



City of West Allis

Legislation Details (With Text)

File #: O-2014-0073 **Version:** 3

Type: Ordinance **Status:** Placed On File

File created: 10/21/2014 **In control:** Public Works Committee

On agenda: 10/21/2014 **Final action:** 6/16/2015

Title: An Ordinance to Create Section 1.060 of the Revised Municipal Code Relating to User Fees for the Residential Private Property Sanitary Inflow and Infiltration Reduction Program.

Sponsors: Public Works Committee

Indexes:

Code sections:

Attachments: 1. Attachment for Ordinance, 2. Letters of concern or support, 3. Affidavit

Date	Ver.	Action By	Action	Result
6/16/2015	3	Common Council	Placed on File	Pass
6/16/2015	3	Committee of the Whole		Pass
6/16/2015	3	Committee of the Whole (DO NOT USE THIS ONE)		
6/10/2015	3	Committee of the Whole	Held	
6/10/2015	3	Committee of the Whole (DO NOT USE THIS ONE)		
6/2/2015	2	Public Works Committee		
6/2/2015	2	Administration and Finance Committee (INACTIVE)		
6/2/2015	2	Common Council	Held	
6/2/2015	1	Committee of the Whole		Pass
6/2/2015	1	Public Works Committee		
6/2/2015	1	Administration and Finance Committee (INACTIVE)		
10/21/2014	1	Public Works Committee	Held	
10/21/2014	1	Administration and Finance Committee (INACTIVE)	Held	
10/21/2014	1	Common Council		
10/21/2014	1	Common Council		
10/21/2014	1	Common Council		
10/21/2014	1	Administration and Finance Committee (INACTIVE)		
10/21/2014	1	Public Works Committee		

An Ordinance to Create Section 1.060 of the Revised Municipal Code Relating to User Fees for the Residential Private Property Sanitary Inflow and Infiltration Reduction Program.

The Common Council of the City of West Allis do ordain as follows:

PART 1. Section 1.060 of the Revised Municipal Code is hereby created to read:

1.060 Residential Private Property Sanitary Inflow and Infiltration Reduction Program.

(1) **Purpose.** It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the City to collect charges from all residential users of the City's sanitary collection system. This fee is collected under police power by the City of West Allis to satisfy the current stipulation with the State of Wisconsin to reduce Inflow and Infiltration from private property sources. The proceeds of such charges will be used solely to fund the reduction of Inflow and Infiltration in the sanitary system from residential private property sources, to include repair and/or replacement of structurally failed residential sanitary laterals, the rehabilitation of residential sanitary laterals, either in areas targeted for sanitary flow reduction, or by request from the property owner, deemed by the City Engineer to be excessively leaking and/or failing.

The City has determined that private sanitary laterals are a significant source of infiltration and inflow and that these flows increase as the laterals deteriorate. Residential sanitary laterals are expected to last approximately one hundred years and all residential sanitary laterals will need to be replaced or rehabilitated over time. This program provides a means to repair, replace and/or rehabilitate the aging laterals and reduce flows to the City's sanitary sewers.

(2) **Definitions.** Unless the context specifically indicates otherwise, the meaning of terms used in this section shall be as follows:

- (a) "Accessible point outside of building" means a point outside the building where a contractor can safely install a sanitary lateral clean-out or sanitary lateral replacement using standard construction methods without damage to the existing building structure. This distance from the building is approximately six feet and will vary by property dependent on conditions within the property.
- (b) "Blocked sanitary lateral" means a sanitary lateral that is no longer functional due to a blockage of the pipe caused by roots or other debris that can be cleared using traditional trenchless methods.
- (c) "Calendar year" means a twelve (12) month period commencing on the first day of January of any year. The City's fiscal year is the same as calendar year.
- (d) "City" means the City of West Allis.
- (e) "Common Council" means the Common Council of the City of West Allis.
- (f) "Connection at sewer main" means the point at which the sanitary lateral connects to a wye pipe, or other connection such as a tee, core, or riser on the sewer main. This point defines the division between the public sewer main and the private lateral with the connection at the sewer main being part of the public sewer.
- (g) "Debt service" means, with respect to any particular fiscal year and any particular bond series, an amount equal to the sum of (i) all interest payable on such bonds during such fiscal year, plus (ii) any principal installments of such bonds during such fiscal year.

