

Section 310 – Prohibiting Storm Water Disposal Into The Sanitary Sewer System

Section 310:02 - Applicability and Administration

This ordinance shall apply to all water entering the storm sewer system generated on any developed and undeveloped lands unless explicitly exempted by the City. The City and its authorized representatives are authorized to administer, implement, and enforce the provisions of this ordinance.

Section 310.03 - Definitions

For the purpose of this Ordinance, the following terms are defined:

Sewer Service Lateral. Sewer service pipe extending from the sewer main to the structure this it serves.

Direct Connection. Direct clean water connections to the sanitary sewer system, such as drain tile connections to the sanitary sewer, sump pumps discharging directly into the sanitary sewer; or any modifications to the property that intentionally directs clean water to the floor drain or sanitary sewer.

Indirect Connection. Potential sources of clean water entering the sanitary sewer system, such as basement floor drains that have the potential of clean water entering the sanitary sewer; but for which, no modifications to the basement have been made to direct the water to the floor drain.

Section 310:04 - Compatibility with Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 310:06 - Purpose

The City Council finds that the discharge of water from roof, surface, groundwater, sump pump, footing tile or swimming pool or other natural precipitation into the City sanitary sewer collection system has the potential to cause damage to property and overload the collector sewer system creating a potential health hazard and exceeding the capacity of the wastewater ponds. It is the desire of the City to extend the life of the current system, to avoid the cost of unnecessary repairs and also avoid the multi-million-dollar investment for a new system. The City Council,

therefore, finds it essential to the maintenance of health, minimization of damage to property and to maintain the life and capacity of the wastewater treatment ponds that the provisions of this section be strictly enforced to avoid and minimize these problems in the future and to meet Minnesota Pollution Control Agency requirements.

Section 310:08 - Prohibition Against Discharge Into the Sanitary Sewer System

No person shall discharge or cause to be discharged into the municipal sanitary sewer collection system, or infiltrate into the sanitary sewer system as a result of defective plumbing or a defective lateral sewer service, any storm water, groundwater, roof runoff, sub-surface drainage, down spouts, yard drains, yard fountain and ponds or lawn sprays or any substance other than sanitary sewage.

No roof runoff, sump pump, footing tile, swimming pool discharge, or surface water drainage shall be connected to the sanitary sewer system and no building shall hereinafter be constructed nor shall any existing buildings be hereafter altered in such a manner that the roof drainage, sump pump, footing tile, swimming pool discharge, surface water drainage or any other source of discharge or drainage other than sanitary sewer shall connect with the sanitary sewer system inside or outside the building.

Section 310:10 - Sump Pump Regulation

Dwellings, including new housing construction or houses under construction, and other buildings and structures which require a sump pump discharge system, because of infiltration of water into basements, crawl spaces and the like, shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system, except as provided herein. A “permanently installed discharge line” shall be one which provides for year-around discharge capability to either the outside of the dwelling, building or structure, or is connected to the City storm sewer or discharges through the curb and gutter to the street. It shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge and, if connected to the City storm sewer line, include a check valve. It shall not be capable of connection or reconnection to the sanitary sewer system.

Subd. 1. It shall be unlawful for any person to discharge or eject water from their property in a manner that adversely affects an adjacent property owner.

Section 310:12 - New Structures

All new structures or buildings constructed after this ordinance’s passage and publication that have useable space below grade shall have a perimeter drainage system installed per current building code requirements. Sump pumps shall be connected to permanent schedule 40 Acrylonitrile-Butadiene-Styrene (ABS) or Polyvinyl Chloride (PVC) piping which ejects water to grade at the exterior of the structure or building in a manner that does not adversely affect an adjacent property owner.

Section 310:14 - Annexed Lands

It shall be unlawful for any person or persons having basements or any structures on any land hereinafter annexed to the City to have roof drains, basement drains or sump pumps connected to the City's sanitary sewer system ninety (90) days after the annexation has been approved.

Section 310:16 - Disconnections Ordered

Subd. 1. *Direct Connections.* The construction, use, maintenance or continued existence of illicit connections of Direct Connections into the collector sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connections. Any person, firm or corporation having a direct connection now connected or discharging into the sanitary sewer system shall disconnect and remove the same prior to June 30, 2016. Any disconnects or openings in the sanitary sewer shall be closed or repaired in an effective, workmanlike manner as approved by the City or his or her designated representative.

Subd. 2. *Sewer Service Laterals.* When there is a street and utility project adjacent to a property with a Sewer Service Lateral found to be deficient, the property owner shall be required to replace or repair their Sewer Service Lateral prior to the completion of the street and utility construction project. When a street project is proposed, a notice will be sent to the affected properties. Sewer Service Laterals can be replaced with PVC service pipe, or slip lined. Spot repairs (slip lined spot repairs) may be considered to correct isolated defects within the service pipe, as approved by the Public Works Director and City Engineer. No more than three spot repairs may be made to a Sewer Service Lateral, otherwise the entire Sewer Service Lateral must be replaced or slip lined.

