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Bill No. G-13-02-32

GENERAL ORDINANCE NO. G-13-13

**AN ORDINANCE AMENDING SECTION 51.074
WHOLESALE CONTRACT CUSTOMERS – UNIT
AND OTHER CHARGES CITY OF FORT WAYNE,
CODE OF ORDINANCES**

WHEREAS, the City of Fort Wayne, Indiana (“City”) has executed written contracts with various entities to provide wholesale sewage conveyance and treatment service (“Contracts”); and

WHEREAS, these Contracts provide for needs that are of value and benefit to both the City and the Wholesale Contract Customer that allow the City to charge the Wholesale Contract Customer rate as set forth in Section 51.074 of the City of Fort Wayne Code of Ordinances, a rate that is typically lower than customers that do not have Contracts; and

WHEREAS, the ability to receive conveyance and treatment services as a Wholesale Contract Customer is only under the terms and conditions of the Contract between the City and customer; and

WHEREAS, at the expiration or termination of a Contract, those mutually beneficial provisions no longer exist and, among other things, will not provide for a certain and sustainable revenue stream to justify the high cost of investing or insuring the recovery of investments already made by the City to provide sufficient wholesale customer’s anticipated capacity needs ; and

WHEREAS, due to health and safety concerns, the City will continue to convey and treat sewage that is conveyed to the City’s Water Pollution Control Plant/Wastewater Treatment Facility from a Wholesale Contract Customer even when such a Contract has expired or been terminated; and

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WHEREAS, an ordinance is needed to identify the rates, rules and regulations applicable to any Wholesale Contract Customer after its Contract has expired or terminated ; and

WHEREAS, any customer receiving conveyance and treatment service from the City under a Contract that subsequently expires or terminates shall, upon the expiration or termination of the Contract, become a non-wholesale contract customer and shall be subject to the same rates, rules and regulations as non-contract industrial, commercial, institutional or governmental customers of the City, whichever class of user best applies to that customer.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Common Council of the City of Fort Wayne, Indiana has determined that due to the mutually beneficial terms and conditions to the City and the Wholesale Contract Customer provided in a contract, the ability to receive conveyance and treatment service as a Wholesale Contract Customer is only under the condition that a contract is in place between the City and customer; that an expired or terminated contract does not provide for a certain and sustainable revenue stream to justify the cost of investing or insuring the recovery of investments already made by the City to provide sufficient Wholesale Contract Customer’s anticipated capacity needs; that due to health and safety concerns, the City will continue to convey and treat sewage from a Wholesale Contract Customer when its contract has expired or been terminated and the customer is no longer a Wholesale Contract Customer; that applying existing published rates, rules and regulations of industrial, commercial, institutional or governmental customers to any customer receiving conveyance and treatment services

1 upon expiration or termination of its Contract is the most reasonable way to
2 determine and provide for the proper rates, rules and regulations for service
3 to that customer; and the City's tariff rates are just and equitable; and
4

5 **SECTION 2.** The following section of Section 51.074 of the Fort
6 Wayne Code of Ordinances is hereby amended to adjust the rates and
7 charges applicable to a Wholesale Contract Customer after expiration or
8 termination of its Contract.

9 **Section 51.074 (H) *Expiration or Termination of Wholesale Contract***
10 ***Customer's Contract.***

11
12 Any customer receiving conveyance and treatment services from the
13 City that has a contract that has expired or been terminated shall, upon the
14 expiration or termination of its contract, pay all fees, charges and penalties
15 applicable to Industrial, Commercial, Institutional or Governmental
16 customers, with the customer paying the Out of City rate, unless the
17 customer's service area is wholly contained within the corporate boundaries
18 of the City of Fort Wayne.


