

1 **BILL NO. G-13-11-12-(AS AMENDED)**

2 **GENERAL ORDINANCE NO. 6-25-13**

3 **AN ORDINANCE AMENDING CHAPTER 51 OF**  
4 **THE CITY OF FORT WAYNE CODE OF LAWS**

5 **WHEREAS**, pursuant to Indiana Code 36-9-23-25, the Common  
6 Council of the City of Fort Wayne has enacted a User Charge System and a  
7 Sewer Use Ordinance as contained in Chapter 51 of the Fort Wayne Code of  
8 Ordinances; and

9 **WHEREAS**, the Board of Public Works is charged with the  
10 responsibility for the operation of Fort Wayne City Utilities including long-term  
11 planning, engineering, financing and construction of sanitary sewer  
12 infrastructure served by the Fort Wayne wastewater system; and

13 **WHEREAS**, the Board of Public Works passed Resolution No. 100-  
14 11-6-13-05 regarding capital improvement surcharges and Resolution No.  
15 100-11-6-13-4 regarding an area connection fee on November 6, 2013.

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

18 **SECTION 1.** That the following sections or subsections of Chapter 51  
19 of the City of Fort Wayne Code of Laws be added or amended, as follows:

20  
21 The following subsection of Sec. 51.001 shall be added to in accordance with  
22 the following (additions and modifications shown in **underlined and bold**  
23 type).  
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1 There are no other Capital Improvement Surcharge Areas.

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3 **SECTION 2.** The following new section 51.076.5 shall be added to in  
4 accordance with the following (additions and modifications shown in  
5 **underlined and bold** type.)

6 **§ 51.076.5 AREA CONNECTION FEE.**

7  
8 (A) **All classifications of users subject to an area**  
9 **connection fee shall pay the connection fee in addition to other**  
10 **sewage service charges imposed by this chapter. Area connection**  
11 **fees shall remain in effect until the cost of the intended installations,**  
12 **adjustments or improvements to the water pollution control utility**  
13 **has been retired and the area connection fee has been retired.**

14 (B) **Area Connection Fee Charges**  
15 **Deer Track Area \$2,950 per ERU**  
16 **(as designated by Board of Works Resolution 100-11-6-13-4)**

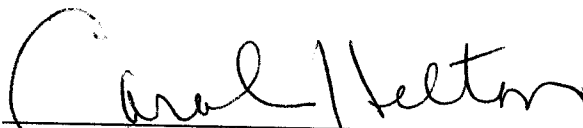
17  
18 **SECTION 3.** That the Monthly Capital Surcharges listed in Exhibit A in  
19 Ordinance G-12-09 shall be amended with the attached Amended Exhibit A  
20 to correct the scrivener's error in the unit of measure for Monthly Capital  
21 Surcharges. The appropriate unit of measure is per Equivalent Residential  
22 Unit ("ERU") as is presently listed in City Code Sec. 51.077. The attached  
23 Amended Exhibit A is not intended to replace the Exhibit A in Ordinance G-  
24 12-09 and is intended only to amend the sections referenced in Amended  
25 Exhibit A.

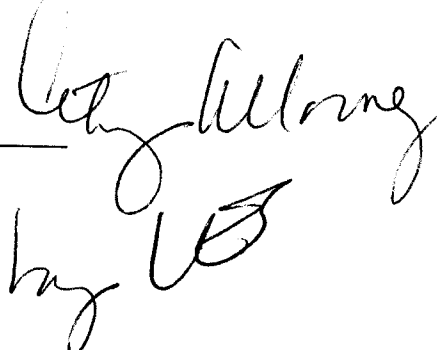

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**SECTION 4.** In accordance with Board of Works Resolution 100-11-6-13-5, the effective date for the Upper Ely surcharge shall be January 1, 2014 for all connections occurring after January 1, 2013. That this Ordinance shall be in full force and effect following its passage, any and all necessary approval by the Mayor and due legal publication thereof.

  
\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

  
\_\_\_\_\_  
Carol Helton, City Attorney

  
by 

AMENDED EXHIBIT A

REV. 10-10-13

FORT WAYNE MUNICIPAL SEWAGE WORKS  
Fort Wayne, IN

Amended Table of Sewage Works Rates and Charges (Monthly Capital Surcharges)

	Unit of <u>Measure</u>	Effective date:					
		July 1st <u>2009</u>	July 1st <u>2010</u>	July 1st <u>2011</u>	July 1st <u>2012</u>	July 1st <u>2013</u>	January 1st <u>2014</u>
Monthly Capital Surcharge							
Neuhaus Extension	per ERU	20.00	20.00	20.00	20.00	20.00	20.00
Tiernan Shed B	per ERU	22.50	22.50	22.50	22.50	22.50	22.50
Rothman Road	per ERU	22.50	22.50	22.50	22.50	22.50	22.50
Deer Track	per ERU	47.95	47.95	47.95	47.95	47.95	42.00
Southtown	per ERU	4.00	4.00	4.00	4.00	4.00	4.00
Upper Ely	per ERU	20.00	20.00	20.00	20.00	20.00	20.00

## RESOLUTION OF THE BOARD OF PUBLIC WORKS

### To Change the Deer Track Sanitary Sewer Area Connection Fee

Resolution No. 100-11-6-13-4

**WHEREAS**, on February 26, 2003, the Board of Public Works ("Board") approved Resolution No. 90-64-20 authorizing the establishment of cumulative funds for the deposit of sanitary sewer area connection fees collected for the purpose of defraying costs for planning, engineering, financing and construction of sanitary sewer-related projects within specific service areas; and

**WHEREAS**, studies indicate that the initial cost of sanitary sewer planning, engineering and construction projects in the northern area of City Utilities' service areas is more than \$20,000,000 with more than \$500,000 of such projects needed for the Deer Track sewer service area, generally shown in Exhibit A; and

**WHEREAS**, the Board finds that new customer connections to the sanitary sewer system in the Deer Track sanitary sewer service area, as generally shown on Exhibit A, should be assessed a portion of the costs necessary to fund the required improvements to the system; and

**WHEREAS**, on September 5, 2001, the Board approved, via resolution, and on April 9, 2003, the Board amended, via resolution, the Equivalent Residential Unit ("ERU") as an acceptable unit of measure for calculating sanitary sewer Area Connection Fees for real estate connecting to the City Utilities sanitary sewer system ("Sewer System"); and

**WHEREAS**, on August 3, 2005, the Board approved, via Resolution 92-8-3-05-1, an Area Connection Fee of \$5,000 (five thousand dollars) for new properties connecting to the Sewer System within the Deer Track Service Area as generally shown in Exhibit A; and

**WHEREAS**, on December 19, 2012, the Board approved Resolution 99-12-19-12-2 ("Upper Ely Resolution"), establishing a sanitary sewer area connection fee of \$2,000 per ERU for new customers connecting to the Sewer System within the Upper Ely Service Area, as defined in the Upper Ely Resolution; and

**WHEREAS**, the Upper Ely Resolution authorized the establishment of cumulative funds to hold specific sanitary sewer charges collected for the purpose of defraying costs for planning, engineering, financing and construction of sanitary sewer-related projects within the Upper Ely Service Area; and

**WHEREAS**, the Deer Track area is now located within the Upper Ely Service Area through a connection to the Upper Ely sanitary sewer pipe segments; and

**WHEREAS**, new customers are expected to connect to the Deer Track sanitary sewer system that were not contemplated when the City of Fort Wayne purchased the Deer Track sanitary sewer system in 2005, and those additional customers will share in the costs of necessary improvements, allowing the previously approved area connection fee to be reduced from \$5,000 (five thousand dollars) per ERU to \$2,950 (two thousand nine hundred fifty dollars) per ERU; and

**WHEREAS**, certain new customers making sanitary sewer connections to the Deer Track sanitary sewer service area may be of significant economic benefit to the Sewer Utility, the City, or region and may justify an adjustment of the sanitary sewer area connection fees in an effort to attract new customers to locate in the area and connect to the sewer system.

