

PUBLIC WORKS AND UTILITIES COMMITTEE

08-066-0

AS AMENDED

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

AN ORDINANCE CLARIFYING SANITARY SEWER INFLOW AND INFILTRATION REGULATION AND PROVIDING FOR POINT OF SALE INSPECTIONS, AMENDING CHAPTER 43 OF THE CODE.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 43-3.3 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

43-3.3.

(a) Building sewer. The extension of the building drain from a clean-out complying with the requirements of the Plumbing Code to the public sewer or other place of disposal including the "wye" pipe or other connection into the public sewer, also called house connection;

(b) Building sewer--sanitary. A building sewer which conveys wastewater only;

(c) Building sewer--storm. A building sewer which conveys storm water or other unpolluted water drainage but no wastewater.

Section 2. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 43-3.24.1, which read as follows:

43-3.24.1. Plumbing Code. The Uniform Plumbing Code as amended and adopted by the state of Minnesota as the Minnesota State Plumbing Code and as the same may, from time to time, be further amended.

Section 3. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 43-3.24.2, which read as follows:

43-3.24.2. Point of sale certificate or POS certificate. A certificate issued by the director upon his or her determination either that the plumbing materials and equipment as installed and operating in the subject building are in compliance with the

requirements of Section 43-31 below, or that the plumbing and equipment related to said building is not in compliance with the requirements of Section 43-31 below but the director determines that the building and building sewer is not contributing any material or observable amounts of unpolluted water to the public wastewater collection system and is not likely to do so in the future.

Section 4. That Section 43-27 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-27. Separate building sewer required.

(a) A separate and independent building sewer shall be provided for every building; except where an existing building stands at the rear of another or two or more buildings are served by a single building sewer which is in good repair and is adequately serving all properties connected thereto and no separate sewer has been constructed therefor, such building or buildings may continue to be connected to the building sewer of the front building and the whole considered as one building sewer, but the city shall have no obligation or responsibility for damage caused by or resulting from any such single connection aforementioned;

(b) When any building sewer serving more than one building is excavated in whole or in part for any reason, a separate and independent building sewer shall thereafter be provided for each such building.

Section 5. That Section 43-31 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-31. Unpolluted water prohibited.

(a) No leak, break, failure to function of a building sewer, or connection of area way drains, perimeter foundation drains, rain leaders, down spouts or rain connector, or any condition of the

building sewer that allows other sources of unpolluted waters, such as stormwater, ground water, roof runoff, subsurface drainage, unpolluted industrial water or cooling water, to enter a building sewer or building drain which is connected directly or indirectly to a public sanitary sewer shall be made or allowed to exist. Down spouts connected to roof gutters will not discharge water within two feet of the building foundations, and parallel to the property if within five feet of the property line. An exception of this will be if the building down spout is connected to a rain barrel with a minimum capacity of 35 gallons. The owner or operator is responsible for compliance with the requirements of this Article. From time to time, the city may offer programs, grants or incentives in an effort to improve the sanitary collection system. Regardless of these measures, it is the policy of the city to inspect, enforce and attain compliance with this Code for all buildings and sewers. Enforcement actions separate from any program or incentive are proper. Homes with existing sump pumps will be reinspected to ensure proper functioning. There shall be no fee for this reinspection;

(b) Upon completion of the construction, reconstruction, repair which includes excavation of any kind or replacement of any building sewer, said building sewer shall be capable of passing an air test in accordance with the plumbing code. Any such building sewer not capable of passing such air test shall either be further repaired or replaced in its entirety until it passes such air test;

(c) No person owning or controlling, in whole or in part, any building shall allow any condition or connection prohibited in subsection (a) above to be made or to exist, or shall fail to cause any such condition or connection existing to be disconnected or

remedied within 90 days of discovery of the defect or of being ordered to make such disconnection or repair by the director. Any homeowners with redirected sump pump that deliberately discharges into the sanitary sewer system will be fined up to \$500 upon conviction for each offense. Additionally, any homeowner who installed a sump pump at any city expense which pump deliberately discharges into the sanitary sewer system will be required to reimburse the city for all costs associated with the installation of the sump pump;

~~(c)~~ (d) No person shall tamper with, modify or make any change to any plumbing materials or equipment necessary to prevent noncompliance with the requirements of Subsection (a) above. Nor shall any owner or person owning or controlling any building permit any person to so tamper with, modify or make any changes to such materials or equipment in such building or fail to maintain in fully functional condition such materials and equipment.

