

ORDINANCE NO. 451 OF THE CITY OF BUCKHANNON, AN ORDINANCE:
(1) AMENDING ORDINANCES NOS. 207, 228, 342, 369 AND 392 OF THE CITY OF
BUCKHANNON, AND (2) SPECIFICALLY ESTABLISHING NEW WATER RATES AND
CHARGES FOR WATER DISTRIBUTION SERVICES PROVIDED BY THE
WATER BOARD OF THE CITY OF BUCKHANNON

WHEREAS, the current rates and charges of the Water Board of the City of Buckhannon for providing water distribution services as were previously adopted by City Ordinances No. 207, 228, 342, 369, and 392 are presently insufficient to maintain the high quality of water distribution services offered by the Board and City to the residents of Buckhannon and surrounding Upshur County; and,

WHEREAS, the Board and City have not sought a water rate increase since 2016; and,

WHEREAS, the Board and City's cost of providing water distribution services has increased substantially since 2016; and,

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

WHEREAS, the Public Service Commission of West Virginia has imposed new requirements on water systems related to financial reserves; and,

WHEREAS, the Buckhannon municipal water system's rates are currently within the top ten percent of the most affordable water rates in the State of West Virginia, with a ranking of 33rd out of the 367 water systems in the State of West Virginia; and,

WHEREAS, the Board and the City recently requested Smith, Cochran, Hicks, P.L.L.C., Certified Public Accountants of Charleston, West Virginia, to perform an independent rate study, which study was undertaken with recommendations being submitted to the Board and City, all as is evidenced by that certain written report dated April 8, 2021, tendered to both the Board and City; and,

WHEREAS, the Smith, Cochran, Hicks' report was presented by Todd F. Dingess, Certified Public Accountant with Smith, Cochran, Hicks, and discussed by the Water Board during a regularly convened, public meeting of the Board on April 8, 2021, the report urging the Board and City to adopt the rates recommended therein; and,

WHEREAS, the Water Board formally resolved during its regularly convened meeting of April 8, 2021 to immediately recommend to the City Council that the City increase Buckhannon's rates and charges for water distribution services pursuant to the aforesaid report of Smith, Cochran, Hicks, said proposed rate and charge schedule being hereinafter described and set forth pursuant to Article II hereof; and,

WHEREAS, the recommended rates, if adopted, would result in the Board's rates ranking 61st least expensive out of the 367 water systems in the State of West Virginia; 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 water distribution 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 Water Board of the City of Buckhannon, and as are set out in the aforesaid April 8, 2021 Smith, Cochran, Hicks' report, and further which rates and charges are described and set forth pursuant to Article II hereof, to be just and reasonable; and,

WHEREAS, in addition to the newly proposed rates and charges included in the aforesaid Smith, Cochran, Hicks' report, the Water Board further moved to recommend the establishment of or increases in various administrative fees; 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 Public Service Commission of West Virginia, hereinafter referred to as "PSC," insofar as the establishment of new water distribution rates and charges is concerned.

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

ARTICLE I - FINDINGS OF COUNCIL: The Council of the City of Buckhannon hereby makes the following findings:

(1) The current rates and charges of the Water Board of the City of Buckhannon for providing water distribution services as were previously adopted by City Ordinances No. 207, 228, 342, 369, and 392 are now, based upon the increased costs of providing services, insufficient to maintain the high quality of water distribution services offered by the Board and City to the residents of Buckhannon and surrounding Upshur County;

(2) The Board and City have not sought a water rate increase since 2016;

(3) The Board and City's cost of providing water distribution services has increased substantially since 2016;

(4) The Board and City's opportunities to improve and maintain the City's water distribution operations are substantially impeded given current revenues realized from the collection of current rates and charges;

(5) In addition to increased costs in providing water distribution services, the Board has committed various repairs, upgrades, and other expansion and improvements to the City of Buckhannon's Water Plant and water distribution system;

(6) Following the Board and City's request, Smith, Cochran, Hicks, P.L.L.C., Certified Public Accountants conducted an independent rate study respecting Buckhannon's water distribution operations, with findings and recommendations being set forth in a written report dated April 8, 2021;

(7) The Smith, Cochran, Hicks' report was presented by Todd F. Dingess, certified public accountant, during a regularly convened, public meeting of the Water Board also conducted on April 8, 2021;

