

PUBLIC WORKS AND UTILITIES COMMITTEE

09-033-0

AS AMENDED

ORDINANCE NO. 9982

AN ORDINANCE AUTHORIZING CREATION OF THE DULUTH PRIVATE SEWER SERVICE GRANT/LOAN PROGRAM AND INCREASING THE AMOUNT OF THE CLEAN WATER FUND SURCHARGE, AMENDING SECTION 43-11.1 AND 43-33.1 OF THE CODE.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 43-11.1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-11.1. Clean water surcharge.

(a) In order to protect the public health and the environment, the city, under order from the United States environmental protection agency and Minnesota pollution control agency must improve its wastewater collection system. Therefore, there shall be created a clean water surcharge upon each customer and user, commencing July 1, 2008 and until July 30, 2009, and terminating June 30, 2028. ~~The amount of the monthly surcharge shall be \$5.57. Commencing August 1, 2009, and until January 1, 2012, the amount of the monthly surcharge shall be \$8.78. From and after January 1, 2012, the amount of the monthly surcharge shall again be \$5.57 or an amount set by an amendment to this Section.~~ There is also created in the city accounting system a fund known as the clean water fund. Into the fund shall be deposited the following amounts:

- (1) The amounts collected as the clean water surcharge under this Section;
- (2) Any amount allocated to it by action of the city council or city administration;
- (3) Any amounts received as penalties for violation of Chapter 43, Article IV;

(4) Any amount received as fees or surcharge under Section 43-33.4;

(5) Any amount received as the surcharge authorized by Section 43-12.1;

(6) Any interest earned by the fund;

(7) Any loans, loan payments or grants received by the city for the purpose of designing, constructing, repairing, maintaining, or replacing structures or facilities, including structures used for sanitary sewage overflow storage or for repayment of loans made pursuant to the private sewer service program established pursuant to Section 43-33.1(c)(2) below, for the purpose of attaining compliance with federal or state I&I standards, or any consent decree for that purpose which is binding on the city.

(b) The money in the clean water fund shall be spent only for the purpose set out in (7) above or for the purpose of making grants and loans under the said private sewer service program. The requirements of this Chapter continue in force after the termination of the clean water surcharge. It is the policy of the city that eventually each sewer in the city shall be inspected and brought into compliance with this Chapter.

Section 2. That Section 43-33.1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-33.1. Entry for inspections; building sewer improvement, I&I program and private sewer service grant/loan program.

(a) Upon designation of any sewer basin pursuant to Section 43-33 above, the director shall cause all buildings within said sewer basin to be inspected for compliance with Section 43-31 above. Upon determination that any building does not comply with Section

43-31 above and does not qualify for a certificate of noncontribution, the director shall issue an order to disconnect any portion of the plumbing of such building in violation of said Section 43-31, or do any act required to attain compliance;

(b) No person shall fail or refuse to allow the director to inspect any building to determine whether the plumbing of such building complies with the requirements of Section 43-31 above after having been given reasonable advance notice of the director's intent to do so; such notice may be given by mail as provided for in Section 43-33 above or in person or by posting notice thereof on the premises to be inspected. In the event that the owner or person in control of any building shall deny or refuse to allow the director to inspect any such building after such notice has been given, the director may allow the inspection to be made by a qualified person who is not a city employee, in a manner acceptable to the director, having results reported and supported by evidence acceptable to the director, all at the owner's expense. If the owner or person in control refuses to allow any sufficient inspection, the director shall use such other means as are authorized by law, including but not limited to securing a search warrant for such building or a court order requiring that access be granted in order to gain access to conduct such inspection;

(c) (1) The director, using uniform criteria, shall determine which properties and/or building sewers in the district shall be included in the I&I program. For each building sewer included in the I&I program, sewer inspections required by the director for purposes of the program will be performed by city employees or agents without charge. The director, using uniform criteria, shall annually designate at least 630 building sewers that, as part of the I&I program, will have the building sewer trap removed, footing drains disconnected from the sanitary sewer system,

and a sump pump installed or gravity discharge installed. The city will pay up to \$2,150 of the reasonable cost of these improvements based upon the uniform criteria in the I&I guidelines;

(2) Pursuant to the authority of Minnesota Statutes Section 471.342 and any successor thereto, the city hereby establishes the Duluth private sewer service grant/loan program, hereinafter referred to as the "private sewer service program," as part of the city's inflow and infiltration program. Said program shall be available for use on properties located within basins designated pursuant to paragraph (a) above which have been specifically designated as eligible therefor in writing by the director. The city council is hereby authorized to approve, by resolution, program guidelines establishing criteria for program eligibility and standards for compliance with the program. Pursuant to said guidelines the city may provide grants or loans or both to private property owners for the repair, reconstruction or lining of private sanitary sewer laterals which are eligible therefore pursuant to the private sewer service program guidelines in addition, the director, using uniform criteria, shall annually designate at least 175 malfunctioning building sewers that, as part of the I&I program, will have the building sewer repaired, by lining or otherwise, or replaced. If footing drain disconnect, building sewer trap removal, and building sewer repair or replacement are all done as a single project under paragraph (1) or (2), then the maximum \$2,150 grant of paragraph (1) will apply so that the maximum total grant for that project would be \$2,150. The remainder of the cost of this repair or replacement shall be the responsibility of the owner. The city will assist an owner in obtaining a suitable loan from a private lender and securing any government assistance available for low to moderate income eligible properties, including CDBG programs;

(d) A property remains subject to all applicable standards, requirements, and penalties of this Chapter regardless of whether or not it is selected for the I&I program;

(e) The clean water surcharge shall terminate on June 30, 2028.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

Approved:

Approved for presentation to council:

Department Director

Chief Administrative Officer

Approved as to form:

Approved:

Attorney

Auditor

PW&U/ATTY REA:blj 6/2/2009

STATEMENT OF PURPOSE: This ordinance authorizes the creation of the Duluth private sewer service grant/loan program and increases the surcharge to be paid

to the clean water fund from \$5.57 per month to \$8.78 per month to fund the program.

Minnesota Statutes Section 471.342 authorizes the city to make grants and loans to private property owners to assist them in paying for the cost of improvements to their sewer laterals (the portion of their sewer system between their homes and the city's sanitary sewer mains, for which the home owner is responsible) as part of the city's inflow and infiltration prevention program. In order to be able to utilize this authority the city must create a "program" and must approve "program guidelines" which establish criteria for program eligibility and standards for compliance with the program. The city is in the process of developing the program guidelines which will establish program objectives, the standards for eligibility, the terms and conditions of grants and loans and the mechanics of implementation.