

ORDINANCE NO. 2017 - 4737

AN ORDINANCE FIXING AND PRESCRIBING RATES, CHARGES, TERMS AND CONDITIONS OF SERVICES TO BE FURNISHED BY THE WATER AND SEWER SYSTEMS OF THE CITY OF PELL CITY, ALABAMA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELL CITY, ALABAMA, AS FOLLOWS:

SECTION 1. DEFINITIONS.

Water System - “Water System” means all facilities for the gathering, impounding, treatment, transmission and distribution of water for domestic use or for industrial use or both, together with all appurtenances to any such facilities within the present corporate limits of the City of Pell City and the surrounding territory.

Sewer System - “Sewer System” means all facilities for the conditioning, transmission and disposal of sewage, together with all appurtenances to any such facilities, providing sewage disposal services to all areas within the present corporate limits of the City of Pell City and the surrounding territory.

SECTION 2. MANDATORY CONNECTION.

(a) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the City and abutting on any street, alley or right of way in which there is now located or may in the future be located a public water pipeline of the City is hereby required, at the owner’s expense, to connect such facilities directly with the proper public water in accordance with the provisions of this Ordinance within ninety (90) days after date of official notice to do so, provided that said public water line is within one hundred (100’) feet of the property line, unless an exception is granted by the City.

(b) A separate and independent water connection shall be provided for every building. Provided, however, multi-users, i.e. apartments, commercial centers, etc., are required to master meter the complex.

(c) Each residential, commercial or industrial site is required to have installed, at the customer’s expense, backflow prevention devices.

SECTION 3. PENALTIES FOR FAILURE TO CONNECT TO WATER SYSTEM.

(a) Any person found to be violating Section 2 of this Ordinance shall be served by the City with written notice stating the nature of the violation and providing ninety (90) days from the date of such notice for the satisfactory correction thereof.

(b) Any person who shall continue such violation beyond the time limit provided in paragraph (a) above shall be guilty of a misdemeanor and, on conviction thereof, shall be fined in the amount not exceeding Five Hundred Dollars (\$500.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

SECTION 4. WATER AND SEWER RATES.

(a) The rates for water service for residential, commercial, and industrial usage furnished by the City of Pell City shall be as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City.

(b) A sewage disposal service charge shall be paid by the owner or owners of each premises which shall dispose of sewage wastes originating from or on such premises by discharge thereof into any sanitary sewer served by the City sewer system. The sewage disposal charge shall be computed on the basis of the quantity of water used upon the premises so served by the sewer system, as measured by the meter reading of the water system serving such premises, except as provided in subsection (c) below. The rates for sewer service for residential, commercial, and industrial usage furnished by the City of Pell City shall be as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City.

(c) In cases where the character of the sewage from any premises is such that it imposes an unreasonable burden upon the sewer system, the service rendered by the sewer system to such premises may be given a special classification in City's schedule of sewer service charges and an additional charge may be made for such special classification of service, or the City may require such sewage to be treated in such manner as shall be specified by the City before it is discharged into the sewer system.

(d) **Automatic Increase** – Effective January 1, 2013, and each year thereafter, the rates for water and sewer service as shown on the City of Pell City Water and Sewer Rate and Fee Schedule shall automatically increase by two (2%) percent, unless action is taken by the City Council.

(e) **Low-Income Senior Citizen Discount.**

(1) **Reduced Water and Sewer Rates.** The City of Pell City hereby authorizes a reduced monthly rate for residential low-income senior citizen customers of the City's water and sewer utilities. The reduced rate shall be known as the "Low-Income Senior

Citizen Rate” as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City.

(2) Eligibility.

- (a) The Low-Income Senior Citizen Rate shall be available to any household that meets the following criteria:
 - i. The residence seeking to receive the Low-Income Senior Citizen Rate must be occupied by one (1) or more senior citizens, aged sixty five (65) years or older at the time of application, who is the named customer and responsible for the City’s water or sewer service provided at the residence.
 - ii. The total gross household income for all household occupants, regardless of age, from all sources (such as Social Security, Disability payments, Veteran’s benefits, pensions, rents, annuities, retirement account withdrawals, etc.) must not exceed \$14,400 per year.
- (b) The Low-Income Senior Citizen Rate shall be available for residential customers only; non-residential customers shall be ineligible to receive such rate.

