

Ordinance 06-14

An ordinance creating ARTICLE IX. – Sanitary Sewer Maintenance Fee, Sections 98-436 – 98-438 in Chapter 98, of the general ordinances of the City of Racine, Racine County, Wisconsin relating to sanitary sewer maintenance fee.

The Common Council of the City of Racine, Wisconsin do ordain as follows:

Part 1: ARTICLE IX. - Sanitary Sewer Maintenance Fee, Sections 98-436 – 98-438 in Chapter 98 of the City of Racine ordinances is hereby created to read as follows:

“ARTICLE IX. - Sanitary Sewer Maintenance Fee

Sec. 98-436. Generally.

- a) *Creation.* There is hereby created and established a sanitary sewer maintenance fee for all properties within the City of Racine served by a sanitary lateral. The operation of the publicly owned sanitary sewer collection system and all publicly owned sanitary sewer laterals within the public right of way or within an easement to the city of Racine shall be under the supervision of the Commissioner of Public Works.
- b) *Authority.* Pursuant to the authority granted to the City under Wis. Stats. § 6.068, there are hereby created a sanitary sewer maintenance fee.
- c) *Definitions.* The following definitions shall be used throughout this article unless otherwise specifically provided:

Active Lateral means a sanitary lateral that extends from the sanitary sewer main, manhole or other lateral to the public right-of-way or easement, and connects to a building or facility.

Committee means the Public Works and Services Committee of the Common Council.

Commissioner means the Commissioner of Public Works or designee.

Inactive Lateral means a sanitary lateral that extends from the sanitary sewer main, manhole or other lateral to the public right of way or easement but does not connect to a building or facility.

Lateral means the sewer pipe extended from the sanitary sewer, manhole or other lateral, including the connection to the sanitary sewer within the public right-of-way or easement. It includes both active and inactive laterals.

Private Lateral means a sewer pipe from the public right-of-way or easement to the facilities served.

Sanitary Sewer means a sewer that carries domestic sewage and industrial wastes, and to which storm, surface, ground and unpolluted cooling or process waters are not intentionally allowed except by specific permit.

Stub means an existing connection to a sanitary sewer main, manhole or lateral that contains the factory installed cap and is integral with the pipe. A stub is within and not extended to, the public right-of-way or easement and is available for future sanitary lateral connection.

Sec. 98-437. Rates and charges.

a) The basis for computation of the charge and rate for sanitary lateral services to all laterals within the city is established under this section. All charges established pursuant to this section shall be fair and reasonable. A schedule of current charges shall be maintained on file in the office of the Commissioner of Public Works.

b) The basis for computation of the Sanitary Sewer Maintenance Fee is as follows:

1. A sanitary sewer maintenance fee shall be imposed on all property in the city for each lateral in the right-of-way or easement adjacent to the parcel. The count of active and inactive laterals will be determined based on a review and count from the current City of Racine GIS database. The sanitary sewer maintenance fee is established in recognition of the fact that all properties in the city receive services from sanitary lateral management activities of the city. Each property will be charged for a minimum of one sanitary lateral unless it meets one of the Exemptions in 98-437(d).

2. Condo parcels shall be billed a pro-rated amount based on the number of laterals servicing the property divided by the number of condo units on the property.

3. The basis of the per lateral charge is the total cost of activities regarding the sanitary sewer collection system including all publicly owned mains and publicly owned sanitary sewers. This cost shall be divided by the total number of active and inactive sanitary sewer laterals within the city of Racine. This cost is over and above the user fee paid for the operations of the wastewater treatment facilities, as billed by the Racine Wastewater Utility.

c) The Common Council may approve fee and classification changes by further resolution as needed. In the event the owner and non-owner users of a particular property are not the same, the liability for the charges attributable to that property shall be that of the owner.

d) Exemptions – A property may be exempt from receiving a sanitary sewer maintenance fee if one of the following requirements is met:

1. The parcel has a vacant land use code (LUC) in the current year City tax roll and no laterals serving the parcel in the Racine GIS database.

2. The parcel contains a structure that does not receive sanitary sewer service, regardless of whether a lateral is present in the Racine GIS database. Allowable exemptions include condo garages, condo storage units, condo boat slips, garages or storage units. Final determination for any other exempt parcels shall be at the discretion of the Commissioner.

3. The parcel contains a building that covers multiple parcels, under a single ownership. Not every parcel is required to receive a sanitary sewer maintenance fee if no lateral is present in the Racine GIS database as long as at least one parcel containing the building is billed. Final determination for exempt parcels shall be at the discretion of the Commissioner.

4. The parcel does not contain any buildings or structures, and no laterals serving the parcel are in the Racine GIS database. Allowable exemptions include parks or other public open space, cemeteries, public utility ROW, parking lots and riparian areas. Final determination for exempt parcels shall be at the discretion of the Commissioner.

5. A parcel is located within the City of Racine but is accessed from the right-of-way of a neighboring jurisdiction, if sanitary service is provided by sewer infrastructure owned and maintained by the neighboring jurisdiction.

6. Other individual exemptions will be examined on a case by case basis. The basis for exemption shall be a parcel with no laterals serving the parcel after review of the Racine GIS database and a reasonable assumption that the parcel is not receiving sanitary sewer service from a City of Racine sewer. Final determination for exempt parcels shall be at the discretion of the Commissioner.

e) Adjustments.

