

OUTLINE OF PROCEDURE TO CHANGE MUNICIPAL WATER RATES AND

✓ CHECK LIST FOR WATER UTILITIES

(Revised 1/10)

Step 1

- Prepare financial justification exhibit



Step 2

- First reading of municipal ordinance



At least 5 days before final vote on adoption

Step 3

- Publish pre-adoption legal ad and make copies of of proposed ordinance available for inspection
(Publication must be at least 5 days before final reading)



Step 4

- Final reading of ordinance, followed by public comment and vote.
(Ordinance may not become effective in less than 45 days)



Within 1 day of adoption

Step 5

- Post notice of ordinance adoption
(Must follow Tariff Form No. 12 format and be placed in a conspicuous place at utility business offices.)



Step 6

Within 5 days of adoption

- Provide public notice by billing insert, special mailing, or legal ad with press release
(This notice must follow Tariff Form No. 12 format.)



Step 7

Within 5 days of adoption

- Submit information to PSC, including: new rates and charges, copy of ordinance, financial justification for increase, affidavit of publication for pre-adoption newspaper ad, number of customers.



Step 8

On 31st day following adoption

- Send to PSC (1) affidavit of post-adoption newspaper publication and press release, or affidavit stating that notice was provided by either mailing insert or affidavit stating that notice was provided by special mailing; and (2) an affidavit stating that public notice by posting was provided for thirty days following adoption of the ordinance.

IMPORTANT NOTE: These materials are compiled as a guide. The Commission's limited jurisdiction with regard to municipal rates is set forth in W. Va. Code §24-2-4b. The municipal ordinance process used to change utility rates may also be challenged in circuit court. Thus, if a municipality has questions about the legality of its ordinance process, the municipality should consult with its attorney.

HELP GUIDE
PROCEDURE FOR INCREASING MUNICIPAL WATER RATES

(If changing both water and sewer rates in one ordinance,
follow the requirements to change sewer rates)

● **PRE-ADOPTION STEPS**

🗨️ **STEP ①: *Financial justification for increase***

Prepare a written financial justification for rate increase. The financial justification must include a pro forma income and expense statement. A sample has been attached for your reference. See *West Virginia Code* § 24-2-4b(b) and *Public Service Commission Rules for the Construction and Filing of Tariffs (Tariff Rules)* 150-2-22.1.f.3.

🗨️ **STEP ②: *First reading***

The City (Town) Council introduces the ordinance at a scheduled meeting and has the first reading (and the second reading if you have a three reading process). The ordinance **must** provide that it will not take effect sooner than forty five days after final passage or adoption. See *W. Va. Code* § 8-11-4, § 24-2-4b and *Commission Tariff Rule* 150-2-22.1.e.

🗨️ **STEP ③: *Pre-adoption notice***

Schedule your council meeting and hearing on the final passage of the ordinance.

Publish the ordinance as a **Class I-O** legal advertisement (published once in two qualified newspapers of opposite politics if two are published within the area, but one newspaper is sufficient if two are not available) with **the publication being at five days before the hearing**. A sample copy of the newspaper ad is attached for your reference. **Be sure to request an affidavit of publication from the newspaper**. At a minimum, the pre-adoption notice must include the following: (1) subject matter of the ordinance; (2) date, time and place of vote on final adoption of the proposed ordinance; (3) place(s) where the proposed ordinance may be inspected; and (4) an invitation to customers to appear and speak on the subject matter.

Have a copy of the ordinance available for public inspection by posting it at the place designated in the advertisement. This should be a conspicuous place at the utility's business premises. See *W. Va. Code* § 8-11-4(a)(2).

🗨️ STEP ④: *Passage of the ordinance*

Hold City (Town) Council meeting and have second reading of proposed ordinance (or third reading if your City (Town) requires a three reading process) Ask for public questions or comments regarding the proposed ordinance. Vote on the proposed ordinance. See *W. Va. Code* § 8-11-4.

