

NEW ALBANY BOROUGH WATER SYSTEM ORDINANCE 2018-11

An ordinance providing for the power to fix rates and charges pertaining to water service by the Borough of New Albany; fixing the responsibility for the payments of rates and charges and providing for the collection of the same; adopting rules and regulations for the water system of the Borough of New Albany; requiring the compliance with the provisions of the ordinance; and prescribing penalties for violations.

This ordinance, once adopted, shall take effect on the 21st day of November in the year 2018. This ordinance will replace and supersede any and all previous ordinance regulating any of the items listed in the above paragraph.

ARTICLE I

DEFINITIONS

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

BOROUGH- The Borough of New Albany

BOROUGH COUNCIL- The governing body of the Borough of New Albany

CONSUMER- A person prior to, upon or after the effective date hereof, has contracted or shall contract for water service for a consumer unit and/or a person who upon or after the effective date hereof, is receiving or shall receive water service for a consumer unit.

CONSUMER UNIT-

- A. A building under one roof and occupied by one family or business; or,
- B. A combination of buildings in one enclosure or group and occupied by one family or business; or,
- C. One side of a double building or home having a solid vertical position wall; or,

- D. A building, house, other structure, any room, group of rooms or part thereof, occupied by more than one family or business, the water fixtures of which are used in common; or,
- E. Each room or group of rooms in a building occupied by a family or other group of persons living together or by a person living alone, the water fixtures of which are no used in common.

PERSON- Any individual, firm, partnership, country, association, society, corporation, trust, governmental body or agency, department of political subdivision thereof, or any other group of entity.

WATER SYSTEM- The existing water works, water supply works, and water distribution system facilities, acquired or to be acquired or constructed by the Borough, together with all appurtenant facilities and/or properties the Borough has acquired or hereinafter shall acquire from time to time.

ARTICLE II

RATE SCHEDULE

This Article shall establish a rate structure framework for water rates. An actual rate schedule corresponding to this framework shall be established and changed as necessary by Resolution of the New Albany Borough Council as the Council deems necessary.

- A. Water Rates- Water usage shall be billed in the following method:
 - 1. All consumers will be billed a flat monthly fee per consumer unity as defined in Article I.
 - 2. All consumers will be billed monthly for water used up to 20,000 gallons per month at a rate per 1,000 gallons.
 - 3. All consumers will be billed monthly for water used over 20,000 gallons per month at a reduced rate per 1,000 gallons.
- B. Borough Fire Hydrants-The Borough of New Albany will be billed an annual fee, per each of the seventeen existing fire hydrants, to be paid in quarterly installments.

- C. Hookup Rates-** There shall be a minimum fee when a new water hookup is requested or required. The property owner shall, also, be responsible for all charges incurred above the minimum fee.
- D. Late Fee-** An interest charge will be added to balances over 30 days old.
- E. Meter Damage-** If a meter must be repaired or replaced due to the consumer's negligence or carelessness, (Article IV, Subsection 4), there will be a minimum service charge plus the cost of repair parts or a replacement meter.
- F. Meter Test Deposit-** There will be a deposit required to have a meter tested per Article IV, Subsection 8.
- G. Restoration Water of Service Fee-** When the Borough discontinues water service for any of the reasons in Article V, Subsection I or Article III, Subsection 12, there will be a Restoration of Water Service Fee.
- H. Turnoff Charge-** When a consumer requests water service to be discontinued there will be no charge to turn off the service.
- I. Turn-On Charge-** When a consumer has requested discontinuance of service, there will be a Turn-On Fee to restore water service.
- J. Returned Check Fee-** There will be a charge for any returned checks.
- K. Special Circumstance-**

Mr. Bruce Johnston owns a barn directly across from his house on U.S. Route 220 that has water service going to it. This line is used at this time for watering 6 or less horses. There currently is no provision for a water meter on this line. In lieu of Mr. Johnston making provision for a meter, he will be billed for an additional 1,000 gallons per month. This special circumstance shall apply only as long as Mr. Johnston owns the property and as long as the use of the barn remains the same. At the time the property changes hands, or the use of the barn changes, the owner will have 30 days to make provision in install a meter or water service will be discontinued.

ARTICLE III

CONDITIONS OF SERVICE AND APPLICATION FOR SERVICE

- A.** Service connections will be made and water service will be furnished upon written application by the prospective consumer or the proper agent, duly authorize in writing, on a form prepared by the Borough for such purpose, and after approval of such application by the Borough. The application for service shall state the purpose or purposes for which water will be used and such other appropriate information as shall be required by the Borough.
- B.** All consumers receiving water service upon the effective date of the Ordinance, by continuing to be thus served, shall be bound by the Ordinance and the water rates, rents, and charges of the Borough in effect, and which may be changed from time to time, pursuant to proper action by the Borough Council. With respect to future consumers, the application of such consumer, by the taking of water, agrees to be bound by this Ordinance and the prevailing water rates, rents, and charges of the Borough, whether service is based upon contract, agreement, signed and accepted application, or otherwise.
- C.** Any modification, repeal, supplement or amendment of this Ordinance shall be applicable to and shall govern consumers receiving water service upon the effective date of such modification, repeal, supplement or amendment, as well as future consumers, of the water system.
- D.** A new application must be made to and approved by the Borough upon any change in type or purpose of water service required by a consumer. The Borough, upon 5 days written notice, may discontinue water service until such new application has been made and approved.
- E.** The Borough, or its authorized agent, shall make all connections to its mains. Upon approval of an application for water service, the payment of the required tapping fee, and upon compliance with Subsection 8 of the Article; the Borough, or its agent, will tap the main, insert a corporation cock, install a service line to the curb, or if no curb, to the property line and install a curb cock with curb stop; all of which shall be maintained by the Borough.
- F.** All service lines from the curb box to the structure (and through the wall of the structure and housing facility for the meter, if any) to be served shall be installed according to Borough specifications by the prospective consumer, at his own expense, shall be a $\frac{3}{4}$ inch Type K copper, plastic rated at 160 PSI or more, or other material approved by the Borough,

shall be laid at least 4 feet below the surface of the ground and shall be kept in good repair at the expense of the consumer. No service line or other connections between the curb box and the structure to be served shall be covered up in the process of installation until inspected and approved by the Borough.

- G.** No service line shall be laid in the same trench with a gas pipe, drain, sewer pipe, or any other facility of a public service company, but must be laid in a separate trench not less than 10 feet from any sewer line and not less than 5 feet from any other such facility.
- H.** Service connections will be made only after the prospective consumer has completed installation of their service line from the structures to be served to the curb box; or has given assurance, satisfactory to the Borough, of their intention to do so.
- I.** There shall be placed on the service line, immediately within the wall of the structure to be served and so located as to drain all the pipes in the building, a ball valve stop and waste cock; easily assessable to the occupants for their protection, enabling them to turn off water in case of leaks and to drain pipes to prevent freezing.
- J.** When it is necessary to replace an existing service connection from the main to the curb box, the Borough will place said connection to the same location as the old service connection; provided, however, that if the consumer, for his own convenience, desires the new connection at some other location and agrees to pay to the Borough all expenses of cutting off the old service connection at the main and any other additional costs incurred by the Borough in complying with said request, then the Borough will install the new service connection at the location, if said location is approved by the Borough.
- K.** All consumers shall keep and maintain their service lines, cocks, and apparatus in good repair and condition, shall protect the same from frost, and shall prevent all waste of water.
- L.** All leaks in service lines from the curb box, to, in, and upon the premises supplied with water, shall be repaired promptly by the consumer at his own expense. Upon failure of such consumer to make such repairs, within a period of 5 days (or a reasonable time determined by the Borough) the Borough, in its discretion, may discontinue water service to such property, after which water service shall not be restored until

and after the consumer shall have completed the repairs and paid to the Borough the full amount of all proper and necessary expenses incurred by the Borough in discontinuing and again restoring water service, which shall include a charge, in an amount to be established by resolution of Borough Council for discontinuing said service and for restoring said service.

- M.** The Borough shall not be responsible for maintenance of any service line or any other line, pipe, or fixture on the outlet side of the curb box; nor shall the Borough be responsible for any damage resulting from escape of water from any service line or any pipe or fixture on the outlet side of the curb box. The consumer at all times shall comply with all State and Municipal regulations relating to service lines and any pipes and fixtures on the outlet side of the curb box and the Borough shall not be required to deliver water service thereto unless so approved. The consumer, at his own expense, shall make any and all changes to such service lines, pipes, and fixtures which shall be required or made necessary as a result of any change of grade, relocation of mains, distribution lines, or otherwise.
- N.** The property owner shall be responsible for any damage to the curb box and related components whether intentional or due to carelessness (lawn mowing, landscaping, or snow removal, etc.) by tenants, visitors, workers, contractors, (whether paid or volunteer). The owner will be billed by the Borough for the cost of repair. If the bill is not paid in full within 5 days of the billing date, water will be shut off until the bill is paid in full. If water is turned off, there will also be a turnoff charge and; also, a turn on charge when water service is restored.
- O.** No consumer shall direct, in any manner whatsoever, water being furnished to such consumer to any other person, except with written permission of the Borough first having been requested and granted.
- P.** No person obtaining water from a private supply, under any circumstance, shall construct or maintain, or cause or permit to be constructed or maintained, any connection directly or indirectly, between such a private water supply and the water system.
- Q.** Any single, one time use of water in excess of 10,000 gallons, such as filling a swimming pool, must have prior approval from the Borough.

ARTICLE IV

METERS

- A.** All meters shall be furnished by the Borough, shall be accessible to and under the control of the Borough, and shall remain the property of the Borough.
- B.** Meters shall be conveniently located within the structure supplied or in facilities for the housing thereof satisfactory to the Borough, at a point approved by the Borough, so as to control the entire water supply, and a proper place and protection therefor shall be provided by the consumer at their expense. In any case where it is not convenient to place the meter within the structure, or where the service line from the curb box to the structure to be serviced is more than 100 feet in length, the Borough may permit the meter to be placed outside the structure in a vault or meter pit which shall be frost free, and provided with a suitable cover. Said vault to Borough's specifications, to prior approval as to location and construction. Said vault shall be built at the expense of the consumer.
- C.** The Borough reserves the right to determine when a meter shall be installed and the size of each meter installed.
- D.** Meters will be maintained by the Borough as far as ordinary wear and tear is concerned, but the consumer shall be responsible to the Borough for any damage to or any loss of any meter arising out of or caused by the consumer's negligence or carelessness or that person living upon or being upon the premises, under his employment, or by consent sufferance, whether such damage or loss shall be caused by freezing, hot water, or other cause whatsoever. The consumer shall permit no one except an agent of the Borough or others lawfully authorized to do so, to remove, inspect, or tamper with the meter or property of the Borough on their premises.
- E.** The charge for installation of meters when removed because of damage in any way for which the consumer is responsible under Subsection D above, shall be fixed by the Borough Council.

- F. All meters will be sealed by the Borough and the breaking of meter seals, other than by an agent of the Borough, will be cause for discontinuance of service.
- G. The quantity of water recorded by the meter shall be conclusive on both the consumer and the Borough, except when the meter has been found to be registering inaccurately or has ceased to register. In either case excepted above, the meter shall be repaired promptly by the Borough and the quantity of water consumed for the billing period when the meter was out of service or registering inaccurately shall be estimated by the average registration of the meter on the three previous corresponding billing periods.
- H. Should any consumer doubt the correctness of the meter measuring the water delivered to his or her premises, he or she may, upon application to the Borough and making a deposit to defray the costs as set forth in the schedule below, have said meter tested. Should the test show the meter in question to be correct within 4%, the consumer shall forfeit the deposit made. On the other hand, should the test show the meter to be registering incorrectly, beyond 4%, said deposit shall be refunded and the account adjusted accordingly, and the entire cost of the tests shall be absorbed by the Borough. Deposits required with requests for meter tests shall be as established by resolution of the Borough Council.
- I. The Borough shall have the right of free access at all reasonable times to the premises, in or on which a meter is installed, for purposes of setting, reading, testing, inspecting and/or repairing the same.

ARTICLE V

DISCONTINUANCE OF WATER SERVICE

- A. After 5 days of notice, in writing, water service to any consumer may be discontinued for any of the following reasons:
 - 1. Misrepresentation of a substantial nature in the application for service, but not limited to, misrepresentation as to the property or fixtures to be supplied or the use to be made of the water supplied.

2. Failure to make payment of a bill for water service with 30 days after presentation.
 3. Failure to properly maintain the connections, service lines, and other fixtures of the consumer from freezing or other damage.
 4. Use of water for any property or purpose other than as stated in the application for service.
 5. Willful waste of water through improper or imperfect pipes, fixtures, or otherwise.
 6. Tampering with or molesting any service connection, pipe, meter, curb box, curb stop or seal, stopcock, valve seat, fire hydrant, or any other appliance operated by the Borough in the water supply system.
 7. Failure to pay any water or sewer bill properly due the Borough of New Albany.
 8. Vacancy of any premises not reported to the Borough.
 9. Violation of any of this Ordinance, or any Ordinance which may be adopted in the future by the Borough, pertaining to the water system.
 10. Refusal to permit access within a reasonable period of time for inspection of water facilities on the premises served; or for setting, reading, testing, and/or repairing the meter.
- B.** After discontinuance of water service for any of the reasons set forth in Subsection A above, water service shall not be restored until the violation has been corrected, all damage and loss to the Borough occasioned by such violation has been paid, and proper assurance, satisfactory to the Borough, has been given that the expenses incurred by the Borough in discontinuing and restoring water service shall be paid by the consumer in advance of re-establishment of water service, which shall include a charge in an amount established by resolution of Borough Council, for restoring water service.
- C.** Where a consumer requests the Borough to discontinue service, the following rules shall apply:
1. A consumer who wishes to have service discontinued shall give at least 7 days written notice to the Borough, specifying the date which is to be discontinued. In absence of proper notice, the consumer shall be responsible for all service rendered until the

time that the Borough shall have actual or constructive notice of the consumer's intent to discontinue service. The consumer shall not turn water on or off at any curb stop, or disconnect or remove the meter, or permit its disconnection or removal, without prior written consent of the Borough.

2. Where a consumer requests turn on of service within 6 months of disconnection, the consumer shall be subject to monthly minimum billing for the period of disconnection.
- D. There will be a turn on charge for turning on a water service that was discontinued for any reason in the Article. This charge will be listed as part of the rate schedule.

ARTICLE VI

FIRE PROTECTION

- A. The water system will install and maintain fire hydrants for public fire protection in the Borough and the Borough will pay a quarterly rental fee to the water system.
- B. Water from public or private fire hydrants or other fire protection systems shall be used only in the case of fires, except that water from public fire hydrants may be used, in a reasonable amount, for the purpose of testing the hydrant and firefighting apparatus; such tests are to be conducted only by the properly authorized agents or employees of the Borough, under the supervision of the Borough. No public fire hydrant shall be used for, the sprinkling of streets, roads or alleys, for flushing of sewers or gutters, or for any purpose other than fire protection unless specifically permitted in writing by the Borough.
- C. Every consumer, by the taking of water, understands and agrees that the Borough, by providing public and/or private fire protection service, does not contemplate any special service, pressure, capacity or facility other than that ordinarily provided in normal operation. The Borough declares itself free and exempt from any and all claims for injury or damage to persons and/or property by reason of fire or water, or failure to supply water pressure or capacity.

ARTICLE VII

PAYMENT OF AND LIABILITY FOR BILLS

- A.** All bills for the use of water are charged against the owner of the premises served and the property where the water is used. Failure to receive bills for water service does not relieve the owner from liability to pay. The burden is upon the owner of the property to keep track of all unpaid water bills. All unpaid bills for water service 90 days or more delinquent may result in a lien against said property in the amount of said unpaid bills together with any legal costs and filing fees related to said lien or the Borough may file a complaint with the district justice for non-payment of the bill. The owner of the premises is responsible for any unpaid bill. Tenants will not be billed for water by the Borough.
- B.** All water passing through a meter, or otherwise by a consumer, shall be charged at the time and no allowance will be made for excessive consumption due to leaks or waste.
- C.** There shall be a service charge, in an amount established in the rates section, imposed for all checks returned for insufficient funds, or for a closed account, or for any other reason. The Borough may pursue a criminal prosecution under 18 Pa. C.S. #4105, "Bad Checks", or may treat a bill as unpaid and proceed as provided in Subsection A and B above, whenever a "bad check" is received for payment of a bill.
- D.** The consumer shall be responsible to pay all costs incurred by the Borough in collecting past due water bills. Such costs include, but are not limited to, filing fees, collection agency fees, and attorney's fees.

ARTICLE VIII

WATER SYSTEM EXTENSIONS

- A.** If for reasons of health, safety, and welfare of citizens, or for economical reasons, or for purposes of orderly community development, or because of mandates by State or Federal regulating agencies, or for other

reasonable cause, the Borough may cause an extension of the water system. Costs of said extension shall be assessed, on a front foot basis, against each property benefited in accordance with the appropriate Borough Code.

B. Whenever application is received by the Borough for water service requiring an extension of the water main, to provide such service, the Borough and/or its engineer first determine the feasibility of said extension in terms of water system capacity and other related consideration. If deemed feasible, the Borough may choose to construct said extension with its own forces or require the owner of the property to be served to construct the extension. In the case of construction by the borough, a deposit must be made by the owner(s) to cover the entire estimate costs of said construction. If the actual costs exceed or are less than the deposit, additional charges shall be assessed the owner(s) or a refund made, whichever the case may be. In the case construction is completed by the owner(s) or his agent, the Borough shall require said construction to be in accordance with specifications of the Borough. Further, the Borough shall have the right to require the provision of appropriate bonds in section during construction by its agent, the submission of engineered plans, and any other reasonable requirements which it feels appropriate. Before connection to the water system, the Borough shall be satisfied that the extension is acceptable in all respects. Upon connection to the water system, the extension shall become part of the New Albany Borough Water System and the owner shall execute, or cause to be executed, all necessary deeds of easements, bills of sale, and other requisite documentation.

C. Assessments

- 1. Front Foot Assessments.** The Borough, as stated in subsection (A) above, may assess the costs of extension to the water system, against the properties benefited, in accordance with the appropriate Borough Code.
- 2. Benefit Assessments.** In lieu of a front foot assessment, a benefit assessment may be imposed by the Borough upon the owner(s) of irregular shaped properties with frontage when it is determined that a front foot assessment would result in a payment inequitable to the benefit derived from the water system.

ARTICLE IX

- A.** All waste of water is prohibited. No consumer shall allow water to run to waste or to run merely to prevent freezing. Each consumer shall keep his faucets, valves, service lines, hoses, etc., in good order and condition at his own expense.
- B.** As necessity may arise in case of a break, emergency, or other unavoidable causes, the Borough shall have the right to temporarily cut off or limit water supplied in order to make necessary repairs and connections, and for other necessary purposes. If possible, the Borough will use all reasonable and practical measures to notify the consumer in advance of such limitation of service. (In emergency situations, such notification may not be possible.) The Borough shall not be liable for any damage or inconvenience suffered by the consumer, nor in any case for any claim against it at any time, for interruption in service, lessening of supply, inadequate pressure, poor quality of water, or any cause beyond its control.
- C.** The Borough shall have the right, at all times, to restrict or regulate the quantity of water used by consumers in the case of scarcity or drought or whenever public welfare may require such control. The Mayor, or in his absence any duly designated member of the Borough Council, may declare a water emergency under this rule.
- D.** The Borough will not be liable for any claim or damage arising from a shortage of water, the breaking of machinery, or other facilities, or any other cause beyond its control.
- E.** Water shall not be turned on in any premises by any person not an agent or employee of the Borough, except temporarily by a plumber to enable him to test his work, provided it shall be turned off again after the test is made.
- F.** In case of vacancy, the consumer must notify the Borough in writing of such vacancy, and upon his failure to do so will become responsible for any damage caused to Borough property arising from such failure.
- G.** No interconnection or cross-connection shall be made or permitted between the water system and any other water supply. No fixture,

device, or fitting shall be installed which will permit or provide a backflow connection between the water system and any well, drainage systems, soil pipe, or waste pipe which would permit or make possible the backflow of sewage into the water system.

- H. No person, unless specifically authorized to do so, shall open or close any of the stopcocks, valves, fire hydrants, etc., in any public water line owned and maintained by the Borough.
- I. Any duly authorized representative of the Borough, whose identification as such duly authorized representative has been established in a reasonable manner upon reasonable cause shown, shall be authorized upon and to have full access to the premises then being supplied with water from the water system for the purpose of inspecting the facilities, employed in connection with the use of water from the water system and for the purpose of setting, reading, repairing, or removing meters.
- J. Contractors, builders, or others will be required to make written application to the Borough, and the Borough must approve said applications, before using water for building construction purposes. The Borough may require a deposit upon application for building or construction purposes.

ARTICLE X

ENFORCEMENT AND PENALTIES

- A. Proper officers of the Borough are authorized and directed to do all things and to take all action necessary and proper to enforce provisions hereof in the manner permitted by law; including, but not limited to, taking action to abate or correct a violation of the provisions of this Ordinance. If the owner of the property fails or refuses to correct the violation, the costs of such action may be levied against the owner.
- B. Any person, firm, or corporation who shall violate any provision of this Ordinance, shall upon conviction thereof, be sentenced to pay a fine and costs to a term of imprisonment not to exceed 30 days. Each day that a violation of this Ordinance continues shall constitute a separate offense.

ARTICLE XI

- A. Regulation and water usage rates are to be set by resolution of Borough Council.
- B. The Borough reserves the right to repeal, amend, or modify this Ordinance or any part thereof in such manner and at such times as in the opinion of the Borough Council, shall be necessary and/or desirable, all after due legal procedure, and to be in the public interest of the residents of the system service area.

This Ordinance shall take effect immediately upon adoption.

ENACTED AND ORDAINED BY THE BOROUGH OF NEW ALBANY,

This 21st day of November, 2018.

Michelle Dunham, President

ATTEST:

Rhonda McCarty, Secretary

APPROVED THIS 21st DAY OF November, 2018.

Daniel Dunham, III, Mayor