

ORDINANCE NUMBER 266

AN ORDINANCE TO SET FORTH PROPOSED SEWER COLLECTION SYSTEM IMPROVEMENT PROJECT AND TO AMEND AND REENACT THE RATES, RULES AND REGULATIONS FOR FURNISHING SEWAGE AND SEWAGE DISPOSAL SERVICE AT ELKINS AND VICINITY, RANDOLPH COUNTY, WEST VIRGINIA BY INCREASING THE RATES CHARGED THEREFORE

WHEREAS, in 2016 the City of Elkins completed construction of the Phase I of a collection system improvements project; and,

WHEREAS, in order to address a Consent Order with the U.S. Environmental Protection Agency ("EPA"), the U.S. Department of Justice ("DOJ") and the WV Department of Environmental Protection ("DEP"), the City of Elkins intends to pursue a sewer construction project, not in the ordinary course of business as referred to in *West Virginia Code* §24-2-11(l), known as Phase II, which will separate combined sewers in the South Elkins and Buffalo Creek Culvert areas; and,

WHEREAS, construction of the proposed project is to commence in early spring 2020 and last for approximately ten (10) months; and,

WHEREAS, said project will include installing new catch basins and storm drains in the South Elkins areas to carry rain water to two new discharges on the Tygart Valley River and sanitary sewer extensions along the Buffalo Creek Culvert to provide locations onto which homeowners along the route can connect their sewer laterals; and,

WHEREAS, the project cost is estimated to be \$4,300,000.00 to be funded through a loan from the Clean Water State Revolving Fund for a term of twenty (20) years, at an interest rate of 3%; and,

WHEREAS, in order to provide revenues sufficient to provide working capital to cover the cost of the capital improvements and the debt service associated with the Phase II project, the Common Council of the City of Elkins deems it necessary to increase the current rates and charges for furnishing of sewage and sewage disposal services by 21.5% which will result in a \$6.66 per month increase to the average residential user and a \$26.86 monthly increase to the average commercial user.

THEREFORE, THE COMMON COUNCIL OF THE CITY OF ELKINS, WEST VIRGINIA HEREBY ORDAINS:

The following rates, fees and charges for sewage and sewage disposal service provided by it to customers throughout its territory served, are hereby fixed and determined as rates, fees and charges to be charged in lieu of those rates, fees and charges contained in its sewer tariff, P.S.C. W.Va. No. 12, currently on file with the Public Service Commission of West Virginia.

SECTION ONE – RATES, RULES AND REGULATIONS**SCHEDULE NO. 1****APPLICABILITY**

Applicable within the entire territory served

AVAILABILITY OF SERVICE

Available for residential, commercial and industrial sewer service

RATES

First	1,500 gallons used per month	\$ 11.69 per 1,000 gallons
Next	248,500 gallons used per month	\$ 10.58 per 1,000 gallons
Over	250,000 gallons used per month	\$ 4.22 per 1,000 gallons

MINIMUM CHARGE (Customers with a metered water supply)

No minimum bill will be rendered for less than \$17.53 per month
(Equivalent of 1,500 gallons of water usage)

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

MONTHLY OR BI-MONTHLY PAYMENT BILLINGS

The above rates and charges may be adjusted to a monthly or bi-monthly basis, providing no lower charges.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed on any customer whose check for payment of charges is returned by the bank due to insufficient funds.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$150.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a new extension of the system. This pre-construction tap fee will be invalid after the completion of construction adjacent to the applicant's premises that is associated with the extension.

A tap fee of \$400.00 will be charged to customers applying for service after construction of the extension is completed.

LEAK ADJUSTMENT

\$0.85 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/12ths) of the average annual usage of the applicant's specific customer class, or fifty dollars, whichever is greater. This fee may be changed by applicable statutory provisions.

SCHEDULE NO. 2

APPLICABILITY

Applicable within the Teaberry Hills Subdivision

AVAILABILITY OF SERVICE

Available for general domestic service in un-metered housing projects or subdivisions

FLAT RATE CHARGE (Customers with non-metered water supply)

General Domestic customers with non-metered water supply: \$49.27 per month.
(Equivalent to 4,500 gallons of water usage)

DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed on any customer whose check for payment of charges is returned by the bank due to insufficient funds.

TAP FEE

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A tap fee of \$400.00 will be charged to customers applying for service after construction of the extension is completed.

LEAK ADJUSTMENT

\$0.85 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage.

SCHEDULE NO. 3

APPLICABILITY

Applicable within and without the corporate limits of the City of Elkins

AVAILABILITY

Available to Midland Public Service District

RESALE RATE (Based on metered water sold)

\$3.67 per M gallons

SCHEDULE NO. 4

APPLICABILITY

Applicable within and without the corporate limits of the City of Elkins

AVAILABILITY

Available to Leadsville Public Service District

METERED RATES (Based on metered water sold)

\$3.71 per M gallons

SCHEDULE NO. 5

APPLICABILITY

Applicable within and without the corporate limits of the City of Elkins

AVAILABILITY

Applicable where sewer customer obtains water wholly or partly from a source other than the Municipal Water Works of the City of Elkins

Sewer user shall make application in writing, showing type of waste to be delivered to the sanitary sewer system of the City of Elkins, and shall not deliver said waste until written permission has been given by the Sanitary Board of the City of Elkins. Sewer user shall provide, at the end of each calendar quarter, to the Sanitary Board of the City of Elkins, an officially signed notification showing the approximate quantity in gallons of waste delivered to the sanitary sewer system of the City of Elkins. Upon receipt of such notification, billing shall be made, applying the rates in Schedule No. 1.

