



## Legislation Text

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**File #:** 08-0677, **Version:** 1

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An Ordinance to Amend Section 2:51.1 of Chapter 28 (Sewers and Sewage Disposal Footing Drain Disconnecting Program Reimbursement) of Title II of the Code of the City of Ann Arbor (Ordinance No. ORD-08-28)

Your approval is requested to amend Section 2:51.1 of Title II of the Code of the City of Ann Arbor to allow the maximum Funding Cap amount to be established by City Council resolution. The current funding limit for qualifying work set forth in Section 2:51.1 is \$3,700.00, or as adjusted in section 12 of the same ordinance.

This change to Section 2:51.1 is desirable, as it will simplify the process for adjusting the Funding Cap amount in the future.

Through the initial pilot study of the project in 2001, it was found that \$3,700.00 was the average cost for qualifying footing drain disconnection work and that amount was then incorporated into the FDD ordinance. Since 2001, construction costs, material costs, fuel costs, labor costs and minimum program installation requirements have changed enough to warrant an increase in the reimbursement limit for current and future qualifying footing drain disconnection work.

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Reviewed by: Sue F. McCormick, Public Services Area Administrator

Approved by: Roger Fraser, City Administrator

ORDINANCE NO. ORD-08-28

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Public Hearing : August 7, 2008

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Effective: August 27, 2008

### SEWERS AND SEWAGE DISPOSAL FOOTING DRAIN DISCONNECTION PROGRAM REIMBURSEMENT

AN ORDINANCE TO AMEND SECTION 2:51.1 OF CHAPTER 28 OF TITLE II OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That section 2:51.1 of Chapter 28 of Title II of the Code of the City of Ann Arbor be amended to read as follows:

**2:51.1. Program for footing drain disconnect from POTW.**

(1) *Purpose:* The purpose of this Program is to significantly reduce improper stormwater inflows in the most cost-effective manner, in order to eliminate or reduce instances of surcharged sanitary sewers due to improper inflows, which are inimical to public health and welfare; reduce the chance of a sanitary sewer backup into occupied premises; and to maximize efficient operation of the District's wastewater treatment plants.

(2) *Definitions:* For purposes of Section 2:51.1 of the Ann Arbor City Code:

1. Improper stormwater inflow shall mean any direct connections (inflow) to the public sewer of sump pumps (including overflows), exterior floor drains, downspouts, foundation drains, and other direct sources of inflow (including but not limited to visible evidence of ground/surface water entering drains through doors or crack in floors and walls) as noted during field inspections by the Utility Department.

2. Participating owner(s) shall mean those persons that own property within a target area as may have been defined by the administrator and who have notified the administrator of their decision to participate in the program within 90 days of having been ordered by the administrator to correct improper stormwater inflows from their property and meet the eligibility requirements of Section 2:51.1(4).

(3) *Scope of Program:* All improper stormwater inflow disconnection costs shall be at the owner's expense, except, in accordance with this funded program, the POTW may either reimburse the participating owner of a premises, or pay directly to the participating owner's contractor, for qualifying work up to a maximum of ~~\$3,700.00~~ amount established by city council resolution ("Funding Cap"), or as may be adjusted under 2:51.1(12), for corrective work to remove improper stormwater inflows for which the initial building construction permit was in existence prior to January 1, 1982 or prior to the date the premises became under City of Ann Arbor jurisdiction. This funding program is referred to in this Section as the "Reimbursement Program," regardless of whether payment is made as reimbursement to the participating property owner or as direct payment to the participating property owner's contractor.

(4) *Eligible Participants.* This program may be utilized only for: (a) Improper stormwater inflows for which the initial building construction permit was in existence prior to January 1, 1982 or, (b) for premises in areas which came into the jurisdiction of the City of Ann Arbor at a later date, improper stormwater inflows which were in existence prior to the date of such inclusion.

(5) In every instance where the administrator is required to act or approve an action, the action or approval may be performed by a person designated, in writing, by the administrator to act as his or her designee.

(6) *Target Areas; Orders.* The administrator may implement and make available this Reimbursement Program throughout the City, or instead only in target areas within the City determined by the administrator as having the highest priority for reduction of stormwater inflows based on surcharging problems. When the administrator issues orders for removal of improper stormwater inflows in an area where the program is being implemented, the administrator shall inform the owner of the availability of the Reimbursement Program. Participation in the Reimbursement Program shall be voluntary; owners declining to participate shall be required to proceed with removal of the improper inflow at the owner's expense.

(7) *Scope of Work.* The administrator shall determine for each participating premises the scope of work for reduction of improper stormwater inflows and sewer backup prevention, which may be paid for with Program funds, with the goal of achieving the most cost-efficient and timely reductions. If work paid for under this Program does not eliminate every improper stormwater inflow for a participating premises, the administrator is not precluded from issuing supplemental orders under Chapter 28 of Title II concerning the participating premises. For each participating premises the maximum cost which may be paid with POTW funds to an owner or owner selected contractor shall be the Funding Cap set under 2:51.1(3) or as may be adjusted under 2:51.1(12). If additional work is required it shall be performed at owner expense.

