

**BEFORE THE COMMON COUNCIL
FOR THE CITY OF JEFFERSONVILLE
IN THE STATE OF INDIANA**

ORDINANCE NO. 2011-OR-73

**AN ORDINANCE REPEALING ORDINANCE
NOS. 90-OR-60, 91-OR-50, 96-OR-72, 98-OR-26, 2004-OR-46,
2004-OR-63, AND 2009-OR-43 AND ESTABLISHING
SEWER RATES AND SEWER CAPACITY FEES**

WHEREAS, the City of Jeffersonville (“City”) has heretofore constructed and has in operation a sewage works for the purpose of collecting and disposing of sewage in a sanitary manner; and

WHEREAS, sewage rates and charges have been established and modified in Ordinance Nos. 90-OR-60, 91-OR-50, 96-OR-72, 98-OR-26, 2004-OR-46, 2004-OR-63, and 2009-OR-43; and

WHEREAS, 2010-OR-40 sets forth the Sewer Use and Pretreatment requirements for the City of Jeffersonville; and

WHEREAS, the City is required to significantly invest in capital improvements for its sewage works to achieve compliance with obligations in the City’s Consent Decree that was entered by the United States District Court for the Southern District of Indiana and in addition to other initiatives, including the expansion of the existing wastewater treatment plant to treat additional wet weather flow and the increase of the capacity of the Tenth Street Lift Station all of which is intended to reduce the frequency and duration of the presently untreated combined sewer overflows which discharge to the Ohio River and Can Run; and

WHEREAS, the City is also required to provide sewer service to the recently annexed areas of the City which are currently on individual sewage disposal systems; and

WHEREAS, the City will be required to borrow funds to finance the capital improvements to the sewage works; and

WHEREAS, H. J. Umbaugh & Associates, Certified Public Accountants, LLP (“Umbaugh”) was previously engaged by the City to prepare a rate study for the City’s sewage works; and

WHEREAS, based on the Umbaugh rate study the Common Council of the City (“Council”) enacted 2009-OR-43 to increase sewer rates and charges in five phases; and

WHEREAS, it appears that the existing sewer rates and tap fees are inadequate to provide the necessary capital for future repair, expansion and replacement of the City’s wastewater treatment facilities and collection systems; and

WHEREAS, the Council again authorized Umbaugh to prepare a study of the sewer tap fees and projected revenue; and

WHEREAS, the Umbaugh study indicates that the sewer tap fees should be based upon equivalent dwelling units (“EDUs”); and

WHEREAS, there are many prior ordinances addressing sewage works, rates and fees, the number of which confuse the public; and

WHEREAS, the Common Council of the City of Jeffersonville believes that it is in the best interest of the citizens to fairly spread the cost of capital repairs and replacement of the wastewater treatment facilities and collection systems among those whose use taxes the wastewater treatment facilities and collection systems’ capacity; and

WHEREAS, the Council finds that it is necessary and desirable to revise its schedule of sewer tap fees according to usage based upon EDUs, rename such fee as a sewer Capacity Fees, and repeal and replace in their entirety all prior ordinances pertaining to sewer rates and charges; and

WHEREAS, the Council has been advised that all proper notices have been given to permit the Council to amend, by the adoption of this Ordinance, the City’s existing sewage rates and charges and sewer tap fees;

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF JEFFERSONVILLE, INDIANA that the existing provisions of ORDINANCE NOS. 90-OR-60, 91-OR-50, 96-OR-72, 98-OR-26, 2004-OR-63, already replaced by 2009-OR-43, and any other Ordinance pertaining to Sewer Rates or Tap Fees which are not listed above are hereby repealed and substituted for a new formula for calculating the sewer tap fee and renaming the fee as the sewer Capacity Fee all as follows:

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

- (a) “Council” shall mean the Common Council of the City of Jeffersonville, or any duly authorized officials acting on its behalf.
- (b) “BOD” (or Biochemical Oxygen Demand) shall have the same meaning as defined in the Sewer Use Ordinance.
- (c) “Board” shall mean the Sanitary Sewer Board for the City of Jeffersonville.
- (d) “Capacity Fee” shall mean the payment required to cover the cost of replacing the capacity in both the sewer line serving the property and the City’s wastewater treatment facility. This charge applies to each single family residence and all equivalent dwelling units, i.e. residential commercial, industrial, et seq.,
- (e) “City” shall mean the City of Jeffersonville acting by and through the Council.
- (f) “Collector sewer” – shall mean a sanitary sewer, eight inches minimum, which receives sewage or wastewater from the individual service lateral sewer.
- (g) “Debt service costs” shall mean the average annual principal and interest payments on all outstanding revenue bonds or other long-term capital debt.

