

BEN DAVIS CONSERVANCY DISTRICT
ORDINANCE No. 2019-2
SEWER RATE ORDINANCE

An Ordinance implementing a schedule of rates and charges to be collected by the Ben Davis Conservancy District from the owners of property served by the Sanitary Sewer System of said District and other matters connected therewith.

WHEREAS, the Ben Davis Conservancy District (hereafter sometimes referred to as “District”) owns and operates a Sanitary Sewer System in Wayne Township, Marion County Indiana; and

WHEREAS, the Marion County Circuit Court has heretofore approved a flat rate user fee as a method of additional finance for the District. Said rate was set low to get users familiar with the concept of a user fee but needs to be gradually increased to allow a gradual reduction in the *ad valorem* property tax; and

WHEREAS, after notice and hearing, the Marion County Circuit Court has provisionally approved the use of an EDU (“Equivalent Dwelling Unit”) System for sewer user charges subject to a public hearing pursuant to an Order issued August 30, 2019 under cause number 49C01-1906-PL-023150. The flat rate user fee referenced above shall apply to each EDU.

WHEREAS, it is necessary to implement a higher schedule of rates and charges so as to produce sufficient revenue to pay expenses of operation and maintenance, any future debt service requirements, and to provide funds for necessary replacements and improvements to the Sanitary Sewer System; and

WHEREAS, such rates requested are believed sufficient coupled with existing tax revenues to maintain this Sanitary Sewer System in a sound physical and financial condition and to render adequate and sufficient services, and which rates and charges are consistent with the revenue requirements.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE BEN DAVIS CONSERVANCY DISTRICT, MARION COUNTY, INDIANA:

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

- (a) "Board" shall mean the Board of Directors of the Ben Davis Conservancy District, or any duly authorized officials acting in its behalf.
- (b) "Debt Service Costs" shall mean the average annual principal and interest payments on any future bonds or other long-term capital debt.
- (c) “EDU” shall mean Equivalent Dwelling Unit which is the unit of measure by which a single-family residential household is charged for sewer service.

- (d) "Industrial Wastes" shall mean the wastewater discharges from industrial, trade or business processes as distinct from employee wastes or wastes from sanitary conveniences.
- (e) "Operation and Maintenance Cost" 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 with all related Federal, State and local requirements.
- (f) "Other Service Charges" shall mean tap charges, system development charges, connections charges, area charges, and other identifiable charges other than excessive strength surcharges.
- (g) "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.
- (h) "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.
- (i) "Shall" is Mandatory; "May" is permissive.
- (j) "District" shall mean the Ben Davis Conservancy District acting by and through the Board of Directors.
- (k) "User Class" shall mean the division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities.

Residential User shall mean a user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units.

Small Commercial User shall mean a commercial user that ordinarily would not discharge more sewage than a residential user in most circumstances.

Non Residential User shall mean any establishment involved in a commercial enterprise, business or service, or an industrial user, which based on a determination by the District discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

Tax Exempt User shall mean any establishment involved in a social, charitable, religious, and/or educational function, which, based on a determination by the District discharges primarily segregated domestic

wastes or wastes from sanitary conveniences and includes governmental users.

- (l) Most other properties have been studied by the State of Indiana and the number of EDUs assigned to the property shall be determined by 327 IAC 3-6-11. For those properties not classified by 327 IAC 3-6-11, the District shall assign an EDU based on water consumption and may include negotiation for those unique properties. Further, the District utilizes the *ad valorem* property tax to finance its works and the property tax shall remain as a method of finance although it is anticipated that the rate shall be substantially reduced.

Section 2. Every person whose premises are served by said Sanitary Sewer System and those whose premises could or should be served by said Sanitary Sewer System (such as a vacant house or a home connected to a septic tank) shall be charged for the service provided. These charges are established for each user class, as defined, in order that the Sanitary Sewer System shall recover, from each user and user class, revenue, which is fair and equitable.

The various classes of users of the treatment works for the purpose of this Ordinance shall be as detailed in Appendix A, and shall be charged in accordance with Appendix A, which is the Sewage Treatment Rate Tariff attached hereto and made a part hereof.

Section 3. For the use of the service rendered by Sanitary Sewer System, 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 District sanitary system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewage system of the Ben Davis Conservancy District. 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 determined as follows:

- (a) Except as herein otherwise provided, the sewage rates and charges shall not be based on the quantity of water used and shall not be based on the quantity of sewage flow from the property or premises subject to such rates and charges as the same might be determined by the water meter or sewage flow meter thereby used. Rather, said sewage rates and charges shall be based upon a flat fee based on the number of EDU's assigned for the property regardless of the volume of water used.
- (b) The schedule on which said rates and charges shall be determined shall be in accordance with Appendix A, which is the Sewage Treatment Rate Tariff attached hereto and made a part hereof.

Section 4. Such rates and charges shall be prepared, billed and collected by the District in the manner provided by law and ordinance.

- (a) The rates and charges for all users shall be prepared and billed monthly. The Board is authorized to provide discounts for early payment or lump sum annual payment.
- (b) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall not relieve the owner from the liability in the event payment is not made as herein required.

