

Effective Date: October 27, 2010

7/27/2010
7/7/2010

57-O-10

AN ORDINANCE

**Amending the Evanston City Code
Title 7, Chapter 13, Relating
To the City Sewer System**

WHEREAS, pursuant to 65 ILCS 5/11-139-8, the City of Evanston is empowered to make, enact, and enforce all needful rules, regulations, and ordinances for the care and protection of a sewer system, which may be conducive to the preservation of the public health, comfort, and convenience and to rendering the water supply of the municipality pure and the sewerage harmless insofar as it is reasonably possible to do so, and to charge the customers thereof a reasonable compensation for the use and service of the sewer system and to establish rates for that purpose; and

WHEREAS, it is estimated that the City of Evanston Sewer Enterprise Fund will have a deficit of \$2.1 million dollars at the end of Fiscal Year 2010/11; and

WHEREAS, Evanston City Council held public hearings, pursuant to proper notice, to consider the structural deficits in the City of Evanston Sewer Enterprise Fund and the critical infrastructure needs relative to the safe and effective provision of sewer services to all City of Evanston customers, received information from City staff, and deliberated regarding the setting of appropriate rates; and

WHEREAS, if the Sewer Enterprise Fund will be in deficit in the amount of \$2.1 million dollars as currently estimated, the provision of safe and effective sewer services to any and all Evanston customers will be severely impacted and result in deleterious health and environmental effects; and

WHEREAS, because the differing rates assessed to certain property tax exempt sewer customers is reasonably related to different cost impacts in providing services, the differing rates are therefore reasonable; and

WHEREAS, the different rates assessed to certain property tax exempt sewer customers is sufficient to pay for the debt service on the general obligation bonds issued by the City of Evanston for the sewer system, as well as depreciation, and the operation and maintenance costs as required by Illinois law; and

WHEREAS, the City of Evanston must be allowed to charge a sufficient rate to meet the interest and amortization requirements of the debt on the general obligation bonds; and

WHEREAS, the City of Evanston has the right to classify consumers based upon reasonable classifications such as the cost of service, the purpose for which the service is received, the quantity or the amount received, the different character of the service furnished, the time of its use, or any other matter that presents a substantial difference as a ground of distinction; and

WHEREAS, the City Council considered and adopted the sewer use rates pursuant to its Home Rule powers and following its deliberations, set rates that

are rationally related to legitimate government purposes; and

WHEREAS, the sewer use rates set forth below are fair and equal to all similarly situated parties and that the City is entitled to realize reasonable revenues from the operation of the sewer system,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That the foregoing recitals are found as fact and incorporated herein by reference.

SECTION 2: That Title 7, "Public Ways," Chapter 13, "City Sewer System," of the City Code of Evanston be and is hereby amended to read as follows:

CHAPTER 13: CITY SEWER SYSTEM

7-13-1: DEFINITIONS:

Unless the context specifically indicates otherwise, the meaning of the terms used in this Chapter shall be as follows:

BILLING UNIT: One hundred cubic feet (100 cu. ft.) of water.

BIOCHEMICAL OXYGEN DEMAND (BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) centigrade, expressed in milligrams per liter.

BUILDING DRAIN: That part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning five feet (5') (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER: The extension from the building drain to the public sewer or other place of disposal.

CITY: The City of Evanston, Cook County, Illinois.

CITY MANAGER: The City Manager and/or their designee.

CITY TREASURER: The City Treasurer and/or their designee.

COMBINED SEWER: A sewer which is designed and intended to receive wastewater, storm, surface and ground water drainage.

COMMERCIAL USER: Transient lodging, retail and wholesale establishments or places engaged in selling merchandise, or rendering services.

CONTROL MANHOLE: A structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC) representatives to sample and/or measure discharge.

EASEMENT: An acquired legal right for the specific use of land owned by others.

EFFLUENT CRITERIA: These are defined in any applicable National Pollutant Discharge Elimination System (NPDES) permits.

FLOTABLE OIL: Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of flutable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE: Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of food.

INDUSTRIAL USER: An establishment engaged in manufacturing activities involving the mechanical or chemical transportation of materials of substance into products.

INDUSTRIAL WASTE: Any solid, liquid or gaseous substance discharged, permitted to flow from or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

INSTITUTIONAL/GOVERNMENTAL USER: Schools, churches, penal institutions and users associated with Federal, State and local governments.

MAJOR CONTRIBUTING INDUSTRY: An industrial user of the publicly-owned treatment works that: (a) has a flow of fifty thousand (50,000) gallons or more per average work day; or (b) has a flow greater than ten percent (10%) of the flow carried by the Municipal system receiving the waste; or (c) has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under section 307(a) of the Federal Act; or (d) is found by the permit issuant authority, in connection with

the issuance of the NPDES permit to the publicly-owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

MAY: When used in this Chapter the word "may" is permissive.

