

CITY OF WEST ST. PAUL
DAKOTA COUNTY, MINNESOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 50.08 OF THE WEST ST. PAUL CITY CODE
REGARDING THE PROHIBITED DISCHARGE OF CLEAR WATER DRAINAGE
AND SUMP PUMPS

The City of West Saint Paul does ordain:

SECTION 1. West St. Paul City Code Section 50.08 relating to Discharge of Prohibited Clear Water Drainage and Sump Pumps is hereby amended as follows:

§ 50.08 PROHIBITED DISCHARGE OF ~~PROHIBITED~~ CLEAR WATER DRAINAGE FROM ~~SUMP PUMPS~~ AND OTHER SOURCES INTO THE SANITARY SEWER SYSTEM.

(A) *Applicability and Purpose.* This ordinance shall apply to all water entering the sanitary sewer system unless explicitly exempted by the City. The City and its representatives are authorized to administer, implement, and enforce the provisions of this ordinance.

The Council finds that the discharge from roofs, rainspouts, yard drains, surfaces, groundwater, sump pumps, footing tiles or swimming pools, foundation drains, yard fountains, ponds, cistern overflows, water discharged from any nonresidential air conditioning unit or system, or other means of transmitting natural precipitation and surface waters, collectively referred to as excess infiltration and inflow, into the sanitary sewer system, will and has in the past overloaded the sanitary sewer system. The Council, therefore, finds it essential for compliance with mandated City Code requirements that the provisions of this Section be strictly enforced.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall apply.

(A)(B) *Definition. clear water drainage Clear Water Drainage.* Clear Water Drainage, for the purpose of this section, is defined as stormwater, natural precipitation, melting snow, ground water or flow from roof runoff, ground surface runoff, subsurface drainage, down spouts, eave troughs, rainspouts, yard drains, sump pumps, footing tiles or swimming pools, foundation drains, yard fountains, ponds, cistern overflows, ~~or~~

water discharged from any nonresidential air conditioning unit or system, or any other water that is not required to be treated by state or federal law, that enters the sanitary sewer system through any separation, gap, crack, fracture, collapse or other structural defect in the sewer lateral. Swimming pool water that is required to be treated in accordance with City, county or state regulations shall not be considered clear water.

~~(C)~~ ***Private Sewer Lateral.*** Private Sewer Lateral, for the purpose of this section, is defined as all sewer service pipes extending from the City sanitary sewer main to the dwelling, building, or structure it serves.

~~(B)~~~~(D)~~ ***Ownership.*** The property owner shall own and be responsible for the routine maintenance and repair of the sanitary Private Sewer Service Lateral between the city's sanitary sewer main within the street and the building being served, including the connection to the City sanitary sewer main.

~~(C)~~~~(E)~~ ***Prohibited Discharges Into The Sanitary Sewer System.*** No person shallIt shall be unlawful for any person whose property is provided with sanitary sewer service to directly or indirectly ~~discharge~~cause or permit to be discharged, pumped, or drained any Clear Water Drainage into the City's sanitary sewer system.

~~(D)~~~~(F)~~ ***Prohibited Connections.*** No person shall make or maintain a connection between any conductor, device or system designed to ~~used to carry~~move clear water drainage from its source to any pipe, cleanout, floor drain, foundation drain, sink or any other apparatus with a direct connection to~~and~~ the City's sanitary sewer system.

~~(E)~~~~(G)~~ ***Sump Pumps.*** A Sump Pump is a mechanical device used to remove liquid collected in a sump usually constructed below the normal grade of the gravity system, usually below basement floor level. Dwellings and other buildings and structures that require a sump pump system to collect and discharge excess clear water drainage because of the infiltration of water into basements, crawl spaces and the like shall obtain a permit and have a permanently installed discharge line that complies with the following:

- (1) It shall not any time discharge water into the City's sanitary sewer system or be capable of connection or reconnection to the City's sanitary sewer system;
- (2) It shall provide for year-round discharge capability to ~~either~~ the outside of the dwelling, building or structure, to the City's storm sewer system;
- (3) It shall consist of a rigid discharge line constructed of rigid piping material inside the dwelling or building, without any connections for altering the path of discharge, and if connected to the City's storm sewer, line must include a check valve of an approved type and diameter; and
- (4) Must be directed toward the front or rear yard so as not to trespass or discharge on to adjoining properties.

