

**ORDINANCE NO. 1279
WASTEWATER RATES**

AN ORDINANCE FIXING THE CHARGES TO BE ASSESSED BY THE CITY OF ESCANABA FOR WASTEWATER COLLECTION AND TREATMENT AND THE AVAILABILITY OF SERVICE TO BE IN FULL FORCE AND EFFECT ON THE BILLINGS PROCESSED AFTER JUNE 30, 2023, AND ALL BILLINGS THEREAFTER UNTIL FURTHER AMENDED BY THE CITY COUNCIL.

THE CITY OF ESCANABA ORDAINS:

Section 1.00 SEWER SERVICE CHARGES

1.01 Charges for operation, maintenance, and replacement shall be levied monthly on the basis of metered water consumption, according to the following:

 \$8.91 Net Per Thousand Gallons, plus monthly availability debt service charge based on the size of a customer's water service to be determined as follows:

5/8" & 3/4"	Meter	\$21.10	per month
1"	Meter	26.15	per month
1 1/4"	Meter	36.78	per month
1 1/2"	Meter	52.73	per month
2"	Meter	78.90	per month
3"	Meter	157.99	per month
4"	Meter	210.67	per month
6"	Meter	473.94	per month
8"	Meter	684.57	per month
10"	Meter	947.90	per month
12"	Meter	1,053.23	per month

 The minimum monthly bill shall be the "availability" charge herein set forth.

1.02 Outside the City Wastewater Rates

 The outside City wastewater fees shall equal one and one-half times (1.5x) the inside City charge for availability and commodity fees.

1.025 The flat rate charge for unmetered residential wastewater services shall be \$64.57 per month.

1.03 In the event that a user introduces a substance into the wastewater system that results in extraordinary treatment, procedures, or costs, the City reserves the right to bill the user in accordance with the Michigan Department of Natural Resources (DNR) approved water charge system, or if the substance cannot be treated feasibly, the City reserves the right to terminate utility service to the user.

1.04 In the event that a user introduces a substance into the system that results in damages to property or environment, said user will be solely responsible for compensatory and/or punitive damages.

1.05 The City Manager will set the charge for any service not covered by this ordinance.

1.06 Non-Sufficient Funds Charges (NSF)

 Whenever a customer presents a check or draft instrument for which funds are not immediately available upon presentation for deposit at the City's bank, a charge of \$40 will be placed upon the account for which payment was intended. The NSF charge shall also apply to agreements for ACH account debits.

1.07 Billing Recapture and Customer Credits

 Whenever it becomes necessary for the billing department to recapture unbilled charges, the billing department shall use a "look-back" period of two years. If it is determined that unbilled charges are the result of customer fraud, the billing department shall recover all unbilled charges.

If a billing error on the part of the City results in over-billed charges, the City will refund all such over-billings, to the extent that the amount can be reasonably determined.

If an over-billing is not the result of a City error, the billing department shall employ a two year look-back period in determining the amount of credit.

Section 2.00 USER CHARGE SYSTEM

2.01 Established Basis for Computations

Rates and charges for the use of the wastewater system of the City shall be based upon the methodology in the user charge system approved by the Michigan DNR. Revisions to the rates for total sewer service charges are to be established by ordinances as necessary to ensure sufficiency of revenues in meeting operation, maintenance, and replacement costs, as well as debt service.

User charges for operation, maintenance and replacement shall be subject to the annual review of the user charge system. User charges shall be the same for all customers of the system regardless of geographical boundaries.

BOD (Biochemical Oxygen Demand) will be charged \$1.03 /lb, above 300 mg/l.
SS (Suspended Solids) will be charged \$0.99 /lb, above 300 mg/l.
Phosphorus will be charged \$ 27.36 /lb, above 12 mg/l.

2.02 Amounts, Billings, Sewer Service Charges

The rates and charges for service furnished by such system shall be levied upon each lot or parcel of land, building or premises, having any sewer connection with such systems, on the basis of the equivalent residential units and shall be collected monthly, except in cases where the character of the sewage from a manufacturer is such that reasonable, additional burden is placed on the system.

2.03 Annual Audit

The rates hereby fixed are estimated to be sufficient to provide for the expenses of operation, maintenance, and replacement of the system as are necessary to preserve the same in good repair and working order.

Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts. An annual audit shall be prepared. Based on said audit, rates for sewage services shall be revised as necessary by the City to meet system expenses and to ensure that all user classes pay their proportionate share of operation, maintenance, and equipment replacement costs.

2.04 Free Services

No free services shall be allowed for any user of the wastewater treatment works.

The customer will continue to pay monthly meter fees and estimated usage of billing for water services when disconnected for non-compliance issues.

2.05 Late Payment Penalty

Meters of all customers shall be read or estimated monthly and a three percent (3%) penalty charge will be made on all bills unpaid after the due date indicated on bill. Penalty charges may be waived at the discretion of the City for good reason. In all cases, it will be the exclusive right of the City to determine the facts and judge the validity of the request to waive the penalty payments.