**NOW THEREFORE BE IT RESOLVED**, that the Board:

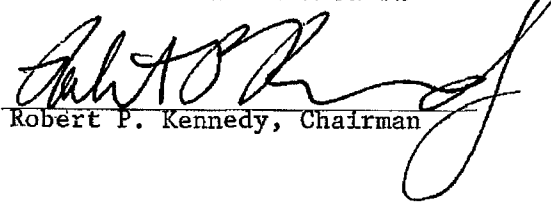
1. Reduces the Deer Track Sanitary Sewer Area Connection Fee from \$5,000 (five thousand dollars) to \$2,950 (two thousand nine hundred fifty dollars) per ERU for all new sanitary sewer connections for real estate located in the area shown on Exhibit A.
2. Requires City Utilities to collect the area connection fee prior to connection to the sanitary sewer system, unless otherwise approved by the Director of City Utilities or his/her appointee.
3. Shall place Area Connection Fees in the following cumulative funds, per ERU: \$2,000 (two thousand dollars) in the Upper Ely cumulative fund and \$950 (nine hundred fifty dollars) in the Deer Track cumulative fund.
4. Shall not allow City Utilities to assess an Area Connection Fee from properties connected to the Deer Track Sanitary Sewer System at the time of City Utilities' purchase of the system in 2005 so long as the ERUs from the property do not increase.
5. Reserves the right to adjust the Area Connection Fee annually for inflation, based on the All Urban Consumer Price Index, with approval by the Board.
6. Authorizes City Utilities, in the event of a substantial change in land use and/or a substantial increase in the volume of flow on existing real estate already connected to the sewer system, to assess additional Area Connection Fees, based on the proposed or actual increased flow to the sewer system as measured by ERUs.
7. Authorizes the Director of City Utilities or his/her designee to establish a procedure for determining and implementing an Area Connection Fee adjustment for projects that are of significant City Utilities, City or regional benefit.
8. Reserves the authority to establish additional specific sanitary sewer charges and fees as specific planning, engineering, financing and construction projects are identified to achieve the purposes of this Resolution to fund projects relating to sanitary sewer improvements within the Deer Track area.

This Resolution shall be in full force and effect on January 1, 2014.

**APPROVED THIS** 6<sup>th</sup> **day of** November, 2013.

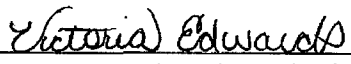
**BOARD OF PUBLIC WORKS**

**BOARD OF PUBLIC WORKS**

  
Robert P. Kennedy, Chairman

\_\_\_\_\_  
Kumar Menon, Member

  
\_\_\_\_\_  
Mike Avila, Member

Attest:   
\_\_\_\_\_  
Victoria Edwards, Clerk

ACKNOWLEDGEMENT

STATE OF INDIANA )  
 ) SS  
COUNTY OF ALLEN )

Before me, a Notary Public, in and for said County and State personally appeared  
Robert Kennedy, Mike Avila, Victoria Edwards

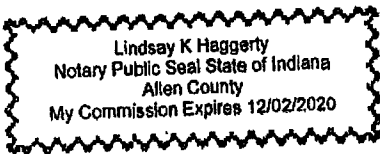
of the Board of Public Works of the City of Fort Wayne, and Clerk of the Board of Works and  
acknowledged the execution of the foregoing Resolution as and for their voluntary act and deed for the  
users and purposes therein contained.

WITNESS my hand and notarial seal this 6<sup>th</sup> day of November 2013.

