

ORDINANCE NO. 12-200

AN ORDINANCE RELATIVE TO THE CONSTRUCTION AND MAINTENANCE OF LATERAL SEWERS,  
AND THE CONNECTION OF SAME AND ANY PREMISES WITH THE PUBLIC SEWER SYSTEM

THE CITY OF ISHPEMING ORDAINS THAT ORDINANCE NO. 12-200 IS HEREBY AMENDED TO READ AS FOLLOWS:

Section 12-201.

- (1) Whenever the City Council of the City of Ishpeming shall deem it necessary for the public health, safety or welfare that:
  - a) any premises or structure lying within the City limits shall be connected to an available public sanitary sewer system in the City; or
  - b) lateral sewers be laid out and constructed from an available public sanitary sewer system up to any lot line;

it shall have the right to order such connection or construction in the manner provided in this Ordinance.

(2) Definitions.

- a) As used in this Ordinance, "available public sanitary sewer" means a public sanitary sewer located in a right of way, easement, highway, street, or public way which crosses, adjoins, or abuts upon the property and passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates.
- b) As used in this Ordinance, "public sanitary sewer system" means a sanitary sewer or a combined sanitary and storm sewer used or intended for use by the public for the collection and transportation of sanitary sewage for treatment or disposal.
- c) As used in this Ordinance, "structure in which sanitary sewage originates" or "structure" means a building in which toilet, kitchen, laundry, bathing, or other facilities which generate water-carried sanitary sewage are used or are available for use for household, commercial, industrial, or other purposes.

Section 12-202. Whenever the City Council shall deem it necessary that any lateral sewer be constructed or that any premises or structure be connected to an available public sanitary sewer system, the City Manager shall serve upon the owner and occupant of the premises, a written notice requiring same. Such notice shall describe the lot or premises and specify the size of the lateral sewer to be so laid, the type of connection required, and such other requirements as the City Council may deem necessary for the public health, safety, and welfare. Said notice shall require that all necessary work be completed within ninety (90) days from the date of service of such notice, and shall inform such owner and occupant that in default thereof, said work will be completed by the City and that any other necessary connections shall be made, and the expense thereof shall be charged to said owner and assessed against said premises; said notice shall be served upon the owner and occupant of said premises personally, or by certified mail, return receipt requested, and by posting same in a conspicuous place upon the lot or parcel of land or structure described therein.

Section 12-203. With respect to the work required pursuant to Section 12-202 herein:

- (1) The work required by said notice shall be done in accordance with all Ordinances of the City related to the making of connections with the public sewers of said City, shall only be done by a firm experienced in sewer installation work or by a licensed

plumber, and shall be subject to the direction, control, and supervision of the City Engineer or his designated representative.

- (2) No private contractor nor any other person shall undertake any work to construct any lateral sewer or to connect any premises to an available public sanitary sewer system within the City unless having first received a permit therefor from the City Engineer.
- (3) No excavation shall be filled and no work shall be covered or sealed until approval therefor is given by the City Engineer.

Section 12-204.

- (1) This Section 12-204 shall apply to all repairs and maintenance of lateral sewers within the City limits, whether on public or on private property.
- (2) After any lateral sewer has been constructed and connected to the public sewer system, all repairs and maintenance thereof shall be the responsibility of the owner of the real estate or building or structure served by said lateral sewer.
- (3) In the event that any repair, maintenance or inspection of a lateral sewer in the City is required, the owner of the real estate or the owner of the building or structure receiving the sewer service, or both, shall be required to pay for and to have all repair work done by a firm experienced in sewer installation work or by a licensed plumber, under the inspection and supervision of the City Engineer after having received a permit for such work from the City Engineer. No excavation shall be filled and no repair work shall be covered or sealed until approval therefor is given by the City Engineer. In special cases where it is clearly established to the satisfaction of the City Council that the cause of the condition requiring repair or maintenance originated on public property through no fault of the owner of the structure being served, the City Council shall waive the payment requirements of this sub-section (3) in whole or in part, and in such cases the City Council shall indicate by resolution the grounds for such waiver; provided, however, that under no circumstances shall the City Council grant such waiver where the failure of any lateral sewer is due primarily to old age, to ordinary wear and tear, or to improper installation or use of improper materials or backfill.
- (4) In the event that the City Engineer shall issue a permit for the repair and maintenance of a lateral sewer under this Section 12-204, the City Engineer shall be present at the excavation site when the existing condition of the lateral sewer is uncovered and exposed. A reasonable effort shall be made by the City Engineer to acquaint the property owner with the conditions found at the time the site is uncovered. The City Engineer shall make a full, accurate, and complete written report of the conditions found at the site, including his opinion as to the cause of the defect or failure, and the City Engineer shall forward a copy of his report to the City Manager and to the property owner involved.
- (5) In the event that emergency repairs are required and a private contractor cannot be located to commence repairs within a reasonable time after the failure of a lateral sewer, the City may undertake the repair work if written authorization to do so is issued by the City Manager.
  - a) If the City supplies any labor or materials to repair any lateral sewer, it shall not undertake such work until and unless:
    - i) The owner of the premises or structure benefitted executes a promissory note and a mortgage secured by the real estate or structure to guarantee payment to the City for costs incurred in performing the work, which mortgage shall require, by its

terms, the subordination of all other liens and encumbrances against the real estate or structure, so that the City shall have a first mortgage against the real estate or structure; or

