

SPONSOR: ROBERT J. GOLEC

ORNINANCE NO. 7675

AN ORDINANCE REPEALING ORDINANCE #7442, AND ESTABLISHING AN ANNUAL OPERATION PERMIT FEE FOR INDUSTRIAL FURNACES OR BOILERS THAT BURN HAZARDOUS WASTE AND AMENDING ORDINANCE #3522 BEING ENTITLED "AN ORDINANCE TO REGULATE SMOKE AND CONTROL AIR QUALITY WITHING THE CITY OF HAMMOND, INDIANA" PASSED BY THE COMMON COUNCIL ON THE 23rd DAY OF JANUARY 1967 AND APPROVED BY THE MAYOR ON THE 30th DAY OF JANUARY 1967, AND AMENDING ORDINANCE #4621 BEING ENTITLED "AN ORDINANCE SETTING FEES FOR AIR POLLUTION CONTROL PERMITS WITHIN THE CITY OF HAMMOND, INDIANA PASSED BY THE COMMON COUNCIL ON THE 23rd DAY OF JUNE 1980 AND APPROVED BY THE MAYOR ON THE 24th DAY OF JUNE 1980, AND AMENDING ORDINANCE #7102 BEING ENTITLED "AN ORDINANCE ESTABLISHING A DEPARTMENT OF ENVIRONMENTAL MANAGMENET WITH AN AIR POLLUTION CONTROL DIVISION AND A SOLID WASTE, WATER AND NOISE POLLUTION DIVISION IN THE CITY OF HAMMOND, INDIANA" PASSED BY THE COMMON COUNCIL ON THE 19th DAY OF DECEMBER 1988 AND APPROVED BY THE MAYOR ON THE 21st DAY OF DECEMBER 1988. (AS AMENDED)

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Hammond, Indiana:

That existing Ordinance #7442 is here by repealed in its entirety.

SECTION 1. That Article III Section 3.2 of Ordinance 7102 is hereby amended to include the following and Article V Section 5.2 of Ordinance 3522 and Section 5.2 (Operation Permits) of Ordinance 4621 shall be Amended to read as follows:

SECTION 5.2 OPERATION PERMITS

a. A charge of \$200.00 per permit shall be assessed for the Department's issuance thereof for each fuel burning

unit, combustion unit, incineration unit, process unit, air pollution control unit, storage tank for petroleum products or volatile products per unit or tank or other such equipment, except as provided below.

b. However, any Industrial Furnace or Boiler that burns hazardous waste, as that term may be defined by 40 CFR 261 or incorporated in 329 IAC § 3.1-6, shall be required to pay an Annual Operation Permit Fee of Forty Six Thousand Seven Hundred Eighteen Dollars (\$46,718,00), for calendar year 1994, to cover the cost of monitoring (35 hours per week) said operation of the facility containing the Industrial Furnace or Boiler, and any additional duties related to the facility under the jurisdiction of the Hammond Department of Environmental Management.

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Said Operation Permit Fee, in subsequent calendar years during which calendar year the Industrial Furnace or Boiler is engaged in burning of hazardous waste, as that term may be defined by 40 CFR 261 or 329 IAC § 3.1-6 shall be determined by those costs itemized as part of the Hammond Department of Environmental Management budget, which shall be submitted by the Hammond Department of Environmental Management to the Mayor and approved by the Hammond City Council for each calendar budget period. Said Operation Permit Fee shall cover the cost of an engineer's salary, fringe benefits, and other specific costs related to the monitoring of the Industrial Furnace or Boiler that burns Hazardous Waste under this ordinance, including but not limited to appropriate equipment and baseline medical examinations. However, in no case shall any proposed or budgeted increase in the subsequent Operation Permit Fee be more than the annual percentage increase awarded to other comparable employees of the City of Hammond. Should a facility begin operations pursuant to a permit issued after January 1 of the calendar year, the annual Operation Permit Fee shall be pro-rated from the date of issuance of the permit.

c. Any engineer hired pursuant to the provisions of subsection b shall be a person with a four-year degree in engineering or life sciences and shall sign the following Restrictive Covenant Agreement for the benefit of both the Hammond Department of Environmental Management and any Permit Holder so as to protect the confidential information, trade secrets and marketing data of the Permit Holders:

"In consideration of the confidential information and trade secrets and marketing information and knowledge that I will obtain as an employee of the Hammond Department of Environmental Management regarding the business affairs, trade secrets and marketing activities of any permit Holder, I do hereby agree to maintain same in strict confidence and I shall not enter into any employment or with any business which is competitive to any Permit Holder to which I am assigned and I will not seek or accept employment with any business, whether a proprietorship, partnership or corporation, operating as an industrial furnace or industrial boiler that burns hazardous waste and this Restrictive Covenant shall apply for a period of three (3) years from the date of termination of my employment with the Hammond Department of Environmental Management and shall geographically include any business or employment based or located within a Five Hundred (500) mile radius of the boundary

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of the City of Hammond, Indiana or any city or county in the United States in which the Permit Holder shall have a plant or business operation involving an industrial furnace or industrial boiler that burns hazardous waste. This Restrictive Covenant is executed as part of my employment agreement with the Hammond Department of Environmental Management and shall be enforceable by the Hammond Department of Environmental Management or any Permit Holder to whom I am assigned and shall remain a condition of my employment and an obligation and covenant not to work for, own or operate a competing business and as heretofore set

forth and defined after termination of my employment with the Hammond Department of Environmental Management."

d. Any Permit Holder subject to the provisions of subsection b above shall be furnished in a timely manner with copies of all time records and draft inspection reports prepared by the monitoring engineer and shall receive in advance of their distribution any reports submitted to the Indiana Department of Environmental Management - Office of Air Management or any other governmental agency. In addition, at the request of an authorized representative of the Permit Holder, the monitoring engineer shall review any preliminary observations of deficiencies, as well as any preliminary opinions and conclusions made during the inspection, prior to leaving the facility.

e. The monitoring activities of the Hammond Department of Environmental Management engineer may be conducted on the premises of the Industrial Furnace or Boiler subject to this Ordinance but such monitoring on the premises of the facility shall be:

1. performed only following a two (2) business-hour verbal notice to the company and during normal Hammond Department of Environmental Management business hours unless the monitoring engineer is conducting an inspection as a result of a complaint, malfunction, spill, or violation investigation.

2. done at all times in company with an authorized representative of the owner or operator, which the owner or operator is obligated to provide.

3. performed only after the owner or operator has received and approved verification that the engineer has received any and all necessary training required under 29 CFR 1910.120 and 29 CFR 1910.1200 and medical reviews and personal protective equipment, and has been instructed in the appropriate use of such personal protective equipment, as required by appropriate federal or state regulations or facility policies for individuals who may be physically

present for up to thirty five hours per week in areas where hazardous wastes are being received or handled.

4. in compliance with all facility policies and procedures, which do not conflict with governing Indiana law, relating to security, site access and any other established policies, procedures and rules established for the safety and convenience of facility employees and for visitors, which do not conflict with governing Indiana law. However, the company will not adopt and/or alter its policies and procedures to preclude the inspector from carrying out the intent of this ordinance.

f. In addition to the annual Operation Permit Fee identified above, the owner or operator of the Industrial furnace or Boiler shall within three (3) months from the issuance of the initial permit pursuant to this ordinance, fund the purchase of, or donate, a van and air monitoring equipment to the City of Hammond, the specifications for which shall be established by the Hammond Department of Environmental Management, to be utilized by the Hammond Department of Environmental Management for the purpose of performing periodic monitoring of the ambient air in the City of Hammond. The total cost of such van and air monitoring equipment shall not exceed \$78,000.00.

g. Whoever violates any provisions of this Ordinance shall be subject to a fine not to exceed \$2,500.00 per offense. Every day on which a violation occurs shall constitute a separate offense.

h. If any part or parts, section or subsection, sentence, clause, or phrase of this ordinance, as now or later amended, for any reason is declared unconstitutional or invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

BE IT FURTHER ORDAINED by the Common Council that this ordinance shall have full force and effect from and after its passage and approval by the Council, signing by the

President thereof, approval by the Mayor and publication as required by law.

/s/ BERNADETE COSTA, President
Common Council

ATTEST:

/s/ GERALD BOBOS, City Clerk
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PRESENTED BY ME, the undersigned City Clerk of the City of Hammond to the Mayor of said City for his approval on the 26th day of April, 1994.

/s/ GERALD BOBOS, City Clerk

The foregoing Ordinance No. 7675 consisting of five (5) typewritten pages, including this page was Adopted by the Mayor on the 27th day of April, 1994.

/s/ DUANE W. DEDELOW, JR., Mayor
City of Hammond, Indiana

PASSED by the Common Council on the 25th day of April, 1994, and Adopted by the Mayor on the 27th day of April, 1994.

/s/ GERALD BOBOS, City Clerk