MILLIGRAMS PER LITER (mg/l): A unit of the concentration of water or wastewater constituent. It is 0.001 g of the constituent in one thousand (1,000) ml of water. It has replaced the unit formerly commonly used, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analysis.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT: Any permit or equivalent document or requirement issued by the Administrator of the United States Environmental Protection Agency or his designee, after enactment of the Federal Clean Water Act to regulate the discharge of pollutants pursuant to section 402 of the Federal Water Pollution Control Act Amendments of 1972, and any subsequent amendments thereto ("Federal Act").

NATURAL OUTLET: Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

ORDINANCE: Shall mean this Ordinance.

OWNER: Where necessary to effectuate the intent of this Chapter, "owner" shall mean "persons in control".

pH: The logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed by one of the procedures outlined in the Illinois Environmental Protection Agency (IEPA) Division of Laboratories Manual of Laboratory Methods, latest edition.

ppm: Parts per million by weight.

PERSON: Any and all persons, natural or artificial including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

POPULATION EQUIVALENT: A term used to evaluate the impact of industrial waste on a treatment works or stream.

PRETREATMENT: The treatment of wastewater from sources before introduction into the public sewer.

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers,

with no particle greater than one-half inch (1/2") (1.27 centimeters) in any dimension.

PUBLIC SEWER: A sewer provided by or subject to the jurisdiction of the City. It shall also include sewers within or outside the City boundaries that serve one or more persons and ultimately discharge into the City combined sewer system, even though those sewers may not have been constructed with City funds.

REPLACEMENT: Expenditures for obtaining and establishing equipment, accessories, or appurtenances which are necessary during the useful life of the collection facilities to maintain the capacity of performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

RESIDENTIAL USER: All dwelling units such as houses, mobile homes, apartments, permanent multi-family dwellings.

SANITARY SEWER: A sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and ground water or polluted industrial wastes are not intentionally admitted.

SEWAGE: Wastewater.

SEWER: A pipe or conduit for conveying sewage or any other waste liquids, including storm, surface and ground water drainage.

SEWER USER CHARGE: Shall be the charge levied bimonthly on all users of the public sewer. The service charge shall be computed as outlined in subsection 7-13-3(A) and shall consist of the total of the operation, maintenance and replacement charge, the capital charge and the debt service charge.

SEWERAGE: The system of sewers and appurtenances for the collection, transportation and pumping of sewage.

SEWER ENTERPRISE FUND: The principal accounting designation for all revenues received in the operation of the sewerage collection system.

SHALL: When used in this Chapter the word "shall" is mandatory.

SLUG: Any discharge of water, sewage or industrial waste which, in concentration of any given constituent, or in quantity of flow, exceeds for any period or duration longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration or flows during normal operation.

STORM SEWER: A sewer that carries storm, surface and ground water drainage but excludes sewage and industrial waste other than unpolluted cooling water.

STORM WATER RUNOFF: That portion of the precipitation that is drained into the sewer.

SUSPENDED SOLIDS (SS): Solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in the IEPA Division of Laboratories Manual of Laboratory Methods.

UNPOLLUTED WATER: Water quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

USEFUL LIFE: The estimated period during which the sewerage collection system will be operated.

USER CLASS: The type of user "residential", "institutional/ governmental", "commercial", or "industrial" as defined herein.

WASTEWATER: The spent water of a community. It may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any ground water, surface water and storm water that may be present.

WASTEWATER FACILITIES: The structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and transport effluent to a watercourse.

WASTEWATER TREATMENT WORKS: An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with waste treatment plant or pollution control plant.

WATER QUALITY: As defined in the Water Pollution Regulations of Illinois.

WATERCOURSE: A channel in which a flow of water occurs, either continuously or intermittently.

7-13-2: SEWER ENTERPRISE FUND ESTABLISHED:

There is hereby established a separate fund designated the sewer enterprise fund, which fund shall be supported by sewer usage fees established, from time to time, by the city council. Said fund shall be reserved and utilized exclusively for operation, maintenance, rehabilitation or reconstruction of the sewer system of the city.

7-13-3: SEWER USER RATES:

(A) There is hereby established a sewer user charge for the use of, and service supplied by, the public sewer of the city. The sewer user charges shall be assessed for all users each bi-monthly billing period commencing on or after January 1, 2011.

(B) The sewer user charge for users of the system within the City that are not exempt from the payment of property taxes shall be three dollars ninety four cents (\$3.94) per billing unit of water consumed.

(C) The sewer user charge for users of the system within the City that are exempt from the payment of property taxes shall be three dollars ninety four cents (\$3.94) per billing unit for the first one hundred (100) billing units of water consumed. Thereafter, the sewer user charge shall be four dollars fifty three cents (\$4.53) per billing unit in excess of one hundred (100) billing units of water consumed.

