

**AN ORDINANCE OF THE CITY OF MILLWOOD, WASHINGTON, ADOPTING A NEW CHAPTER MMC 13.11 RELATED TO WHOLESALE WATER SERVICE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.**

WHEREAS, the City of Millwood (the “City”), Spokane County, Washington is a non-charter code city, by virtue of the Constitution and the laws of the State of Washington; and

WHEREAS, pursuant to Chapter 35A.11 RCW, the City Council (the “City Council”) may adopt and enforce ordinances of all kinds, relating to and regulating its local or municipal affairs and appropriate to the good government of the City; and

WHEREAS, the City owns and operates a public water system to furnish domestic water produced from the Spokane Valley-Rathdrum Prairie Aquifer to the citizens of and businesses located in the City; and

WHEREAS, the City is informed that water purveyors in Spokane County may have a need to purchase untreated domestic water to serve the respective needs of their jurisdictions; and

WHEREAS, the City believes it is in the best interests of the City and region to furnish and sell untreated water for regional wholesale use to such water purveyors in Spokane County; and

WHEREAS, the City Council has determined it is in the best interests of the City to create a new chapter of the Millwood Municipal Code (the “MCC”) to establish the authority and requirements for the City to sell and deliver untreated water for regional wholesale use;

NOW, THEREFORE, THE CITY OF MILLWOOD, WASHINGTON DOES ORDAIN AS FOLLOWS:

**SECTION 1. New Chapter 13.11 MMC.** The following shall be added to the MMC as Chapter 13.11:

**Chapter 13.11  
Wholesale Water Service**

**13.11.010. Purpose.**

The city owns and operates a public water system to furnish domestic water to the citizens of and businesses located in the city. The water furnished by the City is produced from the Spokane Valley-Rathdrum Prairie Aquifer (the “Aquifer”). The provisions of this chapter apply to the wholesale of untreated water to water purveyors.

**13.11.020. Contracts authorized.**

A. The city may contract for the sale and delivery of untreated water for regional wholesale use. The power of the council to enter into any such contract for the city shall be deemed to be permissive and wholly at the discretion of the council. In construing the mandate of this chapter, the right of contract shall be deemed precatory and not mandatory. In the case of conflicts between this code and a contract, the code shall prevail.

B. Contracts for the sale and delivery of untreated water for regional wholesale use shall contain all terms deemed necessary by the city, which include but are not limited to allowable uses of wholesaled untreated water, usage limitations and conditions, and rates. Contracts shall also ensure that purchasers of untreated water for regional wholesale shall indemnify and hold harmless the city, pursuant to language used in the regular course of business by the city, of any and all causes of action that are not the direct intentional act of the city, its employees, and/or agents.

**13.11.030. Water rates and use limitations.**

All untreated water rates and charges for city water service to regional wholesale customers shall be as set forth by council resolution, except as provided in a contract between the city and a customer. When the contract between a customer and the city provides for rates and charges based on the amount of committed volume or flow rate of water for delivery by city to the customer, the city shall have no obligation for water delivery to a contract customer in excess of committed volume or flow unless otherwise agreed between the city and customer.

**13.11.040. Water meters.**

All water sales shall be based on metered water. The city shall own and maintain all water meters. The customer may request meters to be tested and recalibrated. If metered water use is incomplete or inaccurate for a monthly billing period, the city may bill the customer for such period based on estimated water use for any missing metered days. The city may estimate use based on the average day demand for the preceding month multiplied by the days in operation.

**13.11.050. Water supply limitations.**

The Mayor or designee may regulate the use of water and may limit the use of water in the event of shortage to serve the citizens of and businesses located within the city. The ability to furnish domestic water to the citizens of and businesses located within the city shall have first priority, with wholesale water users having junior priority. The city shall have the authority to install water flow control valves to regulate water flow if necessary. The city shall not

be responsible for any damage caused to the wholesale customer by reason of decreased water supply.

**13.11.060. Water supply interruptions.**

In case of emergency, or whenever the public health, safety, or the equitable distribution of water so demands, the Mayor or designee may authorize changes to reduce or limit water delivery, or temporarily discontinue the delivery of water to wholesale customers. Water service may be temporarily interrupted for the purposes of making repairs, water system improvements or doing other necessary work. Before so changing, reducing, limiting or interrupting the use of water, the public works department shall notify, insofar as practicable, all wholesale water customers that may be affected. The city shall not be responsible for any damage resulting from interruption, change or failure of the water supply system.

**13.11.070. Water quality.**

The city shall not be liable to any customer of untreated water or to any person using the same, on account of the use of such water for any purpose for which the same is unsuitable because of lack of filtration or treatment.

**13.11.080. Resale of water.**

Resale of untreated water shall be prohibited unless expressly approved by the city in a written agreement with a resale customer and consistent with this code and other applicable law.

**13.11.090. Discontinuation of water service.**

The city shall not be liable for discontinuation of water service to wholesale customers due to uncontrollable circumstances.

**SECTION 2. REPEALER**

All ordinances, resolutions, laws, and regulations, or parts thereof in conflict with this ordinance are, to the extent of said conflict, hereby repealed.

**SECTION 3. SEVERABILITY**

If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**SECTION 4. EFFECTIVE DATE**

Except as otherwise set forth in this ordinance, this ordinance or a summary of this