~~(F)~~(H) Inspections. For purposes of complying with the mandates of this Section to eliminate Clear Water Drainage into the sanitary sewer system, the Public Works Director, or his or her designee (“Inspector”) is authorized to conduct inspections ~~The city shall conduct inspections~~ of Private Sewer Laterals and sump systems for all single-family, owner-occupied properties that discharge into the City’s sanitary sewer system for the limited purpose of confirming that there is no sump pump or other prohibited discharge of Clear Water Drainage to ensure compliance with this section. Such inspection shall be at no expense to the owner, so long at the owner complies with the requirements set forth in section (H)(2). Failure to have an inspection as required in this section is a violation of the ~~city~~City code.

(1) Except as set forth in ~~division Section (HF)~~(H)(3), inspections are required when the following occurs:

- (a) The property is offered for sale or conveyance by deed or contract for deed, unless the Certificate of Compliance is still valid pursuant to Section division (IG);
- (b) The City orders a street reconstruction project and the property is located on or adjacent to a street in the improvement project area; or
- (c) For the purpose of safeguarding the health and safety of the general public or occupants of a building to determine compliance with the City Code and the City has identified specific areas that have exceeded peak flow rates as established by the local authority having jurisdiction.

(2) Inspections shall be conducted pursuant to City Code § 10.17. In addition to the inspection requirements in § 10.17, owners shall be required to comply with the following:

- (a) Provide sufficient space and access to the Private Sanitary Sewer Service Lateral within the dwelling, building or other structure, including removal of any obstacles so that the Private Sanitary Sewer Service Lateral and waste stack cleanout or final cleanout, as necessary, are completely accessible to the Inspector; and
- (b) Clear, or contract with for services to clear the Private Sanitary Sewer Service Lateral of any root intrusions, structural blockages or any other intrusions that prevent the completion of an inspection and to allow clear televising of the Private sanitary Sewer Service Lateral from the dwelling, building or other structure to its connection with the City’s sanitary sewer main;
- (c) Remove or contract with services to remove, any toilet on the lowest level of the building for access purposes as described in (2)(a); and
- ~~(b)~~(d) The owner shall pay a penalty of \$50 for any missed inspections. If the owner or the owner’s representative arrives later than 20 minutes past the scheduled

inspection time without notification prior to the appointment it shall be considered a missed inspection.

(3) Inspections shall not be required under the following circumstances:

- (a) It is a newly constructed dwelling and title to the property is transferred to the first owner;
- (b) It is the sale or other transfer of title of any property with a dwelling that is being conveyed to a public body;
- (c) It is the sale or transfer of title of any property that contains a dwelling that will be demolished; ~~or~~

(d) It is the sale or conveyance of any property that contains a dwelling by a sheriff or other public or court officer in the performance of their official duties. This exception does not apply to the sale by a person appointed by a probate court; or

~~(d)~~(e) The property is connected to a septic system and has no public sewer access or has been granted a connection waiver by the City.

(4) The City shall complete its inspection reports within ten business days from the date of the inspection and immediately send the report to the property owner. The reports shall indicate all sewer later defects, deficiencies and violations discovered in sufficient detail to identify the violations and to contract for repairs as necessary

~~(4)~~(5) At the discretion of the Inspector, the Inspector may refuse to conduct a scheduled inspection if doing so would pose a risk to the Inspector's health, safety or welfare. In such cases, the property owner will be required to have the inspection performed by an independent contractor at the property owner's expense.

(1) **Certificates of Compliance.** If, following inspection, it is determined that ~~the a~~-property is in compliance with this section, the City shall issue a Certificate of Compliance. No new inspections or certificates for single-family, owner-occupied properties shall be required until one of the events in ~~division Section (HF)~~(1) occurs. Certificates of Compliance are valid for a period of ten years from the date of issuance of the Certificate. The City shall issue a Certificate of Compliance if the inspection verifies that all of the following conditions are met:

(1) There is no sewer pipe joint degradation, as evidenced by root intrusion and mineral staining, scaling and deposits;

(2) There are no prohibited discharges or connections as defined by sections (E) and (F);

(3) There are no misaligned joints obstructing the flow of waste, causing blockages, exfiltration of the intrusion of roots or minerals; or

~~(G)~~ (4) The lateral is free of holes, cracks, fractures, collapses, or other structural defects.

