

ORDINANCE NO. 2017-03

SEWER RATE ORDINANCE

An Ordinance establishing a schedule of rates and charges to be collected by the Falling Waters Conservancy District from the owners of property and/or users, served by the sewage works of said District and other matters connected therewith.

WHEREAS, the District has constructed sewage works for the purpose of collecting and disposing of the sewage of the District in a sanitary manner and has constructed improvements thereto;

WHEREAS, it is necessary to amend the schedule of rates and charges so as to produce sufficient revenue to pay expenses of maintenance operation, and to provide funds for necessary replacements and improvements to the sewage works, all in a manner in accordance with the guidelines of the Indiana Department of Environmental Management; and

WHEREAS, it is necessary to amend and update Ordinance 2016-02 and to replace Ordinance 2016-01 and Resolution 13-01;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE FALLING WATERS CONSERVANCY DISTRICT:

Section 1. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

- (a) "Ammonia" (or NH-N) shall have the same meaning as defined in the Sewer Use Ordinance.
- (b) "Billing and Collection" shall mean the functions of billing and collection of revenues derived from user charges imposed on sewer system customers.
- (c) "Board" shall mean the Board of Directors of the Falling Waters Conservancy District, or any duly authorized officials acting in its behalf.
- (d) "BOD" (or Biochemical Oxygen Demand) shall have the same meaning as defined in the Sewer Use Ordinance.
- (e) "CBOD" (or Carbonaceous Biochemical Oxygen Demand) shall have the same meaning as defined in the Sewer Use Ordinance.
- (f) "COD" (or Chemical Oxygen Demand) shall have the same meaning as defined in the Sewer Use Ordinance.

- (g) "Collection System Costs" shall mean all costs attributable to the collection and delivery to the treatment plant of sewage flow of the utility system.
- (h) "District" shall mean the Falling Waters Conservancy District acting by and through the Board of Directors.
- (i) "Excessive Strength Surcharge" shall mean an additional charge which is billed to users for treating sewage wastes with an average strength in excess of "normal domestic sewage."
- (j) "Industrial Wastes" shall mean the wastewater discharges from industrial, trade or business processes as distinct from employee wastes or wastes from sanitary conveniences.
- (l) "Lot" or "Parcel" shall mean each lot or parcel owned by a freeholder.
- (m) "NPDES (or National Pollutant Discharge Elimination System) Permit" shall have the same meaning as defined in the Sewer Use Ordinance.
- (n) "Normal Domestic Sewage" (for the purpose of determining surcharges) shall mean wastewater or sewage having an average daily concentration as follows:

S.S. not more than 200 mg/ l BOD not more than 200
mg/ l Phosphorus not more than 8 mg/ l Ammonia not
more than 18 mg/ l

As defined by origin, wastewaters from segregated domestic and/ or sanitary conveniences as distinct from industrial processes.

- (o) "Operation and Maintenance Cost" include all costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters than conform with all related Federal, State and local requirements. (These costs include replacement.)
- (p) "Other Service Charges" shall mean tap charges, connection charges, area charges, and other identifiable charges other than excessive strength surcharges.
- (q) "Person" shall mean any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.
- (r) "Phosphorus" shall have the same meaning as defined in the Sewer Use Ordinance.

- (s) "Replacement Costs" shall mean the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.
- (t) "S.S." (or suspended solids) shall have the same meaning as defined in the Sewer Use Ordinance.
- (u) "Shall" is mandatory; "May" is permissive.
- (v) "Sewage" shall have the same meaning as defined in the Sewer Use Ordinance.
- (w) "Sewer Use Ordinance" shall mean a separate and companion enactment to this Ordinance which regulates the connection to and use of public and private sewers.
- (x) "User Charge" shall mean a charge levied on users of the wastewater collection system for the cost of operation and maintenance of such system pursuant to Section 204 (b) of Public Law 92-500.
- (y) "User Class" shall mean the division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities, (i.e. residential, commercial, industrial, institutional, and governmental in the Sewer Charge System).

Residential User - shall mean a user of the treatment works whose premises or building is used primarily as a residence for one or more persons.

Commercial User - shall mean any establishment involved in a commercial enterprise, business or service which, based on a determination by the District, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

Institutional User - shall mean any establishment involved in a social, charitable, religious, and/or educational function which, based on a determination by the District, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

Governmental User - shall mean any Federal, State, or local governmental user of the wastewater treatment works.

Industrial User - shall mean any manufacturing or processing facility that discharges industrial waste to a wastewater treatment works.

Section 2. Every person whose premises are served by said sewage works shall be charged for the service provided. There will be no free service. These charges are established for each user class, as defined, in order that the sewage works shall recover, from each user and user class, revenue which is proportional to its use of the treatment works in terms of volume and load. User charges are levied to defray the cost of operation and maintenance (including replacement) of the treatment works. User charges shall be uniform in magnitude within a user class.

- (a) User charges are subject to the rules and regulations adopted by the U.S. Environmental Protection Agency published in the Federal Register February 17, 1984 (40 CFR 35.2140). Replacement costs, which are recovered through the system of user charges, shall be based upon the expected useful life of the sewage works equipment.
- (b) The various classes of users of the treatment works for the purpose of this Ordinance shall be as follows:

- Class I - Residential
- Class II - Commercial
 - Governmental
 - Institutional
 - Industrial

Section 3. For the use of the service rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the District's sanitary system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly, into the sanitary sewagesystem of the District in an amount determinable as follows:

- (a) All Class I and II Users

The sewage rates and charges shall be determined by equivalent single-family dwelling units (ESFDU), except as herein provided. Sewage service bills shall be rendered for periods of service equaling one month. The schedule on which said rates and charges shall be determined is as follows:

Operation, Maintenance and Replacement Charge – Effective November 1, 2016

Rate per ESFDU per month shall be one hundred dollars\$100.00, which shall be collected between February 1 and December 31 of each year (only collected 11 months of each year) (This shall be paid in conjunction with a Stormwater Management Rate Ordinance, Number 2017-02 –). These rates shall be applied, effective and pro-rated the date (for the month) the ESFDU physically taps into the District system.

- (b) The District shall determine the equivalency factors for all users as determined by the Board of Directors.
- (c) Connection Fees - a connection fee of \$3,000 per ESFDU must be paid to the District prior to receiving a receipt and permission to connect to the sanitary sewer system. All connections to the District shall meet the required Porter County Building Code, or other requirements as enunciated by the District Board or their Engineer. Prior to connecting, reasonable notice shall be issued to the District to enable the District Engineer to conduct a scheduled onsite inspection of the connection infrastructure. Failure to schedule an onsite inspection prior to connection may result in a fine from the District and any work required to re-expose the line for inspection. Effective October 21, 2016, the connection fee (if not paid to date) shall be required at the time ownership changes from any existing owner (whether individual, entity or Declarant) to a new owner.
- (d) For the service rendered to the District, said District shall be subject to the same rates and charges established in harmony therewith.
- (e) In order to recover the cost of monitoring industrial wastes, the District shall charge the user not less than \$100.00 per sampling event plus the actual cost for collecting and analyzing the sample(s) as determined by the District or by an independent laboratory. This charge will be reviewed on the same basis as all other rates and charges in this Ordinance.
- (f) That at such time as any customer of the Falling Waters Conservancy District sanitary sewer collection and treatment facilities fails to pay the sanitary sewer service charges contained in Section 3(a) of this ordinance and owes three or more month's charges, such customer may be deemed disconnected from the Falling Waters Conservancy District sanitary sewer collection and treatment facilities by the District Board. In such an event, said customer may be assessed a One Thousand Five Hundred Dollar (\$1,500.00) reconnection fee, or similar fee and recoupment of any legal or related costs which shall be collected from said customer prior to reestablishment of sanitary sewer collection and treatment services. Said reconnection fee shall be in addition to the customer's obligation to pay any and all delinquent monthly sewer billings owed pursuant to Section 3(a) of this Ordinance.

Section 4. In order that the rates and charges shall be justly and equitably adjusted to the service rendered to users, the District shall base its charges not only on the volume or usage determined by equivalent dwelling units, but also on strength and character of the stronger- than-normal domestic sewage and wastes which it is required to treat and dispose of. The District shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly into the sanitary sewage system, in such manner, by such method and at such times as the District may deem practicable in

light of the conditions and attending circumstances of the case, in order to determine the proper charge. The user shall furnish a central sampling point available to the District at all times.

- (a) Normal sewage domestic waste strength should not exceed biochemical oxygen demand in excess of 200 milligrams per liter of fluid, suspended solids in excess of 200 milligrams per liter fluid, ammonia in excess of 18 milligrams per liter fluid and phosphorus in excess of 8 milligrams per liter fluid. Additional charges for treating stronger-than-normal domestic waste shall be determined by the plant superintendent based upon the cost of treatment and billed to the user on a monthly basis.
- (b) The determination of Suspended Solids, Biochemical Oxygen Demand, Ammonia- Nitrogen, Phosphorus, Ammonia and COD contained in the waste shall be in accordance with the latest copy of "*Standard Methods for the Elimination of Water, Sewage and Industrial Wastes*", as written by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation, and in accordance with "Guidelines Establishing Test Procedures for Analysis of Pollutants", 40 CFR Part 136.

Section 5. Such rates and charges shall be prepared, billed and collected by the District in the manner provided by law and ordinance.

- (a) The rates and charges for all users shall be prepared and billed monthly.
- (b) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required.

The owners or properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the District for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.

- (c) As is provided by statute, all rates and charges not paid by the 15th day of the month following receipt are hereby declared to be delinquent and a penalty of ten percent (10%) of the amount of the rates and charges shall thereupon attach thereto.

Section 6. The owner of any lot, parcel, or real estate or building connecting to the sewer works shall, prior to being permitted to make the connection, comply with all rules and regulations (including applicable connecting charges) as may from time to time be

adopted by the Board of Directors of the Falling Waters Conservancy District.

Section 7. In order that the rates and charges for sewage services shall remain fair and equitable and be in proportion to the cost of providing services to the various users of user classes, the District shall cause a study to be made within a reasonable period of time following the first year of operation, following the date on which this Ordinance goes into effect. Such study shall include, but not be limited to, an analysis of the cost associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the sewage works and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the wastewater treatment systems.

Thereafter, on an annual basis, within a reasonable period of time following the normal accounting period, the District shall cause a similar study to be made for the purpose of reviewing the fairness, equity and proportionality of the rates and charges for sewage services on a continuing basis. Said studies shall be conducted by officers or employees of the District or by a firm of certified public accountants, or a firm of consulting engineers which firms shall have experience in such studies, or by such combination of officers, employees, certified public accountants or engineers as the District shall determine to be best under the circumstances. The District shall, upon completion of said study revise and adjust the rates and charges, as necessary, in accordance therewith in order to maintain the proportionality and sufficiency of the rates.

Section 8. The District shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical and efficient management of the District's system, pumping stations and sewage treatment works, for the construction and use of house sewers and connections to the sewage treatment works, the sewage collection system and for the regulation, collection and rebating and refunding of such rates and charges.

The District is hereby authorized to prohibit dumping of wastes into the District's sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the District, or to require method affecting pretreatment of said wastes to comply with the pretreatment standards included in the National Pollutant Discharge Elimination System (NPDES) permit, rules, regulations and ordinances that govern the sewage works or as contained in the EPA General Pretreatment Regulations, 40 CFR Part 403 and any amendments thereto or the District's Pretreatment Program Plan.

Section 9. That the rules and regulations promulgated by the District, after approval by the Board of Directors shall, among other things, provide for appeal procedures whereby a user shall have the right to appeal a decision of the administrator of the sewage system and user charge system to the Board of Directors and that any decision concerning the sewage system or user charges of the Board of Directors may be appealed to the circuit court of the county under the appeal procedures provided for in the Indiana Administrative Adjudication Act.

Section 10. The invalidity of any section, clause sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which shall be given effect without such invalid part or parts.

Section 11. The Board is hereby further authorized to enter into special rate contracts with customers or the sewage works where clearly definable reduction in cost to the sewage works can be determined, and such reduction shall be limited to such reduced costs.

Section 12. The rates and charges as herein set forth shall become effective on the first full billing period occurring after the adoption of this Ordinance.

Section 13. The Board shall not grant free service or use of the sewage collection and treatment system to any person, group or entity.

Section 14. Every freeholder shall be charged the applicable local capital charge per lot regardless of whether the freeholder is connected to the District's sanitary sewage system.

Section 15. This Ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE FALLING WATERS CONSERVANCY DISTRICT ON THE 15 DAY OF NOVEMBER, 2017

ATTEST:



Board Member



Board Member



Board Member

Attested to: 

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(d)

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