

1 **BILL NO. G-13-05-14**

2 **GENERAL ORDINANCE NO. G-8-13**

3 **AN ORDINANCE AMENDING §40.01 OF CHAPTER 40:**
4 **COLLECTIVE BARGAINING OF THE CITY OF FORT**
5 **WAYNE, INDIANA, CODE OF ORDINANCES**

6 **WHEREAS**, the implementation of property tax caps by the Indiana General
7 Assembly has resulted in a loss of \$53 million in revenue to the City of
8 Fort Wayne; and

9 **WHEREAS**, the loss of revenue has created a sustained and unprecedented
10 fiscal crisis that threatens to severely compromised the City's ability to
11 continue to provide essential services necessary to maintain the public
12 welfare; and

13 **WHEREAS**, the recent enactment of the Affordable Care Act has
14 substantially changed the system for the provision of health insurance,
15 which will require employers to comply with federal regulations that
16 are not yet fully developed, including the obligation to provide health
17 insurance to seasonal employees who work a sufficient number of
18 hours for coverage by the Act.

19 **WHEREAS**, the use of seasonal employees should not be restricted by long-
20 term contracts so as to allow for effective and flexible utilization;

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

23 **SECTION 1. §40.01 APPLICATION.** of Chapter 40: Collective
24 Bargaining of the City of Fort Wayne, Indiana, Code of Ordinances is
25 amended as follows:

26 **§ 40.01 APPLICATION.**

1 (A) This section shall apply to all non- confidential, non-supervisory, and non-
2 seasonal employees of the city and its utilities (other than those represented
3 by the PBA, the FOP, and IAFF Local 124 who are subject to a different
4 section). This section shall apply to the City of Fort Wayne and all of its
5 boards, commissions, authorities, divisions and departments.

6 (B) The following definitions shall apply to this section:

7
8 (1) **CONFIDENTIAL EMPLOYEE.** This is an employee:

9 (a) Who works in the city's personnel office;

10 (b) Who has access to confidential or discretionary information
11 that may be used by the city in negotiating a collective
12 bargaining agreement under this section;

13 (c) Who works in a close and continuing working relationship
14 with:

15 1. An individual holding elective office; or

16 2. Individuals who represent the city in negotiations
17 under this section;

18 (d) Whose:

19 1. Functional responsibilities; or

20 2. Knowledge;

21 concerning employee relations makes the employee's
22 membership in an employee organization incompatible
23 with the employee's duties; or

24 (e) Who is the personal secretary of:

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1. A division or department head; or

2. An individual holding elected office.

(f) Who works in the city's Communications Department.

1. No union contract presented to Council for approval after the effective date of this provision shall contain a provision that prevents the city from participating in a nonunion multiple political subdivision communications department or county public safety communications system and computer facilities district, that requires the terms of the union contract to apply to the operation of, and the city's participation in, a multiple political subdivision communications department or county public safety communications system and computer facilities district, or that requires the city to provide employment for individuals whose jobs may be eliminated as the result of the city's participation in a joint communications department or a county public safety communications system and computer facilities district.

(2) **PROFESSIONAL EMPLOYEE.** Any employee engaged in work (a) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (b) involving the consistent exercise of discretion and judgment in its performance; (c) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (d) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instructions and study in institution of higher learning or a hospital as distinguished from a general academic education or form

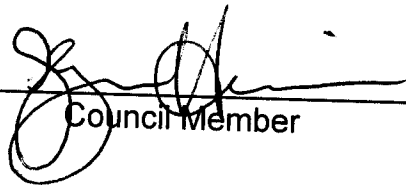
1 an apprenticeship or from training in the performance of routine
2 mental, manual, or physical processes.

3
4 (3) **SAFETY EMPLOYEE.** A member of either the city's police or fire

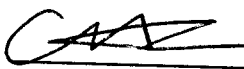
5 (4) **SUPERVISORY EMPLOYEE.** An individual having authority in the
6 interest of the city, or its utilities, to hire, transfer, suspend, lay off,
7 recall, promote, discharge, assign, reward, or discipline other
8 employees, or responsibility to direct other employees, or to adjust
9 employee grievances, or effectively to recommend such action, if the
10 exercise of the authority is not of a merely routine or clerical nature,
11 but requires the use of independent judgment. ('74 Code, § 20-16(a))
12 (Ord. S-20-87, passed 1-27-87; Am. Ord. G-16-92, passed 4-24-92;
13 Am. Ord. G-22-96, passed 9-24-96)

14 (5) **SEASONAL EMPLOYEE.** Any employee who is not employed on
15 a year round basis, but rather has been hired for periodic seasonal
16 needs.

17 **SECTION 2.** That this Ordinance shall be in full force and effect from
18 and after its passage and any and all necessary approval by the Mayor.

19
20 
21 Council Member

22
23 APPROVED AS TO FORM AND LEGALITY

24 
25 _____
26 Carol Helton, City Attorney

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 Regulatory Committee
Committee. Read the third time in full and on motion by Councilman
Hines, placed on passage by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>NO RECOM.</u>
<u>TOTAL VOTES</u>	<u>7</u>	_____	_____	<u>1</u>	<u>1</u>
BENDER	<u>✓</u>	_____	_____	_____	_____
CRAWFORD	<u>✓</u>	_____	_____	_____	_____
DIDIER	<u>✓</u>	_____	_____	_____	_____
HARPER	_____	_____	_____	_____	<u>✓</u>
HINES	<u>✓</u>	_____	_____	_____	_____
JEHL	<u>✓</u>	_____	_____	_____	_____
PADDOCK	<u>✓</u>	_____	_____	_____	_____
SHOAFF	_____	_____	_____	<u>✓</u>	_____
SMITH	<u>✓</u>	_____	_____	_____	_____

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. G-8-13 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 8:20 o'clock AM E.S.T.

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

BILL NO. G-13-05-14

REPORT OF COMMITTEE ON REGULATIONS

MAY 21, 2013

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

*Hold till
6/11*

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN **ORDINANCE AMENDING 40:01 Collective Bargaining of the City of Fort Wayne, Indiana, Code of Ordinances.** REGULATIONS COMMITTEE 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 column]
Marti A. B...
Thomas F. ...
John ...
Jeff ...
John ...
Jeff ...
John ...

[Handwritten signature]

SANDRA E. KENNEDY
CITY CLERK