~~(H)~~(J) ***Residential Rental Properties.*** For residential rental properties, the property owner is required to locate the buildings sewer cleanout, open the cleanout to ensure functionality, identify any private manholes or outside cleanouts and locate all sump pump systems (if applicable). The property owner shall obtain an independent inspection and submit an inspection report to the City upon submission of a new or renewal rental license application. The inspection report shall indicate that the property is free from prohibited discharges and prohibited connections, including illegal sump pumps. If any violations are discovered, corrections must be made pursuant to ~~division~~ **Section (LJ)** below. The City shall conduct a reinspection to verify compliance. Upon verification that the corrections have been made, the City shall issue a certificate of compliance.

~~(H)~~(K) ***Commercial, Industrial and HOA Properties.*** For commercial and industrial properties and condominium or townhome residential properties with a homeowners' association ("HOA Properties"), property owners are required to locate the building's sewer cleanout, open the cleanout to ensure functionality, identify any private manholes or outside cleanouts and locate all sump pump systems (if applicable). The property owner shall obtain an independent inspection and submit an inspection report to the City. The inspection report shall indicate that the property is free from prohibited discharges and prohibited connections, including illegal sump pumps. If any violations are discovered, corrections must be made pursuant to ~~division~~ **Section (J)** below. The City shall conduct a reinspection to verify compliance. Upon verification that corrections have been made, the City shall issue a certificate of compliance.

~~(H)~~(L) ***Violations.***

(1) ***Violations, generally.*** Except as provided in ~~division~~ **Section (LJ)**(2), for owner-occupied, single-family ~~Private Sewerservice~~ Lateral violations discovered during a time of sale inspection, when the Inspector determines there has been a violation of any provision of this ~~division~~ **Section**, the Inspector will give notice of the violation to the owner and occupant in writing and allow time for compliance as follows.

(a) For residential rental, commercial, industrial and HOA Properties, ~~Private Sewerservice~~ Lateral violations ~~that are discovered between July 1, 2016, and July 1, 2018,~~ shall be corrected within 120 days of discovery of the violation. ~~on or before July 1, 2018.~~

~~(e)~~ ~~For residential rental commercial, industrial and HOA properties, service lateral violations that are discovered after July 1, 2018, shall be corrected within 120 days of the discovery for the violation;~~

~~(e)~~(b) For all sump pump violations, regardless of the classification of the property, the violation shall be corrected within 30 days.

(2) *Violations discovered at time of sale.*

(a) ***Seller responsibilities.*** When the Inspector determines that there has been a violation of any provision of this section prior to the sale, the seller is responsible for correcting the violations prior to the sale, unless the buyer has assumed such responsibility as provided in ~~division~~ Section (L) (2) (b) below. Failure of a seller to disclose to a buyer that there are uncorrected violations of this section is a violation of the City Code. When correcting the violations, all necessary permits shall be obtained from the City. Upon completion of the corrections, the City shall reinspect the property to verify compliance or the seller shall provide a copy of a post-repair video to the City.

(b) ***Buyer responsibilities.*** If a seller cannot correct the violations prior to the sale, the seller may negotiate to have the buyer must assume the responsibility for correcting the violations, provided that. ~~The~~ seller and buyer shall sign a written acknowledgement from the City that includes:

1. The buyer's acceptance and assumption of responsibility for correcting the violations within one year after closing on the property;

2. ~~That~~ the buyer's understanding that either the City shall reinspect the property to verify compliance or a copy of a post-repair video must be provided to the City s that a reinspection is required in order to verify that the corrections have been completed;

3. ~~That~~ the buyer's agreement to holds the City harmless from liabilities and claims if the buyer occupies the dwelling prior to corrections of the violations; and

4. ~~The~~ buyer's understanding that failure to correct violations or deficiencies, failure to provide a post-repair video or failure to allow a reinspection is a violation of the City Code and subjects the buyer to penalties as stated in ~~divisions~~ Sections (MK), (OM), and (PN).

