

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.: 4C

Council Meeting Date: January 20, 2026

ITEM TITLE: ORDINANCE (2nd Reading)
INTRODUCED BY: Mayor Andrew "FoFo" Gilich
CONTACT PERSON: Rick Weaver, CAO
 Peter Abide, City Attorney

SUMMARY EXPLANATION:

Ordinance amending Section 22-2-33 of the Code of Ordinances of the City of Biloxi and creating special classification and acknowledging public policy objective for discounted senior water and sewer rates.

Resolution _____ Ordinance Public Hearing _____ Routine Agenda _____

Exhibits for Review

Contract _____ Minutes _____ Plans/Maps _____ Deed _____ Lease _____

Other (Specify): Exhibit "A"

Submittal Authorization: Council President _____ Mayor

STAFF RECOMMENDATION: Staff recommends approval.

COUNCIL ACTION: Motion By: Tisdale Second By: Creel

Vote:	Councilmember	Yes	No	AFR	ABST	Councilmember	Yes	No	AFR	ABST
	Gray	___	___	___	___	Tisdale	___	___	___	___
	Marshall	___	___	___	___	Glavan	___	___	___	___
	Nail	___	___	___	___	Shoemaker	___	___	___	___
	Creel	___	___	___	___					

ACTION TAKEN: First reading on January 20, 2026

Ordinance No. _____

ORDINANCE AMENDING SECTION 22-2-33 OF THE CODE OF ORDINANCES
OF THE CITY OF BILOXI AND CREATING SPECIAL CLASSIFICATION AND
ACKNOWLEDGING PUBLIC POLICY OBJECTIVE FOR DISCOUNTED SENIOR WATER
AND SEWER RATES

WHEREAS, the City's Ordinance regarding senior water and sewer rates, Section 22-2-33, currently provides for citizens 65 years and above to apply for discounted rates regardless of need or income level; and

WHEREAS, based on Mississippi statutes and Attorney General opinions interpreting the same, discounted water and sewer services are prohibited, although one Attorney General's opinion provides support for different rates among users provided there is a reasonable basis for "creating different classifications of users which have a reasonable basis and relationship to accomplishment of a public policy objective", (See following AG opinions: Gillespie, Jan. 24, 1990, Rutledge, Aug. 16, 2002, attached as Exhibit "A"); and

WHEREAS, certain cities throughout the nation allow for senior water and sewer discounts, generally based on low-income and calculated as a percentage of the non-discounted rate; and

WHEREAS, the City believes it is preferable to allow similar senior discounts for those qualified households, rather than eliminating all senior discounts; and

WHEREAS, the City finds that a valid public policy objective exists to provide citizens 65 years and older with a discounted rate of 25% of the regular water and sewer rate, provided such discount is tied to the value of their residence and income level, as many of these citizens are on a fixed income and more likely to need financial assistance; and

WHEREAS, the City finds creating this special classification will accomplish that public policy objective, including but not limited to, enhancing senior financial well-being, recognizing seniors' contributions to society and acknowledging their value beyond their working years; and

WHEREAS, the income level referenced below (\$45,150.00) is based on current HUD requirements for low income for the Gulfport-Biloxi Metro area; and

WHEREAS, adequate time should be provided to allow qualified households to apply for the discount; and

WHEREAS, following the passage of this Ordinance, the Water Department will provide notices of these changes in the monthly water bill and the process of reapplication for the senior citizen rate; and

WHEREAS, the revised Section 22-2-33 with changes from the current Section 22-2-33 are shown below:

Sec. 22-2-33. Senior citizen rates.

