

ORDINANCE NO. 04-06

ORDINANCE RELATING TO WATER AND WASTEWATER CHARGES

**SUMMARY:** AN ORDINANCE REPEALING CURRENT RATE ORDINANCE NO. 04-02 AND ESTABLISHING NEW WATER, WASTEWATER AND STORMWATER RATES AND CHARGES; INCLUDING PROVISIONS REGARDING ADMINISTRATIVE FUNCTIONS; WATER AND WASTEWATER CHARGES WITHIN THE CITY LIMITS; IRRIGATION USES; TEMPORARY WATER SERVICE; FIRE SUPPRESSION SYSTEM USES; MUNICIPAL USES; STORMWATER CHARGES; WATER AND WASTEWATER CHARGES OUTSIDE CITY LIMITS; SPECIAL FEES AND CHARGES; CONTRACT RATES; IMPLEMENTATION OF ADDITIONAL RATE INCREASES IN 2007 AND 2008; ANNUAL INFLATION ADJUSTMENT; REPORTING REQUIREMENTS; ENFORCEMENT; AND EFFECTIVE DATE OF APRIL 1, 2006

WHEREAS, Chapter 23, Article V, Section 23-97 of the Henderson City Code of Ordinances provides that all utility rates and charges be determined from time to time by the City Board of Commissioners and kept on file in the City Clerk's Office; and

WHEREAS, the City's current water and sewer charges are set forth in Ordinance No. 04-02; and

WHEREAS, a detailed study by the Water & Sewer Commission of the City of Henderson indicates a justifiable need for an increase in water, sewer and stormwater rates and charges in order to comply with bond covenants; repair and replace aging infrastructure; meet current and future regulatory requirements and maintain a sound financial operating condition for the utility; and

WHEREAS, on November 15<sup>th</sup>, 2005, the Water and Sewer Commission recommended to the City Board of Commissioners that the rates and charges to customers of Henderson Water Utility be revised as presented herein; and

WHEREAS, the City Board of Commissioners wishes to approve the recommended water, sewer and stormwater charges to maintain the sound operating condition of the Henderson Water Utility;

NOW, THEREFORE, BE IT ORDAINED by the City of Henderson, Kentucky, that Ordinance No. 04-02 is hereby repealed; and new water, sewer and stormwater rates and charges are established as follows:

**SECTION I. WATER - WASTEWATER – STORMWATER CHARGES**

**A. ADMINISTRATIVE FUNCTIONS**

**(1) CHARGES TO BE PAID IN ADVANCE**

- (a) All charges other than actual metered usage are payable in advance. Where charges are assessed at “actual cost”, any minimum charge shall be payable in advance.

**(2) ESTABLISHING SERVICE AND REQUIRED DEPOSITS**

- (a) The charges for establishing service and for temporarily disconnecting services shall be determined from time to time by the City Board of Commissioners and shall be kept on file in the city clerk’s office.
- (b) All customers who are not owners of real estate shall post a deposit of an amount equal to one-sixth (1/6) of the annual water bill to the premises. The deposit will be based on the twelve most recent months, whether consecutive or not, during which water consumption was actually recorded at the premises. If twelve months of water consumption history has not occurred at the premises, or if the past consumption is not believed to be representative of future use, then an approximation of the amount projected over a twelve-month period shall be made and used to calculate the deposit. The deposit shall be pursuant to the provisions of Section 23-99 of the Code of Ordinances.

**SECTION II. WATER AND WASTEWATER CHARGES WITHIN THE CITY LIMITS**

**(1) WATER & WASTEWATER SERVICES**

- (a) All water utilized from the Henderson Water Utility system for any purpose shall be metered or identified, and appropriately charged for; except as further defined in this ordinance.
- (b) Water customers within the city limits of Henderson which are not contract customers, shall be charged for all metered water usage the rates set forth in TABLE A.
- (c) Wastewater charges shall apply to all metered water service accounts where wastewater collection and treatment services are also provided to the customer. Wastewater contract customers are billed according to their contract and other exceptions are further defined in this ordinance.

(d) Wastewater customers within the city limits of Henderson which are not contract customers shall be charged the wastewater rates established in TABLE A for their metered water usage.

(A) IRRIGATION USES

Separate irrigation charges apply to any meter that is used solely for the irrigation of lawns, gardens, landscaped areas, orchards, and similar horticultural uses; or to private or residential swimming pools where the metered water is not returned to the Henderson Water Utility wastewater system.

Water utilized through a separate irrigation meter shall be charged for all water consumed the rate established in Tier 1 of TABLE A for in city customers and Tier 1 of TABLE B for customers outside the city limits.

No sewer charges shall apply.

(B) SPECIAL USES - TEMPORARY WATER SERVICE

Temporary water service to contractors, developers and others for construction purposes shall be metered with a temporary fire hydrant or construction meter permit issued in accordance with the policy of the Henderson Water Utility. All usage shall be charged based upon Tier 1 in TABLE A for all water consumed.

