

ORDINANCE NO. 5131

AN ORDINANCE to amend Section 46-71 and to repeal and recreate Sections 46-80 and 46-146 through 46-152 and to create Sections 46-153 through 46-172 of the Code of Ordinances of the City of La Crosse regarding sanitary sewer service and sewer rates.

THE COMMON COUNCIL of the City of La Crosse do ordain as follows:

SECTION I: Section 46-71 is hereby amended to read as follows:

Sec. 46-71. – Penalties.

(a) Except as otherwise provided in this article, violations of this articles are a Class C offense as provided in Section 1-7.

(b) Violations of Section 46-154 are a Class A offense as provided in Section 1-7.

SECTION II: Section 46-80 is hereby repealed and recreated to read as follows:

Sec. 46-80. - Sanitary sewer service limitations and requirements.

- (a) *City Limits.* The City does hereby limit the provision of wastewater collection, conveyance and treatment service as provided in this section. Except as provided in sub. (b) and (c), the City of La Crosse shall only collect and convey wastewater from property located within the City of La Crosse's corporate limits. Except as provided in sub. (b) and (c), the City of La Crosse wastewater treatment plant shall only treat wastewater collected from property located within the City of La Crosse's corporate limits. The provision of service under sub. (b) or (c) shall not be deemed to be a holding out or an offer by the City to furnish sewer service beyond its corporate limits.
- (b) *Contracts with Adjoining Municipalities.* The City may, with prior Common Council approval, enter into a contract with an adjoining municipality to convey and treat wastewater collected from property within a defined area in that adjoining municipality. The contract shall define and limit the area eligible for conveyance and treatment service and that area shall be delineated on a map on file in the City Engineer's Office. The area provided service may not be expanded without prior Common Council approval and any approved expansion shall be shown on the map on file in the City Engineer's Office. The rendering of such contractual service to an adjoining municipality shall not be deemed to be a holding out or an offer by the City to furnish sewer service beyond that described in this subsection.
- (c) *Limited Service to Adjoining Municipalities with Expired Contracts.* The City may provide wastewater conveyance and treatment service to an adjoining municipality with an expired sewage treatment contract, however, such service shall be limited to the service actually provided at the time the sewage treatment contract expired. No increase in the volume or strength of wastewater conveyed or treated from the adjoining municipality with an expired contract shall be permitted, and no wastewater from any extension or new connection to the adjoining municipality's collection system shall be accepted for conveyance and treatment. The area provided service under this sub. (c) shall be shown on a map on file

in the City Engineer's Office. The rendering of service under this sub. (c) shall not be deemed to be a holding out or an offer by the City to furnish sewer service beyond that described in this subsection.

- (d) *City Ordinances Apply to all Wastewater.* All wastewater entering the City of La Crosse wastewater treatment system shall be subject to all the provisions of the ordinances of the City of La Crosse pertaining to sewers and sewerage, including the provisions of division 2 of this article and all amendments thereto. All persons and entities receiving sewer service as provided in this section shall comply with all the requirements as to plumbing, safeguarding and use applicable to users of sewer service within the City limits along with the provisions of all laws, orders or directives of the United States Government or the State of Wisconsin pertaining to wastewater. The term "wastewater" includes any flows amenable to treatment. Flows which are not amenable to treatment shall be pretreated or corrected at their source, so that they are amenable to treatment at the point of entry into the City of La Crosse wastewater treatment system. The City of La Crosse shall also have the right to inspect and/or survey the wastewater input of all users of the City of La Crosse wastewater treatment system.
- (e) *Charges Established by Common Council.* Customers receiving sewer service in accordance with the provisions of this section shall be subject to any fee or charge imposed for sewer service by the Common Council.
- (f) *Penalty.* The penalty for violating the provisions contained in this section are those as provided for in section 46-71 and, in addition, termination of service or the right to use the City of La Crosse wastewater treatment system including equitable and injunctive relief.
- (g) *Service During Annexation Challenge.* If property is annexed to the City and provided with sanitary sewer service which is treated at the City of La Crosse wastewater treatment plant and that annexation is subsequently declared to be invalid, the City shall continue to provide sanitary sewer service during the pendency of the appeals regarding the annexation at the same rate charged to City residents.

SECTION III: Sections 46-146 through 46-152 are hereby repealed and recreated to read as follows:

DIVISION 3. - SANITARY SEWER RATES AND CHARGES

Sec. 46-146. - Definitions.

- (a) The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cash needs revenue requirement means the method of establishing annual revenue requirements giving consideration to the annual budget expenditures for operation and maintenance expenses, debt service payments, cash financed capital improvements, reserve fund requirements, and taxes. Debt service coverage requirements must also be taken into account to establish cash needs revenue requirements.

Debt service means and includes all costs associated with repayment of debts incurred for the construction and/or rehabilitation of the wastewater treatment system.

Net investment rate base means the amount invested by the City or Utility in capital assets minus accumulated depreciation.

Net operating income means Utility operating income minus operating expenses.

Normal domestic strength wastewater means wastewater with concentrations no greater than 350 milligrams per liter (mg/l) for BOD (biochemical oxygen demand), 325 mg/l for TSS (total suspended solids), 7 mg/l for P (phosphorus), and 40 mg/l for NH₃-N (ammoniacal nitrogen).

Operation and maintenance costs means and includes all costs associated with the operation and maintenance of the wastewater treatment system.

Return on rate base means the annual percentage rate of earnings on the Utility's net investment rate base.

Equipment replacement fund means and includes all costs necessary to accumulate the resources to replace equipment as required to maintain capacity and performance during the design life of the wastewater treatment system. A separate segregated distinct replacement fund shall be established and used for only replacement of equipment.

Revenue requirement means the amount of total revenues that the Utility needs to generate annually from all sources to cover its current and long-term costs determined based on industry standard methods of determining revenue requirements.

Sewage treatment contract means a contract with another municipality for the conveyance, treatment, and disposal of wastewater.

Sewer service charge means a service charge levied on users of the wastewater treatment system.

Utility basis revenue requirements means the method of establishing annual revenue requirements giving consideration to annual operation and maintenance expense, depreciation expense, taxes, and return on rate base.

Wastewater treatment plant means the Isle La Plume wastewater treatment plant owned and operated by the City of La Crosse, or any such additional or replacement wastewater treatment plant owned and operated by the City of La Crosse.

Yearly capital outlay means the amount budgeted to pay for the construction and/or rehabilitation of the wastewater treatment system on a pay-as-you-go basis.

- (b) Other terms contained in this division are as defined in section 46-106.

Sec. 46-147. - Policy.

- (a) *Sufficiency of Charges.* It shall be the policy of the City to establish fair and equitable cost based sewer service charges sufficient to meet the Utility's revenue needs.
- (b) *Classification of Users.* It shall be the policy of the City to classify users of the wastewater treatment system based on the strength of the user's wastewater, whether the service

provided to the user is retail service or wholesale service, and whether the wholesale service provided is pursuant to a sewage treatment contract. This classification recognizes that the Utility incurs additional costs to treat wastewater with concentrations greater than normal domestic strength wastewater, that in-City retail customers are the owners of the Utility, and that the provision of wholesale service without a sewage treatment contract results in additional risks to the Utility.

- (c) *Proportionality by Class.* It shall be the policy of the City to ensure that each class of user of the wastewater treatment system pays its proportionate share of the cost of the wastewater treatment system.

Sec. 46-148. - Basis for sanitary sewer rates.

- (a) *Establishment of Class-Based Rates.* The Common Council shall establish sanitary sewer rates by resolution. The rates established by the Common Council shall distinguish between user classes. At a minimum, the Common Council will distinguish between the following user classes: retail customers discharging normal domestic strength wastewater, retail customers discharging high strength wastewater, tanker truck customers, wholesale customers with a sewage treatment contract, and wholesale customers without a current sewage treatment contract.
- (b) *Rate Study.* The rates established shall be based on a methodology documented in a written rate study approved by the Common Council. The rate study shall be reviewed and updated from time to time and the methodology used in the rate study may be revised. The methodology used in the rate study shall ensure that each user class pays its proportionate share of the cost of the wastewater treatment system.
- (c) *Rate Review and Revision.* Rates shall be reviewed not less than biennially. Such review shall be performed by the Utility and the Common Council. Rates shall be adjusted, as required, to reflect the Utility's projected revenue requirement, the allocation of the Utility's revenue requirement to the different user classes, the amount and strength of wastewater discharged to the wastewater treatment system by the different user classes, and the actual number of users.
- (d) *Establishment of Revenue Requirement.* The Utility's projected revenue requirement may be established as a cash needs revenue requirement or a utility basis revenue requirement. If the Utility's projected revenue requirement is established on a utility basis, the Common Council may utilize different rates of return for different customer classes to reflect the different responsibilities borne and risks related to the different classes.
- (e) *Types of Rates.* The Common Council may establish a fixed rate for each user class to recover the Utility's billing and customer related administration expenses attributable to that user class. The Common Council shall establish usage-based rates by user class to fund the remainder of the Utility's revenue requirement attributable to that user class. The rates established for wholesale customers may include an additional risk premium to reflect the additional risk associated with the provision of service to a user that has no ownership responsibility or contractual obligation with respect to the wastewater treatment system.

Sec. 46-149. – Sewer service charges.

- (a) *Imposition of Charges.* The City shall impose a sanitary sewer service charge upon each lot, parcel of land, building, or premises served by the wastewater treatment system or otherwise discharging wastewater, including industrial wastes, into the wastewater treatment system.
- (b) *Assignment of User into User Classes.* The Utility will assign each sewer user into a user class. Sewer service charges shall be determined based upon the rates applicable to the assigned user class. The Utility may reassign a user into a different user class if wastewater sampling or other information indicates a change in class is necessary.
- (c) *Fixed Charge.* The Utility will charge each sewer user a fixed charge based on the fixed rate attributable to its user class.
- (d) *Volumetric Charge.* The Utility will charge each sewer user a volume charge that is based on the volume of wastewater discharged by that user and the volumetric rate applicable to its user class.
- (e) *Determination of Volume.* The volume of wastewater discharged by a retail user is presumed to equal the total volume of water used by that user during the billing period in units of 100 cubic feet (CCF) unless the Utility approves using a separate sanitary sewer meter or deduct meter for determining volume of wastewater discharged. The volume of wastewater discharged by a tanker truck customer shall be determined at the wastewater treatment plant. The volume of wastewater discharged by a wholesale customer with a contract shall be measured as provided by the contract. The volume of wastewater discharged by a wholesale customer without a contract shall be measured by a sanitary sewer meter, or in the absence of a sanitary sewer meter, by a reasonable method selected by the Utility.
- (f) *High Strength Surcharges.* Wastewater discharged by retail users, other than tanker truck customers, is presumed to be of normal domestic strength unless wastewater sampling conducted as described in Sec. 46-150 demonstrates otherwise. If the strength of a user's wastewater discharge is determined to exceed that of normal domestic strength wastewater for any pollutant parameter, the Utility will charge the user the applicable high strength surcharge on the pounds of the pollutant parameter(s) discharged in that billing period in excess of normal domestic strength wastewater. High strength surcharges shall be based on average concentrations discharged to the wastewater treatment system during the billing period.
- (g) *Tanker Truck Customers.* The Utility shall bill tanker truck customers charges based on the volume and type of wastewater discharged, and the applicable rates established by the Common Council. The Common Council may establish separate rates for holding tank wastewater, septic tank wastewater, grease trap disposal and other types of discharges that exceed the strength of normal domestic strength wastewater.
- (h) *Contract Customers.* All persons, entities, municipalities, public bodies or others receiving treatment of wastewater pursuant to a written contract with the City shall pay charges in accordance with the contract.

- (i) *Wholesale Customers Without a Current Contract.* Municipalities without a current sewage treatment contract that receive wholesale treatment of wastewater pursuant to subs. 46-80(c) shall receive service and be charged as provided in the City's ordinances.

Sec. 46-150. - Sampling and testing.

- (a) *Sampling Requirement.* The Utility may sample and test the discharge of any user suspected of discharging wastewater that exceeds that of normal domestic strength wastewater. If testing indicates the strength of the user's wastewater exceeds that of normal domestic strength wastewater for any pollutant parameter, the Utility may require that user to sample and analyze its wastewater for the pollutant parameters at least once during each billing period. The Utility may require more frequent sampling if, in the opinion of the Utility, the variability of the concentrations of the pollutant parameters, or the magnitude of the exceedance warrants. The Utility may require the user to install a sampling manhole if there is not another suitable location to obtain a representative sample.
- (b) *Method of Sampling.* Flow proportional 24-hour composite samples collected during a period representing typical discharge conditions shall be used to determine the concentrations of pollutant parameters. The collection, preservation, and analysis of samples shall be performed in accordance with 40 CFR 136 and any amendments thereto, or other such methods approved by the United States Environmental Protection Agency.
- (c) *Responsibility for Costs.* The user will be responsible for all sampling and analysis costs, except the Utility will be responsible for the initial sampling and analysis in cases where there is not data available to determine if a user discharges wastewater exceeding normal domestic strength concentrations.
- (d) *Sampling Under Industrial Pretreatment Discharge Permit.* Data provided to the Utility under an industrial pretreatment discharge permit is acceptable for purposes of this Section. The results of any samples taken and analyzed with approved methods shall be reported to the Utility within 30 days of the date the user received analysis results.

Sec. 46-151. - Sanitary sewer meters and deduct meters.

- (a) *Sanitary Sewer Meter.* The Utility may require, or a user may request, that the volume of wastewater discharged by a user to the wastewater treatment system be metered by a separate sanitary sewer meter. The use of a separate sanitary sewer meter must be approved by the Utility. A sanitary sewer meter used to determine the volume of wastewater discharged shall be installed, owned, and maintained by the user, and shall be calibrated by a qualified professional annually, and the accuracy maintained to the satisfaction of the Utility. If the meter is not maintained to the Utility's satisfaction, the Utility may maintain, repair, or replace the meter as required to assure accuracy, and the user will be charged for all costs incurred.
- (b) *Deduct Meter.* Upon a user's request, the Utility may permit a deduct meter to be used to measure water not discharged to the wastewater treatment system. If the Utility approves the use of a deduct meter, the user shall purchase such meter from the Utility, and shall be responsible for installing the meter in accordance with applicable codes. The Utility will be responsible for subsequent maintenance and replacement of the deduct meter. The user shall be responsible for removal of in-place deduct meter and installation of

replacement meters in accordance with applicable codes. The Common Council may adopt a separate fixed charge for billing and administration costs associated with the use of a deduct meter.

Sec. 46-152. – Billing and payment of charges.

- (a) *Quarterly Billing.* The Utility shall bill sewer service charges quarterly.
- (b) *Payment and Penalty.* All sewer service charges shall be payable to the City not later than 20 days after the billing date. A penalty shall be added to all bills paid later than 20 days after the billing date. Calculation of the penalty will be according to the same method approved by the Public Service Commission of Wisconsin for water utility charges.
- (c) *Charges a lien.* All sewer service charges shall be a lien upon the property serviced pursuant to Wis. Stat. § 66.0821 and shall be collected in the manner therein provided.
- (d) *Disposition of revenue.* Revenue from the collection of sewer service charges shall be credited to a sanitary sewer utility account which shall show all receipts and expenditures of the sewerage system. Revenues shall be used to make payments to meet operation and maintenance costs, administrative expenses, debt service, deposits into the equipment replacement fund, yearly capital outlay, and budgeted deposits to reserves. Funds in excess of these needs may be placed into the City's general fund to be used for general city purposes or in a special fund to be used for special municipal purposes as allowed by Wis. Stat. §§ 66.0811 and 66.0821(2)(b).

SECTION IV: Sections 46-153 through 46-172 are hereby created to read as follows:

Secs. 46-153— Capacity Limits.

- (a) *Contract Customers.* All persons, entities, municipalities, public bodies or others receiving treatment of wastewater pursuant to a current contract with the City shall be subject to the capacity limitations contained in that contract.
- (b) *Wholesale Customers Without a Current Contract.* An adjoining municipality with an expired sewage treatment contract that is receiving wastewater conveyance and treatment service pursuant to City ordinances shall be limited to the capacity being actually provided at the time the sewage treatment contract expired. No increase in the volume or strength of wastewater conveyed or treated from the adjoining municipality with an expired contract shall be permitted, and no wastewater from any extension or new connection to the adjoining municipality's collection system shall be accepted for conveyance and treatment. The City shall determine the amount of capacity being actually provided at the time the sewage treatment contract expired and shall maintain a schedule of applicable capacity limits at the City Engineer's Office. The City shall also maintain at the City Engineer's Office a map of the applicable service area for an adjoining municipality with an expired sewage treatment contract.

Secs. 46-154—Exceedances.

Wholesale Customers Without a Current Contract. An adjoining municipality with an expired sewage treatment contract that exceeds the capacity limits provided in sec. 46-153 is in violation of this Article. Each day an adjoining municipality with an expired

sewage treatment contract exceeds the capacity limits provided in sec. 46-153 is a separate violation. An adjoining municipality with an expired sewage treatment contract violates this Article each time it conveys wastewater from a property not included in the service area map maintained by the City Engineer's Office under sec. 46-153(b) to the wastewater treatment system. Each property constitutes a separate violation.

Secs. 46-155 —46-172. - Reserved.

SECTION V: Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this division shall not be affected.

SECTION VI: This ordinance shall take effect upon passage and publication.

/s/

Timothy Kabat, Mayor

/s/

Teri Lehrke, City Clerk

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