1. Requests for adjustments of the sanitary sewer maintenance fee charged to each property shall be submitted to the Commissioner.

2. A property owner may at any time, subject to the conditions herein provided, submit a written request seeking an adjustment of the sanitary sewer maintenance fee, which request shall describe in detail the grounds upon which relief is sought.

3. A property owner requesting adjustments may be required, at his, her or its own expense, to provide supplemental information to the Commissioner including, but not limited to, survey data approved by a registered land surveyor, information from a plumbing contractor, and engineering reports approved by a professional engineer. Failure to provide such information within the time limits established by the Commissioner, as may be reasonably extended, may result in denial of the adjustments request.

4. Following submission of a completed adjustments request and all required information, the Commissioner shall have 30 calendar days within which to render a written decision. Concurrent payment of any charges based on the sanitary laterals allocated to the property is not required as a condition precedent to a request for review. In considering an adjustment request, the Commissioner shall consider whether sanitary sewer maintenance fee for the property is correct.

5. The Commissioner's decision shall be mailed to the address provided on the adjustments request by first class mail and service shall be complete upon mailing.

6. Appeal from the Commissioner's decision concerning a sanitary sewer maintenance fee adjustment request shall be governed by subsection (i) below, except that no concurrent payment of any fees is required. Appeals shall be in writing and shall specify the grounds for challenging the Commissioner's decision. Appeals shall be submitted within 30 calendar days after the date of mailing the Commissioner's decision. Failure to timely and properly appeal shall be considered a jurisdictional failure.

f) The charges established will be billed to the property owner at the same time and in the same manner as the city tax bill, as an additional fee for sanitary sewer maintenance services. Such charges shall be payable in the same manner as a tax bill. Bills for sanitary sewer maintenance charges shall be mailed to the owner of the property to which the bill relates.

- g) A late payment charge as established by further resolution of the Common Council will be added to bills not paid within the allotted period.
- h) All sanitary sewer maintenance charges shall be taxed and collected, and shall be a lien upon the property.
- i) If the result of any appeal or judicial review is that a refund is due, it will be payable by the city within 60 days after the written determination. Any further resulting adjustment will appear on subsequent bills. The limitation of adjustment or credit refunded shall be for a maximum of 2 years.
- j) Sanitary Sewer Maintenance Charge finances shall be accounted for in a separate sanitary sewer maintenance fund. The Commissioner shall prepare an annual budget, which shall include all operation and maintenance costs, debt service and other costs related to the operation of the sanitary sewer maintenance utility. The budget is subject to approval by the Common Council. The costs shall be spread over the rate classifications as determined by the Common Council. Any excess of revenues over expenditures in a year will be retained by the fund for subsequent years' needs.
- k) Penalty. A person convicted of violating any provision of this article shall, upon conviction, pay a forfeiture not less than \$50.00 and not more than \$500.00 for each offense. Each day a violation exists shall constitute a separate offense.

Sec. 98-438. Responsibility of the City to repair

The City of Racine will repair sanitary sewer laterals which fail within the street right-of-way or city easement. Failures refer to structural defects such as a crushed lateral or severely offset joints that are currently or are exhibiting a high likelihood of blocking flow from the building or facility to the degree that they are currently or may in the near future, cause backups to occur. Failures do not include minor offset joints, the cleaning or unclogging of the lateral due to roots, deposits, grease, chemicals or other foreign materials.

The City of Racine is not responsible for any maintenance of the lateral or any failures of the private lateral.

To make a claim to the City for a failed lateral the property owner must provide sufficient information to the Commissioner of Public Works/City Engineer's Office to allow for a comprehensive review by engineering staff. The property owner has the responsibility in this regard, to hire a sewer cleaner or a plumber to clean and inspect the lateral with a video camera. The video camera must have the capability to show the accurate footage and location of the damaged area above ground. If the lateral is blocked and submerged and a camera cannot be used to show the location of the damaged area, the contractor must mark the location of the collapsed pipe above ground. If the marked location is in the right-of-way or easement of the City of Racine, the property owner has the responsibility of making the necessary repairs, subject to an inspection by the City of Racine. If the blockage is the result of crushed lateral or severely offset joints the City of Racine will reimburse the property owner for the repair work.

If the City Engineer disagrees with the contractor's assessment, craftsmanship, or its inability to perform these acts the property owner has the responsibility to provide such additional information, which will demonstrate that the damaged area was in the public right-of-way. Obtaining such information is the sole responsibility and expense of the property owner.

The City of Racine does not maintain an on-call sanitary sewer repair service, and calls to the City will be answered during normal business hours. If a failure requires immediate repair, it shall be the responsibility of the property owner and/or contractor to provide sufficient documentation that the failure meets the requirements previously listed for City repair. The property owner and/or contractor may then perform the required repairs and document the procedure used for reimbursement from the City. The property owner and/or contractor is still responsible for obtaining all City required permits prior to beginning any work.

The City of Racine shall reimburse the property owner or the Contractor the costs of investigating the problem, but will not pay for previous cleanings, damage to the building or to its contents.

Part 2: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City Common Council and publication or posting as required by law.

Passed by the Common Council:

Approved:

Mayor

Attest:

City Clerk

Fiscal Note: N/A