- (h) “Dwelling unit” means any building, or portion thereof, having an individual and separate kitchen and bathroom facilities, which is occupied wholly as a home, residence or sleeping place of one family, either permanently or transiently, but in no case shall a motor home, camper or travel trailer, automobile chassis, tent or portable building be considered a dwelling unit.
- (i) “Inspection” means the viewing of the sanitary lateral from the connection at the sewer main to the building by closed circuit televising, recorded on a media viewable by the City Engineer, with adequate quality to make a condition assessment.
- (j) “Infiltration” means water other than wastewater that enters a sanitary sewer system from the ground through such sources as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.
- (k) “Inflow” means water other than wastewater that enters a sanitary sewer system from sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, sump pumps, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.
- (l) “NASSCO” means National Association of Sewer Companies.
- (m) “Operating budget” means estimated revenues and the estimated costs for the private sanitary program and debt service of the program for each fiscal year.
- (n) “Private sanitary system” means the sanitary lateral and all connections and circumstances contributing flow from the residential property to the sewer main.
- (o) “Program costs” means the current expenses, paid or accrued, for repair, rehabilitation and program administration, as calculated in accordance with sound accounting practice and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, executive compensation, the cost of construction and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.
- (p) “Proof of failure of sanitary lateral” means information provided to the City Engineer by the property owner that demonstrates a structurally failed sanitary lateral.
- (q) “Rate” means the amount charged for the user fee on each residential property. The rate is determined by the Common Council for each year.
- (r) “Rehabilitation” means to restore a sanitary lateral to a properly functioning condition by trenchless methods. This work is done under the City’s lateral lining contract.
- (s) “Repair” means to restore a structurally failed sanitary lateral to a properly functioning

condition where it cannot be restored to service using trenchless methods.

- (t) “Residential property” means a property with one to three dwelling units with no commercial, industrial or institutional use. (schools, churches, hospitals, fraternal organizations, municipal facilities, etc.)
- (u) “Revenues” means all fees, assessments, rentals, fines or other charges or other income received by the City, in connection with the management and operation of the private sanitary program, including amounts received from the investment or deposit of moneys in any fund or account, as herein required, and any amounts contributed by the City, all as calculated in accordance with sound accounting practices.
- (v) “Riser pipe” means the City owned sewer pipe rising vertically from the public sanitary sewer to connect a shallower sanitary lateral.
- (w) “RPPSI/IR Program” means the Residential Private Property Sanitary Inflow and Infiltration Reduction Program, sometimes referred to as the Private Sanitary Program. This is the program to reduce inflow and infiltration from private residential properties.
- (x) “Sanitary lateral” means the sewer pipe, owned by the property owner, that conveys the sanitary sewage discharge from a residential property from an accessible point outside the building foundation to the connection on the sewer main.
- (y) “Sewer main” means the public sanitary sewer, including the wye connection or riser pipe, which is owned by the City of West Allis. The public sanitary sewer conveys sewage from private sanitary laterals to the Milwaukee Metropolitan Sewerage District’s collection system.
- (z) “Structurally failed sanitary lateral” means a sanitary lateral that is no longer functional due to a structural failure of the pipe, such as a collapse, and cannot be cleared using traditional trenchless methods.
- (aa) “User fee” means the charge established by the Common Council on residential property in the City connected to the City’s sanitary sewer system to pay the program costs for the Private Sanitary Program.

(3) Obtaining Program Benefits. In order to obtain the benefits of the RPPSI/IR Program, a residential property owner must meet the following conditions for the benefit provided:

- (a) In order to obtain a sanitary lateral repair funded through the RPPSI/IR Program, a residential property owner must notify and provide proof to the City Engineer of structural sanitary lateral failure prior to the repair. Upon verification of the sanitary lateral failure by the City Engineer, the property owner shall be provided the opportunity to sign an agreement to have the repair work completed and to have a portion of the repair work levied as a Special Assessment for Sanitary Lateral Repair levied on the property. Once the property owner signs the agreement, the City Engineer will authorize the repair.
- (b) In order to obtain a sanitary lateral rehabilitation through the RPPSI/IR Program, a residential property owner requesting a sanitary lateral rehabilitation must notify the City

Engineer and provide copy of the lateral inspection. Upon verification by the City Engineer that the lateral qualifies for rehabilitation, the property owner shall be provided the opportunity to sign an agreement to have the rehabilitation work completed and to have a portion of the rehabilitation work levied as a Special Assessment for Sanitary Lateral Rehabilitation on the property. Once the property owner has signed the agreement, the City Engineer shall authorize the rehabilitation. Rehabilitations are subject to prioritization and scheduling dependent on the current funding available in the RPPSI/IP. Sanitary laterals will be rehabilitated under City contract.

