

**ORDINANCE NO. 2009-1
AMENDMENT TO THE TOWN OF MILLERSBURG
WATER RATE ORDINANCE**

WHEREAS; by Ordinance No. 1990-3, as amended by Ordinance No. 1994-7 as amended by Ordinance No. 1999-4 as amended by Ordinance 2002-1 and as amended by Ordinance 2003-17 to change Section 2 (c), a schedule of rates and charges for the Millersburg Water Utility was adopted; and

WHEREAS; the Town has heretofore constructed and has in operation a municipal waterworks system for the purpose of providing water to the inhabitants in the Town and surrounding areas; and

WHEREAS; the Town Council of the Town of Millersburg finds it necessary for purposes of promoting the public health, safety, comfort, and general public welfare of the residents of the Town of Millersburg to modify the existing schedule of rates and charges so as to produce a more equitable basis for providing service and connecting to the waterworks system.

NOW THEREFORE; BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MILLERSBURG, INDIANA:

Section 1. This Ordinance amends Ordinance No. 1990-3, as amended by Ordinance No. 1994-7 as amended by Ordinance No. 1999-4 as amended by Ordinance 2002-1, and as amended by Ordinance No. 2003-17, known as the Town of Millersburg Water Rate Ordinance.

Section 2. Every person whose premises are served by said water utility shall be charged for the services provided. The water rates and charges shall be based on the quantity of water used on or in the property or premises subject to rates and changes, as the same is measured by the water meter therein used. For the purpose of billing and collecting the charges for water usage and service, the water meter shall be read monthly and the user shall be billed monthly (or for a period equaling a month). The monthly water rates for the Millersburg Water Utility shall be as follows:

(a) Metered Consumption per Month Monthly Rates per 1000 Gallons)

First 4,000 gallons	\$8.48
Next 11,000 gallons	\$6.49
Next 25,000 gallons	\$4.88
Over 40,000 gallons	\$3.25

(b) Minimum Charge: Each user of the water utility shall pay a minimum charge based on the size of the water meter installed for which the user will be entitled to the quantity of water herein after set forth. The minimum charges shall be as follows:

Meter Size	Minimum Monthly Charge
5/8 inch	\$25.45
3/4 inch	\$25.45
1 inch	\$56.60
1 1/2 inch	\$105.20
2 inch	\$149.20
3 inch	\$243.50
4 inch	\$341.05
6 inch	\$584.85

(c) Fire Protection: Each user of the water utility that has an automatic sprinkler system shall pay according to the sprinkler line connection:

Fire Sprinklers – Annually:

4 inch	\$540.80
6 inch	\$1216.80
8 inch	\$2163.00
10 inch	\$3380.60

(d) Private Fire Hydrants:

1. A private hydrant is defined as a fire hydrant that is located on private property, and only serves the property where it is located. A private hydrant shall not be used by the property owner for any purpose.

2. Each customer of the Water Utility with a private fire hydrant serving the customer's location shall pay an annual fire protection services in accordance with the following schedule for each private fire hydrant. The Water Utility billing office reserves the right to bill all customers for the charge on a monthly basis.

Annual Charges Effective December 29, 2003

Private	\$905.35
Municipal	\$905.35

3. Upon payment of this fire protection charge, the Town of Millersburg Water Department will provide periodic maintenance, flushing, and replacement parts for any outside private fire hydrant. The town will provide maintenance and flushing upon the condition that the Water Department is granted access to the private fire hydrant for such purposes upon the Water Departments request during regular business hours. Such maintenance and flushing will be provided at similar intervals as to what the town now provides to the town's public fire hydrants. The replacement of a private fire hydrant is not covered by this charge.

Section 3. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

(a) "Connection Fee" shall mean the payment required for the benefit or privilege of making a connection, directly or indirectly, to the Town's waterworks system, which is to be paid in accordance with this Ordinance.

(b) "Developer" shall mean an owner of, or person acting on behalf of an owner, to develop property to be served by the municipal water utility.

(c) "Tap Fees" shall mean the fees to reimburse the Town for the direct costs associated with making a connection to the water main. The fee includes direct costs such as materials, labor, equipment, pavement replacement, inspection, administration and review, as well as any other costs incurred in processing the application and making the connection. The fee does not include required back flow prevention devices and necessary metering equipment to meter the use of water by a user.

Section 4.

(a) **Temporary Users:** Water furnished to temporary users, such as contractors, public events, etc., shall be charged a flat fee of \$25.00 set by the Water Superintendent.

