

ORDINANCE NO. 2016-01

AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR
THE USE OF THE STATE ROAD 13 INTERCHANGE TIF DISTRICT SEWAGE DISPOSAL
SYSTEM FOR THE ELKHART COUNTY REGIONAL SEWER DISTRICT

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

WHEREAS, the ECRSD is constructing separate public wastewater infrastructure for an area designated as the State Road 13 Interchange TIF District ("S.R. 13 District") that will be separate and distinct from the wastewater infrastructure that the ECRSD operates for the Heaton Lake Community;

WHEREAS, the nature of customers for the S.R. 13 District Sewage Disposal System will be different from the customers of the Heaton Lake Community Sewage Disposal System, which will require separate Rates and Charges for the S.R. 13 District.

WHEREAS, the ECRSD needs to establish certain Rates and Charges relative to the use of S.R. 13 District Sewage Disposal System; and

WHEREAS, the ECRSD wishes to keep in full force and effect Ordinance No. 090606, as amended, for application to the Heaton Lake Community Sewage Disposal System;

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 S.R. 13 District sewage works; all in accordance with Indiana Code 13-26-11;

NOW, THEREFORE, BE IT RESOLVED, ESTABLISHED, AND ORDAINED by the Elkhart County Regional Sewer District, Elkhart County, Indiana that:

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

1.1. **Board** shall mean the ECRSD Board of Trustees, acting pursuant to IC 13-26-5, or any duly authorized officials acting on its behalf.

- 1.2. cBOD₅ shall refer to 5-day Carbonaceous Biochemical Oxygen Demand.
- 1.3. Debt Service Costs shall mean the average annual principal and interest payments on all existing and proposed revenue bonds or other long-term capital debt.
- 1.4. ECRSD shall mean the Elkhart County Regional Sewer District acting by and through the Board of Trustees.
- 1.5. Excessive Strength Surcharge shall mean an additional charge for Sewer service which is billed to users for treating Sewage with an average strength in excess of Normal Domestic Sewage and is of such a nature that it imposes upon the Sewage Treatment Plant a burden greater than that covered by the basic service charge.
- 1.6. H₂S shall refer to Hydrogen Sulfide.
- 1.7. Industrial Wastes shall mean the wastewater discharges from industrial, trade or business processes as distinct from employee wastes or wastes from sanitary conveniences.
- 1.8. NH₃-N shall refer to Ammonia Nitrogen.
- 1.9. Normal Domestic Sewage (for the purpose of determining Excessive Strength Surcharges) shall mean wastewater or Sewage having an average daily concentration as follows:
 - 1.9.1. TSS not more than 250 mg/l
 - 1.9.2. cBOD₅ not more than 250 mg/l
 - 1.9.3. NH₃-N not more than 40 mg/l
 - 1.9.4. Total PO₄ not more than 12 mg/l
 - 1.9.5. H₂S not more than 10 mg/l
 - 1.9.6. Fats, wax, grease, or oils, collectively, whether emulsified or not, not more than 100 mg/l

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

1.10. 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.

1.11. Other Service Charges shall mean tap charges, connections charges, area charges, and other identifiable charges other than Excessive Strength Surcharges.

1.12. Person means any individual, partnership, co-partnership firm, firm, company, corporation, association, society, corporation, or group, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

1.13. Rate Payor shall mean the owner(s) of each and every parcel of real estate connected to the ECRSD's Public Sanitary Sewer serving the S.R. 13 District under the terms of the ECRSD's Sewer Use Ordinance, or other applicable statute, rule, or ordinance.

1.14. Rates and Charges shall mean a monetary fee levied on Rate Payor by ECRSD for Operation and Maintenance Costs of its wastewater collection and treatment.

1.15. Receiving Utility means the utility, currently the White Pigeon Sanitary System, White Pigeon, Michigan, that accepts from the ECRSD Sewage for treatment at a Sewage Treatment Plant, or otherwise.

1.16. 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.

1.17. Residential Equivalent Unit ("REU") shall be based on 210 gallons per day ("gpd").

1.18. Sewage shall have the same meaning as defined in the Sewer Use Ordinance.

1.19. 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 within the S.R. 13 District.

1.20. Shall is mandatory; May is permissive.

1.21. TSS shall refer to Total Suspended Solids.

1.22. Total PO₄ shall refer to Total Phosphate.

1.23. 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 ECRSD 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 ECRSD 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. The ECRSD establishes Rates and Charges 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 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.

The various classes of users of the treatment works for the purpose of this Ordinance shall be as follows:

Class I - Residential
 Commercial
 Governmental
 Institutional
 Industrial

Section 3. For the use of the service rendered by the ECRSD, each Rate Payor shall pay to the ECRSD Rates and Charges. 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:

3.1. Once each month (or period equaling a month) the ECRSD shall render service bills. The schedule on which said Rates and Charges shall be determined as follows:

<u>All S.R. 13 District Users</u>	<u>Monthly Rate</u>
Billing/Administration Costs per monthly bill	\$11.50
Operation/Maintenance/Replacement	<u>Rate per REU*</u> \$83.10

* The customer's REU shall be determined by dividing the customer's estimated average gpd by 210 gpd.

3.2. 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.

3.3. In order that the rates and charges may be justly and equitably adjusted to the service rendered to users, the ECRSD shall base its Rates and Charges also on an Excessive Strength Surcharge based on the strength and character of the stronger-than-Normal Domestic Sewage and wastes which it is required to treat and dispose. For commercial, governmental, institutional or industrial users, the ECRSD may 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 ECRSD 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 at a Control Manhole available to the ECRSD at all times.

Normal Domestic Sewage strength should not exceed TSS in excess of 250 milligrams per liter of fluid, cBOD₅ in excess of 250 milligrams per liter of fluid, Total PO₄ in excess of 12 milligrams per liter of fluid, or NH₃-N in excess of 40 milligrams per liter of fluid. Additional charges for treating stronger-than-Normal Domestic Sewage shall be made on the following basis:

	Parameter	Maximum Limit	Surcharge Level 1	Surcharge Rate 1	Surcharge Level 2	Surcharge Rate 2
1	cBOD ₅	1500 mg/L	>250mg/L	\$0.02/lb	>1000 mg/L	\$0.04/lb
2	TSS	1500 mg/L	>250mg/L	\$0.01/lb	>1000 mg/L	\$0.02/lb
3	NH ₃ -N	100 mg/L	>40 mg/L	\$0.11/lb	>28 mg/L	\$0.22/lb
4	Total PO ₄	18 mg/L	>12 mg/L	\$0.16/lb	>8 mg/L	\$0.32/lb
5	H ₂ S	50 mg/L	>10 mg/L	*	>35 mg/L	2 x Surcharge Level 1

* The ECRSD will adopt and implement WPSS surcharge rates once established.

Data used to determine Excessive Strength Surcharges will be collected by the operator of the ECRSD Sewage Disposal System once the user connects to the Sewer Disposal System. For a user already connected to the system, samples will be collected and analyzed on a bi-annual basis (January-June and July-December). A time proportioned composite sample will be collected and analyzed using methods identified

in 40 CFR 136. The data obtained in such collection and analysis will be used to calculate Excessive Strength Surcharges until such time as additional sampling and analysis data is available. A user may request the collection and analysis of additional samples, with the cost of such additional sampling and analysis being charged to the user with all such collection and analysis being performed by the ECRSD's then current contract operator. If a user's effluent exceeds the Maximum Limit identified in the above table for any Parameter, a Notice of Violation will be issued, all applicable monetary fines or penalties shall be imposed (in addition to the applicable Excessive Strength Surcharges), and the ECRSD will take all other action it deems appropriate.

3.4. The Board is empowered to determine rates, charges, fees, and payment terms for waste water delivered to the Sewage Disposal System under any special or extraordinary circumstances. The Board is authorized to waive or reduce any charges under any special or extraordinary services.

Section 4. Rates and Charges shall be prepared, billed and collected by the ECRSD in the manner provided by law and ordinance.

4.1. The Rates and Charges for all users shall be prepared and billed monthly.

4.2. The Rates and Charges may only be billed to the tenant or tenants occupying the properties served upon written request 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.

4.3. The owners or properties served, which are occupied by a tenant or tenants shall have the right to examine the collection records of the ECRSD 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.

4.4. As is provided by statute, all bills not paid within 15 days after the bill is mailed shall become delinquent and the late payment charge may be added to each delinquent bill in the amount of 10% of the past due amount.

Section 5. Noni-recurring Rates and Charges for the use and service rendered by the ECRSD shall be as follows:

- 5.1. Bad Check Charge: \$50.00
- 5.2. Service Calls: All related expenses incurred by the ECRSD but not less than \$150.00

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 ECRSD 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 ECRSD 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 ECRSD 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 ECRSD shall determine to be best under the circumstances. The ECRSD 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 7. The ECRSD shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical and efficient management of the ECRSD'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 ECRSD is hereby authorized to prohibit dumping of wastes into the ECRSD's Sewage Disposal 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 ECRSD, or to the Receiving Utility, or as contained in the EPA General Pretreatment Regulations, 40 CFR Part 403 and any amendments thereto or the ECRSD's Pretreatment Program Plan.

Section 8. Each Rate Payor, prior to being permitted to make a connection, shall pay a Capital Benefit Fee Assessment calculated under and pursuant to the terms of the Interlocal Agreement recorded as Instrument Number 2016-11446, in the records of the Elkhart County, Indiana Recorder. The Capital Benefit Fee Assessment shall be in the amount of \$1,238.00 per REU, based on current estimated costs.

Section 9. Each Rate Payer, prior to being permitted to make a connection, shall pay a Capacity Buy-In Charge in the amount of \$149.10 per REU.

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 Rates and Charges as herein set forth shall become effective upon connection to the ECRSD Public Sanitary Sewer.

Section 12. This ordinance shall be in full force and effect from and after its passage, approval, recording a publication as provided by law.

Section 13. 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 ECRSD, an interpretation or ruling on any matter covered by this Sewer Rate Ordinance.

Section 14. 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 15. 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 16th day of November, 2016

ELKHART COUNTY REGIONAL SEWER DISTRICT

By: Scott Robinia
Scott Robinia, President

By: Lynn Brabec
Lynn Brabec, Secretary

By: Thomas Holtzinger
Thomas Holtzinger, Treasurer

By: Verba DeMaurò
Verba DeMaurò, Member

By: Dustin K. Sailor
Dustin Sailor, Member

By: Jeff Troxel
Jeff Troxel, Member

By: Gale Gerber
Gale Gerber, Member

ATTEST:

By: Kristine Krueger
Kristine Krueger, Administrative Assistant