● POST-ADOPTION STEPS

🗨️ STEP ⑤: *Post-adoption public notice by posting*

Complete Commission Tariff Form No.12 and post it with the ordinance for inspection. The posting must be made in a conspicuous place at the utility's business offices. Public notice by posting **must begin on the day following enactment of the ordinance and continue for a thirty day period**. A copy of Tariff Form No.12 is attached for you reference. See *W. Va. Code* § 24-2-4b(b), and Commission *Tariff Rule* 150-2-22.1.c.4.

🗨️ STEP ⑥: *Other required post-adoption public notice*

Within five days of adoption, notice must also be provided to your customers by providing a copy of Tariff Form No.12 to the customers in one of three ways:(1) by enclosing a copy of Tariff Form No.12 with each customer's bill for service if the billing date falls within the five day period; (2) by mailing a copy of Tariff Form No.12 to each customer by First Class Mail; or (3) by publishing Tariff Form No.12 as a Class II legal advertisement and by issuing a press release to the newspaper, requesting that the newspaper, as a public service, include a news article on the rate increase. A sample letter to the newspaper is attached for your reference. See *W. Va. Code* § 24-2-4b and *Tariff Rule* 150-2-22.1.c.1-3.

🗨️ STEP ⑦: *Filing with the Public Service Commission*

Within five days of adoption of the ordinance, the following must be sent to the Executive Secretary of the Public Service Commission:

- (1) A copy of the new rates and charges.
- (2) A copy of the ordinance.
- (3) The financial justification for the increase, including the pro forma

- income and expense statement. (Refer back to Step 1.)
- (4) An affidavit of publication indicating that preadoption notice of the ordinance was given. (Refer back to Step 3.)
 - (5) The correct number of customers determined by the last billing cycle before the adoption of the ordinance.
 - (6) If you provided post-adoption public notice by sending a copy of Tariff Form No. 12 to your customers with their monthly billing statements, or by sending a copy of Tariff Form No. 12 to each of your customers through a special mailing, you will need to send an affidavit to the Commission stating this.

If you provided post-adoption public notice by a Class II legal publication of Tariff Form No. 12, then you should send a copy of the affidavit of publication which will be provided to you by the newspaper. This may not be provided immediately by your newspaper. If not, send the first five items within the five day period, and send the newspaper affidavit immediately upon receiving it. See *W. Va. Code* § 24-2-4b and *Commission Tariff Rule* 150-2-22.1.f.

The mailing address of the Commission's Executive Secretary is:
Sandra Squire, Executive Secretary
Public Service Commission of West Virginia
Post Office Box 812
Charleston, West Virginia 25323

STEP 6: Affidavit of posting

After public notice has been provided by posting a copy of Tariff Form No.12 with a copy of the ordinance in a conspicuous place at the utility's business offices for a period of thirty days following final adoption (See Step 5), send an affidavit of posting to the Office of the Commission's Executive Secretary, attesting to the fact that the posting was made on the day after the ordinance was finally adopted and continued for a period of thirty days. A sample posting affidavit is attached for your reference. *Tariff Rule* 150-2-22.1.c.4.

CITY (TOWN) OF _____ - SEWER (AND/OR WATER)
Pro forma Statement of Income and Expenses
For the Fiscal Year Ending June 30, 2003

<u>Description</u>	<u>Per Books</u>	<u>Adjustments</u>	<u>Per Books</u> <u>Adjusted</u>	<u>Going-Level</u> <u>Adjustment</u>	<u>Going-Level</u>	<u>Pro forma</u>
Operating Revenues	110,413	(932)	109,481	17,891	127,372	138,640
Operating revenue deductions						
Operation & maintenance expenses	138,629	(11,252)	127,377	(1,098)	126,279	126,328
Depreciation						
Taxes		6,236	6,236	(686)	5,550	5,550
Total operation expenses	<u>138,629</u>	<u>(5,016)</u>	<u>133,613</u>	<u>(1,784)</u>	<u>131,829</u>	<u>131,878</u>
Net operating income (loss)	(28,216)	4,084	(24,132)	19,675	(4,457)	6,762
Other income	1,794		1,794		1,794	1,794
Other income deductions					<u>1,698</u>	<u>1,698</u>
Net Income	<u>(26,422)</u>	<u>4,084</u>	<u>(22,338)</u>	<u>19,675</u>	<u>(4,361)</u>	<u>6,858</u>

PRE-ADOPTION NEWSPAPER NOTICE FOR WATER RATE CHANGES

NOTICE

CITY (TOWN) OF _____

Notice is hereby given that the City (Town) of _____, a municipal corporation, will hold a hearing before the final vote on a proposed ordinance, the principal object of which is the increase of water rates for customers of the water system operated by the City (Town) of _____. The title of such ordinance is "An Ordinance to Increase Water Rates". The final vote on adoption of said proposed ordinance shall be held in the Council Chambers of the City (Town) of _____, City (Town) Hall, Street Address, City (Town), West Virginia on ____ (date) _____, at seven o'clock (7:00) p.m. Interested parties may appear and be heard at such time with respect to the passage of the proposed ordinance. Copies of the proposed ordinance are available at the Office of the Clerk, City (Town) Hall, in City (Town).

Tariff Form No. 12
(Tariff Rule 44)

PUBLIC NOTICE OF CHANGE IN RATES BY MUNICIPALITIES

NOTICE is hereby given that _____ (name of utility) public utility, has adopted by ordinance on _____ (date) a tariff containing increased rates, tolls and charges for furnishing _____ (type of utility service) service to _____ (number of customers) customers at _____ (name localities) in the County(ies) of _____.

The proposed increased rates and charges will become effective _____ (date) unless otherwise ordered by the Public Service Commission and will produce approximately \$ _____ annually in additional revenue, an increase of _____%. The average monthly bill for the various classes of customers will be changed as follows:

	(\$)	INCREASE	INCREASE (%)
Residential	\$	_____	_____ %
Commercial	\$	_____	_____ %
Industrial	\$	_____	_____ %
Resale	\$	_____	_____ %
Other	\$	_____	_____ %

Resale customers of _____ (name of utility) include _____ (list all resale customers by name).

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

(1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or

(2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or

(3) Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at any of the following offices of the utility.

(List with each publication only those offices applicable.)

A copy of the proposed rates is available for public inspection at the office of the Executive Secretary of the Public Service Commission at 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

SAMPLE LETTER TO NEWSPAPER

CITY (TOWN) OF _____
Street address
City (Town), West Virginia (Zip Code)

(Date)

Legal Advertising Department
Name of Newspaper
Street Address of Newspaper
City (Town), West Virginia (Zip Code)

Dear Madam/Sir:

Print the enclosed Tariff Form No. 12 as a Class II legal advertisement, with the first publication to be made within five days of (date of adoption). I have enclosed two copies. Please send one copy to your newsroom as a press release. Since this is a matter of vital public interest to many of your readers, I encourage you to print a news article containing the information reflected in the Tariff Form. As soon as the second publication has been made, please provide me with an affidavit of publication and a tear sheet containing the newspaper article.

Thank you for your cooperation in this matter.

Yours very truly,

Mayor

**AFFIDAVIT OF PUBLIC NOTICE
BY POSTING**

State of West Virginia
County of _____, to wit:

I, _____, being first duly sworn upon my oath, do depose and say that I am the _____ for the City/Town of _____, and that I have been duly authorized by the City/Town Council to execute this affidavit of public notice by posting.

The attached public notice, substantially in the format of Tariff Form No. 12 of the Public Service Commission of West Virginia's *Rules for the Construction and Filing of Tariffs*, 150 C.S.R. 2, and as required by 150 C.S.R. 2.22.1.c.4., was first posted in a conspicuous place on the premises where the City/Town conducts its utility business with the public on _____ (This date must be the first day after passage of the municipal ordinance.) and remained posted until _____ (This date must be at least thirty days after the passage of the municipal ordinance.).

Signed: _____

Taken, subscribed and sworn to before me in said county this ____ day of _____, 20__.

My commission expires _____.

Notary Public