

Mayor and Council Executive Session, Special Session (41st Voting Session) & Work Session May 17, 2022 Agenda

"The City of Hagerstown will inspire an inclusive, business-friendly, and sustainable community with clean, safe, and vibrant neighborhoods."

"The City of Hagerstown shall be a community focused municipality"

The agenda and meeting packet is available at www.hagerstownmd.org/government/agenda

"The ones who are crazy enough to think they can change the world are the ones who do." - Steve Jobs

EXECUTIVE SESSION

- 3:00 PM** 1. **The Mayor and Council will meet in Open Session only for the purpose of voting to close its meeting to discuss matters that the Open Meetings Act permits it to discuss in Executive/Closed Session.**

4:00 PM SPECIAL SESSION

1. Approval of an Ordinance: Tax Rates Beginning July 1, 2022
2. Approval of an Ordinance: Budget FY 2022/23

4:00 PM WORK SESSION

- 4:10 PM** 1. Proclamation: Lyme Disease Awareness Month
- 4:15 PM** 2. Preservation Awards ~ *Stephen Bockmiller, Zoning Administrator*
- 4:25 PM** 3. Preliminary Agenda Review
- 4:35 PM** 4. IBEW Local 307 Labor Contract Approval - *Don Francis, Director of Human Resources*
- 4:50 PM** 5. FY23 Budget Review ~ *Michelle Hepburn, Chief Financial Officer and Brooke Garver, Accounting & Budget Manager*
- 5:05 PM** 6. Review of 11850 Indian Lane to the Competitive Negotiated Sale Program ~ *Doug Reaser, Business Development Specialist*
- 5:15 PM** 7. Code Amendments -- Chapter 238 of the City Code ~ *Nancy Hausrath, Director of Utilities*
- 5:30 PM** 8. Illicit Discharge Ordinance - *Jim Bender, Assistant City Engineer*
- 5:40 PM** 9. Stormwater Protection Program Update - *Jim Bender, Assistant City Engineer*

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

The Mayor and Council will meet in Open Session only for the purpose of voting to close its meeting to discuss matters that the Open Meetings Act permits it to discuss in Executive/Closed Session.

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

May_10__2022_Executive_Session.pdf

Description

Executive Session Agenda



EXECUTIVE SESSION

MAYOR & CITY COUNCIL

MAY 10, 2022

AGENDA

4:00 p.m. EXECUTIVE SESSION

1. To conduct collective bargaining negotiations or consider matters that relate to the negotiations; (#9)
**One union contract agreement*
2. To discuss public security, if the public body determines that public discussions would constitute a risk to the public or public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans; (#10)
**Enhanced security measures*
3. To consult with counsel to obtain legal advice; (#7)
**Legal advice on contract*
4. To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; (#1)
**City Administrator compensation per contract*

***AUTHORITY: Annotated Code of Maryland, General Provisions Article: Section 3-305(b)**
(Subsection is noted in parentheses)

CITY OF HAGERSTOWN, MARYLAND

PUBLIC BODY: Mayor & City Council

DATE: May 10, 2022

PLACE: Council Chamber, 2nd floor, City Hall

TIME: 4:00 p.m.

AUTHORITY: **ANNOTATED CODE OF MARYLAND, GENERAL PROVISIONS ARTICLE:** **Section 3-305(b) :**

1. To discuss:
 - ☒ (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or
 - ☐ (ii) any other personnel matter that affects one or more specific individuals;
- ☐ 2. To protect the privacy or reputation of individuals with respect to a matter that is not related to public business;
- ☐ 3. To consider the acquisition of real property for a public purpose and matters directly related thereto;
- ☐ 4. To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- ☐ 5. To consider the investment of public funds;
- ☐ 6. To consider the marketing of public securities;
- ☒ 7. To consult with counsel to obtain legal advice;
- ☐ 8. To consult with staff, consultants, or other individuals about pending or potential litigation;
- ☒ 9. To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- ☒ 10. To discuss public security, if the public body determines that public discussions would constitute a risk to the public or public security, including:
 - (i) the deployment of fire and police services and staff; and
 - (ii) the development and implementation of emergency plans;
- ☐ 11. To prepare, administer or grade a scholastic, licensing, or qualifying examination;
- ☐ 12. To conduct or discuss an investigative proceeding on actual or possible criminal conduct; or
- ☐ 13. To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; or
- ☐ 14. Before a contract is awarded or bids are opened, discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.
- ☐ 15. Administrative Function

EXECUTIVE SESSION AGENDA

City Hall • Council Chamber • 1 East Franklin Street • Hagerstown, MD 21740
301.739.8577, Ext. 113 • Telephone for the Hearing Impaired 301.797.6617

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Approval of an Ordinance: Tax Rates Beginning July 1, 2022

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion_-_Ordinance_for_Tax_Rates.pdf

Description

Motion - Tax Rate Ordinance

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: May 17, 2022

TOPIC: Approval of an Ordinance: Tax Rates Beginning July 1, 2022

Charter Amendment	_____
Code Amendment	_____
Ordinance	___ X ___
Resolution	_____
Other	_____

MOTION:

I hereby move for the approval of an ordinance on May 17, 2022 to establish the City's tax rates for the fiscal year July 1, 2022 through June 30, 2023 on the basis of \$1.002 per \$100 of assessed value of all real property excluding properties designated as Apartments which will be \$1.032 per \$100 of assessed value and \$2.505 per \$100 of assessed value of all business personal property within the City of Hagerstown. These rates are the same as current FY22 rates.

DATE OF INTRODUCTION: 05/10/2022
DATE OF PASSAGE: 05/17/2022
EFFECTIVE DATE: 07/01/2022

ORDINANCE No.

ESTABLISHING THE TAX RATES
FISCAL YEAR JULY 1, 2022 TO JUNE 30, 2023
CITY OF HAGERSTOWN, MARYLAND

Pursuant to the Charter of the City of Hagerstown and the general public laws of the State of Maryland, the legislative body of the City of Hagerstown is charged with establishing tax rates; and the Mayor and Council, as the duly constituted legislative body for the City of Hagerstown has complied with all the provisions of the Annotated Code of the State of Maryland, the Charter of the City of Hagerstown and all other applicable laws in reference to establishing said tax rates.

NOW, THEREFORE, BE IT RESOLVED, ENACTED and ORDAINED by the Mayor and Council of the City of Hagerstown, that the tax rates for the City for the taxable levy year from July 1, 2022 through June 30, 2023, is hereby established as follows:

- A. All real property excluding Apartments is hereby levied and chargeable on the basis of **\$1.002** per \$100 based on the assessed value of said properties as required by the Charter of the City of Hagerstown, the Maryland Constitution, and the Annotated Code of Maryland. Apartments are hereby levied and chargeable on the basis of **\$1.032** per \$100 based on the assessed value of said properties.
- B. All business personal property, except as otherwise provided for by Ordinance 98-04 entitled *ORDINANCE ESTABLISHING THE ASSESSMENT LEVY FOR THE PERSONAL PROPERTY CATEGORIES OF MANUFACTURING MACHINERY & EQUIPMENT, COMMERCIAL INVENTORY AND MANUFACTURING INVENTORY for the CITY OF HAGERSTOWN, MARYLAND for the FISCAL YEAR JULY 1, 1998 and Thereafter*, is hereby levied and chargeable on the basis of **\$2.505** per \$100 based on the assessed value of said properties as required by the Charter of the City of Hagerstown, the Maryland Constitution, and the Annotated Code of Maryland.
- C. Taxpayers who pay the taxes referred to herein, between the period of July 1, 2022 up to and including July 31, 2022, shall be entitled and are hereby granted a one quarter of one percent (1/4%) discount on the amount of said tax. Any property tax levy assessed and invoiced after September 30, 2022 shall be and is hereby granted a period of thirty (30) days from the invoice date to pay without additional interest or penalty.
- D. A semiannual payment plan for all real property is established in accordance with state law. Any taxpayer who makes an election to pay taxes on a semi-annual payment plan shall pay a service charge on and with the second installment based on the amount deferred.

BE IT FURTHER ORDAINED that the effective date of the tax rate established herein is July 1, 2022 and shall govern for the period set forth.

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Emily Keller, Mayor

Donna Spickler, City Clerk

Date of Introduction: May 10, 2022
Date of Passage: May 17, 2022
Effective Date: July 1, 2022

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Approval of an Ordinance: Budget FY 2022/23

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

FY23_Motion_and_ordinance_to_adopt_budget.pdf

Description

Motion Approval of
Ordinance FY23 Budget

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: May 17, 2022

TOPIC: Approval of an Ordinance: Budget FY 2022/23

Charter Amendment	_____
Code Amendment	_____
Ordinance	<u> X </u>
Resolution	_____
Other	_____

MOTION:

I hereby move for the approval of an ordinance on May 17, 2022 to adopt the City's budget for fiscal year July 1, 2022 through June 30, 2023 in the total amount of \$171,228,770.

DATE OF INTRODUCTION: 5/10/2022
DATE OF PASSAGE: 05/17/2022
EFFECTIVE DATE: 07/01/2022

ORDINANCE No.

**ESTABLISHING THE BUDGET FOR
FISCAL YEAR JULY 1, 2022 TO JUNE 30, 2023
CITY OF HAGERSTOWN, MARYLAND**

Pursuant to the Charter of the City of Hagerstown, the City Council is required to adopt a budget providing a complete financial plan for the budget year, with estimates of anticipated revenues and proposed expenditures for the coming year. The Charter further requires that the total anticipated revenues shall equal or exceed the total of the proposed expenditures.

In accordance with the provisions of the City Charter, Article VII, Finance, the City Administrator submitted a proposed budget to the Mayor and Council not less than ninety days before the beginning of the fiscal year, and a public hearing is being held on May 10, 2022 after twenty-one days' notice in a newspaper of general circulation.

NOW, THEREFORE BE IT RESOLVED, ENACTED and ORDAINED by the Mayor and Council of the City of Hagerstown, that the budget for the City for the fiscal year beginning July 1, 2022 and ending June 30, 2023, is hereby established as follows:

Funds	Mayor and Council	
	Proposed FY23 Budget	Approved FY23 Budget
General Fund	\$ 54,746,102	\$ 54,746,102
Community Development Block Grant Fund	1,964,482	1,964,482
Special Revenue Funds	2,196,268	2,196,268
General/Capital Improvement Projects	15,777,925	15,777,925
Total Government Funds	74,684,777	74,684,777
Electric Fund	28,154,677	28,154,677
Water Fund	22,611,201	22,611,201
Wastewater Fund	23,779,925	23,779,925
Parking Fund	6,909,398	6,909,398
Golf Fund	601,997	601,997
Property Management Fund	815,619	815,619
Stormwater Fund	2,833,528	2,833,528
Total Enterprise Funds	85,706,345	85,706,345
Service & Trust Funds	10,837,648	10,837,648
Total Combined Uses of Funds	\$ 171,228,770	\$ 171,228,770

BE IT FURTHER ORDAINED that the effective date of the budget established herein is July 1, 2022 and shall govern for the period set forth.

**MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND**

(SEAL)

Emily Keller, Mayor

Donna Spickler, City Clerk

Date of Introduction: *May 10, 2022*
Date of Passage: *May 17, 2022*
Effective Date: *July 1, 2022*

Record and return to: Donna Spickler, City Clerk
City Hall, Room 200
One East Franklin Street
Hagerstown, MD 21740

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Proclamation: Lyme Disease Awareness Month

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Preservation Awards ~ *Stephen Bockmiller, Zoning Administrator*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Preliminary Agenda Review

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

May_24__2022_Preliminary_Agenda.pdf

Description

Preliminary Agenda - May
24, 2022



**MAYOR AND COUNCIL
REGULAR SESSION (42ND VOTING SESSION)
MAY 24, 2022
AGENDA**

“The City of Hagerstown will inspire an inclusive, business-friendly, and sustainable community with clean, safe and vibrant neighborhoods.”

“The City of Hagerstown shall be a community focused municipality.”

Preliminary Agenda

The agenda and meeting packet is available at www.hagerstownmd.org/government/agenda

7:00 p.m. REGULAR SESSION – Council Chamber, 2nd floor, City Hall

I. CALL TO ORDER - Mayor Emily Keller

II. INVOCATION

III. PLEDGE TO THE FLAG

IV. ANNOUNCEMENTS

- A. Rules of Procedure – *Effective December 15, 2020*
- B. Use of cell phones during meetings is restricted.
- C. All correspondence for distribution to Elected Officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.
- D. Meeting Schedule:
 - 1. Tuesday, June 7, 2022 – Work Session at 4:00 p.m.
 - 2. Tuesday, June 14, 2022 – No Meeting Scheduled (MML Conference in Ocean City, MD)
 - 3. Tuesday, June 21, 2022 – Work Session at 4:00 p.m.
 - 4. Tuesday, June 28, 2022 – Regular Session at 7:00 p.m.

V. APPOINTMENTS

Historic District Commission
Board of Code Appeals

VI. CITIZEN COMMENTS

Citizens are welcome to provide comments in person or by sending an email to councilcomments@hagerstownmd.org no later than 5:00 p.m. on Tuesday, May 24, 2022. Include your full name, home street address, and topic of your comments. You may attach a letter to the email, or write your comments in the body of the message. The City Clerk will read your name, address, and provide a summary of the comments. The full copy of the comments will be provided for public viewing as part of the minutes.

VII. PUBLIC HEARINGS

- 1. O’Sick Local Conversion District Overlay Zone
- 2. Surrey, LLC Conversion District Overlay Zone

VIII. MINUTES

April 5, 2022, April 12, 2022, April 19, 2022, and April 26, 2022

IX. CONSENT AGENDA

- A. Engineering:
 - 1. Tree Canopy Assessment – University of Vermont (Burlington, VT) \$ 13,970.00
 - 2. Funkhouser Park Restroom Access & Water Diversion – Lone Star Builders, Inc. (Clear Spring, MD) \$ 42,930.00
- B. Finance:
 - 1. Utility Bill Processing and Mailing – Arista Information Systems (Duluth, GA) \$192,000.00
- C. Human Resources:
 - 1. Specific Stop Loss Insurance Annual Premium – Tokio Marine HCC (Kennesaw, GA) \$ 378,936.00
 - 2. City Sponsored Life Insurance – Hartford Life and Accident Insurance Co. (Hartford, CT) \$ 33,950.00
 - 3. Administration of Dental Coverage – UCCI (Hunt Valley, MD) \$ 43,956.00
 - 4. Administration of Medical Coverage – United Healthcare (Chicago, IL) \$ 299,048.00
 - 5. Employee Assistance Program Annual Premium – Compsych (Chicago, IL) \$ 9,494.00
- D. Information Technology:
 - 1. MUNIS Accounts Receivable API Interface – Tyler Technologies (Dallas, TX) \$ 18,879.00
 - 2. Arctic Wolf IT Security Software Package – Carahsoft Technology Group (Reston, VA) \$ 48,579.93
- E. Police Department:
 - 1. Street Camera Project Phase 5 – Salem Avenue Corridor of Downtown – Fiber Plus (Jessup, MD) \$ 95,140.00
- F. Public Works:
 - 1. Open Container Exemption and Application Permit for Juneteenth event – University Plaza, June 17, 2022, June 18, 2022, and June 19, 2022
 - 2. 2023 F-750 Gas Regular Cab and Stainless Steel Dump Body, Salt Spreader & Snow Plow – Keystone Ford (Chambersburg, PA) \$ 162,993.00
 - 3. July 4th Fireworks at Fairgrounds Park – Starfire Corporation (St. Benedict, PA) \$ 25,000.00
- G. Utilities:
 - 1. Light: Vegetation Management FY22 Blanket Extension - All Reliable Services, Inc. (Saint Augustine, FL) \$ 40,000.00
 - 2. Light: Vegetation Management Blanket Contract – All Reliable Services (Saint Augustine, FL) \$ 331,600.00
 - 3. Light: Linework Services Blanket Contract – Everhart & Hoover Power Line Construction, Inc. (Hustontown, PA) \$ 250,000.00
 - 4. Light: Substation Maintenance and Repair FY22 Blanket Extension – TRC Companies (Lancaster, PA) \$ 40,000.00
 - 5. Light: Consulting Services – GDS Associates, Inc. (Marietta, GA) \$ 75,000.00
 - 6. Light: Substation Maintenance and Repair Blanket Contract – TRC Companies (Lancaster, PA) \$ 150,000.00
 - 7. Light: Emergency Purchase - 1/0 Triplex Conductor – Anixter (Glenview, IL) \$ 39,000.00
 - 8. Light: Milsoft Productivity Software – Milsoft Utility Solutions (Abilene, TX) \$ 70,275.00
 - 9. Light: Electric Equipment Refurbishment – Southeastern Transformer Company (Dunn, NC) \$ 50,000.00

**** Please note all times are approximate and subject to change. Meetings are televised and recorded. ****

Consent Agenda Continued

10. Light: Emergency Purchase - Wood Utility Poles -- United Utility Supply (Louisville, KY) \$ 29,160.35
11. Wastewater: Administration Building – Emergency Repair for Foundation Water Intrusion – Keystone Foundation Repair, Inc. (Carlisle, PA) \$ 17,500.00
12. Wastewater: Wastewater Treatment Plant – Chemical Purchase – Maryland Biochemical (Bel Air, MD) \$ 23,130.00
13. Wastewater: Wastewater Treatment Plant Replacement of Waste Activated Sludge and Scum Pumps – Penn Valley Pump (Warrington Road, PA) \$ 84,914.00
14. Wastewater: Wastewater Treatment Plant Chemical Purchase - Methanol -- Colonial Chemical Solutions (Savannah, GA) \$ 79,200.00
15. Wastewater: Wastewater Treatment Plant Equipment – SCADA Upgrade – Micro-Tech Designs, Inc., (Hampstead, MD) \$68,738.00
16. Wastewater: Pump Stations Improvements – Wet Well Lining – Advanced Rehabilitation Technology (Bryan, OH) \$ 76,400.00
17. Water: Preventative Maintenance Agreement on Chlorine Equipment – Environmental Service and Equipment Company, Inc. (Marcus Hook, PA) \$ 10,472.00
18. Water: Street Patching Contract Extension – Huntzberry Brothers, Inc. (Smithsburg, MD) \$ 357,339.00
19. Water: Polymer – George S. Coyne Chemical Co., Inc. (Croydon, PA) \$ 41,400.00

X. UNFINISHED BUSINESS

- ✓ A. Approval of a Charter Amendment Resolution: Repeal and Re-enactment, with Amendments, of Charter Article VII, Section 717
- ✓ B. Approval of an Ordinance: Zoning Map Amendment - Eklund Local Conversion District Overlay Zone

XI. NEW BUSINESS

- A. Approval of a Resolution: Nonexclusive License Agreement with the Korean War Veterans Association Antietam Chapter #312, Inc. for the use of the City Produced Korean War Movie
- B. Approval of a Resolution: User Agreement with the Hagerstown Area Summer Swimming (HASS) for Use of the Potterfield Pool
- C. Approval of a Resolution: User Agreement with the Monocacy Aquatic Club (MAC) for Use of the Potterfield Pool
- D. Approval of a Resolution: User Agreement with the Cumberland Valley Model Yacht Club for Use of the Lower Lake at City Park
- E. Approval of a Resolution: Converting Brown Avenue to One-Way Eastbound
- F. Approval of a Resolution: Developer's Agreement for Currwood Development
- G. Approval of a Resolution: Renewal of Memorandum of Understanding (MOU) With Washington County Department of Social Services: Adult Protective Services
- H. Approval of Amendment to FY22 CDBG Annual Action Plan – Creation of New Activity for Funkhouser Park Sidewalk and Accessibility
- ✓ I. Approval of Indian Lane to Competitive Negotiated Sale (CNS) List
- ✓ J. Approval of IBEW Contract

XII. CITY ADMINISTRATOR COMMENTS

XIII. MAYOR & COUNCIL COMMENTS

XIV. ADJOURN

✓ *Items that have been discussed and reviewed previously or are of a routine nature and, therefore, additional information may not be attached to this agenda.*

**** Please note all times are approximate and subject to change. Meetings are televised and recorded. ****

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

IBEW Local 307 Labor Contract Approval - *Don Francis, Director of Human Resources*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

IBEW_Contract_Approval_M__C_Memo_5-2022.pdf

Description

Memo - IBEW Labor
Contract



CITY OF HAGERSTOWN, MARYLAND

Don Francis, SHRM-SCP, SPHR, IPMA-SCP
Director of Human Resources
dfrancis@hagerstownmd.org

DATE: May 10, 2022

TO: Scott Nicewarner, City Administrator

FROM: Don Francis, Director of Human Resources

RE: IBEW Local 307 Labor Contract Approval

The City's negotiation team has reached a tentative agreement with the International Brotherhood of Electrical Workers, Local 307. This collective bargaining agreement was voted on and ratified by the union's membership on April 28, 2022. If the Mayor and Council find the tentative agreement acceptable, it will be scheduled for a formal vote during the regular session on May 24, 2022. I recommend the Mayor and Council approve and adopt this collective bargaining agreement. Attachment 1 contains a summary of the agreement.

The cost of the FY23 wage enhancement of \$ 78,915 for year 1 and \$47,143 for year 2 will be borne by the Utilities Fund.

Attachment #1

IBEW Contract Changes July 1, 2022-June 30, 2024

Appendix #1

- Wages (year 1 = Grades 5-12 3.0%, Grades 14-17 7.0%; Year 2 = all grades 3.0%)
- Wage schedule increments change
- Classification Guide change (listing of positions within IBEW)

Article 2

- Contract Duration
 - Both parties agree to a two-year term

Article 4

- Allows for 2 hours of negotiation prep time between sessions

Article 6, Section 2

- Comp Time
 - 80 hours carryover for 5 or less
 - 120 hours accumulation within the calendar year.

Article 6, Section 3(A)

- Emergency Call-Outs
 - Cleaned up language
- Meals & Lodging
 - Adds meal allowance after 10 hours of work.

Article 6, Section 3(B)

- Stand-By Procedure
 - Increases by one hour, stand-by pay for stand-by days.

Article 6, Section 4

- Overtime
 - Cleaned up language

Article 7, Section 2

- Posting Vacancies
 - Allows for qualified IBEW Lineworker to attend and participate in the interview process when filling IBEW vacancies.

Article 9

- Safety Committee
 - Cleaned up language

Article 10

- Apprentice Line Workers
 - Creates a work assessment prior to advancement.

Appendix #3, Section 1

- Adds Juneteenth holiday

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

FY23 Budget Review ~ *Michelle Hepburn, Chief Financial Officer and Brooke Garver, Accounting & Budget Manager*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

FY23_Budget_Review_Memo_05-17-2022.pdf

Description

FY23 Budget Review Memo
05.17.22



CITY OF HAGERSTOWN, MARYLAND

Finance Department
301-739-8577 X160

To: Scott Nicewarner, City Administrator

From: Michelle Hepburn, Chief Financial Officer
Brooke Garver, Accounting & Budget Manager

Date: May 17, 2022

Subject: FY23 Budget Review

Staff will finalize the review of the FY23 Proposed Budget.

Rates: The FY23 Proposed Budget includes changes to rates already adopted by Mayor & Council and rate changes that will take effect upon adoption of the FY23 Proposed Budget. New changes for the Planning Department include subdivision plan, nonresidential full site plan, minor site plan, site plan waiver, zoning letters, fence permits, and forest conservation fee changes. Also, recycling & refuse collection fees are increasing to \$50 for quarterly residential customers and to \$110 for annual commercial customers. For a detailed listing of all citywide rates and fees, see Section 8.

May 17, 2022:

1. General Fund Capital Improvement Program – Section 7
 - a. Strategic Plan – Pages 2-3
 - b. General Fund Projects by Funding Source (Bond Financing; CIP Fund Balance; and Transfers to CIP-General Fund) – Pages 15-19
 - c. Miscellaneous Projects (C0025, C0041, C0241, C0685, C0687, C0854)
 2. Parking Fund 5 Year Projections - Section 6, Pages 24-26
 3. Parking Fund Capital Improvement Projects - Section 7, Pages 36 and 163-166
 4. Stormwater Fund 5 Year Projections - Section 6, Pages 31-32
 5. Stormwater Fund Capital Improvement Projects - Section 7, Pages 42 and 172-179
- Adoption of Ordinances (FY23 Budget and Property Tax Rate)

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Review of 11850 Indian Lane to the Competitive Negotiated Sale Program ~ *Doug Reaser, Business Development Specialist*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

051722_CNS_Indian_Lane.pdf

Description

Review of 11850 Indian Lane to the Competitive Negotiated Sale Program



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

TO: Scott Nicewarner, City Administrator

FROM: Doug Reaser, Business Development Specialist

DATE: May 11, 2022

RE: Review of 11850 Indian Lane to the Competitive Negotiated Sale program

Staff will attend the May 17, 2022 Work Session of the Mayor and City Council to review 11850 Indian Lane and the possibility of adding this property to the City's Competitive Negotiated Sale (CNS) program with the goal of transferring the property to the private sector.

11850 Indian Lane Background

- The property consists of 11.93 acres, comprised as a farmette with single family dwelling and out buildings.
- The approximate living space of the residential structure is 2,653 square feet.
- The property is zoned Agricultural Transitional.
- The property has a cell phone tower on it, and the City receives rental income from the cell tower owner. The tower is subject to a recorded Land Lease Agreement dated March 16, 2011. The Land Lease Agreement provides that the cell tower owner has a right of first refusal as to any bona fide offer to purchase the Indian Lane property.

Staff will review a proposed list price and the ability to offer a buyer's agent commission of the property during the work session.

Competitive Negotiated Sale Process

A brief summary of the Competitive Negotiated Sales Process is as follows:

- The Competitive Negotiated Sale is a process that facilitates the sale of City-owned properties with the goal of returning the property to the private sector for its redevelopment and highest/best use.
- The City of Hagerstown makes real estate available for purchase and redevelopment.
- The Department of Community and Economic Development (DCED) coordinates the process and accepts purchase applications.
- The Mayor and City Council identifies properties to be offered for sale and ultimately approves any development concept and purchase.

We seek Mayor and City Council approval of adding 11850 Indiana Lane to the CNS program that will be brought forth at a May 24th regular session.

Attachments: Draft Motion, Exterior Photos, Aerial, Parcel Map, CNS Overview

cc. Michelle Hepburn, Eric Deike, Jill Thompson, Chris Siemerling

REQUIRED MOTION
MAYOR & CITY COUNCIL
HAGERSTOWN, MARYLAND

DATE: May 24, 2022

TOPIC: **Approval to add Indian Lane Property – 11850 Indian Lane to the City’s Competitive Negotiated Sale (CNS) Process**

Charter Amendment	_____
Code Amendment	_____
Ordinance	_____
Resolution	_____
Other	<u> X </u>

MOTION: I hereby move for the Mayor & City Council to approve the addition of 11850 Indian Lane to the City’s Competitive Negotiated Sale (CNS) Process, with the goal of transferring the property to the private sector and returning the property to the tax rolls. The property will be added to CNS with a list price of \$_____ with ____% of the final sales price available for buyer’s agent commission.

DATE OF INTRODUCTION: 5/24/2022

DATE OF PASSAGE: 5/24/2022

EFFECTIVE DATE: 5/24/2022

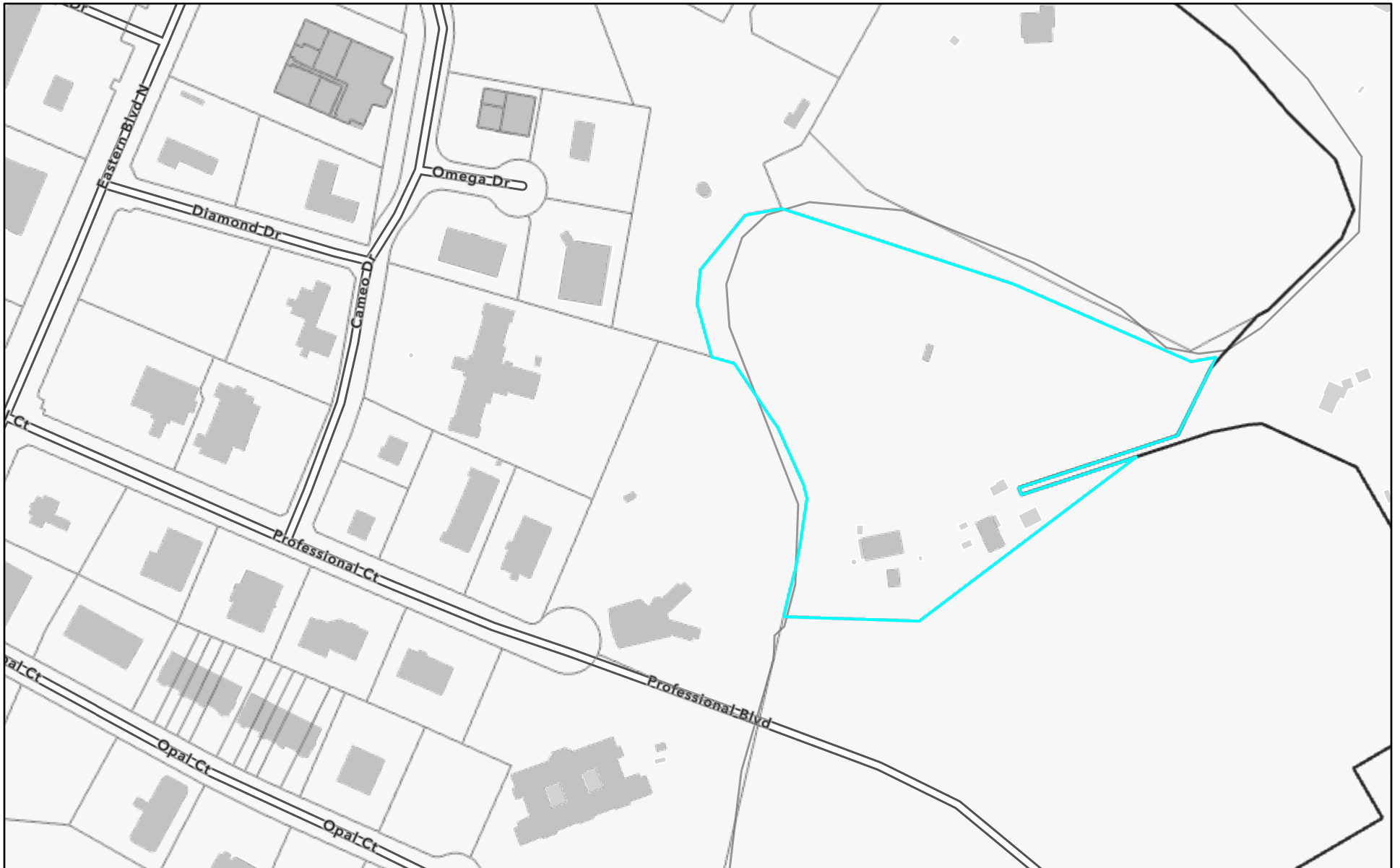
Exterior Photos







Aerial Photo

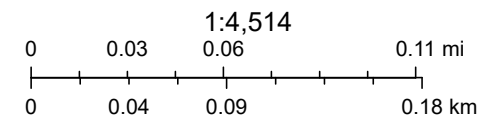


ArcGIS Web Map



5/10/2022, 4:04:30 PM

-  County
-  Parcel
-  Boundary
-  Buildings



Tim Williams, Esri Community Maps Contributors, WashCo MD, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

ArcGIS Web AppBuilder

Esri Community Maps Contributors, WashCo MD, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA | Esri Community Maps Contributors, WashCo MD, © OpenStreetMap,

City of Hagerstown

**Competitive Negotiated Sale Process
SUMMARY**

The following is a summary of the program which originated in 2013.

Program Overview

- The Competitive Negotiated Sale is a process that facilitates the sale of City-owned properties with the goal of returning the property to the private sector for its redevelopment and highest/best use. The City of Hagerstown makes real estate available for purchase and redevelopment. The Department of Community and Economic Development (DCED) coordinates the process and accepts purchase applications. The Mayor and City Council identifies properties to be offered for sale and ultimately approves any development concept and purchase.
- Any entity or individual may qualify to purchase City property through this process except that some restrictions may apply to City of Hagerstown employees. The purchaser must provide a project plan and budget and be able to demonstrate the financial ability and experience necessary to complete the purchase, the proposed development plan and /or the operation and proper maintenance of the property.
- Properties currently available through CNS:
 - Elizabeth Hager Center, 14 N Potomac
 - Central Lot Sites

Program Process

- Applicants must submit a completed CNS application form, along with all required supporting documents to DCED. A cross-department staff committee reviews all application submittals and recommends complete and viable applications to the Mayor and City Council. Competitive proposals are accepted on an ongoing basis. During committee review of CNS proposals, the development plan is weighed equally if not more importantly than the proposed sale price. The goal is to find the highest and best use of each CNS property.
- CNS properties are marketed through the City of Hagerstown's (DCED) website, through free real-estate websites such as Co-Star, by local realtors and developers and through signage on the buildings.
- CNS properties acquired or rehabilitated with State Community Legacy funds may restrict the types of uses for the property. For example, Community Legacy funded buildings cannot be used for the following: pawn shops, gun shops, tanning salons, massage parlors, adult video/book shops, adult entertainment facilities, check cashing facilities, gambling facilities, tattoo parlors or liquor stores.
- CNS properties acquired or rehabilitated with CDBG funds typically require sale proceeds to return to the CDBG program.
- DCED staff maintains documentation concerning other aspects of CNS properties where applicable, such as code overviews and environmental assessment reports.

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Code Amendments -- Chapter 238 of the City Code ~ *Nancy Hausrath, Director of Utilities*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Memo_Code_Admenment_Section_238_05122022.pdf

Draft_Code_Amendments_Section_238.pdf

Chapter_238_Hagerstown_Code.pdf

Description

Memo - Chapter 238 Code
Amendments

Draft Amendments to
Section 238

City Code Section 238

CITY OF HAGERSTOWN



DEPARTMENT OF UTILITIES

425 East Baltimore Street
Hagerstown, MD 21740-6105

51 West Memorial Blvd
Hagerstown, MD 21740-6848

May 11, 2022

To: Scott Nicewarner, City Administrator
From: Nancy Hausrath, Director of Utilities
Subject: Code Amendments – Chapter 238

Action: Discussion

Staff has continued to evaluate the existing capacity at the Hagerstown Wastewater Treatment Plant and the RC Willson and Breichner Water Production Plants. Staff has also reviewed customer usage inside and outside municipal limits.

As you are aware, there have been numerous requests for service in the MRGA and a couple requests in the County UGA. Staff along with legal counsel has completed and adopted the new Joint Sewer Service Area Agreement to replace the Consolidated General Service Agreement and the Flow Transfer Agreement. These agreements will transfer County flow in the Maugansville area back to the County and flow from the Hagers Crossing/Western Maryland Parkway area back to the City.

Per the direction provided on March 8, 2022, I updated Chapter 238 of City Code to amend how allocation will be assigned and the associated repercussions and/or penalties for non-compliance. As you are aware Water and Wastewater Plants are approaching 85% capacity and these amendments will allow staff to restrict allocation, and to reduce assigned allocation. Staff will request a proposal from NewGen to review our rate structure to include usage, fixed, benefit fee, fire-line, etc. to determine the best way to address future funding needs once these Code Amendments are adopted.

Proposed amendments have not been incorporated into Code to allow for allocation transfer per the discussion on March 8, 2022. Included in the proposed amendments are benefit fees for outside water customers which will need to be incorporated into the Cost of Service Study should the Mayor and Council desire to move forward with addressing this issue. Definition for residential, residential-multi, residential-commercial, public authority will be added to the definitions in Section 238.5 of City Code.

Staff will present approaches that will be considered and/or evaluated during the May 17th meeting and provide system updated data and draft Code Amendments.

238.10 Service connection charges.

[Amended 5-27-1969; 7-15-1974; 6-5-1978; 4-17-1990 by Ord. No. 1990-15; 10-16-1990 by Ord. No. 1990-48; 7-21-1992 by Ord. No. 1992-31; 6-21-1994 by Ord. No. 1994-20; 12-22-1998 by Ord. No. 1998-60; 11-23-1999 by Ord. No. 1999-51; 6-27-2000 by Ord. No. 2000-28]

A. The initial service connection charge for water service shall be due and payable at the time of application for water service and shall be determined in accordance with the following schedule of fees:

[Amended 5-22-2001 by Ord. No. 2001-18; 3-25-2003 by Ord. No. 2003-10; 7-1-2003 by Ord. No. 2003-24; 9-29-2020 by Ord. No. O-20-28]

Application fee: \$50.00

Service Pipe Size	Fee
3/4-inch (5/8-inch meter)	\$815.00
1-inch single (3/4-inch meter)	\$1,025.00
1-inch double (two 3/4-inch meters)	\$1,3000.00
1-inch RS Special	\$1,610.00
2-inch service	\$1,890.00

B. The fee for all services larger than two-inch shall be based on the cost of materials, labor, equipment and overhead at the time of formal application for service.

C. Front-footage charges, where applicable, shall be a minimum of \$21 per accessible front foot and shall be considered a part of the service connection fee.

D. All necessary trench excavation and repair shall:

(1) Be performed by and be the responsibility of the property owner in the following cases:

- (a) All service connections outside the corporate limits of the City.
- (b) All service connections inside the corporate limits of the City made in conjunction with street construction and/or subdivisions.

(2) Be performed by and be the responsibility of the City in the following cases:

- (a) All initial service connections two-inch size or smaller, inside the corporate limits of the City, made along existing streets or rights-of-way.

E. Length of service extensions shall not exceed the limits as set forth in the rules and regulations of the Water and Sewer Department.

F. Charges are based on standard installation specifications for each type of service as established by the Water and Sewer Department. Any variation or change required by the property owner which results in a higher cost shall be performed at the property owner's expense.

G. Water benefit charge.

(1) General.

- (a) In addition to all other charges, fees and assessments there is hereby established a water benefit charge. A water benefit charge shall be assessed for all properties currently served and new customers requesting water service. The water benefit charge shall be the amount or amounts equal to the product of the allocation established by the City in annual average of the gallons used per day multiplied by the current established benefit charge rate per gallon.
- (b) The water benefit charge is due and payable prior to the approval and issuance of any permits for improvements on a property.[Amended 3-25-2003 by Ord. No. 2003-10]
- (c) Administrative policies for the water benefit charge shall be established by the Water and Sewer Department and shall be available at the Water and Sewer Department and the office of the City Clerk.

- (2) Residential customers. All residential ~~single family dwelling units~~ ~~properties~~ will have a minimal allocation for service of 200 gallons per day per dwelling unit. This allocation shall not be adjusted except for changes in the number of dwelling units or changes to nonresidential use.

Formatted: Strikethrough

(3) Nonresidential customers.

- (a) General. All nonresidential customers shall pay for each gallon of ~~allocation based on the customer's annual average daily usage.~~ ~~Usage shall be averaged for the billing periods in each calendar year.~~ The minimum allocation for all service connections shall be 200 gallons per day. The estimated daily volume of water usage by a customer shall be determined by the Water and Sewer Department from the previous, current and/or anticipated amount of water consumption and other factors considered significant by the Water and Sewer Department and/or from information provided by the applicant or other approved sources. Allocation shall not be adjusted unless the following requirements are met:

Formatted: Font color: Red

Formatted: Font color: Red, Strikethrough

Formatted: Font color: Red

Formatted: Font color: Red, Strikethrough

Formatted: Strikethrough

- 1. Customer shall make application to the Water and Sewer Department in writing a minimum of (six) 6 months prior to exceeding existing allocation when a change in process, production, number of units, redevelopment, etc. is expected to result in an exceedance of the existing assigned allocation.
- 2. Should the annual average daily usage exceed the assigned allocation and the customer has not made application for an allocation increase, the City reserves the right to terminate water service in accordwith Section 238-17 of City Code.
- 3. If the daily average usage exceeds the assigned allocation and application has not been made for an allocation increase, the customer will be charged the inclining Residential Cost per 1,000 Gallons of metered water usage per Section 238-44.B for Inside Customers and Section 238.45. B for Outside Customers.

Formatted: Indent: Left: 0.75"

- (b) New customers. The water benefit charge shall be levied upon an applicant for water service or a building permit based upon the allocation established with the approval of an application for water service. The initial fee shall be calculated in accordance with the benefit charge administrative policies and this article. The established allocation shall not be transferable to any other property.

(c) Existing customers. The Water and Sewer Department shall notify each nonresidential customer of the proposed allocation for said customer who, on the date of the adoption of this article, is a customer. The allocation assignments for existing nonresidential customers shall be based on previous water use patterns. Unless a customer shall inform the Water and Sewer Department, in writing, within 30 days of receipt of said notification of allocation of his intention to file a written request for an allocation increase, and unless, said customer shall have filed said written request within 90 days of his receipt of said notification of allocation, the proposed allocation shall be the established allocation for the customer, and any subsequent written request by him for an allocation increase shall be subject to a water benefit charge in accordance with the provisions of this article. All written requests for an allocation increase shall be handled in accordance with the provisions of this article and the administrative policies. The allocation established for an existing customer shall not be transferable to any other property. Adopted in 1994 and amended in 1999 and 2000.

(d) Modification. If as a result of reviews conducted by the Water and Sewer Department, it is determined that the volume of water usage by a nonresidential customer has been less than the allocation established by the Water and Sewer Department, ~~allocation~~ for said customer by 100 gallons per day or more for at least one year, the Water and Sewer Department may notify the customer, or the owner or his agent thereof that his established allocation will be reduced to the proposed allocation as determined by the Water and Sewer Department. When notified by the Water and Sewer Department of such decrease, the customer, or owner or his agent, shall then have a total of 90 days from the date of receipt of said notification to file a request to again increase his established allocation. If the customer, or the owner or his agent, does not file an application for an allocation increase, then the new reduced allocation amount as determined by the Water and Sewer Department shall automatically take effect. If however, the customer or owner exceeds this new determined allocation but stays within his original allocation, the customer or owner or his agent will not be assessed any additional benefit charge. If, as a result of reviews conducted by the Water and Sewer Department, it is determined that the volume of water usage by any nonresidential customer shall be greater than the established allocation for said customer by 100 gallons or more for at least one year the Water and Sewer Department may notify said customer of his new established allocation and he shall have the same rights to request a decrease in the allocation as provided in this subsection for a customer whose allocation has been decreased. If the new allocation as finally determined hereunder is higher the customer will be charged at that level of allocation. This section pertains to only those nonresidential customers with an assigned allocation at the time the Code was adopted per 238.10. G.3.d.

Formatted: Strikethrough

(4) Benefit charge rate. The Mayor and Council of the City of Hagerstown shall by ordinance fix and establish the amount of benefit charge rate per gallon of allocation in accordance with the Charter of the City of Hagerstown. If for any reason the benefit charge is not paid when due, then the outstanding balance owed by the property owner shall constitute a lien on the property served and shall be a collectible in accordance with Article 23(a) of the Annotated Code of Maryland. The benefit charge rate per gallon shall be assessed as follows:

[Amended 7-12-2005 by Ord. No. O-05-19; 4-23-2019 by Ord. No. O-19-04^[1]]

~~Inside and Outside~~ Water Benefit Charges

Benefit Fee	Current	FY20	FY21	FY22	FY23	FY24
Per gallon	\$12.50	\$12.88	\$13.27	\$13.67	\$14.08	\$14.50
Minimum: 200 gallons	\$2,500	\$2,576	\$2,654	\$2,734	\$2,816	\$2,900

Formatted: Strikethrough

WATER BENEFIT Charges OUTSIDE

Benefit Fee	Current	FY20	FY21	FY22	FY23	FY24
Per Gallon	\$12.50	\$12.88	\$13.27	\$13.67	\$28.16	\$29.00
minimum - 200 gallons	\$2,500	\$2,576	\$2,654	\$2,734	\$5,632	\$5,800

Field Code Changed

Outside Benefit Charges for Outside Customers will become effective January 1, 2023

[1] *Editor's Note: This ordinance also provided that it shall be effective 30 days after passage, with the increases in rates effective for all bills rendered in the current fiscal year on or after July 1, 2019, and for all bills rendered on or after July 1 of each of the subsequent four fiscal years.*

- H.** All applicable connection fees and front footage charges shall be paid when application is made for service connection.
- I.** Use of funds. The revenues received from the Water and Sewer Department benefit charge are to be used exclusively to fund major capital additions, replacements or improvements to the water treatment plants, transmission system, pumping stations and water storage facilities.

Chapter 238. Water

[HISTORY: Adopted by the Mayor and Council of the City of Hagerstown as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 64.

Fire prevention — See Ch. 98.

Land management — See Ch. 140.

Sediment control — See Ch. 209.

Stormwater management — See Ch. 213.

Streets and sidewalks — See Ch. 216.

Water pollution control — See Ch. 240.

Article I. Contaminations; Discharges into Streets

[Adopted as Ch. 63, Art. I, of the 1967 Code]

§ 238-1. Filth and debris in watercourses.

No person shall cast or throw any filth or other debris into any City watercourse or sewer or dam up or obstruct the same in any way.

[1] *Editor's Note: Original § 63-1, Water bill payment, which immediately preceded this section, was deleted 7-17-1990 by Ord. No. 1990-39.*

§ 238-2. Obstruction of watercourses, drains and sewers.

If any owner of any lot or the occupant of any lot within the corporate or sanitary limits of the City shall willfully obstruct or allow to be obstructed in any manner, either by filth or otherwise, any watercourse, drain or sewer passing over or through such lot and shall permit such obstruction to remain for a longer period than 24 hours, such owner or occupant shall be fined as provided in Chapter 1, Article II, of this Code, and the trial magistrate who shall impose such fine and cost shall proceed immediately to order such watercourse, drain or sewer cleaned and relieved from any such obstruction and collect all costs and expenses thereof in the name of the Mayor and Council of the City from either the owner or occupant of such lot.

§ 238-3. Privy contents and excrement.

Any person who shall place or cause to be placed in any open stream or sanitary sewer manhole the contents of any privy or who shall permit any filth or excrement to flow from any hogpen, stable or manure pile or from any other place upon his lot or premises into any open stream or sanitary sewer manhole shall be punished as provided in Chapter 1, Article II, of this Code.

§ 238-4. Discharge of water from buildings onto streets.

It shall be unlawful for any person owning, occupying or residing in any house, building or premises situated within the corporate limits of the City to cause, suffer or permit any water of any character whatsoever to issue, be thrown, be discharged or flow from any house, building or premises or through or by means of a pipe or otherwise or to flow from any pump, hydrant, cistern, spigot or pipe located in and upon any such house, building or premises in such a manner as to be discharged, issued, thrown or diverted directly or indirectly into, upon or over any sidewalk, gutter, street, lane or alley of the City; provided, however, that such person shall be permitted to use clean water for washing down the front of any building or house, the windows thereof, storefronts and store windows of any such building or house of the City from the first day of April to the 30th day of September, inclusive, in each and every year.

Article II. Rules and Regulations

[Adopted as Ch. 63, Art. II, of the 1967 Code]

§ 238-5. Definitions.

As used in this article, the following terms shall have the meanings indicated:

COMMERCIAL CUSTOMER

Any customer engaged in a trade or commerce.

CUSTOMER, HE, HIM OR HIS

Where applicable in context, includes and refers to any person, persons, firm, agency or corporation, irrespective of gender, who may be an applicant for or a user of water service.

CUSTOMER SERVICE PIPE

That portion of the service pipe between the connection at or near the property line and the structures on the premises to be supplied.

INDIVIDUAL BUILDING

A permanent building which can be sold as a separate building. Determination as to whether or not a building is a separate unit or a multiple unit shall be made on the basis of whether or not there exists a permanent wall-bearing partition and such other pertinent factors as may exist.

INDUSTRIAL CUSTOMER

Any customer whose primary business is the creation, fabrication or manufacturing of a product.

INITIAL SERVICE CONNECTION CHARGE

That charge which is applicable to the first application for water service piping or an application for an enlarged water service piping to an individual building. It is intended to cover those instances where new or enlarged piping is necessary to provide water service at an address.

LATERAL

That portion of the street service connection running from the main across the street to supply water to more than one individual building.

MAIN

A supply pipe, owned and maintained by the Water and Sewer Department, to which street service connections are attached to supply water to one or more customers.

METER

A mechanical device or devices to measure and record the quantity of water supplied to the customer.

NOTICE TO WATER DEPARTMENT

Written notice addressed to the Superintendent, Water and Sewer Department, City Hall, Hagerstown, Maryland, and deposited in the United States Mail postage prepaid or delivered in person to the Superintendent of the Water and Sewer Department.

PRIVATE FIRE CONNECTION

A pipe with appurtenances used to conduct water from the main to the customer's private fire protection system.

PROPERTY LINE

The curblin in all cases where a side walk is established or provided for in front of any lot or property abutting on any street or highway.

SEASONAL SERVICE

One which is used to supply water to customers who are primarily seasonal in operation or who require increased water service for equipment or processes operated only for part of the year.

STANDBY SERVICE

One which is used to supply water to customers for standby or breakdown purposes or to supplement the customer's water supply.

STREET SERVICE CONNECTION

A pipe with appurtenances used to conduct water from the mains to the property line.

STUB

That portion of the street service connection attached to a main or a lateral through which an individual building is served.

TEMPORARY SERVICE

One which is used to supply water to customers for temporary purposes and to housing without permanent foundations.

TURN-ON CHARGE

That charge applicable to the initial turn-on of water service at a customer's billing address when service has been discontinued due to nonpayment of bills.

WATER DEPARTMENT

In context, the City of Hagerstown, Maryland; the Board of Water Commissioners of Hagerstown, Maryland; the Water and Sewer Department of Hagerstown, Maryland; or a combination of one or more thereof, together with their officers, agents and employees.

YEARLY SERVICE

One which is used to supply water to customers who use said supply during 12 months of each year.

§ 238-6. Effect on City obligations and responsibilities.

Nothing in these rules and regulations shall be construed to impose or place upon the Water and Sewer Department (i.e., upon the City of Hagerstown, Maryland, or upon the Board of Water Commissioners of the City of Hagerstown, Maryland, or upon any agent, servant or employee of said City or said Board of Water Commissioners) any obligation, responsibility or duty to inspect, maintain and/or repair any water piping, apparatus, appliance or equipment, except only such metering facilities, if any, owned by the Water and Sewer Department as may be installed on the customer's premises, on the customer's side of the point of delivery of water to such customer.

§ 238-7. Limitation of authority of Water and Sewer Department representatives.

No agent, employee or representative of the Water and Sewer Department shall have any right or authority to make any promise, commitment or agreement not expressly authorized by these rules and regulations.

§ 238-8. Applications and contracts for service.

- A. All contracts for water service shall be subject to all rules and regulations heretofore or hereafter adopted or promulgated by the Board of Water Commissioners and all applicable ordinances of the City of Hagerstown, Maryland, which may be now or hereafter in force.
- B. All applicants for water service shall sign such application to obtain water service as the Water and Sewer Department may require. A fee shall be charged for each application for water service which shall be due and payable at the time the application is filed. The Council of the City of Hagerstown shall by ordinance fix, establish and adjust the amount of the water service application fee in accordance with the Charter of the City of Hagerstown. All applicants for water service shall sign such form of service contracts as may be acceptable to the Water and Sewer Department.

[Amended 6-17-2003 by Ord. No. 2003-23]

§ 238-9. Conditions prerequisite to furnishing service.

[Amended 7-15-1974]

- A. Water service shall not be supplied to any customer or customers until the Water and Sewer Department determines from its examination and consideration of the application of said customer that the furnishing of water service to said customer shall be feasible from the standpoint of the Water and Sewer Department.
- B. Any proposed connections and waterlines connecting to the waterlines of the City shall comply with all existing rules, regulations, ordinances and statutes that may be applicable.
- C. No connection shall be made to the facilities of the Water and Sewer Department until the initial service connections shall be paid by the customer in accordance with § **238-10**.

§ 238-10. Service connection charges.

[Amended 5-27-1969; 7-15-1974; 6-5-1978; 4-17-1990 by Ord. No. 1990-15; 10-16-1990 by Ord. No. 1990-48; 7-21-1992 by Ord. No. 1992-31; 6-21-1994 by Ord. No. 1994-20; 12-22-1998 by Ord. No. 1998-60; 11-23-1999 by Ord. No. 1999-51; 6-27-2000 by Ord. No. 2000-28]

- A. The initial service connection charge for water service shall be due and payable at the time of application for water service and shall be determined in accordance with the following schedule of fees:

[Amended 5-22-2001 by Ord. No. 2001-18; 3-25-2003 by Ord. No. 2003-10; 7-1-2003 by Ord. No. 2003-24; 9-29-2020 by Ord. No. O-20-28]

Application fee: \$50.00	
Service Pipe Size	Fee
3/4-inch (5/8-inch meter)	\$815.00
1-inch single (3/4-inch meter)	\$1,025.00
1-inch double (two 3/4-inch meters)	\$1,3000.00
1-inch RS Special	\$1,610.00
2-inch service	\$1,890.00

- B. The fee for all services larger than two-inch shall be based on the cost of materials, labor, equipment and overhead at the time of formal application for service.
- C. Front-footage charges, where applicable, shall be a minimum of \$21 per accessible front foot and shall be considered a part of the service connection fee.
- D. All necessary trench excavation and repair shall:
 - (1) Be performed by and be the responsibility of the property owner in the following cases:
 - (a) All service connections outside the corporate limits of the City.
 - (b) All service connections inside the corporate limits of the City made in conjunction with street construction and/or subdivisions.
 - (2) Be performed by and be the responsibility of the City in the following cases:
 - (a) All initial service connections two-inch size or smaller, inside the corporate limits of the City, made along existing streets or rights-of-way.
- E. Length of service extensions shall not exceed the limits as set forth in the rules and regulations of the Water and Sewer Department.
- F. Charges are based on standard installation specifications for each type of service as established by the Water and Sewer Department. Any variation or change required by the property owner which results in a higher cost shall be performed at the property owner's expense.
- G. Water benefit charge.
 - (1) General.
 - (a) In addition to all other charges, fees and assessments there is hereby established a water benefit charge. A water benefit charge shall be assessed for all properties currently served and new customers requesting water service. The water benefit charge shall be the amount or amounts equal to the product of the allocation established by the City in annual average of the gallons used per day multiplied by the current established benefit charge rate per gallon.
 - (b) The water benefit charge is due and payable prior to the approval and issuance of any permits for improvements on a property.
[Amended 3-25-2003 by Ord. No. 2003-10]
 - (c) Administrative policies for the water benefit charge shall be established by the Water and Sewer Department and shall be available at the Water and Sewer Department and the office of the City Clerk.
 - (2) Residential customers. All residential properties will have a minimal allocation for service of 200 gallons per day per dwelling unit. This allocation shall not be adjusted except for changes in the number of dwelling units or changes to nonresidential use.
 - (3) Nonresidential customers.
 - (a) General. All nonresidential customers shall pay for each gallon of allocation based on the customer's annual average daily usage. Usage shall be averaged for the billing periods in each calendar year. The minimum allocation for all service connections shall be 200 gallons per day. The estimated daily volume of water usage by a customer shall be determined by the Water and Sewer Department from the previous, current and/or anticipated amount of water consumption and other factors considered significant by the Water and Sewer Department and/or from information provided by the applicant or other approved sources.

- (b) New customers. The water benefit charge shall be levied upon an applicant for water service or a building permit based upon the allocation established with the approval of an application for water service. The initial fee shall be calculated in accordance with the benefit charge administrative policies and this article. The established allocation shall not be transferable to any other property.
- (c) Existing customers. The Water and Sewer Department shall notify each nonresidential customer of the proposed allocation for said customer who, on the date of the adoption of this article, is a customer. The allocation assignments for existing nonresidential customers shall be based on previous water use patterns. Unless a customer shall inform the Water and Sewer Department, in writing, within 30 days of receipt of said notification of allocation of his intention to file a written request for an allocation increase, and unless, said customer shall have filed said written request within 90 days of his receipt of said notification of allocation, the proposed allocation shall be the established allocation for the customer, and any subsequent written request by him for an allocation increase shall be subject to a water benefit charge in accordance with the provisions of this article. All written requests for an allocation increase shall be handled in accordance with the provisions of this article and the administrative policies. The allocation established for an existing customer shall not be transferable to any other property.
- (d) Modification. If as a result of reviews conducted by the Water and Sewer Department, it is determined that the volume of water usage by a nonresidential customer has been less than the established allocation for said customer by 100 gallons per day or more for at least one year, the Water and Sewer Department may notify the customer, or the owner or his agent thereof that his established allocation will be reduced to the proposed allocation as determined by the Water and Sewer Department. When notified by the Water and Sewer Department of such decrease, the customer, or owner or his agent, shall then have a total of 90 days from the date of receipt of said notification to file a request to again increase his established allocation. If the customer, or the owner or his agent, does not file an application for an allocation increase, then the new reduced allocation amount as determined by the Water and Sewer Department shall automatically take effect. If however, the customer or owner exceeds this new determined allocation but stays within his original allocation, the customer or owner or his agent will not be assessed any additional benefit charge. If, as a result of reviews conducted by the Water and Sewer Department, it is determined that the volume of water usage by any nonresidential customer shall be greater than the established allocation for said customer by 100 gallons or more for at least one year the Water and Sewer Department may notify said customer of his new established allocation and he shall have the same rights to request a decrease in the allocation as provided in this subsection for a customer whose allocation has been decreased. If the new allocation as finally determined hereunder is higher the customer will be charged at that level of allocation.
- (4) Benefit charge rate. The Mayor and Council of the City of Hagerstown shall by ordinance fix and establish the amount of benefit charge rate per gallon of allocation in accordance with the Charter of the City of Hagerstown. If for any reason the benefit charge is not paid when due, then the outstanding balance owed by the property owner shall constitute a lien on the property served and shall be a collectible in accordance with Article 23(a) of the Annotated Code of Maryland. The benefit charge rate per gallon shall be assessed as follows:
[Amended 7-12-2005 by Ord. No. O-05-19; 4-23-2019 by Ord. No. O-19-04^[1]]

Inside and Outside Water Benefit Charges						
Benefit Fee	Current	FY20	FY21	FY22	FY23	FY24
Per gallon	\$12.50	\$12.88	\$13.27	\$13.67	\$14.08	\$14.50
Minimum: 200 gallons	\$2,500	\$2,576	\$2,654	\$2,734	\$2,816	\$2,900

- [1] *Editor's Note: This ordinance also provided that it shall be effective 30 days after passage, with the increases in rates effective for all bills rendered in the current fiscal year on or after July 1, 2019, and for all bills rendered on or after July 1 of each of the subsequent four fiscal years.*

- H. All applicable connection fees and front footage charges shall be paid when application is made for service connection.
- I. Use of funds. The revenues received from the Water and Sewer Department benefit charge are to be used exclusively to fund major capital additions, replacements or improvements to the water treatment plants, transmission system, pumping stations and water storage facilities.

§ 238-11. Use of fictitious names on contract prohibited.

All contracts for water service shall be signed in the true name of the customer desiring such service, and the use of a fictitious name by the prospective customer shall be sufficient reason for the refusal and/or termination of service.

§ 238-12. Temporary service.

When it may appear to the Water and Sewer Department that the requested water service will be temporary, the Water and Sewer Department may, at its option, either furnish or decline to furnish such service. If the Water and Sewer Department elects to furnish such service, the applicant for service shall pay to the Water and Sewer Department, in advance, the estimated cost of constructing such service, including the cost of all labor, materials and supervision required.

§ 238-13. Availability of piping and equipment for inspections.

All water piping and equipment on the customer's premises shall be available to the Water and Sewer Department and to all inspectors of the City of Hagerstown, Maryland, who may have jurisdiction over such piping and equipment; provided, however, that the Water and Sewer Department shall not be deemed to have assumed the responsibility to inspect, repair or maintain any piping or equipment on the customer's side of the point of delivery as hereinafter located and defined in these rules and regulations.

§ 238-14. Security deposits.

- A. Before water service is connected, or at any time thereafter, the Water and Sewer Department may require evidence satisfactory to itself from any water customer that all bills for water service rendered or to be rendered will be paid promptly, or in lieu thereof, the Water and Sewer Department may require any such water customer to maintain on deposit with the Water and Sewer Department an amount sufficient to pay the estimated bills for all water service to such customer for not more than one billing period plus 30 days. Deposits shall not bear interest. The Water and Sewer Department may discontinue water service without notice to any customer who may fail to make or maintain the deposit required by the Water and Sewer Department. All or any portion of the deposit by a water customer may be applied by the Water and Sewer Department at any time upon any delinquent or unpaid bill owned by such customer.
- B. Such deposits, as outlined above, shall be refunded at the termination of service after all charges that may be due and payable by the customer have been paid.
- C. A customer who has made application for water service to a premises shall be held liable for all water service furnished to such premises until such time as the customer properly notifies the Water and Sewer Department to discontinue the service for his account.

- D. In the event that the Water and Sewer Department is unable to collect all bills for water service rendered at any location by other means, it may require payment from the property owner at such location, as provided by law.

§ 238-15. Rendering and payment of bills.

- A. All bills shall be due and payable when mailed and shall become delinquent 20 days after such date. If any bill rendered by the Water and Sewer Department is not paid within 30 days after the date thereof, the Water and Sewer Department may discontinue water service to such customer after notice. A reconnection charge shall be assessed when service has been discontinued due to nonpayment of bills and shall be payable prior to reconnection of the water service. The charge for reconnection shall be \$50 when performed between 8:00 a.m. and 3:00 p.m. and \$100 when performed between 3:00 p.m. and 8:00 a.m. and on weekends and holidays.
[Amended 10-16-1990 by Ord. No. 1990-48; 7-21-1992 by Ord. No. 1992-31; 5-22-2001 by Ord. No. 2001-18; 6-20-2006 by Ord. No. O-06-16; 9-29-2020 by Ord. No. O-20-28]
- B. Bills and notices to any customer shall be deemed to have been presented and given when deposited in the United States Mail, addressed to the last known address of such customer as shown on records of the Water and Sewer Department, or when delivered in person by a Water and Sewer Department employee. Notices to the Water and Sewer Department shall be given in writing as defined in § 238-5, definition of "notice to Water Department."
- C. Water service to each customer shall be for the sole use of such customer on the premises described in the service application, and the resale or submetering of water by such customer is prohibited. A separate bill shall be rendered for each meter, and water furnished to the same customer through separate meters shall not be added or cumulated for billing purposes, irrespective of the location of the meters, excepting only when such separate meters are installed on the same premises for the convenience and at the request of the Water and Sewer Department, in which event the water furnished through said meters may be cumulated for billing purposes.
- D. Payments shall be made at the office of the City Treasurer or at such other conveniently located places as may be designated by the City Treasurer.
- E. The Water and Sewer Department will not be bound by bills rendered under mistake of fact as to the quantity and nature of water service rendered.
- F. The Water and Sewer Department shall have the right to read meters and render bills either monthly or quarterly, or for such other period as may be deemed practicable by the Water and Sewer Department, and such bills shall be due and payable as provided in Subsection A of this section.
- G. In the case of a disputed account involving the accuracy of a meter, such meter may be tested upon the request of the customer, and bills will be adjusted as provided in § 238-36D(1) and (2).
- H. The minimum charge for each applicable tariff shall be paid whether such quantity of water is used or not, and no credit shall be allowed for any cause unless discontinuance of service has been requested by the customer and water has been shut off by the Water and Sewer Department for the period involved.
- I. If, for any reason, service is discontinued before the expiration of one month from the commencement of service, a bill for at least the minimum charge for one month will be rendered.
- J. A late payment charge of 10% will be calculated upon the total charges and applied to the water and wastewater bill or any portion of the bill not paid by the current amount due date. Each subsequent water and wastewater bill not paid in full will be subject to the aforementioned late payment charge on the unpaid balance.
[Added 6-18-2013 by Ord. No. O-13-16]

- K. A fee of \$50 shall be applicable to all water meters pulled per customer's request. A fee of \$50 shall be applicable to all water meters reinstalled per customer's request.
[Added 9-29-2020 by Ord. No. O-20-28]
- L. An account transfer fee shall be assessed for each water account transferred when a property is sold or the owner of record for a property is changed . Special readings or account information must be provided by the City to facilitate the transfer. The transfer fee shall be \$50 per each water account transferred.
[Added 9-29-2020 by Ord. No. O-20-28]
- M. A collection fee of \$35 (or the maximum allowed by the Maryland Commercial Law Article, as amended from time to time, if greater) shall be assessed against all dishonored checks not paid within 30 days of notice of dishonor.
[Added 9-29-2020 by Ord. No. O-20-28]

§ 238-16. Cross-connection prohibited.

The Water and Sewer Department will not allow its mains or services to be connected on any premises with any service pipe or piping which is connected with any other source of water supply; nor will it allow its mains or service pipes to be in any way connected to any vat, tank or other apparatus which contains or may contain any other liquid or chemicals. The Water and Sewer Department will refuse to give service to any premises having such connections until any and all such existing conditions are terminated.

§ 238-17. Discontinuance or refusal of service.

The Water and Sewer Department shall have the right and privilege to discontinue water service to any customer and/or refuse water service to any customer, whether theretofore served or not, for any reason which, in the sole judgment and direction of the Water and Sewer Department, may be valid or sufficient.

§ 238-18. Discontinuance at customer's request.

- A. The Water and Sewer Department shall, on verbal notice of the customer or his agent, turn water on or off for repairs or alterations without in any way affecting the existing application. If such service is rendered, a reasonable charge may be made to cover costs incurred by the Water and Sewer Department for such services.
- B. Service will be temporarily discontinued upon the written order of the customer without in any way affecting the existing application; provided, however, that the turn-on-charge may be made to cover costs incurred by the Water and Sewer Department for such services.
- C. Services will be permanently discontinued at the customer's request when proper notification is made to the Water and Sewer Department. Upon receipt of such notification, the Water and Sewer Department shall read the customer's meter, and charges for water service rendered up to and including the time of cutoff shall be computed and will become due and payable immediately.

§ 238-19. Right of entry.

Employees of the Water and Sewer Department, with proper identification, shall have the right to enter upon the premises of any water customer at any time during ordinary business hours for the purpose of examining, testing, changing and/or moving any water equipment, meters, apparatus and/or piping of the Water and Sewer Department or measuring the customer's water demand.

§ 238-20. Water and Sewer Department responsibilities and liabilities limited.

- A. The Water and Sewer Department shall have no duty, obligation or responsibility with respect to water piping, appliances, equipment or apparatus on the premises of any water customer other than to provide a water meter and a service connection from the distribution system of the Water and Sewer Department to the point of delivery of water to the customer, which point shall be considered the connection at or near the property line.
- B. The customer shall notify the Water and Sewer Department immediately of any change or changes in connected load or in water equipment on the customer's premises which might affect water service to such customer or to any other water customer of the Water and Sewer Department, and the Water and Sewer Department shall have no duty, obligation or responsibility arising out of or resulting from the customer's failure to so notify the Water and Sewer Department.
- C. The Water and Sewer Department shall not be liable for any injury, damage or loss resulting from the use of water on the customer's premises or from the presence, location, maintenance or use of any water piping, fixtures or equipment on the customer's premises.
- D. If, for the purpose of making repairs, extensions or connections or for any other reason beyond the control of the Water and Sewer Department, it becomes necessary to shut off water in mains, the Water and Sewer Department will not be responsible for any damage occasioned by such shutoff. The Water and Sewer Department will not be responsible for damages caused by turbid water which may be occasioned by cleaning of pipes, reservoirs or standpipes or the opening or closing of any gates or hydrants or any other cause which is not the result of negligence on the part of the Water and Sewer Department.
- E. In order to maintain proper and sufficient pressures in the distribution system for fire protection and other purposes; the Water and Sewer Department reserves the right, at all times, to determine, limit and regulate, in a reasonable and nondiscriminating manner, the maximum amounts of water a customer may use.
- F. Nothing shall be attached or fastened to or placed upon any meter, fixture or equipment of the Water and Sewer Department unless prior permission, in writing, shall have been given by the Superintendent of the Water and Sewer Department, and the Water and Sewer Department shall not be liable for any injury, damage or loss arising out of or resulting from any such attachment to its meters, fixtures or equipment.

§ 238-21. Responsibility of customer.

- A. Each customer shall pay the Water and Sewer Department for all damage to or destruction of property of the Water and Sewer Department located on or off the customer's premises where such is caused directly or indirectly by the customer's officers, agents or employees, excepting only that resulting from ordinary wear and tear, acts of God and acts of employees of the Water and Sewer Department.
- B. Each customer shall notify the Water and Sewer Department promptly of any defect in water piping equipment or apparatus of the Water and Sewer Department or of any existing condition which might affect water service to the customer or might be dangerous to persons or property. All such notices and all complaints concerning water service by the Water and Sewer Department shall be made in writing to the Water and Sewer Department at City Hall.
- C. If any water customer has on his premises any water piping connection apparatus or device which prevents a water meter or meters on such premises from registering or recording properly all water used or to be used or which enables such customer to obtain or use any water without the same having been registered and/or recorded properly by a water meter or meters of the Water

and Sewer Department or if any water customer shall fail or refuse to observe, fulfill and comply faithfully with all rules and regulations heretofore or hereafter promulgated by the Water and Sewer Department, the Water and Sewer Department shall have the right to discontinue water service to such customer and to terminate any contract or contracts with such customer immediately and without notice to the customer.

- D. The Water and Sewer Department may, at its option, refuse to render water service to any water customer whose service has been discontinued until the customer has paid in full for all water theretofore furnished by the Water and Sewer Department to the customer's premises (including all water which has not been registered or recorded properly by a water meter or meters of the Water and Sewer Department) and has paid for all damage to water meters and other equipment, facilities or property of the Water and Sewer Department and until the customer's water piping and service installation shall, at the customer's sole cost, risk and expense, have been placed in such condition as shall be acceptable to the Water and Sewer Department.

§ 238-22. Interruption to service.

- A. The Water and Sewer Department shall make every reasonable effort to eliminate interruption of service and when such interruption does occur will endeavor to establish service with the shortest possible delay. Whenever the service is interrupted for the purpose of working on the distribution system or the station equipment, all customers affected by such interruption will be notified in advance whenever it is possible to do so.
- B. The Water and Sewer Department reserves the right to shut off the water in its mains at any time without notice for making repairs, extensions or alterations but will, so far as possible, notify customers of the intent to shut off. It is expressly stipulated by the Water and Sewer Department that no claim shall be made against it and that no person shall be entitled to any damages by reason of the breaking of any pipe or by reason of any other interruption of the supply of water caused by mechanical breakdown or by other causes beyond its control.
- C. No refunds or proration of charges of private fire protection or hydrant or other minimum rate will be made for interruptions of service unless the interruption is in effect for a continuous period in excess of 10 days.

§ 238-23. Change in meter location.

Whenever a customer requests the location of a water meter to be changed, the Water and Sewer Department may make a reasonable charge to cover the cost of such relocation. No piping work on the customer's side of the point of delivery, as defined in § **238-20A**, will be done by the Water and Sewer Department either before or after moving said meter, except that a spool may be installed in place of the old meter location.

§ 238-24. Extension of water mains within City.

The Water and Sewer Department will extend its water mains along any public highways or streets which are laid out in which grades have been established and rough grading completed and which are dedicated to public use within the City, provided that:

- A. Such extension conforms to the Water and Sewer Department extension policy;
- B. Each applicant or group of applicants desiring water service shall, as part of the consideration for the Water and Sewer Department extending its water distribution system, execute and deliver, without cost to the Water and Sewer Department, such easements and other rights-of-way as, in the opinion of the Water and Sewer Department, are or may be required at the time the extension

is made or may be required in the future to extend the water distribution system to properties located adjacent to the premises to be served by such extension;

- C. Sufficient funds are available in the current annual budget of the Water and Sewer Department or in other funds available to the Water and Sewer Department, in excess of prior commitments, to defray the Water and Sewer Department's portion of the cost of such extension; and
- D. Such extension will be in the best interests of the Water and Sewer Department and its existing customers.

§ 238-25. Extension of water mains outside City.

The Water and Sewer Department will extend its water mains outside the City in accordance with § 238-24 above, provided, in addition to the limitations in § 238-24, that:

- A. Further expansion of the water distribution system outside the City limits will be permitted only in areas where the capacity of existing water mains and other water system facilities to which an extension is to be connected is sufficient to accept the new water demand, including adequate supply for fire protection;
- B. As a prerequisite to any such extension, the Superintendent of the Water and Sewer Department shall have filed with the Board a written opinion that, to his best knowledge and belief, the addition of the customers to be served from such extension will not reduce the supply available to existing customers below satisfactory pressures under fire service conditions;
- C. Preference shall be given to applicants for water system extensions where such applicants indicate, in writing, their agreement to future annexation to the City at such time as it becomes practicable; and
- D. All costs of such extensions, including any required reinforcement of the existing system to provide satisfactory service to both the prospective and existing customers, shall be paid by those persons desiring such extensions. The allowance of \$100 per customer shall not be made for such extensions outside the City limits.

§ 238-26. Street service connections.

- A. The location of the street service connection shall be along that frontage of the customer's property abutting the street in which the main lies or as determined by the Water and Sewer Department. In the event that service is requested at a point not already served by a main of adequate capacity, the Water and Sewer Department shall extend its main as provided in § 238-24 and the Water and Sewer Department extension policy.
- B. The size of the street service connection shall be determined by the Water and Sewer Department on the basis of information given in the application of the customer.
- C. All street service connections shall be laid to provide a minimum cover of 36 inches.
- D. The Water and Sewer Department shall not be obliged to install a street service connection until the initial service connection charge as set forth in § 238-10 hereof has been paid and until the customer's service pipe is installed in accordance with existing Plumbing Codes^[1] and the Water and Sewer Department specifications.
[1] Editor's Note: See Ch. 64, Building Construction.
- E. Any change in the location of an existing service at the request of the customer shall be made at the expense of the customer.
- F. The Water and Sewer Department will not be required to replace any existing street service connection with a larger size until the customer has paid the initial service connection charge for

such larger size of service as set forth in § 238-10 hereof, less the amount of the initial service connection charge applicable for the size of the present service.

§ 238-27. Maintenance or alteration of street service connection.

Maintenance or alteration of any street service pipe shall be done by the Water and Sewer Department. When such work is necessary for the convenience of the customer, it will be done at the customer's expense.

§ 238-28. Customers' service pipes.

- A. The customer's service pipe shall be furnished and installed by the customer at his expense and risk. Pipe shall be of ample strength to withstand the water pressures at the point where located and will conform to the existing Plumbing Codes^[1] and the requirements of the Water and Sewer Department in furnishing adequate and safe service.

[1] *Editor's Note: See Ch. 64, Building Construction.*

- B. The customer's service pipe shall include the connection to the street service pipe, and all liability for such connection shall be the customer's. If the customer's service pipe is installed prior to the installation of a street service pipe or stub by the Water and Sewer Department, the Water and Sewer Department will, at the customer's request, make the physical connection between those pipes, but in so doing the Water and Sewer Department assumes no liability for said connection.
- C. The customer's service pipe shall be laid to the property line at a point designated by the Water and Sewer Department before the Water and Sewer Department shall be required to connect such service pipe with the street service connection.
- D. Service pipe in buildings shall be located in the parts thereof best protected from the frost. In buildings where there are no cellars, the pipe shall be carried up from the center or unexposed part of the building or shall otherwise be installed in such a manner as reasonably to protect said pipe from freezing.
- E. The customer shall make all changes in his portion of the service pipe required on account of changes of grade, relocation of mains or other causes.
- F. No attachment to the customer's service pipe shall be made between the meter and the street main.
- G. Any repairs or maintenance necessary on the customer's service pipe or in any pipe or fixture in or upon the customer's premises, including the connections to the street service, shall be performed by the customer at his expense and risk. Such pipe and fixtures shall be kept and maintained in good condition and free from all leaks, and for failure on the part of the customer to do so, the water supply may be discontinued.
- H. All customers' service pipes must have placed thereon a cutoff immediately inside the building or foundation wall at the place of entry.
- I. When it becomes necessary to thaw a frozen service pipe and it cannot be determined where it is frozen and the Water and Sewer Department is requested by the customer to undertake to thaw the same, 1/2 of the cost thereof shall be paid by the customer.

§ 238-29. Laterals across streets.

When a water main carrying adequate pressure and capacity is on the opposite side of the street from the premises to be served, the Water and Sewer Department may run one lateral across the street to serve one or more stubs.

§ 238-30. Determination of single or separate services for individual buildings.

- A. Each separate permanent building, that is, one which can be sold as a separate building, regardless of ownership, shall have its own water service pipe. A permanent wall-bearing partition shall be the basis in determining whether or not a building is a separate unit or a multiple unit. This shall be the basis for running one service or separate services.
- B. Tourists' courts or establishments consisting of a group of buildings may, at the discretion of the Water and Sewer Department, be served by a single service pipe.

§ 238-31. Private fire service.

- A. It shall be expressly understood and agreed by and between the parties receiving private fire service that the Water and Sewer Department does not assume liability as an insurer of property or persons and that the agreement does not contemplate any special service, pressure, capacity or facility, and, further, that all private fire service furnished shall be subject to the ordinary and changing conditions of the Water and Sewer Department, as the same exist from day to day.
- B. All materials for such private fire protection shall be approved by the Water and Sewer Department, and the services must be provided with suitable valves outside of the building, under the exclusive control of the Water and Sewer Department. The entire cost and expense of installing a private fire service connection shall be borne by the owners of the premises. Said service shall be used exclusively for the extinguishment of fires, and no connection for domestic, commercial or industrial use may be attached to this fire service.
- C. All sprinkler pipes and other private fire connection pipes on presently installed services shall be so placed as to be readily inspected, and, if concealed or so arranged with other pipes so as to not be readily inspected or if any unauthorized connections are in existence, meters shall be installed on each service at the expense of the customer.
- D. Customers desiring private fire service must consult, before installation, with the Water and Sewer Department as to the availability of mains, pressure, etc. No private fire service connection will be made on a water main of less than six inches in diameter.
- E. Annual fee. The annual fee in dollars for fire line service by pipe size shall be as follows:
[Added 12-22-1998 by Ord. No. 1998-60; amended 5-22-2001 by Ord. No. 2001-18; 7-12-2005 by Ord. No. O-05-19; 9-22-2009 by Ord. No. O-09-12; 2-25-2014 by Ord. No. O-14-01; 4-23-2019 by Ord. No. O-19-04^[1]]

Annual Inside Fire Line Service Charge						
Pipe Size	Current	FY20	FY21	FY22	FY23	FY24
4-inch	\$192.44	\$198.21	\$204.16	\$210.28	\$216.59	\$223.09
6-inch	\$432.41	\$445.38	\$458.74	\$472.51	\$486.68	\$501.28
8-inch	\$769.76	\$792.85	\$816.64	\$841.14	\$866.37	\$892.36
10-inch	\$1,202.17	\$1,238.24	\$1,275.38	\$1,313.64	\$1,353.05	\$1,393.64
12-inch	\$1,729.64	\$1,781.53	\$1,834.98	\$1,890.02	\$1,946.73	\$2,005.13

Annual Outside Fire Line Service Charge						
Pipe Size	Current	FY20	FY21	FY22	FY23	FY24
4-inch	\$257.36	\$265.08	\$273.03	\$281.22	\$289.66	\$298.35

Annual Outside Fire Line Service Charge						
Pipe Size	Current	FY20	FY21	FY22	FY23	FY24
6-inch	\$576.16	\$593.44	\$611.24	\$629.59	\$648.47	\$667.93
8-inch	\$1,024.80	\$1,055.54	\$1,087.21	\$1,119.83	\$1,153.42	\$1,188.02
10-inch	\$1,602.12	\$1,650.19	\$1,699.69	\$1,750.67	\$1,803.20	\$1,857.29
12-inch	\$2,306.96	\$2,376.17	\$2,447.46	\$2,520.87	\$2,596.51	\$2,674.40

[1] *Editor's Note: This ordinance also provided that it shall be effective 30 days after passage, with the increases in rates effective for all bills rendered in the current fiscal year on or after July 1, 2019, and for all bills rendered on or after July 1 of each of the subsequent four fiscal years.*

§ 238-32. Seasonal, standby and temporary connections; special services.

- A. The entire cost of seasonal, standby and temporary street service connections shall be borne by the customer. Title to such service within the street lines remains in the Water and Sewer Department in consideration of its perpetual upkeep and maintenance. The initial service connection charge shall not apply when temporary water service is rendered through a fire hydrant.
- B. The entire cost of any special service installation will be defrayed by the applicant.

§ 238-33. House numbering.

Permanently assigned house numbers shall be obtained before application for service is accepted and suitably displayed on the property in a visible location before the water service pipe is installed.

- A. These house numbers should be assigned by the Postmaster of the City of Hagerstown or should conform to the City numbering system; if located outside the City limits, each house shall be properly identified as requested by the Water and Sewer Department.
- B. No meter is to be set at a house without proper and correct identification.
- C. If a house number or identification is changed for any reason, the Water and Sewer Department shall be notified of such change.

§ 238-34. Meter installations.

- A. All new services shall be metered, except private fire service connections, and the Water and Sewer Department shall have the right to place a meter on an existing service pipe and charge for water service by meter measurements.
- B. All meters shall be furnished, installed, maintained and removed by the Water and Sewer Department and shall remain its property.
- C. The Water and Sewer Department shall have the right to determine, on the basis of the customer's stated flow requirements, the size and type of meter to be installed and the location of the same. If flow requirements decrease subsequent to installation and a smaller meter is requested by the customer, the cost of installing such meter shall be borne by the customer.
- D. Plumbers installing new services and house plumbing in a premises shall determine from the Water and Sewer Department the proposed location of the meter and, if inside the building, shall leave sufficient horizontal space next to the entrance cutoff for the installation of meters as follows:

Size of Meter	Horizontal Space (inches)
5/8-inch	13 1/2
3/4-inch	16 1/2
1-inch	21
1 1/2-inch	26
2-inch	32

- E. When a meter is installed at or near the curblineline, it shall be placed in a meter box or vault in accordance with the specifications of the Water and Sewer Department as follows:
 - (1) Meters one inch and smaller in yearly services shall be installed in a meter box or tile at the expense of the Water and Sewer Department.
 - (2) Meters larger than one inch shall be placed in a vault which will be furnished and installed at the expense of the customer.
- F. All meters shall be maintained by the Water and Sewer Department at its expense insofar as ordinary wear is concerned, but damage due to hot water, freezing or other external causes arising out of or caused by the customer's negligence or carelessness shall be paid for by the customer. The meters furnished by the Water and Sewer Department shall remain its property, and the owners of the premises wherein or whereon they are located shall be held responsible for their safekeeping and liable for any damage there resulting from the carelessness of said owner, his agent or tenant and for failure to protect the same against freezing and/or damage by hot water. The Water and Sewer Department may refuse to supply water until such damage is paid.
- G. Where, at the request of the customer, a change in location of an existing meter is made, the expense thereof, at the option of the Water and Sewer Department, may be billed to the customer.

§ 238-35. Interconnection of house piping systems.

House piping systems designed to be supplied from separate meters shall not be interconnected. No house piping shall be interconnected to any individual water system.

§ 238-36. Meter tests.

- A. Upon the request of any customer, the meter supplying water to the customer making the request will be tested by the Water and Sewer Department. If the meter is found to be accurate within the limits of plus or minus 2%, the customer shall pay a just and reasonable fee for its test to the Water and Sewer Department; provided, however, that if the meter has not been tested during 12 months prior to the request, the Water and Sewer Department will make the test without charge to the customer. The just and reasonable fee to test the meter shall be \$50.
[Amended 9-29-2020 by Ord. No. O-20-28]
- B. The Water and Sewer Department may remove any meter for routine tests, repairs and replacement.
- C. The tests of the meter requested by the customer may be witnessed by the customer or his duly authorized representative.
- D. Meters registering fast or slow beyond allowable limits.
 - (1) If, upon test by the Water and Sewer Department, any water meter shall be found to have an average error of more than plus or minus 2%, such meter shall be corrected or replaced, at the option of the Water and Sewer Department, and an appropriate correction or charge in

keeping with the percentage of error found upon test of such meter shall be made in the bills or charges for water service measured through said meter during a period of not more than two billing periods prior to the date of such test.

- (2) If it is found during any period of time that a water meter has failed to register, the customer served through said meter shall be billed by the Water and Sewer Department and shall pay to the City Treasurer a charge for water service delivered during such period of time, which shall be estimated and computed by the Water and Sewer Department on a basis of the water accurately measured during the billing period preceding or succeeding the time when such meter was discovered to have failed to register or before the same was found to be in error and any and all available information pertaining to the proper determination of the customer's usage and load.

§ 238-37. Tampering with Water and Sewer Department property.

No person shall turn the water on or off at any street valve, corporation cock, curb cock or other street connection or disconnect or remove any meter without the consent of the Water and Sewer Department. Penalties provided by law for any such action will be rigidly enforced.

§ 238-38. Tampering with fire hydrants.

No unauthorized person shall, without written consent of the Water and Sewer Department, open any fire hydrant except for the legitimate purpose of extinguishment of fire.

§ 238-39. Installation of fire hydrants within City.

The installation of fire hydrants within the City shall be made, provided that:

- A. Each such installation shall be covered by a written recommendation of the Fire Chief and approved by the Board;
- B. There are funds available in the annual budget or water bond funds for the cost of such installation; and
- C. The capacity of the lines serving such locations is sufficient to provide a reasonable flow for fire protection purposes. At locations where fire hydrants are needed and such capacity is not available, the Superintendent of the Water and Sewer Department shall submit a written report to the Board which shall detail the system reinforcements needed to make such capacity available and the estimated costs thereof, together with such recommendations as he deems advisable. In the event that the Board finds that it is not feasible to provide the funds necessary for such reinforcements from the current annual budget or other funds available, it shall report such situation to the Mayor and Council for such action as the Mayor and Council may deem appropriate.

§ 238-40. Installation of fire hydrants outside City.

It shall be the general policy of the Water and Sewer Department to install fire hydrants only in locations where the capacity of the lines serving such locations is sufficient to provide a reasonable flow for fire protection purposes. It shall be expressly understood, however, that the City does not assume liability as an insurer of property or persons and that there is no guarantee of any special service, pressure or capacity and, further, service from all fire hydrants shall be subject to the ordinary and changing conditions of the City water system as the same exists from day to day.

§ 238-41. Conflict with other standards.

Where these rules and regulations are in conflict with any other ordinance of the City, such as the Plumbing Code, Building Code or Fire Prevention Code,^[1] such other ordinance now or hereafter adopted shall prevail.

[1] *Editor's Note: See Ch. 64, Building Construction, and Ch. 98, Fire Prevention.*

§ 238-42. Severability.

It is hereby declared that the sections, subsections, paragraphs, sentences, clauses and all other parts of these rules and regulations, either large or small, are severable and are not matters of mutually essential inducement, it being the purpose of the Board of Water Commissioners of the City of Hagerstown, Maryland, to determine, approve and enact appropriate rules and regulations pertaining to and governing the operation of the Water and Sewer Department of the City of Hagerstown, Maryland, and the furnishing of water to customers of the Water and Sewer Department, in accordance with the Constitution and statutes of the State of Maryland and the Charter of the City of Hagerstown, Maryland; and, if any one or more sections, subsections, paragraphs, sentences, clauses or other parts of these rules and regulations shall be, for any reason, adjudged unconstitutional or invalid, such judgment shall not impair, invalidate or affect the remaining portions and provisions of these rules and regulations, and such judgment shall be confined in its operation to the specific provision or provisions so held to be unconstitutional or invalid.

§ 238-43. Violations and penalties.

[Amended 9-29-2020 by Ord. No. O-20-28]

Any person violating or failing to comply with any provision of this Chapter **238** shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$ 500.

Article III. Rates and Charges

[Adopted 6-27-2000 by Ord. No. 2000-30]

§ 238-44. Service charges for City customers.

[Amended 5-22-2001 by Ord. No. 2001-18; 5-28-2002 by Ord. No. 2002-14]

A. The charges and rates for use and service of the public water system of the City to the owners of every building, house or other property connected with or using such system within the corporate limits of the City of Hagerstown shall be based on the amount of water delivered to the property from the public water supply as determined by meter readings or established minimums in accordance with the schedule of water rates and charges which the Mayor and Council of the City of Hagerstown shall by ordinance from time to time fix, establish and adjust in accordance with the Charter of the City of Hagerstown.

B. The rate in dollars per 1,000 gallons of metered water consumption per quarter for those customers located within Hagerstown's corporate boundaries shall be:

[Amended 5-25-2004 by Ord. No. 2004-29; 10-25-2005 by Ord. No. O-05-24; 6-20-2006 by Ord. No. O-06-16; 9-22-2009 by Ord. No. O-09-12; 2-25-2014 by Ord. No. O-14-01; 4-23-2019 by Ord. No. O-19-04^[1]]

Residential Cost per 1,000 Gallons	Inside City - Volume Fee per 1,000 Gallons				FY23	FY24
	Current	FY20	FY21	FY22		
Residential Cost per 1,000 Gallons	Current	FY20	FY21	FY22	FY23	FY24
0-18,000 gallons	\$1.62	\$1.67	\$1.72	\$1.77	\$1.82	\$1.87
>18,000 gallons	\$3.08	\$3.17	\$3.27	\$3.37	\$3.47	\$3.57

NOTE: Current structure is same as nonresidential tiers below.

Non-residential Cost per 1,000 Gallons	Current	FY20	FY21	FY22	FY23	FY24
0-100,000 gallons	\$1.62	\$1.67	\$1.72	\$1.77	\$1.82	\$1.87
>100,000 gallons	\$1.44	\$1.48	\$1.52	\$1.57	\$1.62	\$1.67

- (1) In addition, for customers billed quarterly, a fixed minimum charge in dollars will be assessed and shall be:

Inside - Fixed Fee for Each Meter Size (1 EDU Quarterly)							
Meter Size (inches)	EDUs	Current	FY20	FY21	FY22	FY23	FY24
		Fixed Quarterly	Fixed Quarterly	Fixed Quarterly	Fixed Quarterly	Fixed Quarterly	Fixed Quarterly
5/8	1	\$7.17	\$7.39	\$7.61	\$7.84	\$8.08	\$8.32
3/4	1	\$7.17	\$7.39	\$7.61	\$7.84	\$8.08	\$8.32
1	2.5	\$17.93	\$18.48	\$19.03	\$19.60	\$20.20	\$20.80
1.5	5	\$35.85	\$36.95	\$38.05	\$39.20	\$40.40	\$41.60
2	8	\$57.36	\$59.12	\$60.88	\$62.72	\$64.64	\$66.56
3	16	\$114.73	\$118.24	\$121.76	\$125.44	\$129.28	\$133.12
4	25	\$179.27	\$184.75	\$190.25	\$196.00	\$202.00	\$208.00
6	50	\$358.53	\$369.50	\$380.50	\$392.00	\$404.00	\$416.00
8	80	\$573.65	\$591.20	\$608.80	\$627.20	\$646.40	\$665.60
10	138	\$989.54	\$1,019.82	\$1,050.18	\$1,081.92	\$1,115.04	\$1,148.16

- (2) In addition, for customers billed monthly, the fixed minimum charge in dollars shall be 1/3 of the quarterly fixed minimum charge.

Inside - Fixed Fee for Each Meter Size (1 EDU Monthly)							
Meter Size (inches)	EDUs	Current	FY20	FY21	FY22	FY23	FY24
		Fixed Monthly	Fixed Monthly	Fixed Monthly	Fixed Monthly	Fixed Monthly	Fixed Monthly
5/8	1	\$2.39	\$2.46	\$2.53	\$2.61	\$2.69	\$2.77
3/4	1	\$2.39	\$2.46	\$2.53	\$2.61	\$2.69	\$2.77
1	2.5	\$5.98	\$6.15	\$6.33	\$6.53	\$6.73	\$6.93
1.5	5	\$11.95	\$12.30	\$12.65	\$13.05	\$13.45	\$13.85
2	8	\$19.12	\$19.68	\$20.24	\$20.88	\$21.52	\$22.16
3	16	\$38.24	\$39.36	\$40.48	\$41.76	\$43.04	\$44.32

Inside - Fixed Fee for Each Meter Size (1 EDU Monthly)							
Meter Size (inches)	EDUs	Current	FY20	FY21	FY22	FY23	FY24
		Fixed Monthly	Fixed Monthly	Fixed Monthly	Fixed Monthly	Fixed Monthly	Fixed Monthly
4	25	\$59.76	\$61.50	\$63.25	\$65.25	\$67.25	\$69.25
6	50	\$119.51	\$123.00	\$126.50	\$130.50	\$134.50	\$138.50
8	80	\$191.22	\$196.80	\$202.40	\$208.80	\$215.20	\$221.60
10	138	\$329.85	\$339.48	\$349.14	\$360.18	\$371.22	\$382.26

[1] *Editor's Note: This ordinance also provided that it shall be effective 30 days after passage, with the increases in rates effective for all bills rendered in the current fiscal year on or after July 1, 2019, and for all bills rendered on or after July 1 of each of the subsequent four fiscal years.*

§ 238-45. Service charges for non-City, non-booster customers.

- A. The charges and rates for use and service of the public water system of the City to the owners of every building, dwelling, house or other property connected with or using such system outside of the corporate limits of the City of Hagerstown but not within Booster Zones 2 or 3 shall be based on the amount of water delivered to the property from the public water supply as determined by meter readings or established minimums in accordance with the schedule of water rates and charges which the Mayor and Council of the City of Hagerstown shall by ordinance from time to time fix, establish and adjust in accordance with the Charter of the City of Hagerstown.
- B. The rate in dollars per 1,000 gallons of metered water consumption per quarter for those customers that are not located within Hagerstown's corporate boundaries shall be:
 [Amended 5-22-2001 by Ord. No. 2001-18; 5-28-2002 by Ord. No. 2002-14; 5-25-2004 by Ord. No. 2004-29; 10-25-2005 by Ord. No. O-05-24; 6-20-2006 by Ord. No. O-06-16^[1]; 9-22-2009 by Ord. No. O-09-12; 2-25-2014 by Ord. No. O-14-01; 4-23-2019 by Ord. No. O-19-04^[2]]

Outside City — Volume Fee per 1,000 Gallons						
Residential Cost per 1,000 Gallons	Current	FY20	FY21	FY22	FY23	FY24
0-18,000 gallons	\$3.91	\$4.03	\$4.15	\$4.27	\$4.40	\$4.53
>18,000 gallons	\$7.43	\$7.65	\$7.88	\$8.12	\$8.36	\$8.61

NOTE: Current structure is same as nonresidential tiers below.

Non-residential Cost per 1,000 Gallons	Current	FY20	FY21	FY22	FY23	FY24
0-100,000 gallons	\$3.91	\$4.03	\$4.15	\$4.27	\$4.40	\$4.53
>100,000 gallons	\$3.51	\$3.62	\$3.73	\$3.84	\$3.96	\$4.08

- (1) In addition, for customers billed quarterly, a fixed minimum charge in dollars based on water meter size shall be assessed and shall be:

Outside - Fixed Fee for Each Meter Size (1 EDU Quarterly)							
Meter Size (inches)	EDUs	Current	FY20	FY21	FY22	FY23	FY24

Meter Size (inches)	EDUs	Outside - Fixed Fee for Each Meter Size (1 EDU Quarterly)					
		Current	FY20	FY21	FY22	FY23	FY24
		Fixed Quarterly	Fixed Quarterly	Fixed Quarterly	Fixed Quarterly	Fixed Quarterly	Fixed Quarterly
5/8	1	\$20.88	\$21.51	\$22.16	\$22.82	\$23.50	\$24.21
3/4	1	\$20.88	\$21.51	\$22.16	\$22.82	\$23.50	\$24.21
1	2.5	\$52.20	\$53.78	\$55.40	\$57.05	\$58.75	\$60.53
1.5	5	\$104.40	\$107.55	\$110.80	\$114.10	\$117.50	\$121.05
2	8	\$167.04	\$172.08	\$177.28	\$182.56	\$188.00	\$193.68
3	16	\$334.07	\$344.16	\$354.56	\$365.12	\$376.00	\$387.36
4	25	\$521.99	\$537.75	\$554.00	\$570.50	\$587.50	\$605.25
6	50	\$1,043.97	\$1,075.50	\$1,108.00	\$1,141.00	\$1,175.00	\$1,210.50
8	80	\$1,670.35	\$1,720.80	\$1,772.80	\$1,825.60	\$1,880.00	\$1,936.80
10	138	\$2,881.36	\$2,968.38	\$3,058.08	\$3,149.16	\$3,243.00	\$3,340.98

- (2) In addition, for customers billed monthly, the fixed minimum charge in dollars shall be 1/3 the quarterly fixed minimum charge.

Outside - Fixed Fee for Each Meter Size (1 EDU Monthly)							
Meter Size (inches)	EDUs	Current	FY20	FY21	FY22	FY23	FY24
		Fixed Monthly	Fixed Monthly	Fixed Monthly	Fixed Monthly	Fixed Monthly	Fixed Monthly
5/8	1	\$6.96	\$7.17	\$7.39	\$7.61	\$7.84	\$8.08
3/4	1	\$6.96	\$7.17	\$7.39	\$7.61	\$7.84	\$8.08
1	2.5	\$17.40	\$17.93	\$18.48	\$19.03	\$19.60	\$20.20
1.5	5	\$34.80	\$35.85	\$36.95	\$38.05	\$39.20	\$40.40
2	8	\$55.68	\$57.36	\$59.12	\$60.88	\$62.72	\$64.64
3	16	\$111.36	\$114.72	\$118.24	\$121.76	\$125.44	\$129.28
4	25	\$174.00	\$179.25	\$184.75	\$190.25	\$196.00	\$202.00
6	50	\$347.99	\$358.50	\$369.50	\$380.50	\$392.00	\$404.00
8	80	\$556.78	\$573.60	\$591.20	\$608.80	\$627.20	\$646.40
10	138	\$960.45	\$989.46	\$1,019.82	\$1,050.18	\$1,081.92	\$1,115.04

- [1] *Editor's Note: This ordinance also provided the following: "A discount of 16% off the non-City of Hagerstown water rates shall be offered to the City's three municipal resale water customers. They are the Towns of Smithsburg, Funkstown and Williamsport. The discount will be offered contingent upon the completion of written water service agreements between each of the towns and the City of Hagerstown. The discount of 16% is based on the determination by our rate consultant of the City's avoided cost of service due to the towns' operation and maintenance of the water system within their municipal limits and direct billing of their own municipal customers."*
- [2] *Editor's Note: This ordinance also provided that it shall be effective 30 days after passage, with the increases in rates effective for all bills rendered in the current fiscal year on or after July 1, 2019, and for all bills rendered on or after July 1 of each of the subsequent four fiscal years.*

§ 238-46. Service charges for non-City, booster customers.

- A. The charges and rates for use and service of the public water system of the City to the owners of every building, dwelling, house or other property connected with or using such system outside of the corporate limits of the City of Hagerstown and within Booster Zones 2 or 3 shall be based on the amount of water delivered to the property from the public water supply as determined by meter readings or established minimums in accordance with the schedule of water rates and charges which the Mayor and Council of the City of Hagerstown shall by ordinance from time to time fix, establish and adjust in accordance with the Charter of the City of Hagerstown.
- B. The rate per 1,000 gallons of metered water consumption for those customers that are not located within Hagerstown's corporate boundaries and are located within Booster Zones 2 and 3 shall be \$2.42 for the first 100,000 gallons, \$2.18 for the next 900,000 gallons, and \$1.98 for over 1,000,000 gallons used. A minimum charge shall be assessed equivalent to the charges for 10,000 gallons of water consumption per quarter \$24.20, or 3,333.33 gallons of water consumption per month \$8.07.
[Amended 5-22-2001 by Ord. No. 2001-18; 5-28-2002 by Ord. No. 2002-14; 5-25-2004 by Ord. No. 2004-29]

§ 238-47. Charges for private fire line City customers.

The charges for use of the public water system by private fire line connection by owners of buildings connected for such use within the corporate limits of the City of Hagerstown shall be charged an annual fee for same in accordance with the schedule of water rates and charges which the Mayor and Council of the City of Hagerstown shall by ordinance from time to time fix, establish and adjust in accordance with the Charter of the City of Hagerstown.^[1]

[1] *Editor's Note: See § 238-31E for specific charges.*

§ 238-48. Charges for private fire line non-City customers.

The charges for use of the public water system by private fire line connection by owners of buildings connected for such use outside of the corporate limits of the City of Hagerstown shall be charged an annual fee for same in accordance with the schedule of water rates and charges which the Mayor and Council of the City of Hagerstown shall by ordinance from time to time fix, establish and adjust in accordance with the Charter of the City of Hagerstown.^[1]

[1] *Editor's Note: See § 238-31E for specific charges.*

§ 238-49. Plan review and inspection fees.

[Added 6-17-2003 by Ord. No. 2003-23]

- A. All persons constructing any water main extensions and/or pump stations which are to become part of the water system of the City of Hagerstown shall submit to the City for review plans for such construction. A fee shall be charged for review by the City of these plans which shall be due and payable at the time that the plans are submitted for review. The Council of the City of Hagerstown shall by ordinance fix, establish and adjust the amount of the main extension and/or pump station plan review fee in accordance with the Charter of the City of Hagerstown. The water plan application fee shall be \$50 per application, plus an additional \$0.50 per foot main review.
[Amended 9-29-2020 by Ord. No. O-20-28]
- B. All persons constructing any water main extensions and/or pump stations which are to become part of the water system of the City of Hagerstown shall have the same inspected by the Water and Sewer Department during the course of its construction in accordance with policies to be

established by the Department. A fee shall be charged for such construction permits/inspections which shall be due and payable prior to such inspections taking place. The Council of the City of Hagerstown shall by ordinance fix, establish and adjust the amount of the main extension and/or pump station construction permit/inspection fee in accordance with the Charter of the City of Hagerstown. The water plan inspection fee shall be \$3 per foot, and the pump station fee per gallon (minimum gallon of PS capacity) shall be \$14.

[Amended 9-29-2020 by Ord. No. O-20-28]

- C. The Water and Sewer Department shall establish administrative policies for the administration of the main extension and/or pump station plan review and inspection process.

§ 238-50. Miscellaneous fees.

[Added 9-29-2020 by Ord. No. O-20-28]

The fee for hunting permits on City reservoir property shall be \$20 per permit in any fiscal year in which the Mayor and City Council shall, by resolution, authorize the issuance of such permits. In the event that there are more applicants than hunting permits authorized by the Mayor and City Council, then permits shall be selected by random drawing. Maps shall be provided free of charge with any issued hunting permits, or shall otherwise be available at a cost of \$5 per map.

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Illicit Discharge Ordinance - *Jim Bender, Assistant City Engineer*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Illicit_Discharge_Ordinance.pdf

Description

Illicit Discharge Ordinance



CITY OF HAGERSTOWN, MARYLAND

Department of Engineering

May 17, 2022

TO: Scott Nicewarner, City Administrator

FROM: Jim Bender, Assistant City Engineer *JMB*

RE: Illicit Discharge Ordinance

1. Background:

The City has a National Pollutant Discharge Elimination System (NPDES) permit, issued by the Maryland Department of the Environment (MDE), to discharge stormwater from the City's storm drainage system into waters of the State. One of the requirements of that permit is that the City must approve an ordinance that prohibits illegal or illicit connections to the drainage system, and provides a mechanism for the City to investigate and stop discharges of pollutants. Staff has worked with the City Attorney to develop an ordinance (attached) that meets the permit requirements.

2. Action Requested:

Review the attached ordinance, and determine whether or not to move forward with implementation of these regulations. If the Council agrees, Staff will work with the City Attorney to introduce the ordinance at the May 24th Regular Session. Staff will be present at the Council's work session meeting to discuss.

3. Discussion:

MDE's goal through this requirement is to ensure that NPDES permit holders have regulations in place that will allow them to minimize or prevent pollutant discharges that eventually are carried downstream into streams, rivers, and the Chesapeake Bay. This requirement is a standard part of every NPDES permit, and all counties and municipalities must adopt these regulations. While there are some restrictions on such pollutant discharges scattered throughout the current City Code, there is not a comprehensive set of regulations that address the MDE's requirements. The proposed ordinance will codify these regulations as part of Chapter 213 "Stormwater Management".

The proposed ordinance provides definitions of "pollutants" that are prohibited from being discharged into the City's storm drainage system. These include paint, oils or other automotive fluids, solvents, hazardous materials, pesticides, herbicides, wastewater (sewage), and other pollutants. While some amount of pollutants will inevitably be introduced into the system by runoff during storm events, the goal is to minimize the amount of this pollution.

The ordinance does exempt certain non-rainfall discharges: public water main flushing and discharges from firefighting operations are allowed, as is the draining of swimming pools if the water is first dechlorinated in accordance with State requirements. Discharges from non-commercial vehicle washing are permitted, as are uncontaminated groundwater discharges from

sump pumps or foundation drains, and condensation discharges from HVAC units.

The provisions of this ordinance will be enforced by the City Engineer and their staff. The ordinance gives these personnel permission to request entry to properties to investigate potential violations, or to monitor discharges from those properties into the City's system. If entry to a property is refused, the City may seek the issuance of a search warrant from the court of jurisdiction. Property owners are required to notify the City Engineer of any hazardous or non-hazardous discharges of pollutants into the City's storm drainage system or waterways.

If the City Engineer discovers a violation of the ordinance, a written warning notice will be sent to the property owner. If the violation continues, a Notice of Violation will be issued to the property owner; that notice will identify the nature of the violation, how it must be abated, the time frame for compliance, and potential penalties if the violation continues. Those penalties include the issuance of a Municipal Infraction with a fine of \$1,000 per day for every day that the violation continues; violators may also be charged with a criminal misdemeanor, with associated fines and potential imprisonment.

While enforcement of this ordinance will place an additional burden on City staff, it is required in order to remain in compliance with the NPDES permit.

attachment: draft Illicit Discharge Ordinance

cc: Rodney Tissue
Zach Rawe

CHAPTER 213

STORM WATER MANAGEMENT

Proposed revisions/additions:

§213-5 DEFINITIONS

Highlighted definitions will replace current Code definitions.

Delete the definition of *Storm Drainage System*

Add the following definitions:

SECTION 2. DEFINITIONS

The following definitions are provided for the terms used in this Chapter:

BEST MANAGEMENT PRACTICE (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the Discharge of Pollutants directly or indirectly to Storm Water, receiving waters, or Storm Water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CONSTRUCTION ACTIVITY: Activities which include but are not limited to clearing and grubbing, grading, excavating, and demolition.

HAZARDOUS MATERIALS: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT DISCHARGE: Any direct or indirect Non-Storm Water Discharge to the Stormwater Management System, except as exempted in Section 213-43.A of this Chapter.

ILLICIT CONNECTIONS: An illicit connection is defined as either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the Stormwater Management System including but not limited to any conveyances which allow any Non-Storm Water Discharge including sewage, process wastewater, and wash water to enter the Stormwater Management System and any connections to the Stormwater Management System

from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an Authorized Enforcement Agency or,

- B. Any drain or conveyance connected from a commercial or industrial land use to the Stormwater Management System which has not been documented in plans, maps, or equivalent records and approved by an Authorized Enforcement Agency.

INDUSTRIAL ACTIVITY: Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): Means municipally-owned facilities where Storm Water is collected and/or conveyed, including, but not limited to, any sidewalks, roads with drainage systems, municipal streets, retention and detention basins, curbs, gutters, inlets, ditches, piped storm drains, pumping facilities, natural and human-made or altered drainage channels, reservoirs, and other drainage structures designed or used for collecting or conveying Storm Water, and that is not used for collecting or conveying sewage.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by the United States Environmental Protection Agency (EPA) (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the Discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORM WATER DISCHARGE: Any Discharge to the Storm Drainage System that is not composed entirely of Storm Water.

PERSON: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

ENGINEERING DEPARTMENT: Employees or designees of the City of Hagerstown Engineering Department who are designated to enforce this Article.

POLLUTANT: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, Sediments and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES: Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

SEDIMENT: Settleable solid material that is transported by runoff, suspended within runoff, or deposited by runoff away from its original location.

STORM WATER: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP): A document which describes the Best Management Practices and activities to be implemented by a Person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce Pollutant Discharges to Storm Water, Storm Water conveyance systems, and/or receiving waters to the maximum extent practicable.

WASTEWATER: Any water or other liquid, other than uncontaminated Storm Water, discharged from a facility.

§213-27 Right to appeal. DELETE and designate as RESERVED

§213-28 Severability. DELETE and designate as RESERVED. Replace with §213-56

§213-29 Violations and penalties. DELETE and designate as RESERVED. Replace with §213-49

§213-36 Petitions for adjustment. DELETE 'D' as Board of Technical Appeals does not have jurisdiction over these matters per the §10-66 of the Code

ARTICLE XIV ILLICIT DISCHARGE

§ 213-38. PURPOSE AND INTENT

The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of the City, through the regulation of Non-Storm Water Discharges to the Stormwater Management System to the maximum extent practicable as required by federal and state law. This Article establishes methods for controlling the introduction of Pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

- (1) To regulate the contribution of Pollutants by any user to the Municipal Separate Storm Sewer System (MS4) by Storm Water Discharges;
- (2) To prohibit Illicit Connections and Illicit Discharges to the Municipal Separate Storm Sewer System; and
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Article.

§ 213-39. APPLICABILITY

This Article shall apply to all flows entering the Stormwater Management System generated on any developed and undeveloped lands unless explicitly exempted by the Mayor and Council.

§ 213-40. RESPONSIBILITY FOR ADMINISTRATION

The Engineering Department shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed may be delegated in writing by the City Engineer or his or her duly authorized agent, to persons or entities acting in the beneficial interest of or in the employ of the City.

§ 213-41. COMPLIANCE WITH OTHER REGULATIONS

This Article is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Article are in addition to the requirements of any other ordinance, rule, regulations, or other provision of law, and where any provision of this Article imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

§ 213-42. LIMITS ON LIABILITY

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge of Pollutants.

§ 213-43. DISCHARGE PROHIBITIONS

A. Prohibition of Illicit Discharges:

No Person shall discharge or cause to be discharged into the municipal Stormwater Management System or Watercourses any materials, including but not limited to Pollutants or waters

containing any Pollutants that cause or contribute to a violation of applicable water quality standards, other than Storm Water.

The commencement, conduct, or continuance of any Illicit Discharge to the Stormwater Management System is prohibited.

The following discharges are exempt from discharge prohibitions established by this Article:

- (1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated – typically less than one PPM chlorine), and any other water source not containing Pollutants.
- (2) Discharges or flow from firefighting and other discharges specified in writing by the Engineering Department as being necessary to protect public health and safety.
- (3) Dye testing subject to a verbal notification to the Engineering Department prior to the time of the test.
- (4) The prohibition shall not apply to any Non-Storm Water Discharge permitted under an NPDES permit, waiver, or waste Discharge order issued to the discharger and administered under the authority of the United States Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Storm Drainage System.

B. Prohibition of Illicit Connections:

- (1) The construction, use, maintenance or continued existence of Illicit Connections to the Stormwater Management System is prohibited.
- (2) This prohibition expressly includes, without limitation, Illicit Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A Person is considered to be in violation of this Article if the Person connects a line conveying sewage to the MS4 or allows such a connection to continue.

- (4) Improper connections in violation of this Article must be disconnected and redirected, if necessary, to an approved onsite Wastewater management system or the sanitary sewer system upon approval of the Engineering Department.
- (5) Any drain or conveyance that has not been documented in plans, maps or the equivalent, and which may be connected to the Stormwater Management System, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Engineering Department requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the Stormwater Management System, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Engineering Department.

§ 213-44. WATERCOURSE PROTECTION

Every Person owning property through which a Watercourse passes, or such Person's lessee, shall keep and maintain that part of the Watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the Watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a Watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the Watercourse.

§213-45. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

A. Submission of Notice of Intent to the Engineering Department.

- (1) Any person subject to an Industrial or Construction Activity NPDES Storm Water Discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Engineering Department prior to the allowing of discharges to the MS4.
- (2) The operator of a facility, including construction sites, required to have an NPDES permit to Discharge Storm Water associated with Industrial Activity shall submit a copy of the Notice of Intent (NOI) to the Engineering Department at the same time the operator submits the original

NOI to the Maryland Department of the Environment or the Environmental Protection Agency as applicable.

- (3) The copy of the NOI may be delivered to the Engineering Department either in person or by mailing it to:

City of Hagerstown
1 East Franklin Street
3rd Floor
Hagerstown, MD 21740
Attn: City Engineer

§ 213-46. MONITORING OF DISCHARGES

A. Applicability

This section applies to all facilities that have Storm Water discharges associated with Industrial Activity, including Construction Activity.

B. Right of Entry to Facilities having a NPDES Permit for Industrial Activity or Construction Activity.

- (1) The Engineering Department shall be permitted to enter and inspect facilities subject to regulation under this Article as often as may be necessary to determine compliance with this Article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the designated personnel of the Engineering Department.
- (2) Facility operators shall allow the Engineering Department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge Storm Water, and the performance of any additional duties as defined by state and federal law.
- (3) The Engineering Department shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Engineering Department to conduct monitoring and/or sampling of the facility's Storm Water discharge.
- (4) The Engineering Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used

to measure Storm Water flow and quality shall be calibrated to ensure their accuracy.

- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Engineering Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Engineering Department access to a permitted facility is a violation of a Storm Water discharge permit and of this Article. A person who is the operator of a facility with a NPDES permit to discharge Storm Water associated with Industrial Activity commits an offense if the person denies the Engineering Department reasonable access to the permitted facility for the purposes of conducting any activity authorized or required by this Article.

C. Right of Entry to Facilities without a NPDES Permit for Industrial Activity or Construction Activity.

- (1) The Engineering Department shall be permitted to enter and inspect facilities subject to regulation under this Article as often as may be necessary to determine compliance with this Article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Engineering Department.
- (2) The Engineering Department shall have the right to set up such devices as are necessary in the opinion of the Engineering Department to conduct monitoring and/or sampling of the facility's Storm Water discharge.
- (3) The Engineering Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure Storm Water flow and quality shall be calibrated to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Engineering Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.

D. Search Warrants.

If any personnel of the Engineering Department has been refused access to any part of the premises from which Storm Water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Engineering Department and/or the City may seek issuance of a search warrant from any court of competent jurisdiction.

§ 213-47. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

The owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental Discharge of prohibited materials or other wastes into the municipal Stormwater Management System or Watercourses through the use of structural and non-structural BMPs. Further, any Person responsible for a property or premise, which is, or may be, the source of an Illicit Discharge, may be required to implement, at said Person's expense, additional structural and non-structural BMPs to prevent the further discharge of Pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the Discharge of Storm Water associated with Industrial Activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

§ 213-48. NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any Person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in Illegal Discharges or Pollutants discharging into Storm Water, the Stormwater Management System, or water of the United States, said Person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of Hazardous Materials, said Person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Engineering Department in person or by phone or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Hagerstown, 1 East Franklin Street, 3rd Floor, Hagerstown, Maryland, 21740 Attn: City Engineer within three (3) business days of the phone notice. If the discharge of

prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for a least three (3) years. Failure to provide notification of a release, as indicated above, is a violation of this Article.

This section does not apply to Sanitary Sewer Overflows as defined by COMAR 26.08.10.

§ 213-49. VIOLATIONS, ENFORCEMENT, AND PENALTIES

A. Violations.

It shall be unlawful for any Person to violate any provision or fail to comply with any of the requirements of this Article. Any Person who has violated or continues to violate the provisions of this Article, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the City Engineer or his designee, representative and/or contractors are authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The City Engineer is authorized to seek costs of the abatement as outlined in Section 213-52.

B. Warning Notice.

When the City Engineer finds that any Person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the City Engineer may serve upon that Person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the City Engineer to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

C. Notice of Violation.

Whenever the Engineering Department finds that a person has violated a prohibition or failed to meet a requirement of this Article, the City Engineer may order compliance by written notice of violation to the responsible person. The notice of violation shall be served via First Class mail and by posting a copy on the property, and shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred.
- (3) A statement specifying the nature of the violation;

- (4) A description of the remedial measures necessary to restore compliance with this Article and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the City Engineer by filing a written notice of appeal within ten (10) business days of service of notice of violation; and
- (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. Such notice may require without limitation:
 - (a) The performance of monitoring, analysis, and reporting;
 - (b) The elimination of Illicit Connections or Illicit Discharges;
 - (c) That violating discharges, practices, or operations shall cease and desist;
 - (d) The abatement or remediation of Storm Water pollution or contamination hazards and the restoration of any affected property;
 - (e) Payment of a fee to cover administrative and remediate costs; and
 - (f) The implementation of source control or treatment BMPs.

D. Compensatory Action

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Engineering Department may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

E. Suspension of MS4 Access

(1) Emergency Cease and Desist Orders

When the City Engineer finds that any Person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, or that the Person's past violations are likely to recur, and that the Person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City Engineer may issue

an order to the violator directing it to immediately cease and desist all such violations and directing the violator to:

- (a) Immediately comply with all Article requirements; and
- (b) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge. Any Person notified of an emergency order directed to it under this subsection, shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the City Engineer may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The City Engineer may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the City Engineer that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the City Engineer within thirty (30) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(2) **Suspension due to Illicit Discharges in Emergency Situations**

The City Engineer may, without prior notice, suspend MS4 Discharge access to a Person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City Engineer may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United State, or to minimize danger to persons.

(3) **Suspension due to the Detection of Illicit Discharge**

Any Person discharging to the MS4 in violation of this Article may have its MS4 access terminated if such termination would abate or reduce an Illicit Discharge. The Engineering Department will notify a violator of the proposed termination of its MS4 access. The violator may petition the City Engineer for a reconsideration and hearing. A Person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the City Engineer.

F. Municipal Infraction

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) business days of service of the notice of violation, or such greater period as the Engineering Department shall deem appropriate, the violation shall constitute a municipal infraction and the violator shall be fined, not exceeding One Thousand Dollars (\$1,000.00) per violation per day, as provided in Md. Code, Ann., Local Gov't, §6-102 for each day the violation remains unremedied after receipt of the notice of violation.

G. Criminal Prosecution

Any person who is found guilty of violating this Article shall be guilty of a misdemeanor and shall be subject to a criminal fine not exceeding One Thousand Dollars (\$1,000.00) per violation per day and/or imprisonment for a period not to exceed six (6) months. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

§ 213-50. APPEAL OF NOTICE OF VIOLATION

Any person aggrieved by the action of any official charged with the enforcement of this Article, as the result of issuance of a written notice of violation, or an alleged failure to properly enforce the Article in regard to a specific application, shall have the right to appeal the action to the City Engineer. The appeal must be filed in writing within ten (10) business days from the date of the notice of violation or determination to the applicant and shall clearly state the grounds on which the appeal is based. Except in the event of an emergency, any deadline set forth in the Notice of Violation shall be stayed upon the timely filing of an appeal and shall remain stayed pending the outcome of the appeal.

§ 213-51. ENFORCEMENT MEASURES AFTER APPEAL

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal within the timeframe set in the decision of the City Engineer upholding the decision of the Engineering Department, then representatives of the

Engineering Department shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

213-52. COST OF ABATEMENT OF THE VIOLATION

Within sixty (60) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the cost of abatement within ten (10) business days. If the amount due is not paid within a timely manner, as determined by the decision of the City Engineer, or by the expiration of the time in which to file an appeal, the cost of abatement shall constitute a lien on the property for the amount of the cost of abatement and may be collected in the same manner as municipal taxes. For the purpose of collection, the City may include unpaid costs on the annual tax bill of the property. The unpaid costs shall be collected in the same manner as ordinary taxes are collected, subject to the same interest and penalty for nonpayment as provided by law for nonpayment of City taxes.

§ 213-53. INJUNCTIVE RELIEF

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the City may institute injunctive, mandamus or other appropriate action or proceedings of law to correct violations of this chapter. Any court of competent jurisdiction shall have the right to issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

§ 213-54. VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 213-55. REMEDIES NOT EXCLUSIVE

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, State, or local law and it is within the discretion of the City to seek cumulative remedies. The City is entitled to recover all attorney's fees, court costs, and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

ARTICLE XV SEVERABILITY__

§ 213-56. SEVERABILITY OF PROVISIONS

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Stormwater Protection Program Update - *Jim Bender, Assistant City Engineer*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Stormwater_Protection_Program_Update.pdf

Description

Stormwater Protection
Program Update



CITY OF HAGERSTOWN, MARYLAND

Department of Engineering

May 17, 2022

TO: Scott Nicewarner, City Administrator
FROM: Jim Bender, Assistant City Engineer JMB
RE: Stormwater Protection Program Update

1. Background:

The City's Stormwater Protection Program was approved in April 2020, and collection of the Stormwater Protection Fee began in April 2021. Staff would like to take this opportunity to update the Council on the status of the program and the progress that we have made in complying with our NPDES stormwater permit, highlight work that has already been completed using the fees that have been collected, and talk about upcoming stormwater projects that are nearing construction or are planned for future years.

2. Action Requested:

No Council action is requested; this update is for informational purposes only.

3. Discussion:

As the Council remembers, the Stormwater Protection Program was developed in response to new requirements in our NPDES MS4 Permit. The new permit requires the City to remove 20% of the existing impervious area within the City, or provide treatment for 20% of the impervious area whose runoff isn't currently being treated; this area was determined to be approximately 390 acres. The estimated cost to create the required treatment systems was \$15-\$20 million, and the permit required this work to be completed by 2025.

Over a two year period, staff worked with a consultant (Wood) and a Stormwater Management Advisory Committee to determine the best way to meet the permit requirements. It was eventually determined that the implementation of a stormwater protection fee was the most equitable method to raise the required restoration funds. It was also determined that the Stormwater Protection Program would be best operated as an Enterprise Fund, and that all stormwater-related activities would be transferred to that fund. That included not only obvious stormwater activities, but related operations such as street sweeping and curb replacement.

Although the Stormwater Protection Program was officially approved in the spring of 2020, the implementation of the stormwater protection fee was delayed until the spring of 2021 due to the COVID-19 pandemic. So, while various internal reorganizational activities occurred at the City, other restoration projects were delayed until the funds began to accrue in the Enterprise Fund account. Now that a year's worth of fees have been collected, the City plans to proceed with a series of restoration projects that will help to fulfil our permit requirements.

Program activities to date:

In 2021, using funds collected via the stormwater protection fee, the City was able to complete the following activities:

- Street sweeping: the Enterprise Fund pays for the City's street sweeping program. Streets in the downtown core are swept twice per week, and other streets are swept on a rotating basis. On average, the sweepers collect approximately 400 tons of sediment and debris, which is then transferred to the landfill. Not only does sweeping help to keep City Streets clean, it earns credits toward our MS4 permit goals.



- Hager Park storm drain replacement: City staff discovered that an existing storm drainage piping system running through the center of the park had deteriorated to the point of collapse in some areas. Stormwater funds were used to replace approximately 250 linear feet of deteriorating storm drainage pipe running through the center of the park; without that project, use of the park would have been significantly limited due to safety concerns.



- BMX Track bioretention facility: with recent capital improvements at the BMX track at Fairgrounds Park, the City constructed a new water quality treatment facility to help treat runoff from the track area.



- Curb replacement: to offset some of the burden that the stormwater protection fee placed upon property owners, the Council agreed that the City should take over curb and sidewalk maintenance in the City; in the past those maintenance costs fell upon the property owner. Over the past year, the City's contractor completed approximately \$100,000 of curb repairs at various locations, paid for by the stormwater protection fee. Sidewalk repairs were also completed using money from the General Fund. Going forward, the City plans to budget at least \$100,000 from the Stormwater Enterprise Fund to complete curb repairs.
- Tree planting & maintenance: the City can claim credits against our MS4 permit goals by planting street trees and larger forest areas. We have budgeted \$25,000 in FY 23 and FY 24 to do this planting, and will increase that funding to \$50,000 per year in following years. The City is also using these funds to help maintain forest areas that were recently planted by the Maryland Forestry Service on City-owned properties at Williamsport, Smithsburg, and at the reservoirs in the West End.



Future planned activities:

Planning, design, and permitting are in progress for a series of projects that will use the stormwater protection fund to further meet our permit requirements; these projects include:

1. MKS Business Park pond retrofit: the City acquired the existing stormwater detention basin at the business park with the goal of reconstructing the deteriorating facility and installing water quality treatment components that will qualify as credits against our permit requirements. 100% design plans have been submitted to MDE to obtain the necessary construction permits, and the City expects to put this project out to bid later this summer. Estimated construction cost is approximately \$500,000
2. Greens at Hamilton Run stream relocation: Hamilton Run flows through the municipal golf course, but it flows in a manmade channel that is inadequately sized, which leads to regular flooding of some of the fairways. Using previous grant funds, a design was developed to relocate and restore the stream to its original path through the course; not only will the City be able to earn significant credits against the MS4 permit, but the relocation will add a water feature/hazard which will enhance the course. Design plans have been submitted to MDE to obtain a waterway construction permit, and the City expects to complete this project during the winter of 2022-2023. Estimated construction cost is \$800,000.
3. West Hillcrest Road stormwater retrofit: the City plans to narrow the street between Pennsylvania Avenue and St. Clair Street to reduce the existing impervious area, and install a water quality treatment facility to reduce pollutant loads. Project design is complete, and we plan to solicit bids for the project within the next few weeks. Estimated construction cost is \$250,000.
4. Storm Drainage Improvement Projects: City staff are analyzing and designing several projects to correct deficiencies in our existing storm drainage system, and will use stormwater protection funds to complete the projects. Projects that are being designed/considered include the drainage system at Morningside Heights, drainage deficiencies along Brookline Avenue and Interval Road, and the drainage system in E. Irvin Avenue and Magnolia Avenue.
5. Columbia Gas cross-bore inspection: as previously discussed with the Council, Columbia Gas plans to conduct a video inspection of the majority of the City's storm drainage system, looking for places where gas mains have accidentally been bored through the storm pipes. The video inspection will provide valuable information to the City on the condition of our drainage system, and will likely lead to a series of repair/reconstruction projects to address damage or failure to our facilities. The schedule for this work is dependent upon Columbia Gas' budget, but we believe that their inspection work will begin in the spring of 2023.
6. Other stormwater retrofit projects: the City is considering stormwater retrofit projects on several existing ponds to improve their water quality treatment. Candidate projects include the detention basins at North High and at the Community Rescue Service, and the construction of new treatment facilities at the Hagerstown Industrial Park.
7. Continuation of existing programs/operations: the City will continue to use the stormwater protection fund to support the street sweeping program, the curb replacement program, and tree planting at various locations around the City.

cc: Rodney Tissue, Eric Deike, Michelle Hepburn, Zach Rawe