(3) Application Procedures.

- i. The City Manager, or his or her designee, shall create an application form and a renewal form to comply with the provisions of this Ordinance. Applications shall be available at the City Hall of the City of Pell City or mailed to a customer of the City, upon request.
- ii. Persons wishing to apply for the Low-Income Senior Citizen Rate shall file a written application with the City on the form approved by the City. This form shall include a statement in which the applicant attests under oath that the information provided by the applicant is true and correct to the best of the applicant’s knowledge.
- iii. The applicant must provide proof of age demonstrating that the he or she is 65 years or older.

The applicant shall establish this requirement by providing a birth certificate, driver's license or other valid Alabama identification, or other reliable official documentation of age.

- iv. The applicant must provide proof of household income demonstrating that the total gross household income for all household occupants, regardless of age, from all sources does not exceed \$14,400 per year. The applicant shall establish this requirement by providing a copy of the most recent Federal Income Tax returns of all occupants residing in the household or, in the absence of a Federal Income Tax return, other reliable official documentation of annual household income.
- v. The City may require any other information from the applicant reasonably necessary to determine the applicant's eligibility.

(4) Annual Application Required.

- i. Applications for the Low-Income Senior Citizen Rate shall be completed annually.
- ii. A notice of renewal of application shall be mailed annually by the City to the then existing water or sewer customers receiving the Low-Income Senior Citizen Rate. The completed renewal application form shall be returned to the City within 45 days, or the Low-Income Senior Citizen Rate shall be removed from the customer's account.
- iii. For new applicants, the Low-Income Senior Citizen Rate shall commence on the next subsequent billing date following approval of the applicant's application.

(5) Violation—Penalties.

The City shall have the authority to take all measures, criminal and/or civil, allowed by law to seek reimbursement for any reduction in utility rates achieved based on intentional misrepresentation, fraud, or deceit, and to seek any and all other penalties available under the law.

SECTION 5. METERS.

A meter shall be installed upon each connection to the water system which shall be read at least once in each month by a duly authorized agent of the City who shall have access to the premises of each customer for such purpose at all times, and also for the purpose of removing any meters, pipes, or other facilities of the City located on the premises in the event service is discontinued to such customer. Each customer, by having or leaving his or her premises connected to the facilities of the City and accepting service therefore, shall consent and agree to such access and such removal.

SECTION 6. INSTALLATION OF IRRIGATION LINES AND METERS.

A customer shall have the right to tap into the customer side of the meter for the purpose of having installed, at the customer's expense, a meter for irrigation purposes only. For the sewer disposal service charge only, the usage on the irrigation meter shall be deducted from the sewer disposal service charge of the master meter. This deducted amount will be subject to the sewer charge then in effect.

SECTION 7. DEPOSITS.

(a) In order to secure the prompt payment of accounts and charges for services, facilities, and connections afforded by the City through its water and sewer systems, and as a condition precedent to the rendering of such services, each residential customer shall deposit with the City an amount per meter servicing each dwelling owned or leased by said customer as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City. Such deposit may be increased or decreased from time to time based on gross bills for the preceding month.

(b) In order to secure the prompt payment of accounts and charges for services, facilities, and connections afforded by the City through its water and sewer systems, and as a condition precedent to the rendering of such services, each commercial and industrial customer shall deposit with the City an amount per meter servicing each building owned or leased by said customer as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City. Such deposit may be increased or decreased from time to time based on gross bills for the preceding month.

(c) Provided, however, that the deposit required herein may be waived for any landlord or any licensed real estate broker acting as a property-management agent for a landlord ("Landlord"), in good standing with the City, who owns or manages two (2) or more single-family, residential dwellings served by the City's water and sewer systems that are offered for lease to the general public, subject to the following conditions:

- (1) The Landlord must be in good standing with the City and all ordinances, resolutions, and regulations of the City;

- (2) The Landlord must execute an agreement specifying the terms and conditions of the utility service provided to the single-family dwelling owned or managed by Landlord (“Landlord Agreement”) and must comply with all terms and conditions of said Agreement. The City Manager, or his or her designee, is hereby authorized to develop and implement a Landlord Agreement, and to modify said Agreement from time to time as necessary;
- (3) The rental property must not be occupied by tenants; and
- (4) The Landlord shall be responsible for all water used on the premises while in the name of the Landlord and shall not allow the account to become delinquent.

(d) The Landlord Agreement authorized by this Section shall not apply to utility service for commercial properties or multi-family residential properties containing more than two (2) dwellings, such as apartments, townhomes, condominiums, or similar multi-family properties.

SECTION 8. BILLING AND LATE FEES.

(a) All users shall be billed monthly. Bills shall be due no less than 15 days after bills are mailed.

(b) Bills will contain current meter readings, amount used, amount of charges for each service, the date the bill is due, the amount before the late payment charge, the amount of the late payment charge, and the amount including the late charge.

(c) A late payment charge shall be added to each bill for each service provided by the City (i.e., water or sewer) that remains unpaid after the due date in the amount as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City.

(d) Payments received by mail after the due date will not be charged a late charge provided the U.S. postmark is on or before the due date regardless as to when the payment is actually received.

(e) If the due date is on a Sunday or City-observed holiday, the following day will be considered a day of grace if the payment is made in the office and not in the night depository.

(f) The City shall have the right to assess and add to the customer’s bill a service charge in the amount as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of

the City of Pell City, for any check presented to the City in payment of said customer's bill that is subsequently returned unpaid to the City by the issuing bank for any reason.

SECTION 9. INVOLUNTARY DISCONTINUANCE OF SERVICE.

Any customer failing or refusing to pay his or her bill or any part thereof for water or sewage disposal service on the due date of said bill shall be subject to disconnection from the City's water and sewer system and shall be subject to a fee for said disconnection as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City. The City shall have the authority to disconnect the connection to the water and sewer system until such time as full payment is received for all amounts due for water and sewer service, together with all applicable fees, including any amounts transferred to the customer's account in accordance with the provisions of Section 12 of this Ordinance. Any account subject to a Landlord Agreement pursuant to Section 7 hereof is not exempt from involuntary discontinuance of service in the event the Landlord fails to timely remit payment for service, fraudulently obtains service, or otherwise violates laws of the City of Pell City or the State of Alabama.

SECTION 10. RECONNECTION OF SERVICE.

Upon the payment of all amounts due for water and sewer service, together with all applicable fees and charges as herein provided, service shall be reconnected to the premises of the customer. Reconnection fees as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City, shall be charged in connection with the reconnection of service.

SECTION 11. UNAUTHORIZED RECONNECTION OF SERVICE.

Any person who connects or reconnects a dwelling or commercial building to water service without the authority or permission of the City shall be guilty of a Class "C" misdemeanor and subject to punishment as provided by law and further be assessed a fee of One Hundred Dollars (\$100.00), plus costs of material and labor for any damage to the property of the City.

SECTION 12. DELINQUENT ACCOUNTS.

(a) As a condition precedent to initiating water or sewer service at a particular location, a prospective customer must certify to the City that neither the customer, nor his or her spouse, nor any other resident in the household proposed to be served has any delinquent utility bills with the City. Any misrepresentation concerning that information shall be grounds for discontinuation of service.

(b) If the City determines that an occupant of a household provided with water or sewer service by the City owes a delinquent utility bill or bills to the City, the City

shall be authorized to transfer the entire amount of the delinquent bill or bills to the current, active customer account of the household.

(c) Prior to the transfer of said delinquent bills, the City shall provide written notice of its intent to transfer and an opportunity for the affected customer to object and contest said transfer in accordance with the Policies and Procedures of the City of Pell City Utility Department. Following the transfer of said delinquent bills, the customer shall pay any delinquent bill or bills transferred to his or her account at the time the charges for his or her current utility service are due. In the event said charges are not paid when due, the customer's account shall be subject to involuntary discontinuance of service in accordance with Section 9 of this Ordinance.

(d) Following the involuntary discontinuance of water or sewer service for non-payment, no member of a customer's family or any person living in the same house, building, or on the premises with the customer where the water or sewer service has been discontinued shall have the right to make a deposit for water or sewer service, or to request that the water or sewer service be reconnected at such locations, so long as:

- i. The delinquent customer lives on the premises; and
- ii. The water or sewer charges, together with all applicable fees, remain unpaid.

SECTION 13. COLLECTIONS.

By accepting water or sewer service from the City, the customer agrees to pay the City's costs of collection and enforcement, including reasonable attorneys' fees (whether suit is actually filed or not), in the event the customer defaults on his or her obligation to pay the charges and fees due for water or sewer service.

SECTION 14. LEAKS AND CUSTOMER ACCOUNT ADJUSTMENTS.

(a) Upon report of a water leak on the customer's side of the meter, together with proof of the repair of the leak by the customer, the customer may be entitled to an adjustment in accordance with the Policies and Procedures of the City of Pell City Utility Department, provided that the customer meets the standards and requirements set forth therein.

(b) In the event a customer reports leaks or other problems concerning his or her water and/or sewer service, and such problems are determined to be the responsibility of the customer, the City shall have the authority to assess and add to the customer's bill a fee as set forth in the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City.

(c) In accordance with the Policies and Procedures of the City of Pell City Utility Department, the City Manager, or his or her designee, is hereby authorized to

make adjustments to a customer's account for a good and reasonable cause established by the customer, provided, however, that any adjustment to a customer's account in excess of One Thousand and No/Dollars (\$1,000.00) shall be subject to the approval of the City Council.

SECTION 15. ADJUSTMENT FOR SEWER CHARGES RESULTING FROM FILLING OF SWIMMING POOLS.

A customer shall receive an adjustment/rebate to the sewer charges for water consumption of 10,000 gallons or more required for the filling of a swimming pool; however, such adjustment shall be made only once during a calendar year. Said adjustment/rebate shall be calculated by determining the average sewer charge of the three (3) months immediately preceding the month in which the pool is filled and reducing the sewer charge on the bill in the month in which the filling occurs to that average amount.

SECTION 16. VOLUNTARY DISCONTINUANCE OF SERVICE.

A customer may, at any time, request the discontinuance of service, and upon the payment of all charges for water and sewage disposal service afforded any customer, together with the cut-off fee as set forth in the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City, the deposit theretofore made by the customer shall be refunded without interest.

SECTION 17. INSTALLATION OF NEW WATER SERVICES.

All service lines for water shall be installed by a licensed plumber/general contractor, at the cost of the customer, to the property line and inspected by an employee of the City. The customer shall pay the City an inspection fee associated with the work as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City, prior to the issuance of a building permit for the property. If requested by the customer and in certain instances as approved by the City, the City will provide all labor and materials associated with providing a complete water service installation, including the tap, service line, all valves, meter, backflow, etc., for a single family dwelling at the rates provided in the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City.

SECTION 18. INSTALLATION OF FIRE PROTECTION LINES.

All fire protection lines shall be installed by a licensed plumber/general contractor, at the cost of the customer, to the property line and inspected by an employee of the City. The customer shall pay the City an inspection fee associated with the work

as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City, prior to the issuance of a building permit for the property.

SECTION 19. FIRE HYDRANTS.

All fire hydrants shall be installed by a licensed plumber/general contractor, at the cost of the customer and inspected by an employee of the City. The customer shall pay the City an inspection fee associated with the work as shown on the City of Pell City Water and Sewer Rate and Fee Schedule, which shall be subject to adjustment by ordinance of the City Council of the City of Pell City, prior to the issuance of a building permit for the property.

SECTION 20. ANNUAL REVIEW.

At least annually, the City Council shall review the rates and charges prescribed by this Ordinance as shown on the City of Pell City Water and Sewer Rate and Fee Schedule and shall make such adjustments to said rates and charges as are necessary and appropriate.

SECTION 21. POLICIES AND PROCEDURES OF THE CITY OF PELL CITY UTILITY DEPARTMENT.

The City Manager, or his or her designee, is hereby authorized to develop and implement Policies and Procedures of the City of Pell City Utility Department, subject to the approval of the City Council, which policies and procedures shall govern and direct the fair and efficient operation of the City's water and sewer systems.

SECTION 22. CITY OF PELL CITY WATER AND SEWER RATE AND FEE SCHEDULE.

The City hereby adopts the City of Pell City Water and Sewer Rate and Fee Schedule, attached hereto as Exhibit A and expressly incorporated herein by reference. The City of Pell City Water and Sewer Rate and Fee Schedule shall be subject to adjustment by ordinance of the City Council of the City of Pell City.

SECTION 23. COPY TO CUSTOMER.

Upon request, any customer shall be furnished a copy of this Ordinance and the Policies and Procedures of the City of Pell City Utility Department. However, regardless of whether a customer has received a copy of this Ordinance or said Policies and Procedures, every customer agrees to the terms of this Ordinance and said Policies and Procedures, including the rates, fees, charges, and policies set forth herein and therein, by accepting service from the water and sewer systems of the City.

SECTION 24. WATER AND SEWER LIENS.

(a) When any bill for water or sewer service, together with all applicable fees, remains unpaid for ninety (90) days, the City shall be authorized to file a lien in the land records of the Office of the Probate Judge of St. Clair County against the real property served by the delinquent account for the past-due amount. The amounts past due shall be a lien upon the property in favor of the City to be collected as other debts are collected or liens enforced.

(b) The notice of lien authorized herein shall not be filed for record in the Office of the Probate Judge of St. Clair County until the property owner has been given notice by registered mail, addressed to the address on file for the parcel at issue in the St. Clair County Revenue Commissioner's office, of the fact of said delinquent account and the amount of the lien to be assessed. At any time within fifteen (15) days after such notice has been mailed by the City, in accordance with the provisions of this section, the property owner shall have the right to file in writing with the City Clerk any objection against the lien.

(c) The City Council, at its next meeting after the filing of such protest, shall hear such protest and any evidence which the property owner may offer. The Council may confirm, modify, or cancel the proposed lien fixing the assessment.

(d) If the property owner fails to protest within the time and manner stated, he or she shall be held to have consented to such assessment on the property.

(e) Any property owner feeling himself aggrieved by the action of the City Council in overruling any protest filed in accordance with this section, either in whole or in part, may within five (5) days after such assessment has been finally fixed, appeal to the Circuit Court of St. Clair County.

(f) The property owner shall give a bond in twice the amount of the assessment with two good and sufficient sureties, conditioned to prosecute such appeal to effect, and to pay to the City such judgment as the Court may render upon the hearing of such appeal.

(g) Upon the appeal provided for herein being taken, the City Clerk shall immediately send to the Clerk of the Circuit Court of St. Clair County a transcript of the proceedings, including the protest and bond, and the cause shall thereupon be set down for hearing by said Circuit Court. The Circuit Court shall hear the appeal on the merits and render judgment accordingly.

SECTION 25. CERTAIN ORDINANCES REPEALED.

All Ordinances or parts of Ordinances insofar as the same conflict with the provisions of this Ordinance are hereby repealed, and specifically Ordinance Nos. Ordinance No. 2001-1552, Ordinance No. 2004-1758, Ordinance No. 2012-4158, Ordinance 2013-4269 and all amendments thereto, are hereby repealed.

SECTION 26. SEVERABILITY.

The provisions of this Ordinance are severable. If any section, sub-section, schedule or provisions of this Ordinance be for any reason declared void or invalid, such invalidity shall not affect any other section, sub-section, schedule or provision of this Ordinance.

SECTION 27. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon its adoption and publication as required by law.

ADOPTED AND APPROVED this 13th day of February, 2017.

James McGowan - Council President

ATTEST:

Penny Isbell - City Clerk

APPROVED this 13th day of February, 2017.

William T. Pruitt, IV - Mayor

ATTEST:

Penny Isbell - City Clerk

CERTIFICATION

I, Penny Isbell, Clerk of the City of Pell City, hereby certify that the above Ordinance was duly adopted by the City Council of the City of Pell City at a regular meeting held on the 13th day of February, 2017, and that same has been published in accordance with law in the *St. Clair News Aegis* on the _____ day of _____, 2017.

City Clerk