article III of this Chapter.

Sec. 23C-3-1. Penalty for delinquent payment of utility service bills.

The basic penalty for nonpayment of utility service bill charges within the time and in the manner prescribed by this Chapter shall be ten percent (10%) of each month's charges for the first month delinquent, and an additional ten percent (10%) of each month's charges for each additional month of delinquency, provided that if Government Code Section 54348 is amended to allow for a greater penalty, the City Council may establish a penalty in the amount allowed by Section 54348. The basic penalty shall be in addition to any processing fee charged for turning off service and/or providing any notice required by law prior to turning off service.

Sec. 23C-3-2. Methods for collection of delinquent payment of utility service bill.

When part or all of a utility service bill has been determined to be delinquent in payment and is subject to enforcement methods as hereinabove provided in Section 23C-2-6(g) of this Chapter, the finance officer or his or her designated representative in charge of utility billing may do or cause to be done each and every one of the following, either singly or cumulatively:

(a) Discontinuation of Service. Any and all utility service for which the bill is rendered may be discontinued, including but not limited to shutting off water service for nonpayment of any charge on the utility service bill.

(b) Bringing of Legal Action. A legal action on behalf of the city may be brought in any court of competent jurisdiction to collect the amount due along with any unpaid deposit, charge or penalty thereon.

(c) Filing of a Lien. A list of delinquent unpaid utility service charges and penalties thereon, including charges representing the costs of recording and releasing the lien, may be filed with the county recorder and shall continue to constitute a lien upon the real property served until the charge and all penalties thereon are fully paid or the property is sold therefor; provided that such list is prepared and filed as required by Government Code Section 54355, as it may be amended from time to time. Such list shall be verified by an oath of the collector substantially in the following form:

“STATE OF CALIFORNIA)

) SS.

“County of Yolo)

“I, _____, the (kind of utility service) collector of the City of Woodland, do hereby swear that the attached list is a true and accurate list of the descriptions of real properties within said city, the occupancies of which are in default in the payment of (kind of utility service) collection charges for a period within the preceding fiscal year, to wit, from July 1, 20 , to June 30, 20 . I do hereby swear further that the amounts in arrears and unpaid, including penalties thereon, are set forth opposite each occupancy.

Subscribed and sworn to before me on this day of _____, 20 . . .”

For purposes of this subsection, it further is noted that the rates, charges, and penalties in this Chapter have been established after notice and hearing as required by Government Code Section 54354.5.

(d) Imposition of a Special Assessment. Each charge set out upon a delinquency list as immediately hereinabove described under subsection (c) and unpaid prior to October 1st of such year shall constitute a special assessment against the real property upon which the utility service charge has accrued, and shall constitute a tax lien on the real property for the amount of such charge. After October 1st of such year it shall be the duty of the county auditor and the county tax collector to add the amounts of the respective assessments to the next regular bills for taxes levied against the respective real property for city purposes, and thereafter such amounts shall be collected at the same time and in the same manner as ordinary city taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary city taxes.

Sec. 23C-4-12. Garbage and yard refuse rate schedules.

Pursuant to Public Resources Code Section 40059, the city council shall fix rates for collection of garbage, wet garbage, rubbish, refuse, yard refuse and street sweepings. Such rates may be reviewed by the city council from time to time and the council may classify or define various kinds of garbage, wet garbage, rubbish, refuse, or yard refuse in accordance with their relative effects upon the operation of the service and, among other things, the city council may take into account the frequency of pickup and quantity of material pickup and provide for varying charges in accordance with the relative difficulty or cost of collection, transportation, and disposal thereof; provided, that all rules, fees, charges, or regulations set forth in such resolution are reasonable and apply to the same subjects uniformly.