

CODIFIED ORDINANCES OF FOLLANSBEE

PART NINE – STREETS, UTILITIES AND PUBLIC SERVICES CODE

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TITLE ONE – Street and Sidewalk Areas

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## CODIFIED ORDINANCES OF FOLLANSBEE

### PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

#### TITLE ONE - Street and Sidewalk Areas

- Art. 905. Streets, Sidewalks, Driveways and Retaining Walls.  
 Art. 909. Excavations.  
 Art. 913. Trees.

#### ARTICLE 905

##### Streets, Sidewalks, Driveways and Retaining Walls

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| 905.01 Repair of sidewalks, driveways, and retaining walls.<br>905.02 Repair by City.<br>905.03 Ice and snow removal.<br>905.04 Unloading of heavy cargo.<br>905.05 Obstructions.<br>905.06 Unauthorized removal of safety devices. | 905.07 Certain merchandise and advertising displays prohibited.<br>905.08 Curb service prohibited.<br>905.09 Paving of brick streets.<br>905.10 Signs on public ways.<br>905.99 Penalty. |
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#### CROSS REFERENCES

- Powers of City regarding sidewalks - see W. Va. Code 8-12-5  
 Low cost improvements - see W. Va. Code Art. 8-17  
 Assessments - see W. Va. Code Art. 8-18

#### 905.01 REPAIR OF SIDEWALKS, DRIVEWAYS AND RETAINING WALLS.

The owners of real estate abutting on any sidewalk or street shall keep any retaining wall, sidewalk, and driveway entrance or apron adjacent to their properties in good repair. Any property owner failing to keep any retaining wall, sidewalk, or driveway area adjacent to his property in good repair shall be liable to reimburse the City of Follansbee for all loss that it may sustain, or any damage, cost, or expense that may be imposed upon it by reason of the failure of the property owner to perform such duty. On any claim presented for bodily injury

or property damage on any sidewalk, driveway area, and/or retaining wall, the adjoining or abutting property owner shall be held liable in tort for such damages to another. Alternatively, should the City of Follansbee be called upon to make such payment to a third party, the City will look to the adjoining/abutting property owner for contribution and indemnity. (Ord. 03-03. Passed 2-10-03.)

#### 905.02 REPAIR BY CITY.

In the event any sidewalk, wall or railing or driveway entrance shall become out of repair, and the owner of the abutting property has not upon his own initiative repaired it, the City Manager may serve notice upon the owner of the property adjacent to the wall, sidewalk or driveway entrance so out of repair, if he be a resident, or upon his agent if he be a nonresident, requiring the owner to repair or rebuild, where necessary, any such sidewalk, wall, or driveway entrance within a time stated in the notice. In the event of the failure of the property owner, or his agent, to rebuild or repair the sidewalk, wall, railing or driveway entrance within the specified time, the City Manager may have such work done and may assess the cost thereof against the abutting landowner, and the amount thereof may be collected by the City by distress and sale, or otherwise as provided by law for the collection of taxes, and the assessment shall be docketed in the office of the clerk of the county court as a lien against the property in the same manner as an original sidewalk assessment; provided, that where a dangerous condition exists in such sidewalk or driveway, the property owner shall be required to begin such repair or rebuilding within ten days from the receipt of such notice.

#### 905.03 ICE AND SNOW REMOVAL.

Every person or public institution using or occupying in any manner or for any purpose whatsoever any house, store, shop, garage, tenement or building of any kind, or any vacant lot, and all persons having charge of churches and public buildings of every description, and the owners of unoccupied houses and unimproved or unoccupied lots abutting on a sidewalk in the City, and their agents, shall within three hours after the fall of any snow or the formation of any ice on the sidewalk on which the property abuts, remove and clear, or cause to be removed and cleared, such snow and ice in such manner as to leave the sidewalk free and clear of such deposits, and in such manner as not to obstruct the passage of water in the gutter adjacent to the sidewalk; provided, that if snow falls or ice forms between the hours of 6:00 p.m. and 6:00 a.m. the following morning, such snow or ice shall be removed before 11:00 a.m. It shall be the further duty of the persons hereinbefore mentioned and their agents to keep the gutters, downspouts and drains serving their properties so located and in such a state of repair that water, snow or ice shall not fall, flow or escape therefrom onto the adjacent sidewalk. (1970 Code Sec. 20-3)

**905.04 UNLOADING OF HEAVY CARGO.**

No person shall unload any heavy material in the streets of the City by throwing or letting such material fall upon the pavement of any street, sidewalk or other public way, without first placing some sufficient protection over the pavement thereof.  
(1970 Code Sec. 20-4)

**905.05 OBSTRUCTIONS.**

(a) No person shall encumber any street or sidewalk, or, being the owner, occupant or person having care of any building or lot or land bordering on any street or sidewalk, shall permit such street or sidewalk to be encumbered with barrels, boxes, cans, wrecked cars, articles or substances of any kind, so as to interfere with the free and unobstructed use thereof, without a permit from the City Manager or a person designated by the City Manager to issue such permit.

(b) Permits granted pursuant to subsection (a) hereof shall state what, if any, safety barriers, lights, warning signs or other safety precautions shall be required of permit holders, and no person holding any such permit shall fail to comply with the requirements thereof.  
(1970 Code Sec. 20-5, 20-6)

**905.06 UNAUTHORIZED REMOVAL OF SAFETY DEVICES.**

The removal of red lanterns, barricades or other safety devices placed on the streets, sidewalks and on construction projects, public or private, in the City as a warning or protection for the public by persons unauthorized to remove the same, or the willful, careless or negligent destruction of such lanterns, barricades or safety devices is hereby prohibited.  
(1970 Code Sec. 20-7)

**905.07 CERTAIN MERCHANDISE AND ADVERTISING DISPLAYS PROHIBITED**

No person shall use any street or sidewalk area, including the lateral strip area between street curb and sidewalk, for the display of merchandise or for any advertising display without the written permission of the City Manager or person authorized by the City Manager to issue such permits. (1970 Code Sec. 20-8)

**905.08 CURB SERVICE PROHIBITED.**

No druggist, merchant and other person shall sell, deliver or serve articles of food or drink to customers in parked motor vehicles on public streets or areas, a service commonly known as "curb service". 970 Code Sec. 20-9)

**905.09 PAVING OF BRICK STREETS.**

(a) The City shall, to the best of its ability maintain the character and integrity of the streets located in the third ward of the City of Follansbee which are presently partly or wholly constructed of brick, namely Gilbert Avenue, East Street, Chapman Street, Orchard Street, Curtis Street, Oak Street, and Oakmont Street.

(b) In the event said streets require maintenance and repair, the City shall use its best efforts to replace any brick which might remove from said streets for such maintenance and repair with the same or similar brick and shall not pave or blacktop any of the aforementioned streets or avenue. (Ord. 92/93-2. Passed 8-10-92.)

**905.10 SIGNS ON PUBLIC WAYS.**

(a) That the use of advertising signs and signs of all types on the public sidewalks, the public streets, and on all property owned by the City of Follansbee shall be and hereby is prohibited;

(b) That any person, company, firm, or corporation who erects an advertising sign or a sign of any type upon the public sidewalks, the public streets, and/or on any property owner by the City of Follansbee, as well as the owner of any sign so erected, shall be in violation of this Ordinance;

(c) That whoever violates this Ordinance shall be fined not more than one hundred dollars (\$100.00). Each day any violation of this Ordinance continues shall constitute a separate offense; and

(d) That the City Manager of the City of Follansbee may institute a civil action for injunction to enjoin any person, company, firm, or corporation from violating any of the provisions of this Ordinance. (Ord. 92/93-6. Passed 3-8-93.)

**905.99 PENALTY.**

Whoever violates any provision of this article shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both. Each day on which a violation occurs or continues shall be a separate offense.

# ARTICLE 909 Excavations

909.01	Definitions.	909.07	Footbridges.
909.02	Applicability of article to public utilities.	909.08	Backfilling.
909.03	Permit required.	909.09	Surface restoration.
909.04	Application.	909.10	Warning lights, barricades and safety precautions.
909.05	Fees.	909.11	Liability of City.
909.06	Bond.	909.99	Penalty.

