

ORDINANCE NO. 1963

AN ORDINANCE REGULATING SANITARY SEWER CONNECTION FOR THE PURPOSE OF ELIMINATING THE INTROUCTION OF PROHIBITED WATERS INTO THE SHELBYVILLE SEWER SYSTEM PROVIDING FOR PERIODIC INSPECTIONS AND/OR TEST OF SEWER LINE AND FACILILTIES OF HOMES, BUILDING AND APPURTENANCES CONNECTED TO SAID SEWER, PROVIDING FOR PENALTIES AND VIOLATIONS THEROF

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WHEREAS, the City of Shelbyville has constructed a sanitary sewer system for the use and benefit of the residents of the City and other areas connected thereto; and

WHEREAS, the Shelbyville Sewage Utility must follow Indiana Department of Environmental Management requirements for controlling the use of its sanitary sewer; and

WHEREAS, as a continuing condition for past and future Federal and State grants, and for the proper control of its system, the City is required to for the Federal and State dictates; and

WHEREAS, the City has obtained sufficient information from its engineer and waste water personnel that excessive inflow exists within the sanitary system; and

WHEREAS, the City now finds that a substantial amount of the inflow which exists in the system is caused by various violations that are prohibited by the Ordinance; and

WHEREAS, the City now finds that these violations have caused and will continue to cause excessive sanitary sewer flows which has created and will continue to create a direct danger to the health, safety and welfare of the City's residents and the areas served by the City sewer system; and

WHEREAS, the City now finds that these violations which have existed, and continue to exist, have resulted in, and will continue to result in excessive costs for treatment and maintenance of its system; and

WHEREAS, the City is charged and obligated to enforce its ordinance as effectively as possible; and

WHEREAS, the City now finds that it is in the best interests of the residents of the City to enact a comprehensive, systematic compliance and enforcement procedure to govern the conduct of all of the users of the system, whether within the City of whether they are users from other areas which are not in the City but are provided sanitary sewer services.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SHELBYVILLE, THAT:

SECTION ONE: Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

"Compliance" shall, wherever necessary, mean compliance with the provisions of the Ordinance set forth herein, and any amendments thereto and/or the provisions of this Ordinance;

"System" shall mean all of the facilities for collecting, pumping, treating and disposing of sewage owned by the City within the sanitary sewer service area of the City of Shelbyville;

"Board" shall mean the Sewage Utility Board;

"Employees" shall, wherever necessary, mean and include such employees or designated representative or officials of the Shelbyville Wastewater Treatment facility as the Board shall, from time to time, designate and utilize in making the inspection and/or tests hereafter described in carrying out the other duties as prescribed herein to be performed on behalf of the City;

"User" shall mean the owner, lessee or occupant of the property on which the buildings and/or appurtenances that are connected to the System are located.

Throughout this Ordinance, the masculine gender shall be deemed to include the feminine and/or the neuter, the singular, the plural and vice versa, wherever required by the context.

SECTION TWO: Following the passage and adoption of this Ordinance by the Common Council of the City of Shelbyville, all users of the sanitary sewage treatment and collection system of the City shall, on or before October 1, 1989, bring themselves into voluntary compliance with the terms and conditions of the Ordinances of the City of Shelbyville governing connection to and use of the sanitary sewage treatment and collection system of the City, including but not limited to the requirements of the Ordinance set forth herein.

SECTION THREE: Upon expiration of the term provided for in Section Two, a User utilizing the System of the City may avoid the imposition or levy of any fines, fees, charges or penalties with regard to such use and utilization by presentation of proof of Compliance and continuing Compliance with the provisions of the City's Ordinance and any amendments thereto, which proof shall consist of and include compliance with the following procedures and conditions as to each building and/or appurtenance connected thereto:

- A. Upon request by a Sewage Official or one of its designated employees, either in writing or by personal contact, each user utilizing the system shall, within ten (10) business days, as to each building and/or appurtenance so connected to the system execute a "Grant of Inspection" to the City, to permit entry upon the property served by the System on which the building and/or appurtenances are located, to inspect and/or perform such tests as may be deemed necessary, by the City, to verify and prove compliance with the provisions of the City's Ordinance set forth herein, and any amendments thereto;

- B. The Grant of Inspection shall be deemed to include the right of periodic inspections and/or tests thereafter, as may be reasonably determined to be necessary by the City, to maintain, monitor and ensure continued compliance with the provisions of the City's Ordinance set forth herein, and any amendments thereto:
- C. Once a Grant of Inspection has been executed, it shall be deemed to be an ongoing authorization as provided for herein. Once a Grant of Inspection has been executed, it may not be revoked by the original grantor.'
- D. Reasonable written notice of at least twenty-four (24) hours shall be given by the City Officials or designated employee to the User of the time and place at which the inspections and/or tests provided for herein are to be made;
- E. There shall be no fees charged for any inspections and/or tests conducted and performed by the designated representatives.
- F. In the event a User utilizing the System executes the Grant of Inspection, and the City determines that said buildings and/or appurtenances are in compliance, no surcharge, fines or other penalties shall be imposed or levied upon the User; provided, however, that the City shall have the right and authority, pursuant to the Grant of Inspection executed as required hereby and the terms of this Ordinance, to conduct additional inspection and/or tests at a later date to determine that compliance still exists;
- G. In the event a User utilizing the System fails or refuses to execute a Grant of Inspection to the District for the purposes provided for herein, a surcharge of Twenty-Five Dollars (\$25.00) per month shall be imposed in addition to all other charges authorized and imposed under any applicable Ordinances of the City commencing at the next billing period following the date of the failure and refusal to execute the Grant of Inspection to the City. If the User continues to refuse to execute a Grant of Inspection after a period of sixty (60) days, the surcharge shall be raised to Fifty Dollars (\$50.00) per month.
- H. In the event a User utilizing the System executes the Grant of Inspection, and the City inspects, conducts tests, and determines that the buildings and/or appurtenances of said User are not in compliance, then and in such event, the City by its designated employee shall provide written notice of the results of the inspection and tests to the User, who shall be required to permanently comply with the applicable provisions of the Ordinance set forth herein within forty-five (45) days of the date of the notice.
- I. In the event that the building and/or appurtenances of the User are determined not to be in compliance with the Ordinance set forth herein, and any amendments thereto, and the time period referred to herein for corrective work expires, and the User refuses or fails to bring buildings and/or appurtenances in compliance with the aforementioned Ordinance, a surcharge of Fifty Dollars (\$50.00) per month per billing account for such User shall be imposed, in addition to all other charges authorized and imposed under any applicable Ordinances of the City, commencing at the next billing period following the date of the inspection or testing by the District wherein such non-compliance was determined, for permitting such violation to continue to exist.

- J. The surcharge referred to herein shall be removed only upon the following conditions:
1. The User utilizing the System executes a Grant of Inspection to the City or takes the required corrective action required to bring about Compliance; and
 2. The City inspects and/or performs tests on the buildings and/or pertinences connected to the System and determines that the buildings and/or appurtenances so connected to the System are in Compliance; and
 3. The payment in full of all surcharges billed to the User utilizing the System until the time period the buildings and/or appurtenances in question of the User are determined to be in Compliance.
- K. The failure or refusal by the User utilizing the System to execute a Grant of Inspection or to cause his buildings and/or appurtenances to be in Compliance, after being determined not to be in Compliance, within the statutory guidelines from date of the failure, refusal or notice of non-compliance shall cause the City, by its Wastewater Treatment Plant Supervisor or other City official, to prepare a Notice of Violation of City Ordinance as to the property in violation of this Ordinance, and to file the Notice for recording in the Office of the Recorder of Shelby County, Indiana. The Notice of Violation shall be in conformance with applicable Indiana Statutes.

SECTION FOUR: In the event a User is found to be in Compliance and subsequent inspections and/or tests determine that non-compliance now exists, the terms and provisions of Section Three, paragraphs D, H, I, and J, thereof shall be applicable, except that in addition to the surcharge to be charged in accordance with Section Three, Paragraph I, if any, the User shall be liable for payment of a sum equal to the sum of the months since the original determination of compliance was made, multiplied by the monthly surcharge amount provided for in Section Three, Paragraph I, for knowingly, willfully and/or intentionally creating or permitting such violation to commence and continue.

SECTION FIVE: In the even a User if found to be in a state of non-compliance a second or subsequent time, then the User shall be liable for the payment of a sum equal to One Thousand Dollars (\$1,000.00), plus an amount equal to the sum of the months since the original non-compliance was corrected (and if never corrected, from the date of such non-compliance determination), multiplied by the monthly surcharge amount provided for in Section Three, Paragraph I or G, for knowingly, willfully and/or intentionally permitting such violation to commence and continue.

SECTION SIX: Any User violating any of the provisions of this Ordinance shall be liable to the City for any expenses, costs and fees, including but not limited to reasonable attorney fees, occasioned or caused to the City by reason of seeking enforcement of such Ordinances against the violator, as well as for

any losses or damages occasioned or cause to the City or the System's Users by reason of such violation.

SECTION SEVEN: The Common Council of the City of Shelbyville and the Sewage Utility Board shall have full power and authority to invoke any legal, equitable or special remedy for the enforcement of this Ordinance. In addition, the Board is hereby authorized to institute proceedings on behalf of the City in the Circuit or Superior Courts of Shelby County, Indiana, for prohibitory or mandatory injunctive relief to prevent of discontinue any violations of this Ordinance.

SECTION EIGHT: This Ordinance shall be deemed supplemental to all other Ordinances and provisions thereof for enforcement and compliance purposed, and shall not be deemed to amend or rescind said other Ordinances and provisions; further, that any fines, fees, charges or penalties levied or imposed pursuant to this Ordinance shall be in addition to any fines, fees, charges or penalties levied or imposed pursuant to all other Ordinances and provisions thereof.

SECTION NINE: The Common Council of the City of Shelbyville, by passage hereof, has determined that the measures hereinbefore set out are a reasonable means of ensuring compliance with the Ordinance set forth herein and any amendments thereto, and further that the same are necessary to protect and ensure the health, safety and welfare of the residents of the City and the area served by the System.

SECTION TEN: The provisions of this Ordinance shall be deemed severable, and should any section or part hereof be deemed invalid or unenforceable by the Court of Competent jurisdiction, such section, clause, sentence or provision shall be deemed stricken and the invalid or unenforceable part shall not affect the validity or enforceability of any other part or parts of this Ordinance which can be given effect without such part or parts as may be so deemed invalid or unenforceable.

SECTION ELEVEN: The Common Council of the City of Shelbyville hereby declares that this Ordinance shall be in full force and effect from and after its passage.

PASSES AND ADOPTED by the Common Council of the City of Shelbyville on this _____ day of _____, 1989.

APPROVAL OF ORDINANCE

Passed by the Common Council on first reading this _____ day of _____, 198_____.

VOTE: Ayes _____ Nays _____

President

ATTEST:

Clerk/Treasurer

Passed by the Common Council on second and final readings this
_____ day of _____, 198_____.

VOTE: Ayes _____ Nays _____

President

ATTEST:

Clerk/Treasurer

Passed by the Common Council on second and final readings this
_____ day of _____, 198_____.

Clerk/Treasurer

Approved by me and signed this _____ day of _____,
198_____.

Mayor