O-15-75

ORDINANCE NO._____

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

WHEREAS, it has been found by the North Little Rock Wastewater Treatment Committee ("Treatment Committee"), upon a due and thorough investigation, that the rates charged for services furnished by the North Little Rock Waste Water Utility ("Utility") treatment works ("System"), require adjustment in order to (i) provide needed revenue for repairs to the System; (ii) to provide revenue for necessary improvements to the System; and (iii) to operate the System without deficit and without violation of environmental laws or covenants entered into regarding operation of the System.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1:

(a) That the City of North Little Rock (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 sewer users shall be classified by the City Council as residential, commercial, or industrial. All users of the System whether located Inside or Outside the City Limits shall be charged the following monthly rates per 100 CF or portions thereof of metered water consumption with the following minimum monthly charge for usage less than or equal to 400 CF per month:

Effective January 1, 2016

Per 100 CF	400 CF Min
$ 4.04	$15.43

Effective January 1, 2017

Per 100 CF	400 CF Min
$ 4.48	$16.36

Effective January 1. 2018

Per 100 CF	400 CF Min
$ 4.88	$17.01

Effective January 1. 2019

Per 100 CF	400 CF Min
$ 5.27	$17.52

Effective January 1. 2020

Per 100 CF	400 CF Min
$ 5.64	$18.05

The above rates include a charge of $1.07 per 100 CF or a portion thereof of metered water consumption for debt service with a $4.28 minimum charge for 400 CF for debt service. The remainder of the rates are allocated to OM&R. User charge methodology for OM&R is as follows:

$$\text{Total annual OM\&R Cost in \$ /100 CF} = \frac{\text{Total annual OM\&R}}{\text{Number of 100 CF sold annually}}$$

(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 Applicable Penalties ("AP") shall apply (which AP's may be in addition to any other penalties permitted by law):

(i) Biochemical Oxygen Demand ("BOD"):

AP per pound of BOD5 discharged for waste strength concentrations greater than 250 mg/1, i.e. (BOD5 - 250) x (0.00624) x (CCF) x (AP)

AP effective January 1, 2016: $2.05/pound
AP effective January 1, 2017: $2.28/pound
AP effective January 1, 2018: $2.48/pound
AP effective January 1, 2019: $2.68/pound
AP effective January 1, 2020: $2.87/pound

(ii) Total Suspended Solids ("TSS"):

AP per pound of TSS discharged for waste strength concentrations greater than 250 mg/1, i.e. (TSS - 250) x (0.00624) x (CCF) x (AP)

AP effective January 1, 2016: $0.29/pound
AP effective January 1, 2017: $0.32/pound

AP effective January 1, 2018: $0.35/pound
AP effective January 1, 2019: $0.38/pound
AP effective January 1, 2020: $0.40/pound

(iii) pH:

AP per CCF for all discharges for which the pH is greater than 11 or less than 5, i.e. (CCF) x (AP)

AP effective January 1, 2016: $2.94/pound
AP effective January 1, 2017: $3.26/pound
AP effective January 1, 2018: $3.55/pound
AP effective January 1, 2019: $3.84/pound
AP effective January 1, 2020: $4.11/pound

(iv) Fats, Oils, and Greases ("FOG"):

AP per pound of fats, oils and greases for wastewater discharges exceeding 100 mg/l of fats, oils and greases, i.e. (FOG - 100) x (0.00624) x (CCF) x (AP)

AP effective January 1, 2016: $0.75/pound
AP effective January 1, 2017: $0.84/pound
AP effective January 1, 2018: $0.91/pound
AP effective January 1, 2019: $0.98/pound
AP effective January 1, 2020: $1.05/pound

(v) Other Limited Parameters:

The following parameters are limited in concentration by the Treatment Committee through regulation.

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

A charge of AP per CCF per parameter shall be made for all wastewater exceeding the local discharge limits set by the Treatment Committee as authorized by ordinance, i.e. (CCF) x (AP).

AP effective January 1, 2016: $0.29/pound
AP effective January 1, 2017: $0.32/pound
AP effective January 1, 2018: $0.35/pound
AP effective January 1, 2019: $0.38/pound
AP effective January 1, 2020: $0.40/pound

The above charges shall be based on sample test results by the Utility. A spilt 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 Treatment Committee or compensation for any damages caused by said excessive discharge.

(d) Beginning January 1, 2016, 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 Treatment 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:

Quantity (Gallons)		Rate ($/Gal.)
For the first	0 – 5,000	$0.810
For the next	5,001 – 25,000	$0.190
For the next	25,001 or above	$0.019

(e) In the case of customers obtaining water exclusively from the Waterworks System covering the City of North Little Rock ("Waterworks System"), the computation shall be based upon the water consumptions records of the Waterworks System.

(f) 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.

(g) 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 months 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.

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

(i) 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.

(j) That the City hereby establishes the following user fees to be charged to users of the sewer system constructed by Municipal Improvement District #2 of Sherwood,

Arkansas (Rixey Sewer Improvement District):

Residential	$ 8.50/month
Commercial/Industrial	$ 19.00/month

The user fee established in this subsection (j) shall be in addition to any other rates to be paid by such users under this Ordinance, including those set forth in this Section 1.

SECTION 2: That in the event any franchise fee, special fee or charge is assessed against the Utility by any entity or governmental agency or department which fee is assessed on a percent, or per customer or per meter basis, then the Treatment Committee, based upon a finding that the assessment of such fee may affect the efficient and 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: That 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 Treatment 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 Treatment 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 Treatment 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 full 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: That vacant, unoccupied but metered property, whether or not using the System, shall be subject to a service charge equal to the 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 20th 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; also, 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 Utility 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 Utility 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: That a financial management system shall be established and maintained by the City to document compliance with federal regulations pertaining to revolving loans. 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: That each user shall be notified at least annually, in conjunction with the regular bill, of the sewer use rate and the portion of the user charges which are attributable to wastewater treatment. Costs shall be broken down to show the OM&R costs attributed to that user.

SECTION 9: That by the 10th of each calendar month, an amount of $41,666.67 will be transferred to the Rehabilitation Fund, but only in the event all transfers have been made into the funds for OM&R and for debt service.

SECTION 10: That the provisions 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 11: That 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 12: That all ordinances and resolutions and parts thereof in conflict herewith, including in particular but without limitation Ordinance No. 5330, adopted and approved September 29, 1981, Ordinance No. 5772, adopted and approved January 25, 1985, Ordinance No. 6300, adopted and approved March 27, 1989, Ordinance No. 6649

adopted and approved August 10, 1992, and Ordinance No. 6699 adopted and approved April 12, 1993 as amended by Ordinance No. 6738 adopted and approved February 27, 1995, Ordinance No. 6933 adopted and approved November 13, 1995, Ordinance No. 7239 adopted and approved, August 23, 1999 and Ordinance No. 7577 adopted and approved September 8, 2003, as amended by Ordinance No. 7658 and No. 7675, and Ordinance No. 7973 adopted and approved August 21, 2007, as amended, and Ordinance No. 8423 adopted and approved March 26, 2012 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 13: It has been found, and it is hereby declared, that the System of the City is immediately 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 the Ordinance being immediately necessary to the preservation of the public peace, health and safety, shall be in full force and effect January 1, 2016.

PASSED:

APPROVED:

Mayor Joe A. Smith

SPONSOR:

Mayor Joe A. Smith

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

C. Jason Carter, City Attorney

PREPARED BY HILBURN LAW FIRM/MKH;
FORMATTED BY OFFICE OF THE CITY ATTORNEY/b

FILED 10:15 A.M. _____ P.M.
By Becky - City Atty's Office
DATE 10-6-15
Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas
RECEIVED BY