Subd. 3. *Indirect Connections.* Indirect Connection are not presently required to be repaired, however the City of Foley reserves the right to require the Indirect Connections to be repaired at some point in the future.

Section 310:18 - Inspection

No later than August 31, 2014 every person owning improved real estate, or contractors and builders who are building a structure within the City of Foley that is connected to the City's sanitary sewer system shall obtain an inspection of each building located on such property by an inspector designated by the City at no charge. The purpose of this inspection shall be to confirm that there is no sump pump or other prohibited discharge into the municipal sanitary sewer system.

This inspection requirement may also be met by having the property owner contract with a licensed plumber to perform the inspection. The plumber must inspect the property's sump

pump and groundwater drainage system and upon completion return an inspection form provided by the City documenting the results of the inspection, including a video tape of the inspection certifying that the property has been inspected and documenting whether or not it is in compliance with this Ordinance. All costs associated with an inspection by a privately retained plumber shall be the responsibility of the property owner.

Subd. 1. Failure to provide such certification of inspection by August 31, 2014 or failure to bring the property into compliance by June 30, 2016 shall make the property immediately subject to the surcharge provided for in Section 310:34 of this chapter until the property is inspected or compliance is met.

Section 310: 20 - Future Inspections

The City shall be permitted to enter and re-inspect any building or structure connected to the City's sanitary sewer system subject to regulation under this section on a yearly basis, or as deemed necessary, in conjunction with yearly water meter or other inspections to determine compliance with this section.

If the City has been refused access to any part of the premises from which stormwater is discharged, and there is a need to inspect and/or sample as part of a routine inspection and sampling program designated to verify compliance with this section or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the authorized enforcement agency may seek issuance of an administrative search warrant from any court of competent jurisdiction.

Section 310:22 - New Home Inspections

All new homes hereinafter constructed shall be required to have their sump pump system inspected and be in compliance with this section prior to the issuance of a certificate of occupancy.

Section 310:24 – Waivers, Appeals to City Council

The City Council shall have the power and duty of hearing and deciding requests for waivers from the applicability of the provisions of this Ordinance where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration or cause a safety problem. Before applying for a waiver, a property owner shall have discussed his or her hardship with the Superintendent of Public Works.

Subd. 1. Application for waivers pursuant to this section shall be addressed in writing to the City Administrator. The applications shall at a minimum identify the property for which the waiver is being applied for, the name of the property owner/applicant, and describe in detail what characteristics of the subject property create an undue hardship. Within sixty (60) days of receipt of the waiver application the City Council shall make its decision on the matter and send a copy of such decision to the applicant by regular mail.

- a) Upon approval of an application for a waiver, a property owner shall be allowed to *temporarily* discharge directly into the sanitary sewer system for the time specified in the City Council's written decision, not to exceed six (6) months.
- b) As a condition of the granted waiver the applicant shall be required to pay an additional one-time fee of one hundred (\$100.00) dollars for the additional sewer service, along with the regular sewer service charge. Fees for this service shall be billed together with the regular water and sewer utility bills. In accordance with Chapter VI of the City Code of Ordinances, payment shall be due on the billing date established and late charges as set by resolution shall be applied on any delinquent balance.

Subd. 2. Application for appeal of any administrative determination made pursuant to this Ordinance shall be addressed in writing to the City Administrator within 30 days of the determination. The applications shall at a minimum identify the property for the appeal is sought, the name of the property owner, and describe in detail the determination which is being appealed. Within 60 days of receipt of the application, the City Council shall make its decision on the matter and send a written copy of such decision to the property owner by regular mail.

Section 310:26 - Repairs

Any owner of property or contractor/house builder found to violate this subchapter shall make the necessary changes to comply with the subchapter and furnish proof of the changes to the designated City representative within one hundred twenty (120) days from the date the violation was identified.

Section 310:28 - Restoration.

All excavations for utility installation or repair shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work, shall be restored in a manner satisfactory to the City.

Section 310:30 - Permit Required.

It shall be unlawful to construct, install, alter or repair any plumbing, drain, vent, sump or any other plumbing fixture related to storm water discharge without first obtaining any necessary permit from the City Building Inspector, per city ordinance or building code to do such work.

The fee, if any, for such plumbing permit shall be as determined in Section 600 – Fees, Charges and Rates Established and Section 701 – Licensing Plumbers of the City Code of Ordinances.

In all cases the person responsible for performing the work necessary to correct the illicit storm water disposal shall comply with all provisions of any applicable building and plumbing codes, including inspection by the City Building Inspector.

Section 310:32 - Ownership of Sewer Service Lateral

The property owner shall be responsible for the maintenance of the sanitary sewer service lateral between the sanitary sewer main within the street and the building being served, including the connection to the main.

Subd. 1. Minor repairs to defective lateral sewer service lines causing infiltration into the sanitary sewer system may be temporarily deferred at the recommendation of the Public Works but shall be completed at the time of the City's capital improvements projects are conducted to that street/area.

Section 310:34 - Surcharge

A surcharge of seventy-five (\$75.00) dollars per month shall be added to every sewer bill mailed after August 31, 2014 to property owners who have not obtained a property inspection by that date until proper certification of inspection is provided. A surcharge of seventy-five (\$75.00) dollars per month shall be added to every sewer bill mailed after June 30, 2016 to property owners who are not in compliance with this Section 310:16 of this ordinance as of that date. This surcharge shall be added every month to be included in the monthly utility bills until compliance is met.

Subd. 1. In addition to the \$75.00 per month surcharge, a property owner or other person who is not in compliance with this Section may be mailed, by regular mail, with a notice that such violation shall cease and desist within a time limit provided by the City Council. If such violation does not cease by the established time limit, the owner of the property or other person violating this Section 310 shall be guilty of a misdemeanor. The imposition of such fine shall in no way limit the City's right to seek an injunction in District Court enjoining the continued discharge and a court order requiring the property owner to disconnect the nonconforming connection to the sanitary sewer system.

Subd. 2. Each such charge is hereby made a lien upon the premises served. All such charges which are said to be payable immediately and are not paid shall be considered past due, and when authorized by resolution of the Council, shall be certified by the City Administrator of the City of Foley to the Benton County Auditor, for collection along with taxes.

Subd. 3. Properties that are vacant due to foreclosure, rehabilitation, or other distressed situation, present unique circumstances. Vacant properties where City water service has been turned off shall be exempt from the surcharge while water service is off. Upon reactivating water service, all such properties shall be subject to all terms of this ordinance, including the imposition of a surcharge.

Section 310:36 - Penalty

Whoever shall violate any provision of this chapter for which no specific penalty is provided may be punished as set forth below.

Subd. 1. Any person found to be violating any provision of this ordinance, shall be served by the City with written notice stating the nature of the violation and providing at least ninety (90) days for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Subd. 2. Any person who shall continue any violation beyond the time limit provided for in subsection (1) of this division shall be guilty of a misdemeanor and on conviction thereof shall be fined in the amount at misdemeanor levels seventy-five (\$75.00) dollars. Each day in which any such violation occurs shall be deemed a separate offense and additional fine. The imposition of such fine shall in no way limit the City's right to seek an injunction in District Court ordering the property owner to disconnect the nonconforming connection to the sanitary sewer system.

Subd. 3. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation. The City will also retain any and all civil remedies including but not limited to injunction or abatement actions to remedy a violation.

a) Injunctive Relief: If a person has violated or continues to violate the provisions of this section, the authorized enforcement agency may petition for a preliminary permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

b) Violations Deemed Public Nuisance: In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

Section 310:38 - Annual Certification of Delinquent Accounts

Each and every charge levied by and pursuant to this Ordinance is hereby made a lien upon the lot or premise, and all such charges which are on October 10 of each year past due and delinquent, shall be certified to the County Auditor as taxes or assessments on the real estate. Nothing in this Ordinance shall be held or construed as in any way stopping or interfering with the right of the City to levy as taxes or assessments against any premises affected any delinquent or past due charges.

Subd. 1 As an alternative to levying a lien, the City may, at its discretion, file suit in a civil action to collect such amounts as are delinquent and due against the occupant, owner, or user of the real estate, and shall collect as well all attorney's fees incurred by the City in filing the civil action. Such attorney's fees shall be fixed by order of the court.

Subd. 2 In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner shall be liable for interest upon all unpaid balances at the rate of 10% per annum.

Section 310:40 - Remedies

The remedies provided in Sections 310:34 and 310:36 of this Ordinance are cumulative and do not limit the right of the City to pursue any available legal remedy, including an administrative search warrant.

The City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Section 310:42 - Validity and Severability

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances be declared by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of other provisions or application of this Ordinance.

The City of Foley 1974 Code of Ordinances was amended by adding Section 310 in its entirety by Ordinance Number 417, passed and adopted May 6, 2014. Published and effective May 13, 2014.

Chapter III Municipal Utilities Section 310 of the 1974 Code of Ordinances was amended by adding Section 310:03 Definitions; Section 310:16, Subd. 1-3 Disconnections Ordered; Section 310:24 Subd. 2 Waivers, Appeals to City Council; and Section 310:34 Subd. 3 Surcharge by Ordinance Number 421, passed and adopted May 5, 2015. Published and effective June 30, 2015.

Chapter III Municipal Utilities Section 310:16 Subd. 1; Section 310:18 Subd. 1 and Section 310:34 of the 1974 Code of Ordinances was amended by extending the compliance deadline to June 30, 2016 by Ordinance Number 422, passed and adopted September 1, 2015. Published and effective September 8, 2015.

Chapter III Municipal Utilities Section 310.34 was replaced in its entirety by Ordinance Number 464, passed and adopted April 5, 2022. Published and effective April 12, 2022.