SCHEDULE NO. 6**SURCHARGE FORMULA TO BE APPLIED IN
THE CASE OF USERS PRODUCING UNUSUAL WASTE**

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$C_i = V_o V_i + B_o B_i + S_o S_i$$

- C_i = charge to unusual users per year
- V_o = average unit cost of transport and treatment chargeable to volume, in dollars per gallon
- V_i = volume of wastewater from unusual users, in gallons per year
- B_o = average unit cost of treatment, chargeable to Biochemical Oxygen Demand (BOD) in dollars per pound
- B_i = weight of BOD from unusual users, in pounds per year
- S_o = average unit cost of treatment (including sludge treatment) chargeable to total solids in dollars per pound
- S_i = weight of total solids from unusual users in pounds per year

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the City of Elkins Sanitary Board, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefore, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of the City of Elkins Sanitary Board records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the City of Elkins Sanitary Board, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

Where the amount of sanitary sewage discharged into the City of Elkin's wastewater collection and/or transmission system by certain industrial plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant will pay to the City of Elkins Sanitary Board a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

SCHEDULE NO. 7**SURFACE OR GROUND WATER SURCHARGE**

An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists. Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

APPLICABILITY

Wherever the utility has discovered that a customer's roof drain, downspout, storm sewer or other similar facilities conducting surface water have been connected to the utility's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the utility in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$$S = A \times R \times .0006233 \times C$$

- S - The surcharge in dollars
- A - The area under roof and/or the area of any other water collection surface connected to the City's sanitary sewer, in square feet
- R - The measured monthly rainfall, in inches
- 0.0006233 - The conversion factor to change inches of rain x square feet of surface to thousand gallons of water
- C - The utility's approved rate per thousand gallons of metered water usage

The Utility shall not impose the surcharge unless, and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

SCHEDULE NO. 8

APPLICABILITY

Applicable within the entire territory served

AVAILABILITY

Available for wastewater and leachate haulers

SEPTIC TANK CLEANING SERVICE REGISTRATION PERMIT FEE

For each septic tank cleaning business which uses the City's sanitation system there will be an annual registration fee of one hundred twenty-five dollars (\$125.00). In addition, the dumping fee will be a commodity charge below due to the concentrated nature of the haulings.

RATES

RATES

To be Charged To West Virginia Division of Environmental Protection Landfill Closure Assistance Program (LCAP):

Commodity Charge - \$25.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined, or verified solely, by the City.

To Be Charged To All Other Wastewater and Leachate Haulers:

Commodity Charge - Each hauler shall pay a commodity charge of \$40.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined, or verified solely, by the City.

DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

RETURNED CHECK CHARGE

A service charge of \$25.00 will be imposed on any customer whose check for payment of charges is returned by the bank for any reason.

SCHEDULE NO. 9APPLICABILITY

Applicable within the entire territory served

AVAILABILITY

Available for City of Elkins Municipal Water Department for treatment of water plant backwash

TREATMENT RATE

\$0.51 per 1,000 gallons of water.

SECTION TWO – EFFECTIVE DATE

The rates and charges provided herein shall become effective 45 days after the enactment hereof.

SECTION THREE – SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof be held void or unenforceable by any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date of the fees, rates and charges as herein set forth, all ordinance, resolutions, orders or part thereof in conflict with the provisions of this Ordinance are, to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

SECTION FOUR – STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall publish Notice of this Ordinance in *The Inter-Mountain*, being a newspaper published and of general circulation in Randolph County, West Virginia, as a Class II publication. The first publication shall be made at least ten (10) days prior to the date set for the public hearing on the ordinance after which a meeting of the City Council will be held for a final reading and vote on the ordinance. Said notice was originally proposed to state that this Ordinance has been introduced, and that any person interested may appear before Council on the 7th day of November, 2019. However, notice of the November 7, 2019 hearing was not published as scheduled. Accordingly, the hearing has been continued by City Council until November 21, 2019, at 7:00 p.m. to be held in the City Council Chambers, 401 Davis Avenue, Elkins, at which time all objections and suggestions shall be heard and the City Council shall take such action as it shall deem proper. A copy of the Ordinance is available for public inspection at the City Clerk's Office.

Passed on First Reading October 17, 2019

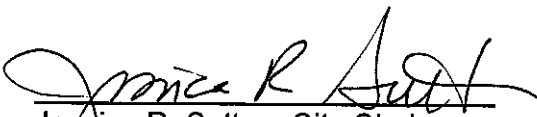
Passed on Second Reading
Following Public Hearing November 7, 2019

Passed on Third Reading
Following Public Hearing November 21, 2019



Van T. Broughton, Mayor

Attest:



Jessica R. Sutton, City Clerk