

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTERS 52 AND 96 OF THE CODE OF ORDINANCES OF THE CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS REGARDING THE CONNECTION AND REPAIR OF PRIVATE SANITARY SEWER LATERALS AND THE DISCHARGING OF SUMP PUMPS AND PERIMETER TILES INTO SANITARY SEWERS**

**WHEREAS**, the City of Washington, Illinois (the “City”) is a home rule municipality in accordance with the Constitution of the State of Illinois and as such, has the authority to create this Ordinance; and

**WHEREAS**, Sections 52.040 through 52.055 of the Code of Ordinances of the City (the “Code”) provides for certain standards and procedures for making connections to the City’s public sanitary sewer but does not expressly address the maintenance of said connections; and

**WHEREAS**, Section 52.065(A) of the Code provides that no person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer but does not set forth the procedures, including incentives, to be used to enforce that provision; and

**WHEREAS**, Section 96.01(13) of the Code declares a nuisance “to cause, allow, or permit storm water, surface water, ground water, runoff water, subsurface drainage water or the like to be discharged into the sanitary sewer system of the city, by way of downspouts, footing tile, or otherwise”; and

**WHEREAS**, Section 96.03 of the Code provides remedies for the abatement of the nuisance defined in Section 96.01(13) of the Code; and

**WHEREAS**, the City Council has determined that it is in the best interests of the City to amend the Code to clarify maintenance obligations for connections to the City’s public sanitary sewer and outline the procedures, including incentives, to be used to enforce Section 52.065(A) of the Code and Section 96.01(13) of the Code.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Washington, Illinois as follows:

Section 1: The recitals; as set forth above, are incorporated herein as though fully set forth and shall be considered the express findings of the City Council.

Section 2: That Chapter 52 of the Code be, and the same hereby is, amended by adding the following Section 52.056:

**§ 52.056            CONNECTION AND REPAIR OF PRIVATE SANITARY SEWER LATERALS**

- (A) The pipe or pipes and appurtenances that carry sewage and liquid waste from the building or facility that is required to be provided with public sanitary sewer service, or that is actually provided with public sanitary sewer service, to the public sanitary sewer main must be maintained by the person owning the real property on which such private sanitary sewer laterals are located, at such person's expense, in a condition so as to satisfy the standards of this Code and comply with all other requirements provided by law. For the avoidance of doubt, such private sanitary sewer lateral shall begin at the building or facility being served and continue to the first of: (i) the cleanout provided in accordance with Section 52.056(C); or (ii) in the event there is no cleanout provided in accordance with Section 52.056(C), the sanitary public sewer main.
- (B) After obtaining any permit required under Section 52.040, but in no event later than two (2) days prior to the connection or repair of any private sanitary sewer lateral as provided under this Chapter, the person owning the real property shall provide notice of the time and place of such connection or repair to the City Administrator or his designee. The city shall have the right to have a designated representative present at the time of any connection to, or repair of, any connection to the public sanitary sewer main. The presence of a designated representative of the City at such connection or repair shall not waive any notice or inspection required under Section 52.054.
- (C) After the receipt of notice under Section 52.056(B), the city will provide the person performing such connection or repairs with a cleanout that must be installed, at the expense of the owner of the real property, behind the curblin of such real property; provided that the city will repair any damage done to the roadway and curb that was necessarily caused in the installation of such cleanout. The owner of the real property shall be responsible for any and all maintenance to the cleanout provided by the city hereunder.

Section 3: That Chapter 52 of the Code be, and the same hereby is, amended by adding the following Sections 52.081 through 52.094:

***DISCHARGING OF SUMP PUMPS AND PERIMETER TILES INTO  
SANITARY SEWERS***

**§ 52.081      PURPOSE**

This ordinance is adopted to set forth the procedures, including incentives, that will be used to enforce the provisions of Section 52.065(A) of this Code, which provides as follows: No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

## **§ 52.082          INSPECTION AUTHORIZATION**

The City Administrator, or one or more of his designees, are authorized and directed to cause an inspection of the plumbing fixtures and facilities, downspouts, sump pumps, building drains, building sewers, yard drains, area drains, and building or lot storm water, surface water, or ground water drainage devices located on or used by premises located in the City, in an effort to locate conditions which would permit storm water, surface water, or ground water to enter directly or indirectly the public sanitary sewer. In certain cases, an inspection may require more than one entry to the premises.

The City Administrator shall develop a plan to inspect premises in those areas that have experienced surcharging and those areas that may contribute to surcharging and shall implement said plan as soon as reasonably practical.

