



Issue: First Reading Council Bill #2022-073 Amending Chapter 22, Article I

Date: 07.07.2022

Submitted By: Doug Colvin
Assistant City Administrator – Director, Nixa Utilities and Public Works

Background

As requested, this Council Bill proposes a change in City Code that would allow for customers in the soon-to-be-acquired RDE and Tuscany Hills water systems to consent to a future annexation to receive Inside City water and sewer rates.

Analysis

Current City Code has separate utility rates for customers served inside the city limits and those outside city limits. As required Chapter 22 of city code, customers outside the city pay a rate that is 1.5 X the regular rate for customers residing in town. Through discussions for the proposed purchase of the RDE water and Tuscany Hills water and sewer systems, council has request staff to bring this proposal as an option for those customers to lower their rate. This in turn also provides the city future opportunity for growth and additional economic development opportunities through future annexation of the area.

Technically, this bill modifies the current code to allow those customers within the area of the two companies to consent to future annexation into the city to receive the reduced rate. Currently, these customers are not eligible for annexation because their properties are not immediately adjacent to the city limits. At some point in the future as the city grows, the properties with the consent in place would automatically be annexed as their property meets the statute for eligibility.

Recommendation

Staff recommendation is for City Council to adopt this Council Bill upon second reading. Staff plans to bring this back for that second reading at the July 25th Council meeting. Until then, we are available to answer any questions and address any concerns you may have.

1 AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER
 2 22, ARTICLE I, OF THE NIXA CITY CODE BY ADDING THERETO A NEW SECTION
 3 AND AMENDING THE CITY’S TECHNICAL SPECIFICATIONS MANUAL TO PROVIDE
 4 FOR AN EXEMPTION FROM OUTSIDE THE CITY LIMIT WATER AND SEWER
 5 RATES.
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 8 WHEREAS with the City’s anticipated acquisition of the RDE and Tuscany Hills
 9 water and sewer systems, the City Council directed staff to prepare amendments to the
 10 City Code and Ordinances to provide an exemption increase in water and sewer rates for
 11 utility users outside the City limits for users in these systems provided that they provide
 12 an irrevocable consent to voluntary annexation to the City; and
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14 WHEREAS staff have prepared the amendments to the City Code and the City’s
 15 Technical Specifications Manual contained herein; and
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17 WHEREAS the City Council, after considering the amendments contained herein,
 18 desires to approve and adopt this Council Bill.
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20 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
 21 NIXA, AS FOLLOWS, THAT:
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23 SECTION 1: Chapter 22, Article I, of the Nixa City Code is hereby amended by
 24 adding thereto a new Section 22-1, which said section shall read as follows:
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26 (Note: Language to be added is indicated by being underlined. Language to be removed
 27 is indicated by being ~~stricken~~.)
 28

29 Sec. 22-1. – Municipal utility service area – Generally; Water and sewer service provided
 30 outside City limits – When; Exemption for certain utility fees upon application.
 31

32 (a) Area of service – City limits. The City shall operate and furnish City owned municipal
 33 utility services within the corporate limits of the City. Nothing herein shall be construed
 34 as preventing the City from purchasing, leasing, erecting, installing, or otherwise
 35 acquiring real and personal property necessary, useful, or desirable to conduct its
 36 municipal utility operations at any location, whether within or outside the corporate
 37 limits of the City.
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39 (b) Provision of water and sewer service outside the City limits – Exemption. The City
 40 may furnish municipal water and sewer service to users located outside the corporate
 41 limits of the City provided that such users were provided such utility services by either
 42 Rex Deffenderfer Enterprises, Inc., CTW Waterworks Regional Not for Profit Water
 43 Company, Inc., or Tuscany Hills Regional Sewer District, Inc. on the day of acquisition
 44 of these systems by the City.
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46 (c) Water and sewer fees – Exemption to increased rate for service outside City limits.
47 Where the City charges an increased rate for the provision of water or sewer service
48 to properties lying outside the City limits, those properties lying within the areas
49 described in Sec. 22-1(b) may be granted an exemption to the increased rate pursuant
50 to the following:

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52 (1) The fee owners of the property file an application with the City requesting an
53 exemption from the outside City limit water or sewer service rate.

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55 (2) The fee owners execute an irrevocable petition and consent to annex (“petition”)
56 requesting voluntary annexation into the City. Such petition shall be a covenant
57 running with the land and shall be binding on the fee owners, their successors, and
58 assigns. Said petition shall include a provision that, the City Council may, by
59 resolution, invoke the provisions of the petition and cause the property to be
60 annexed into the City provided that such annexation is in compliance with Missouri
61 law. The form of the petition and other supporting documents the City Attorney
62 deems necessary shall be reviewed and approved by the City Attorney prior to its
63 acceptance by the City.

64
65 (3) The petition is recorded among the appropriate land records of the County in which
66 the subject property is located.

67
68 (4) If at any point the petition is found invalid or is construed as not running with the
69 land, then the property shall no longer be exempt from the outside the City limit
70 water or sewer rate. It is expressly stated as the intent of the City Council that the
71 exemption from the outside the City limit rate is subject to the validity of said
72 petition and covenant.

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74 (5) The City Administrator shall administer the provisions of this section and is
75 authorized to establish additional rules and procedures regarding the
76 administration of this Section.

