

CITY OF BROADVIEW HEIGHTS, OHIO

ORDINANCE NO. 30-16

INTRODUCED BY MAYOR AND ENTIRE COUNCIL

AN ORDINANCE AMENDING VARIOUS SECTIONS
OF CHAPTER 1043 OF THE CODIFIED ORDINANCES OF THE
CITY OF BROADVIEW HEIGHTS, OHIO,
AND DECLARING AN EMERGENCY.

WHEREAS, Chapter of the Codified Ordinances of the City of Broadview Heights involves Sewer Rates and Charges

WHEREAS, the City Council has determined that it is in the best interest of the City to amend various sections of Chapter 1043

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROADVIEW HEIGHTS, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. Section 1043.02 shall be amended to read as follows

“1043.02 RESIDENTIAL SANITARY SEWER CHARGES.

Sanitary sewer charges shall be charged to all parcels connected to the sanitary sewer system and to all parcels having the ability to connect to the sanitary sewer system regardless of whether they are actually connected, as follows:

Presently and through June 30, 2016 the rates shall be as provided for below:

<u>TYPE OF DOMESTIC USER</u>	<u>SANITARY SEWER CHARGE</u>
Single Family House, Government Building or Apartment or Condominium having more than Three Bedrooms:	\$80.00/year
Vacant Parcels:	\$80.00/year
3 Bedroom Apartment or Condominium:	\$70.00/year
2 Bedroom Apartment or Condominium:	\$60.00/year
1 Bedroom Apartment or Condominium	\$50.00/year

From July 1, 2016 and through June 30, 2020 the rates shall be as provided for below:

TYPE OF DOMESTIC USER

SANITARY SEWER CHARGE

Single Family House, Government Building or Apartment or Condominium having more than Three Bedrooms:

Amendments
\$144.00/year \$132.00/year

Vacant Parcels:

\$144.00/year \$132.00/year

3 Bedroom Apartment or Condominium:

\$128.00/year \$116.00/year

2 Bedroom Apartment or Condominium:

\$108.00/year \$100.00/year

1 Bedroom Apartment or Condominium

\$92.00/year \$84.00/year

Beginning July 1, 2020, the rates shall be as provided for below:

TYPE OF DOMESTIC USER

SANITARY SEWER CHARGE

Single Family House, Government Building or Apartment or Condominium having more than Three Bedrooms:

\$152.00/year

Vacant Parcels:

\$152.00/year

3 Bedroom Apartment or Condominium:

\$132.00/year

2 Bedroom Apartment or Condominium:

\$112.00/year

1 Bedroom Apartment or Condominium

\$96.00/year

SECTION 2. Section 1043.03 shall be amended to read as follows:

“1043.03 INDUSTRIAL AND COMMERCIAL SANITARY SEWER CHARGES.

The quarterly sanitary sewer charge for any property classified as C, D, or E Zoning shall be the greater of : (1) twenty dollars (\$20.00) or (2) four dollars and seventy seven cents (\$4.77) per 1,000 cubic feet of water furnished to the premises by the City of Cleveland Division of water during that period. This shall be the fee through June 30, 2016.

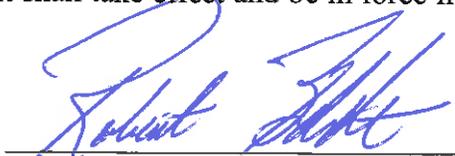
From July 1, 2016 and through June 30, 2020, the quarterly sanitary sewer charge for any property classified as C, D, or E Zoning shall be the greater of: (1) ~~thirty-six~~ thirty-two dollars (~~\$36.00~~) (\$32.00) or (2) ~~eight dollars and fifty nine cents~~ seven dollars and eighty seven cents (~~\$8.59~~) (\$7.87) per 1,000 cubic feet of water furnished to the premises by the City of Cleveland Division of water during that period.