(8) The Board formally moved and resolved during its April 8, 2021 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 water distribution services pursuant to the proposed rate and charge schedule described and set forth pursuant to Article II hereof;

(9) The Council considered the Board's recommendation together with the Smith, Cochran, Hicks' report during its regularly convened public meeting on April 15, 2021, and directed the drafting of the necessary authorizing Ordinance;

(10) 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 water distribution services such reasonable rates, fees, and charges as shall be collected in the manner specified in the ordinance;

(13) The Council of the City of Buckhannon deems all rates and charges proposed by the Water Board of the City of Buckhannon to be just and reasonable;

(14) 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,

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

ARTICLE II - RATE AND CHARGE SCHEDULE: The following rates and charges shall be paid for water distribution services offered by the Water Board of the City of Buckhannon, upon this Ordinance's effectuation (Note: paragraphs #(1) through (6) below, for all of current rates and post-August 1, 2021 rates, are monthly charges):

<u>TYPE OF CUSTOMER/SERVICE</u>	<u>CURRENT RATE</u> (pre-August 1, 2021)
(1) Users of 0 – 2,000 gallons of water:	\$6.51 / 1,000 gallons
(2) Users of 2,000 – 14,000 gallons of water:	\$6.27 / 1,000 gallons
(3) Users of 14,000 – 50,000 gallons of water:	\$5.62 / 1,000 gallons
(4) Users of more than 50,000 gallons of water:	\$2.59 / 1,000 gallons
(5) Minimum Monthly bill according to size of meter installed:	
(a) 5/8" meter or less	\$13.02
(b) 3/4" meter	\$19.53
(c) 1" meter	\$32.55
(d) 1&1/2" meter	\$65.10
(e) 2" meter	\$104.16
(f) 3" meter	\$195.30
(g) 4" meter	\$325.50
(h) 6" meter	\$651.00

NOTE: No minimum bill will be rendered for less than \$13.02 which is equivalent to 2,000 gallons of water used.

- (6) Resale Customer(s): Resale customers shall pay a rate of \$1.76/1,000 gallons regardless as to quantity of gallons of consumed and regardless as to number of meters.
- (7) Delayed Payment Penalty: *See note below.
- (8) Tap/service connection fee: **3/4" = \$750.00
1" = \$1,000.00
Larger than 1" = at actual installation cost. Tap fees for fire service protection shall be the Board's actual cost of materials and labor to bring the connection to the customer's property line as set forth in the WV PSC's rules and regs.
- (9) Disconnection/Reconnection service charge: \$50.00 per occurrence will be charged whenever the water is turned off for violations of rules, non-payment of bills or at the request of the customer for maintenance on the customer's side of the meter.
- (10) Returned Check Charge: ***See note below.
- (11) Leak adjustment: ****\$0.29/1,000 gallons
- (12) Security Deposit: Not to exceed two-twelfths (2/12) of the annual estimated charge for residential service, or one-sixth (1/6) of annual estimated charge for commercial service, or \$50.00 whichever is greater.
- (13) Private hydrant/fire protection fee: \$10.00 per month per hydrant and \$10.00 per fire service connection 4" or less. The monthly rate for each fire service connection greater than 4" is \$20.00.
- (14) Meter & associated components damaged by customer (includes radio read components): At actual repair & installation cost.
- (15) Re-reading of meter at customer request: \$25.00

Note: Any customer may request the Water Board to re-read the customer's water meter if the customer believes the meter reading was inaccurate. Any customer may request a meter re-reading once every 12 months at no charge to the customer. If any customer requests additional re-readings within any 12 month period, and the re-reading or re-readings substantiate that the initial reading was accurate, the customer then shall be charged \$25.00 for each additional re-reading. The customer shall not be charged if the initial reading is determined to have been inaccurate by more than five percent (5%).

- (16) Meter test \$75.00

Note: Any customer may request the Water Board to test the customer's water meter to determine the meter's accuracy. The customer shall pay \$75.00 for the meter test in advance of the test. In accordance with Rule 6.5 of the PSC's Water Rules, if upon testing, the meter is determined to be more than two percent (2%) average in error, the meter test fee shall be promptly refunded to the customer. If the meter is not found to be

more than two percent (2%) in error, the City shall retain the meter test fee advanced by the customer for the test.

(17) Meter reinstallation \$100.00

Note: In any event when a water meter is removed by the Water Board to prevent a customer from unlawfully obtaining water following a customer's service being disconnected by the Water Board for customer non-payment, the customer shall pay a water reinstallation fee of \$100.00 before the meter is reinstalled and water service is reinstated. This fee shall be in addition to any other reconnection fees.

*Delayed Payment Penalty - The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

**Tap/service connection fee - This tap fee will be charged to all customers who apply for service outside of a certificate proceeding before the PSC for each new tap to the service.

***Returned check charge - A service charge equal to the actual bank fee assessed but not to exceed \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the customer's bank due to insufficient funds.

****Leak adjustment - This amount shall be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage.

<u>TYPE OF CUSTOMER/SERVICE</u>	<u>NEW RATE (effective August 1, 2021)</u>
(1) Users of 0 – 2,000 gallons of water:	\$8.14 / 1,000 gallons (increase)
(2) Users of 2,000 – 14,000 gallons of water:	\$7.84 / 1,000 gallons (increase)
(3) Users of 14,000 – 50,000 gallons of water:	\$7.03 / 1,000 gallons (increase)
(4) Users of more than 50,000 gallons of water:	\$3.24 / 1,000 gallons (increase)
(5) Minimum Monthly bill according to size of meter installed:	
(a) 5/8" meter or less	\$16.28 (increase)
(b) 3/4" meter	\$24.41 (increase)
(c) 1" meter	\$40.69 (increase)
(d) 1&1/2" meter	\$81.38 (increase)
(e) 2" meter	\$130.20 (increase)
(f) 3" meter	\$244.13 (increase)
(g) 4" meter	\$406.88 (increase)
(h) 6" meter	\$813.75 (increase)

NOTE: No minimum bill will be rendered for less than \$16.28 which is equivalent to 2,000 gallons of water used.

(6) Resale Customer(s): Resale customers shall pay a rate of \$2.50/1,000 gallons regardless as to quantity of gallons of consumed and regardless as to number of meters. (increase)

- (7) Bulk Water Customer(s): Bulk water customers shall pay the greater of the rate appearing above per thousand gallons purchased, or \$25.00. (new)
- (8) Delayed Payment Penalty*: See note below.
- (9) Tap/service connection fee**: 3/4" = \$750.00 (unchanged)
1" = \$1,000.00 (unchanged)
Larger than 1" = at actual installation cost. Tap fees for fire service protection shall be the Board's actual cost of materials and labor to bring the connection to the customer's property line as set forth in the WV PSC's rules and regs. (unchanged)
- (10) Disconnection/Reconnection service charge: \$50.00 per occurrence will be charged whenever the water is turned off for violations of rules, non-payment of bills or at the request of the customer for maintenance on the customer's side of the meter. (unchanged)
- (11) Returned Payment Charge***: See note below.
- (12) Leak adjustment****: \$0.50/1,000 gallons (increase)
- (13) Security Deposit: Not to exceed two-twelfths (2/12) of the annual estimated charge for residential service, or one-sixth (1/6) of annual estimated charge for commercial service, or \$50.00 whichever is greater. (unchanged)
- (14) Private hydrant/fire protection fee: \$10.00 per month per hydrant and \$10.00 per fire service connection 4" or less. The monthly rate for each fire service connection greater than 4" is \$20.00. (unchanged)
- (15) Meter & associated components damaged by customer (includes radio read components): At actual repair & installation cost. (unchanged)
- (16) Re-reading of meter at customer request: \$25.00 (unchanged)

Note: Any customer may request the Water Board to re-read the customer's water meter if the customer believes the meter reading was inaccurate. Any customer may request a meter re-reading once every 12 months at no charge to the customer. If any customer requests additional re-readings within any 12-month period, and the re-reading or re-readings substantiate that the initial reading was accurate, the customer then shall be charged \$25.00 for each additional re-reading. The customer shall not be charged if the initial reading is determined to have been inaccurate by more than five percent (5%).

- (17) Meter test \$75.00 (unchanged)

Note: Any customer may request the Water Board to test the customer's water meter to determine the meter's accuracy. The customer shall pay \$75.00 for the meter test in advance of the test. In accordance with Rule 6.5 of the PSC's Water Rules, if upon testing, the meter is determined to be more than two percent (2%) average in error, the meter test fee shall be promptly refunded to the customer. If the meter is not found to be

more than two percent (2%) in error, the City shall retain the meter test fee advanced by the customer for the test.