- (h) "Equivalent Dwelling Unit (EDU)" shall mean the flow equivalent to a single family residence situated upon a single lot and also the sewage contribution from that residence being 310 gallons per day.
- (i) "Excessive strength surcharges" shall mean an additional charge which is billed to users for treating sewer wastes with an average strength in excess of "normal domestic sewage."
- (j) "Industrial wastes" shall mean the wastewater discharges from industrial, trade or business processes as distinct from employee wastes or wastes from sanitary conveniences.
- (k) "NPDES (National Pollutant Discharge Elimination System) Permit" shall have the same meaning as defined in the Sewer Use Ordinance.
- (l) "NH3N" (or ammonia nitrogen) shall have the same meaning as defined in the Sewer Use Ordinance.
- (m) "Normal domestic sewage" (for the purpose of determining surcharges) shall mean wastewater or sewer having an average daily concentration as follows:

BOD not more than 235 mg/L
 S. S. not more than 240 mg/L
 NH3N not more than 15 mg/L

As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences as distinct from wastes from industrial processes.

- (n) "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 to all related Federal, State, and local requirements. (These costs include replacement.)
- (o) "Other service charges" shall mean charges, connection charges, area charges, and other identifiable charges, other than User Charges, Capacity Charges, debt service charges and excessive strength surcharges.
- (p) "P" (or phosphorus) shall have the same meaning as defined on the Sewer Use Ordinance.
- (q) "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.
- (r) "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.
- (s) "S. S." (or suspended solids) shall have the same meaning as defined in the Use Ordinance.
- (t) "Shall" is mandatory; "May" is permissive.

- (u) "Service lateral sewer" shall mean the branch from the collector sewer to the residence or structure for the purpose of conveying sewage or wastewater from the property.
- (v) "Sewage" shall have the same meaning as defined in the Sewer Use Ordinance.
- (w) "Sewer Use Ordinance" shall mean a separate and companion enactment to this Ordinance 2010-OR-40, which regulates the connection to and use of public and private sewers.
- (x) "User Charge" shall mean a charge levied on users of the wastewater treatment works for the cost of operation and maintenance of such works.

Section 2. For the use of and the service rendered by said sewage works, rates, and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the City's sanitary system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewage system of the City of Jeffersonville. Such rates and charges include User Charges, 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 determinable as follows:

(a) Metered Water Users:

The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges, as the same is measured by the water meter there in use, subject to a minimum charge, except as herein otherwise provided. For the purpose of billing and collecting the charges for sewage service, the water meters shall be read periodically, either monthly or such other period as is established by the Sanitary Sewer Board. The water usage schedule on which the amount of said rates and charges shall be determined is as follows:

Effective Date	<u>Phase I</u>	<u>Phase II</u> (1/1/2012)	<u>Phase III</u> (1/1/2013)	<u>Phase IV</u> (1/1/2014)	<u>Phase V</u> (1/1/2015)
<u>All Users</u>					
<u>Metered Consumption:</u>					
<u>(Monthly Rate per 100 Cubic Feet)</u>					
First 1,000 Cubic Feet	\$6.96	\$7.63	\$8.36	\$9.16	\$10.05
Next 10,000 Cubic Feet	\$6.48	\$7.10	\$7.78	\$8.53	\$9.36
Over 11,000 Cubic Feet	\$5.98	\$6.55	\$7.18	\$7.87	\$8.63
<u>Minimum Charge Per Month*:</u>	\$24.15	\$26.48	\$29.01	\$31.79	\$34.87

*-The minimum charge shall be applied to any existing structure or building connected to the City of Jeffersonville sewer system regardless of whether it is occupied or not.

For the purpose of this Ordinance, the connection to the City of Jeffersonville sewer system shall mean the point in which a service lateral or the newly constructed collector sewer(s) is connected to an existing sanitary or combined sewer within the City of Jeffersonville Sewer System

(b) Unmetered Water Users:

For single family residential users of the sewage works that are unmetered water users or for whom accurate meter readings are not available, the monthly charge shall be determined as an average of single

family dwelling units, except as herein provided. Sewage service bills shall be rendered once each month. The rate shall be as follows:

Effective Date	Phase I	Phase II (1/1/2012)	Phase III (1/1/2013)	Phase IV (1/1/2014)	Phase V (1/1/2015)
Single family residential users	\$50.39	\$55.24	\$60.53	\$66.32	\$72.76

- (c) For the service rendered to the City of Jeffersonville, 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, the City shall charge the industrial user the fees contained in the most recent Sewer Use and Pretreatment Ordinance as adopted by the City Council.

Section 3. 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 is 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 sewage system.

- (a) 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, 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, at his expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for determining of sewage discharge.
- (b) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids in 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 not measured by a water meter or 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, as his expense, may 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 (2) or more residential lots, parcels of real estate, or building 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, a single bill shall be issued.
- (d) In the event a lot, parcel of real estate or building discharges sanitary sewage, industrial waste, water or other liquids into the City’s sanitary sewage system either directly or indirectly, and uses water in excess of five thousand (5,000) 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.

- (e) Where a metered water supply is used for fire protection as well as other uses, the City may, in its discretion, make adjustments in the minimum charge and in the use charge as may be equitable.

Section 4. In order that the rates and charges may reflect the costs of providing service rendered to users, the City shall base its charges not only on the volume, but also the 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 and by such method as the City may deem practicable in order to determine the proper charge. The user shall furnish a central sampling point available to the City at all times.

- (a) Normal domestic waste strength sewage should not exceed a BOD of 235 milligrams per liter of fluid, S.S. in excess of 240 milligrams per liter of fluid or NH₃N in excess of 15 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 S.S.

- There shall be an additional charge of 30 cents per pound of suspended solids for S.S. received in excess of 240 milligrams per liter of fluid.

- (2) Rate Surcharge Based Upon BOD

- There shall be an additional charge of 30 cents per pound of biochemical oxygen demand for BOD received in excess of 235 milligrams per liter of fluid.

- (3) Rate Surcharge Based Upon NH₃N

- There shall be an additional charge of \$1.90 per pound of ammonia for NH₃N received in excess of 15 milligrams per liter of fluid.

- (b) To determine the strength of the sewage and wastes, samplings and analyses shall be made from time to time whenever it is deemed desirable by the City. After charges have been established based upon the strength of sewage and wastes, the owner may request reconsideration for these charges by the City by submitting analyses of composite samples of the sewage and wastes subject to such charges, certified by a registered engineer or a qualified graduate chemist. The City may then adjust the charges to the Ordinance rates required by such analyses or may recheck the findings by additional samplings and analyses.

The determination of S.S., Five-day BOD and NH₃N contained in the waste shall be in accordance with the latest copy of "Standard Methods for the Examination of Water, Sewage and Industrial Wastes," as written by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation and in conformance with the most recent version of the 40 CFR Part 136.

- (c) When the normal testing of industrial wastes justified more intensive monitoring the City of Jeffersonville above and beyond the normal monitoring done by the City, the costs of the extraordinary monitoring shall be paid by the industry. This charge will be reviewed on the same basis as all other rates and charges in this Ordinance.

Section 5. 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.
- (b) The rates and charges shall be billed to the owner of each property served. Rates and charges may be billed to the tenant or tenants occupying the properties served, only when 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. The owner 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 said 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 when due 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. The time at which such rates or charges shall be paid is now fixed at seventeen (17) days after the date of mailing of the bill.

Section 6. The City shall maintain 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 conveyance system, for the construction and use of house sewers and connections to the sewage system, and for the regulation, collection, rebating and refunding of such rates and charges.

Section 7. 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 can be given effect without such invalid part or parts.

Section 8. Beginning on the effective date of this Ordinance, and continuing thereafter, prior to the issuance of a preliminary plat, final plat or building permit for any new structure or developments, a sewer Capacity Fee of three thousand three hundred dollars (\$3,300.00) per Equivalent Dwelling Unit (EDU) shall be levied against a user connecting to the City's sewage works as follows:

(a) Calculation of EDU.

1. Single Family Residence. A single family residential connection shall equal one (1) EDU.
2. Non-Residential Users. All other connections shall pay a sewer capacity fee based on the EDUs allocable to the classification of the user connecting to the sewage works. The number of EDUs shall be calculated by the Average Daily Flow (ADF) for the proposed connection as set forth in the latest standards as approved by the City of Jeffersonville Sanitary Sewer Board which provide the design and construction standards for lateral connections and sanitary sewer facilities constructed within the City of Jeffersonville Service Area or 327 IAC 3-6-11.

(b) Calculation of Sewer Capacity Fee. The sewer capacity fee shall be calculated as follows:

$$\text{Capacity Fee} = \text{Number of EDUs} \times \$3,300 \text{ per EDU.}$$

(c) Installment Payments for Proposed Multi-Structures. The Capacity Fee associated with new multi-lot or multi-structure developments within the City of Jeffersonville sewer service area may be paid in installments as follows:

(1) For proposed developments/projects in which the Person wants to reserve capacity for the entire proposed development/project, the Person shall pay one-sixth (1/6th) of the Capacity Fee attributable to the overall project or development at the time of the approval of the preliminary plat or development plan. The Person shall pay another one-sixth of the Capacity Fee upon approval of the final plat or development plan for a total of one-third (1/3rd) of the total Capacity Fee for the EDUs attributable to the final plat or development plan of the property. The City will, upon such payment, certify capacity for those EDUs included in the final plat or development plan. The Person shall pay the remaining two-thirds of the Capacity Fee at the time the building permit is applied for and issued for each lot or property contained in the final plat or development plan.

(2) For proposed developments/projects in which the Person does not want to reserve capacity, the Person shall pay one-third (1/3rd) of the total Capacity Fee for the EDUs attributable to the final plat or development plan of the property. The City will not certify capacity for any EDUs not included in the final plat but included in the preliminary plat. The Builder shall pay the remaining two-thirds of the Capacity Fee at the time the building permit is applied for and issued for the property contained in the final plat.

(d) Previously Approved Projects. Where an individual connection to the sewer system permitted prior to the effective date of this Ordinance is requested, the person requesting the connection shall pay the entire Capacity Fee at the time the connection permit is requested and the permit is issued.

(e) Existing Single Family Residential Structures. Existing single family residential structures with the City of Jeffersonville annexed areas prior to the effective date of this Ordinance that are not currently connected to the City's sewage works shall pay a capacity fee of one thousand five hundred dollars (\$1,500.00) regardless of the time the user connects to the City's sewage works.

In all cases, Capacity Fees shall be nonrefundable and shall remain with the property or improvement for which it was issued and applied.

All Capacity Fees collected after the date of passage of this Ordinance shall be placed in a separate account hereby established named Capacity Fee Fund No. 635 and shall only be used to

- (i) replace the capacity at the wastewater treatment facilities, or
- (ii) increase the capacity of the collection system serving the wastewater treatment facilities.

Section 9 Inspection Fee. In addition to the Capacity Fee, a separate sewer tap inspection fee of one hundred dollars (\$100.00) shall be levied against a user connecting to the City's sewage works. The Sewer Tap Inspection Fee shall be paid prior to making the lateral connection to the City of Jeffersonville sanitary sewer facilities as required in the Sanitary Sewer Construction Standards.

NOW THEREFORE, BE IT HEREBY FURTHER ORDAINED that the rates and charges and the Capacity Fees as herein set forth shall be before effective on the first full billing period occurring after the adoption of this Ordinance, the rates and charges for future Phases shall become effective on the dates set forth herein.


President, Common Council


Attest:


City Clerk

Presented by me as City Clerk to the Mayor of said City of Jeffersonville this 22 day of February, 2012.


City Clerk

This Ordinance approved and signed by me this 22 day of February, 2012.


Mayor