The owners of properties served, which are occupied by a tenant or tenants shall have the right to examine the collection records of the District 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 such records are kept and during the hours that such office is open for business.

- (c) Delinquent bills not paid within thirty (30) days may be charged 10% of any monthly bill as a penalty. If a higher rate of interest is authorized by law, the ordinance may be amended to reflect this higher rate of interest. Rates and charges may be collected or liened against the real estate in any manner permitted by Indiana law. After 8 months of delinquency, the Board, in its discretion and after due notice to the property owner giving the owner and tenant an opportunity to be heard, may disconnect the property owner from the sewer without further action of the Circuit Court.

Section 5. In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users of user classes, the District shall cause a study to be made within a reasonable period of time following the first two years of operation, following the date on which this ordinance goes into effect. Such study shall include, but not be limited to, an analysis of the cost associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the Sanitary Sewer System and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the wastewater treatment systems.

Thereafter, as the District determines is reasonably appropriate following changes in its cost of service or the lapse of five years, the District may cause a similar study to be made for the purpose of reviewing the fairness, equity and proportionality of the rates and charges for sewage services on a continuing basis. Said studies may be conducted by officers or employees of the District or by a firm of accountants, or a firm of consulting engineers which firms shall have experience in such studies, or by such combination of officers, employees, certified public accountants or engineers as the District shall determine to be best under the circumstances. The District may, upon completion of said study revise and adjust the rates and charges, as necessary, in accordance therewith in order to maintain the proportionality and sufficiency of the rates.

Section 6. The District shall make and enforce such rules and regulations as may be deemed necessary for the safe, economical and efficient management of the District's sewage system for the construction and use of sewers and connections to the sewage collection system and for the regulations, collection and rebating and refunding of such rates and charges.

The District is hereby authorized to prohibit dumping of wastes into the District's sewage system which, in its discretion, are deemed harmful to the operation of the works of the District, or to require method affecting pretreatment of said wastes to comply with the pretreatment standards of any regulatory agency including the Indiana Department of Environmental Management and the Environmental Protection Agency.

Section 7. This ordinance shall not supersede any other ordinance of the District except Ordinance 2018-1. The District shall continue to utilize the *ad valorem* property tax, special benefit tax, and contract charges, permits, and impact fees as means to finance the Conservancy District but it is anticipated that the *ad valorem* property tax collected shall be substantially reduced after the passing of this ordinance and future ordinances. The District shall prepare an annual budget in the manner required by law and shall estimate the annual additional revenues that will be received as a result of the flat fee herein imposed.

Section 8. 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 shall be given effect without such invalid part or parts.

Section 9. This ordinance shall be in full force and effect from and after its passage.

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE BEN DAVIS CONSERVANCY DISTRICT ON THE _____ DAY OF _____, 2019

FRED F. BUCKINGHAM, Chairman

BEVERLY A. MATTHEWS, Vice Chairman

JEFFREY T. WOOD, Member

ATTEST:

Secretary

Appendix A

Ben Davis Conservancy District
Sewer Works
Sewage Treatment Rate Tariff

I Sanitary Sewer Rates

A	<u>Unmetered Residential and Unmetered Non-Residential [1] [3]</u> - Per EDU Per Month	\$ 24.00
B	<u>Unmetered Tax Exempt Properties</u> - Per EDU Per Month [5]	\$ 30.00
C	<u>Metered Non Residential</u> - Per 1000 Gallons Per Month [2] [3] [5]	\$ 2.30
D	<u>Airport Contract</u> - Per Airport EDU number times EDU rate. [1] [3]	\$ -
E	<u>Mobile Home Parks</u> <u>Calculated at 4,500 Gallons Per Home Per Month</u> - Per 1000 Gallons Per Month [1] [2] [3] [5]	\$ 2.30

II Other Rates and Charges

A	<u>Sewer Deposit</u> Late Payment Deposit - Per EDU	\$ 50.00
B	<u>Capacity Fee / Impact Fee for Sewer</u> Per EDU	\$ 1,500.00
C	<u>Unpaid Bills By Renters</u>	Owners Shall Be Responsible For Unpaid Bills Of Renters
D	<u>Returned Check Charge</u>	\$ 30.00
E	<u>Late Charge Penalty</u> All Bills 30 days or more delinquent	10% Of Bill
F	<u>Permit Fee and Connection Fee [4]</u> Residential Property Non Residential Property	\$ 100.00 250.00
G	<u>Dye Test (Requested by Customer)</u>	100.00

Note: This tariff references 327 IAC 3-6-11 in regards to the EDU evaluation of various non commercial customer types. Customer types not shown in 327 IAC 167 3-6-11, the District will determine an EDU evaluation for each customer based on that customer's individual usage characteristics.

[1] Plus tax assessment.

[2] Either customer is not assessed or the assessment is subtracted from the volumetric bill.

[3] Plus a 15% sur-charge for any customers located outside of the District's service territory.

[4] Includes inspection

[5] District reserves the right to determine an EDU for a customer and to bill that customer on an EDU basis based on an evaluation of a customer's treatment flow and strength.