

Bill No. 43-22

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF SOUTH BEND, INDIANA, AMENDING VARIOUS
ARTICLES AND SECTIONS OF CHAPTER 17 OF THE
SOUTH BEND MUNICIPAL CODE TO ADDRESS LATE
FEES FOR CITY UTILITY CUSTOMERS AND
RENAMING THE “LOW-INCOME CUSTOMER
ASSISTANCE PROGRAM” (LICAP) AS THE “UTILITY
ASSISTANCE PROGRAM” (UAP)**

STATEMENT OF PURPOSE AND INTENT

The City of South Bend owns and operates a water and sewer utility, and separate charges are imposed on the City’s utility customers whose account payments are delinquent. These charges are fixed in several Sections within Articles of Chapter 17 of the South Bend Municipal Code. The City also established in 2019 what was then titled a “Low-Income Customer Assistance Program” (LICAP) for qualified City utility customers based on their income. (Ordinance 10688-19 passed on October 28, 2019), and as amended by Ord. No. 10797-21, passed on August 9, 2021).

Safe water, sewer, and their related services are essential to health and welfare of City residents. Low-income persons are acutely vulnerable to loss of utility service for reasons beyond their control which consequently endangers the health and welfare of the City’s young, elderly, and disabled persons. To reduce risk of loss of utility service to lower income City utility customers, this ordinance enacts changes within Chapter 17 of the South Bend Municipal Code. The changes include removal of penalties and other adverse consequences of non-payment or delinquency of utility bills by persons enrolled in what was previously known as the “Low-Income Customer Assistance Program” (LICAP) at Article 15 of Chapter 17. This ordinance further renames that program as the “Utility Assistance Program” (UAP).

Amending various Sections of the South Bend Municipal Code at Chapter 17 as set out in this ordinance is in the best interest of the City and its residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE
CITY OF SOUTH BEND** as follows:

SECTION I . Chapter 17, Article 15, of the Municipal Code of the City of South Bend, Indiana shall be amended to read in its entirety as follows:

ARTICLE 15. ~~LOW-INCOME~~ UTILITY ASSISTANCE PROGRAM—ESTABLISHED

Sec. 17-130. Findings and purpose.

In order to address the public health obligation to provide affordable water and sewer services to low-income customers, while still maintaining sustainable finances, the City of South Bend ~~will implemented in 2019~~ a rate-payer funded program to assist low-income customers of the City utilities originally known as the Low Income Customer Assistance Program (LICAP). Since 2019, within the Public Works Department and throughout the City, the program has been referred to simply as the Utility Assistance Program (UAP) which shall be its official name. A charge shall be assessed against every City of South Bend sewer rate-payer in order to provide a ~~LICAP~~ UAP credit for qualifying low-income non-industrial sewer customers. Qualification and verification shall be performed by members of the City's staff or local community action partners, as determined by the City. The credit shall be applied for a period of twelve (12) months with annual renewal possible. This charge is deemed reasonable and necessary for its intended purpose. The rates established in this Article shall remain effective until replaced, amended, or repealed by the South Bend Common Council.

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)

Sec. 17-131. Definitions.

Unless otherwise defined in this Ordinance, the terms and phrases shall be defined as follows:

- (a) *City* means the City of South Bend, Indiana.
- (b) *Customer* means the owner or tenant of a single-unit residential property or a multi-unit residential property up to four (4) units, in whose name the bill for wastewater charges for such property is issued by the City; or where the tenant attests they occupy the Residential Property as a primary residence and have made the application with the consent of their landlord
- (c) ~~Low-Income Customer~~ Utility Assistance Program Credit means the credit for wastewater charges provided under Section 17-133 of this Article.
- (d) ~~Eligible Low-Income Customer~~ Utility Assistance Program Customer means an eligible customer as defined in Section 17-134 of this Article.
- (e) *Multi-Unit Residential Property* means property used only for human residency which consists of no more than four (4) dwelling units with each one occupied as a primary residence by a single person or single family.
- (f) *Single-Unit Residential Property* means property used only for human residency which consists of a single dwelling unit occupied as a primary residence by a single person or single family.
- (g) UAP means the Utility Assistance Program established by this Article.
- ~~(g)~~ (h) Wastewater Charges means the wastewater user charges established by City Ordinance for use of its wastewater system.

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)

Sec. 17-132. Sewer charge.