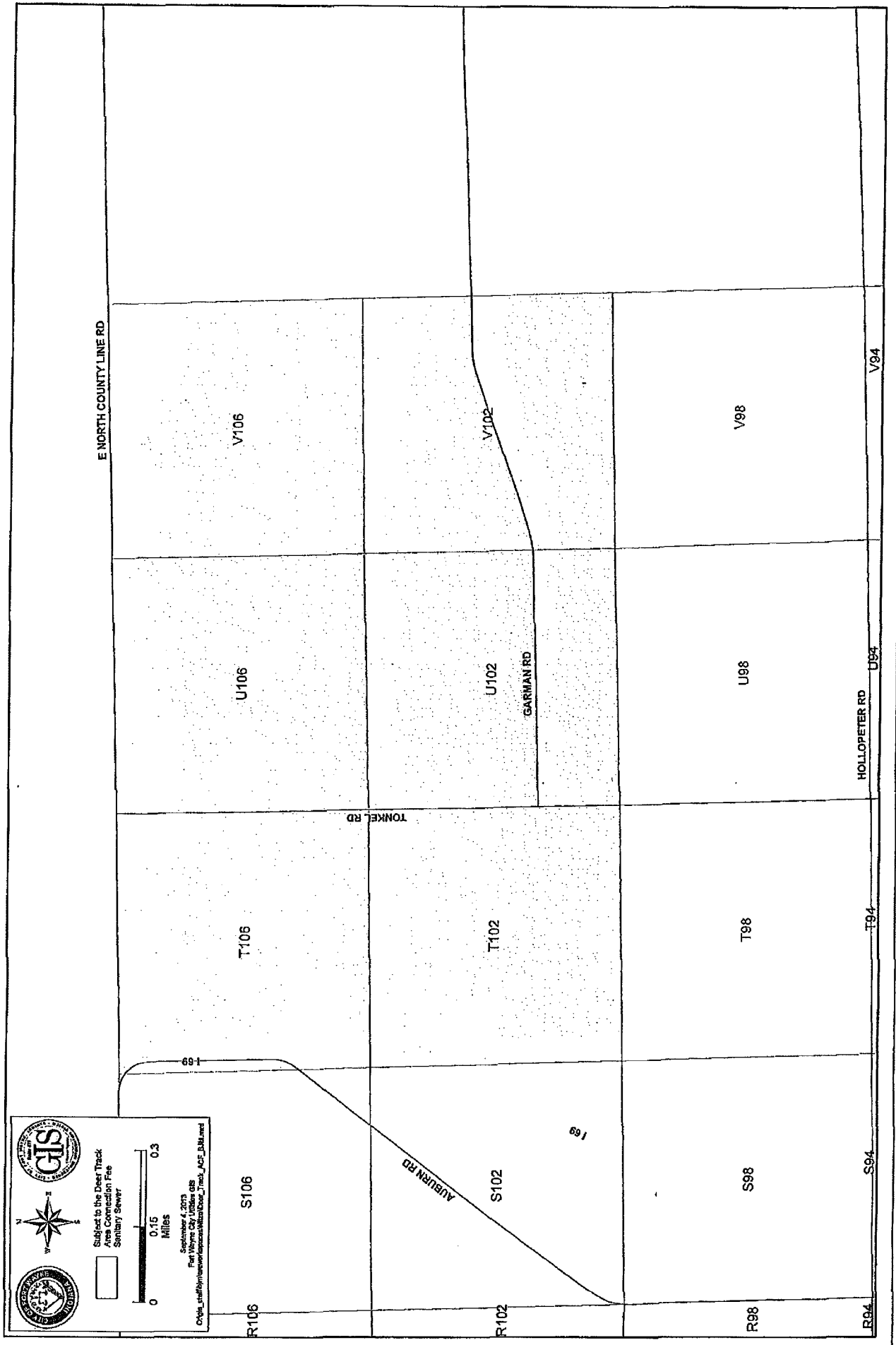
My Commission Expires:

12/02/2020

Lindsay K. Haggerty  
Notary Public  
Resident of Allen County  
Lindsay K. Haggerty  
Printed Name of Notary