2.06 Enforcement

In addition to all other lawful enforcement methods, the City agrees and covenants to enforce all charges for wastewater services supplied to any premises, if any such charges shall remain unpaid past the due date.

2.07 Utility Liens

Charges for wastewater services applied by the system shall constitute a lien on the premises served and if not paid within six (6) months, shall be certified by the official in charge of the collection thereof to the tax assessing officer and shall then be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced. All provisions of the laws of Michigan and the City Charter applicable to the time and manner of certification and collection of delinquent City taxes levied against real estate in the City shall be observed in the certification and collection of such charges.

2.075 Landlord Not Responsible

In all cases where a tenant is responsible for the payment of any such charge and the Utility Billing Office is so notified in writing, which notification shall include a true copy of the lease of the affected premises, if there be one, then no such charge shall become a lien against such premises from and after the date of such notice. In the event of the filing of such notice and after the date of such notice, the City shall render no further service to such premises until a cash deposit in an amount of the projected billing for not less than a one-month period and not more than a three-month period is received, said determination of deposit to be solely at the discretion of the City.

2.08 Experience - Good Faith Deposit Requirement

(A) Deposit Terms

If a customer of the City of Escanaba, whether he be a tenant, owner, or an owner by land contract, has a history of delinquent payments, or if the City has no history of customer's payments, or if owner or tenant customer service is located outside the corporate limits of the City of Escanaba, or if, in the judgment of the City, the existing deposit is insufficient based on current billings, the City may require a sum not to exceed the projected billing in an average four-month period as a good faith deposit. Projected billing for water sewer and electricity are combined for purposes of determining a customer's total deposit requirement. In no case will a customer's total deposit requirement be less than four hundred dollars (\$400). In the case of an account which does not include electric service or water service, the total deposit requirement shall not be less than two hundred dollars (\$200). This deposit will be held for twelve (12) consecutive months of payments without delinquency.

Deposits for commercial accounts will be estimated on an individual basis. Commercial accounts will pay a deposit of an estimate of four (4) months' utility bills based on the estimated usage for the type of business.

(B) Deposit Interest

Interest will be paid on deposits at the rate of 2.5% per annum effective July 1, 2023. The deposit rate is based on the market rate the City receives on its deposit accounts on that date.

(C) Escrow and Letter of Credit

If a deposit of over \$500 is demanded from a commercial or large power customer, this deposit may be held in a special escrow account at the bank of the customer's choice, and interest will accrue to the benefit of the customer. Alternately, said customer may furnish an irrevocable bank letter of credit in lieu of a cash deposit.

2.09 No user shall introduce any substance, including toxic matter, chemicals, or flammable liquids, or water derived from other than metered City sources, into the City sewer system without first receiving specific approval from the Superintendent of Wastewater.

2.10 Water customers not introducing all of their usage into the sewer system may apply to the Utility Office for exemption from wastewater charges for the usage not introduced, by requesting the installation of a meter to determine, through the use of the meter, the purchased water that is not being introduced into the sewage system.

2.11 Exemptions.

Requests for special exemption for an unintentional water loss of metered water due to extenuating circumstances will be considered by the City Manager or his/her designee. Approved exemptions will receive a 75% billing reduction for any usage (for water discharged to the sewer) or a 100% billing reduction (if proven that the water was not discharged to eh sewer) over the normal monthly average usage of the account. This reduction will be calculated for the 45-day period immediately preceding the corrective action to eliminate the unintentional loss.

Section 3.00 VALIDITY, SEVERABILITY, CONFLICT, LIABILITY

3.01 The provisions of this article are severable, and if any of the provisions, words, phrases, clauses or terms, or the application thereof to any person, firm, or corporation, or to any circumstances, shall be held invalid, illegal, or unconstitutional by any court of competent jurisdiction, such decision or findings shall not in any way affect the validity, legality, or constitutionality of any other provisions, word phrase, clause or term, and they shall continue in full force and effect.

3.02 All rules, regulations, and provisions, which have heretofore been enacted by ordinance or otherwise, shall continue to be in full force and effect unless modified or amended by the terms of this ordinance.

3.03 All laws and parts of laws, all ordinances, codes and regulations which are inconsistent with or in conflict with or repugnant to any provisions of this ordinance, shall be deemed not to apply; provided that nothing herein contained shall be construed to prevent the adoption and enforcement of law, ordinance, or regulation which is more restrictive or establishes a higher standard that those provided in this article.

Section 4.0 EFFECTIVE DATE

This ordinance shall be in full force and effect for billings processed after June 30, 2023, and after the passage of this Ordinance and publication.

APPROVED:

APPROVED:

/s/ Laura J. Genovich, City Attorney

Laura J. Genovich
City Attorney

Mark Ammel
Mayor

Date Approved: June 5, 2023
Date Published: June 9, 2023

Attest:

Phil DeMay
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Special Meeting held on Monday, the 5th day of June, 2023 , and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on Friday, June 9, 2023, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Phil DeMay
City Clerk