

**MICHIGAN CITY COMMON COUNCIL**

**ORDINANCE NO. 4212**

**AMENDING THE MUNICIPAL CODE TO AMEND SEWER USER FEES AND CHARGES TO BE COLLECTED BY THE MICHIGAN CITY SANITARY DISTRICT FOR THE COLLECTION AND TREATMENT OF SEWAGE AND RELATED SERVICES AND MAKING OTHER CONFORMING AMENDMENTS**

**WHEREAS**, the Sanitary District (“District”) of Michigan City, Indiana, a special taxing district, owns and operates its sewage works by and through the Board of Sanitary Commissioners (“the Board”) for the collection and treatment of sewage and other wastes (“sewage works”) pursuant to I.C. 36-9-25, et seq.;

**WHEREAS**, I.C. 36-9-25-11 provides that the Board set the sewer user fees and charges (“fees”) to cover all of the costs of collection and treatment of sewage and other waste discharged into the District’s sewage collection system, and it further authorizes the Board to amend those fees to meet the District’s obligation to insure that such fees must at all times be sufficient to produce revenue to pay operation, maintenance, and administrative expenses, to pay the principal and interest on bonds as they become due and payable, and to provide money for extensions and replacements;

**WHEREAS**, the Board has previously set said fees by adopting appropriate resolutions and forwarding those resolutions to the Michigan City Common Council for their approval;

**WHEREAS**, the current sewer user fees and charges approved by the Michigan City Common Council by Ordinance No. 3941 on December 3, 2004 and codified at Sections 98-354, 50-505, and 50-506 in the Michigan City Municipal Code, do not generate revenue sufficient to pay operation, maintenance, and administrative expenses of the sewage works and to pay the principal and interest on any outstanding revenue obligations of the Sanitary District as they become due and payable;

**WHEREAS**, the District operates under the terms and conditions of a National Pollution Discharge Elimination Permit (NPDES Permit) which, among other things, requires the District to keep its facilities and equipment in good working order, to operate those facilities and the equipment properly, to implement an appropriate industrial pretreatment program, and that the District’s discharge to Trail Creek not exceed specific mass and concentration limits for certain pollutants identified in the NPDES Permit;

**WHEREAS**, due to the District failure in the recent past to meet certain federal and state legal requirements concerning its operations, including those in its NPDES Permit, the District is currently under an Agreed Order with the Indiana Department of Environmental Management (IDEM) requiring numerous and substantial improvements to the District’s facilities within the next several years or face severe fines for failing to do so;

**WHEREAS**, due to the District’s failure in the recent past to meet certain federal requirements for storing and handling of hazardous gases, the District is currently under a Consent Agreement and Order with the United States Environmental Protection Agency (EPA), which requires prompt substantial improvements to the District’s gas handling and storage facilities or face severe fines for failing to do so;

**WHEREAS**, the District’s current revenues do not meet the costs of meeting the fulfilling all of the requirements of its NPDES Permit, the IDEM Agreed Order, the EPA Consent Agreement and Final Order (CAFO), and other applicable federal and state laws, rules, and regulations, an increase in fees is required to meet the District’s responsibilities imposed thereunder;

**WHEREAS**, based upon the Board’s report from its financial consultant, Cender & Associates dated October 3, 2012, the District’s attorney, James Meyer, and the General Manager, Michael Kuss, the Board introduced at a meeting on October 24, 2012, a resolution entitled “*Modifying Sewer User Fees for the Collection and Treatment of Sewage by the Michigan City Sanitary District*” (A copy of said resolution is attached hereto and incorporated herein as “Exhibit A”);

**WHEREAS**, the Board authorized the publication of a notice of public hearing for a hearing to be conducted on said resolution;

**WHEREAS**, notice of the public hearing was published consistent with I.C. 5-3-1, et seq., and the Board conducted the hearing at which all interest parties were provided the opportunity to be heard;

**WHEREAS**, following the hearing, the Board adopted the aforementioned resolution, which was numbered as Resolution No. 1311-12, finding that it is necessary to modify the existing fees in order to pay for

the foregoing costs and expenses as well as future improvements, additions, and extensions reasonably anticipated to be needed to be made to the District’s facilities;