# Deer Track Area Connection Fee - Sanitary Sewer Exhibit A



**RESOLUTION OF THE BOARD OF PUBLIC WORKS**

**To Clarify Sanitary Sewer Capital Improvement Surcharges and Modify Deer Track Sanitary Sewer Capital Improvement Surcharge**

Resolution No. 100-11-6-13-5

**WHEREAS**, on August 13, 2003, the Board of Public Works ("Board") approved Resolution 90-261-13, authorizing the establishment of cumulative funds to hold certain sanitary sewer charges collected within specific sewer service areas for the purpose of defraying costs for planning, engineering, financing and construction of sanitary sewer-related projects within specific sewer service areas; and

**WHEREAS**, on September 5, 2001, the Board approved, via resolution, and on April 9, 2003, the Board amended, via resolution, the Equivalent Residential Unit (ERU) as an acceptable unit of measure for calculating sanitary sewer use for real estate connecting to the City Utilities sanitary sewer system; and

**WHEREAS**, studies indicate that the cost of sanitary sewer planning, engineering and construction projects in the northern area of City Utilities' service areas is more than \$20,000,000 with more than \$500,000 of such projects needed for the Deer Track sewer service area, generally shown in Exhibit 1; and

**WHEREAS**, on May 6, 2009, the Board changed the Water Pollution Control Utility's rates, via Resolution 96-5-6-09-1 ("Sewer Rates Resolution") and its attached exhibit of Table of Sewage Works Rates and Charges ("Table"), and recommended the Common Council of the City of Fort Wayne ("Common Council") amend Chapter 51 of the Fort Wayne Code of Ordinances to reflect the changes within the Table to provide sufficient income for the operation, maintenance and capital improvements of the Utility; and

**WHEREAS**, the Table contained a scrivener's error for the unit of measure for the Monthly Capital Surcharges for the service areas of Neuhaus Extension, Tiernan Shed B, Rothman East, Deer Track, Southtown and Upper Ely by listing the charge as "per connection" instead of "per ERU per month"; and

**WHEREAS**, on December 19, 2012, the Board approved Resolution 99-12-19-12-1 ("Upper Ely Resolution"), authorizing the establishment of cumulative funds to hold specific sanitary sewer charges collected for the purpose of defraying costs for planning, engineering, financing and construction of sanitary sewer related projects within the Upper Ely Service Area, as defined in the resolution; and

**WHEREAS**, the Upper Ely Resolution established the Upper Ely capital improvement surcharge, however the resolution did not clearly state that the surcharge would be \$20.00 (twenty dollars and zero cents) per ERU per month; and

**WHEREAS**, the Board wishes to clarify its intent that the Upper Ely capital improvement surcharge be assessed per ERU, per month to customers within the Upper Ely Service Area; and

**WHEREAS**, the Board finds that all customers in the Deer Track sewer service area, generally shown in Exhibit 1 attached hereto, should be assessed a portion of the costs necessary to fund the required improvements to the sewer system; and

**WHEREAS**, on August 3, 2005, the Board approved Resolution 92-8-3-05-02 ("Deer Track Resolution"), authorizing the establishment of cumulative funds to hold specific sanitary sewer charges collected for the purpose of defraying costs for planning, engineering, financing and construction of sanitary sewer-related projects within the Deer Track area, as defined in the Deer Track Resolution; and

**WHEREAS**, the Deer Track area is now located within the Upper Ely Service Area because of a connection to the Upper Ely sanitary pipe segments; and

**WHEREAS**, the Common Council, on August 23, 2005, approved Ordinance G-15-05 for a capital improvement surcharge for the Deer Track area of \$47.95 (forty-seven dollars and ninety-five cents) per ERU per month; and

**WHEREAS**, new customers are expected within the Deer Track area that were not contemplated in 2005, and those additional customers will share in the costs of necessary improvements, allowing the previously approved capital improvement surcharge to be reduced to \$42.00 (forty-two dollars and zero cents) per ERU per month, consisting of \$20.00 (twenty dollars and zero cents) for the Upper Ely cumulative fund and \$22.00 (twenty-two dollars and zero cents) for the Deer Track cumulative fund; and

**WHEREAS**, the Board desires to adjust the Deer Track monthly capital improvement surcharge for new customers who will connect to and existing customers presently connected to the City's sewer facilities in the Deer Track area as a means to defray the costs of constructing the necessary sewer facilities; and

**WHEREAS**, certain new customers making sanitary sewer connections to the Deer Track sanitary sewer service area may be of significant economic benefit to the Utility, the City, or region and may justify an adjustment of the sanitary sewer capital improvement surcharge in an effort to attract new customers to locate in the area and connect to the sewer system.

**NOW THEREFORE BE IT RESOLVED**, that the Board:

1. Corrects the scrivener's error contained in the Table attached to Resolution 96-5-6-09-1 from "per connection" to "per ERU per month" for Capital Improvement Surcharges to be charged in the service areas of Neuhaus Extension, Tiernan Shed B, Rothman East, Deer Track, Southtown and Upper Ely and as shown in the Table listed in Amended Exhibit A attached hereto. No changes, other than those listed in this Resolution, are made to the Sewage Works Rates and Charges attached to the Sewer Rates Resolution.
2. Clarifies the Board's intent that the Upper Ely Capital Improvement Surcharge shall be \$20.00 (twenty dollars and zero cents) per ERU per month to be charged

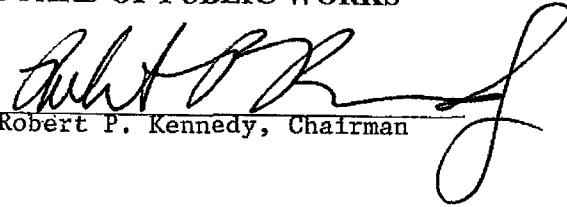
to customers who connected in that service area as defined in the Upper Ely Resolution January 1, 2013, or later.

3. Reduces the Capital Improvement Surcharge designated for the Deer Track Capital Surcharge Sanitary Sewer area to \$42.00 (forty-two dollars and zero cents) per ERU per month, until otherwise modified, to all new and existing retail sanitary sewer customers in the area generally shown on Exhibit 1 and described as transporting sanitary sewage through the Deer Hollow Sanitary Sewer Force Main or Sewer Structure U90 003, as shown on Exhibit 2.
4. Recommends the Common Council adopt the Table shown in Amended Exhibit A for Chapter 51 of the Fort Wayne Code of Ordinances, to reflect the per ERU per month method of calculation for the Capital Improvement Surcharges.
5. Recommends the Common Council reduce the Deer Track Capital Improvement Surcharge to \$42.00 (forty-two dollars and zero cents) per ERU per month.
6. Shall distribute \$20.00 (twenty dollars and zero cents) per ERU of the Deer Track Capital Improvement Surcharge in the Upper Ely Cumulative Fund each month, with the remaining \$22.00 (twenty-two dollars and zero cents) per ERU placed in the Deer Track Cumulative Fund each month.
7. Authorizes City Utilities, in the event of a substantial change in land use and/or a substantial increase in the volume of flow on existing real estate in the Deer Track area already connected to the sewer system, to assess the applicable capital surcharge for the customer, based on the proposed or actual increase in flow to the sewer system, as measured by ERUs.
8. Recognizes certain new customers making sanitary sewer connections to the Deer Track sanitary sewer service area may be of significant economic and/or environmental benefit to the Sewer Utility, the City, or region by encouraging new customers to locate in the service area and/or eliminate existing septic systems and which may justify an adjustment of the sanitary sewer capital improvement surcharge and/or ERU value and authorizes the Director of City Utilities or his/her designee to establish a procedure to determine the applicability of such adjustment.
9. Reserves the authority to establish, as specific planning, engineering, financing and construction projects are identified to achieve the purposes of this Resolution, additional specific sanitary sewer charges and area connection fees to fund projects relating to sanitary sewer improvements within the Deer Track area.