(8) *Approved Contractors.* The administrator may establish a list of private contractors or contractor teams (referred to as "contractor(s)" throughout this section) approved for performing work under this Program based on qualifications including experience, quality of work and insurance. Participating owners may propose additional contractors for inclusion in the approved list.

(9) *Contractor Selection.* Participating owners shall select an approved contractor in accordance with a process established by the administrator. Participating Owners may either select a private contractor from the list or agree to perform the work by him or herself.

1. If the participating owner selects a contractor from the list of approved private contractors to perform the work, after administrator review and approval of the contractor selection and contract price, the owner shall contract with the selected contractor for performance of the approved scope of work. The City of Ann Arbor shall not be a party to the contract. The owner's contract shall require the contractor to secure any building permits as may be necessary and shall specify that the owner's final payment to the contractor shall not be made until (i) the work is inspected and approved by the administrator and approved by the owner, whose approval shall not be unreasonable withheld, (ii) a release of lien from all contractors or subcontractors performing work on the premises is obtained.

2. If the participating owner elects to perform the work his or herself, the scope of work, plans and specifications shall be approved in advance by the administrator. The administrator may establish rules authorizing reimbursement or partial reimbursement for owner-performed work. No payment shall be made until the work is complete, inspected and approved by the administrator. To be eligible for reimbursement, a request for payment must be accompanied by supporting receipts for materials, supplies and equipment.

(10) *Release.* As a condition to participation in the program the owner shall release the City of Ann Arbor, and their officers and employees from all liability relating to the work.

(11) *Payment.* After the work is inspected and approved by the administrator and approved by the owner, the administrator shall authorize payment for 100% of the cost of the approved work (subject to the funding cap set under 2:51.1(3) or as may be adjusted under 2:51.1(12)) from POTW funds approved for this purpose. Partial payments may not be made except that, at the sole discretion of the administrator, a final payment may be made, less a reasonable retention for ensuring the completion of punch list items. Payment may be made to the owner, to the contractor, or jointly to the owner and contractor, in the administrator's sole discretion.

(12) *Funding Cap Appeals.*

1. Notwithstanding any maximum reimbursement amount stated elsewhere within this section the Funding Cap established in accordance with 2:51.1(3), the administrator, upon a written request from a participating owner, may approve an amount 35% greater than the maximum where extraordinary construction or configuration circumstances require additional construction activity that cause extraordinary expense to achieve the program goals. Extraordinary construction or configuration circumstances do not include those situations where upgrades to the property that do or may increase the value of the property are required to accomplish the sanitary sewer disconnect. The written request from a participating homeowner must be received by the administrator no later than 30 days after substantial completion of the construction of the approved scope of work.

2. Notwithstanding ~~the any maximum reimbursement amount stated elsewhere within this section~~ Funding Cap established in accordance with 2:51.1(3), the City Administrator, upon a written request from a participating owner may approve an increase of any amount, notwithstanding any maximum amount stated elsewhere with this Code, in the Funding Cap for a particular premises where extraordinary construction or configuration circumstances require additional construction activity that cause extraordinary expense to achieve the program goals and those expenses can not be accommodated within the 35% available under 2:51.1(12)1. The written request must be delivered to the City Administrator and must be received no later than 30 days after substantial completion of the construction of the approved scope of work.

3. Unless specific appeal procedures are otherwise provided in this code, participating owners aggrieved by a decision regarding a reimbursement amount may appeal that decision. Persons aggrieved by the decision of the administrator shall file a written appeal to the City Administrator within 5 days of the decision. Persons aggrieved by the decision of the City Administrator shall file a written appeal of the City Administrator's decision to the City Council within 5 days of the decision.

(13) *Maintenance.* Participating owners shall be responsible for maintaining any improvements constructed under this Program.

(14) *Administrator Rules.* Within the limitations set forth by this Section 2:51.1, the administrator may establish such further criteria and rules as are required to implement this Program.

(15) *Surcharge; Disconnection; Enforcement.*

1. The administrator or designee shall provide written notice by certified mail to the sewer user, property owner or other responsible person of any violation of Section 2:51.1 of this Code. This notice shall describe the nature of the violation, the corrective measures necessary to achieve compliance, the time period for compliance, the amount of the monthly surcharge until corrected and the appeal process.

2. For structures or property with actual or potential improper stormwater inflows, the sewer user, property owner or other responsible person shall be given 90 days to correct the illegal or improper activities or facilities contributing to the discharge, infiltration of inflow into the POTW. If corrective measures to eliminate the illegal or improper discharge, infiltration or

inflow into the POTW are not completed and approved by the Utility administrator or designee, within 90 days from the date of the notice provided in section 2:51.1(15)1, then the administrator shall impose upon the sewer user, property owner or other responsible person a monthly surcharge in the amount of one hundred dollars (\$100.00) per month until the required corrective measures are completed and approved. If the property owner or responsible party fails to pay the monthly surcharge when due and payable, then the city may terminate the water and sewer connections and service to the property and disconnect the customer from the system. Any unpaid charges shall be collected as provided under Chapter 29 of Title II.

Section 2. That this Ordinance shall take effect on the tenth day following legal publication.