

LEGISTAR #47058 - Body

DRAFTER'S ANALYSIS: This ordinance makes numerous changes to the sanitary sewer code. Among those changes is the creation of a restaurant class of sanitary sewer customers that will have higher rates to allow the sewer utility to recover the higher costs attributable to the stronger effluent from these properties. These higher rates directed at the customers who discharge stronger effluent will help protect other sanitary sewer customers from subsidizing these higher cost customers. The restaurant rate class will not go into effect until April 1, 2018 and will have a three-year phase in. This delay will allow restaurants to plan for the increase in rates and take mitigation steps to avoid imposition of the highest rates. Under the tier system being created, customers will be placed into one of three classes based upon the effluent discharged to the public sewer system. Those with ineffective maintenance practices and strong effluent, shall be placed in the highest tier; those with a well maintained facility that minimizes discharges shall be placed in the middle tier; and those with well-maintained facilities that minimize discharges, but who also participate in an approved organics collection and recycling program are placed in the lowest tier. The goal is to incentivize better wastewater practices that reduce the ultimate costs borne by the sewer utility to treat the wastewater. Rates for the restaurant class shall be set by the Board of Public Works and the Common Council, just like standard sewer rates, but the initial rate is being set by the ordinance.

Other changes being made by the ordinance include reapportioning how the system's maintenance and depreciation costs are recovered. Over three-years, the apportionment will shift from a 65/35 ratio of customer service/flow to one that is evenly split between customer service and flow. As a result, more of these costs will be recovered based upon a customers use of the sewer system rather than as a fixed amount per customer. Additionally, permits to plug sewer laterals will now last for up to a year (from 60 days) to allow more time to complete that work. The procedure for customers who elect to have their effluent measured is also being updated to provide for a rolling three-year average of test results to better capture the strength of the effluent. Finally, statutory interest will no longer be paid on overpayments. This will bring the sewer utility's billing practices in line with the water utility's billing practices.

The Common Council of the City of Madison do hereby ordain as follows:

1. Paragraph 9. of Subdivision (d) of Subsection (1) of Section 35.02 entitled "The Public Sewerage System" of the Madison General Ordinances is amended to read as follows:

"9. The user charge parameters determined by the regional wastewater treatment facility shall be proportioned to customers in the same fashion that it has been levied.

Cost relating to rendering the bills shall be assessed against customer accounting. Cost relating to the installation and maintenance of meters necessary to measure or estimate the contribution of sewerage shall be assessed to customer service. The cost relating to the maintenance of the collection system shall be generally divided ~~sixty-five percent (65%) to customer service and the remainder to flow~~ in accordance with the table below. The cost necessary to pump sewerage shall be divided ninety percent (90%) to flow and remainder to suspended solids. Cost necessary to measure the amount of compatible pollutants contributed by individual customers shall be attributed to those parameters. Depreciation of the collection system shall be distributed ~~sixty-five percent (65%) to customer service and the remainder to flow~~ in accordance with the table below except that the depreciation of pumping stations shall be attributed fifteen percent (15%) to customer service, five percent (5%) to suspended solids, and the remainder to flow. Interest earned and miscellaneous revenues shall be distributed proportionately to the subtotal of the other expenses.

	<u>Cost Apportionment Table</u>	
	<u>Customer Service</u>	<u>Flow</u>
<u>Prior to 4/1/2018</u>	<u>65%</u>	<u>35%</u>
<u>4/1/2018 to 3/31/2019</u>	<u>60%</u>	<u>40%</u>
<u>4/1/2019 to 3/31/2020</u>	<u>55%</u>	<u>45%</u>

4/1/2020 and thereafter 50% 50%”

2. Subparagraph d. of Paragraph 14. of Subdivision (c) entitled “Administration and Specifications for Building Sewers and Connections to the Public Sewerage System” of Subsection (4) entitled “Building Sewers and Connections to the Public Sewerage System” of Section 35.02 entitled “The Public Sewerage System” of the Madison General Ordinances is amended to read as follows:

“d. The Permit to Plug Sewer Lateral shall be valid for sixty ~~(60) days~~ one (1) year from the date of issuance unless the permit is extended in writing by the City Engineer. Following an additional sixty (60) days after the expiration of the permit, the permit will be closed and any deposits remaining, less inspection fees or other permit costs, will be returned. Upon closing of the permit, the owner must apply for a new permit to complete the sewer lateral plugging work.”