**WHEREAS**, pursuant to I.C. 36-9-25-11(c), Indiana law requires the approval of the Michigan City Common Council before the amended fees can be implemented; and

**WHEREAS**, the Michigan City Common Council believes approving the amended fees and charges as proposed by the Sanitary District is in the best interests of the citizens of Michigan City, the City of Michigan City, and all of the customers of the Sanitary District.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Michigan City, Indiana, as follows:

1. The Common Council hereby finds that the existing sewer fees and charges for services rendered by the sewage works do not provide sufficient monies to pay for the operation, maintenance, administration, and financing of said sewage works and to pay the principal and interest on the outstanding revenue obligations of the Sanitary District as they become due and payable, and a general revision of the fees and charges is necessary to accomplish these purpose.
2. The Common Council hereby finds that the amendments to the sewer user fees and charges, as approved by the Sanitary Board by Resolution No. 1311-12 entitled “*Modifying Sewer User Fees for the Collection and Treatment of Sewage by the Michigan City Sanitary District*” (A copy of said resolution is attached hereto and incorporated herein as “Exhibit A”) are just and equitable, and are necessary to pay for the operation, maintenance, administration, and financing of Sanitary District's facilities; to pay the principle and interest on the outstanding revenue bonds of the Sanitary District as they become due and payable; and to provide funds for facility improvements and equipment replacement, and the Common Council hereby approves said amendments pursuant to I.C. 36-9-25-11(b) and (c).
3. The following definition shall be added to Sec. 98-221 entitled “Definitions:”

*CBOD* means carbonaceous biochemical oxygen demand which measures the quantity of oxygen utilized in the biochemical oxidation of organic or carbon compounds while inhibiting the nitrogenous oxygen demand under standard laboratory conditions and by using Standard Method analytical procedures in accordance with 40 CFR 136, in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter (mg/l).

4. The following sections of the Michigan City Municipal Code are hereby amended to read as follows:

**Sec. 98-354. Rates for Excessive Strength Surcharge.**

The rate of surcharge, in addition to the volumetric charges, for carbonaceous biochemical oxygen demand (CBOD), suspended solids (SS), phosphorous, and ammonia nitrogen shall be as established in Section 50-505.

**Sec. 98-320(b)(4). Survey Fee; Excessive Strength Charges.**

- (4) The rate of surcharge, in addition to the volumetric charges, for carbonaceous biochemical oxygen demand (CBOD), suspended solids (SS), phosphorous, and ammonia nitrogen shall be as established in section 50-505.

**Sec. 50-505. Sewer Surcharge for Excessive Strength Waste.**

The rate of surcharge referred to in Section 98-354 and 98-320(b)(4) shall be as follows:

- (1) For carbonaceous biochemical oxygen demand (CBOD) in excess of 250 milligrams per liter, \$0.41 per pound.
- (2) For suspended solids in excess of 250 milligrams per liter, \$0.43 per pound.
- (3) For phosphorus in excess of six milligrams per liter, \$.42 per pound.
- (4) For ammonia nitrogen in excess of 20 milligrams per liter, \$.50 per pound.

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**Sec. 50-506. Monthly Sewer Charges.**

The charges referenced in section 98-355 are as follows:

(a) STANDARD CHARGES:

	<u>Monthly Rate:</u>
Base Charge (per month)	
Meter Size	
5/8"	\$ 15.73
3/4"	\$ 23.60
1"	\$ 39.33
1 1/2"	\$ 91.23
2"	\$ 157.30
3"	\$ 361.79
4"	\$ 629.20
6"	\$1,431.43
8"	\$2,548.26
12"	\$5,741.45

Flow Charge:

Tier I-For first 1,200 CCF, Per 100 cu. ft.:	
Inside	\$ 2.70
Outside (Treatment rate plus debt rate times 160%)	\$ 3.08
Tier II-For flow in excess of 1,200 CCF, Per 100 cu. ft.:	
Inside	\$ 7.65
Outside (Treatment rate plus debt rate times 160%)	\$ 8.81

Minimum Charge: All customers will be subject to a minimum monthly charge composed of the applicable base charge for their respective meter size plus 300 cu. ft. usage times Tier 1 rate (\$2.70 per CCF). [Eg. For a customer with a 5/8" water meter it is the Base Charge (\$15.73) plus 3 times Tier 1 rate of \$2.70/CCF (\$8.10) equals a \$23.83 Minimum Monthly Charge].