## CROSS REFERENCES

Power to regulate - see W. Va. Code 8-12-5(2)  
Driving on street closed for repair - see TRAF. 349.18

## 909.01 DEFINITIONS.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) "Applicant" means any person making written application to the City Manager for an excavation permit under this article.
  - (b) "City Manager" means the City Manager or the person designated by him for the purposes of this article.
  - (c) "Excavation work" means the excavation and other work permitted under an excavation permit and required to be performed under this article.
  - (d) "Permittee" means any person who has been granted and has in full force and effect an excavation permit issued under this article.
- (1970 Code Sec. 20-13)

## 909.02 APPLICABILITY OF ARTICLE TO PUBLIC UTILITIES.

All persons operating public utilities in the City under franchises granted by the City and having the right, either by general or special permission, to enter upon streets and open and excavate pavements or sidewalks or disturb the surface thereof by excavation or other work shall not be required to apply for a permit, but shall be required to perform the work and bring it to completion as promptly as practicable, and to that end shall employ an adequate standing force. Any person operating any such public utility shall, however, comply with other requirements of this article, including the surety bond requirements.

(1970 Code Sec. 20-14)

**909.03 PERMIT REQUIRED.**

No person shall dig up, break, excavate, tunnel, undermine or in any manner break up any street or sidewalk, or make or cause to be made by any excavation in or under the surface of any street or sidewalk for any purpose or to place, deposit or leave upon any street or sidewalk any earth or other excavated material obstructing or tending to interfere with the free use of the street or sidewalk, unless such person shall first have obtained an excavation permit therefor from the City Manager as provided in this article. (1970 Code Sec. 20-15)

**909.04 APPLICATION.**

No excavation permit shall be issued unless a written application for the issuance of an excavation permit is submitted to the City Manager. The written application shall state the name and address of the applicant, the nature, location and purpose of the excavation, the date of the commencement and date of completion of the excavation, and other data as may reasonably be required by the City Manager. The application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to such excavation and of the proposed excavated surfaces, the location of the excavation work, and such other information as may be prescribed by the City Manager. (1970 Code Sec. 20-16)

**909.05 FEES.**

A permit fee shall be charged by the City Manager for the issuance of an excavation permit, which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The excavation permit fee shall be in an amount varying with the type of surface to be opened, dug or excavated under the permit issued, as follows:

- (a) On unpaved streets, five dollars (\$5.00).
- (b) On streets paved with cement concrete base or cement concrete, fifteen dollars (\$15.00).
- (c) On streets paved with asphalt concrete and bitulithic on broken rock, ten dollars (\$10.00).

(1970 Code Sec. 20-17)

**909.06 BOND.**

Before an excavation permit as provided in this article is issued, the applicant may be required by Council to deposit with the City Clerk a surety bond in the amount of not less than five hundred dollars (\$500.00) payable to the City. The required surety bond shall be:

- (a) With good and sufficient surety.
- (b) By a surety company authorized to transact business in the State.
- (c) Satisfactory to the City Attorney in form and substance.
- (d) Conditioned upon the permittee's compliance with this article and to secure and hold the City and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by the excavation permit or for which the City, Council, or any City officer may be made liable by reason of any accident, or injury to persons or property through the fault of the permittee either in not properly guarding the



excavation or for any other injury resulting from the negligence of the permittee, and further conditioned to fill up, restore and place in good and safe condition as near as may be to its original condition, and to the satisfaction of the City Manager, all openings and excavations made in streets and sidewalks, and to maintain any street or sidewalk where excavation is made in as good condition for the period of twenty-four months after such work shall have been done, usual wear and tear excepted, as it was before such work shall have been done. Any settlement of the surface within such one year period shall be deemed conclusive evidence of defective backfilling by the permittee. Nothing herein contained shall be construed to require the permittee to maintain any repairs to pavement made by the City if such repairs should prove defective. Any owner of real estate repairing, or engaging another to repair, his own sidewalk shall not be required to give such bond. Recovery on such bonds for any injury or accident shall not exhaust the bond but it shall in its entirety cover any or all future accidents or injuries during the excavation work for which it is given. In the event of any suit or claim against the City by reason of the negligence or default of the permittee, upon the City's giving written notice to the permittee of such suit or claim, any final judgement against the City requiring it to pay for such damage shall be conclusive upon the permittee and his surety. An annual bond may be given under this provision which shall remain in force for one year conditioned as above, in the amount specified above and in other respects as specified above but applicable as to all excavation work in streets and sidewalks by the principal in such bond during the term of one year from such date. (1970 Code Sec. 20-18)

#### 909.07 FOOTBRIDGES.

Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over such excavation on the line of the sidewalk, which bridge shall be at least three feet wide and securely railed on each side so that foot passengers can pass over safely at all times. (1970 Code Sec. 20-19)

#### 909.08 BACKFILLING.

Backfilling in any street or sidewalk opened or excavated pursuant to an excavation permit issued under this article shall be compacted to a degree equivalent to that of the undisturbed ground in which the excavation was made. Compacting shall be done by mechanical tappers or vibrators, by rolling in layers, or by water settling, as required by the soil in question and sound engineering practices generally recognized in the construction industry. The decision as to whether a trench shall be backfilled by water settling shall be based upon such engineering practices and shall be made by the City Manager. (1970 Code Sec. 20-20)

**909.09 SURFACE RESTORATION.**

Persons permitted to perform work under this article shall restore the surface of all streets and sidewalks broken or damaged as a result of the excavation work, to its original condition in accordance with the specifications of the City Manager.

(1970 Code Sec. 20-21)

**909.10 WARNING LIGHTS, BARRICADES AND SAFETY PRECAUTIONS.**

Permits granted under this article shall state what, if any, safety barriers, lights, warning signs or other safety precautions shall be required of permittees, and no permittee shall fail to comply with the requirements thereof; provided, that in any case, each permittee shall cause two red lights to be securely and conspicuously posted, one at each end of the excavation for which his permit has been issued, and if such excavation exceeds twenty-five feet in length, then there shall be an additional light for each additional twenty-five feet or fraction thereof. Such lights shall be kept burning from sunset to sunrise. (1970 Code Sec. 20-22)

**909.11 LIABILITY OF CITY.**

This article shall not be construed as imposing upon the City or any official or employee thereof any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder; nor shall the City or any official or employee of the City be deemed to have assumed any such liability or responsibility by reason of inspections authorized by the City, the issuance of any permit or the approval of any excavation work.

(1970 Code Sec. 20-23)

**909.99 PENALTY.**

Whoever violates any provision of this article shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days or both. Each day on which a violation occurs shall be a separate offense.

ARTICLE 913  
Trees

- |        |   |        |   |
|--------|---|--------|---|
| 913.01 | Definitions.  | 913.04 | General tree and shrub regulations.         |
| 913.02 | Tree Board established.                             | 913.05 | Procedure upon order to preserve or remove. |
| 913.03 | Required permit and conditions for granting relief. | 913.99 | Penalty.                                    |

CROSS REFERENCES

Power to regulate - see W. Va. Code 8-12-5(29)  
 Damage or destruction of trees - see W. Va. Code 61-3-48 et seq.  
 Destruction of property - see GEN. OFF. 533.06  
 Weeds - see H. & S. Art. 1109

913.01 DEFINITIONS.

For the purposes of this article the following terms, phrases, words and their derivations shall have the meaning herein given.

- (a) "Shall" is always mandatory and not merely directory.
- (b) "City" means the City of Follansbee, West Virginia.
- (c) "Street Tree Director" means the person authorized to exercise the powers granted to him by this article.
- (d) "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- (e) "Tree" or "street tree" includes any tree or other plant in a public place or on private property as indicated by subsequent provisions of this article.
- (f) "Public place" means any public street, public highway, public park, or any property owned or held by the City within the boundaries of the City.
- (g) "Arboriculture", "management", or "preservation" means the treating, spraying, pruning, and any other care or work intended for the preservation of trees and the removal and prevention of tree pests, blights, and diseases of any and all kinds.
- (h) When not inconsistent with the context, words of the masculine gender shall include the feminine and words of the feminine gender shall include the masculine; words used in the plural number shall include the singular number and words used in the singular number shall include the plural number; words used in the future tense shall include the present and words in the present tense shall include the future. (Passed 3-11-85)

## 913.02 TREE BOARD ESTABLISHED.

There is hereby created a Tree Board.

