CITY OF CHARLES TOWN

ORDINANCE COMMITTEE
AGENDA • NOVEMBER 28, 2023

Committee Meeting **COUNCIL CHAMBERS** **6:00 PM**
101 E Washington Street, Charles Town, WV 25414

1. CALL TO ORDER

2. UNFINISHED BUSINESS

3. NEW BUSINESS

: **2023-1065:** Charles Town Utility Board Water Rate Equalization Option A1
10-16-23 Presentation.pdf
Ord. 2022-012 Article 925 Water Service Rates.pdf

: **2023-1066:** Charles Town Utility Board Sewer Tariff Option A Rate Equalization
Ord. 2022-003 - Article 921 Sewers.pdf

: **2023-1067:** Article 355 All Terrain Vehicles - update to reflect State Code
Article 355 - All Terrain Vehicles .docx

4. ADJOURNMENT

5. NOTICE: The Public May View the Meeting Live by Clicking on the Event Link at: https://www.charlestownwv.us/government/agendas-and-minutes/

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 11/28/23
Department: Ordinance Committee
Category: Ordinance
Initiator:

2023-1065: Charles Town Utility Board Water Rate Equalization Option A1

ATTACHMENTS:

- 10-16-23 Presentation.pdf
- Ord. 2022-012 Article 925 Water Service Rates.pdf

Charles Town
Utility Board

661 S. George Street, Suite 101 Charles Town, WV 25414
Phone: (304) 725-2316 ♦ Fax: (304) 725-7150 ♦ Web: www.ctubwv.com

October 11, 2023

City Council
City of Charles Town
101 East Washington Street
Charles Town, WV 25414

UTILITY BOARD

CHAIRMAN
City of Charles Town City Manager John Nissel

VICE CHAIRMAN
City of Ranson Mayor Duke Pierson

TREASURER
Thomas Stocks

SECRETARY
Ashley Stottlemyer

Board Member Jefferson Whitten

Board Member Heidi Parker

UTILITY MANAGER
Kristen Stoliphor

Re: Charles Town City Council
Class Cost of Service Study and Rate Adjustment Recommendation from the Charles Town Utility Board (CTUB)

Honorable Council Members:

In addition to the information provided to Council on October 2, 2023, CTUB and its consultants, Gannett Fleming and John Kunkle, hereby provide some additional documentation to support the recommendation from CTUB on the Class Cost of Service Study and the proposed water and sewer rate structures.

Page 3 of this document includes the Analysis of Debt Service Coverage prepared by John Kunkle. This document was presented at the October 2, 2023 meeting and is submitted in the packet as part of the record. It should be noted that this analysis does not include FY 2024 budgeting which does include some significant cost increases in labor, insurance, chemical and transportation costs which will effectively reduce debt service coverage ratios.

At the October 2, 2023 Council meeting there was significant discussion related to two specific items:

1) **Water Rates and Equalization between CTUB customers (6,688 customers) and the Glen Haven/Cavaland Subdivisions (121 customers total):**
    a. Page 4 of this document shows the percentage of the overall water rate increase attributed to equalizing the rates between these two customer bases. As shown, the loss in revenue from equalizing the Jefferson County rates totals $34,065, which accounts for just over 5% of the proposed increase to the rates.
    b. This calculation shows that although there is a slight impact to CTUB Water customers to achieve full equalization of rates, the majority of the rate increase is a result of increased operation and maintenance costs and necessary projects. The last Water Rate increase was made effective July 1, 2016.
2) **Race Track Contract rate:**
    a. The Race Track agreement was executed by the City of Charles Town and PNGI Charles Town Gaming, LLC. on April 8, 2002 and Amendment dated January 2004. The Agreement acknowledges partial consideration utilizing a contract rate for the Race Track based on the cessation by PNGI of operating its potable water assets and becoming a customer of Charles Town.

2) Continued – Race Track Contract rate:

a. Historically, with each Class Cost of Service Study, there have been incremental increases to the contract rate as follows:
   i. 2002 - $2.00 per 1,000 gallons
   ii. 2007 - $3.87 per 1,000 gallons
   iii. 2016 - $4.86 per 1,000 gallons
   iv. Proposed 2023 - $5.83 per 1,000 gallons
b. There are substantial economies of scale as it relates to the purchase of water and sewer. It is very common for a Utility to establish a contract rate or set rate for large volume users. Another example of this is the bulk rate in the CTUB Tariff for direct sales at the Water Plant for bulk users.
c. CTUB plans to continue steps towards equalization of the Cost of Service amongst all classes over the next 5-10 years. This has been demonstrated by CTUB with the water and sewer equalization of rates at a steady pace to ensure that no particular class experiences rate shock.
d. The 20% increase proposed to the Race Track adds an additional $31,819 in proposed revenues on an annual basis.
e. If CTUB did not have the Race Track as a user, the residential and commercial classes would see proposed rate increases of over 30%.