(18) Meter reinstallation \$100.00 (unchanged)

Note: In any event when a water meter is removed by the Water Board to prevent a customer from unlawfully obtaining water following a customer's service being disconnected by the Water Board for customer non-payment, the customer shall pay a water reinstallation fee of \$100.00 before the meter is reinstalled and water service is reinstated. This fee shall be in addition to any other reconnection fees.

*Delayed Payment Penalty - The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

**Tap/service connection fee - This tap fee will be charged to all customers who apply for service outside of a certificate proceeding before the PSC for each new tap to the service.

***Returned payment charge - A service charge equal to \$25.00 will be imposed upon any customer whose check, EFT, ACH, or credit card payment of charges is returned by the financial institution processing payment.

****Leak adjustment - This amount shall be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage.

ARTICLE III - 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 water distribution operations by a municipality. The provisions of Ordinances No. 207, 228, 342, 369, 392 and/or any other ordinance provisions of the City of Buckhannon addressing water distribution services as provided by the City of Buckhannon or the Water Board of the City of Buckhannon, are hereby expressly amended pursuant to the provisions hereof.

ARTICLE IV - PREVIOUS WATER DISTRIBUTION ORDINANCES: Any and all other provisions of Ordinances No. 207, 228, 342, 369, 392 and/or any other ordinance provisions of the City of Buckhannon addressing water distribution services as provided by the City of Buckhannon or the Water Board of the City of Buckhannon, and not expressly amended pursuant to this Ordinance No. 451, shall be deemed to remain in full force and legal effect, except for those rates, charges, and ordinance provisions which are expressly amended hereby.

ARTICLE V - PUBLIC SERVICE COMMISSION AND WATER BOARD RULES

AND REGULATIONS: This Ordinance is adopted by the City of Buckhannon with the express intention of complying with all rules and regulations of the West Virginia Public Service Commission. Notwithstanding the immediately aforesaid intention, this Ordinance shall not prohibit the Water 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, and which Board-established rules and regulations are promulgated to facilitate the administration and operation of the City's water distribution system.

ARTICLE 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.


ARTICLE 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., August 1, 2021.

FIRST READING:	May 6, 2021
SECOND READING:	May 20, 2021
THIRD READING, PASSAGE AND ADOPTION:	June 17, 2021


Robert N. Skinner, III, Mayor

CERTIFICATE OF ENACTMENT

I, Randall Sanders, City Recorder, do hereby certify that the foregoing Ordinance No. 451 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on June 17, 2021.


Randall Sanders, City Recorder

Tariff Form No. 12

(Tariff Rule 44)

PUBLIC NOTICE OF CHANGE IN WATER RATES BY MUNICIPALITY

NOTICE is hereby given that the City of Buckhannon, on behalf of the City of Buckhannon Water Board, has adopted by ordinance on June 17, 2021 (Ordinance No. 451) a tariff containing increased rates, tolls, and charges for furnishing water service to 3,979 customers in the City of Buckhannon and in unincorporated areas of Upshur County in the State of West Virginia.

The proposed increased rates and charges will become effective August 1, 2021 unless otherwise ordered by the Public Service Commission and will produce approximately \$641,402.00 annually in additional revenue, an increase of approximately 28.73%. The monthly bill for the various classes of customers will be changed as follows:

	(\$)	Increase	Percentage Increase
Residential (3,500 gallons)	\$5.61		25.00%
Commercial (10,000 gallons)	\$15.82		25.00%
Public Authority (14,000 gallons)	\$22.10		25.00%
Sales for Resale (per 1,000 gallons)	\$0.74		42.05%

Resale customers of the City of Buckhannon Water Board include the Adrian Public Service District, Elkins Road Public Service District, Hodgesville Public Service District, and Mount Hope Water Association.

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

- (1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or
- (2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or
- (3) Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at any of the following offices of the utility.

Buckhannon City Hall
70 East Main Street
Buckhannon, West Virginia 26201

A copy of the proposed rates is available for public inspection at the office of the Executive Secretary of the Public Service Commission at 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.