3. Subdivision (a) entitled “Procedure to Establish Charges” of Subsection (7) entitled “Schedule of Demand Charges, Sewer Rental, Miscellaneous Charges and Industrial Cost Recovery Charges” of Section 35.02 entitled “The Public Sewerage System” of the Madison General Ordinances is amended to read as follows:

“(a) Procedure to Establish Charges. All charges authorized under this Subsection, said charges being necessary to recover the Madison Sewer Utility’s cost and which are in addition to the demand charges levied by the Water Utility, shall be set by the City Engineer, consistent with the standards set forth in Wis. Stat. § 66.0821(4). These rates shall be set annually, and will go into effect upon approval by the Board of Public Works and the Common Council. Effective with all billings after March 31, 2018, Restaurant Class Rates shall be in effect as set forth in Subdivision (f) below.”

4. Paragraph 2. of Subdivision (c) entitled “Sewer Rental” of Subsection (7) entitled “Schedule of Demand Charges, Sewer Rental, Miscellaneous Charges and Industrial Cost Recovery Charges” of Section 35.02 entitled “The Public Sewerage System” of the Madison General Ordinances is amended to read as follows:

“2. The sewer rental for those customers who elect or are required to monitor the characteristics of their effluent shall be based upon each one hundred (100) cubic feet of waste contributed, each pound of Carbonaceous Biochemical Oxygen Demand, each pound of suspended solids, each pound of nitrogen as measured Total Kjeldahl Nitrogen, and each pound of Total Phosphorous. The City Engineer shall maintain analytical results of periodic sewer monitoring for these customers and use a rolling average of three (3) annual sampling events, which shall be spaced over an approximate three (3) year period. The City Engineer may modify this methodology as needed to address specific situations such as, but not limited to, newly monitored customers, customers who provide multiple samples within a single year, customers that provide notice of an abrupt operational change that greatly affects the quality of effluent, or monitored customers that undergo large seasonal shifts in waste strengths which require more frequent sampling.”

5. Subdivision (f) entitled “Restaurant Class Rate” of Subsection (7) entitled “Schedule of Demand Charges, Sewer Rental, Miscellaneous Charges and Industrial Cost Recovery Charges” of Section 35.02 entitled “The Public Sewerage System” of the Madison General Ordinances is created to read as follows:

“(f) Restaurant Class Rate.

1. Restaurant Class Defined. There is created a Restaurant Class of customers which consist of:
 - a. Any food establishment with a food and drink permit issued under Sec. 7.08 with moderate or complex food handling;
 - b. Any retail food establishment with a food and drink permit issued under Sec 7.08 with greater than twenty-five thousand dollars (\$25,000) a year in gross sales and processes potentially hazardous food; or,