In summary, CTUB is proposing rate adjustments based on methodologies that are fair, equitable with the least amount of impact to each customer class. Revenue stability and predictability of the rates from unexpected or adverse changes are critical in ensuring the financial stability of the CTUB and the City. CTUB will continue steps towards equalization of the Cost of Service amongst all classes over the next 5-10 years. This will continue the trend of incremental steps towards the cost of service through rate adjustment to ensure that no particular class experiences rate shock.

Charles Town Utility Board

Analysis of Debt Service Coverage - New Rates and Projects Pro Forma

For the year ended June 30, 2023

As of October 2, 2023

	Water Department	Sewer Department	Total
Revenues	$ 6,749,624	$ 7,884,872	$ 14,634,496
Modification to Revenues:			
Interest	(43,030)	(193,657)	(236,687)
Grant Revenues	(11,080)	-	(11,080)
Gain on Sale of Assets	(14,005)	(37,159)	(51,164)
CIF & CAC Revenues	(1,295,971)	(1,208,563)	(2,504,534)
Operating Revenues	5,385,538	6,445,493	11,831,031
Expenses	4,648,592	6,706,703	11,355,295
Modifications to Expenses:			
Depreciation and amortization expense	(1,294,445)	(2,229,345)	(3,523,790)
Bond issuance costs	-	(192,863)	(192,863)
Loss on disposition of assets	-	(45,671)	(45,671)
Pension expense	-	-	-
Pension contractual payments	-	-	-
OPEB expense	-	-	-
OPEB contractual payments	-	-	-
Interest on Long Term Debt	(395,146)	(559,831)	(954,977)
Operating Expenses Net of Non-cash Items and Interest Expense	2,959,001	3,678,994	6,637,995
Operating Income Available for Debt Service	2,426,537	2,766,499	5,193,037
Debt Service Expenditures:			
Principal Payments on Bond Issues	1,045,978	1,336,726	2,382,704
Interest Payments on Bond Issues	500,482	622,353	1,122,835
Total Debt Service Expenditures - Maximum Annual	1,546,460	1,959,079	3,505,539
Operating Income Available After Bond Debt Service	$ 880,077	$ 807,420	$ 1,687,498
Debt Service Coverage Ratio	156.91%	141.21%	148.14%
Required Debt Service Coverage Ratio	115.00%	115.00%	115.00%
Amount of Coverage in Excess of 130%	$ 416,139	$ 219,697	$ 635,836

Water Projects:	
Wells/Springs	$ 1,500,000 project cost financed over 30 years at 5% interest
Force main from WTP	$ 500,000 project cost financed over 30 years at 5% interest
Total financed	$ 2,000,000 project costs and $ 500,000 transactions costs
Projected debt service	$ 162,629 per annum
% of rate increase	$ 162.629 /$ 637,542 = 25.5%
Sewer Projects:	
Full funding of R&R Project	$ 151,649 additional annual debt service.
Collection System Project	$ 88,521 debt service on $ 3,061,000 SRF borrowing
Projected debt service	$ 240,170 per annum
% of rate increase	N/A - Rate changes revenue neutral

CHARLES TOWN UTILITY BOARD - WATER

SUMMARY OF REVENUE UNDER PRESENT RATES

2022/2023

Class	Charles Town and Ranson	Jefferson County	Total
Residential	2,568,023	95,415	2,663,438
Flat Rate			-
Total Residential	2,568,023	95,415	2,663,438
Commercial	1,130,508	525	1,131,033
Race Track	159,423		159,423
Total	$ 3,857,953	$ 95,940	$ 3,953,893

2023/2024

Class	Charles Town and Ranson	Jefferson County	Total
Residential	3,030,150	61,831	3,091,981
Flat Rate			-
Total Residential	3,030,150	61,831	3,091,981
Commercial	1,308,142	44	1,308,186
Race Track	191,241		191,241
Total	$ 4,529,533	$ 61,875	$ 4,591,408
Total Increase	**$ 671,580**	**$ (34,065)**	**$ 637,515**
Total Percentage	***105.34%***	***-5.34%***	***100.00%***

CHARLES TOWN UTILITY BOARD
WATER OPERATIONS
OPTION A1 - RATE EQUALIZATION WITH 2,000 GALLON MONTHLY MINIMUM
COMPARISON OF COST OF SERVICE WITH REVENUES UNDER PRESENT AND PROPOSED RATES
FOR THE TEST YEAR ENDED JUNE 30,2024

Customer Classification	Cost of Service Amount (Schedule B)	Cost of Service Percent	Revenues, Present Rates Amount	Revenues, Present Rates Percent	Revenues, Proposed Rates Amount	Revenues, Proposed Rates Percent	Proposed Increase Amount	Proposed Increase Percent Increase
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Residential	$ 3,078,519	67.0%	$ 2,663,438	67.4%	$ 3,091,981	67.3%	$ 428,543	16.1%
Commercial	$ 1,280,466	27.9%	1,131,033	28.6%	1,308,186	28.5%	177,154	15.7%
Race Track	$ 232,569	5.1%	159,423	4.0%	191,241	4.2%	31,818	20.0%
Total Sales	4,591,554	100.0%	3,953,893	100.0%	4,591,408	100.0%	637,515	16.1%
Other Revenues	143,000		143,000		143,000		-	0.0%
Total	$ 4,734,554		$ 4,096,893		$ 4,734,408		$ 637,515	15.6%

925.01 WATER SERVICE RATES.

USE OF WATER METERS; PROVISION FOR FLAT RATE

For the payment of the proper and reasonable expense of operation, repair, replacements, improvements, additions, betterments, extension and maintenance of the water system and for the payment of the sums required to pay the principal and interest on all water revenue bonds as the same become due, there is hereby established a schedule of just and equitable rates, charges and penalties for the use of and services rendered by the municipal water system and works of the City of Charles Town, West Virginia, which schedule, based upon the metered amount of water supplied to the premises, where possible, but providing for a flat rate when no meter is available, shall be as follows:

RULES AND REGULATIONS

I. Rules and Regulations for the Government of Water Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission, are hereby adopted by reference.

SCHEDULE I

APPLICABILITY

Applicable within the entire area served except the contract rate and areas defined in Schedule II.

AVAILABILITY

Available for general domestic, commercial and industrial service.

RATES

First 10,000 gallons used per month $10.33 per 1,000 gallons

Next 30,000 gallons used per month $8.79 per 1,000 gallons

Over 40,000 gallons used per month $6.94 per 1,000 gallons

PNGI Contract Rate $4.86 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than the following amounts, according to the size of the meter installed, to-wit:

5/8 inch or 5/8 inch x 3/4 inch meter $25.83 per month

3/4 inch meter $38.74 per month

1 inch meter $64.57 per month

1 -1/2	inch meter	$129.14 per month
2	inch meter	$206.62 per month
3	inch meter	$387.42 per month
4	inch meter	$645.70 per month
6	inch meter	$1,291.40 per month

FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 3,500 gallons of water usage, $36.16 per month.

METERED SALES-OTHER

For direct sales at the Water Treatment Plant $6.94 per 1,000 gallons.

MULTIPLE OCCUPANCY

In apartment buildings, shopping centers or other multiple occupancy buildings, each unit shall be required to pay not less than the minimum monthly charge provided above.

TAP FEE

A tap fee of $500.00 will be charged to customers applying for service outside of a water system improvement project for each new tap to the system.

DISCONNECT FOR NON-PAYMENT

There shall be no disconnect charge for Charles Town Water and Sewer customers.

RECONNECTION SERVICE CHARGE

For Charles Town Water customers, water service will not be restored until all past due bills and penalties have been paid in full plus a reconnection fee of $25.00 has been paid.

DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, a ten percent (10%) charge shall be added to the net current amount unpaid. The delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

LEAK ADJUSTMENT

In accordance with the approved CTUB Leak Adjustment Policy, as well as the Public Service Commission of West Virginia (the "PSC") Title 150 Legislative Rule Series 7 Rules for the Government of Water Utilities (the "Water Rules"), CTUB will make a leak adjustment only when the water usage being adjusted is in excess of 200% of the customer's historical usage that can be attributed to leakage on the customer's side of the point of service. The leak adjustment will be computed pursuant to applicable rules of the

Public Service Commission, the leak adjustment rate of $0.42 per thousand gallons and the customer's historic usage.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the water utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

SECURITY DEPOSIT

Each new customer shall make a security deposit of $50.00 which shall be refunded per West Virginia Regulation.

SCHEDULE II

APPLICABILITY

Applicable to the Glen Haven and Cavaland subdivisions formerly served by Jefferson County Public Service District.

AVAILABILITY

Available for general domestic, commercial, and industrial service.

RATES

First 5,000 gallons used per month $18.84 per 1,000 gallons used

All over 5,000 gallons used per month $17.64 per 1,000 gallons used

MINIMUM CHARGE

No bill will be rendered for less than the following amount, according to the size of the meter installed:

5/8 inch meter (based on 2,500 gallons usage) $47.10 per month

TAP FEE

A tap fee of $500.00 will be charged to customers applying for service outside of a water system improvement project for each new tap to the system.

SERVICE CHARGE

For Charles Town Water customers, water service will not be restored until all past due bills and penalties have been paid in full plus a reconnection fee of $25.00 has been paid.

DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, a ten percent (10%) charge shall be added to the net current amount unpaid. The delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

LEAK ADJUSTMENT

In accordance with the approved CTUB Leak Adjustment Policy, as well as the Public Service Commission of West Virginia (the "PSC") Title 150 Legislative Rule Series 7 Rules for the Government of Water Utilities (the "Water Rules"), CTUB will make a leak adjustment only when the water usage being adjusted is in excess of 200% of the customer's historical usage that can be attributed to leakage on the customer's side of the point of service. The leak adjustment will be computed pursuant to applicable rules of the Public Service Commission, the leak adjustment rate of $0.42 per thousand gallons and the customer's historic usage.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the water utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

SECURITY DEPOSIT

Each new customer shall make a security deposit of $50.00 which shall be refunded per West Virginia Regulation.

SCHEDULE III

CAPACITY IMPROVEMENT FEE

APPLICABILITY

Applicable to the entire service area and due and payable for each customer connection requiring new or additional flow from the water distribution system and treatment facility. Effective for service connection proposed on or after the date of enactment.

For all new service proposed to be connected to the Utility, there shall be paid to the Utility Board a Capacity Improvement Fee of $4,399.00 for each residential connection or non- residential connection requiring new or additional flow from the water distribution system and treatment facility. The Capacity Improvement Fee will be paid at the time of building permit application and a receipt from CTUB will be issued to the customer for the fees assessed. Connections shall be paid in accordance with the usage equivalent schedule set forth below.

USAGE EQUIVALENTS FOR MULTIPLE RESIDENTIAL OR NON-RESIDENTIAL CAPACITY IMPROVEMENT FEE

UNIT	WATER GALLONS/DAY	RESIDENTIAL USAGE EQUIVALENT
Single Family Unit	150	1.0
Apartments	150/unit	1.0/unit
Bowling Alleys	200/alley	1.33/alley
Churches with kitchen	8/member	0.05/member
Churches w/o kitchen	2/member	0.013/member
Food Service	32/seat	0.213/seat
Fast Food Restaurant	35/seat	0.23/seat
Bar & Cocktail Lounge (additive)	2/patron	0.013/patron
Tavern-Little or no food	20/seat	0.132/per seat
Hotel	120/room	0.8/per room
Industry, sanitary	15/person/shift	0.1/person per shift
Institutions:		
Hospital	250/bed	1.67/bed
Nursing Homes	150/bed	1.0/bed
Others	75/person	0.5/person
Office Buildings	15/person	0.1/person
Laundry Self Service	250/washer	1.67/washer
Motels	120/room	0.8/room
Retail Stores	400/toilet room	2.67/toilet room
Residence	150/residence	1.0/residence
School:		
Day, no cafeteria/showers	15/pupil	0.1/pupil
Day with cafeteria	18/pupil	0.12/pupil
Day with cafeteria/showers	20/pupil	0.133/pupil
Boarding	75/pupil	0.5/pupil
Service Station	500/set of pumps	3.33/set of pumps
Shopping Centers	16/100 ft. of sales area	0.12/100 ft. of sales area
Swimming Pools	10/swimmer design capacity	0.067/swimmer design capacity
Capacity Theaters	3/seat	0.02/seat
Warehouse	15/employee	0.1/employee

If a unit does not appear on this schedule, the Charles Town Utility Board shall determine its Residential Usage Equivalent in consultation with its consulting engineer. Where actual consumption history can demonstrate a change in the Equivalent, the Charles Town Utility Board may consider an equivalent reduction.

First Reading: November 7, 2022

Passed on Second Reading: December 5, 2022

Enacted: 5th the day of December, 2022

City of Charles Town

Attest:

Robert M. Trainor
Mayor

John Barkley
City Clerk

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 11/28/23
Department: Ordinance Committee
Category: Ordinance
Initiator:

2023-1066: Charles Town Utility Board Sewer Tariff Option A Rate Equalization

ATTACHMENTS:
- Ord. 2022-003 - Article 921 Sewers.pdf

AMENDMENT TO THE CODIFIED ORDINANCES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES & PUBLIC SERVICES, ARTICLE 921 SEWERS

BE IT ORDAINED by the City Council of the City of Charles Town as follows:

That Article 921.18, Sewer Service Rates be AMENDED as follows:

a) Establishment. For the payment of the proper and reasonable expense of operation, repair, replacement, improvements, additions, betterments, extensions, and maintenance of the sewer system and for the payment of the sums required to pay the principal and interest of all sewer revenue bonds as the same become due, there is hereby established a schedule of just and equitable rates or charges for the use of and services rendered by the sanitary sewer system and works of the Charles Town Utility Board, a West Virginia public utility and a municipal corporation of the City of Charles Town, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied the premises, where possible, but providing for a flat rate when no meter is available, shall be as follows.

(b) Rules and Regulations. Rules and Regulations for the government of sewerage utilities adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by the Commission are hereby adopted by reference.

Article 921.18 SCHEDULE OF RATES

SCHEDULE I

APPLICABILITY

Applicable within the entire territory formally served by the Charles Town Utility Board or the City of Ranson, including the municipalities of Charles Town and Ranson. Effective for service rendered on or after the date of enactment.

AVAILABILITY

Available for general domestic, commercial and industrial service and sale for resale sewer service.

RATES (Customers with a metered water supply)

First	2,000 gallons used per month	$14.79 per	1,000 gallons
Next	8,000 gallons used per month	$10.64 per	1,000 gallons
All over	10,000 gallons used per month	$ 9.67 per	1,000 gallons

MINIMUM CHARGE

No bill shall be rendered for less than $29.58 per month, which is the equivalent of 2,000 gallons. Where sewer service is available by gravity flow and the customer has not connected to public sewer, the customer shall pay this minimum charge.

FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 3,500 gallons of water usage, $45.54 per month.

MULTIPLE OCCUPANCY

In apartment buildings, trailer parks, shopping centers or other multiple occupancy buildings or properties served by a master water meter, each discrete dwelling or business unit shall be required to pay not less than the minimum monthly charge provided herein.

DELAYED PAYMENT PENALTY

The above scheduled is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

A tap fee of $400.00 will be charged to customers applying for service outside of a sewerage system improvement project for each new tap to the system.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

LEAK ADJUSTMENT In accordance with the approved CTUB Leak Adjustment Policy, as well as the Public Service Commission of West Virginia (the "PSC") Title 150 Legislative Rule *Series 7 Rules for the Government of Water Utilities* (the "*Water Rules*") and *Series 5 Rules for the Government of Sewer* (the "*Sewer Rules*"), CTUB will make a leak adjustment only when the water usage being adjusted is in excess of 200% of the customer's historical usage that can be attributed to leakage on the customer's side of the point of service. The leak adjustment will be computed pursuant to applicable rules of the Public Service Commission, the leak adjustment rate (incremental cost of water and/or wastewater) and the customer's historic usage.

SECURITY DEPOSIT

Each new customer shall make a security deposit of $75.00 which shall be refunded per West Virginia regulation.

EXCESS POLLUTION SURCHARGE

A surcharge to recover extraordinary costs is levied upon customer discharges placing extraordinary demand upon treatment facilities, as measured by waste stream parameters of biochemical oxygen demand (BOD) and/or suspended solids in the wastewater. Users discharging any water or wastes with a zero-day average BOD in excess of 300 milligrams per liter or a 30-day average suspended solids content in excess of 300 milligrams per liter or containing suspended solids with a character or quantity of pollutant requiring unusual attention or expense to handle or treat, shall pay, in addition to the base monthly sewer user charges, an additional surcharge (Cs) as determined by the following formula:

$$Cs = Bc\ (B) + Sc\ (S) + Pc\ (P)Vu$$

B = Concentration of B.O.D. from a user above a base level (300 mg/l)
Bc = 0 & M cost of treatment of unit of biochemical oxygen demand (B.O.D.)
S = Concentration of suspended solids from a user above a base level (300mg/l)
Sc = 0 & M costs for treatment of a unit of suspended solids
Pc = 0 & M cost for treatment of a unit of any pollutant
P = Concentration of any pollutant from a user above a base level
Vu = Volume contribution from a user per unit of time.

SCHEDULE II

APPLICABILITY

Applicable within the territory formerly served by Jefferson County Public Service District. Effective for service rendered on or after the date of enactment.

AVAILABILITY

Available for general domestic, commercial, and industrial service.

RATES (customers with a metered water supply)

First	2,000 gallons used per month	$15.36	per 1,000 gallons
Next	8,000 gallons used per month	$14.29	per 1,000 gallons
Over	10,000 gallons used per month	$13.98	per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than $30.72 per month which is equivalent to 2,000 gallons per month. Where sewer service is available by gravity flow and the customer has not connected to public sewer, the customer shall pay this minimum charge.

FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 3,500 gallons of water usage, $52.16 per month

MULTIPLE OCCUPANCY

In apartment buildings, trailer parks, shopping centers or other multiple occupancy buildings or properties served by a master water meter, each discrete dwelling or business unit shall be required to pay not less than the minimum monthly charge provided herein.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

A tap fee of $400.00 will be charged to customers applying for service outside of a sewerage system improvement project for each new tap to the system.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

LEAK ADJUSTMENT

In accordance with the approved CTUB Leak Adjustment Policy, as well as the Public Service Commission of West Virginia (the "PSC") Title 150 Legislative Rule *Series 7 Rules for the Government of Water Utilities* (the "*Water Rules*") and *Series 5 Rules for the Government of Sewer* (the "*Sewer Rules*"), CTUB will make a leak adjustment only when the water usage being adjusted is in excess of 200% of the customer's historical usage that can be attributed to leakage on the customer's side of the point of service. The leak adjustment will be computed pursuant to applicable rules of the Public Service Commission, the leak adjustment rate (incremental cost of water and/or wastewater) and the customer's historic usage.