Only Henderson Water Utility personnel or those persons with approved and permitted metering devices may take water from fire hydrants or connections where permanent meters are not installed. It is unlawful for anyone other than Henderson Water Utility personnel to operate any valves connected to the distribution system.

No sewer charges shall apply to temporary use water meters, unless it is installed to provide temporary service to a dwelling unit under construction.

(C) FIRE SUPPRESSION SYSTEM USES

Henderson Water Utility provides access and availability to the city water distribution system for commercial and industrial standby fire suppression systems. These fire lines shall be “separate” “closed” systems and utilized only

for fire suppression. Utilization of water from the fire suppression system for any purpose other than fire suppression or system testing shall not be allowed and is illegal under this ordinance.

A monthly stand-by service charge applies to each established fire suppression system. These charges are identified by “connection size” in TABLE C.

Only City Fire Department personnel, Henderson Water Utility personnel or those persons with approved and permitted metering devices may take water from fire hydrants or connections where permanent meters are not installed.

(D) MUNICIPAL USES

In order to provide accurate cost analysis and appropriate maintenance and operating records for bondholders and other interested parties, all Municipal water uses will be metered or accounted for. This includes all domestic uses at City buildings and facilities, irrigation uses at City facilities, parks, and golf courses, and other municipal uses such as street sweeping and fire fighting.

Only City Fire Department personnel, Henderson Water Utility personnel or those persons with approved and permitted metering devices may take water from fire hydrants or connections where permanent meters are not installed.

The City of Henderson’s facilities shall be provided water for all approved municipal purposes without charge.

City buildings and facilities shall pay sewer charges for all metered water usage.

Henderson Municipal Power and Light shall be charged for water and sewer usage as established by separate resolution, contract or agreement.

(E) WASTEWATER SERVICE ONLY

All Henderson Water Utility Customers who do not have metered water service but do receive wastewater services

shall be charged a flat rate per month for these services. The rates shall be as defined in TABLE D.

**SECTION III. STORMWATER CHARGES**

The combined system and the stormwater system are considered major operating components of the sanitary sewer system consequently, stormwater fees shall be a component of the first tier of the volumetric sewer rate as defined in TABLE A and TABLE B.

**SECTION IV. WATER AND WASTEWATER CHARGES OUTSIDE CITY LIMITS**

For all Henderson Water Utility customers whose services are provided outside of the city limits, and whose rates are not determined by contract, the customer shall be charged a multiplier of 2.5 times the city rate for the first 5000 cubic feet (CF). All additional metered water usage shall be at inside city limits rates. Rates for outside city limit customers are set forth in TABLE B.

**SECTION V. ESTABLISHMENT OF OTHER RATES, FEES AND CHARGES**

(1) AUTHORITY

The Water and Sewer Commission shall have authority to establish specific service fees and charges, and to negotiate agreements and cost sharing arrangements related to the provision of water and wastewater services for situations not specifically covered by this ordinance.

(2) SPECIAL FEES AND CHARGES

Fees for specific services such as drying bed fees, septic tank haulers fees, plan review fees, construction inspection fees, tap fees, wastewater pre-treatment penalties and surcharges, and other similar service fees shall be annually reviewed and approved by the Henderson Water & Sewer Commission. These fees shall adequately reflect the current cost of providing the services plus an appropriate rate of return. Copies of the approved fees and charges shall be kept at the Henderson Water Utility Administration Office located 111 Fifth Street and shall also be kept on file in the City Clerk's Office.

(3) REPAIRS AND DAMAGES

Repairs to any Water Utility property or equipment including but not limited to water meters, fire hydrants, water and sewer lines, and manholes damaged by the activities of other parties shall be charged to the responsible party at the actual cost to the Henderson Water Utility for making repairs or replacing the damaged facilities.

#### (4) CONTRACT RATES

The Water and Sewer Commission shall have authority to establish written agreements and/or cost sharing arrangements with utility customers that have their own water distribution and/or wastewater collection systems or large commercial or industrial customers that have specific requirements or concerns that are not addressed by the standard city rate structure. Contract rates shall adequately reflect the actual cost of providing the services plus an appropriate rate of return on the Utility's investment.

### **SECTION VI. IMPLEMENTATION OF SCHEDULED RATE INCREASES**

The City Board of Commissioners intends to implement a two year schedule of additional increases in the established water and sewer rates and charges in order to provide Henderson Water Utility customers with a smaller initial increase during 2006 and a longer implementation period to spread out the impact on customers.

On April 1<sup>st</sup> of 2007, the third or last tier of the established volumetric rate tables (TABLE A and TABLE B) will automatically be eliminated and the rate tables will consist of only two tiers.

The approved tables of fees and charges established by this ordinance shall be increased on April 1<sup>st</sup> of 2007 by 5%; plus, if approved by the City Board of Commissioners, an inflationary adjustment as defined in SECTION VII.

On April 1<sup>st</sup> 2008, the then current tables of fees and charges shall be increased by an additional 5%; plus, if approved by the City Board of Commissioners, the annual inflationary adjustment defined in SECTION VII.

