

**ORDINANCE No. 26-2019**

**AN ORDINANCE ESTABLISHING A WATER FEE OR PAYMENT IN LIEU OF  
PROPERTY TAXES APPLICABLE TO CERTAIN CUSTOMERS OF  
THE DAMON RUN WATER WORKS SYSTEM**

WHEREAS, the Damon Run Conservancy District ("Damon Run") owns a water utility system (the "Damon Run System") that provides water utility service to customers located both inside and outside of its service territory; and

WHEREAS, Damon Run has an agreement with Indiana-American Water Company ("IAWC") to operate and maintain Damon Run's water facilities and provide a source of water supply for Damon Run's customers and, in exchange, IAWC directly bills Damon Run's water customers at IAWC's regular, retail water rates; and

WHEREAS, Damon Run imposes monthly user fees and taxes on customers within its service territory to, among other things, meet Damon Run's operational needs and to make principal and interest payments on Damon run's outstanding bonds; and

WHEREAS, Damon Run provides water utility service to certain customers located outside of its service territory (the "Outside Territory Customers"), pursuant to special contracts ("Service Agreements"); and

WHEREAS, the Service Agreements provide for the Outside Territory Customers to pay a monthly user fee (i.e. payment in lieu of taxes or "PILOT"), which is intended to ensure that the Outside Territory Customers pay an amount proportionate to the taxes paid by customers inside of Damon Run's service territory; and

WHEREAS, in conjunction with a sale of all its sewer assets, Damon Run also agreed to assign the Service Agreements for the Outside Territory Customers to the Valparaiso City Utilities (the "Utility") and the City of Valparaiso, Indiana (the "City"), and VCU has, in turn, agreed to collect the PILOTs from the Outside Territory Customers on behalf of Damon Run; and

WHEREAS, the accounting firm of Baker Tilly Municipal Advisors, LLC, a financial advisor to the City, has prepared a rate report (the "Report") establishing a recommended PILOT for the Outside Territory Customers, and the Common Council of the City of Valparaiso, Indiana (the "Common Council"), has reviewed the Report; and

WHEREAS, the Common Council finds that the PILOT as set forth herein is consistent with the Service Agreements; and

WHEREAS, the VCU has recommended to the Common Council that this Ordinance be adopted and the PILOT set forth herein be established for the Outside Territory Customers; and

WHEREAS, the Common Council has caused notice of the public hearing on the PILOT to be duly advertised and has held a public hearing thereon, all pursuant to Ind. Code § 8-1.5-3-8.1.

THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, that a PILOT shall be established for the Outside Territory Customers as follows:

**Section 1. Definitions.** The following definitions shall apply to this Ordinance:

(A) Outside Territory Customers. The term "Outside Territory Customers" means those properties and premises that are connected to and served by the Damon Run System but are located outside of its service territory. The term includes all properties and premises that are currently connected to the system or that are connected in the future.

(B) Equivalent Dwelling Unit ("EDU"). The Term equivalent dwelling unit or EDU means the equivalent of a single-family residential dwelling unit calculated as follows:

Annual flow for the most recent 12 month period (in gallons)	xxx
Divided by days of the year	365
Daily Flow	xx
Divided by single family residential daily flow	310
EDUs	x

**Section 2. PILOT.** There is established a monthly PILOT applicable to the Outside Territory Customers in the amount as presented on Exhibit A to be adjusted annually for the "true-up" defined below. The number of EDUs applicable to each Outside Territory Customer shall be determined according to the terms of such customer's Service Agreement as defined above. The amount of the PILOT shall be "trued-up" or adjusted each year to ensure that the Outside Territory Customers are paying an amount consistent with the Service Agreements and the ongoing needs of Damon Run.

**Section 3. Existing Rates and Charges.** This Ordinance is only intended to establish PILOTs for Damon Run's outside territory customers. Unless specifically amended by this Ordinance, all other City water rates, charges, and provisions related thereto shall remain in full force and effect.

**Section 4. Repeal of Prior Ordinances.** All ordinances and parts of ordinances inconsistent with any provision of this ordinance are hereby repealed. The provisions of the Rate Ordinances not specifically amended by this ordinance shall remain in full force and effect.

**Section 5. Severability of Provisions.** In the event any one or more of the provisions contained in this Ordinance should be held invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not, in any way, be affected or impaired and shall remain in full force and effect.

**Section 6. Effective Date.** This Ordinance shall be in full force and effect from and after its passage; however, the PILOT provided herein will not be implemented until the day that Damon Run, VCU, and the City close on the sale of Damon Run's sewer system and assignment of the Service Agreements. The closing is currently scheduled for December 2, 2019.

Passed and adopted by the Common Council of the City of Valparaiso, Indiana, on this \_\_\_\_\_ day of October, 2019.

Presiding Officer

Attest:

Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at the hour of \_\_\_\_\_ .m.

Clerk-Treasurer

DAMON RUN CONSERVANCY DISTRICT

Exhibit A (1)

PORTER HOSPITAL TRUE-UP CALCULATION FOR PERIOD 7/1/18 • 6/30/19  
Payment-In-Lieu-of-Taxes (PILOT) and True Up

Average Residential Tax Bill (1)	<u>Pay 2018</u>	<u>Pay 2019</u>	<u>Total</u>	<table border="1"> <tr> <td colspan="2">Current District Rates (excludes Portage and IAW Charges)</td> </tr> <tr> <td>Sewer</td> <td>Debt Service \$64.13</td> </tr> <tr> <td>Water</td> <td>\$145.69</td> </tr> </table>	Current District Rates (excludes Portage and IAW Charges)		Sewer	Debt Service \$64.13	Water	\$145.69
Current District Rates (excludes Portage and IAW Charges)										
Sewer	Debt Service \$64.13									
Water	\$145.69									
Times: Actual EDUs for 12 months ended 6/30/19 (2)	\$2,275.82	\$2,253.11								
Calculated PILOT	<u>197.03</u>	<u>197.03</u>								
Divided by: 12 months	448,404.81	443,930.26								
Times: Number of Months Related to Pay 2018 & Pay 2019	12	12								
Calculated PILOT	<u>6</u>	<u>6</u>								
	\$224,202.41	\$221,965.13	\$446,167.54							

Month	EDU's Billed	Actual Sewer Bill PILOT		Actual Water Sill PILOT	
		Debt Service		Debt Service	
July 2018	198.32		\$12,718.26 (3)		\$26,893.24 (4)
August 2018	198.32		12,718.26 (3)		28,893.24 (4)
September 2018	198.32		12,718.26 (3)		28,893.24 (4)
October 2018	198.32		12,718.28 (3)		28,893.24 (4)
November 2018	198.32		12,718.26 (3)		28,893.24 (4)
December 2018	196.32		12,718.26 (3)		28,893.24 (4)
January 2019	198.32		12,718.26 (3)		28,893.24 (4)
February 2019	198.32		12,718.26 (3)		28,893.24 (4)
March 2019	198.32		12,718.26 (3)		28,893.24 (4)
April 2019	198.32		12,718.26 (3)		28,893.24 (4)
May 2019	198.32		12,718.26 (3)		28,893.24 (4)
June 2019	198.32		12,718.26 (3)		28,893.24 (4)
Totals			\$152,619.12		\$346,718.68

True-Up Calculation - Water

Calculated PILOT	\$446,167.54
Less: Actual PILOT Bill Sewer	(152,619.12)
Less: Actual PILOT Bill Water	{346,718.88
Payment Due from/(Credit Due to)	-- \$53,170.46

- (1) Based on the Pay 2018 and Pay 2019 residential tax bills for District customers as provided by Damon Run Conservancy District (DRCD).
- (2) Per Porter Hospital 12 Month Usage Recap report provided by District. Based on 22,294,000 annual gallons 1365 days 1310 gpd = 197.03 EDU's.
- (3) Based on \$64.13 monthly user fee per EDU per Ordinance No. 2015-1.
- (4) Based on \$145.69 monthly user fee per EDU per Ordinance No. 2013-2.

DAMON RUN CONSERVANCY DISTRICT

Exhibit A (2)

LIBERTY SCHOOL TRUE-UP CALCULATION FOR PERIOD 311/18 • 2129119  
 Payment-in-Lieu-of-Taxes (PILOT) and True Up

Average Residential Tax Bill (pay 2018) (1)	\$2,275.82
Times: Actual EDUs for 2018 (2)	<u>14.94</u>
Calculated PILOT	<u>\$34,000.75</u>

Current District Rates (excludes sewage tracker and Portage and IAW Charges)	
	Debt Service
Sewer	\$64.13
Water	\$145.69

Month	EDU's Billed	Actual Sewer Bill PILOT Debt Service (3)	Actual Water Bill PILOT Debt Service (4)
Mar-18	6.03	\$386.70	\$878.51
Apr-18	6.03	386.70	878.51
May-18	6.03	386.70	878.51
Jun-18	6.03	386.70	878.51
Jul-18	6.03	386.70	878.51
Aug-18	6.03	386.70	878.51
Sep-18	6.03	386.70	878.51
Oct-18	6.03	386.70	878.51
Nov-18	6.03	386.70	878.51
Dec-18	6.03	386.70	878.51
Jan-19	6.03	386.70	678.51
Feb-19	6.03	<u>386.70</u>	<u>878.51</u>
Totals		<u>\$4,640.40</u>	<u>\$10,542.12</u>

True-Up Calculation -Water	
Calculated PILOT	\$34,000.75
Less: Actual PILOT Bill Sewer	(4,640.40)
Less: Actual PILOT Bill Water	<u>(10,542.12)</u>
Payment Due from/(Credit Due to)	<u>\$18,818.23</u>

- (1) Based on the Pay 2018 residential tax bills for District customers as provided by Damon Run Conservancy District (DRCD).
- (2) Per Liberty School Use 2018 report provided by District. Based on 1,691,000 annual gallons /365 days 1310 gpd = 14.94 EDUs.
- (3) Based on \$64.13 monthly user fee per EDU per Ordinance No. 2015-1.
- (4) Based on \$145.69 monthly user fee per EDU per Ordinance No. 2013-2.