- (c) In order to obtain a sanitary lateral rehabilitation with inspection through the RPPSI/IR Program, residential property owners requested by the City Engineer to have an inspection performed on their lateral shall be provided the opportunity to sign an agreement to have that work completed. Once the property owner has signed the agreement, the City Engineer shall have the sanitary lateral inspected under City contract. Upon verification by the City Engineer that the lateral qualifies for rehabilitation, the property owner shall be provided the opportunity to sign an agreement to have the rehabilitation work completed and to have a portion of the rehabilitation work levied on the property as a Special Assessment for Sanitary Lateral Rehabilitation. Once the property owner has signed the agreement, the City Engineer shall authorize the rehabilitation. Rehabilitations are subject to prioritization and scheduling dependent on the current funding available in the RPPSI/IP. Sanitary laterals will be rehabilitated under City contract.

(4) **Property Owner Responsibilities.** Property owner retains ownership of the sanitary lateral from the connection at the sewer main to building. The following are the responsibilities of the property owner:

- (a) General maintenance of the sanitary lateral including cleaning and inspection when needed.
- (b) Clearing of blocked sanitary lateral.
- (c) Cleanup from basement back-ups caused by a blocked or a structurally failed sanitary lateral.
- (d) Replacement of trees, bushes, landscaping and pavements within the property disturbed by the rehabilitation or repair of the sanitary lateral.

(5) **Residential Private Property Inflow and Infiltration Reduction Program.** The Private Sanitary Program will provide sanitary lateral repair, sanitary lateral rehabilitation and sanitary lateral inspection as deemed necessary by the City Engineer, in accordance with the following criteria:

- (a) Repair of structurally failed sanitary lateral between the connection at sewer main to an accessible point outside of the building, in accordance with sec. (3)(a).
- (b) Rehabilitation of failing/leaking sanitary service between the connection at sewer main to an accessible point outside of building, in accordance with sec. (3)(b) or (3) (c).

- (c) Inspection of sanitary lateral for properties in areas targeted for flow reduction, with property owner agreement in accordance with sec. (3)(c).
 - (d) No service shall be provided for sanitary laterals with a NASSCO scoring of less than 4.
 - (e) Any costs for work on a sanitary lateral that was not authorized and completed under the direction of the City Engineer will not be reimbursed by this program.
 - (f) Schedule for rehabilitation shall be prioritized by the City Engineer based on the condition assessment rating using the NASSCO pipeline evaluation method. The number of sanitary lateral rehabilitations scheduled annually shall be limited to the number that can be completed within the current level of funding available in the Residential Private Property Inflow and Infiltration Reduction Program. Rehabilitations may be scheduled in subsequent years to stay within the annual operating budget.
- (6) **Disposition of Revenue.**
- (a) The annual revenue generated hereunder shall be used exclusively to pay costs for the Private Sanitary Program.
 - (b) The total revenue designated for sanitary lateral repair, sanitary lateral rehabilitation and debt service, shall be deposited in a separate non-lapsing fund known as the "Private Sanitary Program Fund" and will be kept in three (3) primary accounts as follows:
 - 1. An account designated for the specific purpose of defraying emergency repair of failed sanitary lateral costs- (sanitary lateral repair account).
 - 2. An account designated for the specific purpose of sanitary lateral rehabilitation (sanitary lateral rehabilitation account).
 - 3. An account designated for the specific purpose of payment of debt service (debt service account). The City may credit from this account to the general fund of the City sums to be expended for the retirement of outstanding sanitary lateral program indebtedness of the City.
 - 4. The City shall have no obligation or duty to pay any costs for repair or rehabilitation of sanitary laterals in excess of the amount in the fund for that year's operating budget.
 - 5. Fiscal year end balances in the sanitary lateral repair account, the sanitary lateral rehabilitation account and debt service account shall be carried over to the same accounts in the subsequent calendar year and shall be used for no other purpose than those designated for these accounts. Moneys which have been transferred from other sources to meet temporary shortages in the sanitary lateral repair, sanitary lateral

rehabilitation and debt service accounts shall be returned to their respective accounts upon appropriated adjustment of the user fee rates.