Customers on wells without water meters: Flat Monthly Fee based on a typical Sanitary District customer with a 5/8" meter and average residential usage of 7 CCF (5,236 gallons).

Inside Customer	\$ 34.63
Outside Customer	\$ 37.29

(b) PRETREATMENT CHARGES, INSPECTION AND ADMINISTRATIVE AND PERMIT FEES

Pretreatment Charge per Monitoring Event	\$ 350.00
Inspection and Administrative Charge	\$ 250.00
Permit Renewal Fee	\$ 1,500.00
New Permit Fee	\$ 2,500.00
Additional Investigative and Inspection Charge is at the rate of \$100 per hour.	

(c) SEPTAGE HAULERS (per gallon)

Regular	\$ 0.113
Holding Tank	\$ 0.057

**Sec. 98-345. Basis of flow charge.**

The sewer flow charge shall be based on the quantity of water as measured by the water meter used on or in the premises subject to such sewer charges, except as otherwise provided in this article. The sewage service bills shall be based upon the readings of water meters of the department of waterworks or other successor water utility by the City.

When deemed necessary by the General Manager to properly establish a customer's actual flow discharged to the Sanitary District, the billable flows of certain industrial and commercial customers including, but not limited to, the Indiana State Prison, the Michigan City Water Department, customers outside the Sanitary District, and contracted bulk customers shall be established by metering the discharge with one or more meters approved by the General Manager. Otherwise, the billed flow will be the metered water usage for the customer's premises.

**Sec. 98-355(c). Monthly charges; outside customers; summer credit; septage haulers; delinquency**

(c) *Summer sprinkling rate.* In order that the residential users of sewage service are not penalized for sprinkling their lawns during the months of May, June, July, August, September, and October, the billing for sewage service for residential users for the months of May, June, July, August, September, and October shall be based on an average of the water usage for the previous months of November, December, January, February, March, and April unless the actual usage for such months is 300 cubic feet per month or less in which case the monthly usage of 300 cubic feet will be used for each such month to calculate the summer sprinkling rate. If the average water usage for the previous months of November, December, January, February, March, and April is greater than the actual water usage for the month of May, June, July, August, September, or October, then the billing for sewage service for that month shall be based on the actual water used in the month for which the sewage service bill is being rendered, except that in no case shall the billed usage be less than 300 cubic feet per month. The summer sprinkling rate shall be available to each lot, parcel of real estate, or building that is occupied and used as a residence. The summer sprinkling rate shall not apply to any premises that are wholly or partially used for commercial or industrial purposes. If a portion of such premises is used for commercial or industrial purposes, the owner shall have the privilege of separating the water service so that the residential portion of the premises, and only the residential portion, is served through a separate water meter, and in such case the water usage as recorded by the water meter serving the only the residential portion of the premises would qualify for the summer sprinkling rate.

5. Any existing provision of the Michigan City Municipal Code in conflict with the provisions of this Ordinance is hereby repealed. Should any part of this Ordinance be found to be invalid by a court of competent jurisdiction that part shall be considered severed and the remaining provisions of this Ordinance shall remain in full force and effect.

This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance and is to be implemented beginning with Michigan City Water Department's first complete billing cycle in 2013.

**INTRODUCED BY:** /s/ Marc Espar, President  
Michigan City Common Council

/s/ Richard Murphy, Member  
Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this 13<sup>th</sup> day of December, 2012 by a vote of 5 to 4.

/s/ Marc Espar, President  
Michigan City Common Council

Approved by me, this 14<sup>th</sup> day of December, 2012.

/s/ Ron Meer, Mayor  
City of Michigan City

ATTEST:

/s/ Gale Neulieb, Clerk  
City of Michigan City

*Prepared by City Attorney's Office Upon Request*