- ii) A special assessment district has been created to finance such improvements. There shall be no minimum number of parcels necessary to create a special assessment district to finance such improvements; or
  - iii) The owner of the premises or structure makes pre-payment in full to the City, based upon a written cost estimate prepared by the City Engineer.
- b) Immediately after the City shall have incurred any expense for any work performed by it, there shall be prepared an account of labor and services together with all material used thereon for which such expense was incurred, verified by the City Manager, with the description of the lot or premises upon or in respect to which the expenses were incurred, and the name of the owner or persons chargeable therewith, and such verified statement shall be reported and submitted by said City Manager to the City Council, and appropriate action shall be taken to collect said account in accordance with the arrangements for payment made with the person liable therefor. In the event that the owner of the premises or structure has prepaid a sum in excess of the actual costs incurred by the City, the City Manager shall see that a prompt refund is made. In the event that the pre-payment made was less than the actual costs incurred by the City, the owner shall be liable therefor and shall be promptly billed therefor by the City Manager; provided, however, that if the actual costs incurred by the City exceed the City Engineer's cost estimate by more than ten per cent (10%), the owner shall not be billed for any charges in excess of the cost estimate until the verified statement of the City Manager is submitted to the City Council, and the City Council authorizes the City Manager to bill the owner for any such excess charges.
- (6) Anything to the contrary herein notwithstanding, no property owner who has complied with the provisions of this Ordinance shall be required to replace any portion of a street surface which is destroyed or disturbed as a necessary incident to making repairs to a lateral sewer. Such property owner shall only be required to backfill all street excavation to the grade existing prior to the repair work, in accordance with the directions of the City Engineer. Upon completion of the backfilling and approval thereof by the City Engineer, the City shall be responsible for patching, blacktopping, or otherwise restoring the street surface to the condition existing prior to the excavation.

Section 12-205. No new connection, repair of connection, or change of connection shall be made to any sewer line in the City of Ishpeming until a permit therefor has been issued by the City Engineer. The procedure for issuance of the permit, carrying out the work pursuant thereto, the liability of the property owner for all work done, and the duties of the City Engineer with respect to inspection, supervision, and reporting shall be the same as set forth in Section 12-204 above.

Section 12-206. All connections with any lateral sewer and all connections with any main sewer and all repairs and maintenance of lateral and main sewers, and all new connections, repair of connections and change of connections shall be done in accordance with the requirements of the State Plumbing Board, in accordance with the requirements of the State Construction Code Act, and in accordance with the ordinances of the City of Ishpeming.

Section 12-207. The County Health Officer, or any person under his direction, any authorized state inspector, and any City employee under the supervision of and in accordance with instructions from the Superintendent of Public Works shall be permitted to enter upon the premises of any person, firm, or corporation for the purpose of inspecting the condition of direct or indirect connections to the City sewer system and all lateral

sewers.

Section 12-208. In the event that the owner or occupant of any premises or structure lying within the City of Ishpeming shall fail to comply with any of the provisions of this Ordinance, the City Manager is authorized to take appropriate administrative action through the City Water and Sewer Departments to terminate water service or to terminate sewer service or to terminate both water and sewer service to such premises or structure. Any action taken pursuant to this Section 12-208 shall be in addition to any other remedies the City may have to enforce the provisions of this Ordinance No. 12-200.

Section 12-209. Violation of any of the provisions of this ordinance shall constitute a municipal civil infraction. A person, firm or corporation determined to be responsible or responsible "with explanation" for a municipal civil infraction shall be subject to a civil fine of not more than One Hundred (\$100.00) Dollars plus costs, and if applicable, damages and expenses as provided by law. A municipal civil infraction action brought for any violation of this ordinance shall follow the procedures set forth in Act No. 12, P.A. 1994, as amended, and a Defendant charged with a municipal civil infraction violation shall have all of the rights, duties, responsibilities and obligations set forth therein.

Section 12-210. Ordinance No. 4-300 is hereby repealed.

Section 12-211. This Ordinance shall take effect upon publication.

Adopted: August 20, 1980

Amended: June 8, 1994