

ORDINANCE NO. 419 OF THE CITY OF BUCKHANNON, AN ORDINANCE:  
(1) AMENDING, MODIFYING AND RE-ENACTING ORDINANCES NO. 233, 291, 295,  
307, 333 AND NO. 403 OF THE CITY OF BUCKHANNON, and ARTICLE 917 OF THE  
CODIFIED ORDINANCES OF THE CITY OF BUCKHANNON; AND (2) SPECIFICALLY  
ESTABLISHING NEW SEWER RATES AND CHARGES FOR SANITARY SEWAGE  
COLLECTION AND DISPOSAL SERVICES PROVIDED BY THE SANITARY BOARD  
OF THE CITY OF BUCKHANNON

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WHEREAS, the current rates and charges of the Sanitary Board of the City of Buckhannon for providing sanitary sewage collection and disposal services as were previously adopted by City Ordinances No. 233, 291, 295, 307, 333 and 352, in Article 917 of the Codified Ordinances, and in Ordinance No. 403 are presently insufficient to maintain the high quality of sanitary sewage services offered by the Board and City to the residents of Buckhannon and surrounding Upshur County; and,

WHEREAS, the Board and City sought a sanitary sewage rate increase by Ordinance No. 403, effective August 2, 2016, having not previously sought an increase since August of 2010; and,

WHEREAS, the City's opportunities to improve and maintain its sanitary sewage operations are substantially impeded given current revenues realized from the collection of current rates and charges; and,

WHEREAS, legislative enactments require utility companies to maintain a working capital fund equal to 1/8<sup>th</sup> of the operating revenues in surplus; and,

WHEREAS, the City of Buckhannon does not maintain a 1/8<sup>th</sup> capital fund in accordance with recently enacted state law and in order to comply with this requirement, the City of Buckhannon must fully enact a 20% rate increase in order to maintain a working capital fund equal to 1/8<sup>th</sup> of operating revenues; and,

WHEREAS, in February of 2017, the City of Buckhannon Sanitary Board conducted a sewer rate analysis study, which report evidencing this study was compiled by the accounting firm of Smith, Cochran & Hicks of Charleston, West Virginia, said report for the fiscal year ended June 30 2016, which report was been tendered to the Sanitary Board on June 27, 2017; and,

WHEREAS, this sewer rate analysis, which demonstrated the need for a 20% increase in existing sewer rates, was presented and discussed by the Sanitary Board during a regularly scheduled public meeting of the Board on June 27, 2017 and before a special joint meeting of the Sanitary Board and the City Council on July 20, 2017; and,

WHEREAS, the Sanitary Board formally resolved on July 20, 2017 to recommend to the City Council that the City increase Buckhannon's rates and charges for sanitary sewage collection and disposal services pursuant to the aforesaid report, said proposed rate and charge schedule being hereinafter described and set forth pursuant to this Ordinance; and,

WHEREAS, to ease the burden of such an increase, the City of Buckhannon Sanitary Board and the City Council of the City of Buckhannon plan to implement the full rate increase through two steps; the first to take effect forty-five days from the enactment of this Ordinance, or as soon thereafter as it may be effected; the second to take effect twelve months following the effective date of the first increase; and,

WHEREAS, the Council of the City of Buckhannon is authorized pursuant to the statutory provisions of Chapter 8, Article 13, Section 13, and Chapter 24, Article 2, Section 4b of the West Virginia Code, as amended, to impose by ordinance upon the users of sanitary sewage services, such reasonable rates, fees and charges as shall be collected in the manner specified by ordinance; and,

WHEREAS, the Council of the City of Buckhannon deems the rates and charges proposed by the Sanitary Board of the City of Buckhannon, and as set out in the aforesaid report of the accounting firm of Smith, Cochran & Hicks, and further which rates and charges are described and set forth pursuant to Section I, "Rate and Charge Schedule" hereof, to be just and reasonable; and,

WHEREAS, the statutory provisions of Chapter 8, Article 11, Section 3, Paragraph (1), and Chapter 8, Article 13, Section 13 of the West Virginia Code, as amended, specifically provide that the collection of fees of any kind by a municipality shall be by ordinance; and,

WHEREAS, the Council of the City of Buckhannon desires in all respects to comply with the statutes of the State of West Virginia and further with the administrative rules and regulations of the PSC insofar as the establishment of new sanitary sewage rates and charges is concerned.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF BUCKHANNON, AS FOLLOWS:

SECTION I – FINDINGS OF COUNCIL: The Council of the City of Buckhannon hereby makes the following findings:

(1) The current rates and charges of the Sanitary Board of the City of Buckhannon for providing sanitary sewage collection and disposal services as were previously adopted by City Ordinances No. 233, 291, 295, 307, 333 and 352, Article 917 of the Codified Ordinances, and Ordinance No. 403, are insufficient to maintain the high quality of sanitary sewage services offered by the Board and City to the residents of Buckhannon and surrounding Upshur County;

(2) The Board and City sought a sanitary sewage rate increase through Ordinance No. 403, effective August 2, 2016, its first since August of 2010, which increase was insufficient to ensure sufficient operating capital, and capital reserves as required by the State of West Virginia;

(3) The Board and City's cost of providing sanitary sewage collection and disposal services have increased substantially;

(4) The Board and City's opportunities to improve and maintain the City's sanitary sewage operations and fulfill the capital reserve mandate of the State of West Virginia are substantially impeded given current revenues realized from collection of current rates and charges;

(5) Following the Board and City's request, the accounting firm of Smith Cochran & Hicks conducted a rate study respecting Buckhannon's sanitary sewage operations, with findings and recommendations being set forth in the written report based upon the fiscal year ended June 30, 2016;

(6) The report was presented during a public meeting of the Buckhannon City Council (meeting jointly with the Sanitary Board) on 20<sup>st</sup> day of July, 2017;

(7) The Board formally moved and resolved during the July 20, 2017 meeting to recommend to the City Council that the City accept all rate recommendations of Smith Cochran & Hicks, and that the City increase its rates and charges for sanitary sewage collection and disposal services pursuant to the proposed rate and charge schedule now described and set forth pursuant to Article II hereof;

(8) The rate recommendations of Smith Cochran & Hicks include a two-step increase; the first step increase of approximately 10% to take place immediately, with the second step increase of approximately 10% to take place twelve months following the implementation of the first step;

(9) The Council of the City of Buckhannon is authorized pursuant to the statutory provisions of Chapter 8, Article 13, Section 13, and Chapter 24, Article 2, Section 4b of the West Virginia Code, as amended, to impose by ordinance upon the users of sanitary sewage services, such reasonable rates, fees and charges as shall be collected in the manner specified in the ordinance;

(10) The Council of the City of Buckhannon deems all rates and charges proposed by the PSC and recommended to be adopted by the Sanitary Board of the City of Buckhannon to be just and reasonable;

(11) The statutory provisions of Chapter 8, Article 11, Section 3, Subsection (1), and Chapter 8, Article 13, Section 13 of the West Virginia Code, as amended, specifically provide that the collection of fees of any kind by a municipality shall be by ordinance; and,

(12) The Council of the City of Buckhannon desires in all respects to comply with the statutes of the State of West Virginia and the rules and regulations of the PSC insofar as the establishment of new sanitary sewage rates and charges is concerned.

SECTION II – NEW RATE AND CHARGE SCHEDULE [STEP ONE]: The following rates and charges shall be paid for sanitary sewage collection and disposal services offered by the Sanitary Board of the City of Buckhannon, upon this Ordinance’s effectuation:

<u>TYPE OF CUSTOMER/SERVICE</u>	<u>CURRENT RATE</u> (pre-12/03/2017)
Users of 0 - 2,000 gallons of water	\$9.96 /1,000 gallons
Users of 2,000 - 14,000 gallons of water	\$8.34 /1,000 gallons
Users of 14,000 - 50,000 gallons of water	\$7.86 /1,000 gallons
Users of 50,000 - 200,000 gallons of water	\$6.78 /1,000 gallons
Users of more than 200,000 gallons of water	\$5.64 /1,000 gallons
Minimum bill	\$19.92 per month (equivalent to 2,000 gallons per month with 5/8” meter)
Flat rate users (w/o metered water service) (based upon 4,500 gallons)	\$40.77 per month
Resale Customer(s)	\$4.62 /1,000 gallons
Septage dumped at Sanitary Plant	\$25.00/per load/ up to 1,000 gallon
Septage dumped at Sanitary Plant	\$25.00/each additional 1,000 gallon
Tap/service connection fee	\$600.00/per tap
****Special tap/extension fee	\$2,000/per tap
*Brushy Fork extension surcharge fee	\$1.50/1,000 gal.
*Brushy Fork minimum project surcharge fee	\$3.00 per month
*Brushy Fork flat rate surcharge fee	\$6.75 per month
Delayed payment penalty	10% on all accounts not paid in full by due date in addition to the net current amount unpaid. The delayed payment penalty is not interest and shall be collected only once for each bill when appropriate
**Security deposit	A deposit of \$50.00 or 2/12th of the annual usage of the applicant’s specific customer class, i.e., residential or commercial, whichever is greater
***Leak adjustment increment	\$0.36 per 1,000 gallons is to be used when a bill reflects unusual consumption which is attributed to eligible leakage on the customer’s side of meter. This rate shall be applied to all consumption above the customer’s historical average usage.
****Extraneous flow charge	Calculated based upon the amount of rainfall received during the preceding month multiplied by the area of the surface

contributing to the extraneous flow discharge into the sanitary sewer system

<u>TYPE OF CUSTOMER/SERVICE</u>	<u>NEW RATE</u> (on and after 12/03/2017)
Users of 0 - 2,000 gallons of water	\$10.96 /1,000 gallons
Users of 2,000 - 14,000 gallons of water	\$9.17 /1,000 gallons
Users of 14,000 - 50,000 gallons of water	\$8.64 /1,000 gallons
Users of 50,000 - 200,000 gallons of water	\$7.45 /1,000 gallons
Users of more than 200,000 gallons of water	\$6.20 /1,000 gallons
Minimum bill	\$21.92 per month (equivalent to 2,000 gallons per month with 5/8" meter)
Flat rate users (w/o metered water service) (based upon 4,500 gallons)	\$44.85 per month
Resale Customer(s)	\$5.08 /1,000 gallons
Septage dumped at Sanitary Plant	\$27.50/per load/ up to 1,000 gallon
Septage dumped at Sanitary Plant	\$27.50/each additional 1,000 gallon
Tap/service connection fee	\$660.00/per tap
****Special tap/extension fee	\$2,200/per tap
*Brushy Fork extension surcharge fee	\$1.65/1,000 gal.
*Brushy Fork minimum project surcharge fee	\$3.30 per month
*Brushy Fork flat rate surcharge fee	\$7.43 per month
Delayed payment penalty	10% on all accounts not paid in full by due date in addition to the net current amount unpaid. The delayed payment penalty is not interest and shall be collected only once for each bill when appropriate
**Security deposit	A deposit of \$50.00 or 2/12th of the annual usage of the applicant's specific customer class, i.e., residential or commercial, whichever is greater
***Leak adjustment increment	\$1.00 per 1,000 gallons is to be used when a bill reflects unusual consumption which is attributed to eligible leakage on the customer's side of meter. This rate shall be applied to all consumption above the customer's historical average usage.
****Extraneous flow charge	Calculated based upon the amount of rainfall received during the preceding month multiplied by the area of the surface contributing to the extraneous flow discharge into the sanitary sewer system

\*applicable only to customers in the Brushy Fork area

\*\*to be required of all new customers effective September 19, 2010

\*\*\*limited to two monthly billings

\*\*\*\*established by and further defined/described pursuant to Ordinance No. 332

SECTION III – NEW RATE AND CHARGE SCHEDULE [STEP TWO]: The following rates and charges shall be paid for sanitary sewage collection and disposal services offered by the Sanitary Board of the City of Buckhannon, upon twelve months following this Ordinance’s effectuation:

<u>TYPE OF CUSTOMER/SERVICE</u>	<u>FUTURE RATE</u> (on and after 12/03/18)
Users of 0 - 2,000 gallons of water	\$12.06 /1,000 gallons
Users of 2,000 - 14,000 gallons of water	\$10.09 /1,000 gallons
Users of 14,000 - 50,000 gallons of water	\$9.50 /1,000 gallons
Users of 50,000 - 200,000 gallons of water	\$8.20 /1,000 gallons
Users of more than 200,000 gallons of water	\$6.82 /1,000 gallons
Minimum bill	\$24.12 per month (equivalent to 2,000 gallons per month with 5/8” meter)
Flat rate users (w/o metered water service) (based upon 4,500 gallons)	\$49.35 per month
Resale Customer(s)	\$5.59 /1,000 gallons
Septage dumped at Sanitary Plant	\$30.00/per load/ up to 1,000 gallon
Septage dumped at Sanitary Plant	\$30.00/each additional 1,000 gallon
Tap/service connection fee	\$720.00/per tap
****Special tap/extension fee	\$2,400/per tap
*Brushy Fork extension surcharge fee	\$1.80/1,000 gal.
*Brushy Fork minimum project surcharge fee	\$3.60 per month
*Brushy Fork flat rate surcharge fee	\$8.10 per month
Delayed payment penalty	10% on all accounts not paid in full by due date in addition to the net current amount unpaid. The delayed payment penalty is not interest and shall be collected only once for each bill when appropriate
**Security deposit	A deposit of \$50.00 or 2/12th of the annual usage of the applicant’s specific customer class, i.e., residential or commercial, whichever is greater
***Leak adjustment increment	\$1.00 per 1,000 gallons is to be used when a bill reflects unusual consumption which is attributed to eligible leakage on the customer’s side of meter. This rate shall be

applied to all consumption above the customer's historical average usage.

\*\*\*\*Extraneous flow charge

Calculated based upon the amount of rainfall received during the preceding month multiplied by the area of the surface contributing to the extraneous flow discharge into the sanitary sewer system

SECTION IV – AUTHORITY OF MAYOR TO PREPARE AND FILE ANY AND ALL REASONABLE OR NECESSARY APPLICATIONS, TARIFF MODIFICATIONS AND/OR OTHER DOCUMENTS WITH THE WEST VIRGINIA PUBLIC SERVICE COMMISSION:

The Mayor of the City of Buckhannon is hereby expressly authorized to prepare and file, and/or cause to be prepared and filed, any and all necessary applications, tariff modifications and/or other documents with the West Virginia Public Service Commission, and generally to assure the City of Buckhannon's compliance with the West Virginia Public Service Commission's rules and regulations respecting sanitary sewer operations by a municipality. The provisions of Ordinances No. 233, 291, 295, 307, 333 and 352, Article 917 of the Codified Ordinances, Ordinance No. 403, and/or any other ordinance provisions of the City of Buckhannon addressing sanitary sewage services as provided by the City of Buckhannon or the Sanitary Board of the City of Buckhannon, are hereby expressly amended pursuant to the provisions hereof.

SECTION IV – PREVIOUS SANITARY SEWER SERVICE ORDINANCES:

Any and all other provisions of Ordinances No. 233, 291, 295, 307, 333, 352, Article 917 of the Codified Ordinances, and Ordinance No. 403, and/or any other ordinance provisions of the City of Buckhannon addressing sanitary sewer services as provided by the City of Buckhannon or the Sanitary Board of the City of Buckhannon, and not expressly amended pursuant to this Ordinance No. 419, shall be deemed to remain in full force and legal effect, except for those rates, charges, and ordinance provisions which are expressly amended hereby.

SECTION V – PUBLIC SERVICE COMMISSION AND SANITARY BOARD RULES AND REGULATIONS:

This Ordinance is adopted by the City of Buckhannon with the express intention of complying with the rules and regulations of the West Virginia Public Service Commission. Notwithstanding the immediately aforesaid intention, this Ordinance shall not prohibit the Sanitary Board of the City of Buckhannon from establishing, applying and/or amending from time to time, the Board's own rules and regulations which are not inconsistent with PSC rules and regulations, which Board-established rules and regulations are promulgated to facilitate the administration and operation of the City's sanitary sewage system.

SECTION VI – SEVERABILITY: In the event that any provision(s) of this Ordinance is determined to be unconstitutional or invalid by a court exercising competent jurisdiction, such determination shall not affect the validity of this Ordinance as a whole or the provisions thereof which are not specifically held to be unconstitutional or invalid other than that provision(s) which is specifically determined to be unconstitutional or invalid.

SECTION VII – EFFECTIVE DATE: Pursuant to Chapter 24, Article 2, Section 4b, Paragraph (b) of the West Virginia Code, as amended, this Ordinance shall be deemed effective immediately following forty five (45) days from the third (3rd) reading, passage and adoption by the Council of the City of Buckhannon, i.e., the 3rd day of December, 2017.

FIRST READING:	September 21, 2017
SECOND READING:	October 5, 2017
THIRD READING, PASSAGE & ADOPTION:	October 19, 2017

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David McCauley, Mayor

CERTIFICATE OF ENACTMENT

I, Susan Aloï, City Recorder, do hereby certify that the foregoing Ordinance No. 419 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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Susan Aloï, City Recorder