Beginning July 1, 2020, the quarterly sanitary sewer charge for any property classified as C, D, or E Zoning shall be the greater of: (1) thirty-eight dollars (\$38.00) or (2) nine dollars and seven cents (\$9.07) per 1,000 cubic feet of water furnished to the premises by the City of Cleveland Division of water during that period

(\$9.07) per 1,000 cubic feet of water furnished to the premises by the City of Cleveland Division of water during that period

SECTION 3. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason stated in the Preamble hereof, and provided it receives the affirmative vote of five (5) or more of the members of Council and the signature of the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: May 23, 2016



PRESIDENT OF COUNCIL

DATE FILED
WITH MAYOR: May 23, 2016

APPROVED: 

SAMUEL J. ALAI, MAYOR

ATTEST: 

CLERK OF COUNCIL

DATE APPROVED: May 23, 2016

AN ORDINANCE PROVIDING FOR THE IMPOSITION, COLLECTION AND ADMINISTRATION OF CHARGES FOR SANITARY SEWER MAINTENANCE, REPEALING ORDINANCE NOS. 83-87 AND 07-06 AND CHAPTER 1043 OF THE CODIFIED ORDINANCES, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROADVIEW HEIGHTS, CUYAHOGA COUNTY AND STATE OF OHIO, that:

SECTION 1. Deficits Prohibited. As part of the annual review provided herein, the Director of Finance and the Director of Public Service shall make an estimate of the revenues and expenses for the next year for the Sanitary Sewer Fund. After deducting (1) the estimated operation and maintenance costs, (2) the estimated debt service costs, and (3) any repair and replacement reserve payment, from the total estimated revenues and net carryover from the previous year for the fund, the fund shall maintain a positive year-end balance.

SECTION 2. Residential Sanitary Sewer Charges. Sanitary sewer charges shall be charged to all parcels connected to the sanitary sewer system and to all parcels having the ability to connect to the sanitary sewer system regardless of whether they are actually connected, as follows:

<u>TYPE OF DOMESTIC USER</u>	<u>SANITARY SEWER CHARGE</u>
Single Family House, Government Building or Apartment or Condominium having	
More than Three Bedrooms:	\$80.00/yr.
Vacant Parcels	\$80.00/yr.
3 Bedroom Apartment or Condominium:	\$70.00/yr.
2 Bedroom Apartment or Condominium:	\$60.00/yr.
1 Bedroom Apartment or Condominium:	\$50.00/yr.

SECTION 3. Industrial and Commercial Sanitary Sewer Charges. The quarterly sanitary sewer charge for any property classified as C, D or E Zoning shall be the greater of (1) \$20.00 or (2) \$4.77 per 1,000 cubic feet of water furnished to the premises by the City of Cleveland Division of Water during that period.

SECTION 4. Billing Procedures.

(a) The charges established by this ordinance shall be billed after the service is rendered.

(b) Bills shall be mailed to the owner of the property at the mailing address of the property being billed unless the owner shall, in writing, request the bill be sent to a different mailing address of the owner. Bills shall not be sent to a lessee of the property. In the case where the land is separately owned from the

building, the bill shall be sent to the mailing address of the owner of the building.

(c) Any current user of the City's sanitary sewer system who is determined by the Director of Finance to have accumulated delinquencies of sanitary sewer service charges while such user owned or occupied the property to which such charges were applicable and who was not furnished by the City with periodic statements as to those charges became due shall have the option to pay such charges in installments, under the following conditions:

1. The Director of Finance shall notify each such current user, by notice sent to the address to which statements for sanitary sewer service charges are to be sent, of the aggregate amount of the unpaid charges that are owed by that user to the City and of the user's option to pay the delinquent amount in installments as provided in this ordinance.

2. Any portion of the unpaid amount that is not received by the City within thirty days of the mailing of such notice shall be payable in installments of \$5.00 per month, which installments shall be added to, and shall be payable with, the current charges shown on the next and subsequent quarterly statements sent to the user.