19 **SECTION 3.** Except for the foregoing amendments, the remaining
20 sections of Section 51.074 of the City of Fort Wayne, Indiana, Code of
21 Ordinances shall remain in full force and effect.
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SECTION 4. This Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

 
Council Member

Approved as to form and legality


Carol Helton, City Attorney

Interoffice Memo

Date: February 22, 2013
To: Common Council Members
From: Lindsey Jackson

RE: An Ordinance Amending Section 51.074 Wholesale Contract Customers – Unit and Other Charges

If approved, this ordinance would clarify that customers who had a contract with City Utilities for conveyance and treatment of their sewage and whose contract has expired or terminated shall be subject to the same rates, rules and regulations as retail, industrial, commercial, institutional, or governmental customers of the City, whichever class of user applies to the customer.

Implications of not being approved:

A contract is required to receive the wholesale rate. Should this Ordinance not be approved, City Code will contain no provision that provides clear direction to City Utilities regarding rates to charge formerly wholesale contract customers when their contracts are no longer in effect.

Without an ordained rate, billing disputes will become likely. This ordinance is needed to identify the rates, rules and regulations applicable to any customer that continues to receive sewage treatment service after their contract has expired or been terminated.

If Prior Approval is being Requested, Justify: NA

This project was advertised NA

The contract for Resolution # _____ was awarded to NA

The cost of said project _____ This Ordinance does not involve cost. Rather it clarifies how City Utilities will collect revenue to cover the expenses associated with providing sewage conveyance and treatment services to a particular class of customers in particular circumstances, those being: expiration or termination wholesale sewage treatment contract.

cc: Diane Brown
File

Public Hearing Date, if applicable

Read the first time in full and on motion by Councilman *Glynn Hines*
Read the second time by title and referred to the *Regulations Committee*
Committee. Read the third time in full and on motion by Councilman
Hines, placed on passage by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	7	1		1
BENDER	✓			
CRAWFORD	✓			
DIDIER	✓			
HARPER		✓		
HINES	✓			
JEHL	✓			
PADDOCK	✓			
SHOAFF				✓
SMITH	✓			

DATED: *6-11-13* *Sandra E. Kennedy*
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
(ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE
(RESOLUTION) NO. *6-13-13* on the *11th* day of
June, 2013

ATTEST: *Sandra E. Kennedy* *Thomas F. Didier*
SANDRA E. KENNEDY, PRESIDING OFFICER
CITY CLERK

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the *13th* day
of *June*, 2013, at the hour of *3:00* o'clock *PM* .E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this *17th* day of *June*
2013, at the hour of *2:30* o'clock *PM* .E.S.T.

Mark D. Becker THOMAS C. HENRY, MAYOR
Mark D. Becker, Deputy Mayor

BILL NO. G-13-02-32

REPORT OF COMMITTEE ON REGULATIONS

MARCH 5, 2013

GLYNN HINES – CHAIR
RUSSELL JEHL – CO-CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN ORDINANCE AMENDING SECTION 51.074 WHOLESale CONTRACT CUSTOMERS – UNIT AND OTHER CHARGES CITY OF FORT WAYNE, CODE OR ORDINANCES. HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE

DO PASS

DO NOT PASS

ABSTAIN

NO REC

[Handwritten signatures under "DO PASS"]
R. Hines
R. JeHL
M. ...
F. ...
S. ...
G. ...
B. ...
J. ...

[Handwritten signature under "DO NOT PASS"]
N. ...

SANDRA E. KENNEDY
CITY CLERK

BILL NO. G-13-02-32

REPORT OF COMMITTEE ON REGULATIONS

MAY 7, 2013

**GLYNN HINES - CHAIR
RUSSELL JEHL - CO-CHAIR
ALL COUNCIL MEMBERS**

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(5-21-3)*

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM HAS REFERRED THE
ORDINANCE AMENDING SECTION 51.074 WE
UNIT AND OTHER CHARGES CITY OF FORT
COMMITTEE OF REGULATIONS HAVE HAD SE
CONSIDERATION AND BEG LEAVE TO REPOF
THAT SAID ORDINANCE

G-13-02-32

DO PASS

DO NOT PASS

Back on agenda

[Handwritten signatures under DO PASS]
Martin A.B. ...
H...
+ Smith
Gen. ...
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...

[Handwritten signature under DO NOT PASS]
M.H.

4/11

*(same time as)
G-13-05-32)*

prev. ...

SANDRA E. KENNEDY
CITY CLERK