(b) **Collection and Deferred Payment Charges:** All bills for water services not paid within fifteen (15) days from the due date thereof, as stated in such bills, shall be subject to collection of a deferred payment charge of ten percent (10%) of the first Three Dollars (\$3.00) and three percent (3%) on the excess of Three Dollars (\$3.00). The charge for the return of a water utility user's check for non-sufficient funds shall be Twenty Dollars (\$20.00) per check. A user disconnected for non-payment of a bill shall be assessed a disconnect charge of Thirteen Dollars (\$13.00) and a reconnect fee of Thirteen Dollars (\$13.00) when reconnected.

When any property owner or water consumer fails to pay an account or statement for services provided by the Town of Millersburg Water Utility within thirty (30) days after its due date, the water utility may send a letter by first class mail, postage prepaid, demanding payment within ten (10) days and stating that the water service may be terminated to the property if all delinquent payments are not made within the ten (10) days. A demand letter fee shall also be charged to the delinquent user for the amount of Five Dollars (\$5.00) plus the amount of postage. If payment is not received within the ten (10) day period, the Town of Millersburg Water Utility may terminate water service to the property. Water service shall not be restored until the customer pays the past due amounts and the customer makes satisfactory

arrangements with the Town of Millersburg Water Utility to avoid future delinquencies.

(c) Deposit Charge and Application: Any person who owns and occupies or who is renting property connected to the Millersburg Water Utility and who is a user of water from the Millersburg Water Utility shall pay a meter deposit charge of Eighty-five Dollars

(\$85.00). Such deposit shall be paid at the time a transfer of or change in a utility account is requested by a new user or new owner of a property served by the municipal water utility, and at such time, the new user or owner shall complete an application for utility service. The utility account, however, shall not be changed or transferred until the new user or new owner and the existing account holder contact the Town of Millersburg, if the application is not completed and filed by the new user or new owner with the Town of Millersburg within two (2) weeks after the transfer or change is made, any municipal water or sewer service serving the property shall be subject to termination.

Section 5. Prior to connecting to the Town's waterworks system, a developer shall be required to pay a connection fee set forth hereafter. These fees will be used by the utility in the best interests of the utility and in accordance with the utility's policy but shall be primarily available to offset the costs of future extensions, modifications, and improvements to the Town's waterworks system.

	3/4"	1"	1 1/2"	3"	4"	6"
Ratio	1.5	2.5	5.0	15.0	25.0	50.0
Year						
2009	\$1,319	\$2,199	\$4,398	\$12,824	\$21,372	\$42,746

Connection fees shall be capped at 2009 costs.

Connection Fees for fire sprinkler connections and for users not listed in the table or of unique character will be established by the Superintendent of the Millersburg Water Utility subject to appeal in accordance with Section 11 of this Ordinance. Improvements, additions, or other expansions of an existing facility or building which require a building permit shall subject the user to the fees outlined in this Ordinance for the improvement, addition, or other expansion project. In addition, the submission of, fraudulent, inaccurate, or erroneous information by a user when applying for approval to make a connection to the Town's waterworks system shall subject the user to being reassessed at any time the appropriate amount under this Ordinance for the connection fee. For a period of two (2) years after occupancy, a developer shall be liable for and subject to being reassessed for any additional Connection Fees based upon the actual usage of the property if such actual usage would result in a larger connection Fee being due and payable to the Town of Millersburg. These fees are representative of the historical costs that have been invested in the waterworks system by the existing rate payers, as determined by an independent study performed for the Town. Connection Fees are in addition to Tap

Fees and User fees. These fees may be revised from time to time, as required by the Town.

Section 6. The Tap Fee for connecting a user to the Town's water distribution system shall be One Thousand Dollars (\$1,000.00) per 5/8" or 3/4" connections and cost of materials and labor for 1" and above connections. Tap fees for fire sprinkler connections and connections not listed herein will be established by the Superintendent of the Millersburg Water Utility subject to appeal in accordance with Section 11 of this Ordinance. Tap Fees shall be in addition to Connection Fees and User Fees. Tap fees are based on the direct cost of service as determined by an independent study performed for the Town. These fees may be revised from time to time, as required by the Town.

Section 7. Connection Fees and Tap Fees to users outside of the corporate limits will be the same as that charged to users located within the corporate limits of the Town of Millersburg, Indiana.

Section 8. Inspection Charge. Each Customer or developer, prior to making a connection to a main serviced by the Millersburg Water Utility shall pay an inspection charge of \$30.00. The inspection shall be scheduled with the Water Utility at least two (2) working days in advance.

Section 9. The following payment schedule shall apply:

(a) Connection Fees shall be paid in full at the time of application for such service and prior to work being started on such connection.

(b) Tap Fees shall be paid in full at the time of application for such service and prior to work being started on such connection.

(c) No connection to the water utility will be allowed prior to receipt by the Town of all Connection Fees and Tap Fees required under this Ordinance.

(d) In the event an application for service is denied or the actual connection is not made, any Connection Fees and Tap Fees paid shall be refundable, without interest, to applicant upon request. At the time a refund is made, any previously issued permit for such utility service under this Ordinance shall be rescinded.

(e) Permits for utility service issued under this Ordinance shall be valid for a period of one (1) year from the date of issuance.

Section 10. The following implementation schedule shall apply:

Connection to the Town's water utility facilities which are made on or after February 1, 2002 shall be subject to the Connection Fees established by this Ordinance.

If a connection is not made when originally scheduled on the application, the developer shall be liable for the amount of the connection fee computed in accordance with the above implementation schedule based upon when the connection is actually made.

Section 11. Unauthorized Connection. A person connecting a location to the Water

Utility's system without the knowledge and consent of the Water Utility shall be charged a fee of \$500.00 unless the Water Utility can establish that a greater fee should be charged by applying the schedule of rates and charges.

Section 12. This Ordinance and the fees set out herein may be amended from time to time by the Town Council when conditions exist that indicate that the established charges are no longer equitable to customers of the municipal waterworks system or for developers of property connecting to said distribution system.

Section 13. Any person, group, firm, company, partnership, corporation, limited liability company, limited liability partnership, or other organization adversely affected by the application of this Ordinance may present an appeal to a Utility Review Committee. The Utility Review Committee shall be composed of the President of the Millersburg Town Council, the Utilities Superintendent, and an engineer from the Town's Engineering Firm. The appeal shall be filed with the Town Clerk who shall forward a copy of the appeal to the Utility Review Committee and the Superintendent of the Millersburg Water Utility. The appeal shall be submitted no later than thirty (30) days after the adverse decision appealed from is made. The appellant shall submit such number of copies of the appeal as the Utility Review Committee may prescribe from time to time. The appeal shall be in such form and contain such information as the Utility Review Committee may prescribe from time to time, but shall in all instances contain a concise written statement explaining the nature of the appeal, identifying the issues involved, and presenting the position of the appellant. The Utility Review Committee shall *review and* consider the appeal at a hearing prior to which the appellant shall be given at least ten (10) days notice and at which hearing the appellant shall be permitted to participate. Following the review and decision, the Utility Review Committee shall transmit to the Town Clerk and the Superintendent of the Millersburg Water Utility a written report giving its findings and affirming, modifying, or reversing the application of this Ordinance to the appellant. The appellant may appeal the decision of the Utility Review Committee to the Millersburg Town Council by filing with the Town Clerk a request to further appeal the decision which shall be submitted a minimum of ten (10) days prior to any regularly scheduled Town Council meeting and a maximum of thirty (30) days after the adverse decision is made by the Utility Review Committee, in order to be included on the agenda. The Millersburg Town Council shall review and consider the appeal as part of its regular public meeting schedule. Following the review and decision, the Town Council shall transmit to the Town Clerk and the Superintendent of the Millersburg Water Utility a written report giving its findings and affirming, modifying, or reversing the decision of the Utility Review Committee. It is specifically provided that the failure to apply for and seek any necessary permits as well as the failure to appeal any application of this Ordinance as provided under this Section shall work as a bar in challenging this Ordinance or its requirements in court.

Section 14. This Ordinance supersedes and replaces Ordinance Numbers 1990-3, 1994-7, 1999-4 2002-1, and 2003-17 of the Town of Millersburg; provided, however, that the existing schedule of sewage rates and charges shall remain in full force and effect until the effective date of this Ordinance.

Section 15. This Ordinance shall be in full force and effect from and after its date of

passage. This Ordinance shall supersede the portions of any conflicting Ordinance in existence with respect to the matters regulated herein. The rates as herein set forth shall become effective on the first full billing period occurring after the adoption of this Ordinance, and the other charges set forth herein shall become effective upon the effective date of this Ordinance.