

**Ordinance No. 2017-017**

**AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING TITLE III (ADMINISTRATION), CHAPTER 35 (FEE SCHEDULE), OF THE CODE OF ORDINANCES CONCERNING THE CITY'S WASTEWATER UTILITY SYSTEM RATES AND FEES AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ESTABLISHING A RATE SCHEDULE; RELATION TO OTHER ORDINANCES; EFFECTIVE DATE; SEVERABILITY; PROPER NOTICE AND MEETING.**

**WHEREAS**, the City Council of the City of Wimberley ("City Council") seeks to promote the health, safety and general welfare of the citizens of the City of Wimberley ("City"); and

**WHEREAS**, the City Council seeks to ensure that sewer utility service is adequate and efficient for the citizens of the City; and

**WHEREAS**, pursuant to Texas Local Government Code Section 51.001, the City Council is authorized to adopt an ordinance that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS**, pursuant to Texas Local Government Code Section 51.012, the City Council is authorized to adopt an ordinance, not inconsistent with state law, that the Council considers proper for the government, interest, welfare or good order of the City; and

**WHEREAS**, pursuant to Texas Local Government Code Section 402.001, the City is authorized to purchase, construct and operate utility systems, including sewer systems; and

**WHEREAS**, the City owns and operates the Blue Hole Wastewater System and has approved the issuance of bonds to fund the construction to expand the treatment and collection system;

**WHEREAS**, pursuant to Chapter 13, Texas Water Code and the City Sewer Certificate of Convenience and Necessity Number 20936, the City has the authority and responsibility to provide wastewater services to its customers; and

**WHEREAS**, the City's rate consultant has recommended to the City Council adopt the following rate to cover the anticipated or projected debt service and operation and maintenance costs of the sewer system;

**NOW THEREFORE**, be it ordained by the City Council of the City of Wimberley, County of Hays, State of Texas:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:**

## SECTION I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

## SECTION II. AMENDMENT

The City of Wimberley Code of Ordinances, Title III (Administration), Chapter 35 (Fee Schedule), Section 35.01 (Fee Schedule), is hereby amended as follows:

(F)(1) *Domestic and Restaurant wastewater rate prior to the start of Final Phase of TPDES Permit No. WQ0013321001*

The following domestic wastewater rates apply until the start of the Final Phase of TPDES Permit No. WQ0013321001:

(a) If BOD is less than or equal to 200 mg/l, the rate equals \$6.40/1,000 gallons per day when metered or based on average water consumption for the previous December, January, and February.

(b) If BOD is higher than 200 mg/l when detected by sample testing and for customers discharging non-permitted waste into the system, the rate shall be \$10.60/1,000 gallons per day when metered or based on average water consumption for the previous December, January, and February. In addition, a surcharge factor of 2.0 times the calculated billing will be used for restaurant establishments in connection with the BOD level.

(2) *Wastewater rates after the start of Final Phase of TPDES Permit No. WQ0013321001*

The following wastewater rates apply after the start of the Final Phase of TPDES Permit No. WQ0013321001:

(a) During the first fiscal year after the start of the Final Phase, the base rate and the volumetric charge per 1000 gallons of water consumption shall be as follows:

Base Rate per Living Unit Equivalent (LUE):	\$35.00
Volumetric Charge:	\$7.77 per 1000 gallons

(b) During the second fiscal year after the start of the Final Phase, the base rate and the volumetric charge per 1000 gallons of water consumption shall be as follows:

Base Rate per LUE:	\$35.00
Volumetric Charge:	\$8.26 per 1000 gallons

(c) During the third fiscal year after the start of the Final Phase, the base rate and the volumetric charge per 1000 gallons of water consumption shall be as follows:

Base Rate per LUE:	\$35.00
Volumetric Charge:	\$8.35 per 1000 gallons

(d) For residential Customers, the volumetric charge shall be based on the average monthly water consumption of the Customer during preceding December, January, and February. If the water consumption data for a residential customer is not available for those three months, the water consumption shall be presumed to be 3,300 gallons per month. For commercial Customers, the volumetric charge shall be based on the actual water consumption for the month.

(e) If the wastewater from a Customer has a BOD higher than 200 mg/l when detected by sample testing or the Customer is discharging non-permitted waste into the City's Sanitary Sewage system, the volumetric charge shall be \$10.60 per 1000 gallons of water consumption as determined in accordance with subsection (F)(2)(d). In addition, a surcharge factor of 2.0 times the calculated billing will be used for restaurant establishments in connection with the BOD level.

(f) Except as otherwise provided, all residential and commercial buildings and facilities existing at the time the City starts operating its Sanitary Sewer system in its Final Phase of TPDES Permit No. WQ0013321001 and connecting to the Sanitary Sewer system shall pay a capital recovery fee of \$2,500 per LUE at the time of connection to the City's Sanitary Sewer system. At the customers' election, the payment of the capital recovery fee may be made in annual installments over an eight (8) year period. The capital recovery fee shall not be charged to new development. The City shall not charge the capital recovery fee to any customer that is connected to the City's Sanitary Sewer system before the Final Phase of TPDES Permit No. WQ0013321001.

### SECTION III. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this Ordinance.

### SECTION IV. SEVERABILITY

Should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

### SECTION V. REPEALER

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This Ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

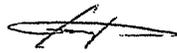
### SECTION VI. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as may be required by law.

### SECTION VII. PROPER NOTICE AND MEETING

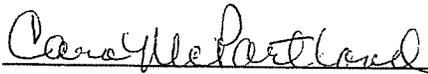
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this 3<sup>rd</sup> day of August, 2017.



Herschel P. "Mac" McCullough  
Mayor

ATTEST:



Cara McPartland,  
City Secretary



APPROVED AS TO FORM:



Emily Rogers,  
Counsel for the City

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Ordinance No. 2017-017  
Adopted August 3, 2017