

ORDINANCE NO. 2018-06-26-2
CITY OF DYER, CRAWFORD COUNTY, ARKANSAS

AN ORDINANCE TO AMEND ORDINANCE NOS. 08-21-00-1 AND 03-18-03 IN THEIR ENTIRETY IN ORDER TO PROVIDE FOR THE MANDATORY CONNECTIONS OF PROPERTIES WITHIN THE CITY OF DYER TO THE PUBLIC WASTEWATER SYSTEM, ESTABLISHING A CITY BOARD OF HEALTH, PROVIDING FOR OTHER REGULATIONS FOR THE USE OF THE PUBLIC WASTEWATER SYSTEM IN ORDER TO PROVIDE FOR THE HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THE CITY OF DYER, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Dyer owns and operates a Public Water System in order to provide for the health, safety and welfare of the citizens of the City of Dyer;

WHEREAS, on August 21, 2000 the City Council of the City of Dyer adopted Ordinance No. 08-21-00-1 and on March 18, 2003, the City Council of the City of Dyer adopted Ordinance No. 03-18-03, both ordinance pertained to the mandatory connection of properties to the Public Wastewater System as set forth in Arkansas law;

WHEREAS, it has come to the attention of the City of Council of the City of Dyer that it is in the best interest of the continued health, safety and welfare of the citizens of the City of Dyer that Ordinance Nos. 08-21-00-1 and 03-18-03 be amended in their entireties in order to set forth rules and procedures through which properties shall connect to the Public Wastewater System, and other matters related thereto; and

WHEREAS, it is further found by the City Council of the City of Dyer that the public health shall be promoted by these rules and regulations contained hereinunder.

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DYER, ARKANSAS:

1. Unauthorized Connections. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb, any public sewer or appurtenance thereof without first obtaining a written permit from the approving authority. No permit shall be issued to allow any person to connect his or her property to the sewer until the appropriate connection fees and costs, as may be amended or charged from time to time, are paid.
2. Public Sewer Use.
 - a. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city limits or in any area under the jurisdiction of the city,

any sewerage, human or animal excrement, garbage or other objectionable waste.

- b. It shall be unlawful to discharge to any natural outlet within the city limits or in any area under the jurisdiction of the city, any sanitary sewerage, industrial waste, or other polluted waters, except where suitable treatment has been provided in accordance with this ordinance and all applicable state and federal laws and regulations.
 - c. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process water to any sanitary sewer. Any existing discharge of such waters into sanitary sewers shall be immediately discontinued.
 - d. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the city. Industrial cooling water or unpolluted process waters may be discharged, on approval of the city, to a storm sewer or natural outlet provided that all state and federal laws and regulations are met.
3. Costs and Expenses. All costs and expenses incident to the evaluation of a permit application and the issuance of a permit, and connection of a building, house or structure to the public sewer or appurtenance thereof, shall be paid by the owner. The owner shall indemnify the city from any loss or damage that may directly be occasioned by the installation of the building sewer.
4. Separate Connection. A separate an independent connection to the public sewer shall be provided for every building, house or structure except where multiple units are constructed in an apartment complex, condominium, duplex, triplex or similar type building, house or structure on a single lot or tract of land which cannot be subsequently subdivided and sold in parcels. Such individual buildings, houses or structures may be connected to a collector building sewer, provided that only one person or entity is responsibility for maintenance of the building sewer. All costs required for the provision of a separate sewer connection required herein, or otherwise, shall be at expenses of the owner or user, and not the city.
5. Building and Plumbing Codes. The connection of a building, house or structure to the public sewer shall conform to the building and plumbing codes adopted or in effect by the City of Dyer, shall be gastight and watertight and must be approved by the designee of the City of Dyer prior to any connection to the public sewer.
6. Connection to Public Sewer Required.

