

ORDINANCE NO. 490A

**AN ORDINANCE AMENDING SECTIONS 11.3 AND 11.4 OF THE CITY CODE
TO ADDRESS THE NEED FOR THE REDUCTION OF
INFLOW AND INFILTRATION INTO THE MUNICIPAL SEWER SYSTEM
TO MEET COMPLIANCE STANDARDS OF THE WLSSD**

THE CITY COUNCIL OF THE CITY OF CLOQUET FINDS AS FOLLOWS:

Purpose. In accordance with the inherent powers of the City Council, all changes to the City Code can and must be made by Ordinance.

WHEREAS, the City Council has been advised by the Western Lake Superior Sanitary District (hereinafter referred to as WLSSD), that to protect the health, welfare and safety of the public and the environment there is a need to minimize infiltration and overflows into the wastewater conveyance and treatment system; and,

WHEREAS, the recommendation has been duly made to the City Council by its City Engineer that the City adopt new standards and modify its City Code to better meet the goals of limiting infiltration into the sanitary sewer system such that clean water does not enter the treatment system unnecessarily causing an increase in the amount of wastewater originating in the City that has to be treated by the WLSSD; and,

WHEREAS, the City Council has concluded that the changes being proposed are in the best interests of the City:

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA, HEREBY ORDAINS THE FOLLOWING EFFECTIVE SEPTEMBER 1, 2020:

SECTION 1: The following code provisions in **Section 11.3. Water System** of the City Code will be changed or replaced as follows:

1. The last paragraph of **Section 11.3.03 Plumbing Regulations** of the City Code regarding the Water System will be replaced with the following paragraph:

All non-metallic water and sewer pipes shall be installed with a locating (tracer) wire and shall meet requirements set forth in City of Cloquet Engineering Standards and as directed by the City Engineer, to facilitate the locating of these underground utilities.

SECTION 2: The following code provisions in **Section 11.4. Sanitary Sewer System** of the City Code will be changed or replaced as follows:

1. **Section 11.4.07. Use of Public Sewers Subd. 1 Unpolluted Water** will be replaced with the following Subd. 1:

Subd. 1. Unpolluted Water Prohibited.

- (a) No leak, break, or 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 storm water, ground water, roof run-off, sub-surface 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. 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 the provisions of the City Code for all buildings and sewers. Enforcement actions separate from any program or incentive are proper.

- (b) Upon completion of any construction, reconstruction or 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 discovery of the defect or of being ordered to make such disconnection or repair by the director. Any homeowners with a redirected sump pump that deliberately discharges into the sanitary sewer system will be fined up to \$500 upon conviction of each offense.
- (d) No person shall tamper with, modify or make any change to any plumbing materials or equipment necessary to prevent non-compliance with the requirements of Section (a) above; nor, shall any owner or person owning or controlling any building allow 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.

- 2. **Section 11.4.07. Use of Public Sewers Subd. 2 Septage** will be replaced with the following:

Subd. 2 Septage. Septage will only be discharged or deposited into the Sanitary Sewer at locations specifically designated by WLSSD.

- 3. The entire **Section 11.4.09 Powers and Authority of Inspectors** shall be replaced with the following Section 11.4.09:

11.4.09. Designation of Sewer Basin for Inspection; inflow and infiltration reduction (I & I) program notice of disconnect requirement

Subd. 1. Sewer Basin Designation for I & I program; Notice; Extensions.

Upon the recommendation of the Public Works Director, the Council shall designate by written resolution the basin or basins in the City wherein the City can best utilize its available resources to reduce the amount of unpolluted water entering or infiltrating the City's wastewater collection system, which shall constitute the authorization of the I&I program in the sewer basin for the inspection of all buildings located herein for compliance with the requirements of Section 11.4.07(a). The Council resolution shall require the televised inspection of a specified minimum number of building services located within the designated basin or basins annually. Such resolution shall direct the director to notify, in writing, the owners and persons in control of premises connected with the sanitary sewer

within such basin to disconnect any prohibited drain or device and to remedy any circumstance of the building sewer that allows unpolluted water into the wastewater collection system, all within one (1) year after the date of such notice. The property owner may apply to the Public Works Director for an extension to the correction period. Application for extension to the Director shall include documentation of attempts to resolve the conditions that make the connection non-compliant as well as provide a schedule to implement corrections to the non-compliant installation. Such notice shall be directed by the director to the owner or person in control of the affected property at the post office address of the person applying for or paying for sewer service for such premises. When so deposited in the post office of the United States, or an adjunct thereof, such deposit shall constitute due service of the notice upon the owner or controlling person therein named.

Subd. 2. Entry for Inspections; Building Sewer Improvement, I&I Program and Private Sewer.

- (a) Upon designation of any sewer basin pursuant to Subd. 1 above, the Public Works Director shall cause all buildings within said sewer basin to be inspected for compliance with Section 11-4-07 above. Upon determination that any building does not comply with Section 11-4-07 above and does not qualify for a certificate of non-contribution, the Director shall issue an order to disconnect any portion of the plumbing of such building in violation of said Section 11-4-07, or do any act required to attain compliance;
- (b) No person shall fail or refuse to allow the Public Works Director to inspect any building to determine whether the plumbing of such building complies with the requirements of Section 11-4-07 above after having been given reasonable advance notice of the Public Works Director's intent to do so; such notice may be given by mail as provided for in subd. 1 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 deny or refuse to allow the director to inspect any such building after notice has been given, the Public Works 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 Public Works 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. (2) Pursuant to the authority of Minnesota Statutes Section 471.342 and any successor thereto, the City hereby establishes the Cloquet 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 or those properties that voluntarily

choose to participate and prove to the Public Works Director's satisfaction that their existing sanitary service is experiencing inflow or infiltration shall be 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;

- (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.

Subd. 3. Certificate of Non-Contribution

- (a) Upon inspection of any building by the Public Works Director for compliance with the requirements of Section 11-4-07 above, and based on that inspection, the Director is authorized to issue a certificate of non-contribution if he or she determines either that:
 - (1) The sump pump and footing drain disconnect, are in compliance with Section 11-4-07 above; or
 - (2) The plumbing materials and equipment as installed and operating in that building are in compliance with the requirements of Section 11-4-07 above; or
 - (3) The plumbing and equipment in said building is not in compliance with the requirements of Section 11-4-07 above but the Public Works Director determines that the building 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.
- (b) Certificates of non-contribution shall only be issued by the Public Works Director and persons designated by him or her to issue such certificates. The Public Works Director shall establish standards and procedures for certifying persons authorized to issue certificates of non-contribution on his or her behalf.
- (c) In the event that the Director determines after reasonable investigation that any building for which a certificate of non-contribution has been issued is now contributing a material or observable amount of unpolluted water to the public wastewater collection system, the Public Works Director may give notice in the matter provided for in Subd. 2 above of his or her intention to revoke such certificate of non-contribution and that such revocation shall become final 15 days from the date of giving such notice unless the affected owner or person in control of the affected building files a written appeal of that decision with the City Clerk prior to the revocation of the certificate. Any such appeal shall be heard by the Cloquet City Council in accordance with the procedures established by the Council. When the revocation of any certificate of non-

contribution has become final, the Public Works Director shall cause notice to be provided to the property owner stating the revocation has been finalized.

Subd. 4. Repairs Required at Time of Sale.

- (a) This Subd. 4 applies to transfers of ownership of or possessory rights in property which is required to be served by the city's public sanitary sewer.
- (b) Unless there is then in effect a valid Point of Sale (POS) certificate pertaining to such property, upon the signing and acceptance of a legally binding offer to purchase or at least 15 days before a transfer of title to, or the entering into of a contract for deed for, 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 and footing drain disconnect in order to be in compliance with this Chapter. The seller or transferor shall pay an inspection fee as set in the City's Fee Schedule, to the 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 person shall sell, transfer or enter in 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 in any property, nor shall any person purchase, accept transfer of or enter into any contract for deed or contract for sale of real property as transferee which sale, transfer or contract results in such person acquiring a right of possession in any property unless the Public Works Director has been notified and the property so inspected, except as provided in subsection (e) below.

A POS certificate valid only for the proposed sale shall be issued where such property inspection finds there is a footing drain contribution only and determines there is no sump pump or the sump pump is not in use or is malfunctioning, and the buyer agrees to make required repairs within 120 days following the sale, but such POS certificate shall not evidence total compliance with all of the requirements of Section 11-4-07 above.

If the required repairs are not satisfactorily completed within said 120-day period, the owner or customer shall be charged a monthly surcharge each month until the repairs are satisfactorily completed, which surcharge shall be set in the City's fee schedule.

- (c) If, upon the inspection provided for in subparagraph (b) above, the Public Works Director determines that the property qualifies, the Public Works 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 ten (10) years of said proposed sale or transfer unless the Public Works 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. Provided, however, if the Public Works Director has issued a POS certificate because the building served by sanitary sewer on the subject property does not

have a basement or cellar, said certificate shall continue to be valid unless and until revoked by the Director or at the Director's determination in the exercise of his or her discretion that there is sufficient reason to believe that the POS certificate does not accurately represent the existing condition of the property in question.

- (d) In the event that the Director receives notice of a proposed sale or transfer and request for city 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 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 the 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.
- (e) The requirements for a POS certificate do not apply in the following cases:
 - 1. Conveyance by court order for wills, probates, divorce, estate settlements;
 - 2. Transfers that do not require the filing of a Certificate of Real Estate Value;
 - 3. Transfers of vacant land or land with buildings without plumbing fixtures;
 - 4. The conveyance is a deed in fulfillment of a contract for deed.
- (f) In the event that neither the seller or transferor nor the acquiring party shall have paid for the inspection provided in paragraph (b) above within 30 days of the date of closing on the sale or transfer of the subject property, and such inspection was made and POS certificate issued, the City shall have the right to assess the amount owed against the property.

Subd. 5. Indemnification. While performing the necessary work on private properties referred to in Section 11.4.09, Subd. 1, above, the City Engineer or duly authorized employees of the City and the WLSSD shall observe all safety rules applicable to the premises established by the owner, and the owner shall be held harmless for injury or death to such employees, and the City and the WLSSD respectively shall indemnify the owner against loss or damage to its property by City and WLSSD employees and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as such may be caused by the

negligence of the owner or the failure of the owner to maintain safe conditions as required under this ordinance.

Subd. 6. Easements. The City Engineer and other duly authorized employees of the City and WLSSD bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the Wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

SECTION 3: This Ordinance shall take effect and be in force from and after its passage and publication.

Passed by the City Council this 21st day of July, 2020.

CITY OF CLOQUET

Roger Maki, Mayor

ATTEST:

Tim Peterson, City Administrator