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78 **SECTION 2:** Article I of the City’s adopted Technical Specifications Manual is
79 hereby amended by repealing Article I in its entirety and adopting in lieu thereof a new
80 Article I, which said Article shall read as follows:

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82 (Note: Language to be added is indicated by being underlined. Language to be removed
83 is indicated by being ~~stricken~~.)

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85 TECHNICAL SPECIFICATIONS
86 ARTICLE I
87 GENERAL CONDITIONS

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89 Section 1. City of Nixa Extension Policies.

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91 A. REQUEST FOR CITY UTILITIES INSIDE THE CITY OF NIXA PLANNING AREA.

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1. ~~All properties within the designated planning area must be annexed into the City Limits of Nixa to access any City utility. Reserved.~~
2. ~~All properties within the designated planning area will be considered for annexation upon request if state statute requirements are fulfilled. Reserved.~~
3. All existing structures annexed into the city limits of Nixa will be required to pay the fees for wastewater as per voter approved guidelines.
4. It will be the responsibility of the annexation petitioner to determine zoning requirements and fee structures.
5. The petitioner must be the legal representative for the property owner and the petitioner may withdraw the annexation by a written and notarized request up to the time of the passage of the annexation ordinance.
6. All building and development plans under consideration at the time of annexation must be submitted for City staff review. Staff will review the request within a 30-day time frame.
7. Any building and development that is underway at the time of annexation shall conform to all current City Codes.
8. The City may reimburse the developer for any requested increase in lift station or line capacity that is over the size required by the State Department of Natural Resources. Lift station capacity and line sizing shall be approved by the City and its consulting engineer. Provided reimbursement is considered, the amount will be determined by computing the difference between the bids for the required versus requested improvements. The City reserves the right to reject any or all bids.
9. All street, stormwater, electric, water and wastewater extensions, whether internal or external to development shall be the sole expense of the party requesting the street and/or utility unless otherwise approved by the Board of Aldermen.
10. Off-street improvements may be required by the City. City staff will review traffic and road conditions, change in classification and potential traffic hazards. Off-street road improvements and upgrades will meet City Street Specifications and will be the responsibility of the developer. When necessary, City may require the developer to supply a professional traffic study to determine offsite needs.
11. The City encourages the formation of neighborhood improvement districts to pay for infrastructure improvements within the planning area.

~~B. REQUEST FOR CITY UTILITIES OUTSIDE THE CITY OF NIXA PLANNING AREA~~

- 138 ~~1. All developments must be built to City of Nixa Development Standards.~~
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140 ~~2. All developments must contractually agree to pay the fees for wastewater capacity~~
141 ~~as per voter approved guidelines.~~
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143 ~~3. All developments must be approved by the Department of Natural Resources~~
144 ~~before construction begins.~~
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146 ~~4. Request for utilities from outside of the Nixa Planning Area will be considered for~~
147 ~~residential purposes only. Outside utilities will only be given in instances when~~
148 ~~annexation is not possible. Prior to connection, the applicant must sign a "Consent~~
149 ~~to Annex" form, to be executed when State Statute requirements can be met.~~
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151 ~~5. All street, stormwater, electric, water and wastewater extensions shall be the sole~~
152 ~~expense of the party requesting the street and/or utility unless otherwise approved~~
153 ~~by the Board of Aldermen.~~
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155 ~~6. Off street improvements may be required by the City. City staff will review traffic~~
156 ~~and road conditions, change in classification and potential traffic hazards. Off-~~
157 ~~street road improvements and upgrades will meet City Street Specifications and~~
158 ~~will be the responsibility of the developer. When necessary, City may require the~~
159 ~~developer to supply a professional traffic study to determine offsite needs.~~
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161 ~~7. All developments must have approval from the Christian County Planning and~~
162 ~~Zoning Authority before construction begins.~~
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164 ~~8. All requests require thirty (30) day staff review before permits are granted or~~
165 ~~hearing scheduled.~~
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167 **SECTION 3:** The City Attorney, when codifying the provisions of this Ordinance, is
168 authorized to provide for different section numbers, subsection numbers, and different
169 internal citation references than those provided herein when such section numbers,
170 subsection numbers, or internal citation references are in error or are contrary to the intent
171 of this Ordinance.
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173 **SECTION 4:** Savings Clause. Nothing in this Ordinance shall be construed to
174 affect any suit or proceeding now pending in any court or any rights acquired, or liability
175 incurred nor any cause or causes of action occurred or existing, under any act or
176 ordinance repealed hereby.
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178 **SECTION 5:** Severability Clause. If any section, subsection, sentence, clause, or
179 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
180 the validity of the remaining portions of this Ordinance. The Council hereby declares that
181 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
182 phrase thereof, irrespective of the fact that any one or more sections, subsections,
183 sentences, clauses, or phrases be declared invalid.

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SECTION 6: This Ordinance shall be in full force and effect from and after its final passage by the City Council and after its approval by the Mayor, subject to the provisions of section 3.11(g) of the City Charter.

ADOPTED BY THE COUNCIL THIS _____ DAY OF _____ 2022.

ATTEST:

PRESIDING OFFICER

CITY CLERK

APPROVED BY THE MAYOR THIS _____ DAY OF _____ 2022.

ATTEST:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY