

ORDINANCE NO. 1431

SEWAGE RATE ORDINANCE

AN ORDINANCE AMENDING PARTS OF ORDINANCE NO.1418, AND ESTABLISHING A SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF NAPPANEE FROM THE OWNERS OF PROPERTY SERVED BY THE SEWAGE WORKS OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH

WHEREAS, the City has heretofore constructed and has in operation a sewage works for the purpose of collecting and disposing of the sewage of the City in a sanitary manner, and proposes to construct improvements thereto; and

WHEREAS, the City of Nappanee has caused a financial study of the municipal sewage works to be made by H. J. Umbaugh & Associates, Certified Public Accountants, LLP, Plymouth, Indiana; and

WHEREAS, such study prepared by such firm indicates that the rates and charges are not sufficient to meet the reasonable financial requirements of the sewage works and that said rates and charges should be increased; and

WHEREAS, it is necessary to establish a new schedule of rates and charges so as to produce sufficient revenue to pay expenses of maintenance and operation, and to provide funds for necessary replacements and improvements to the sewage works, and to pay the principal and interest on the outstanding and proposed revenue bonds in accordance with the applicable bond ordinances, all in a manner in accordance with the provisions of IC 36-9-23 and the guidelines of the U. S. Environmental Protection Agency; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NAPPANEE, INDIANA:

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

- (a) "Board" shall mean the Board of Public Works and Safety of Nappanee, Indiana, or any duly authorized officials acting on its behalf.

- (b) “BOD” (or Biochemical Oxygen Demand) shall have the same meanings as defined in the Sewer Use Ordinance.
- (c) “City” shall mean the City of Nappanee, Indiana.
- (d) “Debt Service Costs” shall mean the average annual principal and interest payments on all outstanding revenue bonds or other long-term capital debt.
- (e) “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”.
- (f) “Industrial Wastes” shall mean the wastewater discharge from industrial, trade, or business processes as distinct from employee wastes or wastes from sanitary conveniences.
- (g) “NPDES (National Pollutant Discharge Elimination System) Permit” shall have the same meanings as defined in the Sewer Use Ordinance.
- (h) “Normal Domestic Sewage” (for the purpose of determining surcharges) shall mean wastewater or sewage having an average daily concentration as follows:
 - BOD not more than 200 mg/l
 - S.S. not more than 240 mg/l
 - Ammonia not more than 20 mg/l
 - Phosphorus not more than 10 mg/l

As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences as distinct from wastes from industrial processes.
- (i) “Operation and Maintenance Costs” 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 that conform with all related Federal, State, and Local requirements. (These costs include replacement.)
- (j) “Other Service Charges” shall mean tap charges, connection charges, area charges, and other identifiable charges other than user charges, debt service charges, and excessive strength surcharges.
- (k) “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.
- (l) “Replacement Costs” shall mean the expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the sewage works equipment to maintain the capacity and performance for which such works were designed and constructed.

- (m) "S.S." (or suspended solids) shall have the same meaning as defined in the Sewer Use Ordinance.
- (n) "Shall" is mandatory; "May" is permissive.
- (o) "Sewage" shall have the same meaning as defined in the Sewer Use Ordinance.
- (p) "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.
- (q) "User Charge" shall mean a charge levied on users of the wastewater treatment works for the cost of operation and maintenance of such works pursuant to Section 204(b) of Public Law 92-500.
- (r) "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).

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, including all dwelling units, etc.

Commercial User – shall mean any establishment involved in a commercial enterprise, business, or service which, based on a determination by the City, 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 City, 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 publicly owned treatment works.

SECTION 2. Every person whose premises are served by said sewage works shall be charged for the service provided. 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 with 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

3"	water meter	\$135.95	\$71.65	\$207.60
4"	water meter	240.17	127.68	367.85
6"	water meter	535.25	286.55	821.80
8"	water meter	1,404.19	499.61	1,903.80

- (b) For users of the sewage works that are unmetered water users or accurate meter readings are not available, the monthly charge shall be determined by equivalent single family dwelling units; except as herein provided. Sewage service bills shall be rendered once each month (or period equaling a month). The schedule on which said rates and charges shall be determined is as follows:

	Monthly Rate		
	<u>User Charge</u>	<u>Debt Service</u>	<u>Total</u>
Residential:			
Single family residence/unit	\$22.02	\$10.23	\$32.25

- (c) For the service rendered to the City of Nappanee, said City shall be subject to the same rates and charges hereinabove provided, or to charges and rates established in harmony therewith.
- (d) In order to recover the cost of monitoring industrial wastes or wastes described in sub-section (e) of this Section, the City shall charge the user not less than \$40.00 per sampling event plus the actual cost for collecting and analyzing the sample(s) as determined by the City or by an independent laboratory. This charge will be reviewed on the same basis as all other rates and charges in this Ordinance.
- (e) Any septic hauler licensed by the Indiana Department of Environmental Management wishing to discharge sanitary sewage, industrial wastes, water, or other liquids, either directly or indirectly, into the sanitary sewage system of the City of Nappanee must first make application to the City of Nappanee's Board of Public Works and Safety. Such application shall be made in such form and contain such information as shall be determined by the City's Board of Public Works and Safety. In the event such a licensed septic hauler shall receive the permission of the City of Nappanee's Board of Public Works and Safety to discharge such materials into the City's sanitary sewage system, such materials may be discharged into the sanitary sewage system only in the presence of the superintendent of the City's Wastewater Treatment Plant or his nominee and with such discharge to be at a specific location previously approved by the superintendent of the City's Wastewater Treatment Plant and, during the regular business hours of the City's Wastewater Treatment Plant personnel. Any discharge made pursuant to this sub-section (e) shall incur the following charges to be paid by the licensed septic hauler and be subject to any miscellaneous charges pursuant to Section 5 of this Ordinance.

Dumping/Treatment Fee - \$3.30 per 100 gallons of waste.

- (f) Connection – Except as otherwise provided herein, a connection charge shall be collected from each customer prior to connecting to the Sewer System. Each new

connection to the Sewer System shall have a minimum service line of four (4) inches. The Connection charge shall be in the amount of One Thousand Dollars (\$1,000.00).

- (1) Connection charges for service lines greater than four (4) inches shall be determined by the following formulas;

$$\frac{\text{Est. maximum daily flow for proposed connection}}{\text{Est. Maximum daily flow for an Equivalent Single Family Dwelling Unit}} \times \text{Applicable charge for four (4) service lines (\$1,000.00)}$$

- (2) Inspection /Meter Charge. An inspection fee of One Hundred Dollars (\$100.00), shall be charged for the inspection of all connections to the municipal sewage works, including replacement of existing connections.
- (3) Connection Charge Payment Option. A customer may elect to pay the connection charge in sixty (60) equal consecutive monthly payments of principal and accrued interest. Interest on the unpaid principal balance shall accrue interest at the rate of twelve (12%) interest per annum, computed monthly. Such payments shall be considered a part of the sewer bill which the customer is required to pay each month.

SECTION 4. The quantity of water discharged into the sanitary sewage system and obtained from sources other than the utility that serves the City shall be determined by the City in such manner as the City shall reasonably elect, and the sewage service shall be billed at the above appropriate rates; except as hereinafter provided in this section, the City may make proper allowances in determining the sewage bill for quantities of water shown on the records to be consumed, but which are also shown to the satisfaction of the City that such quantities do not enter the sanitary sewerage system.

- (a) In the event a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water, or other liquids into the City's sanitary sewage system, either directly or indirectly, is not a user of water supplied by the water utility serving the City, and the water used thereon or therein is not measured by a water meter, or is measured by a water meter not acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City. In order to ascertain the rate or charge provided in this Ordinance, the owner or other interested party shall, at his expense, install and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the City for the determination of sewage discharge.
- (b) In the event a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water, or other liquids into the City's sanitary sewage system, either directly or indirectly, is a user of water supplied by the water utility serving the City, and in addition is a user of water from another source which is measured by a meter not acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City. In order to ascertain the rates or charges, the owner or other interested parties shall, at his expense, install and maintain meters,

weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the City for the determination of sewage discharge.

- (c) In the event two or more residential lots, parcels of real estate, or buildings discharging sanitary sewage, water, or other liquids into the City's sanitary sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the base charge and the flow rates and charges shall apply to each of the number of residential lots, parcels of real estate, or buildings served through the single water meter.
- (d) In the event two or more dwelling units such as mobile homes, apartments, or housekeeping rooms discharging sanitary sewage, water, or other liquids into the City's sanitary sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case, billing shall be for a single service in the manner set out elsewhere herein, except that an additional units charge shall be added thereto, in the amount of \$1.43 per month per dwelling unit over one (1) served through the single water meter. In the case of mobile home courts, the number of dwelling units shall be computed and interpreted as the total number of mobile home spaces available for rent, plus any other dwelling units served through the meter. A dwelling unit shall be interpreted as a room or rooms or any other space or spaces in which cooking facilities are provided.
- (e) In the event a lot, parcel of real estate, or building discharges sanitary sewage, industrial wastes, water, or other liquids into the City's sanitary sewage system, either directly or indirectly, uses water in excess of 3,333 cubic feet per month, and it can be shown to the satisfaction of the City that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewage system, then the owner or other interested party shall, at his expense, install and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the City for the determination of sewage discharge.
- (f) In order that single family domestic and residential users of sewage services shall not be penalized for sprinkling lawns during the months of July, August, September, and October, the billing for sewage services for said user shall be based upon water usage for the immediately preceding months of January, February, and March. However, in order to receive sprinkling rates, a single family domestic and residential user must be a user of the utility regardless as to whether they live in the same location during the time frame for calculation of rates and the actual months of July, August, September, and October when the rates are effective. In the event the water usage for said previous period shall be less than the water usage for the summer months, then the billing shall be based upon the usage of the thirty-day period six months prior to the summer period being billed. In the event the water usage for the thirty-day period six months prior to the summer billing is greater than the water usage for said summer period, then the billing for sewage services shall be computed on the actual water used in the period for which the sewage service is being rendered. Domestic and residential sewage services as applicable to the sprinkling rate shall apply to each lot, parcel of real estate, or building which is occupied and used as a