- (a) *Generally.* Citizens of the city residing in a qualified senior citizen household shall be granted a senior citizen rate, upon approval of a senior citizen rate application.
- (b) *Qualified household defined.* For purposes of this section, the term "qualified household" shall mean an individually metered dwelling unit:
 - (1) Which is the principal residence of the senior citizen applying for a senior citizen rate;
 - (2) Where either the applicant or spouse is 65 years of age or older; and
 - (3) Where the water and sewer account is in the name of the applicant and the applicant is responsible for paying the bill.
 - (4) Where the total assessed value of land and improvements of the principal residence, as determined by the Harrison County Tax Assessor, is under \$125,000.00.
 - (5) Where the total annual income for the applicant and all household members is \$45,150.00 or less.
- (c) *Application.* To qualify for a senior citizen rate, the residents of the affected household shall make application for a senior citizen rate, on forms provided by the director of administration or his agent, and shall provide as part of the application adequate proof of the

applicant's compliance with the provisions of subsection (b) of this section, describing the criteria for a qualified household.

- (d) *Prerequisites for approval.* A senior citizen rate shall not be approved until such time as the director of administration shall review all applications for senior citizen rates and certify, by publication of each applicant's name in the senior citizen rate register, the applicant's request for a senior citizen rate.
- (e) *Effective date.* Senior citizen rates shall become effective on the beginning date of the billing cycle next following the date of approval.
- (f) *Appeal of denial.* Any person who fails to receive approval of an application for senior citizen rates may appeal to the senior citizens rate appeals board, by completing the appropriate appeals forms made available by the director of administration. The board shall review each appeal and file a finding of fact and recommendation regarding the appeal with the mayor, who shall make a final determination.
- (g) *Appeals board.* There is hereby created a senior citizens rate appeals board, which shall, on behalf of the mayor, review all appeals and provide to the mayor a finding of fact and recommendation regarding each appeal. The mayor shall appoint three senior citizens from the qualified electors of the city to serve on the board. In addition, the mayor shall appoint the director of administration to serve as secretary and advisor to the board.
- (h) *Rates established.* The water and sewer rate for approved applicants shall be as follows:
 - (1) *Water rate:* ~~\$1.00 per 1,000 gallons, for the first 8,000 gallons; \$1.40 per 1,000 gallons for all usage over 8,000 gallons with no minimum applied.~~ Seventy-five percent (75%) of the existing water rate set forth in Section 22-2-29.
 - (2) *Sewer rate:* ~~\$1.42 per 1,000 gallons, for the first 8,000 gallons; \$2.07 per 1,000 gallons for all usage over 8,000 gallons with no minimum applied.~~ Seventy-five percent (75%) of the existing sewer rate set forth in Section 22-2-32.
 - (3) In addition to the above fees, ~~a \$1.76 per 1,000 gallons per month~~ seventy-five percent (75%) of the Harrison County Utility Authority monthly charge will be added to each user's bill, whether the use is metered or unmetered, in accordance with statutory obligations relating to the city's mandatory participation in the Harrison County Utility Authority.
- (i) *Additional duties of appeals board.* The senior citizens rate appeals board shall also serve as the appeals board for any denial of an application for a hardship reduction pursuant to section 9-1-22. The senior citizens rate appeals board shall have the same powers and duties when hearing appeals of denials of hardship applications as when hearing appeals for senior citizen rate appeals.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL,
OF THE CITY OF BILOXI, MISSISSIPPI, that

Section 1. The findings, conclusions and statement of fact contained in the preamble are hereby adopted, ratified and incorporated herein.

Section 2. The governing authorities specifically find there is a reasonable basis for the special classification set forth above, and that allowing a discounted senior rate for qualified households will accomplish the public policy objectives set forth above.

Section 3. From and after April 1, 2026, Section 22-2-33 will read as follows:

Sec. 22-2-33. Senior citizen rates.

- (a) *Generally.* Citizens of the city residing in a qualified senior citizen household shall be granted a senior citizen rate, upon approval of a senior citizen rate application.
- (b) *Qualified household defined.* For purposes of this section, the term "qualified household" shall mean an individually metered dwelling unit:
 - (1) Which is the principal residence of the senior citizen applying for a senior citizen rate;
 - (2) Where either the applicant or spouse is 65 years of age or older; and
 - (3) Where the water and sewer account is in the name of the applicant and the applicant is responsible for paying the bill.
 - (4) Where the total assessed value of land and improvements of the principal residence, as determined by the Harrison County Tax Assessor, is under \$125,000.00.
 - (5) Where the total annual income for the applicant and all household members is \$45,150.00 or less.
- (c) *Application.* To qualify for a senior citizen rate, the residents of the affected household shall make application for a senior citizen rate, on forms provided by the director of administration or his agent, and shall provide as part of the application adequate proof of the applicant's compliance with the provisions of subsection (b) of this section, describing the criteria for a qualified household.
- (d) *Prerequisites for approval.* A senior citizen rate shall not be approved until such time as the director of administration shall review all applications for senior citizen rates and certify, by publication of each applicant's name in the senior citizen rate register, the applicant's request for a senior citizen rate.
- (e) *Effective date.* Senior citizen rates shall become effective on the beginning date of the billing cycle next following the date of approval.
- (f) *Appeal of denial.* Any person who fails to receive approval of an application for senior citizen rates may appeal to the senior citizens rate appeals board, by completing the appropriate appeals forms made available by the director of administration. The board shall review each appeal and file a finding of fact and recommendation regarding the appeal with the mayor, who shall make a final determination.
- (g) *Appeals board.* There is hereby created a senior citizens rate appeals board, which shall, on behalf of the mayor, review all appeals and provide to the mayor a finding of fact and recommendation regarding each appeal. The mayor shall appoint three senior citizens from

the qualified electors of the city to serve on the board. In addition, the mayor shall appoint the director of administration to serve as secretary and advisor to the board.

- (h) *Rates established.* The water and sewer rate for approved applicants shall be as follows:
- (1) *Water rate:* Seventy-five percent (75%) of the existing water rate set forth in Section 22-2-29.
 - (2) *Sewer rate:* Seventy-five percent (75%) of the existing sewer rate set forth in Section 22-2-32.
 - (3) In addition to the above fees, seventy-five percent (75%) of the Harrison County Utility Authority monthly charge will be added to each user's bill, whether the use is metered or unmetered, in accordance with statutory obligations relating to the city's mandatory participation in the Harrison County Utility Authority.
- (i) *Additional duties of appeals board.* The senior citizens rate appeals board shall also serve as the appeals board for any denial of an application for a hardship reduction pursuant to section 9-1-22. The senior citizens rate appeals board shall have the same powers and duties when hearing appeals of denials of hardship applications as when hearing appeals for senior citizen rate appeals.

Section 4. Following passage of the revised Ordinance, the Water Department will provide notices of these changes in the monthly water bill and the process of reapplication for the senior citizen rate.

Section 5. This Ordinance shall take effect and be in force from and after April 1, 2026.

THOMSON REUTERS

WESTLAW Mississippi Attorney General Opinions

Honorable Virgil G. Gillespie

Office of the Attorney General

January 24, 1990

1990 WL 547660 (Miss.A.G.)

Office of the Attorney General

State of Mississippi

***1 January 24, 1990**

***1 RE: PREFERENTIAL UTILITY RATES**

***1** Honorable Virgil G. Gillespie
***1** Attorney
***1** D'Iberville Water and Sewer District
***1** 1900 24th Avenue
***1** Gulfport, Mississippi 39501

Dear Mr. Gillespie :

***1** Attorney General Mike Moore has received your letter of request and has assigned it to me for research and reply. Your letter states the following matter for opinion:

***1** I have been directed by the D'Iberville Water and Sewer District to request an Attorney General's opinion regarding the water and sewer rates charged by the District.

***1** The D'Iberville Water and Sewer District is a body politic of the Second Judicial District of Harrison County, Mississippi operating under House Bill 1340, passed by the Regular Legislative Session of 1987. The District provides water distribution and sewer collection services for the D'Iberville Community of the Second Judicial District of Harrison County, Mississippi.