(D) The adequacy of the sewer user charge shall be reviewed annually by the city council. The sewer user charge will be revised by ordinance as needed.

(E) The users of the public sewer will be notified of any change in the total sewer user charges in conjunction with the regular sewer billing.

(F) Those furnished with sewer service only, and not connected with or supplied with water from the city water supply system, shall pay a bi-monthly sewer service fee based on a calculated estimate of the volume of use at the rate established in subsection (A) of this section.

(G) Those furnished with water service only and not connected with or supplied with sewer service shall pay only the water rates and charges established by Section 7-12-17 of this Title.

(H) Those furnished with water and sewer service but not consuming any water shall pay a bimonthly minimum sewer service charge of nineteen dollars and seventy cents (\$19.70).

7-13-4: BILLING PROCEDURES; DISPOSITION OF FUNDS:

(A) The rates and charges calculated and applied to the user of the public sewer shall be added to, and separately recited upon, a statement of charges for water consumption and sewer use. Such statement shall be sent to the user on a bimonthly basis and shall become delinquent if unpaid after twenty (20) days from the date of the statement. A penalty of ten percent (10%) of the amount due and owing for the period recited upon such statement shall thereafter be added and collected in addition thereto.

(B) Whenever any sewer use charges shall remain unpaid after the expiration of thirty (30) days from the date of such statement, the water supply for the premises so serviced and delinquent shall be turned off, and service shall not be turned on until all sewer bills in arrears shall have been paid, including accrued penalties. A water turn on fee as established in Section 7-12-17 of this Title shall be paid for the turning off and subsequent resumption of water supply service. The City Manager or his /her designee shall enforce this provision.

(C) All revenues and monies derived from the operation of the sewerage system shall be deposited in the Sewer Enterprise Fund. All such revenues and monies shall be held by the City Treasurer separate and apart from all other funds of the City. The City Treasurer shall receive all such revenues from the sewerage system and all other funds and monies incident to the operation of such system and deposit the same in the Sewer Enterprise Fund of the City. The City Treasurer shall administer such fund in every respect in the manner provided by the Illinois Municipal Code, 65 ILCS 5/11-139 *et seq.*, as modified, or as may be supplemented or amended by the City Council of the City from time to time pursuant to its home rule powers under section 6 of article VII of the Illinois Constitution of 1970.

(D) The City Treasurer shall establish a system of accounts and shall keep books, records, and accounts in which complete and correct entries shall be made of all transactions related to the sewerage system, and at regular annual intervals shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the sewerage system. In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the public sewer, including a replacement item, to indicate that sewer service charges under the cost-recovery system meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:

1. Flow data showing total cubic feet of water consumed.
2. Billing data to show total number of cubic feet billed per fiscal year.
3. Debt service for the next succeeding fiscal year.
4. Number of users connected to the system.
5. Number of nonmetered users.

(E) The IEPA, through its authorized representative shall have access to any book, document, paper and record of the City which is applicable to the City's system of user charges for the purpose of making audits, examinations, excerpts and transcriptions thereof to insure compliance with any loan agreement and rules pertaining to funds obtained from the IEPA Water Pollution Control Revolving Fund.

7-13-5: CHARGES CONSTITUTE A LIEN:

Charges for sewer service shall be a lien upon the premises served pursuant to relevant law. When such charges have been delinquent for a period of thirty (30) days, a statement of lien shall be filed in the same manner as provided for water service in Section 7-12-7-4 of this Title. The City Manager shall execute releases of such liens on behalf of the City upon receipt of payment thereof.

7-13-6: USE OF PUBLIC SEWERS REQUIRED:

(A) It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewerage or other polluted waters.

(B) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewerage.

(C) The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the City and abutting on any street, alley, or right of way in which there is now located or may in the future be located, any public sanitary or combined sewer of the City, are hereby required at their expense to install suitable toilet facilities therein, in compliance with all applicable Code requirements, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within ninety (90) days after date of written notice to do so.

7-13-7: BUILDING SEWERS AND CONNECTIONS:

(A) No unauthorized person shall uncover, make any connections with, or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit.

(B) All disposal by any person into the sewer system is unlawful except those discharges in compliance with federal standards promulgated pursuant to the federal act and more stringent state and local standards.

