

ORDINANCE NO. _____ - 2012

AN ORDINANCE RELATING TO DISCHARGES OF SURFACE OR GROUNDWATER INTO THE URBAN COUNTY SANITARY SEWER SYSTEM AND CREATING ARTICLE VIII OF CHAPTER 16 OF THE CODE OF ORDINANCES (SECTIONS 16-111 THROUGH 16-115) TO ENSURE ADEQUATE ENFORCEMENT TO DETER AND PREVENT INTRODUCTION OF SURFACE OR GROUND WATER INTO THE URBAN COUNTY SANITARY SEWER SYSTEM; TO PROHIBIT DISCHARGE OF SURFACE OR GROUND WATER INTO THE SEWER SYSTEM AS A CONDITION OF INITIAL OR CONTINUED SANITARY SEWER SERVICE; TO PROVIDE THAT URBAN COUNTY GOVERNMENT REPRESENTATIVES SHALL HAVE ACCESS AT ALL REASONABLE TIMES TO ENTER PROPERTIES FOR INSPECTIONS; TO PROVIDE FOR NOTICE OF PROHIBITED DISCHARGES TO OWNERS OR OCCUPANTS OF PROPERTY AND REQUIRE ABATEMENT; TO PROVIDE FOR A SUPPLEMENTARY SANITARY SEWER USER CHARGE IN THE AMOUNT OF \$75.00 ON ALL SANITARY SEWER USER CHARGE BILLINGS FOR THOSE PROPERTIES THAT DO NOT PERMIT URBAN COUNTY GOVERNMENT REPRESENTATIVES TO INSPECT AND THOSE THAT DO NOT ABATE AN UNAUTHORIZED CONDITION WITHIN SIXTY (60) DAYS UNTIL THE INSPECTION IS PERMITTED OR THE CONDITION IS ABATED; TO PROVIDE THAT FAILURE TO ABATE SUCH CONDITION MAY SUBJECT PROPERTY OWNERS TO CIVIL OR CRIMINAL PENALTIES; AND TO PROVIDE THAT THE SUPPLEMENTARY USER CHARGE IS IN ADDITION TO ANY FINES OR OTHER PENALTIES IMPOSED UNDER APPLICABLE LAW.

WHEREAS, the mission of the sanitary sewer collection and conveyance system of the Urban County Government includes safely and efficiently managing system hydraulic capacity, enhancing public health and safety, protecting lives and property, minimizing the unpermitted discharge of sewage from manholes and pump stations in compliance with applicable federal and state laws, and enhancing the natural resources of the community; and

WHEREAS, the Urban County Government, the United States Environmental Protection Agency, and the Commonwealth of Kentucky have entered into a Consent Decree in a case styled *United States, et al. v. Lexington-Fayette Urban County Government*, United States District Court for the Eastern District of Kentucky, Case No. 5:06-CV-00386, that requires LFUCG to implement an effective Sanitary Sewer System /Wastewater Treatment Remedial Measures Plan and Sanitary Sewer System Capacity Assurance Program; and

WHEREAS, improper discharges of groundwater and stormwater from private property create substantial risks of detrimentally affecting sanitary sewer system capacity if not properly regulated;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article VIII of Chapter 16 of the Code of Ordinances be and hereby is created to read as follows:

ARTICLE VIII SANITARY SEWERS – PRIVATE INFILTRATION AND INFLOW

Sec. 16-111

The purpose of article VIII is ensuring adequate enforcement to deter and prevent the introduction of surface or groundwater into the sanitary sewer of the urban county government to reduce its impact on the capacity of sanitary sewer facilities of the urban county government and abate the consequential impacts on public health, welfare, and the environment.

Sec. 16-112

(a) Discharge of surface water or groundwater into the sanitary sewer system of the urban county government is prohibited. As a condition of initial or continued sewer service by the urban county government, owners and occupants of premises within Fayette County where there exists a sanitary sewer line which ultimately leads to the sanitary sewer system of the urban county government or where wastewater is discharged which ultimately flows into the sanitary sewer system of the urban county government shall allow representatives of the urban county government ready access at all reasonable times to all parts of the premises, whether inside or outside, for purposes of inspection to determine if surface water is discharged into the sanitary sewer system.

(b) Properly identified employees or other authorized representatives of the urban county government are authorized to enter any property, land, structure or building at all reasonable times for the purpose of performing an inspection(s) to determine if surface water or groundwater is discharged into the sanitary sewer system, subject to constitutional restrictions of unreasonable searches and seizures and may apply to the district court for a warrant allowing entrance and inspection.

(c) The division of water quality is authorized to create an inspection program related to such inspections to provide for a reasonable basis for performing inspections in the event that a discharge of surface water or groundwater into the sanitary sewer system is not directly observed.

Sec. 16-113

When it has been established that surface water or groundwater is being discharged into the sanitary sewer system of the urban county government, the urban county government shall cause to be served upon the owner or occupant of the property where such discharge is found to exist a written notice requiring such person to abate the discharge within sixty (60) days after service of the notice.

Sec. 16-114

(a) If proper notice has been provided and the urban county government's inspectors are refused access to property in order to perform a required inspection pursuant to section 16-112, it shall be presumed that an unauthorized connection to the sanitary sewer system of the urban county government exists at the subject property causing a discharge of surface water or groundwater. The urban county government shall, on all subsequent sanitary sewer user charge billings made to the property involved, add seventy-five dollars (\$75.00) per month until the urban county government is permitted to perform the required inspection.

(b) Upon failure of a person notified as provided in section 16-113 to abate a discharge of surface water or groundwater into the sanitary sewer system of the urban county government, the urban county government shall, on all sanitary sewer user

charge billings made to the property involved after the sixty-day period has expired, add seventy-five dollars (\$75.00) per month until the urban county government is satisfied that the discharge of surface water has been eliminated.

(c) The supplementary charge provided for in subsections (a) of this section shall be assessed against the receiver of the service, whether an occupant or an owner. The supplementary charge provided for in subsection (b) shall be assessed against the owner of the subject property. If no urban county government billings are otherwise made for the property in question, the owner shall be billed directly for the supplementary sanitary sewer user charge. Failure to timely pay said supplementary sanitary sewer user charge and other ancillary charges necessary to generate a separate bill shall be cause to terminate water service to the affected property pursuant to KRS 96.932.

(d) Failure to eliminate the discharge of surface water or groundwater into the sanitary sewer system within six (6) months of the date of notification pursuant to section 16-113 shall, in addition to the supplemental sanitary sewer user charge provided for in subsection (b) of this section, subject the owner of the affected property to civil penalties or criminal prosecution pursuant to Article XII of this chapter.

Sec. 16-115

The purpose of the supplementary charge made under the provisions of section 16-114 shall be for the additional service required to identify unauthorized discharges and additional services required by the discharge of surface water or groundwater into the sanitary sewer system and for the problems and damages created by excess flows received by sewage treatment facilities. Such charge is in addition to any fines or other penalties otherwise provided by any provisions of this Code, other ordinances of the urban county government, or by state law.

Section 2 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF THE URBAN COUNTY COUNCIL

PUBLISHED:

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