***1** The Board requested that I obtain an opinion as to whether the District can charge a lower rate for water distribution and sewer collection for the elderly, low income, or handicapped.

***1** The Board wants to investigate the possibility of setting certain criteria for the low income elderly, and/or low income handicapped, or disabled persons, and possibly give them a reduction in rates if these people meet such criteria and if your office feels this would not be a violation of the law.

***1** Clearly the D'Iberville Water and Sewer District has authority to set and charge reasonable utility rates to users in order to offset costs of operating and maintaining the system. See Section 8, Chapter 922, Mississippi Local and Private Laws of 1987. Generally, a public utility cannot discriminate in setting its rates among similarly situated users for the same type of service. See U. S. Constitution, Amendment 14. There are, of course, entirely proper grounds for creating different classifications of users which have a reasonable basis and relationship to accomplishment of a public policy objective.

***1** This office is of the opinion the D'Iberville Water and Sewer District has authority to consider proposals such as stated, but the question of whether a particular policy, once established and applied, passes muster under the 'Equal Protection' clause of the 14th Amendment is a question of fact and federal law that cannot be resolved by opinion of this office.

Sincerely,

***1** Mike Moore
***1** Attorney General
***1** Samuel W. Keyes, Jr.
***1** Assistant Attorney General

1990 WL 547660 (Miss.A.G.)

END OF DOCUMENT

EXHIBIT "A"

THOMSON REUTERS

WESTLAW Mississippi Attorney General Opinions

Mr. Mack Rutledge

Office of the Attorney General

August 16, 2002

2002 WL 31169220 (Miss.A.G.)

Office of the Attorney General

State of Mississippi

*1

Opinion No. 2002-0435

*1 August 16, 2002

Re: Garbage fees for Elderly Residents

*1 Mr. Mack Rutledge
*1 Mayor
*1 101 Lampkin Street
*1 Starkville, Mississippi 39759

Dear Mr. Rutledge :

*1 Attorney General Mike Moore has received your recent letter on behalf of the City of Starkville and has asked me to respond. In your letter you ask whether a municipality may charge lower fees for garbage services for residents who are age 65 or older and who live alone.

*1 You state that the governing authorities of the municipality believe that this class of users "requires significantly less sanitation services than the population as a whole."

*1 Miss. Code Ann. Section 17-17-5(Supp. 2001)(attached) requires municipal governing authorities to provide for the collection and disposal of garbage and the disposal of rubbish and authorizes municipal governing authorities to enter into contracts for the collection and transportation of solid wastes for a term of 6 years. Miss. Code Ann. Section 21-27-11 (attached) et seq. authorizes municipalities to establish utility systems, including garbage systems, and Section 21-27-23(e)(attached) authorizes municipalities "to establish, maintain and collect rates for the facilities and services offered by any such system." Miss. Code Ann. Section 21-19-1(attached) authorizes municipalities to establish garbage and rubbish collection systems, and Section 21-19-2(2)(b)(attached) authorizes municipalities to assess and collect fees for these systems.

*1 Miss. Code Ann. Section 21-27-27 prohibits a municipality from giving free utility services or garbage services to individuals, stating:

*1 No free service shall be furnished by any such system, or combined system, to any private person, firm, corporation, or association. The municipality may, however, furnish such service, free of charge, to the municipality or any agency or department thereof, to any public school, or to any hospital or benevolent institution located within such municipality, including county, city and community fairs.

*1 This statute prohibits governing authorities from providing free garbage services or giving a discount for garbage services. See MS AG Op., Jones (December 22, 2000)(statute prohibits discounts for water/sewer service for senior citizens). However, the governing authorities may adopt a rate structure for garbage services which is based upon the volume of garbage generated by different classes of users.

*1 If we may be of any further assistance, please let us know.

Sincerely,

*1 Mike Moore
*1 Attorney General
*1 By: Alice Wise
*1 Special Assistant Attorney General

2002 WL 31169220 (Miss.A.G.)

END OF DOCUMENT

EXHIBIT "A"