- (a) Members. The Board shall consist of six members to be appointed one by each Councilperson.
- (b) Terms of Office. The Council persons-at-large shall each appoint one member whose term shall terminate on July 30, 1986. Thereafter, the two members appointed by Council persons-at-large shall have their terms of office for two years to expire on June 30 of each even numbered year. The remaining four members of the Board shall be appointed such that their first term shall terminate on July 30, 1987. Thereafter such four members shall have their terms of office for two years to expire on June 30, of each odd numbered year.
- (c) Vacancy on Board. In the event a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired term by respective Council representatives from the ward from which the member was appointed. Members of the Board shall be selected one from each ward and two at large.
- (d) Compensation. Members of the Board shall serve without compensation.
- (e) Residency Requirements. Members of the Board shall be residents of the City.
- (f) Officers of Board. The Board shall choose its own officers, and keep a journal and minutes of its meetings.
- (g) Board's Responsibility to Council and the City Manager. The Board, when requested by Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work. The Board is subject to control of the City Manager.
- (h) Duties of Board. The Board shall study, investigate and develop and update annually a written plan for the care, preservation, pruning, planting, replanting, removal and disposition of trees and shrubs in parks, along streets and in other public areas. Such plan shall be presented annually to Council for its approval and implementation. This Council does hereby further ordain as follows:
  - (1) Any dead, dangerous, or diseased tree insofar as it affects the public health, comfort, safety, and welfare is hereby declared a public nuisance dangerous to life and limb. For the purpose of this article, a dead tree is any tree where no part thereof is living; a dangerous tree is any tree, or part thereof, living or dead, which is in such a condition and is so located as to constitute a danger to persons or property on public space in the vicinity of the tree; a diseased tree shall be any tree on private property in such a condition of infection from a major pathogenic disease as to constitute a threat to the health of any other tree.
  - (2) Any trees, such as silver maple, honey locust, poplar, basswood, box elder, catalpa, or willow, whose roots penetrate through or under the surface of any public place in the City is hereby declared to be a public nuisance.

- (3) Any hedge, tree, shrub, or other growth situated at the intersection of two or more streets, alleys, or driveways in the City is hereby declared to be a public nuisance to the extent that such hedge, tree, shrub, or other growth obstructs the view of the operator of any motor vehicle with regard to other vehicles or pedestrians approaching or crossing the intersection.
- (4) The Tree Board shall prepare lists of trees undesirable for planting in public places in the City so as to insure the public safety and welfare. These shall not be recommended for general planting and their use, if any, shall be restricted to special locations where because of certain characteristics of adaptability or landscape effect, they can be used to advantage. The Board shall prepare lists of trees desirable for planting in public spaces. Other species and varieties may be added or deleted as experience proves their value.
- (5) The Board shall have the authority to conduct tree surveys and keep updated the master street plan for all the trees in or upon all public streets, avenues, highways, parks and other public places which, in his opinion, shall effectuate the provisions of this article.
- (6) The Board shall have the authority to conduct tree surveys and prepare a master street tree plan for all trees in or upon all public streets, avenues, highways, parks and other public places which shall effectuate the provisions of this article. Such master tree plan shall not become effective until approved by Council. (Passed 3-11-85)

#### 913.03 REQUIRED PERMIT AND CONDITIONS FOR GRANTING RELIEF.

(a) General Requirements. No tree shall be planted or removed in or upon any public place without a written permit from Council. Such permit shall designate the type of tree and place where such tree is to be planted or removed. The Board shall have the authority to designate the species and variety of tree to be planted and the required spacing and required minimum planting size.

(b) Application Data. The application for a permit herein required shall state the number, species, and variety of trees to be pruned, preserved, removed, or planted; the kind of treatment to be administered; and such other information as the Board shall find reasonably necessary to a fair determination of whether a permit should issue hereunder.

(c) Exemptions. No permit shall be required to cultivate or water public trees or shrubs. (Passed 3-11-85)

#### 913.04 GENERAL TREE AND SHRUB REGULATIONS.

(a) Injury to Trees and Shrubs Prohibited. No person shall, without the consent of the owner in the case of a private tree or shrub, or without the written permit from the City Manager in the case of a public tree or shrub, do, or cause to be done by others, any of the following acts:

- (1) Secure, fasten or run any rope, wire, sign, or other device or material to, around, or through a tree or shrub.
- (2) Break, injure, mutilate, deface, kill or destroy or permit any fire to burn where it will injure any tree or shrub.
- (3) Permit any toxic chemical, gas, smoke, brine, oil, or other injurious substance to seep, drain, or to be emptied upon or about any tree or shrub.
- (4) Excavate any ditch, tunnel, or trench or lay any drive within a radius of fifteen feet from any tree or shrub.
- (5) Erect, alter, repair, or raze any building or structure without placing suitable guards around all nearby trees or shrubs which may be injured or defaced by, or where the injury or defacement may arise out of, in connection with, or by reason of such operation.
- (6) Knowingly permit any unprotected electric service wires to come in prolonged contact with any public tree or shrub.
- (7) Remove any guard, stake, or other device or material intended for the protection of any public tree or shrub or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.

(b) Prohibiting Stone or Concrete on Ground Adjacent to Tree Trunk. No person shall place or maintain upon the ground in any public place any stone, concrete, brick or other impervious material or substance in such a manner as may obstruct the free access of air and water to the roots of any tree upon any public place in this City without first having obtained the written permission of the City Manager.

(c) Moving Trees. All moving of trees upon any public place in this City made necessary by the moving, construction, or razing of a building or structure by any other private enterprise shall be done under the supervision of the City Manager at the expense of the applicant or person seeking the removal of such tree. Such applicant, as one of the conditions of obtaining such permission, shall deposit with the City such sum in cash as Council may determine and specify to cover all the costs of moving and replacement thereof; provided, however, that in lieu of such cash deposit the City Manager may, at his discretion, accept a good and sufficient bond in like amount conditioned upon the payment of all the cost of such moving and replacing.  
(Passed 3-11-85)

#### 913.05 PROCEDURE UPON ORDER TO PRESERVE OR REMOVE.

When the City Manager finds it necessary to order the pruning, preservation, or removal of trees or plants upon private property as authorized in Section 913.03 hereof, he shall serve a written order to correct the dangerous condition upon the owner, operator, occupant, or other person responsible for its existence.

(a) Method of Service. The order shall be served in one of the following ways:

- (1) By making personal delivery of the order to the person responsible.
- (2) By leaving the order with some person of suitable age and discretion upon the premises.

- (3) By affixing a copy of the order to the door at the entrance of the premises in violation.
- (4) By mailing a copy of the order to the last known address of the owner of the premises by registered mail.
- (5) By publishing a copy of the order in the local paper once a week for three consecutive weeks.
- (b) Time for Compliance. The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to person or public property, the City Manager shall have the authority to require compliance immediately upon service of the order.
- (c) Appeal from Order. A person to whom an order hereunder is directed shall have the right, within twenty-four hours of service of such order, to appeal to the City Manager, who shall review such order within twenty days and file his decision thereon. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. A person to whom such order is directed must comply with such order within five days after an appeal has been determined. When a person to whom an order is directed fails to comply within the specified time period, the City Manager may take such steps as he finds necessary to remedy the condition.
- (d) Special Assessment. If the cost of remedying a condition is not paid within ten days after receipt of a statement therefore, such cost shall be levied against the property upon which the hazard exists as a special assessment. The levying of such assessment shall not affect the liability of the person to whom the order is directed to fine and imprisonment. Such special assessment shall be collected with a forfeiture of five percent (5%) and interest for failure to pay at the time fixed by the assessing ordinance.  
(Passed 3-11-85)

913.99 PENALTY.

Any person violating any of the provisions of this article shall be deemed and held guilty of a misdemeanor, and upon conviction, shall be fined in any sum not to exceed five hundred dollars (\$500.00) for each such offense, and each day during which the violation shall continue shall be held to be a separate offense.





TITLE THREE - Utilities  
 Art. 921. Water Charges.  
 Art. 925. Sewer Regulations.  
 Art. 929. Sewer Charges.

ARTICLE 921  
 Water Charges

- |  |   |
|--|---|
| 921.01 Rates.<br>921.02 Delayed payment penalty.<br>921.03 Connection charge; resealing<br>water meter.<br>921.04 Reconnection charge. | 921.05 Multiple occupancy.<br>921.06 House trailer courts.<br>921.07 Fire protection.<br>921.08 Debt due City; penalties for<br>nonpayment. |
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CROSS REFERENCES

Authority to collect - see W. Va. Code 8-12-5(32); Art. 8-19  
 Discontinuance for nonpayment - see W. Va. Code 8-19-13  
 Review by Public Service Commission - see W. Va. Code 24-2-4(b)

921.01 RATES.

The water rates for all customers of the municipal water system of the City of Follansbee shall be as follows:

- (a) Applicable Rates in Entire Territory Served:
- (1) Availability of service. Available for general domestic, commercial and industrial service.
  - (2) Rates for Water Consumption.

<u>Gallons Used Bi-Monthly</u>	<u>Per 1,000 Gallons</u>
Each 1,000	\$4.26

- (3) Minimum bill. The minimum bill shall be \$4.26 per month.  
(Ord. 00-4. Passed 8-14-00.)

921.02 DELAYED PAYMENT PENALTY.

The above tariff is net. On all accounts not paid in full within twenty days of the date of bill, ten percent (10%) will be added to the net amount shown. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.  
(Ord. 00-4. Passed 8-14-00.)

921.03 CONNECTION CHARGE; RESEALING WATER METER.

(a) A charge of two hundred fifty dollars (\$250.00) will be made for every new subscriber requiring a new connection for a water meter and for every present subscriber requiring a reconnection of an existing water meter located in the City of Follansbee.

(b) A charge of two hundred fifty dollars (\$250.00) will be made for every new subscriber requiring a new connection for a sewage line and for every present subscriber requiring a reconnection of an existing sewage line located in the City of Follansbee.

(c) The aforesaid two hundred and fifty dollar (\$250.00) charge for "every present subscriber requiring a reconnection of an existing water meter located in the City of Follansbee" indicated in subsection (a) above shall not apply to any water customer whose water meter has been tampered with in any way. Any water customer of the City of Follansbee whose water meter has been tampered with in any way shall be disconnected from the City of Follansbee's water system and shall not be reconnected to the City's water system until such time as that water customer shall pay to the City a reconnection, repair, and replacement charge of two hundred and fifty dollars (\$250.00) for the first concurrence. In the event that any such water meter tampering should occur a second time, that water customer shall be subject to the same water service disconnection as with the first occurrence, but shall not be reconnected to the City's water system until such time as that water customer shall pay to the City a reconnection, repair, and replacement charge of three hundred and fifty dollars (\$350.00) for such second occurrence. In the event that any such water meter tampering should occur a third time, that water customer shall be subject to the same water service disconnection as with the first occurrence, but shall not be reconnected to the City's water system until such time as that water customer shall pay to the City a reconnection, repair, and replacement charge of four hundred and fifty dollars (\$450.00) for such third occurrence. In addition to the above, any water customer who in any way tampers with any water meter at any time for any reason shall be subject to prosecution under Part Five, Article 533, of the Codified Ordinances of the City of Follansbee and, as well, any other applicable federal, state, and/or municipal statute and/or ordinance.  
(Ord. 99-5. Passed 10-16-99; Ord. 00-4. Passed 8-14-00.)

- |     |  |         |
|-----|--|---------|
| (1) | First resealing of water meter                         | \$50.00 |
| (2) | Second resealing of water meter                        | 100.00  |
| (3) | Third resealing of water meter                         | 150.00  |
| (4) | Fourth and each subsequent resealing<br>of water meter | 200.00  |
|     | (Ord. 91/92-2. Passed 4-13-92.)                        |         |

#### 921.04 RECONNECTION CHARGE.

A reconnection charge of twenty dollars (\$20.00), shall be charged for customers for reconnection to the City System.

#### 921.05 MULTIPLE OCCUPANCY.

On apartment buildings, or multiple occupancy buildings, each family or business unit shall be required to pay not less than the minimum monthly charge herein established for a five-eighths inch meter. Motels and hotels shall pay according to the size meter installed.

#### 921.06 HOUSE TRAILER COURTS.

When a master meter(s) is used for trailer courts, no bill shall be rendered for less than one dollar and seventy-five cents (\$1.75) multiplied by the number of units situated on the court site at the time the meter is read or the actual charge for the size meter installed, whichever is greater. House trailer includes both mobile and immobile, located on sites other than a park or court, shall be billed in the same manner as any other family or business unit.

#### 921.07 FIRE PROTECTION.

Per Fire Hydrant	\$15.00 bi-monthly (\$90.00 per year)
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#### 921.08 DEBT DUE CITY; PENALTIES FOR NONPAYMENT.

(a) If any bill is not paid within 60 days from the date of the bill, water service to the customer will be discontinued and will not be restored until all past due bills and all accrued penalties plus a reconnection charge have been paid in full, subject to applicable rules of the Public Service Commission of West Virginia. (Ord. 00-4. Passed 8-14-00.)

(b) Each water service charge or surcharge levied pursuant to this article shall be a debt due the City and shall be a lien upon the property and if the same is not paid within thirty days after it shall be due and payable, it shall be deemed delinquent and may be recovered by civil action in the name of the City against the property owner and or the user of such service. In event of failure to pay the sewerage service charge or surcharges after they become delinquent, the City Manager or his duly authorized representative shall be authorized to remove or close the water connection and shall have the right to enter upon the property for such purpose and to take such steps as may be necessary to accomplish such removal or closing. The expense of such removal or closing, as well as the expense of restoring any such service, shall likewise be a debt due the City and a lien upon the property and may be recovered by civil action in the name of the City against the property owner and or the user of the service, or such sewage service shall not again be turned on, nor the water connection restored until all service charges, including the expense of removal, closing and restoration shall have been paid. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.



## ARTICLE 925 Sewer Regulations

925.01	Definitions.	925.05	Powers and authority of inspectors.
925.02	Use of public sewers required.	925.06	Amendments; precedence.
925.03	Connection to public sewers.	925.07	Conflict.
925.04	Discharge into public sewers.		

### CROSS REFERENCES

Power to regulate - see W. Va. Code 8-12-5(32)  
 Sewer improvements - see W. Va. Code 8-17-1 et seq.  
 Sewer connections - see W. Va. Code 8-18-22  
 Sewer service charges - see S.U. & P.S. Art. 929

#### 925.01 DEFINITIONS.

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

- (a) "Biochemical oxygen demand (BOD)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.
- (b) "Council" shall mean the Mayor and fellow Members of the City of Follansbee, West Virginia as constituting the governing body of said City.
- (c) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
- (d) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.
- (e) "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.
- (f) "Easement" shall mean an acquired legal right for the specific use of land owned by others.
- (g) "Floatable oil" is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
- (h) "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and service of foods.
- (i) "Industrial waste" shall mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary strength wastes.

- (j) "Natural outlet" shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- (k) "May" is permissive (see "shall", subsection (s)).
- (l) "Person" shall mean any individual, firm, company, association, society, corporation, or group.
- (m) "pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen-ion, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of  $10^{-7}$ .
- (n) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than  $\frac{1}{2}$  inch (1.27 centimeters) in any dimension.
- (o) "Public sewer" shall mean a common sewer controlled by a governmental agency or public utility.
- (p) "Sanitary sewer" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- (q) "Sewage" is the spent water of a community. The preferred term is "wastewater".
- (r) "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.
- (s) "Shall" is mandatory (see "may", subsection (k)).
- (t) "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation and adversely affects the collection system and/or performance of the wastewater treatment works.
- (u) "Storm drain" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
- (v) "Manager" shall mean the duly appointed representative of the City of Follansbee, who is charged with the responsibility of the day to day operations of the wastewater facilities or his/her authorized deputy, agent or representative.
- (w) "Suspended solids" shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.
- (x) "Unpolluted water" is a water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- (y) "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

- (z) "Wastewater facilities" shall mean the structures, equipment, and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.
- (aa) "Wastewater treatment works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant".
- (bb) "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.  
(Ord. 98-3. Passed 4-13-98.)

#### 925.02 USE OF PUBLIC SEWERS REQUIRED.

(a) Authority to Establish and Maintain a Sewer. For state law as to authority of City to establish and maintain a sewer system and sewage treatment and disposal system and to acquire property necessary therefore, see W. Va. Code, 16-13A-1 and 8. As to authority of City to make "low cost improvements", including the construction, renewing and preparing of storm, sanitary and combined sewers, see W. Va. Code, 16-13A-7. As to authority of the City to levy assessments for sewer improvements, and to regulate sewer connections, see W. Va. Code 16-13A-9. As to jurisdiction of City for purposes of this chapter, see W. Va. Code 16-13A-8. As to requirement that method of drainage and system for excreta disposal conform to plans, specifications and instructions of State Department of Health, see W. Va. Code 16-1-9.

(b) Declaration of Necessity.

- (1) The use of the sewer system of the City is determined and declared to be essential for the protection and preservation of the public health, comfort, safety, economy and general welfare of the inhabitants of the City and of the area served thereby.
- (2) The owner, tenant or occupant of premises which abut on a street, easement or other public way containing a sewer service, or which, in the judgment of the Council of the City, is located within such a distance thereof that sewer service is reasonably available thereto and upon which premises a building or other inhabitable structure has been or shall be erected for residential, commercial, or industrial use, or where persons are employed or congregate or are intended to be employed or congregate, shall be required to connect the building or structure to the sewer system or to such part of the sewer system as may from time to time be extended or become reasonably available, and shall thereafter refrain from using or cease to use any other method in place of the sewer services which are now, or may hereafter become available; and shall thereafter pay all the charges, rates or fees as herein, or may hereafter be, provided for. All such connections shall be in accordance with the rules and regulations, which shall be adopted from time to time by the Board, and such rules and regulations may provide for reasonable charges, fees or deposits required for making such connections.
- (3) For provisions as to authority of Board to compel owners, etc., of property abutting on or near the street in which public sewer is laid and upon which any building, etc., is erected, to connect such property to the sewer; see W. Va. Code, 16-13A-9.