The sewer charge fee is set for the purpose of offsetting the ~~LIC~~ UAP Credit. The sewer charge fee shall be One Dollar and Seventy-Five Cents (\$1.75) per Month charged through December 31, 2022, One Dollar and Eighty-Nine Cents (\$1.89) per month charged from January 1, 2023 through December 31, 2023, Two Dollars and Three Cents (\$2.03) per month charged from January 1, 2024 through December 31, 2024, and Two Dollars and Eighteen Cents (\$2.18) per month charged from January 1, 2025 and beyond per wastewater Customer account. This charge will be reviewed on the same basis as all other rates and charges in this Chapter.

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)

Sec. 17-133. ~~Low-Income-Customer~~ Utility Assistance Program (UAP) Credit.

A ~~LIC~~ UAP credit shall be available to Eligible Customers of the City who are billed for wastewater charges as provided for in this Ordinance effective January 1, 2022. ~~The current LIC AP credits shall remain in effect until the new rates are established on January 1, 2022.~~ The amount of such credit will be applied for the applicable billing cycle as follows:

Income Eligibility Cutoffs as a Percentage of Area Median Income (AMI)*	Credit Amount
>60%—80% of AMI	\$8.00
>45%—60% of AMI	\$14.25
>30%—45% of AMI	\$19.25
>0%—30% of AMI	\$25.50

* Area Median Income means the median income for the South Bend—Mishawaka IN HUD Metro Area as adjusted for family size and as determined annually by the United States Department of Housing and Urban Development (HUD).

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)

Sec. 17-134. Eligible customer.

In order for a Customer to be eligible, the Customer must satisfy each of the following criteria:

- (a) Must own or occupy as a primary residence a Single-Unit Residential Property or a Multi-Unit Residential Property.
- (b) The bill for wastewater charges must either be in applicant's name or the tenant must attest that they occupy the Residential Property as a primary residence and have made the application with the consent of their landlord.
- ~~(b)~~ (c) Customer's annual household income must be at or below the levels established in above Section 17-133.

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)

Sec. 17-135. Application procedure.

- (a) A Customer seeking assistance from the City's ~~LIC~~ UAP must complete an application and return the application, along with any requested supporting documentation, to the City. ~~of South Bend.~~
- (b) Eligible Customers will receive the ~~LIC~~ UAP Credit for a period of twelve (12) months.
- (c) In order to re-enroll in ~~LIC~~ UAP, the Customer must annually complete either an attestation that their address, household income, and number of household members have not changed or a new application in the event that an applicant's address, household income, or number of household members have changed.

(Ord. No. 10797-21 , § V, 8-9-21)

Sec. 17-136. Rules and Regulations and Termination of Program.

The City shall promulgate such rules, regulations, written policy, forms and other documentation as deemed necessary to effectuate the ~~LIC~~ UAP. The City reserves the right to discontinue the ~~LIC~~ UAP upon a determination that the costs of the Program have become prohibitive or the City otherwise determines that it is in the best interest of the City to discontinue the ~~LIC~~ UAP.

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)Editor's note(s)—Ord. No 10797-21, § V, adopted Aug. 9, 2021, repealed the former § 17-136 and renumbered § 17-137 as § 17-136. The former § 17-136 pertained to review of denial of eligibility and derived from Ord. No. 10688-19 , § I, adopted Oct. 28, 2019.

Secs. 17-137—17-139 Reserved.

SECTION II . Chapter 17, Division 4, Section 17-24 of the Municipal Code of the City of South Bend, Indiana shall be amended to read in its entirety as follows:

DIVISION 4. SCHEDULE OF RATES AND CHARGES

Sec. 17-24.- Preparation and collection of charges.

- (a) Such rates and charges shall be prepared, billed and collected by the City in the manner provided by law and ordinance.
- (b) The rates and charges for all users shall be prepared and billed monthly. Annually, each user shall be notified of the portion of the total billing charged for operation, maintenance and replacement for that user during the preceding year.
- (c) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way

relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the City for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.

(d) As is provided by statute, ~~all~~ rates and charges not paid within five (5) days of the due date as stated in such bill are hereby declared to be delinquent and a penalty of ten (10) percent of the amount of the rates and charges shall thereupon attach thereto. Customers enrolled in the Utility Assistance Program will not be assessed a penalty for any charges that are not paid on time, and late payment penalties may be waived for customers enrolled in certain deferred payment plans.

(Ord. No. 7942-88, § 1)

SECTION III . Chapter 17, Article 4, Section 17-46 of the Municipal Code of the City of South Bend, Indiana shall be amended to read in its entirety as follows:

ARTICLE 4 WATER RATES AND CHARGES

Sec. 17-46.- Collection or deferred payment charge.

