

Agenda Report

Subject: Ordinance MC-8-2011 -- An Ordinance Amending Section 15.24.085 of the Winnetka Village Code Regarding Sanitary Sewer Backflow Prevention Devices

Prepared By: Steven M. Saunders, Director of Public Works/Village Engineer

Date: September 13, 2011

Ref: September 6, 2011 Regular Council Meeting

In May, 2006, the Village implemented a program sharing with homeowners the cost of installing anti-back-up protection on the building sanitary sewer service line, or converting a home to an overhead sewer system. The Village's reimbursement is currently at a level of 50% of the installation cost, or \$2,500, whichever is less, and has been at this level since the program's inception. This amount is no longer sufficient to cover 50% of the installation cost as initially contemplated. Pursuant to the widespread basement flooding that occurred throughout the Village July 22-23, staff has researched the possibility of increasing the Village's contribution under this program. Staff presented a recommendation to the Village Council to increase the Village's contribution level under the program from the lesser of 50% of the actual cost or \$2,500, to the lesser of 50% of the actual cost or \$3,500.

At the August 16 meeting, after discussing the relative merits of external backflow prevention devices and overhead sewer conversion, the Village Council determined that it would prefer to increase the participation cap for overhead sewer conversions to \$5,000, since these systems are both more effective at preventing sewer backups, and often more costly to install. The Council also directed staff to prepare the necessary amendments to the Village Code to implement these changes. Ordinance MC-8-2011 amends Section 15.24.085 of the Winnetka Village Code to provide for the following:

Section 15.24.085.B.2 is amended to provide a maximum reimbursement for the initial installation of an overhead sewer of 50% of the cost of the initial installation or \$5,000, whichever is less; and to provide a maximum reimbursement for the initial installation of an anti-back-up device of 50% of the cost of the initial installation, or \$3,500, whichever is less.

Section 15.24.085.B.3 is amended to clarify that the reimbursement program only applies to the initial installation of anti-back-up devices or overhead sewer conversions, and does not apply to repair, replacement, or upgrade of existing anti-back-up devices or overhead sewer systems.

This Ordinance was introduced at the September 6, 2011 Council Meeting. At that meeting, there was a discussion pertaining to the possibility of increased sewer backups in unprotected homes located in neighborhoods with a concentration of these installations. While this is a possibility it is a remote one, and staff will monitor

installation locations for concentrations of anti-backup device installations and alert nearby property owners as needed.

Recommendation:

Consider adoption of Ordinance MC-8-2011, amending Section 15.24.085 of the Winnetka Village Code regarding sanitary sewer backflow prevention devices.

**AN ORDINANCE
AMENDING SECTION 15.24.085 OF THE WINNETKA VILLAGE CODE
REGARDING SANITARY SEWER BACKFLOW PREVENTION DEVICES**

WHEREAS, on May 16, 2006, the Council of the Village of Winnetka (“Village Council”) enacted Ordinance MC-3-2006, which amended the Winnetka Sewer Code by adding a new Section 15.24.085, establishing a program whereby the Village of Winnetka (“Village”) would reimburse a portion of the costs incurred by owners of homes built before 1970 who installed new overhead sewers or anti-backflow devices to protect their homes from basement flooding caused by sanitary sewer back-ups; and

WHEREAS, in the course of considering Ordinance MC-3-2006, the Village Council estimated that approximately 2,917 single family homes in Winnetka were constructed before certain changes in the plumbing code were enacted in 1970 and were therefore possibly be susceptible to such sewer back-ups; and

WHEREAS, the Village strives to provide safe, reliable and effective utility services and, to that end, the Village has a policy and practice of regularly maintaining, repairing and upgrading its infrastructure, including its sanitary sewer system; and

WHEREAS, while the maintenance, repair and upgrade on the Village's infrastructure is likely to reduce the number and degree of sewer back-up incidents, it is impossible for the Village to eliminate such back-ups altogether due to the age of the Village's system, the current level of technology, and the limitations of the fiscal resources of the Village; and

WHEREAS, the Village Council have determined that the most effective single step that can be taken to prevent sewer back-ups is for individual property owners to protect their own basements by installing a backflow prevention system; and

WHEREAS, although the Village is not directly legally responsible for damages resulting from sewer back-ups in individual residences, the Village Council, at its study session on October 22, 2005, considered whether the Village could provide some assistance to residents in protecting their basements form sanitary sewer back-ups; and

WHEREAS, since 2006, pursuant to Ordinance MC-3-2006, the Village Council has appropriated \$25,000 in each fiscal year’s budget, to fund the cost-sharing program established in Section 15.64.085; and

WHEREAS, pursuant to the direction of the Village Council, Village staff has submitted a proposal for a program whereby residents who install an anti-backflow device or retrofit an overhead sewer to protect against sanitary sewer back-ups could apply to the Village for reimbursement of up to 50% of the cost of the installation, up to a maximum of \$2,500; and

WHEREAS, the Village of Winnetka is a home rule municipality in accordance with the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village of Winnetka has the authority to adopt ordinances and to promulgate rules and regulations protecting the health, safety and welfare of its citizens; and

WHEREAS, the Village Council have determined that the program proposed by the Village staff will benefit the public health, safety and welfare by allocating Village resources to reducing the potential for property damage and recurring health hazards associated with sewage and mold exposures resulting from sanitary sewer back-ups and by fostering cooperation between the Village and its citizens; and

WHEREAS, this Ordinance is adopted by the Council of the Village of Winnetka in the exercise of its home rule powers under Article VII, Section 6 of the Illinois Constitution of 1970.