(c) Application for Sewer Service Required.

- (1) It shall be unlawful for any person, including public bodies, as well as natural persons, to make an initial cut-in or connection with the City sewer system and use that system without first making written application for such connection and service to the Board and paying all costs, charges, fees and deposits incident thereto. Such application shall be made on forms prescribed and furnished by the Board, and shall constitute an agreement by the applicant with the City to abide by all provisions of this chapter and such applicable rules and regulations of the Council of the City in regard to the use of the sewer system. Such application for service by firms, partnerships, associations, and corporations shall be submitted only by their duly authorized agent, and the official title of such agent shall be signed to the application.
- (2) The application shall grant or cause to be granted to the City, without cost, all rights, easements, permits, and privileges, which are necessary for the rendering of sewer service. Duly authorized employees of the Council of the City shall have access at all reasonable hours to the premises of the applicant for the purpose of installing or removing any of its property, examining pipes or fixtures, or for any purpose incidental to the rendering of sewer service.

(d) Permit for Connection; Tapping Charge. It shall be unlawful for any person, whether property owner, drain layer or otherwise, to connect with or tap a City sewer, either directly or indirectly, without first having a permit from the Council of the City and having paid the tapping or maintenance charge fixed by law. In all cases, the tapping and maintenance charges for tapping a City sewer shall be as specified from time to time by the Council of the City in an appropriate schedule, which shall be maintained on file in the office of the City; and until such a schedule is prescribed by the Council of the City pursuant to the foregoing provisions of this section, the tapping and maintenance charges for City sewers shall be those in effect immediately prior to the effective date of this article.  
(Ord. 98-3. Passed 4-13-98.)

925.03 CONNECTION TO PUBLIC SEWERS.

(a) Tapping or Opening Sewer Without Permit. No person shall cut, break, pierce or tap any public sewer or appurtenances thereof, or introduce any tube, pipe, trough or conduit into any public sewer or appurtenance thereof without a written permit from the Council of the City.

(b) Sewer Taps Only by Authorized Persons. No person, except those persons duly employed or authorized by the City or by the Council of the City for such purpose, shall tap the City's sewer mains.

(c) Sewer Tap Construction.

- (1) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.



- (2) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
- (3) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Manager, to meet all requirements of this article.
- (4) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the material and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.  
Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (5) No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, unless such connection is approved by the Manager for purposes of disposal of polluted surface drainage.
- (6) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Manager before installation.
- (7) The applicant for the building sewer permit shall notify the Manager when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Manager or his representative.
- (8) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

(d) Approval of Connections by City Inspector.

- (1) No sewer service shall be connected until the plumbing and connections incident thereto shall have been inspected and approved by an inspector of the Council of the City.
- (2) No sewer service line shall be connected to the sanitary sewer system if that service line will contain flows other than sanitary wastewater. Roof drains, yard and area drains, footer drains, or any line other than that which serves a sanitary plumbing system are prohibited from connection to the City system.

(e) Unauthorized Connections Prohibited.

- (1) No person shall connect to or turn on any sewer service, or cut-in, interconnect, tap or make any alterations to any main or distribution or collection pipe of the City's sewer system or permit any connection or tapping to be made to the sewer system on his premises or the premises occupied by him, or knowingly use the sewer service from connections in violation of any of the provisions of this article or any rules or regulations adopted by the Council of the City with respect thereto.
- (2) Roof drains, yard and area drains, footer drains, or any line carrying flow other than exclusively sanitary wastewater is prohibited from connection to the sanitary sewer system.

(f) Establishment of Schedule of Rates; Use of Water Meters.

- (1) For the payment of the proper and reasonable expense of operation, repair, replacement, improvements, additions, betterment, extensions and maintenance of the sewer system and for the payment of the sums required to pay the principal and interest of all sewer revenue bonds as they become due, the Council of the City shall enact and may from time to time amend a schedule of just and equitable rates or charges for the use of and service rendered by the municipal sewer system and works of the City of Follansbee, which schedule of rates or charges shall be based upon the metered amount of water supplied the premises; and each schedule shall be maintained on file in the office of the City while it is in effect.
- (2) Until such time as the Council of the City adopts a schedule of rates or charges pursuant to the foregoing provisions of this section, the rates and changes in effect immediately prior to the effective date of this article shall continue in full force and effect.

(g) Established Rates Applicable to Premises Subsequently Served. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises hereafter served which fall within the same class, without the necessity of any hearing or notice.

(h) City Subject to Established Rates or Charges. The City shall be subject to the established charges and rates, or to charges and rates established in harmony therewith, for services rendered to the City and shall pay such rates or charges, when due, from corporate funds which shall be deemed to be a part of the revenues of the sewage system and works and be applied as provided for the application of such revenues.

(i) Authority Vested in Council of the City for Billing and Collecting. All rates or charges provided for by this article shall be billed and collected monthly by the Council of the City or by persons or agencies authorized by the Council of the City. All bills shall be considered due and payable on or before the tenth day following the date rendered.

(j) Lien for Enforcement of Collection of Billed Rates or Charges. All such rates or charges, if not paid when due, shall be a lien upon the premises served by such system or works, and if such rates or charges are not paid within thirty (30) days after due, then the amount thereof, together with a penalty of ten percent (10%) and a reasonable attorney's fee, may be recovered by the Council of the City in a civil action in the name of the City. In connection with such action, such lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto.

(k) Industrial Use of Sewers. Where the character of sewage from any manufacturing or industrial plant, building or premises is such that it imposes a burden upon the sewer system in addition to the burden imposed by the average sewage entering the sewer system, such additional charge shall be made therefore as the Council of the City shall deem to be fair and equitable to meet the additional cost of collection, treatment and disposal of such sewage; and the Council of the City may, if it deems advisable to do so, compel the owner, tenant or occupant of such manufacturing or industrial plant, building or premises to treat such sewage in such manner as shall be specified by the Council of the City before discharging into the sewer system.

(l) Duration of Liability for Sewer Service. Liability for service shall begin for a user on the date of connection to the sewer system, and such liability shall continue thereafter unless such premises are disconnected from the sewer system with the approval of the Council of the City. After such liability begins, no allowance shall be made for vacant houses unless requested in writing to have the same system shut off is received by the Council of the City, nor will any allowance be made for any shut off period that is less than thirty (30) days.

(m) User's Responsibility to Keep Sewer Clean. The owner, tenant or occupant of the property shall be continuously responsible for maintaining and keeping the sewer pipe leading to and between the plumbing system of his premises to the City's connecting sewer clean and free from obstruction, and shall not cause, suffer or permit any article or thing, liquid as well as solid, to be introduced into the pipe which causes a stoppage thereof. In the event of any such obstructions or stoppage, the Council of the City shall have the right to cut off the water connection, which shall not be reconnected until such sewer pipe is cleaned and maintained properly, and in the further event of the failure of such user to remedy such obstruction or stoppage, the Council of the City shall have the right to enter upon said premises and make necessary repairs, the costs and expenses of which shall be included as part of the charges against such premises.

(n) Leaks. No allowance or adjustment of any sewer bill shall be made for water leaks of any nature occurring on the user's side of the meter if the water so leaked enters the sewer.

(o) City Not Liable for Damage. Neither the City nor the Council of the City shall be liable for any damage resulting from bursting of any sewer main, service pipe or valve, or from discontinuing the operation of its sewer collection, treatment and disposal facilities, for repairs, extensions or connections, or from the accidental failure of the sewage collection, treatment and disposal facilities from any cause whatsoever. In cases of emergency, the Council of the City shall have the right to restrict the use of its sewage collection, treatment and disposal facilities in any reasonable manner for the protection of the City and its sewer system.

(p) Tampering with Sewer Appurtenances. No person shall turn, lift, remove, raise or tamper with any cover or any manhole, basin, inlet or other appurtenance of any public sanitary and/or storm sewer without a written permit from the City, or of any combined sewer or sanitary sewer without a written permit from the Council of the City.

(q) Entering Sewer. No person, other than one employed by the City while on duty, shall enter any public sanitary and/or storm sewer or appurtenance thereof without a written permit from the City, or shall enter any public combined sewer or sanitary sewer without a written permit from the Council of the City.

(r) Injury to Sewer. No person shall break or damage any public sewer or appurtenance of part thereof. (Ord. 98-3. Passed 4-13-98.)

#### 925.04 DISCHARGE INTO PUBLIC SEWERS.

(a) Unpolluted Discharge. No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer, except stormwater runoff from limited area, which stormwater may be polluted at times, may be discharged to the sanitary sewer without permission of the Manager and the necessary permit obtained.

(b) Stormwater. Stormwater other than that exempted under this article, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or to a natural outlet approved by the Manager and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged on approval of the Manager to a storm sewer, combined sewer, or natural outlet.

