WEST VIRGINIA CODE: §16-13-16

§16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit; change or readjustment; hearing; appeals board.

(a) A governing body has the power and duty, by ordinance, to establish and maintain just and equitable rates, fees, or charges for the use of and the service rendered by:

(1) Sewerage works, to be paid by the owner of each lot, parcel of real estate or building that is connected with and uses the works by or through any part of the sewerage system of the municipality or that in any way uses or is served by the works; and

(2) Stormwater works, to be paid by the owner of each lot, parcel of real estate or building that in any way uses or is served by the stormwater works or whose property is improved or protected by the stormwater works or any user of such stormwater works.

(b) The governing body may change and readjust the rates, fees, or charges from time to time. However, no rates, fees, or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned, or operated by the West Virginia Division of Highways.

(c) All new applicants for service shall indicate to the governing body whether they are an owner or tenant with respect to the service location. An entity providing stormwater service shall provide a new applicant for service a report of the stormwater fee charged for the entire property and, if the new applicant is a tenant, that portion of the fee to be assessed to the tenant. Any municipality that provides stormwater utilities shall form a municipal stormwater appeals board. The board shall consist of a member of the stormwater utility board, a municipal council member, and a rate payer. New applicants for service may appeal the estimated residential usage or equivalent dwelling usage to the board. Any such appeal must be brought within 60 days of receiving the report of the stormwater fee.

(d) The governing body may collect from all new applicants for service a deposit of $50 or two twelfths of the average annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of service rates, fees, and charges in the event he or she becomes delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees, and charges which were delinquent at the time of disconnection or termination of service, service may not be reconnected or reinstated by the governing body until another deposit equal to $50 or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the governing body. After 12 months of prompt payment history, the governing body shall return the deposit to the customer or credit the customer’s account with interest at a rate as the Public Service Commission may prescribe: *Provided*, That where the customer is a tenant, the governing body is not required to return the deposit until the time the tenant

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discontinues service with the governing body.

(e) The rates, fees, or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be considered the revenues of the works.

(f) No such rates, fees, or charges may be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates, fees, or charges.

(g) After introduction of the ordinance fixing the rates, fees, or charges, and before the same is finally enacted, notice of the hearing, setting forth the proposed schedule of rates, fees, or charges, shall be given by publication as a Class I legal advertisement in compliance with §59-3-1 *et seq*. of this code and the publication area for the publication shall be the municipality. The first publication shall be made at least five days before the date fixed in the notice for the hearing.

(h) After the hearing, which may be adjourned, from time to time, the ordinance establishing rates, fees, or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of the rates, fees, and charges shall be kept on file in the office of the board having charge of the operation of the works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees, or charges established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

(i) Any change or readjustment of the rates, fees, or charges may be made in the same manner as the rates, fees, or charges were originally established as hereinbefore provided: *Provided*, That if a change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required.

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