SECURITY DEPOSIT

Each new customer shall make a security deposit of $75.00 which shall be refunded per West Virginia regulation.

EXCESS POLLUTION SURCHARGE

A surcharge to recover extraordinary costs is levied upon customer discharges placing extraordinary demand upon treatment facilities, as measured by waste stream parameters of biochemical oxygen demand (BOD) and/or suspended solids in the wastewater. Users discharging any water or wastes with a zero-day average B.O.D. in excess of 300 milligrams per liter or a 30-day average suspended solids content in excess of 300 milligrams per liter or containing suspended solids with a character or quantity of pollutant requiring unusual attention or expense to handle or treat, shall pay, in addition to the base monthly sewer user charges, an additional surcharge (Cs) as determined by the following formula:

$$Cs = Bc\ (B) + Sc\ (S) + Pc\ (P)Vu$$

B = Concentration of B.O.D. from a user above a base level (300 mg/l)
Bc = 0 & M cost of treatment of unit of biochemical oxygen demand (B.O.D.)
S = Concentration of suspended solids from a user above a base level (300mg/l)
Sc = 0 & M costs for treatment of a unit of suspended solids
Pc = 0 & M cost for treatment of a unit of any pollutant
P = Concentration of any pollutant from a user above a base level
Vu = Volume contribution from a user per unit of time.

SCHEDULE III
CAPACITY IMPROVEMENT FEES

APPLICABILITY

Applicable to the entire service area and due and payable for each customer connection adding new flows into the sewer collection system and treatment facility. Effective for service connections proposed on or after the date of enactment.

CAPACITY IMPROVEMENT FEE

For all new service proposed to be connected to the Utility, there shall be paid to the Utility Board a Capacity Improvement Fee of $2,930 for each residential connection or non-residential connection adding new flows into the sewer collection system and treatment facility. The Capacity Improvement Fee will be paid at the time of building permit application and a receipt from CTUB will issued to the customer for the fees assessed. Connections shall be paid in accordance with the usage equivalent schedule set forth below.

ADDITIONAL CAPACITY IMPROVEMENT FEE – FLOWING SPRINGS PUMP STATION

Pursuant to the Flowing Springs Pump Station Repayment Agreement, customers in the Flowing Springs Development District connecting to the Flowing Springs Pump Station shall be charged an additional Capacity Improvement Fee of $1,625.00 for each residential or non-residential connection. Connections for non-residential use shall be paid in accordance with a residential usage equivalent schedule set forth hereinafter.

USAGE EQUIVALENTS FOR MULTIPLE RESIDENTIAL OR NON-RESIDENTIAL CAPACITY IMPACT FEES

Capacity impact fees for multi-residential and non-residential structures adding new flows to the sewer collection system and treatment facility shall be based upon the following:

UNIT	WATER GALLONS/DAY	RESIDENTIAL USAGE EQUIVALENT
Apartments	150/unit	1.0/unit
Bowling Alleys	200/alley	1.33/alley
Churches with kitchen	8/member	0.05/member
Churches w/o kitchen	2/member	0.013/member
Food Service	32/seat	0.213/seat
Fast Food Restaurant	35/seat	0.23/seat
Bar & Cocktail Lounge (additive)	2/patron	0.013/patron
Tavern-Little or no food	20/seat	0.132/per seat
Hotel	120/room	0.8/per room
Industry, sanitary	15/person/shift	0.1/person per shift
Institutions:		
Hospital	250/bed	1.67/bed
Nursing Homes	150/bed	1.0/bed
Others	75/person	0.5/person
Office Buildings	15/person	0.1/person
Laundry Self Service	250/washer	1.67/washer
Motels	120/room	0.8/room
Retail Stores	400/toilet room	2.67/toilet room
Residence	150/residence	1.0/residence
School:		
Day, no cafeteria/showers	15/pupil	0.1/pupil
Day with cafeteria	18/pupil	0.12/pupil
Day with cafeteria/showers	20/pupil	0.133/pupil
Boarding	75/pupil	0.5/pupil
Service Station	500/set of pumps	3.33/set of pumps
Shopping Centers	16/100 ft. of sales area	0.12/100 ft. of sales area
Swimming Pools	10/swimmer design capacity	0.067/swimmer design capacity
Capacity Theaters	3/seat	0.02/seat
Warehouse	15/employee	0.1/employee

If a unit does not appear on this schedule the sewer department shall determine its Residential Usage Equivalent in consultation with its consulting engineer.

EFFECTIVE DATE

The rates, charges and penalties provided herein shall become effective immediately after enactment.

SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof shall be held void or unenforceable by the West Virginia Public Service Commission or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall cause to be published a copy of this Ordinance once a week for two (2) successive weeks within a period of fourteen (14) consecutive days, with at least six (6) days between each publication, in the *Spirit of Jefferson and Farmer's Advocate* and ~~*The Shepherdstown Chronicle*~~, being two qualified newspapers of general circulation in the City of Charles Town, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council Chambers, Charles Town, West Virginia, on APRIL 4 2022, at 7 p.m., which date is not less than 10 days after the date of the first publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, Charles Town, West Virginia.

Passed on First Reading: MARCH 21 2022

Passed on Second Reading
(following Public Hearing): APRIL 4 2022

BY: Robert M Travis
MAYOR

CERTIFICATION AND NOTICE

I hereby certify that the foregoing is a true and accurate copy of an Ordinance which has been introduced and adopted on first reading at a meeting of the City Council of the City of Charles Town held on MARCH 21, 2022, pursuant to proper notice, at which meeting a quorum was present and acting throughout. Any person interested may appear before the City Council of the City of Charles Town at the City Hall, 101 E. Washington Street, Charles Town, West Virginia, on APRIL 4 2022 at 7 p.m., being the date, time and place of the proposed final adoption of this Ordinance, and be heard. The Council will then take such action as it shall deem proper in the premises. The proposed ordinance may be inspected by the public at the Office of the Clerk in the City Hall, Charles Town, West Virginia during regular office hours.

BY: _____
CITY CLERK

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 11/28/23
Department: Ordinance Committee
Category: Ordinance
Initiator:

2023-1067: Article 355 All Terrain Vehicles - update to reflect State Code

ATTACHMENTS:
- Article 355 - All Terrain Vehicles .docx

ARTICLE 355
All-Terrain Vehicles

355.01 Definition of all-terrain vehicle.

355.02 Acts prohibited by operator.

355.03 Safety awareness courses.

355.04 Rental dealers required to provide safety equipment.

355.05 Private property exemption.

355.06 Exemption for farm, commercial use; current regulations.

355.07 Applicability of rules of operation.

355.99 Penalty.

CROSS REFERENCES

State law provisions - see W. Va. Code Art. 17F-1

355.01 DEFINITION OF ALL-TERRAIN VEHICLE.

(a) As used in this article:

(1) "All-terrain vehicle" or "ATV" means any motor vehicle, designed for off- highway use and designed to travel on not less than three low-pressure tires, having a seat or saddle designed to be straddled by the operator and handlebars for steering control and intended by the manufacturer to be used by a single operator or by an operator and no more than one passenger.

(2) "Utility terrain vehicle" means any motor vehicle with four or more low- pressure tires designed for off-highway use having bench or bucket seating for each occupant and a steering wheel for control.

(3) "Motorcycle" means any motor vehicle manufactured with no more than two wheels and having a seat or a saddle for the use of the operator.

(b) As used in this article, "all-terrain vehicles" and "vehicle", or the plural, mean all-terrain vehicles, utility-terrain vehicles and motorcycles.

(WVaC 17F-1-9)

355.02 ACTS PROHIBITED BY OPERATOR.

(a) No all-terrain vehicle may be operated in this Municipality:

(1) On any interstate highway except by public safety personnel responding to emergencies;

(2) On any road or highway with a center line or more than two lanes except for the purpose of crossing the road, street or highway, if:

A. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

B. The vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;

C. The operator yields his or her right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and

D. Both the headlight and taillight are illuminated when the crossing is made if the vehicle is so equipped;

(3) With more than one passenger unless more passengers are allowed under manufacturers' recommendations;

(4) With a passenger under the age of eighteen, unless the operator has at a minimum a level of two intermediate driver's license or its equivalent or is eighteen years of age or older;

(5) Unless riders under the age of eighteen are wearing size appropriate protective helmets that meet the current performance specifications established by the American National Standards Institute Standard z 90.1, the United States Department of Transportation Federal Motor Vehicle Safety Standard No. 218 or Snell safety standards for protective headgear for vehicle users;

(6) Anytime from sunset to sunrise without an illuminated headlight or lights and taillights;

(7) Without a manufacturer-installed or equivalent spark arrester and a manufacturer-installed or equivalent muffler in proper working order and properly connected to the vehicle's exhaust system; or

(8) Unless operating in compliance with the provisions of Section 355.03 .