- c. Other customers placed into the class by the City Engineer, as determined by their effluent discharge characteristics and/or maintenance demands on the public sewerage system
2. Exclusions from Class. The City Engineer may exclude a customer from the Restaurant Class if the customer is able to demonstrate sufficient justification for the exclusion.
3. Removal from Class. If a customer is no longer operating a restaurant at the property connected to the public sewerage system, or if the circumstances in paragraph 2.c. no longer exists, the customer shall be removed from this class and no longer be subject to this billing schedule.
4. Rate Tiers for Restaurant Class Customers.
- a. Tiers Defined. The Restaurant Class shall consist of three rate tiers based upon monitored results of representative restaurants, as that term is defined in Section 7.08(1).
- i. Tier 3 shall represent a facility with ineffective maintenance and discharge of stronger effluent to the public sewerage system.
 - ii. Tier 2 shall represent a well maintained facility that minimizes discharge of fats, oils and grease to the public sewerage system.
 - iii. Tier 1 shall be allowed for establishments that would otherwise be Tier 2 but which participate in a recognized and approved program for organics collection and recycling.
- b. Tier Placement. All customers placed into the Restaurant Class shall be initially billed at the Tier 2 rate and may remain at that rate tier provided they submit proof of grease trap maintenance to the City Engineer on an annual basis. Failure to provide proof of maintenance will move the customer to the Tier 3 rate until such time as proof of maintenance is provided. To move to Tier 1, the customer shall apply to the City Engineer and provide the prescribed proof of participation in a recognized and approved program for organics collection and recycling. The customer has an annual obligation to provide proof of continued participation in this program in order to remain in Tier 1.
5. Restaurant Class Rate. The Restaurant Class rates shall be set as provided for in Subdivision (a) above and this paragraph. The City Engineer shall monitor representative Restaurant Class customer discharges to adjust these rates as determined by the Board of Public Works. The review of these rates shall occur on a basis not to exceed five (5) years. In setting these rates, those in Tier 1 shall receive an additional rate reduction of fifty percent (50%) from the Tier 2 rate.
- The initial Restaurant Class rates for the volume component of the bill shall be as follows:
- | | |
|---------|-------------------------|
| Tier 1: | Domestic Rate plus 28% |
| Tier 2: | Domestic Rate plus 56% |
| Tier 3: | Domestic Rate plus 120% |
- These rates shall be phased in over a three-year period, with one-third (1/3) of the rate change in effect for all billings from 4/1/2018 thru 3/31/2019, two-thirds (2/3) in effect for all billings from 4/1/2019 thru 3/31/2020 and the total rate change in effect for all billings from 4/1/2020 and thereafter.
6. Effluent Measurement. Any customer placed into the Restaurant Class classification may elect to instead monitor their effluent for billing purposes as provided in Subdivision (6)(c) and (7)(c)2. above.
7. Multi-Use Properties. Restaurant Class customers that have multiple uses at a property shall be billed in the Restaurant Class. However, those customers with mixed use buildings where the Restaurant Class related discharge is the highest strength effluent may elect to install additional meters to separate flow measurements of areas of usage that would not otherwise be subject to the Restaurant Class billing rates. If it is impractical to separately meter the building, the customer may petition the City Engineer for a reduction based on the mixed uses of the building. If the petition is approved, the customer shall be billed a flat monthly fee established by the City Engineer and adjusted from time to time with the approval of the Board of Public Works. The initial flat fee is set

at \$10 per month. Additionally, the City Engineer shall apply industry averages based on type to establish a percentage of volume billable at the applicable Restaurant Class rate as follows:

Estimated Percentage of Total Flow to Restaurant Class Facility	Percentage of Total Flow Billed at Restaurant Class Rate
Less than or equal to 30%	30%
31% to 40%	40%
41% to 50%	50%
51% to 60%	60%
61% to 70%	70%
71% to 80%	80%
81% and above	100%

The petitioner may submit data or other evidence for the City Engineer’s consideration to better support the percentage of total flow being attributed to the Restaurant Class facility.”

6. Subdivision (e) of Subsection (8) entitled “Collection of Demand Charges and Sewer Rental” of Section 35.02 entitled “The Public Sewerage System” of the Madison General Ordinances is amended to read as follows:

“(e) Bills issued under this section and paid by the user which are subsequently found to be in error shall be corrected, and revised bills shall be issued. Users who were billed less than the proper amount shall be rebilled from the date of notice of the error back a period not to exceed two years. Users who were billed more than the proper amount shall be refunded the difference back to the date of the first occurrence or six years, whatever is less. ~~Interest shall be refunded as determined by Wis. Stat. § 138.04.~~ Refunds shall not be applicable to customers in the Restaurant Class for billings prior to the time of any adjustment request submitted by customer.”