(7) User Fees, Rates.

(a) User Fee. A user fee shall be charged per sanitary lateral for each residential property. The Common Council shall establish a user fee/rate which shall remain the annual user fee/rate unless changed by the Common Council. The user fee/rate shall not be increased more than once per year. The Common Council hereby authorizes the imposition of user fees on all developed residential property with sanitary service to the City's sanitary sewer system.

(b) User Fee Rates. The Common Council will establish user fee rates for each fiscal year. The initial user fee rate shall be \$10 per quarter. All rates established by the Common Council will be fair and reasonable and calculated to achieve that year's operating budget for the program. If the Common Council does not change the user fee rate, it shall be deemed that the user fee rate is appropriate and shall carry over until affirmatively changed by the Common Council. Current user fee rates will be on file in the office of the City Clerk/Treasurer.

(8) Special Assessments.

(a) Special Assessments for Sanitary Lateral Rehabilitation and Sanitary Lateral Repair are pursuant to sec. 66.0701 of the Wisconsin Statutes and shall be collected in the manner therein provided.

(b) The Common Council will establish rates for Special Assessments for Sanitary Lateral Rehabilitation and for Sanitary Lateral Repair each year. The initial Assessment rates shall be \$1,500 for Sanitary Lateral Rehabilitation and \$3,000 for Sanitary Lateral Repair. All rates established by the Common Council will be fair and reasonable and calculated to achieve that year's operating budget for the program. If the Common Council does not change the Special Assessment rates, it shall be deemed that the Special Assessment rates are appropriate and shall carry over until affirmatively changed by the Common Council. Current Special Assessments rates will be on file in the office of the City Clerk/Treasurer.

(9) Billing and Payment.

(a) Bills for the user fee shall be rendered as part of the water bill for the property and become due and payable on the same date as the water bill. A penalty of one percent (1 %) per month shall be added to bills not paid by the due date.

(b) Special Assessments shall be billed upon completion of the Sanitary Lateral Rehabilitation or Sanitary Lateral Repair. A Special Assessment can be paid with no interest within 30 days of the billing date or by payment plan options of five or ten years at the interest rate set by the Common Council. The initial interest rate is four percent (4%) annually. If the Common Council does not change the interest rate, it shall be deemed that the interest rate is appropriate and shall carry over until affirmatively changed by the Common Council.

(10) Lien. All user fees established hereunder and all Special Assessments charges shall be collected and taxed and shall be a lien upon the property served pursuant to secs. 66.0701, 66.0821(4)(d) and 66.0809 of

the Wisconsin Statutes and shall be collected in the manner therein provided.

(11) Appeal. Any person aggrieved by a decision of the City Engineer may appeal the decision to the Common Council within 30 days of the decision. Any person appealing the decision of the City Engineer shall provide an NSSCO pipeline assessment of their sanitary lateral from a NASSCO certified pipeline assessor. All appeals shall be filed with the City Clerk. The appeal shall be referred to the Public Works Committee. The PWC shall, within a reasonable time, conduct a hearing on the appeal. Both the appellant and City Engineer or his designee may present evidence and arguments as to the merits of the appeal. The PWC shall make findings of fact and a recommendation to the Common Council within 30 days of the completion of the hearing. The findings and recommendation shall be mailed to the appellant & City Engineer at least 10 days prior to the Common Council meeting at which the matter will be acted upon. The appellant and City Engineer may submit written objections to the findings and recommendation. No oral argument shall be permitted. The Common Council shall take action on the findings and recommendation and any objections. The decision of the Common Council is a final determination under section 68.12 of the Wisconsin Statutes. A copy of the Common Council's action shall be sent to the appellant and City Engineer within 20 days of the Common Council's action.

(12) Severability. If any provision or part of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be effective thereby.

PART II. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART III. This ordinance shall take effect and be in force from and after its passage and publication.