

City Copy

ORDINANCE NO. A-538

AN ORDINANCE DESIGNATING A WATER QUALITY CONTROL CHARGE FOR THE SERVICES OF THE SEWER SYSTEM OF THE CITY; PROVIDING FOR THE COLLECTION AND APPLICATION OF THE REVENUES DERIVED THEREFROM; PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Conway, Arkansas (the "City"), is in need of extensions, betterments and improvements (the "improvements") to the sewer facilities of the City (the "System"); and

WHEREAS, the improvements include facilities for the purpose of water pollution control.; and

WHEREAS, the City has had prepared an engineering report and estimate of costs for the improvements by a qualified consulting engineer; and

WHEREAS, the improvements include a water pollution control project, a portion of which is eligible for federal assistance under the provisions of the Federal Water Pollution Control Act, 33 U.S.C.A. § 1151 et seq. (the eligible portion herein being called the "Project"); and

WHEREAS, the City does not have sufficient funds to pay its portion of the costs of the Project but can obtain such funds by the use of available funds, by obtaining federal grant funds available for that purpose ("federal assistance") and by obtaining a state grant (hereinafter described): and

WHEREAS, it is necessary to the obtaining of maximum federal assistance that the City receive from the Department of Pollution Control and Ecology of the State of Arkansas (the "Department") a State Grant for a portion of the costs of the Project, as authorized by Act No. 108 of 1971, as amended ("Act No. 108"); and

WHEREAS, the City has applied to the Department for a State Grant in the amount of \$7,000; and

WHEREAS, the Department can obtain sufficient funds for the purpose of making the State Grant by the sale and issuance of Pollution Control Revenue Bonds, as authorized by Act No. 108 (the "Department Bond;"); and

WHEREAS, the Department Bonds, as provided in Act No. 108, will not constitute an indebtedness of the State of Arkansas or of the Department within any constitutional or statutory limitation but, as provided by Act No. 108, will be secured by a pledge of and payable solely from revenues derived by the City from the operation of the System; and

WHEREAS, Act No. 108 requires that the City levy and collect, in addition to other fees and charges, a charge, designated by Act No. 108 as the "Water Quality Control Charge," sufficient to produce in each year revenues at least equal to 125% of the maximum annual debt service (principal and interest) on the Department Bonds; and

WHEREAS, the City has levied and is collecting charges for the services of the System sufficient to produce in each year revenues at least equal to the costs of operating and maintaining the System, pay annual debt service and create and maintain a debt service reserve in connection with the City of Conway Sewer Revenue Bonds, Series 1967, dated February 1, 1967 (the "City Bonds"), produce an amount equal to 125% of the maximum annual debt service on the Department Bonds, and make the required provision for depreciation of the System;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Conway, Arkansas:

Section 1. (a) The rates to be charged for the services of the System, which have been heretofore fixed by ordinances of the City duly adopted and approved, are hereby ratified, confirmed and continued.

(b) The City covenants and agrees that so long as any of the City Bonds or Department Bonds are outstanding it will always and continuously maintain,

including any increases that may be necessary, rates for the services of the System sufficient to produce in each year revenues at least equal to the costs of operating and maintaining the System, pay annual debt service on and create and maintain a debt service reserve in connection with the City Bonds, produce an amount equal to 125% of the maximum annual debt service on the Department Bonds, and make the required provision for depreciation of the System.

Section 2. (a) A charge for the services of the System sufficient to produce in each year 125% of the maximum annual principal and interest requirements of the Department Bonds is hereby fixed and designated the "Water Quality Control Charge," to be collected at the same time and in the same manner as other charges for the services of the System, so long as any of the Department Bonds are outstanding. Since the rates now being collected are sufficient for the time being, the charge shall take the form of an allocation from existing collections.

(b) So long as any of the Department Bonds are outstanding, all revenues derived from the Water Quality Control Charge shall be forwarded to the Paying Agent for the Department Bonds and deposited in the "Department of Pollution Control and Ecology (City of Conway, Arkansas Project, 1972) Bond Fund ("Department Bond Fund") created by and to be maintained pursuant to the Resolution of the governing body of the Department securing the Department Bonds (the "Department Resolution"). A certified copy of the Department Resolution shall be filed with the City Clerk of the City.

(c) The moneys in the Department Bond Fund shall be held, deposited, invested and applied as provided in the Department Resolution.

Section 3. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. The provisions of this Ordinance are hereby declared to be severable, and in the event any action, provision or part thereof shall be held to be invalid, such invalidity shall not affect the remainder of the Ordinance.

Section 5. It is hereby ascertained and declared that the improvements must be accomplished as soon as possible in order to make the System adequate for the needs of the City and its inhabitants, without which the life, health, safety and welfare thereof are jeopardized, and that issuance of the Department Bonds and the taking of the other action authorized by this Ordinance is necessary for the accomplishment thereof. It is therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage.

PASSED February 8 1972

ATTEST:

APPROVED:

Adria Y. Gunn
City Clerk

Walter J. Gunn
Mayor

(SEAL)