(b) An all-terrain vehicle may be operated upon the shoulder, or as far to the right on the pavement as possible when there is not enough shoulder to safely operate, on any road, street or highway referred to in subsection (a)(2) of this section other than an interstate highway for a distance not to exceed ten miles to travel between a residence or lodging and off-road trails, fields and areas of operation, including stops for food, fuel, supplies and restrooms, if:

(1) The vehicle is operated at speeds of twenty-five miles per hour or less; and

(2) The vehicle is operated at any time from sunset to sunrise the all-terrain vehicle must be equipped with headlights and taillights which must be illuminated.

(c) Operation of an all-terrain vehicle in accordance with subsection (b) shall not constitute operation of a motor vehicle on a road or highway of this Municipality as contemplated by the provisions of Section 355.07 .

(d) Notwithstanding any provision of this article to the contrary, the Municipality may authorize the operation of all-terrain vehicles on certain specified roads, streets or highways which are marked with centerline pavement markings, other than interstate highways, to allow participation in parades, exhibitions and other special events, in emergencies or for specified purposes.

(WVaC 17F-1-1)

355.03 SAFETY AWARENESS COURSES.

(a) On and after January 1, 2005, no person under the age of eighteen may operate an all-terrain vehicle without a certificate of completion of a vehicle rider awareness course as offered or approved by the Commissioner of Motor Vehicles.

(b) The provisions of subsection (a) of this section do not apply to the operation of an all-terrain vehicle on any private or public recreational trail or area or affiliated trail or area operated by any person or entity which has in place a safety program.

(WVaC 17F-1-2)

355.04 RENTAL DEALERS REQUIRED TO PROVIDE SAFETY EQUIPMENT.

Any person or entity renting or leasing all-terrain vehicles for recreational purposes must provide protective helmets as defined by the provisions of Section 355.02(a)(5), to all persons using such vehicles who are under the age of eighteen and offer protective helmets to all persons eighteen and older using the rented or leased vehicles: Provided, that for the provisions of this section to be applicable, the age and identity of the users of the all-terrain vehicle must be disclosed to the person or entity providing the rented or leased vehicle.

(WVaC 17F-1-4)

355.05 PRIVATE PROPERTY EXEMPTION.

Except as provided by the provisions of Section 355.02(a)(3) to (5), and except as provided by the provisions of Section 355.03, the provisions of this article do not apply if

the all-terrain vehicle is operated exclusively on lands owned or leased by the vehicle owner or on private lands of others with the owner's permission.

(WVaC 17F-1-5)

355.06 EXEMPTION FOR FARM, COMMERCIAL USE; CURRENT REGULATIONS.

(a) Except as provided by the provisions of Section 355.02(a)(4) and (5), nothing in this article may be construed to preclude or limit the use or operation of all-terrain vehicles for lawful nonrecreational commercial purposes, including, but not limited to, farm use, oil and gas operations, timbering, surveying and public utilities access.

(b) Nothing in this article may be construed to supersede or contravene the provisions of any agreement between the State of West Virginia and any private or governmental entity entered into prior to the effective date of this article, or any lawfully promulgated legislative rule, including any emergency legislative rule, regulating the operation of all-terrain vehicles.

(WVaC 17F-1-6)

355.07 APPLICABILITY OF RULES OF OPERATION.

(a) Every person operating an all-terrain vehicle upon a public road or highway of this Municipality shall be subject to all of the duties applicable to the driver of a vehicle by the provisions of West Virginia Code Chapter 17C and this Traffic Code except where inconsistent with the provisions of this article and except as to those provisions of West Virginia Code Chapter17C and this Traffic Code which by their nature can have no application.

(b) Notwithstanding the provisions of subsection (a) of this section, a motor vehicle operator's license is not required of an operator of an all-terrain vehicle when he or she is operating said vehicle in conformity with the provisions of Section 355.02(a)(2) or (b) except when the operator is under the age of eighteen and is transporting a passenger under the age of eighteen.

(WVaC 17F-1-7)

355.99 PENALTY.

(a) Except as provided in the provisions of subsection (b) of this section and in addition to any other legal remedy for violation of civil or criminal provisions of this Code, any person who violates the provisions of this article or who owns or has control over an all-terrain vehicle and knowingly permits it to be used in violation of the provisions of this article shall be fined not more than one hundred dollars ($100.00).

(b) Any parent, legal guardian or person who has actual responsibility for a child under eighteen years of age who knows or should have known the child is operating or is a passenger on an all-terrain vehicle without a helmet as required by the provisions of Section 355.02 shall be subject to the following penalties:

(1) For a first offense, a fine of not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00) or not more than ten hours of community service, or both;

(2) For a second offense, a fine of not less than one hundred dollars ($100.00) nor more than two hundred dollars ($200.00) or not more than twenty hours of community service, or both;

(3) For a third or subsequent offense, a fine of not less than two hundred dollars ($200.00) nor more than five hundred dollars ($500.00) or not more than one hundred hours of community service, or both.

(WVaC 17F-1-8)