- a. All owners of any buildings, houses or structures used for human occupancy, employment, recreation or use for which water and sewer facilities are necessary or required, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, shall install suitable toilet and sewer facilities therein, at the owner's sole expense, and connect, at the owner's sole cost and expense, such facilities to the public sewer within thirty (30) days of receipt of written Notice to Connect to Public Sewer from the city to do so, provided that the city's public sewer is within 300 feet of the owner's property line.
 - b. Any property owner or user desiring to dispute the written Notice to Connect to Public Sewer from the city must file a written dispute with the City Recorder's office setting forth in detail the basis of the dispute within thirty (30) days of the date of the Notice. Upon filing of the written dispute with the City Recorder's office, the matter shall be placed on the agenda of the next regular City Council meeting for an administrative hearing on the matter. The determination of this administrative hearing shall constitute a final administrative decision of the city.
7. City Board of Health. The Mayor of the City of Dyer and the City Council of the City of Dyer is hereby designated as the City Board of Health pursuant to Ark. Code. Ann. 14-262-102(b)(1), with the power to ascertain whether improved and occupied property which is not connected to the municipal sanitary sewer system, but can be served thereby, has adequate sanitary facilities so that the public health is not impaired because of the failure to connect the properties to the municipal sanitary system.
8. Injunctive Relief. When the City Council/City Board of Health finds that a person has violated (or continues to violate) any provision of this ordinance, a permit, or order issued hereunder, the city may petition an appropriate court for the issuance of a temporary or permanent injunction to restrain or compels the specific performance of the permit, order, or other requirement imposed by this ordinance. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user or owner to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.
9. Administrative Fines.
 - a. When the city finds that a user has violated or continues to violate any provision of this ordinance, a permit or order issued hereunder, the city may fine such user in an amount not to exceed One Thousand Dollars

(\$1,000.00). Such fines shall be assessed on a per violation, per day basis. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

- b. Any property owner or user desiring to dispute such charges must file a written dispute with the City Recorder's office setting forth in detail the basis of the dispute within thirty (30) days of the date of the written charge. Upon the filing of a written dispute with the City Recorder's Office, the matter shall be placed on the agenda of the next regular City Council meeting for an administrative hearing on the matter. The determination of this administrative hearing shall constitute a final administrative decision of the city.
- c. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

10. Civil Penalties.

- a. A user which has violated or continues to violate any provision of this ordinance, a permit, or order issued hereunder shall be liable to the city for a maximum civil penalty of One Thousand Dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of violation.
- b. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

11. Water Service Discontinuance.

- a. A user which has violated or continues to violate any provision of this ordinance, a permit, or order issued hereunder shall be subject to the discontinuance of water service pursuant to the procedures set forth by the applicable ordinances of the City of Dyer.
- b. The discontinuance of a user's water service shall not be a bar against, or a prerequisite for, taking any other action against a user.

12. Remedies Non-Exclusive. The remedies provided for in this article are not exclusive. The city may take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city may take other action against any user, including but not limiting to, misdemeanor and felony fines and imprisonment when the circumstances warrant.

13. **Severability.** This ordinance shall take effect, and be in force and effect, from and after its passage, and that this Ordinance supersedes and replaces any other Ordinances in conflict herewith. In the event any one or more of the provisions contained in this ordinance shall for any reason be held by a court of jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this ordinance, and this ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.
14. **Declaration of Emergency.** It is hereby found and determined that this ordinance is necessary in order to preserve the safety of the City and its citizens. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation and protection of the public peace, health, safety and welfare of the City and its citizens, shall become effective on the date of its passage and approval by the Mayor. If the Ordinance is neither approved nor vetoed by the Mayor, it shall become effective on the expiration of the period of time during which the Mayor may veto this Ordinance. If the Ordinance is vetoed by the Mayor and the veto is overridden by the City Council, it shall become effective on the date the City Council overrides the veto.

June 2018
Passed and Approved by the City Council of the City of Dyer this 26 day of March, 2003, by a vote of 5 ayes and 0 nays.

APPROVED:

Bill Moore

Mayor

ATTESTED:

Ann Hubbard

City Recorder/Treasurer