~~All bills~~ Bills for water services, not paid within five (5) days from the due date thereof, as stated in such bills, shall be subject to a collection or deferred payment charge of ten percent (10%) of the first three dollars (\$3.00) of the water charge and three percent (3%) on any amount in excess of three dollars (\$3.00) of the water charge. All bills for water services which are turned over to a collection agency shall be subject to a collection charge equal to twenty percent (20%) of the unpaid bill. Customers enrolled in the Utility Assistance Program will not be assessed penalties for bills that are not paid on time, and late payment penalties may be waived for customers enrolled in certain deferred payment plans.

SECTION IV . Chapter 17, Article 6, Sections 17-51 and 17-52 of the Municipal Code of the City of South Bend, Indiana shall be amended to read in its entirety as follows:

ARTICLE 6. -WATER SERVICE FUND AND CHARGES

Sec. 17-51. -Limitation on use of funds.

Water sprinkler service shall ~~not~~ be insured under this ~~article~~-Article; however, sprinkler coverage hereunder shall only extend from the water main to the property line. ~~if~~ If the domestic service line is less than two (2) inches and has a lawn-sprinkler connection tee in it, said domestic service line and the tee will be insured, but not beyond the tee nor any costs of repair to the lawn-sprinkler system proper.

Sec. 17-52. -Use of funds when accounts delinquent prohibited.

The insurance for repair and/or replacement shall not be in force on any account if the charge for such insurance has not been paid for four (4) consecutive months. The City reserves the right to waive this provision in the event of disasters, emergencies, or similar public health concerns. For accounts enrolled in the Utility Assistance Program, the insurance for repair or replacement shall remain in effect despite late payments for any period. Accounts enrolled in certain deferred payment plans may also be entitled to retain insurance for repair or replacement despite late payments.

SECTION V . Chapter 17, Article 7, Section 17-63 of the Municipal Code of the City of South Bend, Indiana shall be amended to read in its entirety as follows:

ARTICLE 7.- SEWER SERVICE FUND AND CHARGES

Sec. 17-63.- Use of funds when accounts delinquent prohibited—exceptions.

The insurance of repair and/or replacement shall not be in force on any account if the charge for such insurance is delinquent for one hundred twenty (120) days. The City reserves the right to waive this provision in the event of disasters, emergencies or similar public health concerns. For accounts enrolled in the Utility Assistance Program, the insurance for repair or replacement shall remain in effect despite late payments for any period. Accounts enrolled in certain deferred payment plans may also be entitled to retain insurance for repair or replacement despite delinquency.

SECTION VI. Chapter 17, Article 14, Section 17-129 shall be amended to read in its entirety as follows:

Sec. 17-129. - Collection of storm water user fees.

- (a) The collection of the storm water user fees authorized by this ~~Article~~ article shall be effectuated by a monthly charge on a bill to be sent to the affected property owner. The City may designate any agency within the Department of Public Works to handle billing for the storm water user fees assessed under this ~~article~~ Article.
- (b) If the storm water user fee is not paid when due, a late payment penalty shall be charged and assessed by the designated South Bend billing agency consistent with Indiana ~~Law~~ law for storm water utilities (IC 8-1.5-5-29, 8-1.5-5-30) at the rate of ten percent (10%) of the unpaid bill.
- (c) If storm water user fees and penalties are not paid when due, they shall be collected by South Bend in the same manner that other delinquent fees and penalties are charged and assessed consistent with Indiana ~~Law~~ law.
- (d) Late penalties shall not be assessed against customers who are currently enrolled in the Utility Assistance Program, and may be waived on balances of customers in certain deferred payment plans.

SECTION VII. The paragraphs, sentences and words of this Ordinance are severable, and if any portion hereof is declared unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such declaration shall not affect the remaining portions of this Ordinance.

SECTION VIII. This Ordinance shall take effect upon its passage by this Common Council approval by the Mayor, any publication required by law, and any approval required by the Indiana Utility Regulatory Commission (IURC).

Sharon McBride, President,
Common Council of the City of South Bend

ATTEST:

Dawn Jones, Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City for his approval on the _____ day of _____, 2022, at _____ o'clock _____.m.

Dawn Jones, Clerk

Having examined the foregoing Ordinance, I do now, as the Mayor of the City of South Bend, approve said Ordinance and return the same to the Clerk of the City of South Bend this _____ day of _____, 2022.

James Mueller, Mayor