Henderson Water and Sewer Commission shall be responsible to establish annually the necessary new tables of fees and charges and submit them to the City Commission for implementation by city staff. The City Clerk will be provided a copy for permanent public record.

After April 1<sup>st</sup> 2008, any additional rate increases other than the annual inflation adjustment defined in Section VII will require a new review and approval by the City Board of Commissioners.

### **SECTION VII. ANNUAL INFLATION ADJUSTMENT**

Subject to the prior formal approval of the City Board of Commissioners, the approved tables of fees and charges adopted by this ordinance shall be adjusted annually, beginning April 1, 2007, by a nationally recognized and published cost inflation factor. The Engineering News Record - Building and Construction cost indexes for the South Central United States shall be used to determine the annual inflation adjustment.

Henderson Water and Sewer Commission shall be responsible for confirming the published inflation data, establishing a new table of fees and charges and reporting that information to the City Commission for its consideration.

**SECTION VIII. REPORTING REQUIREMENTS**

Henderson Water and Sewer Commission shall be responsible for presenting quarterly reports to the City Board of Commissioners indicating the Utility's financial condition, updates on regulatory issues, and progress on budgeted capital improvement and critical maintenance projects. At least annually, the Utility will review their five year master plan for future capital improvement projects and provide the City Commission the opportunity for input prior to budget adoption and project implementation.

**SECTION IX. ENFORCEMENT**

It shall be unlawful for any person to violate or fail to comply with the provisions of this ordinance. The violation of any provisions of this ordinance shall be punishable by a fine not exceeding five hundred dollars (\$500) per offense. Each day that a violation of this ordinance continues shall constitute a separate offense.

**SECTION X. SEVERABILITY**

The provisions of this ordinance are individual and severable. Should any portion of this ordinance be declared invalid, then such invalidity shall not effect the remaining provisions of the ordinance.

**SECTION XI. EFFECTIVE DATE**

This ordinance shall become effective for billings on and after April 1, 2006.

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

On first reading of the foregoing ordinance, it was moved by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, that the ordinance be adopted on its first reading.

On roll call the vote stood:

Commissioner Deep: \_\_\_\_\_ Commissioner Sights: \_\_\_\_\_  
Commissioner Hall: \_\_\_\_\_ Mayor Lackey: \_\_\_\_\_  
Commissioner Mills: \_\_\_\_\_

WHEREUPON, Mayor Lackey declared the ordinance adopted on first reading and ordered that it be presented for a second reading at a meeting of the Board of Commissioners.

On second reading of the ordinance, it was moved by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, that the ordinance be adopted.

WHEREUPON, the vote was called. On roll call the vote stood:

Commissioner Deep: \_\_\_\_\_ Commissioner Sights: \_\_\_\_\_  
Commissioner Hall: \_\_\_\_\_ Mayor Lackey: \_\_\_\_\_  
Commissioner Mills: \_\_\_\_\_

WHEREUPON, Mayor Lackey declared the ordinance adopted, affixed his signature and the date and ordered that it be recorded.

\_\_\_\_\_  
Henry G. Lackey, Mayor  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Carolyn Williams, City Clerk

**APPROVED AS TO FORM AND  
LEGALITY THIS \_\_\_\_ DAY OF  
FEBRUARY, 2006.**

By: \_\_\_\_\_  
Joseph E. Ternes, Jr.  
City Attorney

## Rate Table A

<b>Water and Sewer Rates Inside City Limits</b>		
<b>Metered Water</b>	<b>Water/CCF</b>	<b>Sewer/CCF</b>
<b>First 5,000 CF</b>	<b>\$1.60</b>	<b>\$3.19</b>
<b>Next 95,000 CF</b>	<b>\$1.22</b>	<b>\$2.32</b>
<b>Over 100,000 CF</b>	<b>\$1.01</b>	<b>\$1.68</b>

Effective until March 31, 2007

## Rate Table B

<b>Water and Sewer Rates Outside City Limits</b>		
<b>Metered Water</b>	<b>Water/CCF</b>	<b>Sewer/CCF</b>
<b>First 5,000 CF</b>	<b>\$4.00</b>	<b>\$7.98</b>
<b>Next 95,000 CF</b>	<b>\$1.22</b>	<b>\$2.32</b>
<b>Over 100,000 CF</b>	<b>\$1.01</b>	<b>\$1.68</b>

Effective until March 31, 2007

## Rate Table C

<b>Rates for Fire Suppression Systems</b>	
<b>Size of Connection</b>	<b>Monthly Charge</b>
<b>4" &amp; Smaller</b>	<b>\$40.00</b>
<b>6"</b>	<b>\$60.00</b>
<b>8"</b>	<b>\$100.00</b>
<b>10"</b>	<b>\$150.00</b>
<b>12"</b>	<b>\$200.00</b>

Effective until March 31, 2007

## Rate Table D

<b>Sewer Only Customers</b>	
<b>Customer</b>	<b>Flat Rate Monthly Charge</b>
<b>Inside the City Limits</b>	<b>\$18.00</b>
<b>Outside the City Limits</b>	<b>\$45.00</b>

Effective until March 31, 2007