## **§ 52.083          TESTING PROCEDURES**

The City Administrator, or one or more of his designees, are authorized and directed to cause "smoke tests", "dye tests", "TV monitor tests", or any combination of such tests to be conducted within any "area subject to surcharging and any area that may contribute to surcharging" in order to locate conditions which would permit storm water, surface water, or ground water to enter a building sanitary drain, private sanitary sewer, or public sanitary sewer, or if the exact location of such conditions cannot be determined, to at least determine if, during such tests, water or dye placed in or on any such premises or in any storm water collection or diversion device located on such premises, reaches the public sanitary sewer or if smoke pumped into the public sanitary sewer emerges from locations on private property.

The aforesaid testing shall be paid for by the City, provided the owner and occupant of the premises have provided access for and consented to the inspection of the premises as provided in Section 52.085. Notwithstanding any other provisions of this ordinance, in those cases where an owner resides in the premises, and there is more than one owner, the consent of one owner only is sufficient, and the consent of any other occupant is not needed.

Each owner and occupant of a premises shall provide access in the premises to allow the inspection. Access for the purposes of this ordinance is providing a cleanout as defined in 77 Ill. Adm. Code §§ 890.420 & 890.430 as now in effect or as may from time to time be amended. The owner and/or occupant must also remove any obstructions that prevent access to a cleanout.

If upon first inspection the City determines that the owner and/or occupant does not have a proper cleanout (or it is obstructed), then the owner and/or occupant shall within thirty (30) days thereafter install a proper cleanout (or remove the obstruction) and allow the City to accomplish the inspection.

In the event the owner and occupant of a premises do not consent to the inspection as provided in Section 52.085, or provide access as defined in this Section, then the owner shall reimburse the City for the cost of testing. The cost of said testing is determined to be five hundred dollars (\$500.00) and said amount shall be paid to the City within thirty (30) days of the date the City performed the testing. The payment of this cost shall not relieve the owner of a premises of the responsibility of otherwise complying with all of the terms of this ordinance.

#### **§ 52.084        COURT ACTION**

If the City is unable to secure the consent of the owner or occupant of the premises to conduct the inspection described in 52.082 (including the providing of proper access) then counsel for the City is hereby authorized and directed to seek judicial authorization for the City to enter the premises and conduct the inspection. In such action, counsel may also seek reimbursement for the cost of testing.

#### **§ 52.085        PROCEDURE TO SECURE AUTHORIZATION**

The City Administrator, or one or more of his designees, shall notify the owner and occupant of a premises that the City desires to inspect the premises for the purposes set forth in this ordinance. If an owner resides in the premises, then notice need be given only to one owner and need not be given to any other occupant.

Notification shall be by personal contact or by written notice sent by first class mail. In those cases where an owner does not reside in the premises, the owner shall be notified by first class mail. If there is more than one owner of a premises, notice may be given to one owner only, and it shall be deemed to be constructive notice to all other owners.

Refusal to allow inspection shall be deemed to have occurred in the following events:

(A)    A verbal statement denying access for inspection made by an owner or occupant of the premises (in those cases where an owner does not reside in the premises) to the City employee requesting such inspection;

(B)    In those cases where the City has been unable to contact an owner and the occupant (in those cases where an owner does not reside in the premises) in person, then if there is no response to the written notice by the owner and occupant (in those cases where an owner does not reside in the premises) within thirty (30) days of the date the City has mailed the written notice, allowing the City to make the inspection within said thirty (30) day period, refusal shall be deemed to have occurred. Refusal means that the owner and occupant (in those cases where an owner does not reside in the premises) have not permitted inspection within said thirty (30) day period.

**§ 52.086        NOTIFICATION OF ACTION REQUIRED**

After the City has inspected the premises, either by voluntary consent or pursuant to authorization received by court, the City shall notify the owner by written notice sent by first class mail if there is any violation of Section 52.065(A) of this Code.

The owner shall have the following periods to correct any violation:

- (A) If a sump pump is hooked into the sanitary sewer, it shall be unhooked within one (1) month of such notice.
- (B) If a perimeter tile (or more than one) is hooked into the sanitary sewer, then all of such tiles shall be disconnected within six (6) months of the date of such notice. If the disconnect date falls in the months of March, April, or May, the effective date shall be May 31 of the same year.

**§ 52.087        NO EXTENSIONS**

The time limits set forth in Section 52.086 are deemed to be critical to the procedures set forth herein, and to the orderly elimination of the problems cited herein. Therefore, no extensions to the time limits will be allowed, and failure to comply with same shall cause an owner to lose the grant referred to in Section 52.088, and to be subject to the penalties and other actions set forth in Section 52.092.

