

ORDINANCE 281

**AN ORDINANCE CREATING THE ELKINS WATER BOARD AND PROVIDING FOR THE TRANSFER OF MANAGEMENT, CONTROL AND OPERATION OF THE MUNICIPAL WATERWORKS SYSTEM OF THE CITY OF ELKINS, WEST VIRGINIA, FROM THE CITY OF ELKINS TO THE ELKINS WATER BOARD.**

**WHEREAS**, The City of Elkins, West Virginia (the "City"), presently owns and operates a municipal public waterworks system consisting of a water filtration and treatment plant, river intake, water storage tanks, distribution lines, booster stations and all appurtenant facilities and properties, both within and outside the corporate boundaries of the City (collectively, the "System");

**WHEREAS**, the System has heretofore been managed, controlled, and operated by the City pursuant to Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act");

**WHEREAS**, the Council of the City has considered the impact of transferring the operation, control, and management of the System to a water board, as provided by the Act, and has determined that certain efficiencies and advantages will be achieved by such transfer;

**WHEREAS**, the City is permitted, pursuant to Section 19 of the Act, to operate and maintain the System through the supervision and control of a board or commission appointed by the Council of the City;

**WHEREAS**, the City shall retain such powers with respect to the System as required pursuant to the Act and other provisions of the West Virginia Code of 1931, as amended (the "Code of West Virginia"); and

**WHEREAS**, in order to effectuate the transfer of the operation, management and control of the System from the Council of the City to a board, the City now desires to provide for the manner of and procedure for such transfer, and to create a water board to be known as the "Elkins Water Board."

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ELKINS, HEREBY ORDAINS:**

Section 1. The Elkins Water Board (the "Water Board") is hereby created and the management, control, and operation of the System, as it shall exist from time to time, shall be vested in the Water Board, created and functioning as hereinafter provided.

Section 2. The Water Board shall consist of five persons, one of which shall be the Mayor or the Mayor's designee, who shall be a voting member. At least three of the Board members, including the Mayor, shall be citizens and residents of the City, and all of whom shall be residents of the State of West Virginia. With the exception of the Mayor or the Mayor's designee, all members of the Water Board shall be appointed by the Council of the City and may not be councilmembers, officers, or employees of the City.

Section 3. The Mayor of the City shall notify all appointees of their appointment by City Council. The terms of the members of the Water Board first appointed shall be for 1, 2, 3 and 4 years, respectively, from the 1st day of the month in which appointed. In the event of a vacancy for any reason or upon expiration of the term of office of any member of the Water Board, the member of the Water Board may be re-appointed, or a successor shall be appointed by the Council of the City. All vacancies shall be filled for the unexpired term only and all other appointments shall be for a term of 4 years, to commence on the date following the expiration date of the previous term. Members of the Water Board shall continue to serve upon the expiration of their term until either re-appointed or a successor is appointed. The Water Board shall have power to adopt bylaws, rules, and regulations for its own government. The members of the Board and the Treasurer and Secretary shall each receive compensation in such amount as determined by the City Council, from time to time, for their services and, in addition, shall be reimbursed for any and all actual expenses incurred in the performance of duties as directed by the Water Board.

Section 4. The Mayor or the Mayor's designee shall serve as Chairman of the Water Board. The City Treasurer, or the City Treasurer's designee, shall serve as the Treasurer of the Water Board and shall not be considered a member of the Water Board. The City Clerk, or the City Clerk's designee, shall serve as Secretary of the Water Board and shall not be considered a member of the Water Board. At the first meeting of the Water Board and at the first meeting of each calendar year thereafter, it shall elect a member of the Board to serve as Vice Chairman. The Chairman shall preside at all meetings when present and shall call special meetings on his or her own motion, or when requested to do so by any two members of the Board. The Vice Chairman shall preside in the absence of the Chairman. Three members of the Board shall constitute a quorum, however, any action to be taken by the Water Board must be affirmatively approved by not less than three members of Water Board. The Secretary shall keep a written record of the proceedings which shall be available for inspection as other municipal records. The Treasurer shall receive and disburse the funds of the System as directed by the Water Board. In the event that any member of the Water Board shall be unable to fulfill the duties of his or her office for a period of six consecutive months, a majority of the remainder of the said members of the

Water Board may declare the office of such member vacant, and the Council of the City shall thereupon fill such vacancy as otherwise provided for herein.

Section 5. The Water Board shall have full and complete authority for the supervision, management, control, and operation of the System, including the maintenance, operations, improvements, and extensions thereof, except as otherwise provided by the Code of West Virginia. All bills for water service shall be collected and accounted for by the Water Board in the manner and form required by law, the Public Service Commission of West Virginia and the ordinances of the City, and all disbursements and accounts of the System shall be ordered paid out only upon approval of said Water Board; provided, however, that all such supervision, management, and control of the System and the collection and accounting for bills for water service shall be consistent and in accordance with any ordinances pursuant to which the City may have authorized and issued any bonds or notes from time to time outstanding, which by their terms are payable from and secured by any revenues of the System and/or other assets of the System. The Water Board shall have the power and authority to make all contracts and/or agreements, make such decisions and undertake and accomplish all other actions necessary or proper for the full and complete supervision, management, operation, and control of the System.

Section 6. The Water Board shall have power to fix and maintain a separate budget, and employ, fix the compensation of, supervise and discharge a manager and all employees of the System; provided however, that the Water Board shall employ, fix the compensation of and discharge a joint City/Water Board employee only with the approval of the Council of the City or a joint Sewer Board/Water Board employee only with the approval of the Sewer Board.

Section 7. The Water Board shall provide reports, at least annually, or as otherwise required by law, to the Mayor and Council of the City, indicating the System's financial condition. The Water Board shall also provide the City Council with minutes of all meetings of the Water Board, an annual budget for the System, and other information as may reasonably be requested.

Section 8. All assets and liabilities of the System, including accounts receivable and accounts payable, and all employees thereof, shall be under the supervision, management, and control of the Water Board. Personnel policies and practices, and other matters affecting employees of the Water Board shall, to the extent practicable and unless otherwise approved by the Council of the City, be the same as those undertaken by the City, subject to the provisions of Section 6 hereof.

Section 9. The Council of the City enacts this Ordinance for the assurance and protection of the citizens of the City and for the purpose of assuring the holders of the Bonds of the City payable from the income and revenues of the System of an efficient supervision, operation, and maintenance thereof. No amendment or repeal of this Ordinance shall be enacted unless approved by seventy-five (75%) of the members of the Council of the City. Any such amendment or repeal shall otherwise be enacted in accordance with the rules and regulations of the Council of said City.

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Section 10. This Ordinance shall be effective on the date of final enactment hereof.

Passed on First Reading: March 4, 2021

Passed on Second Reading  
and Finally Enacted: March 17, 2021

THE CITY OF ELKINS

[SEAL]

Van T Broughton  
Mayor

ATTEST:

Janica R. Smith  
City Clerk

APPROVED AND CORRECT AS TO FORM:

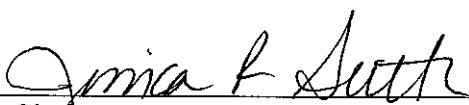
Geraldine J. Roberts  
City Attorney

CERTIFICATION

Certified a true, correct, and complete copy of an Ordinance duly enacted by the City Council of THE CITY OF ELKINS at a regular meeting of the City Council held at 7:00 p.m., on March 17, 2021, pursuant to proper notice, at which meeting a quorum was present and acting throughout.

Dated this 17<sup>th</sup> day of March, 2021.

[SEAL]

  
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City Clerk