4.5. The buyer's agreement that any areas of non-compliance must be corrected within twelve (12) months of the date of sale of the property.

(3) ***Violations and corrections under the roadway.*** When the Inspector determines that there has been a violation of any provision of this section and the violations are under the roadway, the property owner will perform the repairs, except as stated in ~~division~~ Section (L) (4) below. However, a property owner shall not excavate in the roadway without permission from the City Engineer.

(4) ***Non-excavation violations and corrections within two feet from the main.*** When the property owner is correcting violations of the ~~sanitary-Private~~ Sewer ~~Service~~-Lateral

between the street and the building using a cured in place pipe (“Pipe Liner”) or similar approved repair methods, and the corrections only involve the lining of the sanitary Private Sewer Service Lateral, the ~~owner shall stop all repairs at a distance of the contractor shall terminate the Pipe Liner as close to the connection with the two feet from the city~~ City’s public sanitary sewer main as possible. If the Pipe Liner extends into the public main, the contractor shall trim off the excess portion and report its approximate location to the Public Works Department as soon as possible. The city shall assume responsibility for any lining within two feet from the main, which will be done in conjunction with scheduled street repair work.

~~(K)~~(M) **Penalty.**

(1) A monthly penalty of \$50 for owner-occupied, single-family properties; and a monthly penalty of \$300 for residential rental, commercial, industrial and HOA Properties shall be ~~added to each sewer and water bill~~ sent an invoice if:

(a) An owner fails to complete an inspection pursuant to ~~division Section (HF), (JH) and (K)~~;

(b) An owner whose property was found in violation of this section did not make the necessary repairs changes and furnish proof of those changes to the City within the time frames required by this section;

(c) An owner fails to allow an inspection or reinspection to verify compliance; or

(d) ~~There has been a reconnection of a previously disconnected prohibited discharge. If a property is certified in compliance with this section and the same owner is later found to have reconnected to the city’s sanitary sewer system~~ The property owner or occupant reconnects a clear water discharge line to the municipal sanitary sewer system after it has been previously disconnected at the City’s or a court’s direction. ~~The property owner will be subject to the penalty surcharge for all months between the last two inspections.~~

(2) The penalty shall be added for every month during which the property is not in compliance.

~~(L)~~(N) **Temporary waiver.** The City Engineer may allow or require a temporary waiver from the provisions of this section when strict enforcement would cause a threat of damage or harm to other property, the environment or public safety because of circumstances unique to the individual property or due to weather conditions. A written request for a temporary waiver must be first submitted to the City Engineer specifying the reasons for the request.

~~(M)~~(O) **City Engineer.** The City Engineer may set conditions any temporary waiver issued. The City Engineer may terminate the waiver upon a failure to comply with any conditions imposed in the temporary waiver or may take appropriate legal action to

enforce those conditions. The City Engineer must give a five-day written notice of the termination to the property owner and occupant setting forth the reasons for the termination. After expiration or termination of a temporary waiver, the property owner must comply with the provisions of this section.

~~(N)~~(P) **Public nuisance.** An owner or occupant who fails to have an inspection, who has done work that does not comply with this section, who reconnects to a previously disconnected prohibited discharge, who fails to pay the penalty or who has failed to do the work required by this section within the specified time limit, will be deemed to have created a public nuisance subject to abatement and assessment, as provided in City Code Chapter 94.

(Q) **Remedies.** The remedies provided in this section do not limit the right of the City to pursue any other available legal remedy.

~~(O)~~

SECTION 2. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

After implementation of the Inflow and Infiltration inspection program for many years, it was determined that clarification of definitions and expectations of homeowners were necessary for effective enforcement. The ordinance does not change the program, but seeks to help property owners better understand their responsibilities.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed by the City Council of the City of West St. Paul, Minnesota, this _____ day of _____, 2019.

Ayes:

Nays:

Attest:

David J. Napier, Mayor

Shirley R. Buecksler, City Clerk