NOW, THEREFORE, the Council of the Village of Winnetka do ordain:

SECTION 1: The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: Section 15.24.085, “Sewer Back-up Prevention Program,” of Chapter 15.24, “Sewer Code” of Title 15 of the Winnetka Village Code, “Buildings and Construction,” is hereby amended to provide as follows:

Section 15.24.085 Sewer Back-up Prevention Program.

A. Cost-sharing program. Subject to the terms and conditions established in this section, a property owner who meets the eligibility standards of this section may apply to the Village for reimbursement of a portion of the cost of the initial installation of an overhead sewer or an anti-back-up device.

B. Terms and conditions of the program.

1. Participants must meet the eligibility standards established by this section.

2. The maximum reimbursement made to any person under this program shall be as follows:
a.- The maximum reimbursement for the initial installation of an overhead sewer shall be 50% of the cost of the initial installation or \$5,000, of an overhead sewer or an anti back up device, or \$2,500, whichever is less.

b. The maximum reimbursement for the initial installation of an anti-back-up device, 50% of the cost of the initial installation, or \$3,500, whichever is less.

3. Only those costs associated with the initial installation of an anti-back-up device or overhead sewer shall be considered eligible for reimbursement. No reimbursement shall be allowed either for the replacement, upgrade, repair or maintenance of any anti-back-up device or overhead sewer, or for the replacement of any anti-back-up device with an overhead sewer.

4. Reimbursements pursuant to this section shall be available only if the Village Council has allocated funds for such purpose in the Village's annual budget. The Village Council shall retain the sole and exclusive discretion to determine, for each fiscal year, whether and to what extent the program shall be funded.

5. The cost-sharing program established by this section:

a. shall be a voluntary undertaking of the Village, which the Village shall be entitled to terminate or suspend at any time for any reason;

b. shall not be construed as an assumption of responsibility for, or legal liability arising from the design, installation, operation, maintenance, repair or replacement of any private sewer line, overhead sewer or anti-back-up device, including without limitation, any damages or injuries arising from the failure or malfunction of such sewer line, overhead sewer or anti-back-up device; and

c. shall not be construed as a waiver of any statutory or common law defenses or immunities the Village may be entitled to raise in response to any actions or claims of liability for damage or injuries arising from the design, installation, use, operation or maintenance of any public or private sewer line or of any overhead sewer or anti-back-up device, including without limitation, damages or injuries arising from the failure or malfunction of any such sewer line, overhead sewer or anti-back-up device.

C. Eligibility standards. No person shall be eligible for reimbursement under this section unless all of the following conditions are met:

1. The applicant must be the owner of record of a single family home that was built before 1970 and that is not currently protected with any overhead sewers or ~~an~~ anti-back-up device.

2. The reimbursement request must be for the initial installation of an overhead sewer or anti-back-up device. The cost of replacement, upgrade, repair or maintenance of an existing overhead sewer or anti-back-up device is not eligible for reimbursement.

3. The property owner or a qualified contractor acting on the owner's behalf, shall procure all necessary permits from the Village or other agencies to install the overhead sewer or anti-back-up device. All work shall comply with all applicable provisions of this Code, including all necessary inspections, contractor bonds or licenses. The property owner or the owner's contractor shall be responsible for scheduling all necessary inspections, and no reimbursement will be made for work that does not pass all required inspections.

4. The application for reimbursement shall be submitted with the permit application for the installation of the overhead sewer or anti-back-up device. The application form shall be provided by the Director.

5. The application for reimbursement shall include a waiver, signed by the owner of record, waiving any and all claims against the Village for damages or injuries of any kind arising from the installation, operation, maintenance or repair of the overhead sewer or anti-back-up device, including without limitation, the failure or malfunction of the overhead sewer or anti-back-up device. The statement of the waiver shall be prescribed by the Village.

6. The property owner shall arrange for a pre-construction inspection, to be performed by the Village or its authorized agent, to locate any prohibited sources of stormwater inflow or infiltration to the sanitary sewer system. If this inspection reveals any prohibited sources of stormwater inflow or infiltration to the sanitary sewer system, the property owner shall correct them or cause them to be corrected, and arrange

for a re-inspection by the Village or its authorized agent. All such prohibited sources of stormwater inflow or infiltration to the sanitary sewer system shall be corrected to the Village's satisfaction before the applicant is eligible for reimbursement under this section.

7. No reimbursement shall be made until the work has been completed and has passed the final inspection as required by the applicable provisions of the Winnetka Sewer Code and the Winnetka Building Code.

8. No reimbursement shall be made unless the property owner provides the Village with evidence, in the form of a signed and sworn contractor's statement certifying that the contractor has been paid in full for the completed work.

D. Authority of Director. The Director of Public Works shall have the authority and discretion to administer the cost-sharing program established by this section, subject to the control and direction of the Village Manager. The Director of Public Works shall establishment such administrative procedures as may be necessary to implement the program, which shall include, but shall not be limited to, establishing administrative priorities for processing and granting reimbursement requests based on such factors as the time of filing, time of completion, location in the floodplain or in flood-prone areas, and availability of funding.

SECTION 3: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 4: This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

PASSED this 20th day of September, 2011, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this 20th day of September, 2011.

Signed:

Village President

Countersigned:

Village Clerk

Introduced: September 6, 2011

Posted: September 7, 2011

Passed and Approved:

Posted: