CHAPTER THREE - Utilities

Art. 933. Sewer Regulations and Rates.
Art. 937. Garbage and Refuse Collection.

ARTICLE 933
Sewer Regulations and Rates

933.01 Definitions.
933.02 Discharge of sanitary sewage to sanitary sewerage system required.
933.03 Exclusion of storm water runoff.
933.04 Prohibited wastes.
933.05 Sewer service schedule of rates.
933.06 Liens and penalties for failure to pay within specified times.
933.07 Regulation by Sanitary Board.
933.08 Sewer service charges paid by City.
933.09 Billing and collection of service charge.
933.10 Creation of sinking fund.
933.99 Penalty.

CROSS REFERENCES

Power to regulate utility systems - see W. Va. Code 8-12-5(32)
Power to collect charges - see W. Va. Code 8-123-5(32), 16-13-16
Sewer connections - see W. Va. Code 8-18-22
Review by Public Service commission - see W. Va. Code 24-2-4(b)
Deposit limitations - see W. Va. Code 24-3-8
Sanitary Board - see ADM. Art. 147
Authority to establish and maintain a sewage system - see W. Va. Code Art. 16-13A

933.01 DEFINITIONS.

Unless the context specifically indicates otherwise, the meaning of the terms used in this article shall be as follows:

(a) "Sewage" shall mean a combination of water-carried wastes from residences. business buildings, institutions and industrial establishments, together with such ground, surface or storm water as may be present.

(b) "Sanitary sewage" shall mean the normal water-carried household and toilet wastes from residences, business buildings, institutions, industries and commercial establishments, exclusive of storm water runoff, surface water or ground water.

(c) "Garbage" shall mean solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

(d) "Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of food that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, where no particle is greater than one-half inch in any dimension.

(e) "Storm water runoff" shall mean that portion of the rainfall which reaches a drain.

(f) "Sewer" shall mean a pipe or conduit for carrying sewage or other waste liquids.

(g) "Combined sewer" shall mean a sewer designated to receive both sewage and storm water runoff.

(h) "Sanitary sewer" shall mean a sewer which carries sewage to which storm, surface and ground waters are not intentionally admitted.

(i) "Storm sewer" shall mean a sewer which is intended to carry storm water runoff, surface water, ground water drainage, etc., but which is not intended to carry any sanitary sewage or polluted industrial waste.

(j) " Public sanitary sewerage system" shall mean all separate sanitary sewers, all combined sewers, all sewage pumping stations, all sewage treatment works, and other facilities provided and owned by the City of Chesapeake for the collection, transportation and treatment of sanitary sewage and industrial wastes, with their appurtenances and any additions, extensions or improvements thereto that may be made by the City. It shall also include sewers within or outside the City limits which serve one or more persons and discharge into the City sanitary sewerage system even though those sewers may not have been constructed by City funds. It does not include separate storm sewers or culverts which have been constructed for the sole purpose of carrying storm and surface runoff, the discharge from which is not and does not become tributary to the City's sewage treatment facilities.

(k) "Occupied building" shall mean any structure erected and intended for continuous or periodic habitation, occupancy or use by human beings or animals, and from which structure sanitary sewage and industrial wastes, or either thereof, are or may be discharged.

(l) "Premises accessible to the sanitary sewerage system" shall mean any real estate which adjoins, abuts or is adjacent to the public sanitary sewerage system, or any real estate which might be connected to that system by construction of a private sewer of not more than one hundred feet in length.

(m) "Shall" is mandatory; "may" is permissive.

(n) "Domestic user" shall mean each family unit which uses the sewerage system of the City; such family unit may consist of one or more persons, and where there is more than one family unit using water from the same water meter or under the same roof, each family unit shall be considered a separate domestic user.

(o) "Commercial user" shall mean a user of the City sewerage system in a location where a trade, business, profession or occupation is carried on or where a service is rendered.

(p) "Public user" shall mean a user of the City sewerage system by governmental, educational, church, charitable, benevolent, civic, service or like units or organizations.

(q) "Industrial user" shall mean a user of City sewerage system as factories and like organizations where more than twenty-five persons are employed.

(r) "Person" shall include firms and corporations. (1963 Code 9-73-1)

933.02 DISCHARGE OF SANITARY SEWAGE TO SANITARY SEWERAGE SYSTEM REQUIRED.

(a) All persons owning any occupied building now erected within the City upon premises accessible to the public sanitary sewerage system shall, if not already connected, at their own expense make connection with the sanitary sewerage system within three months after the effective date of this article.

(b) All persons owning any premises within the City accessible to the public sanitary sewerage system upon which a building is hereafter erected shall, at the time of erection of such building and at their own expense, make the connection with the public sanitary sewerage system.

(c) All persons owning any occupied building within the City upon premises which hereafter become accessible to the public sanitary sewerage system shall, at their own expense, make the connection with the public sanitary sewerage system within three months after notice to do so from the Sanitary Board or its authorized representative.

(d) No person owning any occupied building within the City on premises accessible to the public sewerage system shall erect, construct, use or maintain, or cause to be erected, used or maintained, any privy, cesspool, sinkhole, septic tank or other receptacle on such premises for receiving sanitary sewage.

(e) Any person who erects, constructs or maintains a privy, cesspool, sinkhole, septic tank or other receptacle for receiving sanitary sewage on any property within the City or accessible to the public sewerage system in violation of this article, shall be punished as provided in Section 933.99. (1963 Code 9-73-2)

933.03 EXCLUSION OF STORM WATER RUNOFF.

(a) The discharge of storm water runoff to separate sanitary sewers is prohibited, and persons presently discharging storm water runoff to separate sanitary sewers shall cease and desist such practice within three months after the effective date of this article.

(b) All persons connecting to the public sanitary sewerage system shall provide adequate means for excluding storm water runoff in the event connection is made to separate sanitary sewers.

(c) The provisions of this article do not prohibit the present or future discharge of storm water runoff to combined sewers.

(d) No person shall permit storm water runoff to be discharged into separate sanitary sewers of the City. However, nothing in this article shall be construed to require persons, now directing storm water runoff into a combined sewer that they now use for sanitation, to comply therewith until such time as separate storm sewers are provided.

(e) Any person violating any provisions of this section shall be punished as provided in Section 933.99. (1963 Code 9-73-3)

933.04 PROHIBITED WASTES.

The discharge of garbage to the public sanitary sewerage system is expressly prohibited unless such garbage is first properly shredded.

Except as hereinafter provided, no person shall discharge any industrial waste having any of the following:

(a) Wastes containing liquids, solids or gases which by reason of their nature or quality may cause fire, explosion or be in any other way injurious to persons, the structures or the sewerage system or its operation.

(b) Wastes having a temperature in excess of 160 degrees Fahrenheit or less than thirty-two degrees Fahrenheit.

(c) Wastes having any corrosive property capable of causing damage or hazards to structures, equipment or personnel of the public sanitary sewerage system.

(d) Any noxious or malodorous gas or substance which either singly or by interaction with sewage or other wastes is, in the opinion of the Sanitary Board, likely to create a public nuisance or hazard to life, or prevent entry to sewers for their maintenance and repair.

(e) Solids, greases, lime slurry or viscous materials of such character or in such quantity that, in the opinion of the Sanitary Board, they may cause an obstruction to the flow in sewers or otherwise interfere with the proper operation of the public sanitary sewerage system.

(f) Any toxic radioactive isotopes without a special permit.

No provision contained in this section shall be construed as prohibiting any special agreement or arrangement to be entered into between the Sanitary Board and any person whereby any industrial waste of unusual strength or character may be admitted to the public sanitary sewerage system either before or after pretreatment by the producer of such industrial waste.

Any person violating any of the provisions of this article shall be punished as provided in Section 933.99. (1963 Code 9-73-4)

933.05 SEWER SERVICE SCHEDULE OF RATES.

(a) There is hereby levied and assessed against all owners, tenants or occupants of each and every lot or parcel of real estate or building having any active connection with the public sanitary sewage system, or otherwise discharging sewage, industrial wastes, water or other liquids, either directly or indirectly into the system, or any part thereof, a service charge payable as hereinafter provided and in the amount hereinafter provided.

(b) The service charge for any owner, tenant or occupant of each and every lot or parcel of real estate or building, situated within or outside the corporate limits of the City, having any connection with the public sanitary sewage system and discharging sewage, industrial wastes, water or other liquids into the system, shall be according to the following schedules:

SCHEDULES OF RATE AND CHARGES FOR SANITARY SEWER SERVICE

RATE SCHEDULE NO. 1
Applicable within the corporate limits of the
City of Chesapeake, West Virginia

APPLICABILITY OF SERVICE:

Available for general domestic, commercial and industrial sanitary sewer service.

RATE:

Gallons per Month		Rate per Thousand Gallons
First	2,000	$6.31
Next	3,000	3.32
Next	10,000	2.32
All over	15,000	1.49

MINIMUM CHARGE:
The above schedule is subject to a minimum monthly charge of twelve dollars and sixty two cents ($12.62).

MULTIPLE OCCUPANCY:
On apartment buildings or other multiple occupancy buildings, each unit shall be required to pay not less than the above minimum charge.

DELAYED PAYMENT CHARGE:
The above schedule is net. On all accounts not paid in full within ten days of date of bill, ten percent will be added to the net amount shown.

SERVICE CONNECTION:
Tap inspection fee, new installation $80.00

RATE SCHEDULE NO. 2
Applicable in territory outside the
corporate limits of the City of
Chesapeake, West Virginia

AVAILABILITY OF SERVICE:
Available for general domestic, commercial and industrial sewer service.

RATE:

	Gallons per Month	Rate per Thousand Gallons
First	2,000	$6.97
Next	3,000	3.98
Next	10,000	2.82
All over	15,000	1.83

old Rates

MINIMUM CHARGE:
The above schedule is subject to a m nd
ninety four cents ($13.94)

MULTIPLE OCCUPANCY:
On apartment buildings or other mu be
required to pay not less than the above min

See New rates →

DELAYED PAYMENT CHARGE:
The above schedule is net. On all ac of
bill, ten percent will be added to the net am

SERVICE CONNECTION:
Tap inspection fee, new installation

WATER DISCONNECT -- RECONNECT

(c) Whenever water service has been di a
disconnection fee of $20.00 shall be charged.
Whenever water service which has been previously disconnected or otherwise withheld for nonpayment of sewer bills is reconnected, a fee of $20.00 shall be charged.

(d) Each owner, tenant or occupant of each and every lot or parcel of real estate or building shall be considered a separate billing unit in applying the above rates.
(Ord. 94-1. Passed 9-12-94.)

933.06 LIENS AND PENALTIES FOR FAILURE TO PAY WITHIN SPECIFIED TIMES.

Each sewer service charge or surcharge levied by this article shall be a debt due the City. If any service rate or charge so established shall not be paid within thirty days after it shall be due and payable, the amount thereof, together with a penalty of ten percent and a reasonable attorney fee, may be recovered by the Sanitary Board in a civil action in the name of the City. All rates or charges levied by this article, if not paid when due, shall constitute a lien upon the premises served by the system.

In the event of failure to pay the sewer service charge or surcharge after such becomes delinquent, the Sanitary Board may be authorized to remove or close the sewer connection and shall have the right to enter upon the property of the user of the service for such purpose and to take such steps as may be necessary to accomplish such removal or closing, and the cost of such removal or closing, as well as the expense of restoring any such service, shall likewise be a debt due the City and may be recovered by the City by civil action in the name of the City. Such sewer service shall not again be turned on, nor the sewer connection restored, until all service charges, including the expense of removal, closing and restoration shall have been paid. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties. (1963 Code 9-73-6)

933.07 REGULATION BY SANITARY BOARD.

In addition to the specific authority granted by this article, the Sanitary Board shall make and enforce such other rules and regulations subject to the approval of Council for the safe, economical and efficient management, control and protection of the public sewerage system, for the construction and use of all other connections thereto, and for the regulation, collection, rebating and refunding of such sewer service charges as may be needful or necessary from time to time. However, such rules and regulations shall not become effective until the same have been approved by Council by ordinance or resolution and spread upon the records of the Council, as notice to the public of the provisions of such rules and regulations.

No person shall violate any of the rules or regulations made and promulgated by the Sanitary Board as aforesaid. Any person, on conviction of any such violation, shall be punished as provided in Section 933.99. (1963 Code 9-73-7)

933.08 SEWER SERVICE CHARGES PAID BY CITY.

There shall be no free service rendered by the system, and if the City or any department, agency or instrumentality shall avail itself of the service and facilities of the system, it shall pay for the use of such service and facilities at the established rates. Revenues received from the services and facilities furnished by the system to the City shall be applied and accounted for in the same manner as other revenue derived from the operation of the system. However, nothing herein contained shall be construed as requiring the City to avail itself of the services and facilities afforded by the system. (1963 Code 9-73-8)

933.09 BILLING AND COLLECTION OF SERVICE CHARGE.

The sewer service charges, surcharges and fees levied by or pursuant to this article, shall be billed by the Sanitary Board or, in the discretion of the Sanitary Board, by a designated agent of the Sanitary Board, to all firms, persons and corporations liable therefor, pursuant to such terms, agreements, arrangements and compensation as may be determined by contract between the Sanitary Board and such agent. The collection of such service charges, surcharges and fees shall be by the Sanitary Board or by its designated and authorized agent.
(1963 Code 9-73-9)

933.10 CREATION OF SINKING FUND.

There is hereby created a sinking fund to accumulate and hold all the proceeds to be derived from the service charges levied and collected pursuant to this article until the completion of the construction of the sewerage system, which proceeds shall be remitted to and administered by the State Sinking Fund Commission as follows:

Such proceeds shall be paid out on order of the Sanitary Board for such legal purposes as are incident to the acquisition, construction, enlargement, extension, replacement, improvement, operation, management, maintenance and repair of the sewerage system of the City.
(1963 Code 9-73-10)

933.99 PENALTY.

(a) Any person who violates any of the provisions of this article, except where another penalty is otherwise provided, shall be fined or imprisoned, or both, as follows: the fine shall be not less than five dollars ($5.00) nor more than one hundred dollars ($100.00), and the imprisonment in the City or County jail shall be not more than thirty days.

Each day that any person shall continue the violation of this article shall constitute a separate offense.

(b) Any person who violates any of the rules or regulations made and promulgated by the Sanitary Board, as provided in Section 933.07, upon conviction shall be fined or imprisoned, or both, as follows: the fine shall be not less than five dollars ($5.00) nor more than one hundred dollars ($100.00), and the imprisonment in the City or County jail shall be not more than thirty days. Each day that any person shall continue the violation of any of the rules and regulations so made and promulgated shall constitute a separate offense.
(1963 Code 9-73-99)

-MINUTES OF THE SPECIAL MEETING OF THE , Chesapeake Code

CHESAPEAKE TOWN COUNCIL APRIL 22, 2019

Call to order – Mayor Armentrout

Invocation – Janet Armentrout

Roll Call – Janet Searls is absent, all other members present. There is a quorum.

Mayor Armentrout presented for second and final reading Ordinance number 2019-01 to Amend and Re-Enact the Town Code, Chapter IX, Article 933.05, "Sewer Schedule of Rates."

Mayor Armentrout asked for any discussion, there was none. She then asked for a Roll Call vote by members on the matter of the ordinance. The vote as follows:

Lacy, Grooms, Booker, Bradshaw, Armentrout – Yes

Johnson, Goins – No

The ordinance passed both readings, and will be presented to the WV PSC for record, to become effective on June 6, 2019.

Dona Lacy moved to adjourn, Paul Bradshaw seconded. Meeting adjourned.

ORDINANCE 2019-____

AN ORDINANCE TO AMEND AND RE-ENACT THE CHESAPEAKE TOWN CODE, CHAPTER IX, ARTICLE 933.05, ENTITLED "SEWER SERVICE SCHEDULE OF RATES."

THE TOWN COUNCIL OF CHESAPEAKE HEREBY ORDAINS:

That the Chesapeake City Code, Chapter IX, Article 933.05 entitled "Sewer Service Schedule of Rates", be amended to read as follows:

933.05 SEWER SCHEDULE OF RATES

933.06

There is hereby levied and assessed against all owners, tenants or occupants of each and every lot or parcel of real estate or building having any active connection with the public sanitary sewage system, or otherwise discharging sewage, industrial wastes, water or other liquids, either directly or indirectly into the system, or any part thereof, a service charge according to the following schedule:

SCHEDULE OF RATES AND CHARGES FOR SANITARY SEWER SERVICE

APPLICABILITY OF SERVICE

Available for general, domestic, commercial and industrial sanitary sewer service, within and outside the corporate limits.

(I) RATES

New Rates

Gallons per month		Rate per Thousand Gallons Residential	Commercial
First	2,000	$23.26	$25.68
Next	3,000	$12.24	$14.67
Next	10,000	$ 8.56	$10.40
All over	15,000	$ 5.49	$ 6.75

(I) MINIMUM CHARGE

The above schedule is subject to a minimum monthly charge of forty-six dollars and fifty-two cents ($46.52) for residential customers. The minimum charge will be fifty-one dollars and thirty-six cents ($51.36) for commercial customers.

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of revenues from sewer service sales by the sewer utility within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The sewer utility is required to collect the utility tax pursuant to W.Va. Code §8-13-5a.

Customers receiving sewer service within the corporate limits of the specified municipality shall pay a surcharge based on the following surcharge rates:

	Utility Excise Tax	
Municipality	Local Tax Rate	Surcharge Rate
Chesapeake	2%	2%

MULTIPLE OCCUPANCY

On apartment buildings or other multiple occupancy buildings, each unit shall be required to pay not less than the above minimum charge.

DELAYED PAYMENT CHARGE

The above schedule is net payment. On all accounts not paid in full within ten days of date of bill, ten percent will be added to the net amount shown.

SERVICE CONNECTIONS

Tap inspection fee and installation. . . . $250.00

RETURNED CHECK CHARGE

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

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with the West Virginia-American Water Company, a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the West Virginia-American Water Company is reconnected, a reconnection fee of $20.00 shall be charged.

SECURITY DEPOSIT

A security deposit equal to 1/6th of the annual estimated charge for the class of customer being served.

LEAK ADJUSTMENT

$3.25 per 1000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to such consumption above the customer's historical average usage.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

APPLICABILITY

Whenever the utility has discovered that a customer's roof drain, downspout, storm sewer or similar facilities conducting surface water have been connected to the utility's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the utility in accordance with the Rules of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$$S = A \times R \times .0006233 \times C$$

S	=	the surcharge in dollars
A	=	The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet
R	=	the measured monthly rainfall, in inches
.0006233	=	A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water
.0008333	=	A conversion factor to change inches of rain x square feet of surface water to $ per 1000 gallons
C	=	The utility's approved rate per thousand gallons of metered water usage.

The utility shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules of the Public Service Commission of West Virginia.

SEPARABILITY: REPEAL OF CONFLICTING ORDINANCES:

The provisions of this Ordinance are separable, and if any clause, provision or section hereof be held void or unenforceable by any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. All resolutions, ordinances, 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 resolutions, ordinances, orders or parts thereof, the same shall remain in full force and effect.

STATUTORY NOTICE AND PUBLIC HEARING

After introduction hereof, the Council shall publish a copy of this Ordinance once a week for two (2) successive weeks within a period of fourteen (14) successive days with at least six (6) full days intervening between each publication in the *Charleston Gazette Daily Mail* being a newspaper published and of general circulation in Chesapeake, West Virginia, and said notice shall state that this Ordinance has been introduced and that any person interested may appear before council on April 21 at 6 p.m. in Council Chambers, which is not less than ten (10) days after the date of the first publication of proposed rates and charges. At such hearing all objections and suggestions shall be heard and the council shall take such action as it shall deem proper in the premises.

This ordinance will not take effect until forty-five (45) days after final passage and adoption.

First reading of Ordinance 2019-___	April 1, 2019 7:00 pm	Passed/Failed
Second reading of Ordinance 2019-___	April 22, 2019 6:00 pm	Passed/Failed

The Ordinance, No. 2019-___ is approved and will go into effect forty-five days from final passage on June 6, 2019 as described above.

_____

_____, Mayor

Attest: _____

Clerk, Town of Chesapeake

Sch 1 Rates Residential	Current Rates		75.50% Increase Going Level	18.00% Design Loan ProForma
First 2,000 Gallons	$ 11.23	$ 11.23	$ 19.71	$ 23.26
Next 3,000 Gallons	$ 5.91	$ 5.91	$ 10.37	$ 12.24
Next 10,000 Gallons	$ 4.13	$ 4.13	$ 7.25	$ 8.56
All Over 15,000 Gallons	$ 2.65	$ 2.65	$ 4.65	$ 5.49
Min Charge	$ 22.46	$ 22.46	$ 39.42	$ 46.52
3,400 Gallon Bill	$ 30.73	$ 30.73	$ 53.94	$ 63.66
Commercial				
First 2,000 Gallons	$ 12.40	$ 12.40	$ 21.76	$ 25.68
Next 3,000 Gallons	$ 7.08	$ 7.08	$ 12.43	$ 14.67
Next 10,000 Gallons	$ 5.02	$ 5.02	$ 8.81	$ 10.40
All Over 15,000 Gallons	$ 3.26	$ 3.26	$ 5.72	$ 6.75
Min Charge	$ 24.80	$ 24.80	$ 43.52	$ 51.36
3,400 Gallon Bill	$ 34.71	$ 34.71	$ 60.92	$ 71.90
Sch 2 Rates				
First 2,000 Gallons	$ 12.40	$ 12.40	$ 21.76	$ 25.68
Next 3,000 Gallons	$ 7.08	$ 7.08	$ 12.43	$ 14.67
Next 10,000 Gallons	$ 5.02	$ 5.02	$ 8.81	$ 10.40
All Over 15,000 Gallons	$ 3.26	$ 3.26	$ 5.72	$ 6.75
Min Charge	$ 24.80	$ 24.80	$ 43.52	$ 51.36
3,400 Gallon Bill	$ 34.71	$ 34.71	$ 60.92	$ 71.90

18% is over Going Level Rates