

**TOWN OF MORGANTOWN, INDIANA
ORDINANCE 2017-2**

**AN ORDINANCE ESTABLISHING POLICY AND PROCEDURE
FOR UTILITY BILLING AND COLLECTION**

WHEREAS, the Town of Morgantown, Indiana owns and operates sewage works and a water utility;

WHEREAS, the Town Council for the Town of Morgantown, Indiana (the "Council") is the governing board of the Town's sewage works and water utility and sets rates and charges, as deemed necessary, and establishes and administers billing and collection policies for both;

WHEREAS, the Council, pursuant to Indiana Code Sections 8-1.5-3-4, 36-9-23-6(d) and IC 36-9-25-11.5(a) through (e), has contracted with its municipal water utility, which provides water service to users of the Town's sewage works, to discontinue water service to delinquent users of the Town's sewage works until payment of all overdue user fees owed to the Town's sewage works, together with any applicable penalties, disconnect, and reconnect fees, are received by the Town;

WHEREAS, pursuant to a decision of the United States District Court for the Southern District of Indiana, New Albany Division, a municipal sewage works customer facing the discontinuation of water service, in addition to the opportunity to meet informally with designated personnel empowered to correct incorrect charges, must be adequately notified and given an opportunity to be heard before discontinuation of water service.

WHEREAS, the Town Council, by way of Ordinance 2013-11 adopted procedures to provide the requisite notice to the Town's sewage work's customers and opportunities for them to meet informally and to be heard before discontinuation of their water service for non-payment of sewer rates and charges.

WHEREAS, the Town Council, by way of this Ordinance is adopting and clarifying procedures for: billing the Town's sewage works customers; assessing penalties for non-payment; applying payments received; and providing the requisite notice to the Town's sewage work's customers and opportunities for them to meet informally and to be heard before discontinuation of their water service for non-payment of sewer rates and charges.

ACCORDINGLY, BE IT ORDAINED by the Town Council of the Town of Morgantown, Indiana, that:

1. Customers of the Town's, water utility and sewage works will be billed, on or about the first day of each month, for the immediately preceding billing cycle. A "Billing Cycle," for purposes of this Ordinance, shall mean, generally, the period beginning on the first day and ending on the last day of each month.
2. Charges assessed against customers of the Town's water utility and sewage works will be billed on one combined bill ("Combined Water and Sewer Bill"). Each customer's Combined Water and Sewer Bill will itemize and assess the current and past due amounts owed for water, storm water, sewer and fire protection services, penalties, and applicable disconnect and reconnect charges.
3. Charges assessed against customers of the Town's water utility and sewage works for each Billing Cycle will be due on the 15th day of the following month. Prior to the 16th day of each month, charges assessed against customers of the Town's water utility and sewage works

for the immediately preceding Billing Cycle shall be considered "current charges." On the 16th day of each month (the "Past Due Date"), unpaid charges assessed against customers of the Town's water utility and sewage works, for the immediately preceding Billing Cycle, shall become "Past Due Charges" against which shall be assessed, automatically and without exception or waiver, a 10% past due penalty

4. The amount of the Past Due Charges, the 10% penalty, and a reasonable attorney's fee may be recovered by the Town in a civil action. *IC 36-9-23-31*.

5. Customers of the Town's water utility and sewage works who fail to pay, in full, their Past Due Charges, and applicable past due penalties, within thirty (30) days after they become past due, shall be considered "Delinquent Customers" and be subject to discontinuation of their water service. For purposes of this Ordinance and the procedures to be followed by the Town's water utility and sewage works, the date each month that is 31 days after the date on which a customer's utility rates and charges became past due shall be defined as the "Disconnection Date."

6. Prior to discontinuation of a Delinquent Customer's water service for nonpayment of utility rates and charges, and applicable past due penalties, the Town in a separate notice, shall notify that Delinquent Customer:

- a. of the delinquent amount due, together with any penalty;
- b. the Service Continuation Amount, as defined below, that must be paid to avoid discontinuation of water service;
- c. that the Town intends to discontinue water service if the customer continues not to pay the past due charges and all penalties; and
- d. the procedure for resolving a disputed bill.

7. With regard to the procedure for resolving a disputed bill, each notice shall include the following:

You may dispute the correctness of your water and sewer charges by meeting informally with the Town's utility billing clerk at anytime during regular business hours.

You have the right, in person, by attorney, or other representative, to contest the disconnection of your water service for non-payment of water and/or sewer charges at a hearing held for that purpose. You must request a hearing by delivering to the Morgantown Town Hall, 120 W. Washington Street, Morgantown, IN, 46160, within seven (7) days of the date of this notice, a written hearing request. You then will be notified of the date and time. Hearing request forms are available at Town Hall.

8. Upon a customer's written request, the Town Council, or its duly appointed and authorized hearing officer, will hold a hearing at which the customer in person, by attorney, or other representative, may contest the discontinuation of water service for nonpayment of that customer's utility charges.

9. The Town Council, or its duly appointed and authorized hearing officer, will consider challenges by Delinquent Customers of the discontinuation of their water service for nonpayment of utility rates and charges, by applying criteria adopted by the Town Council, from time to time, to the unique facts and circumstances presented by each customer and shall be authorized to cancel or postpone orders to discontinue water service.

10. All members of the Town Council are hereby appointed and authorized as hearing officers to consider challenges by delinquent sewage work's customers of the discontinuation of their water service for nonpayment of sewer rates and charges.

11. All payments received from customers of the Town's water utility and sewage works will be applied to and posted in each customer's account in the following order:

- a. Penalties assessed on past due water charges, then
- b. Past due water charges, then
- c. Current water charges, then
- d. Penalties assessed on past due storm water charges, then
- e. Past due storm water charges, then
- f. Current storm water charges, then
- g. Penalties assessed on past due fire protection charges, then
- h. Past due fire protection charges, then
- i. Current fire protection charges, then
- j. Penalties assessed on past due sewer charges, then
- k. Past due sewer charges, then
- l. Current sewer charges.

12. A Delinquent Customer, in order to avoid discontinuation of water service for non-payment of Past Due Charges and/or penalties, will be required to pay, prior to the Disconnection Date, an amount that is equal to the sum of the following:

- a. Penalties assessed on past due water charges, plus
- b. Past due water charges, plus
- c. Penalties assessed on past due storm water charges, plus
- e. Past due storm water charges, plus
- f. Penalties assessed on past due fire protection charges, plus
- g. Past due fire protection charges, plus
- h. Penalties assessed on past due sewer charges, plus
- i. Past due sewer charges (the "Service Continuation Amount").

13. A Delinquent Customer whose water service is discontinued for non-payment of Past Due Charges and/or penalties, in order to reestablish water service, will be required to pay to the Town

the Service Continuation Amount, plus a disconnection fee and reconnection fee in amounts as set by the Town Council, from time to time.


14. The Town's utility billing clerk, on the Disconnection Date each month or, if a Disconnection Date falls on a day when the Town is not open for business, the next day on which the Town is open for business, shall compile and deliver to the Town's Public Works Operation Manager a list of all Delinquent Customers (the "Disconnect List"). The Town's Public Works Operation Manager shall then, as soon as is practicable and without delay or preference, effect the discontinuation of water service to all Delinquent Customers. If the Town's utility billing clerk receives from a Delinquent Customer, on or after the Disconnection Date but prior to the physical disconnection of that Delinquent Customer's water service, in the form of cash, money order or cashier's check, all Past Due Charges, the Town's utility billing clerk may attempt to contact the Town's Public Works Operation Manager and have that Delinquent Customer removed from the Disconnect List. Neither the Town's Public Works Operation Manager nor anyone other than the Town's utility billing clerk may accept payment of charges owed to the Town's water utility and/or sewage works. Payment by a Delinquent Customer, prior to the physical disconnection of that Delinquent Customer's water service, of all Past Due Charges may not prevent water service from being discontinued or the imposition of applicable disconnection and reconnection fees.

15. No employee of the Town has any discretion to deviate from the policies and procedures as set forth in this Ordinance.

16. This Ordinance repeals and replaces all ordinances and parts thereof with which it may be in conflict and shall be effective upon its final adoption.

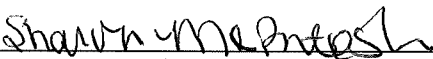
Introduced and adopted on first reading by the Morgantown Town Council on the 6th day of February, 2017

Adopted by the Morgantown Town Council, on second and final reading, on the 6th day of March, 2017.



JoEllen Rowe, President of the Town Council

ATTEST:



Sharon McIntosh, Clerk-Treasurer