**§ 52.088        GRANT INCENTIVE**

The owner of a premises shall be eligible to receive a grant of the lesser of five hundred dollars (\$500.00) or the reasonable costs of unhooking the perimeter tile from the sanitary sewer, if all of the following conditions are met:

- (A) An owner and the occupant (in those cases where an owner does not reside in the premises) have provided access as defined in Section 52.083.
- (B) An owner and the occupant (in those cases where an owner does not reside in the premises) have voluntarily consented to and allowed an inspection of the premises within the time frame set forth in Section 52.085.
- (C) The owner has disconnected the perimeter tile within the time limits prescribed in Section 52.086 (There is no grant incentive for disconnecting a sump pump.)

With respect to the requirement of disconnecting perimeter tiles, all such work shall be done in accordance with all other ordinances of the City. The owner and occupant (in those cases where an owner does not reside in the premises) shall allow

the City to inspect all work to ensure that it has been done in conformity with all ordinances.

**§ 52.089 GRANT INCENTIVE - REPAIRS ONLY**

The owner shall also be eligible for a grant of the lesser of five hundred dollars (\$500.00) or the costs of repairing a sewer lateral provided the following conditions have been met:

- (A) The owner and occupant (in those cases where an owner does not reside in the premises) have complied with all provisions of this Chapter.
- (B) The problem with the sewer lateral was discovered pursuant to one of the testing procedures set forth in this Chapter.
- (C) The owner repairs the sewer lateral in a manner satisfactory to the City with the repair to be accomplished within one (1) year of the date of the test.
- (D) The owner shall provide satisfactory proof to the City of the costs of the repair.

The grant shall be paid only to the owner of the property at the time of the repair. The owner shall provide satisfactory proof to the City within ninety (90) days of notification of same by the City of their eligibility.

**§ 52.090 INELIGIBILITY FOR GRANT**

An owner shall be ineligible to receive a grant if he or she or the occupant (in those cases where an owner does not reside in the premises) have done any of the following:

- (A) Failed to provide access or remove any obstruction to access as defined in Section 52.083.
- (B) Failed to consent and allow inspection of the premises within the time period set forth in Section 52.085. Failure to allow inspection includes withholding of consent by an occupant of the premises in those cases where an owner does not reside in the premises.
- (C) Failed to complete all corrective action within the time period set forth in Section 52.086.
- (D) Failed to comply with any other provisions of this Code.

**§ 52.091            EFFECTIVE DATE FOR GRANT ELIGIBILITY**

Any owner who has disconnected perimeter tile from the sanitary sewer after October 4, 2021, shall be eligible for the grant provided herein.

**§ 52.092            PENALTIES**

Any person who violates, neglects, or refuses to comply with, or who resists or opposes the enforcement of any provision of this ordinance shall be punished by a fine of One Hundred Dollars (\$100.00) per month that such violation, neglect, or refusal continues. The first penalty may be enforced by issuance of a “Notice of Violation” for the fine amount enumerated herein, or by issuance of a “Notice to Appear.” Subsequent penalties of One Hundred Dollars (\$100) shall be assessed on the same day of each subsequent month following issuance of a Notice of Violation or Notice to Appear without further notice thereof. This penalty shall be in addition to the costs as provided in § 52.083, and in addition to any and all other remedies which may be available to the City under this Chapter, other Chapters of the Code of Ordinances, or other laws.

**§ 52.093            OWNER RESPONSIBILITY FOR TENANT**

In certain cases the occupant of a premises will not be the owner of the premises. Notice of actions required by this ordinance will be given to the owner of the premises. It shall be the responsibility of the owner to secure the consent and cooperation of all occupants for all procedures required by this ordinance, and if the owner does not or is unable to secure for any reason whatsoever the consent and cooperation of all occupants of a premises as to any procedure, then the owner shall be subject to all remedies provided for in this ordinance, and shall be responsible for the payment of all testing costs.

Owner is used in the singular in this ordinance. Where there is more than one owner of a premises, notice need be given to only one owner, and consent may be obtained from one owner only. Occupant is used in the singular in this ordinance. Notice or consent need be given to or obtained from only one occupant in those cases where an owner does not reside in the premises. (This is in addition to the notice and consent required by an owner.)

**§ 52.094            SEVERABILITY CLAUSE**

If any provision of this ordinance, or the application of any provision of this ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this ordinance.

Section 4: That Chapter 96 of the Code be, and the same hereby is, amended by striking Section 96.03.

Section 5: If any provision of this Ordinance or application thereof to any person or circumstances is ruled 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 provision or invalid application of this Ordinance is severable.

Section 6: That all ordinances or parts thereof in conflict herewith are hereby expressly repealed.

Section 7: This Ordinance shall be in full force and effect from and after its passage, approval, and notification as provided by law and shall take effect upon its passage as required by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Gary W. Manier, Mayor

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Valeri L. Brod, City Clerk