Section 6. That Section 43-33.4 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-33.4. Repairs required at time of sale.

(a) This Section 43-33.4 applies to transfers of ownership of or of possessory rights in property which property is required to be served by the city's public sanitary sewer, as set out in Section 43-16, or its successor;

(b) Upon the signing and acceptance of a legally binding offer to purchase or ~~At~~ least 30 days before a transfer of title to, or the entering into of a contract for deed for, or contract for sale of, real estate, which sale, transfer or contract gives a party other than the seller or transferor a right of possession, whichever occurs first, the seller or transferor shall notify the director of

the date of the proposed sale or transfer closing and arrange for a building sewer inspection to determine whether the property requires a sump pump, building sewer trap removal, and footing drain disconnect in order to be in compliance with this Chapter. The seller or transferor shall pay an inspection fee of \$200 to city in advance of the inspection to defray the city's costs of such inspection in an amount established from time to time by resolution of the city council. No such sale or transfer shall be allowed to occur unless the director has been so notified and the property so inspected, except as provided for in subsection (e) below;

(c) If a building sewer contains a house trap and the footing drains are active, the trap shall be removed. ~~If the building sewer contains a house trap, it shall be removed.~~ If the property requires footing drain disconnections and sump pump installation, it shall be done. ~~The cost of this work is the responsibility of the owner.~~ The required repairs shall be completed within 90 days of the date of the inspection referred to in subparagraph (b) above ~~after the sale closing.~~ If they are satisfactorily completed, the director shall issue a POS certificate with regard to ~~of noncompliance from~~ footing drain contribution only but such POS certificate shall not evidence total compliance with all of the requirements of Section 43-31(a) above. If the required repairs are not satisfactorily completed within said 90 day period, the owner or customer shall be charged a monthly surcharge of \$250 each month until the repairs are satisfactorily completed;

(d) If, upon the inspection provided for in subparagraph (b) above, the director determines that the property qualifies, the director shall issue or cause to be issued a POS certificate which shall be valid for the proposed sale or transfer related to that

inspection and for any other such sale or transfer occurring within 60 days of said proposed sale or transfer unless the director determines in the exercise of his or her discretion that there is sufficient reason to believe that said POS certificate does not accurately represent the existing condition of the property in question;

(e) In the event that the director receives notice of a proposed sale or transfer and request for an inspection which complies with the requirements of subsection (b) above, but the department fails to complete the inspection required by this Section prior to the date of the proposed closing contained in the notice or the date of the actual closing, whichever is later, the director shall provide a temporary waiver of the inspection requirement contained in subsection (b) above which shall be effective until the department shall offer to perform the required inspection on the property during ordinary business hours; the department shall attempt to make reasonable accommodation to the schedule of the acquiring party. Such waiver shall be subject to the acquiring party agreeing in writing to allow representatives of the department to enter upon the property for the purposes of making the inspection and shall be effective only until date the department proposes to make such inspection. Upon the inspection being made under this subsection, the property inspected and the acquiring party shall be subject to the requirements of this Article as if the inspection had been made prior to closing.

Section 7. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by repealing Section 43-33.3 in its entirety.

Section 8. That this ordinance shall take effect 30 days after its passage and publication.

PW&U REA:blj 8/28/2008

STATEMENT OF PURPOSE: This ordinance clarifies certain portions of the amendment to the I&I program ordinance as it was amended last June, especially as it pertains to the point of sale certificate (the POS certificate), when the requirement for it is triggered and when required repairs must be done. It also provides for a fee for point of sale inspections. In addition it will require that newly constructed or repaired sanitary sewers pass a standard air test as prescribed in the State Plumbing Code.