

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

08-086-0

AS AMENDED

ORDINANCE NO. _____

AN ORDINANCE PERTAINING TO ALLOCATION OF INCREASED PILOT FUNDS, AMENDING SECTION 48-28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

BY COUNCILOR STAUBER:

The city of Duluth does ordain:

Section 1. That Section 48-28 of the Duluth City Code 1959, as amended, is hereby amended to read as follows:

Sec. 48-28. Disposition of money collected under chapter.

(a) Except as provided for in subsections (b) and (c) below,
~~a~~All money collected or recovered under the provisions of this Chapter shall be paid into the water and gas fund for the benefit and use of the department or by resolution of the city council for the benefit and use of the city;

(b) For the purposes of this Section, the following terms shall have the meanings hereinafter ascribed to them:

(1) PILOT shall mean those funds authorized to be transferred out of the gas division account in any year pursuant to the authority of Laws, 1951, Chapter 507, Section 1, as amended by Laws 1993, Chapter 148, Section 1;

(2) Base PILOT shall mean the PILOT from the calendar year preceding the year in which the current PILOT is to be determined. For the year 2008 only, the base PILOT shall be deemed to have been \$4,000,000;

(3) Current PILOT shall mean the PILOT for the year then current;

(4) Incremental PILOT shall mean the difference between the base PILOT and the current PILOT in any year;

~~(5) Nonrate payer revenues. Nonrate payer revenues shall mean revenues arising from any source other than directly out~~

~~of the sale of gas;~~

(c) Nothing to the contrary in the foregoing ~~withstanding~~ and ~~subject to the provisions of subsections (d) and (e) below~~, the incremental PILOT shall be deposited and used as follows:

(1) ~~At least t~~The amount of the incremental PILOT, up to an amount equal to the amount of the funds transferred in the preceding year base PILOT times the increase from the preceding year in the consumer price index for all urban consumers (CPI-U), for U.S. city average (1982-84 = 100) issued by the bureau of labor statistics of the U.S. department of labor or its successor index, shall be deposited in the general fund of the city;

(2) ~~At least an amount equal to ten percent of t~~The remaining amount of the incremental PILOT ~~increase~~ in excess of the amount determined in sub-subsection (1) above, if any, shall be deposited in the other post employment benefits-retiree healthcare fund;

~~(3) No more than an amount equal to five percent of the amount of the incremental PILOT increase in excess of the amount determined in sub-subsection (1) above shall be deposited in the home energy conservation loan program fund;~~

~~(4) The remainder of the amount of the incremental PILOT, after deduction for amounts used in accordance with subsections (1), (2) and (3) above, shall be rebated to the applicant responsible for paying the gas bills for each gas service on August 1 of the year following the year which gave rise to the funds available for such transfer. The amount of such rebate to any applicant shall be equal to an amount determined by multiplying the total amount of such remainder amount available for rebate multiplied times the amount of gas consumed at any service in the~~

~~subject year divided by the total amount of gas consumed by the city's gas system in said year;~~

~~—— (d) The city council may increase the amount deposited in the general fund pursuant to sub-subsection (1) above and may increase the amount deposited in the other post-employment benefits-retiree health care fund pursuant to sub-subsection (2) above in excess of the deposits authorized in those sub-subsections and may reduce the amount deposited in the home energy conservation loan program fund below the deposits authorized in sub-subsection (3) by resolution;~~

~~—— (e) Nothing to the contrary in this section withstanding, the council may by resolution increase the amount of the incremental PILOT transferred to the general fund up to the entire amount of the incremental PILOT to the extent that it allocates an equal or greater amount of nonrate payer revenues to the uses specified in subsection (c), sub-subsections (2) , (3) and (4) above.~~

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is provide for a fall-back allocation plan for use of PILOT fees resulting from market increases in the price of natural gas.

The Legislature has authorized the City to use a portion of the proceeds of the sale of natural gas for purposes other than the direct support of the utility. The fees, know as PILOT (an acronym standing for "payment in lieu of taxes") fees, are authorized to stand in the place of fees that the city would be entitled to collect from a private utility company with similar operations in the city.

The gas utility for the city makes a PILOT fee to the general fund each year in the amount of 7% of its sales based upon MN State Statute. In addition, the city of Duluth charges a 1% sales tax on the sale of gas. If the price of gas increases, so do both these payments to the general fund. The gas utility also enjoys a profit nearly every year.

The price of natural gas and these additional charges have a devastating effect on consumers in the city where many are seeing nearly double the cost of heating their homes in just a few years. Also, energy assistance that targets low and moderate income homes is at an all time low in terms of available BTU's, all at a time when the city is enjoying windfall profits on the sale of gas.

On December 19, 2005, the city council unanimously adopted all recommendations of the Retiree Health Care Task Force including recommendation number 13 increasing PILOT for the benefit of funding the Annual Required Contribution (ARC) for OPEB. To date this has not happened. These "windfall" profits should be invested in the OPEB.