(c) Flammable, Explosive or Hazardous Substances and Foreign Matter. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (2) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
- (3) Any waters or wastes having a pH lower or higher than that normally encountered in the system, or having any other corrosive property capable of causing damage or hazard to structures, equipment/operation and personnel of the wastewater works without a permit to do so.

- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, ungrounded garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(d) Toxic Substances. The following described substances, materials, waters, or waste shall be limited in discharges to City systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Manager may set limitations lower than the limitations established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the Manager will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer, which shall not be violated without approval of the Manager, are as follows:

- (1) Wastewater having a temperature higher than 150 degrees Fahrenheit (65° Celsius).
- (2) Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin.
- (3) Wastewater from industrial plants containing floatable oils, fat, or grease.
- (4) Any garbage that has not been properly shredded (see Section 925.01(n)). Garbage grinders may be connected to sanitary sewers from homes, hotels institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- (5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such degree that any material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Manager for such materials.
- (6) Any waters or wastes containing odor-producing substances exceeding limits, which may be established by the Manager.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Manager in compliance with applicable state or federal regulations.
- (8) Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.
- (9) Waters or wastes containing substances which are not amendable to treatment or reduction by the wastewater treatment processes employed, or are amendable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

- (10) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

(e) Conditional Service. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in this section, and which in the judgment of the Manager may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisances the Manager may:

- (1) Reject the wastes.
- (2) Require pretreatment to an acceptable condition for discharge to public sewers.
- (3) Require control over the quantities and rates of discharge, and/or
- (4) Require payment to cover added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection (j) hereof.

When considering the above alternatives, the Manager shall give consideration to the economic impact of each alternative on the discharger. If the Manager permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Manager.

(f) Grease, Oil and Sand Separators. Grease, oil and sand interceptors shall be provided when, in the opinion of the Manager, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in subsection (d)(3) hereof, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Manager, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal, which are subject to review by the Manager. Any removal and hauling of the collected materials not performed by owner(s) personnel must be performed by currently licensed waste disposal firms.

(g) Pretreatment. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.

(h) Metering and Sampling Devices. When required by the Manager, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. Such structure, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Manager. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.



(i) Design Data on Connection. The Manager may require a user of sewer services to provide information needed to determine compliance with this article. These requirements may include:

- (1) Wastewaters discharge peak rate and volume over a specified time period.
- (2) Chemical analysis of wastewaters.
- (3) Information on raw materials, processes, and products affecting wastewater volume and quality.
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- (5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
- (6) Details of wastewater pretreatment facilities.
- (7) Details of systems to prevent and control the losses of materials through spills to the City sewer.

(j) Measurements, Tests, and Analysis. All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Manager.

(k) Disclaimer. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment. (Ord. 98-3. Passed 4-13-98.)

#### 925.05 POWERS AND AUTHORITY OF INSPECTORS.

(a) Right of Entry for Purpose of Discharge Inspection. The Manager and other duly authorized employees of the City bearing proper credentials for the purpose of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this article.

(b) Collection of Information. The Manager or other duly authorized employees are authorized to obtain information concerning industrial processes that have a direct bearing on the kind and source of discharge to the wastewater collection system.

(c) Required Safety Procedures. While performing the necessary work on private properties referred in subsection (a) hereof, the Manager or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 925.04(h).

(d) Right of Entry To and From All Negotiated Easements. The Manager and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. 1998-3. Passed 4-13-98.)

#### 925.06 AMENDMENTS; PRECEDENCE.

(a) Amendments. The Council of the City shall, upon an annual basis, or as deemed necessary from time to time between annual reviews, review and cause to be enacted, such amendments to this article as are necessary to bring the article into compliance with applicable federal and state regulations and changes thereto. All such amendments shall clearly delineate the section to the altered or expanded.

(b) Precedent of Past and Present Ordinances. It shall be the responsibility of the Council of the City to review and render a decision as to a precedence involving a present or past ordinance to insure compliance with applicable statutes prior to rendering such precedence. Upon resolution of the discrepancy and the precedence set an amendment to this article shall be enacted as stated in subsection (a) hereof.

(c) Precedence of the Sewer Use Ordinance and Other Codes. Procedures shall be as outlined in subsection (b) hereof.

#### 925.07 CONFLICT.

(a) All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(b) The invalidity of any section, clause, sentence, or provision of this article shall not affect the validity of any part of this article, which can be given effect without such invalid part or parts. (Ord. 98-3. Passed 4-13-98.)



## ARTICLE 929 Sewer Charges

929.01	Rates.	929.05	Penalty for late payment.
929.02	Nonmetered structures.	929.06	Debt due City; penalties for nonpayment.
929.03	Special charges.		
929.04	Billings; free service prohibited.		

### CROSS REFERENCES

Power to collect charges - see W. Va. Code 8-12-5(32); 16-13-16  
Review by Public Service Commission - see W. Va. Code 24-2-4(b)

#### 929.01 RATES.

- (a) Applicability. Applicable to entire area served.
- (b) Availability of Service. Available for general domestic, commercial and industrial service.
- (c) Rates. Each 1,000 gallons at six dollars and twenty-five cents (\$6.25) per month.
- (d) Minimum Bill. The minimum bill shall be six dollars and twenty-five cents (\$6.25) per month.
- (e) Unmetered Rate. The unmetered bill shall be six dollars and twenty-five cents (\$6.25) per month.
- (f) Connection Charge. The connection charge for each new connection to the system shall be five hundred dollars (\$500.00).
- (g) Delayed Payment Penalty. The above tariff is net. On all accounts not paid in full within twenty days of the date of bill, ten percent (10%) will be added to the net amount shown. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.
- (h) Disconnect for Nonpayment. If any bill is not paid within sixty days from the date of the bill, water service to the customer will be discontinued and will not be restored until all past due bills have been paid in full, together with all penalty charges, subject to applicable rules of the Public Service Commission of West Virginia.  
(Ord. 98-2. Passed 3-9-98.)

**929.02 NONMETERED STRUCTURES.**

In the event a building or premises discharging sewage, water or other liquid wastes into the City sanitary sewage system uses water supplied on other than a metered basis from the City or from any other source of water supply, the owner or occupant of the property served by the sewer system may be required to cause a water meter or other measuring device to be installed; but pending such installation the sewer service rates and charges to such building or premises shall be at least equivalent to the average sewer bill based on the foregoing rates and charges of similar buildings or premises with similar occupancy which are served by the City. (1970 Code Sec. 19-12)

**929.03 SPECIAL CHARGES.**

In the event the sewage, water or other liquid wastes being discharged into the sanitary sewers from any building or premises are determined by the City to contain unduly high concentrations of any substances which add to the operating costs of the sewage system of the City, then the City may establish special rates or charges as to such class of buildings or premises; or the City may require the owner of property served by such system or other interested party to treat specially such sewage, water or other liquid wastes before they are discharged into the municipal sanitary sewage system. (1970 Code Sec. 19-13)

**929.04 BILLINGS; FREE SERVICE PROHIBITED.**

All bills for sewer service shall insofar as possible be based upon the water meter records of the City and shall be rendered bimonthly and shall be due when mailed to the last known address of the party owing such bill. All money as collected shall be deposited in the "Sewer Revenue Fund" created in and by the ordinance authorizing the issuance of the sewer revenue bonds. No free services of the municipal sewage system shall be allowed. (1970 Code Sec. 19-14)

**929.05 PENALTY FOR LATE PAYMENT.**

On all accounts not paid in full within thirty days of date of billing, ten percent (10%) shall be added to the net amount shown. (1970 Code Sec. 19-15)

**929.06 DEBT DUE CITY; PENALTIES FOR NONPAYMENT.**

Each sewerage service charge or surcharge levied pursuant to this article shall be a debt due the City and shall be a lien upon the property and if the same is not paid within thirty days after it shall be due and payable, it shall be deemed delinquent and may be recovered by civil action in the name of the City against the property owner and or the user of such service. In event of failure to pay the sewerage service charge or surcharges after they become delinquent, the Sanitary Board of its duly authorized representative shall be authorized to remove or close the sewer connection and shall have the right to enter upon the property for such purpose and to take such steps as may be necessary to accomplish such removal or closing. The expense of such removal or closing, as well as the expense of restoring any such service, shall likewise be a debt due the City and a lien upon the property and may be recovered by civil action in the name of the City against the property owner and or the user of the service, or such sewage service shall not again be turned on, nor the sewage connection restored until all service charges, including the expense of removal, closing and restoration shall have been paid. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.

TITLE FIVE - Other Public Services  
 Art. 931. Garbage and Rubbish Collection.  
 Art. 935. Follansbee Municipal Park.

ARTICLE 931  
 Garbage and Rubbish Collection

- |        |  |        |                                       |
|--------|--|--------|---------------------------------------|
| 931.01 | Definitions.                                       | 931.13 | Collection of charges; late payments. |
| 931.02 | Powers and duties of City Manager.                 | 931.14 | Sharing containers prohibited.        |
| 931.03 | Storage of refuse.                                 | 931.15 | Revision of rates.                    |
| 931.04 | Accumulation of refuse.                            | 931.16 | Dumpster regulations.                 |
| 931.05 | Loose loads.                                       | 931.17 | Special pick-ups.                     |
| 931.06 | Incineration of refuse.                            | 931.18 | Fall and spring clean-up program.     |
| 931.07 | Containers required.                               | 931.19 | Lien on premises.                     |
| 931.08 | Wastepaper.  | 931.99 | Penalty.                              |
| 931.09 | Collection.  |        |                                       |
| 931.10 | Rates.   |        |                                       |
| 931.11 | Prohibited wastes.                                 |        |                                       |
| 931.12 | Exclusions from standard service; special charges. |        |                                       |

CROSS REFERENCES

Power to regulate - see W. Va. Code 8-12-5(10)  
 Loads dropping or leaking - see TRAF. 347.04

931.01 DEFINITIONS.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) "Ashes" means residue resulting from the combustion of coal, coke, wood or charcoal, and domestic, industrial or commercial stoves, furnaces or boilers.
- (b) "Garbage" means all putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food. There are two classes of garbage:
  - (1) "Prepared garbage" means waste materials from kitchens, dining rooms and similar places from which liquids have been drained, and the remaining solid matter wrapped securely in paper.
  - (2) "Raw garbage" means raw materials from kitchens, dining rooms and similar places from which liquids have not been drained and which has not been prepared as set forth in subsection (b)(1) hereof.

(1970 Code Sec. 11-1)

- (c) "Garbage container" means a water-tight can for the deposit of prepared garbage, which shall be made of metal or heavy duty plastic, have a close-fitting cover, have a capacity of not less than ten or more than thirty gallons, and be equipped with at least two carrying handles.  
(Ord. 93/94-13. Passed 12-13-93.)
- (d) "Health officer" means the county health officer of Brooke County.
- (e) "Private scavenger" means any person, hired or permitted by the City, who for hire collects, removes or disposes of refuse, garbage or trash.
- (f) "Refuse" means all sweepings, cleanings, rubbish, litter, offal, the carcasses of animals, fish and fowl, industrial or domestic waste, organic waste or residue of animals, fish or fowl sold as food, fruit or other vegetable matter from kitchens, dining rooms, markets or places dealing in or handling meats, fowl, fruits, grain or vegetables; animal and human feces or other wastes, the carcasses of animals, trees or shrub trimmings, grass clippings, dirt, wood, stone, brick, plaster or materials resulting from the demolition, alteration or construction of buildings or structures, accumulated waste materials or substances which may become nuisances, including prepared and raw garbage and trash.
- (g) "Refuse collection" means the gathering of garbage or refuse containers, and their contents from the premises of improved property and loading contents into removal vehicles, and returning containers to place where found after contents have been emptied, and for which a charge is made.
- (h) "Refuse containers" means trash containers and garbage containers.
- (i) "Refuse disposal" means the disposition of refuse in accordance with rules and regulations promulgated by the City Manager, as provided in this article.
- (j) "Refuse removal" means the hauling and transportation of refuse from point of collection to point of disposal.
- (k) "Trash" means any kind of refuse other than prepared or raw garbage, offal, carcass, putrid matter or organic waste.
- (l) "Trash container" means a watertight can for the deposit of trash, including ashes, tin cans and bottles, which shall be made of metal, have a close-fitting cover, have a capacity of not less than ten or more than thirty gallons, and be equipped with at least two carrying handles.  
(1970 Code Sec. 11-1)

#### 931.02 POWERS AND DUTIES OF CITY MANAGER.

The Division of Sanitation within the City Manager's office shall be adequately equipped and supplied with personnel and equipment to properly and satisfactorily carry out the essential public service of collection, removing and disposing of refuse produced in the households and places of business of the City. The City Manager, or other duly authorized officer with the approval of Council, shall have authority to prescribe, publish and enforce any and all reasonable rules and regulations deemed by him necessary or proper, consistent with this article, to carry out the objects and purposes thereof and for the safety and health of the citizens of the City in respect to the collection, removal and disposal of refuse as herein defined. The health officer shall be, ex officio, sanitation inspector whose duty it shall be to advise and consult the City Manager or other duly authorized officer with respect to enforcing the provisions of this article.  
(1970 Code Sec. 11-2)

### 931.03 STORAGE OF REFUSE.

(a) No person shall store or permit the storage of refuse on or about his premises, or the premises occupied by him, unless such refuse is kept separately in trash and garbage containers as defined in Section 931.01(c).

(b) No person shall deposit or throw any litter or refuse upon the ground or elsewhere in such manner that it may be subject to being scattered by animals or fowl or by the elements of nature.  
(1970 Code Secs. 11-3, 11-4)

(c) All persons, firms, corporations, individuals businesses, and citizens are required to use the City sanitation, garbage and rubbish collection service, and no such person, firm, corporation, church, institution, whether charitable or not, shall be exempt from using and paying for such services.  
(Ord. 88/89-4. Passed 8-29-88.)

### 931.04 ACCUMULATION OF REFUSE.

(a) No person shall cause or permit the accumulation of refuse in or upon premises owned, leased, occupied or used by him for a period exceeding one week. Such accumulation shall be disposed of in the manner described by this article, and the rules and regulations made and published by the City Manager.

(b) No person shall throw, deposit, place or scatter any garbage or refuse of any kind over or upon any occupied or unoccupied premises, vacant lot, street or alley, either public or private, or adjacent thereto, and either with or without the intent to later remove or burn; or to suffer or permit, from the accumulation of refuse, any premises owned, occupied or controlled by him to become or remain offensive, unsanitary, unsightly, unsafe to public health or a fire hazard.

(c) No person shall deliver refuse upon property of another, whether private or public property, except as may be specifically authorized by law or this article. (1970 Code Secs. 11-5 to 11-7)

### 931.05 LOOSE LOADS.

(a) No vehicle or conveyance shall be driven or moved on any street in such a manner that sand, dirt, refuse or any offensive substance is dropped, sifted or tracked upon any street or sidewalk except that water may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) The owner or operator of such vehicle or conveyance shall be responsible for securing the contents or cargo thereof in such manner as to prevent spilling and leaking, and he shall remove any sand, dirt, rubbish or any offensive substance dropped, sifted or tracked on any street, sidewalk or other public or private premises upon request of any City police officer or other officer or employee of the City.  
(1970 Code Sec. 11-8)

### 931.06 INCINERATION OF REFUSE.

No person shall dispose of refuse within the City except in standard domestic incinerators constructed for the purpose and which have been inspected and approved as safe by authorized representatives of both the Fire Department and the health officer.  
(1970 Code Sec. 11-9)

**931.07 CONTAINERS REQUIRED.**

(a) Every owner or his agent, and the occupant, of any house, building, apartment or tenement where people reside, board or lodge, or where animal or vegetable matter is prepared, served or sold, shall maintain in good order and repair, separate garbage containers and separate trash containers. It shall be the duty of every occupant to dispose nothing but garbage or paper in the garbage containers and nothing but trash in the trash containers.

(b) No City employee shall collect or remove, at City expense, any refuse from the premises of any person unless such premises are equipped with the garbage containers and trash containers required by this section, and unless garbage and trash is deposited in the proper containers.

(c) No person shall deposit or store garbage in trash containers at any time, or in garbage containers unless such garbage has been prepared for collection, removal and disposal, and complies with the definition of "prepared garbage" as set out in Section 931.01(b)(1) and no person shall deposit or store trash in garbage containers.

(1970 Code Secs. 11-10 to 11-12)

(d) The City Manager shall have authority to require any customer, whether commercial and/or otherwise, to use a dumpster where, in his discretion, the same is appropriate, in considering the volume of garbage and rubbish to be processed, to safeguard health, eliminate rats or rodents, control litter, or to establish easier handling. The number of dumpsters as are necessary, shall be determined by the City Manager, in his discretion.

(Ord. 88/89-4. Passed 8-29-88.)

**931.08 WASTE PAPER.**

Commercial and business establishments which, by necessity, must dispose of a large amount of waste paper, shall bundle and prepare their paper for collection, by securing it with cord, twine or rope, in a manner that will facilitate its collection and removal.

(1970 Code Sec. 11-13)

**931.09 COLLECTION.**

No person except the City or its authorized agent, or an independent contractor hired or permitted by the City to engage himself as a private scavenger, shall engage in the occupation of collection, removal, or disposal of refuse within the City. (1970 Code Sec. 11-14)

**931.10 RATES.**

The following rates are hereby established for garbage collection within the City:

- (a) Residential. \$6.50 per month or \$13.00 bi-monthly;
- (b) Basic Commercial. \$12.00 per month or \$24.00 bi-monthly;  
Commercial services shall be one day per week, with a maximum of nine-thirty gallon bags or containers to be accepted at such rate.
- (c) Expanded Commercial. Minimum rate: \$18.00 per month or \$36.00 bi-monthly, this rate is required for commercial service with ten-thirty gallon containers or more up to one dumpster container, with once per week dump service required. The City Manager shall have the authority to make a determination as to whether the commercial account is basic or expanded minimum. All existing customers with one dumpster and once per week pick up shall be considered expanded minimum.

- (d) Dumpsters and Equivelant Bag Trash Above Expanded Minimum. The rate shall be \$4.15 for a 2.5 yard dumpster or an equivelant quantity of garbage and rubbish per pick-up, \$5.85 for 3.5 yard dumpster or an equivelant quantity of garbage and rubbish per pick-up.
- (e) Classification of Customers. Any customer not classified as comercial or residential, such as a charitable organization, church etc., shall be billed on the basis of the quantity of garbage and rubbish actually handled by the City in accordance with the foregoing rates applicable to such quantities, with the applicable minimum charge as set forth herein.
- (f) Yearly Discount. Residential customers are entitled to a five percent (5%) discount if their entire yearly fee is paid one year in advance of service. (Ord. 88/89-4. Passed 8-29-88.)

#### 931.11 PROHIBITED WASTES.

Under the collection fees set out in Section 931.10 the City shall not collect, remove or dispose of the following types of refuse or other waste matter: Sewage, animal and human feces, the carcasses of animals, trees, tree trimmings or brush or material resulting from the demolition, repair, alteration or erection of buildings or structures. (1970 Code Sec. 11-16)

#### 931.12 EXCLUSIONS FROM STANDARD SERVICE; SPECIAL CHARGES.

The City shall have the right to deny standard refuse collection service to any person whose refuse requirements are sufficiently abnormal or different, in the opinion of the health officer, as to justify special handling, in which instance a special charge shall be made. This shall be interpreted to include those buildings or dwellings not readily accessible for the purpose of collecting and removing refuse. (1970 Code Sec. 11-17)

#### 931.13 COLLECTION OF CHARGES; LATE PAYMENTS.

(a) The City, through the City Manager, shall collect all refuse collection fees and charges, and shall set them out by separate statements or by any other appropriate method.

(b) A penalty of ten percent (10%) shall be added to refuse collection accounts thirty days after being rendered due. (1970 Code Sec. 11-18)

#### 931.14 SHARING CONTAINERS PROHIBITED.

(a) All fees and charges for refuse collection, removal and disposal shall be assessed against the person in whose name the other utilities are charged. However, no group of families or persons, even though living in the same building, may use the same refuse containers, and, in such instances of collective living in the same building, every family and person must be provided with individual refuse containers as provided for in this article, and each family or person shall pay for their own individual garbage and trash collection, notwithstanding the fact that other utilities are not charged in his name. (1970 Code Sec. 11-19)

(b) Any individual, person, firm or corporation, who brings in or deposits trash from outside his or her home or work place, or permits the same to be done, in contravention of this section which garbage and/or rubbish was not accumulated in the normal course of habitation and/or the conducting of commercial activity on the premises served, shall be a violation of this article and the persons so committing such act or permitting the same to be committed or should have had reasonable knowledge of the same being committed, shall be punished under the General Penalties Clause of the City Code.  
(Ord. 88/89-4. Passed 8-29-88.)

#### 931.15 REVISION OF RATES.

Council shall have the right to revise the schedule of charges and rates provided for in this article and to adjust the charges and rates so provided, in order that the costs of the services offered herein shall be distributed as equitably as possible among all citizens of the City, on the basis of benefits derived therefrom. At no time, however, shall rates be continued which are disclosed to be producing less revenue than is required to meet all obligations and costs involved in rendering the service promulgated herein.  
(1970 Code Sec. 11-20)

#### 931.16 DUMPSTER REGULATIONS.

(a) The City Manager shall have full and plenary authority to make reasonable rules and regulations concerning dumpster requirements. The City may afford to a customer a dumpster rental at the rate of ten dollars (\$10.00) per month for a 2.5 yard dumpster, fifteen dollars (\$15.00) per month for a 3.5 yard dumpster. If a dumpster is provided, the City shall purchase and maintain and replace the dumpster as needed, while cleaning such dumpster and disinfecting the same shall be the sole responsibility of the owner.

(b) If the commercial customer does not have a dumpster, as required by the City Manager, the City shall charge an additional four dollars and fifteen cents (\$4.15) per load per week as additional costs for the handling of such quantity of garbage and rubbish. The four dollars and fifteen cents (\$4.15) per load per week shall be in addition to the regular charges to the customer.  
(Ord. 88/89-4. Passed 8-29-88.)

#### 931.17 SPECIAL PICK-UPS.

(a) Commercial Special Pick-Up. Commercial special garbage pick-up outside of regularly scheduled services or customer schedule shall be twenty dollars (\$20.00) per hour portal to portal.

(b) Residential Special Garbage Pick-Up (Pick-Up Truck). Residential special garbage pick-up with a pick-up truck shall be twelve dollars (\$12.00) per load.

(c) Residential Special Garbage Pick-Up (Dump Truck). Residential special garbage pickup with a dump truck shall be fifteen dollars (\$15.00) per load.  
(Ord. 92/93-4. Passed 3-8-93.)



**931.18 FALL AND SPRING CLEAN-UP PROGRAM.**

It is hereby established a fall and spring clean-up program to be effective immediately. The program is to be administrated as part of the regular paid fees by the customers and there shall be no additional charge for such service. The City Manager shall have the authority to hire part-time labor to assist in the fall and spring clean-up program.

(Ord. 88/89-4. Passed 8-29-88.)

**931.19 LIEN ON PREMISES.**

Any person, firm or corporation subject to charges under this article, or any owner of any real estate or premises served by the service herein, shall be obligated to pay the charges herein, and any such person, firm, corporation, landlord or owner of real estate, upon which such premises are served, shall have the premises subjected to a lien for the non-payment of any fees, penalties, interest and costs assessed and/or due and owing under this article.

(Ord. 88/89-4. Passed 8-29-88.)

**931.99 PENALTY.**

Whoever violates any provision of this article shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days or both. Each day on which a violation occurs or continues shall be a separate offense.



**ARTICLE 935**  
**Follansbee Municipal Park**

935.01	Hours.	935.04	Vehicles prohibited.
935.02	Reward.	935.05	Alcohol; beer restricted.
935.03	Use by non-profit organizations.	935.99	Penalty.

**CROSS REFERENCES**

Authority to regulate – see W. Va. Code 8-12-5(37)  
Powers of the City Manager – see ADM. 123.08

**935.01 HOURS.**

The Follansbee Municipal Park, except Community House, shall be closed from 11:00 p.m. to 6:00 a.m. to all activities, parties, conserted group activities, excepting that any individual person or persons may enter the park for the purpose of walking or jogging within the park.  
(Passed 5-9-88)

**935.02 REWARD.**

The Chief of Police, under the direction of the City Manager, may offer as a reward up to two hundred and fifty dollars (\$250.00) for any person providing information relating to the arrest and conviction of any other person who may have violated any Federal, State or Municipal law or ordinance in the park.  
(Passed 5-9-88)

**935.03 USE BY NON-PROFIT ORGANIZATIONS.**

Any non-profit organization or group may be granted free use of any paid facility within the Park upon approval and prior permission of Council.  
(Passed 5-9-88)

**935.04 VEHICLES PROHIBITED.**

No motor vehicles or non-motor vehicles, including bicycles, excepting maintenance or public safety vehicles, shall be permitted in the City Park at any time. No person using the park may drive any such vehicle onto the Park premises for any purpose whatsoever including loading and unloading of any items or property.  
(Passed 5-9-88)

**935.05 ALCOHOL; BEER RESTRICTED.**

No alcohol and/or beer shall be consumed in the Follansbee Municipal Park, except Community House. Provided, however, that non-intoxicating beer may be consumed within the limits allowed by law, only in shelters or tables established in the Park. No person shall consume beer away from the shelters and/or tables nor transport the same within the park except to and from the shelter or table upon entering or exiting the park.

(Passed 5-9-88)

**935.99 PENALTY.**

(EDITOR'S NOTE: See Section 101.99 for the general Code penalty.)