

ORDINANCE O-23-05

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF BISBEE, ARIZONA, AMENDING THE CITY OF BISBEE CODE, CHAPTER 13 SEWER, ARTICLE 13.2 CONNECTION FEES; RATE; RESPONSIBLE PARTY; EXEMPTION & APPEALS, SECTION 13.2.2 RATES, FEES AND SERVICE CHARGES, BY REPEALING AND REPLACING SUBSECTION 13.2.2(A)(3)(c) PROVIDING FOR A POLICY PROVIDING FOR DISCOUNTS TO LOW-INCOME HOUSEHOLDS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Bisbee, Arizona (“City”) has previously adopted a low-income policy and fee structure for sewer rates; and,

WHEREAS, the City desires to continue to provide this low-income program, but has found that amendments to the program are necessary in order to avoid fraud, waste and abuse of the program; and,

WHEREAS, the City deems it necessary to repeal and replace the low-income program with one that provides the same discounts and assistance, but provides for improved guidelines and requirements for the participation in the program.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, THAT:

Section 1. The City of Bisbee Code, Chapter 13 Sewer, Article 13.2 Connection fees; Rate; Responsible Party; Exemption & Appeals, Section 13.2.2 Rates, Fees and Service Charges, is hereby amended by repealing and replacing Subsection 13.2.2(A)(3)(c) in its entirety with the new language of Subsection 13.2.2(A)(3)(c) as set forth below:

13.2.2(A)(3) Rates, Fees and Service Charges.

c. A policy providing for discounts for low-income households, is hereby established:

- 1) To be eligible for this benefit program (the “Program”), you, the Account Holder, must meet the following program minimum qualifications:
 - i. The account must be in your name and the address must be your primary residence or you must be a tenant receiving water service by a sub-metered system.
 - ii. You or your spouse do not own any other real property, either directly or indirectly through a trust or other business type entity.
 - iii. You may not be claimed as a dependent on another person’s tax return.
 - iv. You must reapply each time you move residences.

- v. You must recertify eligibility for the Program each year by submitting a declaration attesting to your continuing eligibility and provide the required proof of income.
- vi. You must notify the City within thirty (30) days if you become ineligible for the Program.
- vii. The total gross annual income of all persons over the age of 18 living in your household cannot exceed the income levels provided for the Program and on the application.
- viii. You and all persons over the age of 18 living in the residence shall not be eligible for more than one Program discount.
- ix. You and all persons over the age of 18 living in the residence must provide an Arizona identification card or driver's license.
- x. You must maintain an active water utility account in your name.

2) The Account Holder must provide the following documentation for the program:

- i. Proof of U.S. Citizenship or lawful permanent residency, for example: Birth Certificate, Certificate of Naturalization, USA Passport, Social Security Award Letter if receiving Social Security benefits or Permanent Resident Card;
- ii. Proof of permanent residence, such as a lease or deed;
- iii. Most recent utility bills for electric/gas and water;
- iv. Income verification documents; and
- v. Social security cards for all household members.

3) The Account Holder must provide income verification for the Account Holder and for all persons over the age of 18 living in the residence. Income verification documents will include at least two or more of the following, as determined by the City:

- i. Copy of most recent filed federal income tax return.
- ii. Copy of most recent W-2 form(s).
- iii. Three months of consecutive paystubs for all employment.
- iv. Three months of consecutive bank statements for all bank accounts.

4) Account Holder shall pay a discounted sewer rate of 30% of the Residential Fee, upon application provided income for the household is at or below fifty percent (50%) of the federal poverty guidelines for the size of household and the Account Holder provides proof of income and eligibility documentation.

5) Account Holder shall pay a discounted sewer rate of 60% of the Residential Fee, upon application, provided income for the household is no more than one hundred percent (100%) of the federal poverty guidelines for the size of household and the Account Holder provides proof of income and eligibility documentation.

6) If at any time while enrolled in the Program the water service for the residence shows no water usage for any 30-day period, the account shall immediately be removed from the Program and standard utility rates shall apply, and the Account Holder shall be ineligible to re-enroll in the Program for a 12-month period following the removal from the Program.

- 7) Notwithstanding the provisions of Subsections 13.2.2(A)(3)(c)(4) and (5) above, the City Manager or his/her designee is hereby authorized to waive or reduce sewer rates for any designated, low-income residential Account Holder for any period of time up to six months where exigent circumstances would cause higher rates to cause an undue hardship to the household. "Exigent circumstances" shall mean any one-time or temporary emergency event or circumstance that severely limits or prevents the payment of existing sewer rates. Adequate proof or documentation shall be presented in support of a request made under this section.

- 8) The City Manager may deny any application for the Program based upon reasonable suspicion that the Account Holder has not provided full, sufficient and/or truthful financial disclosures for the income verification requirement. The City Manger's denial of an application for the Program may be appealed to the City Council by submitting a written notice of appeal to the City Clerk within five (5) working days of the City Manager's decision.
 - i. The notice of appeal shall state the factual basis for the appeal.
 - ii. The appeal will be heard by the City Council within two (2) regular meetings following receipt of the notice of appeal.
 - iii. The decision of the City Council shall be the final decision.

- 9) In the event the Account Holder submits any false affidavit or information required for the enrollment in the Program, the Account Holder shall be charged the entire Residential Fee for the entire period during which reduced fees were paid, retroactive to the month following the enrollment or renewal in the Program.

Section 2. Providing for Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict with this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section 3. Providing for Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 4. Effective Date. The effective date of this Ordinance shall be thirty (30) days after its adoption.

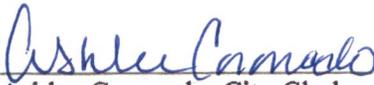
PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Bisbee
on this 21st day of March, 2023.

APPROVED:



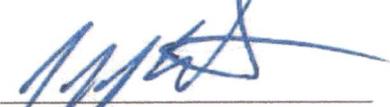
Ken Budge, Mayor

ATTEST:



Ashlee Coronado, City Clerk

APPROVED AS TO FORM:



Joseph Estes, City Attorney
Gust Rosenfeld, PLC