(C) A building sewer permit will only be issued, and a sewer connection shall only be allowed, upon a demonstration that the downstream sewerage facilities, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

(D) Any person desiring to connect a building sewer to the public sewer shall, at his own cost and expense, install such building drain from the point of said connection to the public sewer to the end of the building sewer. It shall be the responsibility of a person utilizing the public sewer to maintain the building sewer connection at its juncture with the public sewer and the pipe from the juncture to the

point of the building drain. Such maintenance shall include keeping said building sewer clean and free flowing, and the repair or replacement thereof in the event of broken or defective connections. Repair or replacement of the building sewer shall be to the specifications established by the plumbing code of the city and shall be inspected by the plumbing inspector prior to backfilling.

(E) A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed, in the opinion of the water and sewer division, to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building.

(F) Prior to the abandonment or permanent disuse of a presently existing sewer connection(s), the owner of the property abutting or served by said sewer connection(s) shall make an application in writing for a permit to abandon said connection(s). Upon obtaining the permit, the property owner shall locate, remove and seal off any and all existing sewer connection(s) abutting or serving the property at the sewer main in a manner prescribed by the water and sewer division and restore the street and parkway surface to its preexisting condition. Prior to the closure of any excavation to facilitate the sealing of a presently existing sewer connection(s), the owner or contractor shall notify the community and economic development department, and an inspection of said sealed connection shall be conducted prior to backfilling.

(G) Preexisting building sewers shall not be used in connection with newly constructed buildings unless approval is granted by the water and sewer division. At a minimum, the existing building sewer must meet the requirements of this chapter by both examination and test.

(H) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American society of testing materials, water pollution control federation manual of practice no. 9, and standard specifications for water and sewer main construction in Illinois, shall apply.

(I) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, the MWRDGC sewer permit ordinance, or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the American society of testing materials, water pollution control federation manual of practice no. 9, and standard specifications for water and sewer main construction in Illinois. All such connections

shall be made gastight and watertight. Any deviation from the prescribed procedure and materials must be approved in writing by the water and sewer division before installation.

(J) The applicant for the building sewer permit shall notify the director of community and economic development when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the director of community and economic development or his representative

(K) All excavations for building sewer installation and repairs shall be adequately guarded with barricades and warning lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be promptly restored in a manner satisfactory to the city.

7-13-8: USE OF THE PUBLIC SEWERS:

(A) No unauthorized person shall break, damage, destroy or tamper with any structure, appurtenance or equipment which is a part of the sewage and storm collection system.

(B) No person shall connect, or cause to be connected, any sanitary sewerage outlet or industrial wastewater outlet into any storm water sewer or storm water sewer catch basin now existing or hereafter to be constructed.

(C) Storm water and all other unpolluted drainage shall be discharged to the public sewer system in accordance with the Stormwater Control Regulations in Section 24-3-5.

(D) It shall be unlawful for any person to cause or allow a discharge not meeting the standards of article III, prohibited wastes of the sewage and waste control ordinance, latest edition of the MWRDGC.

(E) Any new building connecting to the combined sewer shall have the sanitary drain be distinct from the property's storm water drain within the property lines to facilitate disconnection of the storm water drain should a storm sewer become available.

(F) Any storm water drain connection to the combined sewer shall be removed from the combined sewer and connected to the storm sewer within one year of a separate storm sewer becoming available within one hundred feet (100') of the building.

7-13-9: POWERS AND AUTHORITY OF INSPECTORS:

(A) The city manager or his/her designee, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of

inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter.

(B) While performing the work on private properties referred to in subsection (A) of this section, the city manager or persons he/she so designates shall observe all safety rules applicable to the premises established by the owner and the owner shall be held harmless for injury or death to the city employees and the city shall indemnify the owner against liability claims and demands for personal injuries or property damage asserted against the company and growing out of the gauging and sampling operating, except as such may be caused by negligence or failure of the company to maintain conditions as required in the sewage and waste control ordinance, latest edition of the MWRDGC.

(C) The city manager and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewerage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement involved.

SECTION 3: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: That if any provision of this Ordinance 57-O-10 or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid application of this Ordinance is severable.

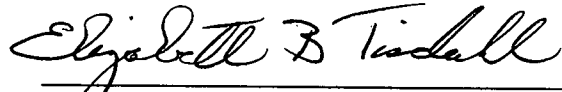
SECTION 5: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: September 27, 2010

Approved:

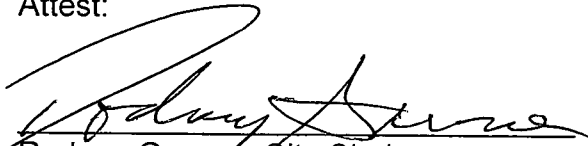
Adopted: October 11, 2010

October 13, 2010



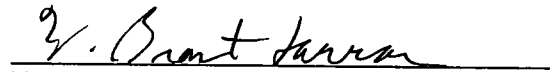
Elizabeth B. Tisdahl, Mayor

Attest:



Rodney Greene, City Clerk

Approved as to form:



W. Grant Farrar, Corporation Counsel