residence. Said sprinkling rate shall not apply to any premises which are partially or wholly used for multi-family, commercial, or industrial purposes. In the event a portion of such premises shall be used for commercial or industrial purposes, the owner shall have the privilege of separating the water service so that the residential portion of the premises is served through a separate water meter, and in such case, the water usage as registered by the water meter serving such portion of the premises used for residential purposes would qualify under the sprinkling rate.

SECTION 5. In order that the rates and charges may be justly and equitably adjusted to the service rendered to users, the City shall base its charges not only on the volume, 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 City 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 City 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 City at all times.

- (a) Normal sewage domestic waste strength should not exceed a biochemical oxygen demand of 200 milligrams per liter of fluid or suspended solids in excess of 240 milligrams per liter of fluid. Additional charges for treating stronger-than-normal domestic waste shall be made on the following basis.
 - (1) Rate Surcharge Based Upon Suspended Solids – There shall be an additional charge of 17 cents per pound of suspended solids for suspended solids received in excess of 240 milligrams per liter of fluid.
 - (2) Rate Surcharge Based Upon BOD – There shall be an additional charge of 20 cents per pound of biochemical oxygen demand for BOD received in excess of 200 milligrams per liter of fluid.
 - (3) Rate Surcharge Based Upon Ammonia – There shall be an additional charge of 62 cents per pound of ammonia for ammonia received in excess of 20 milligrams per liter of fluid.
 - (4) Rate Surcharge Based Upon Phosphorus – There shall be an additional charge of 32 cents per pound of phosphorus for phosphorus received in excess of 10 milligrams per liter of fluid.
- (b) The determination of Suspended Solids, five-day Biochemical Oxygen Demand, Ammonia, and Phosphorus 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 Waterworks Association, and the Water Pollution Control Federation, and in conformance with “Guidelines Establishing Test Procedures for Analysis of Pollutants” Regulation CFR Part 136, published in the Federal Register on October 16, 1973.

SECTION 6. Such rates and charges shall be prepared, billed, and collected by the City in the manner provided by law and ordinance.

- (a) The rates and charges for all users shall be prepared and billed monthly. Annually, each user shall be notified of the portion of the total billing charged for operation, maintenance, and replacement for that user during the preceding year.
- (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 the billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served which are occupied by a tenant or tenants shall have the right to examine the collection records of the City 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 first 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 or charges shall thereupon attach thereto.

SECTION 7. In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users or user classes, the City shall cause a study to be made within a reasonable period of time following the first two years 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 costs 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 a biennial basis, within a reasonable period of time following the normal accounting period, the City 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 City 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 City shall determine to be best under the circumstances.

SECTION 8. The City shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical, and efficient management of the City's sewage 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, rebating, and refunding of such rates and charges.

The City is hereby authorized to prohibit dumping of wastes into the City's sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the City, or to require methods effecting pretreatment of said wastes to comply with the pretreatment standards included in the National Pollution Discharge Elimination System (NPDES) Permit issued

to the sewage works or as may be contained in the EPA General Pretreatment Regulations, 40 CFR Part 403, and any amendments thereto, or the City's Pretreatment Program Plan.

SECTION 9. Any differences that may arise between users and officials of the Sewage Works that cannot be resolved at that level may be appealed to the Board of Works of the City. The invalidity of any 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 10. The Board is hereby further authorized to enter into special rate contracts with customers of 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 11. 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 12. This Ordinance amends parts of Ordinances No. 1418, which parts, after the effective date of this Ordinance, shall be of no further force and effect.

This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor of the City of Nappanee, Indiana.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NAPPANEE ON THE ____ DAY OF _____, 2009.

Kimberly A. Ingle, IAMC, Clerk-Treasurer

PRESENTED TO ME AND APPROVED BY ME THIS ____ DAY OF _____, 2009.

Larry L. Thompson, Mayor