

TOWN OF SHIPSHEWANA, INDIANA

ORDINANCE NO. 2025-04-24-B

**AN ORDINANCE INTRODUCING FEES AND CHARGES RELATED TO
THE TOWN'S SEWAGE WORKS.**

WHEREAS, pursuant to Indiana Code ("IC") 36-5-2-2, the Town Council of the Town of Shipshewana ("Town Council") is the legislative body of Shipshewana, Indiana ("Town");

WHEREAS, pursuant to IC 8-1.5-3-3 and Town Ordinance 2025-01-23-B, as codified at § 52.01 of The Shipshewana Town Code of 1997 ("Town Code"), the Town Council is the board responsible for operating the Town's sewage works and managing the Town's Wastewater Department;

WHEREAS, pursuant to IC 36-9-23-25(a), the municipal legislative body shall, by ordinance, establish just and equitable fees for the services rendered by the sewage works, and provide the dates on which the fees are due;

WHEREAS, pursuant to IC 36-9-23-25(b), "just and equitable fees" are considered to be those fees required to maintain the sewage works in the sound physical and financial condition necessary to render adequate and efficient service in an amount sufficient to: (1) pay all expenses incidental to the operation of the works, including legal expenses, maintenance costs, operating charges, repairs, lease rentals, and interest charges on bonds or other obligations; (2) provide for any required sinking fund; (3) provide adequate money to be used as working capital; and (4) provide adequate money for improving and replacing the works;

WHEREAS, the Town Council previously adopted fixed charges for use of the Town sewage works through Town Ordinances VI-B-2-a(7) and 2023-03-23-B, and now desires to update those ordinances;

WHEREAS, pursuant to IC 36-9-23-26(a), this Wastewater Utility Fees and Charges Ordinance has been previously introduced; notice of a public hearing has been duly given by publication and by mail: (1) to owners of vacant or unimproved property; and (2) to users of the sewage works located outside the Town's corporate boundaries; and a public hearing was held at which users of the sewage works, owners of property served or to be served by the sewage works, and other interested persons were able to speak concerning the proposed rates and charges; *and*

WHEREAS, a motion to adopt this ordinance has been substantively introduced and seconded by members of the Town Council constituting a legal quorum present at a public meeting, which was duly called in accordance with a notice stating the date, time, place, and purpose of the meeting in accordance with IC 5-14-1.5-5.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SHIPSHEWANA, INDIANA THAT:

SECTION I – NAME

The name of this ordinance shall be the “Wastewater Utility Fees and Charges Ordinance.”

SECTION II – RECITALS

The foregoing recitals, including all defined terms, are hereby incorporated into this ordinance and found to be true, accurate, and correct.

SECTION III – TOWN CODE PROVISIONS

Sections 52.44 through 52.46 of Chapter 52 of the Town Code are hereby moved to Sections 52.43 through 52.45, respectively.

SECTION IV – SURCHARGES

A new Section 52.42 of Chapter 52 of the Town Code is hereby entitled “Surcharges” and is enacted to read as follows:

- A. The utility billing administrator shall assess on the respective wastewater account of certain industrial customers or commercial customers an excess strength treatment surcharge as reasonably directed by the Superintendent based on the following rates.

Excess Strength Surcharge	Cost Per Pound
Biochemical Oxygen Demand	\$0.6031
Suspended Solids	\$0.6031
Ammonia	\$0.4435
Phosphorous	\$3.5480

SECTION V – CONNECTION CHARGES

A new Section 52.43 of Chapter 52 of the Town Code is hereby entitled “Connection Charges” and is enacted to read as follows:

A. EDUs.

1. As used in this section, “EDU” stands for “equivalent dwelling unit” and means the average amount of daily flow to the sewage works that would reasonably be expected from a single-family residence served by a 5/8-inch through 3/4-inch meter, but not in excess of 310 gallons per day.
2. The Town Council shall determine the estimated number of EDUs for each unit based on an industry-standard formula.

- B. Tap-In Charge. Prior to any customer's connection to the sewage works, the utility billing administrator shall assess and collect a tap-in charge to the customer in the amount of:
1. Two Thousand Five Hundred Dollars (\$2,500.00) for a residential customer; *and*
 2. \$2,500.00 per EDU, as estimated by the Town Council, for any commercial, industrial, multi-family, and public authority customer.
- C. Service Charge. Whenever the Town reasonably orders any tap-in, meter installation, or related services for the area of a unit from the main to the curb stop, the respective customer shall promptly pay the contractor or other person designated by the Town a service fee in an amount equal to the cost of labor and materials necessary to perform the services.

SECTION VI – ADDITIONAL CHARGES

A new Section 52.44 of Chapter 52 of the Town Code is hereby entitled “Additional Charges” and is enacted to read as follows:

- A. Late Registration Charge. Except as the utility billing administrator may determine to be good cause, if all previously registered owners of a unit are no longer owners with respect to that unit and if no account for the unit has been timely registered with respect to a new owner of the unit, then the utility billing administrator shall assess on the respective wastewater account a one-time late registration charge of One Hundred Dollars (\$100.00).
- B. Late Payment Charge. Whenever the wastewater portion of a properly assessed utility bill has not been timely paid in full, the unpaid portion shall be considered delinquent. The utility billing administrator shall assess on the respective wastewater account a one-time penalty in an amount equal to ten percent (10%) of the delinquent portion.
- C. Surveillance Charge. Whenever the Town is required or is requested to perform an independent consultant test with respect to a unit's wastewater or related infrastructure, the utility billing administrator shall assess on the respective wastewater account a surveillance charge in an amount equal to the total cost of the test.
- D. Equipment Replacement. Whenever the Town replaces infrastructure of the sewage works or private sewer facilities for causes properly attributable to a customer, owner, tenant, or other person, the utility billing administrator shall assess on the respective wastewater account an equipment replacement fee in an amount equal to One Hundred Fifty Percent (150%) of the costs incurred by the Town.
- E. After-Hours Service Charge. Whenever a customer requests that the Town send an employee or other agent to address a concern with the customer's wastewater service outside of regular business hours, the utility billing administrator shall assess on the respective wastewater account an after-hours service charge of Thirty Dollars (\$30.00) per responder on each call, plus an additional \$30.00 per hour after the first hour of service.

- F. Permit Review Charge. Whenever new circumstances obligate the Superintendent to review a customer permit, the Superintendent may direct the utility billing administrator to assess on the respective wastewater account a permit review charge of Thirty Dollars (\$30.00).
- G. Administrative Appeal Fee. The amount required to file an administrative appeal pursuant to the Wastewater Utility Administration Ordinance is Fifty Dollars (\$50.00).

SECTION VII – HAULING CHARGES

A new Section 52.45 of Chapter 52 of the Town Code is hereby entitled “Hauling Charges” and is enacted to read as follows:

- A. Rate. The rate for depositing sewage or sludge from private septic haulers is \$46.80 per \$1,000 gallons of sewage.
- B. Contract. Notwithstanding the hauling rate provided in this section, to the extent that the Superintendent may determine that the actual costs incurred by the Town for processing hauled materials are higher than the hauling rate in this section, the Superintendent may refuse the sewage or sludge. In such a case, the septic hauler may enter into an appropriate contract with the Town Council.
- C. Billing. The utility billing administrator may establish billing protocols for persons who deposit hauled sewage or sludge into the sewage works.

SECTION VIII – REPEAL OF PRIOR LAW

- A. Repeal. Ordinance VI-B-2-a(7), which was adopted on September 24, 1992, is hereby repealed in its entirety. Ordinance 2023-03-23-B, which was adopted on March 23, 2023, is hereby repealed in its entirety.
- B. Continuance.
 - 1. To the extent that the provisions contained in this ordinance substantially restate the provisions of a prior ordinance or resolution, the provisions shall not be deemed a new enactment of the original provisions, but rather shall be deemed to be the continuation of the original provisions.
 - 2. The express or implied repeal or amendment by this ordinance of any other ordinance or part thereof does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

- C. Revival Prohibited. The express or implied repeal or amendment by this ordinance of any other ordinance or resolution or part thereof shall not be construed to revive or move back any former ordinance, resolution, section, clause, provision, code header, or code section.

SECTION IX – MISCELLANEOUS

A. References.

1. Except where a specific version or edition is given, reference to another section of this ordinance or to another law, document, fund, department, board, program, public servant, or public office, shall extend and apply to the same, as may be subsequently amended, revised, recodified, renamed, reappointed, or renumbered from time to time.
2. Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of the) Town of Shipshewana (Indiana).”
3. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy may do instead of the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.

- B. Conflicts. No part of this ordinance shall be construed to conflict with any applicable local, state, or federal law, and all reasonable efforts should be made to harmonize the same.

- C. Severability. Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of this ordinance as a whole, nor any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.

- D. Promulgation. The Clerk-Treasurer is hereby authorized, empowered, and directed to take all action necessary or proper to authenticate, record, publish, promulgate, and/or otherwise make this ordinance effective.

- E. Effective Date. This ordinance shall take effect on July 1, 2025.

[Continue to next page for Adoption section.]

SECTION X – ADOPTION

Ayes: 5
Nays: 0
Abstentions: 0

Adopted and ordained this 24th day of April 2025.

**TOWN COUNCIL OF THE TOWN OF
SHIPSHEWANA, INDIANA**



Christine Yoder, President



Nic Engle, Vice President



Whitney Rahn, Member



Timothy J. Moon, Member



Lyle Miller, Member

ATTEST:



Tad Hite, Clerk-Treasurer

WAIVER OF SECOND READING

On motion duly made and seconded, the second reading of the foregoing ordinance was unanimously waived, and the ordinance shall take effect as provided therein.

TOWN COUNCIL OF THE TOWN OF SHIPSHEWANA, INDIANA



Christine Yoder, President



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Whitney Rahn, Member



Timothy J. Moon, Member



Lyle Miller, Member

ATTEST:



Tad Hite, Clerk-Treasurer

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