

ORDINANCE NO. 2009-49

**AN ORDINANCE OF THE BOROUGH OF RED BANK, MONMOUTH COUNTY  
AMENDING CHAPTER XX "WATER AND SEWER", SECTION 20-8 "SEWER CONNECTION  
FEES" AND SECTION 20-9 "WATER CONNECTION FEES"**

**WHEREAS**, the County and Municipal Water Supply Act, N.J.S.A. §40A:31-1, et. seq.; the Municipal and County Sewerage Act, N.J.S.A. §40A:26A-1 et. seq. as well as common law authorize and require the Borough to set rates for connection fees to the municipal water and sewerage systems on an annual basis;

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Red Bank in the County of Monmouth that Chapter XX "Water and Sewer" of the revised General Ordinances of the Borough of Red Bank be and the same is hereby amended as follows:

**SECTION ONE:** Chapter XX "Water and Sewer", Section 20-8 "Sewer Connection Fees" of the revised General Ordinances of the Borough of Red Bank is hereby amended to read as follows:

**20-8 SEWER CONNECTION FEES.**

**20-8.1 Fee.** The connection fee for each use connected direct or indirect connection to the sewerage system shall be as follows:

a. *Class 1: Residential* \$2,591.00

Single-family, condominiums, townhouses, apartments, multifamily, duplex, age restricted, trailers, mobile homes (Per unit)

b. *Class 2: Hotel or Motel* \$1,296.00

(Per room). This portion of the connection fees applies only to the number of living units. An additional connection fee is imposed for kitchens, restaurants, taverns, laundries, offices and the like. In the case where dormitory style sleeping quarters are provided, the total number of dwelling units shall be determined by the total authorized occupancy capacity of the facility divided by two (2).

c. *Class 3: Non-residential*

Per gallon per day \$13.81  
(based upon the Borough's estimate of water consumption)

Minimum connection fee per unit \$2,591.00

d. *Estimated Projected Flows for Non-Residential Uses*

1. The projected flow criteria contained in N.J.A.C. 7:14A-23.3 shall be used to determine the estimated flows for non-residential uses, whenever practicable. In the event that a type of use is not listed in N.J.A.C. 7:14A-23.3, the Borough shall use its best judgment in determining estimated flow.
2. The following projected flow criteria are hereby adopted by the Borough as additions or exceptions to those contained in N.J.A.C. 7:14A-23.3:

Use	Unit of Measurement	GPD
Flex space	Per square foot	0.030
Convenience stores or convenience store / filling station combinations (no public toilet facilities)	Per square foot	0.30
Church (worship area only; other uses to be calculated separately)	Per building	1 EDU

3. For the purpose of this ordinance, any reference to "seat" in N.J.A.C. 7:14A-23.3 shall be deemed to mean the maximum permitted occupancy established pursuant to the Uniform Construction Code and/or the Uniform Fire Code.
- e. *Additional Sewer Capacity for Non-Residential Users.* A non-residential user shall be entitled to use the amount of sewer capacity, in gallons per day, that was obtained through the payment of connection fees, as well as such additional capacity actually used by its building, facility or structure without having undergone a physical or operational change for which a building permit, site plan, subdivision, variance or other municipal approval was required. An application for additional capacity shall be made by any non-residential user whenever there is an increase in the estimated flow of sewage from any existing building, facility or structure resulting from any physical or operational change for which a building permit, site plan, subdivision, variance or other municipal approval is required. A connection fee shall be charged to the user based upon whenever the increase in estimated flow associated with the aforesaid physical or operational change requires the installation of a larger size, or additional, connections to the sewer system, to be calculated in accordance with the then current fees required for such new connections.

**20-8.2 When Due.** All sewer connection fees must be paid in full prior to the issuance of a construction permit for the premises.

**20-8.3 Reinstatement of Service.** In the event that an application is made to reinstate sewer service that was previously terminated at a building, facility or structure, or abandoned when the prior building, facility or structure was demolished or substantially totally destroyed, no connection fee will be due provided that service is reinstated within two (2) years of the date of the prior termination of service. If there is an increase in the estimated sewer usage of the building, facility or structure, then the application will also be considered as an application for additional capacity and a connection fee will be due on the amount of the increase in the estimated sewer usage in accordance with the conditions set forth in Section 20-8.1(e).

**Deferred Connection Fee Agreement.** In the event that an application is made for sewer service to a building, facility or structure for which the types or sizes of the uses therein have not been determined by the applicant, or are subject to change in the future, a connection fee shall be assessed based upon the maximum potential estimated flows from the building, facility or structure. The Borough, in its discretion, may enter into a deferred connection fee agreement under which an initial connection fee would be imposed only for those uses that are currently contemplated by the applicant, and which would defer the payment of the balance of the connection fee until such time as a use for which the initial connection fee was paid is changed to a use that will generate additional estimated flows. Any connection fee paid under a deferred connection fee agreement shall be paid at the connection fee rate then prevailing at that time that payment is made.

**SECTION TWO:** Chapter XX "Water and Sewer", Section 20-9 "Water Connection Fees" of the revised General Ordinances of the Borough of Red Bank is hereby amended to read as follows:

**20-9.1. Fee.** The connection fee for each use connected direct or indirect connection to the water system shall be as follows:

a.	<i>Class 1: Residential</i>	<u>\$1,016.00</u>
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Single-family, condominiums, townhouses, apartments, multifamily, duplex, age restricted, trailers, mobile homes (per unit).

b.	<i>Class 2: Hotel or Motel</i>	<u>\$508.00</u>
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(Per room). This portion of the connection fees applies only to the number of living units. An additional connection fee is imposed for kitchens, restaurants, taverns, laundries, offices and the like. In

the case where dormitory style sleeping quarters are provided, the total number of dwelling units shall be determined by the total authorized occupancy capacity of the facility divided by two (2).

c. *Class 3: Non-Residential*

Per gallon per day (based upon the Borough's estimate of water consumption)	<u>\$5.21</u>
Minimum connection fee per unit	<u>\$1,016.00</u>

d. *Estimated Water Consumption for Non-Residential Uses.*

1. The projected flow criteria contained in N.J.A.C. 7:14A-23.3 shall be used to determine the estimated water consumption for non-residential uses, whenever practicable. In the event that a type of use is not listed in N.J.A.C. 7:14A-23.3, the Borough shall use its best judgment in determining estimated water consumption.
2. The following projected flow criteria are hereby adopted by the Borough as additions or exceptions to those contained in N.J.A.C. 7:14A-23.3:

Use	Unit of Measurement	GPD
Flex space	Per square foot	0.030
Convenience stores or convenience store / filling station combinations (no public toilet facilities)	Per square foot	0.30
Church (worship area only; other uses to be calculated separately)	Per building	1 EDU

3. For the purpose of this ordinance, any reference to "seat" in N.J.A.C. 7:14A-23.3 shall be deemed to mean the maximum permitted occupancy established pursuant to the Uniform Construction Code and/or the Uniform Fire Code.

e. *Additional Water Capacity for Non-Residential Users.* A non-residential user shall be entitled to use the amount of water capacity, in gallons per day, that was obtained through the payment of connection fees, as well as such additional capacity actually used by its building, facility or structure without having undergone a physical or operational change for which a building permit, site plan, subdivision, variance or other municipal approval was required. An application for additional capacity shall be made by any non-residential user whenever there is an increase in the estimated water consumption for any existing building, facility or structure resulting from any physical or operational change for which a building permit, site plan, subdivision, variance or other municipal approval is required. A connection fee shall be charged to the user based upon whenever the increase in estimated water consumption associated with the aforesaid physical or operational change requires the installation of a larger size, or additional, connections to the water system, to be calculated in accordance with the then current fees required for such new connections.

**20-9.2 When Due.** All water connection fees must be paid in full prior to the issuance of a construction permit for the premises.

**20-9.3 Reinstatement of Service.** In the event that an application is made to reinstate water service that was previously terminated at a building, facility or structure, or abandoned when the prior building, facility or structure was demolished or substantially totally destroyed, no connection fee will be due provided that service is reinstated within two (2) years of the date of the prior termination of service. If there will be an increase in the estimated water usage of the building, facility or structure, then the application will also be considered as an application for additional capacity and a connection fee will be due on the amount of the increase in the estimated water consumption in accordance with the conditions set forth in Section 20-9.1(e).

20-9.1.3 ~~Deferred Connection Fee Agreement. In the event that an application is made for water service to a building, facility or structure for which the types or sizes of the uses therein have not been determined by the applicant, or are subject to change in the future, a connection fee shall be assessed based upon the maximum potential estimated water consumption in the building, facility or structure. The Borough, in its discretion, may enter into a deferred connection fee agreement under which an initial connection fee would be imposed only for those uses that are currently contemplated, and which would defer the payment of the balance of the connection fee until such time as a use for which the initial connection fee was paid is changed to a use that will generate additional water consumption. Any connection fee paid under a deferred connection fee agreement shall be paid at the connection fee rate then prevailing at that time that payment is made.~~

**SECTION THREE:** All ordinances or portions thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency, as of the effective date of this Ordinance.

**SECTION FOUR:** If any provision of this Ordinance or application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

**SECTION FIVE:** This ordinance shall take effect immediately upon its passage and adoption in accordance with law.

First Reading: November 9, 2009

Final Reading: November 23, 2009