3. Payments made by a user pursuant to such quarterly statements shall be applied first to the current user charge, and any balance shall be credited against the delinquent amount. Any amounts that are paid in excess of the total shown on a quarterly statement shall be applied to reduce the amount of the accumulated delinquency, but shall not reduce the amount of any remaining monthly installment payments. The final monthly installment shall be in such amount as shall be required to satisfy the then remaining amount of the delinquency after application of the previous installments.

4. The Director of Finance shall at the request of any user or of a prospective purchaser of the property of a user whose property is subject to the provisions of this section furnish to such person a statement of the then current balance of the delinquent sanitary sewer service charges that are owed with respect to that user's property. Any accumulated delinquent amount shall constitute an obligation related to the property and shall be payable by each then current owner regardless of any transfer of ownership or control of the property.

5. Unpaid delinquent amounts that are not paid as they become due pursuant to this section shall be certified for collection as provided in Section 7 of this ordinance.

The Director of Finance and the Director of Law shall take such actions not inconsistent with the provisions of this section as they shall determine to be reasonably or useful to collect delinquent sanitary sewer service charges from prior owners or occupants of the property in question, including entering into installment payment arrangements with such users.

SECTION 5. Changes of Address or Ownership.

(a) Upon the change of his or her mailing address, an owner of property served by the sewage collection system shall inform the City of the change. Failure to inform the City of a change of address shall not excuse an owner from any payment penalties incurred because of the failure to report an address change.

(b) Prior to the sale of a property, the present owner shall contact the City to arrange for pro-ration of the final bill. The final bill shall be sent to the mailing address specified by the present owner. Failure of a previous owner to comply with this part shall not excuse the new owner from responsibility for any and all delinquencies certified pursuant to the Ohio Revised Code, current charges or penalties remaining unpaid by the previous owner.

(c) Prior to the sale of a property, the purchaser shall contact the City to arrange for a pro-ration of the first bill and to inform the City of the mailing address of the new owner. Failure to comply with this part shall not excuse the new owner from responsibility for any and all delinquencies certified pursuant to the Ohio Revised Code, current charges or penalties remaining unpaid by the previous owner.

SECTION 6. Payments and Penalties.

(a) Payment shall be due on the 30th after the date of the bill. If that 30th day of the month falls on a Sunday or holiday, payment shall be due the previous business day. If payment is made by mail, the envelope must be postmarked not later than the due date of the bill. A penalty of ten percent of the amount billed shall be added to any bill that is not paid by the due date.

(b) Checks and money orders shall be paid to the City of Broadview Heights.

(c) A bill that remains unpaid at the end of the calendar year will be certified to the Cuyahoga County Auditor to be collected on the real estate taxes as a sewer assessment.

(d) If a bank should return a check for insufficient funds, an account will be subject to an insufficient funds charge of twenty-five dollars.

(e) If a person has two checks returned for insufficient funds, the City may require all future payments to be made in cash or money order.

(f) Upon the claim of a person that the return of a check for insufficient funds was a bank error, the City may waive an insufficient funds charge and/or accept payment by check if the bank supplies adequate documentation of its error.

(g) A person should contact the Finance Department if he or she fails to receive a bill by the 18th day of the first month of a calendar quarter. Upon a claim of a person that a bill was not received:

i. If the records of the City show the bill was duly mailed to the last reported mailing address, the person shall be responsible for timely payment of the bill.

ii. If the records of the City show the bill was not duly mailed to the last reported mailing address, the Finance Department may either:

Issue a bill due ten (10) days from the date of mailing; or

Add the unpaid charge to the following quarter's bill without a penalty.

(j) In using the U.S. Postal Service for delivery of their payment of a sewer service charge, users assume responsibility for any failure of the U.S. Postal Service to deliver the payment to the City. Accordingly the Finance Department shall not waive payment penalties for any person claiming that the U.S. Postal Service failed to deliver a payment.

SECTION 7. Delinquencies. Any unpaid billings, together with accrued penalties, shall be annually certified to the Cuyahoga County Auditor, pursuant to the Ohio Revised Code, who shall place such delinquencies upon the real property tax duplicate for the property receiving sewage service. Such delinquencies shall be a lien upon the property from the date the delinquency is placed upon the real property tax duplicate and shall be collected in the same manner as other real estate taxes. Failure to pay delinquencies certified may result in a foreclosure of the property by the Cuyahoga County Prosecuting Attorney. This part shall be in addition to all other collection remedies provided by law including an action in small claims court.

SECTION 8. Liberal Interpretation. This ordinance shall be interpreted liberally to effectuate its broad remedial purpose of protection of the public health, safety and welfare. Absent a showing of actual abuse of discretion, the City's interpretation of this ordinance shall have a strong presumption of validity.

SECTION 9. Grievances and Appeals.

(a) Any person aggrieved by a decision of the City under this ordinance may file a written grievance with the Director of Public Service. The written grievance shall set forth the substance of the City's decision and the basis of the person's complaint.

(b) The Director of Public Service shall investigate the grievance and issue a written determination. The determination shall include the following:

Name, address and location of the premises of the complainant;
A summary of the complainant's claim;
A summary of the facts revealed by the City's investigation;
An interpretation of any applicable regulation, law or policy;
A notice of the person's right of appeal to the City.
A copy of this grievance and appeal procedure.

SECTION 10. Deposit of Proceeds. Money received by the City in payment of the charges imposed and billed pursuant to Sections 2 and 3 of this ordinance for sanitary sewer system services shall be deposited by the Director of Finance in the ~~Sanitary Sewer Fund~~.^{5th} Interest earned on investment of the moneys in that fund shall be credited to that fund, and the City's expenses incurred in the billing and administration of that fund shall be charged to that fund.

AMENDMENT: Sanitary Sewer Maintenance Fund

SECTION 11. Repeal of Existing Provisions; Codification. That Ordinance No. 83-87, Ordinance No. 07-06 and Chapter 1043 of the Codified Ordinances of the City of Broadview Heights, as the same have heretofore existed, are hereby repealed. Neither such repeal nor any other provision of this ordinance shall affect or impair any of the rights or obligations of this City or of other person, firm or corporation that have heretofore existed under the ordinances being repealed, and the City shall have the right to collect and receive payment of any and all amounts that are due and owing pursuant to such provision until the same shall have been paid in full. In the case of any conflict between the provisions of this ordinance and any other ordinance of the City, the provisions of this ordinance shall prevail. The provisions of this ordinance that are of a general and permanent nature shall be incorporated into the Codified Ordinances of the City of Broadview Heights.

SECTION 12. Invalidity and Severability. Invalidity of any section, clause, sentence or provision in this ordinance shall not affect the validity of any other section, clause, sentence or provision of this ordinance or subsequent ordinances

SECTION 13. Open Meetings. This Council finds and determines that all formal actions of this Council relating to the passage of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

SECTION 14 Effective Date. This ordinance is hereby declared to be an emergency ordinance necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this ordinance is required to become immediately effective in order for the provisions hereof to be applicable to sanitary sewer maintenance bills that are in the process of preparation; wherefore, this ordinance, provided it receives the affirmative vote of at least two-thirds of the members of this Council and the signature of the Mayor, shall become effective immediately; otherwise it shall be in full force and effect from and immediately after the earliest time permitted by law.

PASSED: Jan. 22, 2008

DATE FILED WITH
THE MAYOR Jan. 22, 2008

ATTEST: Sandra Hudack
CLERK OF COUNCIL

Don S. Sykes
PRESIDENT OF COUNCIL

APPROVED: Samuel J. Ajai
SAMUEL J. AJAI, MAYOR

DATE APPROVED: 1-22, 2008