

**ORDINANCE NO. 2136**

**AN ORDINANCE FIXING RATES FOR SERVICES FURNISHED BY THE SEWER SYSTEM OF THE CITY OF SHERWOOD, ARKANSAS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO, DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.**

**WHEREAS**, it has been found by the City of Sherwood Sewer Committee upon a due and thorough investigation, that the rates charged for services furnished by the City of Sherwood Waste Water Utility treatment works, require adjustment in order to operate the system without deficit, provide needed revenue for repairs to the system and to provide revenue for necessary improvements to the system and to operate the system without violation of environmental laws or covenants entered into regarding operation of the system.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SHERWOOD, ARKANSAS, THAT:**

**SECTION 1:**

(a) That the City hereby establishes rates to be charged for services furnished by the system, which the City Council finds and declares to be fair; reasonable and necessary to be charged to all users who contribute wastewater to the system. The proceeds of such charges so derived will be used for the purpose of operating and maintaining the system, including replacement (OM&R). (Replacement is defined as expenditures for obtaining and installing equipment, accessories or appurtenances during the useful life of the system necessary to maintain the capacity and performance for which they were designed and constructed).

(b) All users of the system shall be charged the following monthly rates per 100 CF or portions thereof of metered water consumption with the following minimum charge for 400 CF. All sewer users shall be classified by the City Council as residential, commercial or industrial:

<u>Inside City Limits of Sherwood</u>		<u>Outside the City Limits of Sherwood</u>	
<u>Per 100 CF</u>	<u>400 CF min</u>	<u>Per 100 CF</u>	<u>400 CF min</u>
<u>\$3.75</u>	<u>\$15.00</u>	<u>\$4.69</u>	<u>\$19.28</u>

(c) In the case of significant industrial customers (defined as any non-residential customer which normally discharges wastewater to the system in quantities of 25,000 gallons per day or greater or whose wastewater contains or has the potential to contain, toxic pollutants, restricted pollutants, or non-compatible pollutants, when the wastewater characteristics exceed certain parameters), the following penalties shall apply (which penalties may be in addition to any other penalties permitted by law):

1) Biochemical Oxygen Demand (“BOD”):

\$0.86 per pound of BOD’s discharged for wastewater strength concentrations greater than 250 mg/L,  $(\text{BOD} - 250) \times (0.00624) \times (100 \text{ CF})$ .

2) Total Suspended Solids (“TSS”):

\$0.12 per pound of TSS discharged for waste strength concentrations greater than 250 mg/L,  $(\text{TSS} - 250) \times (0.00624 \times (100 \text{ CF}))$ .

3) pH:

\$1.23 per 100 CF for all discharges for which the pH is greater than 11 or less than 5, i.e.  $(100 \text{ CF}) \times (\$1.23)$ .

4) Fats, Oils and Greases (FOG):

\$0.31 per pound of fats, oils and greases for wastewater discharges exceeding 100 mg/L of fats, oils and greases, i.e.  $(\text{FOG} - 100) \times (0.00624) \times (100 \text{ CF})$ .

5) Other Limited Parameters:

The following parameters are limited in concentration and mass by the City of Sherwood Ordinance 1794 as amended.

Cadmium, Chromium, Copper, Cyanide, Lead, Mercury, Nickel, Silver, Zinc, Arsenic, Selenium, Boron, Molybdenum.

A charge of \$0.12 per 100 CF per parameter shall be made for all wastewater exceeding the local discharge limits set by the Sewer Committee as authorized by ordinance, i.e.  $(100 \text{ CF}) \times (0.12)$ .

The above charges shall be based on sample test results by the utility. A split of any sample used for the purpose of establishing charges shall be made available to the user upon prior written request.

The payment of the above charges shall not be considered justification for discharges in excess of local discharge limits set by the Sewer Committee or compensation for any damages caused by said excessive discharge.

(d) Users shall be deemed to be within the city sewer system for the purposes of the rates to be charged (i) when they are physically located within the city limits of Sherwood and (ii) when they are physically connected to the City of Sherwood collection system for transportation and treatment of raw sewage.

(e) Users that are physically connected to the City of Sherwood waste water collection system but are not physically located within the city limits of Sherwood shall pay 1.25 times the rate as established in Section 1, paragraph b above.

(e) The following rate schedule shall be applied to the acceptance of petroleum contaminated waters (defined as any water approved by the utility, pursuant to guidelines established by the Sewer Committee), for disposal in the system that is part of the remediation of a gasoline or diesel contaminated site and/or is a temporary short term discharge(s) into the system. This service is only available for those contaminated waters within the city limits of the City of Sherwood where the facility is connected to the system operated by Sherwood Wastewater Utility.

<u>Quantity (Gallons)</u>	<u>Rate (\$/Gal.)</u>
For the first 0-5,000	\$.25
For the next 5,001 – 25,000	.06
For the next 25,001 or above	.006

(f) In case of customers obtaining water exclusively from the Waterworks System covering the City of Sherwood (“Waterworks System”), the computation shall be based upon the water consumption records of the Waterworks System.

(g) In the case of customers obtaining water from sources other than the Waterworks System there shall be determined the amount of water obtained by such customers from other sources and the amount so determined shall be used (together with the amount reflected by the Waterworks System records if the customer also obtains water from the Waterworks System) in making the computation.

(h) For residential customers (defined as single family residences or multi-metered, multi-family residences or apartments all of which utilize meters less than one inch) only, the sewer charge each month will be based on the average monthly consumption for the

month of October, November, December, January, February and March (winter month period). In the case of residential users, which were not on a meter during the previous Winter Month Period, the rates shall be computed on actual water usage until such time as an average monthly winter usage can be calculated. In the case of other users not on a metered basis, the City shall establish water consumption based on a comparison of the non-metered users with a metered user of a similar class.

(i) For commercial and industrial users of the waste water system, a credit on the monthly sewer charge can be obtained for those waters that are not discharged to the sewer system. Examples of nonsewered waters include water added to a product and water lost through evaporation from cooling towers. In order to receive the credit, the user must install a system to accurately measure the nonsewered waters. This system must have prior approval from the City Engineer and must be operated and reported to the City within guidelines established by the Sewer Committee. This credit is not available for waters used in landscaping activities. A separate water meter for landscaping can be obtained from the Water Works System.

(j) None of the facilities or services afforded by the system shall be furnished without a charge being made therefore.

(k) The costs of operation and maintenance for all flows not directly attributable to users (such as Infiltration/Inflow) shall be distributed among users on the same basis as operation and maintenance charges.

## **SECTION 2:**

In the event any special fee or charge is assessed against the utility by any entity or governmental agency or department which fee is assessed on a per customer or per meter basis, then the Sewer Committee, based upon a finding that the assessment of such fee may affect the effective operation of the system in compliance with all applicable laws and regulations that may be applicable to the utility from time to time, may pass the assessment of such fee to the customer as a line item charge stated separately on the customer's monthly bill.

## **SECTION 3:**

Based upon a finding determining the reasonable costs of evaluating and taking action with respect to permits, license applications and connections of facilities to the system; of implementing, inspecting and enforcing the terms and conditions of permits, licenses and variances thereof; and of any depreciation or continuing operations and maintenance expenses incurred or to be incurred by the utility in operating any facilities, the Sewer Committee shall have the power to establish reasonable fees for connection of facilities to the system and for the initial issuance, annual review and modification of discharge permits or other licenses or permits reasonably required by the Sewer Committee to properly operate the system efficiently and effectively in compliance with all laws and regulations that may be applicable to the utility from time to time. The Sewer Committee may require that any fee assessed pursuant to this section shall be paid prior to the issuance of any permit or license or connection to the system.

## **SECTION 4:**

(a) The City will continuously monitor the revenues of the system, including, specifically, the adequacy of its rates and delinquent billings, and will take appropriate steps to remedy any delinquent billings or inadequacy of rates. The City will make a review annually of the rates and charges of the system.

(b) The City shall at all times fix, charge and collect rates and charges for services furnished by the system, including increasing rates and charges as necessary, which shall provide revenues sufficient to at least: (1) pay the City's annual costs of OM&R; (2) pay annual debt service; and (3) provide the necessary bond coverage.

## **SECTION 5:**

Vacant, unoccupied but metered property, whether or not using the system, shall be subject to a service charge equal to the minimum monthly charge for the respective class of properties. Vacant, unoccupied and unmetered property not actually using the system shall not be subject to a charge, but the burden of demonstrating vacancy, non-use and lack of meter to the utility, shall rest upon the owner of the property.

**SECTION 6:**

(a) All bills for sewer services shall be rendered monthly. In the event payment in full is not made on or before the 10<sup>th</sup> day following the original date of billing, a ten percent (10%) penalty shall be added to the bill. If any sewer charge is not paid within thirty (30) days after the same is due, the customer will be notified in writing by the utility which notice shall state where, during which hours of the day, and before whom disputed bills appropriately may be considered. If the user waives the opportunity to be heard, suit may be brought to collect the amount due, together with the expenses of collection and a reasonable attorney's fee, and/or water and/or wastewater services may be discontinued until such bill is paid.

(b) Any customer who feels that his charge is unjust and inequitable may make written application to the city engineer requesting a review of his charge. Said written request shall, when necessary, show the actual or estimated average flow and/or strength of his wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made. Review of the request shall be made by the city engineer and if substantiated, the charges for that customer shall be re-computed based on the revised flow and/or strength data and the new charges shall be applicable to the next billing cycle/period.

**SECTION 7:**

A financial management system shall be established and maintained by the City to document compliance with federal regulations pertaining to the Revolving Loan. The system will account for all revenues generated and expenditures for OM&R.

The City will review the user charges at least annually and revise the rates as necessary to ensure that adequate revenues are generated to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes.

**SECTION 8:**

The provision of this Ordinance are separable, and if a section, provision, or phrase shall be declared invalid, such declaration shall not affect the validity of the remainder of this Ordinance.

**SECTION 9:**

Nothing contained herein shall be construed to affect the charges for services for improvement districts or other areas that are subject to a court order.

**SECTION 10:**

All ordinances and resolutions and parts thereof in conflict herewith, including in particular, Ordinance 75, 93, 210, 336, 449, 894, 1269, 1452, 1580 but without limitation are hereby repealed to the extent of such conflict.

The user charge system shall take precedence over any terms or conditions of agreement or contracts between the City and any of the users, which are inconsistent with applicable Federal regulations regarding user charge systems.

**SECTION 11:**

The rate change becomes effective January 1, 2017. It has been found and it is hereby declared that the sewer system of the City is in need of additional revenues if operation of the system at a deficit is to be avoided; therefore an emergency is declared to exist and this Ordinance, being immediately necessary to the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

**ADOPTED** on this 23<sup>rd</sup> day of **January 2017**.

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Virginia R. Young, Mayor

**ATTEST:**

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Angela Nicholson, City Clerk

**APPROVED AS TO FORM:**

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Stephen Cobb, City Attorney