

Request for City Council Action

Date: April 14, 2015

Agenda Section: General Business No. 6	Originating Department: City Manager's Office
Item: Ordinance Amending Title Sixteen (16) of the Carbondale Revised Code to Add Chapter Eleven (11) - Protection of Future Control and New Large Capacity Uses of the Water and Sewer System No. 6.3	Approved:

Background:

The League of Women Voters of Jackson County (League) is requesting the City Council adopt a procedural ordinance to deal with any significant proposed changes to the City's water and sewer system. In 2009, a considerable amount of discussion occurred by the City Council and community residents over a proposal to sell the City's water and sewer system. Although the proposal was dropped, the League has continued to research utility privatization (specifically water and sewer) and the effects that such action has had on other communities and units of local government. The League has completed their research and concluded the following:

- Water and sewer systems must pay for themselves with the funds remaining in a dedicated fund separate from the general fund,
- Water and sewer rate increases are necessary when system improvements must be made,
- Management of the water and sewer system should not be outsourced, but remain a municipally owned and operated system, and
- Economic development in the area is important as long as it is not detrimental to our local resources.

The League of Women Voters and City staff have developed a procedural ordinance that assures the public is informed prior to any consideration of the sale or lease of the City's Water and Sewer System, or any agreement with any corporate entity that would increase the daily water and/or sewer usage by more than 1 million gallons per day average.

Recommended Action:

It is recommended that the City Council approve an ordinance amending Title Sixteen (16) of the Carbondale Revised Code to add Chapter Eleven (11) - Protection of Future Control and New Large Capacity Uses of the Water and Sewer System.

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
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Council Action: Motion by _____ 2nd by _____ to _____

CITY OF CARBONDALE, ILLINOIS

ORDINANCE NO. 2015- ____

**AN ORDINANCE AMENDING TITLE SIXTEEN OF THE CARBONDALE REVISED
CODE TO ADD CHAPTER ELEVEN – PROTECTION OF FUTURE CONTROL AND
NEW LARGE CAPACITY USES OF THE WATER AND SEWER SYSTEM**

ADOPTED BY THE CITY COUNCIL

OF THE CITY OF CARBONDALE, ILLINOIS

THE 14TH DAY OF APRIL, 2015

**Published in pamphlet form by authority of the City Council of the City of Carbondale,
Jackson County, Illinois, this 15th day of April, 2015.**

CERTIFICATE OF PUBLICATION

**I, Jennifer R. Sorrell, the duly qualified City Clerk of the City of Carbondale,
Illinois, and the official custodian of the records of said City, do hereby certify that this
ordinance was published in pamphlet form by authority of the City Council on the 15th day
of April, 2015.**

Jennifer R. Sorrell, City Clerk

ORDINANCE NO. 2015-____

AN ORDINANCE AMENDING TITLE SIXTEEN OF THE CARBONDALE REVISED CODE TO ADD CHAPTER ELEVEN – PROTECTION OF FUTURE CONTROL AND NEW LARGE CAPACITY USES OF THE WATER AND SEWER SYSTEM

WHEREAS, the City of Carbondale, Illinois, is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City Code of the City of Carbondale, Illinois, under Title 16 outlines the City’s water and sewer system and lake and reservoir regulations; and

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to amend Title 16 of the Carbondale Revised Code to include a new Chapter as it relates to protection of future control and new large capacity uses of the water and sewer system.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE AS FOLLOWS:

SECTION 1. That Title 16 of the Revised Code of the City of Carbondale, Illinois, is hereby amended to include Chapter 11, Protection of Future Control and New Large Capacity Uses of the Water and Sewer System, as set out in Exhibit “A” attached hereto and made a part hereof.

SECTION 2. All of the remaining sections of Title 16 of the Carbondale Revised Code shall remain in full force and effect.

SECTION 3. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 4. That repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The provisions of this Ordinance insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinances.

SECTION 5. That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable, and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 6. That the City Council of the City of Carbondale finds that the subject matter of this Ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to authorities granted it by State statutes and the Home Rule powers of the City of Carbondale pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution.

SECTION 7. That this Ordinance shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
Donald D. Monty, Acting Mayor

ATTEST: _____
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney

EXHIBIT “A”

CHAPTER 11

PROTECTION OF FUTURE CONTROL AND NEW LARGE CAPACITY USES OF THE WATER AND SEWER SYSTEM

16-11-1: **PURPOSE:** The purpose of this Chapter is to protect the use and sustainability of the City of Carbondale's water and sanitary sewer system, including the City Reservoir and Cedar Lake.

16-11-2: **DEFINITIONS:** Carbondale Water and Sewer System shall mean Cedar Lake, the raw water pump station, the transmission line from the raw water pump station to the water treatment plant, the water treatment plant, the water distribution lines, the water storage tanks, the sanitary sewer collection lines and lift stations and the sanitary sewer treatment plants.

16-11-3: **CONVEY, GRANT, SELL, OR LEASE:** The City Council shall not convey, grant, assign, sell, or lease the City's Water and Sewer System, nor any parts thereof, as defined, without first conducting two public hearings, the notice of which shall be published in two or more sources at least 30 days prior to each public hearing. No vote shall be taken on any proposal to convey, grant, assign, sell, or lease the City's Water and Sewer System until at least thirty (30) days after the last public hearing. Such proposals must be approved by a vote of two-thirds (2/3) of those City Council Members present, but with at least five (5) City Council Members voting in the affirmative. Nothing in this ordinance shall prevent the City from taking necessary actions during a work stoppage, natural disaster or during a Declaration of a State of Civil Emergency issued per the authority granted in 1-2A-5 of the Carbondale Revised Code.

In considering whether to convey, grant, assign, sell or lease the City's Water and Sewer System, the City Council must consider the best interests of the City and its citizens as defined by the following factors:

- A. The proposal takes into account potential long term effects of the proposed change on the City and satellite water districts currently under contract with the City;
- B. The proposal protects the Cedar Lake Watershed from pollution, and takes into account the long term capacity of the watershed;
- C. The proposal provides for the protection of groundwater and surface water of Cedar Lake;
- D. The proposal has a water conservation component in case of water shortage;
- E. The proposal ensures high water quality for end users;
- F. The proposal provides a means of access to water for low or fixed income water users;
- G. The proposal takes into account any potential ancillary growth which could contribute to increased water usage and/or pollution to the watershed;
- H. The proposal provides sufficient information which can be used by the City, the public, and water districts served by the city, to make informed decisions;
- I. The proposal allows the City, after any proposed change, to exercise a level of control over the water and sewer system; and
- J. The proposal allows participation by all water districts served by the City in discussing and responding to changes, which the proposal would create for them.

16-11-4: **AGREEMENTS WITH LARGE CAPACITY USERS:** The City of Carbondale shall not enter into any agreement that would increase the demand on the water and/or sewer system use by more than one million gallons per day average without first holding at least two public hearings, the notice of which shall be published in two or more sources at least 30 days prior to each public hearing, and then making a determination that the increased demand will not be detrimental to the City's water and/or sewer system. Such a determination shall be made after answering in the affirmative to the factors listed in sub-sections A through J in Section 16-11-3 above. Such a determination and approval to enter into an agreement with a large capacity user shall be by the affirmative vote of at least four (4) City Council Members.