This Resolution shall be in full force on the first day of the City Utilities billing cycle(s) for all sewer customers within the aforementioned named areas starting January 1, 2014, and shall be in full force on the sewer account initiation date for all new sewer connections in the aforementioned named areas made starting January 1, 2014.

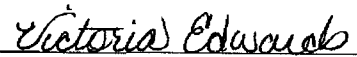
**APPROVED** by the Board of Public Works on November 19 2013.

**BOARD OF PUBLIC WORKS**

  
Robert P. Kennedy, Chairman

\_\_\_\_\_  
Kumar Menon, Member

  
\_\_\_\_\_  
Mike Avila, Member

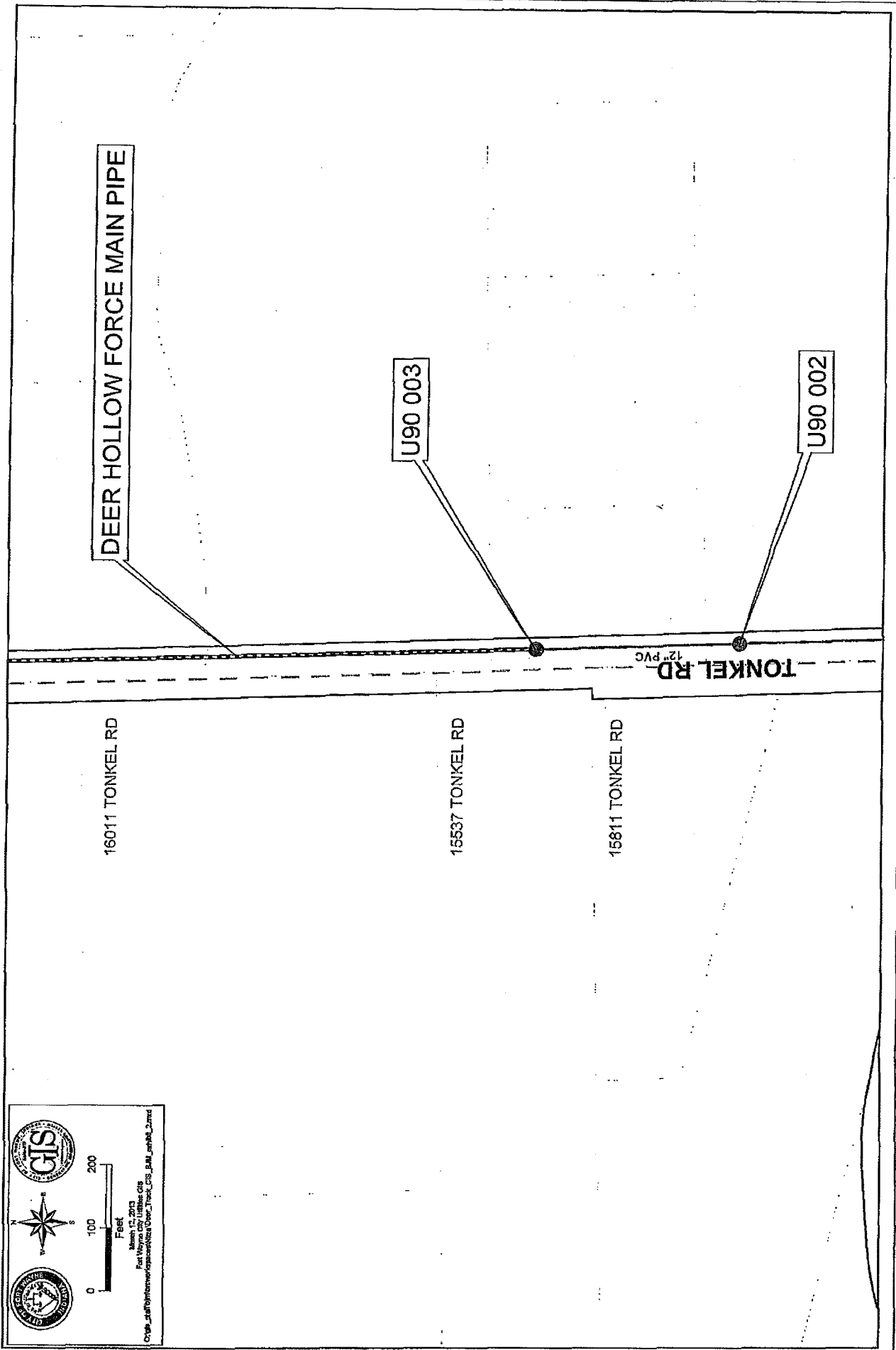
Attest:   
\_\_\_\_\_  
Victoria Edwards, Clerk







# Deer Track Capital Improvement Surcharge - Sanitary Sewer Exhibit 2



0 100 200 Feet  
March 12, 2013  
East Wayne City Utilities GIS  
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# Interoffice Memo

Date: November 14, 2013  
To: Common Council Members  
From: Kumar Menon, Director of Utilities *KM / HN*  
RE: **Ordinance Amending Chapter 51: Sewers  
City of Fort Wayne Code of Laws  
Reducing One (1) Capital Improvement Surcharge  
Reducing One (1) Area Connection Fee  
Correcting scrivener's error.**

On November 6, 2013, the Board of Works approved modifying the capital improvement surcharge for the Deer Track area down from \$47.95 to the lower amount of \$42.00 per month per equivalent single customer. In addition, the Board of Works approved to reduce the area connection fee for the same area from \$5,000 to the lower amount of \$2,950 per equivalent single customer. These reductions are made possible due to increased demand for housing in this area providing for a larger base of customers to distribute the cost of the necessary improvements. Lastly, the Board approved to correct a scrivener's error contained in a Board of Works Resolution regarding a listing of other existing capital improvement surcharges.

The Board of Works and City Utilities seeks the Council's concurrence and approval with the Board's action and recommendations so that a capital improvement surcharges and the area connection fee may be reduced and remaining surcharges be clarified.

CC: BOW  
Diane Brown

Public Hearing Date, if applicable \_\_\_\_\_

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

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____
BENDER	<u>✓</u>	_____	_____	_____
CRAWFORD	<u>✓</u>	_____	_____	_____
DIDIER	<u>✓</u>	_____	_____	_____
HARPER	<u>✓</u>	_____	_____	_____
HINES	<u>✓</u>	_____	_____	_____
JEHL	<u>✓</u>	_____	_____	_____
PADDOCK	<u>✓</u>	_____	_____	_____
SHOAF	<u>✓</u>	_____	_____	_____
SMITH	<u>✓</u>	_____	_____	_____

DATED: 12-17-13 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. 0-25-13 on the 18<sup>th</sup> day of  
December, 2013

ATTEST:  
Sandra E. Kennedy  
SANDRA E. KENNEDY,  
CITY CLERK

T. Thomas F. Didier  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 18<sup>th</sup> day  
of December, 2013, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 20<sup>th</sup> day of December  
2013, at the hour of 8:00 o'clock AM E.S.T.

Thomas C. Henry  
THOMAS C. HENRY, MAYOR

BILL NO. G-13-11-12 (AS AMENDED)

**REPORT OF COMMITTEE ON REGULATIONS**

**DECEMBER 10, 2013**

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

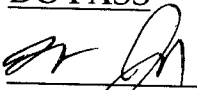

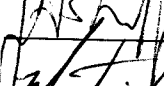


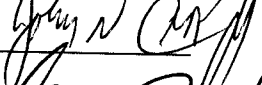


**AN ORDINANCE** amending Chapter 51 of the City of Fort Wayne Code of Laws.  
**COMMITTEE ON REGULATION** have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

DO PASS

DO NOT PASS

ABSTAIN

NO REC

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SANDRA E. KENNEDY  
CITY CLERK