

ORDINANCE NO. 2014-0001
SEWER RATE ORDINANCE

An Ordinance establishing a schedule of Rates and Charges to be collected by the Elkhart County Regional Sewer District from the owners of property served by the sewage works of said District and other matters connected therewith.

WHEREAS, the Elkhart County Regional Sewer District ("District") has heretofore, completed construction of the public wastewater infrastructure serving the area known as Heaton Lake and operates and maintains the sewage works provided therein pursuant to Indiana Code 13-26, as amended; and

WHEREAS, it is necessary to establish a 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; all in accordance with Indiana Code 13-26-11 and to pay the principal and interest on acquired revenue bonds in accordance with the applicable bond ordinances;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE ELKHART COUNTY REGIONAL SEWER DISTRICT, 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 Elkhart County Regional Sewer District Board of Trustees, acting pursuant to IC 13-26-5 or any duly authorized officials acting on its behalf.
- (b) "District" shall mean the Elkhart County Regional Sewer District acting by and through the Board of Trustees.
- (c) "Debt Service Costs" shall mean the average annual principal and interest payments on all proposed revenue bonds or other long-term capital debt.
- (d) "Dwelling Unit and Domestic User" are synonymous and mean a room or any other space which has individual sink and/or toilet facilities. The terms shall include, but not be limited to, single-family residences, duplexes, apartments and mobile homes.
- (e) "Industrial Wastes" shall mean the wastewater discharges from industrial, trade or business processes as distinct from employee wastes or wastes from sanitary conveniences.
- (f) "NPDES (National Pollutant Discharge Elimination System) Permit" shall have the same meaning as defined in the Sewer Use Ordinance.
- (g) "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 that conform with all related Federal, State and local requirements.
- (h) "Other Service Charges" shall mean tap charges, connections charges, area charges, and other identifiable charges other than excessive strength surcharges.

- (i) "Person" shall mean any and all persons, natural or artificial, including any individual, firm, company, municipal, private corporation, association, society, institution, enterprise, governmental agency or other entity.
- (j) "Rate Payer" shall mean the owner(s) of each and every parcel of real estate required to connect to the District's Public Sanitary Sewer under the terms of the District's Sewer Use Ordinance (Ordinance No. 06-06-07), or other applicable statute, rule, or ordinance.
- (k) "Rates and Charges" shall mean a monetary fee levied on rate payers by District for operation and maintenance of its wastewater collection and treatment.
- (l) "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.
- (m) "Shall" is mandatory; "May" is permissive.
- (n) "Sewage" shall have the same meaning as defined in the Sewer Use Ordinance.
- (o) "Sewer Use Ordinance" shall mean a separate and companion enactment to this Ordinance, which regulates the connection to the use of public and private sewers.
- (p) "User Class" shall mean the division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities.

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 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 the wastewater treatment works.

Section 2 Rates and charges are established in order that the sewage works shall recover, from each user and user class, revenue, which is proportional to use of the treatment works in terms of peak requirements, volume, and load. Rates and charges are levied to defray the cost of operation and maintenance of the treatment works. Rates and charges shall be uniform in magnitude within a user class.

Every rate payer served by said sewage works shall be charged for the service provided. The District has established rates and charges for each user class, as defined,

<u>Class I -</u>	Heaton Lake Service Area
<u>Customer Categories -</u>	Residential
	Commercial
	Institutional
	Governmental

Section 3 For the use of the service rendered by sewage works, rates and charges shall be collected from rate payers of each and every lot, parcel of real estate, or building whether or not the dwelling unit or building is present, vacant or demolished that is connected with the District sanitary system or otherwise discharges sanitary sewage, industrial waste, water or other liquids, either directly or indirectly, into the sanitary system of the District.

Such rates and charges include charges for the use of the sewage works, debt service costs, excessive strength surcharges, and other service charges which rates and charges shall be payable as hereinafter provided and shall be in an amount determined as follows:

(a) The sewage rates and charges shall be based on a flat rate based upon a single-family dwelling unit.

(b) Sewage service bills shall be rendered once each month (or a period equaling a month). The schedule on which said rates and charges shall be determined is as follows and may be amended from time to time:

All Class I Users: Heaton Lake

Category	Equivalent Factor	Operation & Maintenance	Admin Costs	Debt Service	Total
Residential					
Single Family Unit	1.00	\$29.35	\$11.50	\$44.63	\$85.48
Apartments & Duplexes <u>per unit</u>	1.00	\$29.35	\$11.50	\$44.63	\$85.48
Commercial					
First 3 employees	1.00	\$29.35	\$11.50	\$44.63	\$85.48
Each additional employee	0.33	\$9.69		\$14.73	\$28.22
Ideal Beach	4.00	\$117.40	\$11.50	\$178.52	\$318.92

Category	Equivalent Factor	Operation & Maintenance	Admin Costs	Debt Service	Total
Institutional					
Schools per pupil enrolled (5 day school week)	0.67	\$19.66	\$7.71	\$29.90	\$57.27
Churches & Other Religious Organizations	1.00	\$29.35	\$11.50	\$44.63	\$85.48
For each 200 avg. attendees or fraction thereof (without kitchen facilities)					
Shady Nook Chapel	1.00	\$29.35	\$11.50	\$44.63	\$85.48
Governmental					
Offices - First 3 employees	1.00	\$29.35	\$11.50	\$44.63	\$85.48
Each additional employee	0.33	\$9.69		\$14.73	\$28.22

(c) The monthly rates and charges provided herein shall be applied throughout the year based upon the maximum sewage service required in any month in any calendar year. For example, the rates and charges based upon employment shall be applied throughout the year based upon the maximum employment of the user for such single maximum employment month, and such maximum usage shall be applied through the year.

Section 4 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.
- (c) 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.
- (d) A single administration fee will be assessed per each bill generated
- (e) As is provided by statute, all rates and charges not paid within 15 days after the billing date shall be declared delinquent and a late payment charge shall be added to each delinquent bill in the amount of 10% of the past due amount.
- (f) In the event of any question or ambiguity by the user as to the applicable rate or charge, the District shall have the right to be the sole arbiter and to determine the applicable rates as outlined above. The greater of any rate so fixed under the above shall apply to the user.

Section 5 Non-recurring rates and charges for the use and service rendered by the District shall be as follows:

Bad Check Charge:	Rates & Charges paid with a check or draft on a financial institution that does not honor it shall
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reimburse the District all costs and expenses it incurs as a result of payer's bank not honoring the check or draft

Service Calls:

All related expenses incurred by the District but not less than \$150.00

Delinquency: The District shall record a lien and include in the recording and collection of such lien in addition to the amount owed; all penalties, fees, charges and other related expenses allowed by applicable statutes, regulations, ordinances or other legal authority

Section 6 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 of user classes, the District 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 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 a biennial 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 or 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.

The District may require connection to its sanitary sewer system under applicable statutes, ordinances, regulations, rules, and protocols.

Section 7 Each rate payer, prior to being permitted to make a connection, shall pay a Capital Buy-In Charge in an amount established by the District of \$3,000.00 for each connection. The Board now finds such a capital buy-in charge to be a reasonable and equitable pro rata cost of construction of a local or lateral sewer adequate to serve the property so connecting; and the cost of providing a connection to the sewer system; provided, however, no connection charge will be required of any customer connecting to a local or lateral sewer within 90 days of the date on which said sewer was available for connection.

Capital Buy-In Charges will be imposed on any connection made after 90 days of availability for connection and on all connections made to future extensions of the system based on the actual costs of the connection but not less than \$3,000 per connection.

A rate payer may pay the capital buy-in charge over time. Any rate payer wishing to pay the capital buy-in charge over time must apply to the District, and if approved, must pay an initial payment of 40% of the capital buy-in charge amount, with the balance of said charge to be paid over a three year period in monthly installments.

The monthly payments that any rate payer pays to the District shall accrue interest at the rate established by the District. The District shall establish the interest rate for the upcoming year as

the prime rate published on the first day of December of the current year plus one percent (prime rate +1%). During any calendar year, the interest rate set by the District for that year shall apply to all installment contracts entered into that year by property owners and the District. The initial interest rate shall continue for the life of each contract initiated in that year. The District will provide to the rate payer the monthly payment required and such will become part of monthly billings made to the District by the rate payer.

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 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 regulations, 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, 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 issued to the District or as contained in the EPA General Pretreatment Regulations, 40 CFR Part 403 and any amendments thereto or the District's Pretreatment Program Plan, if any.

Section 9 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 10 The rates and charges as herein set forth shall become effective once notice to proceed with construction of the works is given by the Board to the construction contractor.

Section 11 This ordinance shall be in full force and effect from and after its passage, approval, recording a publication as provided by law.

Section 12 In an effort to assure fuller understanding of and compliance with the goals and objectives of this Sewer Rate Ordinance, any interested party may request, in writing from the District, an interpretation or ruling on any matter covered by this Sewer Rate Ordinance.

Section 13 All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Sewer Rate Ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section 14 This Sewer Rate Ordinance shall be governed by and construed in accordance with the provisions of Indiana Code 13-26 concerning the Regional Sewage Districts.

ORDAINED AND ADOPTED this 14th day of June, 2014

ELKHART COUNTY REGIONAL SEWER DISTRICT

By: Scott X Robinia
Scott Robinia, President

By: Lynn Brabec
Lynn Brabec, Secretary

By: Thomas Holtzinger
Thomas Holtzinger, Treasurer

By: Ben Russo
Ben Russo, Member

By: Dustin K. Sailor
Dustin Sailor, Member

By: _____
Frank Lucchese, Member

By: Gale Gerber
Gale Gerber, Member

ATTEST:

By: Kristine Krueger
Kristine Krueger, Administrative Assistant

