

**BOROUGH OF AVALON  
ORDINANCE NO. 1360**

AN ORDINANCE OF THE BOROUGH OF AVALON, A BOROUGH CODE MUNICIPALITY, AMENDING SECTION 8 OF ORDINANCE NO. 1302 BY PROVIDING AN EXTENSION OF THE SANITARY SEWER SURCHARGE FEE AND PROVIDING FOR THE IMPOSITION OF A SANITARY SEWER SURCHARGE FEE; IDENTIFYING AND ESTABLISHING THE USES OF THE MONEY ACCUMULATING FROM SUCH FEES; PROVIDING FOR THE ENFORCEMENT OF THE ORDINANCE, AND FOR FINES AND PENALTIES FOR THE VIOLATIONS THEREOF.

WHEREAS, the Borough Council of the Borough of Avalon desires to and is required to maintain, improve, rehabilitate and reconstruct the sanitary sewer system and storm sewer system of the Borough of Avalon so as to ensure its good working order; provide for the elimination of illegal storm water, snow melt, and surface water from entering the sanitary sewer system of the Borough of Avalon; and to comply with federal and state laws and regulations pertaining to the discharge of pollution into the waters of the Commonwealth; and

WHEREAS, the proper major maintenance, repair, and improvements to the public sanitary sewer system and storm water system are a necessary part of an overall comprehensive corrective action plan, to which the Borough is a party, to prevent the infiltration and inflow of storm water and ground water into the sanitary sewers of the Borough of Avalon and the water bodies of the Commonwealth;

WHEREAS, the timely completion of such work is dependent upon the ability of the Borough to pay for the necessary improvements and additions to the sanitary sewer system and storm water system; and

WHEREAS, the payment for such work on the sanitary sewer system should be borne by the users of the system in proportion to the amount of use of each user for the benefit of the community; and

WHEREAS, the Borough Council of the Borough of Avalon believes that the implementation of a sanitary sewer surcharge fee will enable it to pay for such major improvements and replacements and other work to the Borough's sanitary and storm sewer systems; and

WHEREAS, the Borough Council of the Borough of Avalon believes that extending the sanitary sewer surcharge fee from its current expiration date of March 16, 2014 in order to accomplish those projects described above and to also meet its debt payment obligations to the Pennsylvania Infrastructure Investment Authority (hereinafter, "PENNVEST").

NOW, THEREFORE, THE COUNCIL OF THE BOROUGH OF AVALON HEREBY ORDAINS AS FOLLOWS:

SECTION 1. All property within the Borough of Avalon with Improvements located on such property that utilize potable water for sanitary facilities shall be subject to a sanitary surcharge fee imposed by the Borough of Avalon. The amount of said fee shall be (.0021) cents on every gallon of water or part thereof used during any three-month billing period as evidenced by the quarterly water meter readings taken by the West View Water Authority. An additional fee of nine dollars and ninety-five cents (\$9.95) to be paid quarterly, will part thereof as a customer service charge for the billing. This sanitary sewer surcharge fee may be changed or modified from time to time by Resolution of the Avalon Borough Council but not more than once a year.

SECTION 2. The sanitary sewer surcharge fee established by this Ordinance shall be for each residential, commercial, or industrial unit served by a metered water service line and the quantity of water used by each such residential, commercial, and industrial unit. Such surcharge fee shall be billed to the person in whose name the water service is contracted (whether he be the owner of the property or a tenant); however, the property owner shall be responsible for the payment of such surcharge fee if the billable party does not make such payment.

SECTION 3. The Borough of Avalon shall be required by this Ordinance to establish a separate sewer improvement fund to utilize the sanitary sewer surcharge fees to, directly or indirectly, provide the funds necessary for the required engineering work, design, construction, and purchase of components for improvements, replacements, rehabilitation, major repairs, additions, and other associated major work projects to the sanitary sewer system and storm sewer system. Such other major work projects include, but are not limited to, smoke testing, dye testing, the separation of storm flow from the sanitary sewer system, manhole and inlet rehabilitation, reconstruction, and installation, the cleaning of sewer lines and components, investigating and identifying the conditions of sewers and locating possible leaks, breaks, and blockages through the use of televising sewer lines, the purchase and installation of sewer flow monitors, the required field work and engineering work necessary to adequately provide maps of the sewer systems and identify the hydraulic capacity of the systems, and any other sewer system related work items as identified by the Council of the Borough of Avalon.

SECTION 4. The failure of any billable party (or ultimately the property owner) to pay the identified sanitary sewer surcharge fee to the Borough of Avalon within thirty (30) days of the billing date of such surcharge fee will cause the imposition of a penalty which will be imposed as follows:

- A. An initial penalty charge in the amount of ten percent (10%) of the surcharge fee shall be assessed and added to the charge.
- B. An additional penalty charge in the amount of ten percent (10%) of the principal balance shall be added to the balance that remains unpaid each year on the anniversary date of the initial penalty charge as long as the charge remains outstanding.

- C. Partial payments received on unpaid balances shall be applied first to all penalty charges and then to the principal balance due and owing.
- D. Unpaid amounts may be subject to additional costs, fees, expenses and interest, consistent with the Municipal Tax Claim and Lien Law, as amended.


SECTION 5. The failure of any billable party (or ultimately the property owner) to pay the identified sanitary sewer surcharge fee to the Borough within ninety (90) days of the billing date may result in the Borough of Avalon having the potable water supply to the building terminated until such sewer surcharge fee is paid to the Borough in total. Any and all fees associated with the scheduled termination of water service to a location shall be the responsibility of the billable party (or ultimately the property owner) and shall be paid to the Borough of Avalon prior to the Borough halting such planned termination of water service to a location shall be the responsibility of the billable party (or ultimately the property owner) and shall be paid to the Borough of Avalon prior to the restoration of water service to the location.

SECTION 6. Any other Ordinance, or part of any Ordinance (including but not limited to Ordinance No. 1302) of the Borough of Avalon conflicting with the provisions of this Ordinance is hereby repealed insofar as the same affects this Ordinance.

SECTION 7. The provisions of this Ordinance are severable and, if any section, sentence, clause, or phrase shall be held by a court of competent jurisdiction to be illegal, invalid, or unconstitutional, the remaining portions of this Ordinance shall not be affected or impaired.

ORDAINED AND ENACTED this 21 day of October, 2014.

ATTEST:

  
Borough Manager

  
President of Council

EXAMINED AND APPROVED THIS 21 day of October, 2014.

  
Mayor