

**ORDINANCE NO. 22-66**

**AN ORDINANCE AMENDING CERTAIN PORTIONS OF CHAPTER 54, UTILITIES, OF THE CODE OF ORDINANCES OF THE CITY OF ROGERS; AND FOR OTHER PURPOSES.**

**WHEREAS** amendment is needed to certain portions of Chapter 54, Utilities, of the Code of Ordinances of the City of Rogers, Arkansas; and

**WHEREAS** the Rogers Waterworks and Sewer Commission has by duly passed Resolution recommended adoption of the proposed amendments shown on the attached Exhibit 1.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS:**

Section 1. The following provisions of Chapter 54, Utilities, of the Code of Ordinances of the City of Rogers, Arkansas are hereby amended as follows:

A. The definition of “Building Sewer” in Section 54-43 of the Code of Ordinances of the City of Rogers, Arkansas is amended to read as shown on the attached Exhibit 1.

B. The definition of “Public Sewer” in Section 54-43 of the Code of Ordinances of the City of Rogers, Arkansas is amended to read as shown on the attached Exhibit 1.

C. A definition of “Private Sewer Disposal System” is added to Section 54-43 of the Code of Ordinances of the City of Rogers, Arkansas and will read as shown on the attached Exhibit 1.

D. Section 54-233 of the Code of Ordinances of the City of Rogers, Arkansas is amended to read as shown on the attached Exhibit 1.

E. Section 54-328 of the Code of Ordinances of the City of Rogers, Arkansas is amended to read as shown on the attached Exhibit 1.

Section 2. Emergency Clause: The need to make the amendments provided for herein is immediate and an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after the date of its passage;

Section 3. Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 4. Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

**PASSED** this 13<sup>th</sup> day December, 2022.

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C. GREG HINES, Mayor

ATTEST:

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JESSICA RUSH, City Clerk

Requested by: Rogers Water Utilities and Rogers Waterworks and Sewer Commission

Prepared by: Robert A. Frazier, Legal Counsel, Rogers Water Utilities and Rogers Waterworks and Sewer Commission

Reviewed by: John M. Pesek, Senior Staff Attorney

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## Sec. 54-43. Definitions.

*Building sewer* means the privately controlled and maintained extension from the building drain to the wye fitting or manhole penetration at a public sewer or private sewer disposal system.

*Private sewer disposal system* means any septic tank or other privately maintained facilities intended for the disposal of sanitary sewage other than via the public sanitary sewer and treatment works. In various places in this Code, a *private sewer disposal system* is also referred to as a “*private sewage disposal system*” or “*private onsite wastewater system*.”

*Public sewer* means all pipes, manholes and fittings of the sanitary sewer, except those defined as a *Building Sewer*, in which all owners of abutting properties have equal rights, and which is controlled and maintained by public authority.

## Sec. 54-233. Unlawful Inflow Connections, discharge of sewage and polluted waters generally.

(a) **Definitions.** As used in this Section:

**Inflow** means the release or discharge of stormwater, surface water, groundwater, roof runoff or subsurface drainage into the sanitary sewer system.

**Superintendent** means the Superintendent of the Rogers Water Utilities.

**Unlawful inflow connection** means any piping, drain, cross connection, channel, defect, or other connection that causes or allows the release or discharge of any stormwater, surface water, groundwater, roof runoff or subsurface drainage into the sanitary sewer system.

(b) **Inflow Prohibited.** It shall be unlawful for any person to release or discharge or cause to be released or discharged any stormwater, surface water, groundwater, roof runoff or subsurface drainage into the sanitary sewer system.

(c) **Prohibition Against Unlawful Inflow Connections.** It shall be unlawful for any person to construct, use, maintain, or allow to exist on any property in the City any *unlawful inflow connection*. This prohibition expressly includes, without limitation, *unlawful inflow connections* made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(d) **Enforcement.** The Superintendent may enforce this Section as provided in Sections 54-49, 54-50, and 54-51 of this Code, and by invoking the remedies therein, and may further take actions as stated herein below.

(f) **Order to Remove Unlawful Inflow Connection.** In the event an *unlawful inflow connection* is discovered on any premises, the Superintendent may issue an order to the owner or occupant of the premises to remove such *unlawful inflow connection* within thirty (30) days of the date of the Order (“the initial thirty (30) day period”). Upon application of the owner or occupant, the Superintendent may extend this period if the owner or occupant has, within the initial thirty (30) day period, made substantial efforts to remove the unlawful inflow connection, but is unable to complete the removal within the initial thirty (30) day period.

(g) **Remedies for Failure to Remove Unlawful Inflow Connection.** If the owner or occupant fails to remove the *unlawful inflow connection* within thirty (30) days of the date of the Order, or within any extension of the thirty (30) day period granted by the Superintendent, the Rogers Water Utilities, at the direction of the Superintendent, may take any, or all, or any combination of, as applicable, the following actions:

(i) discontinue water service to the premises; discontinue sewer service to the premises; or both, as applicable, until the *unlawful inflow connection* is removed;

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- (ii) enter upon the premises and remove the *unlawful inflow connection* and charge the cost of the work, at the standard employee and equipment rates of the Rogers Water Utilities, to the owner or occupant of the premises;
  - (iii) employ a third-party contractor to enter upon the premises and remove the *unlawful inflow connection* and charge the cost of the work, at the employee and equipment rates agreed upon by RWU, to the owner or occupant of the premises;
  - (iv) invoke any other remedy available to the Rogers Water Utilities under this Code, or otherwise available to the Rogers Water Utilities at law or in equity, all said remedies being cumulative.

(h) ***Right of Entry to Inspect Premises or Remove Unlawful Inflow Connection.*** Whenever the Superintendent has cause to believe that there exists, or potentially exists, in or upon any premises any *unlawful inflow connection*, the Superintendent, or the Superintendent's designated representatives, shall have the right to enter the premises at any reasonable time to determine if an *unlawful inflow connection* exists. Likewise, if the owner or occupant fails to remove the *unlawful inflow connection* as ordered under subsection (f) of this Section, the Superintendent, or the Superintendent's designated representatives, shall have the right to enter the premises at any reasonable time to remove the *unlawful inflow connection*. In the event that the owner or occupant refuses entry after a request to enter has been made, the Rogers Water Utilities may seek assistance from a court of competent jurisdiction in obtaining such entry.

(i) ***Storm Sewers.*** Stormwater and all other uncontaminated drainage may be discharged to such sewers as are specifically designated as storm sewers in accordance with other applicable provisions of this Code, including, without limitation, Chapter 14, Article VII.

(j) ***Unlawful Discharge of Sewage and Polluted Waters.*** It shall be unlawful to discharge to any natural outlet within the city, or in the sanitary sewer or any of the sewage works, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided and where a valid national pollutant discharge elimination system permit, and a wastewater discharge permit, if required, has been issued for such discharge.

#### **Sec. 54-328. Separate sewer required for each building, exceptions.**

- (a) Except as listed in subparagraph (b) below, a separate and independent building sewer shall be provided for every building.
- (b) Exceptions. A separate and independent building sewer shall not be required when:
  - a. one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway (in such a case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer or);
  - b. buildings comprise a commonly owned, leased unit development or;
  - c. building drains from individually owned buildings or living units are situated on "common" property that is maintained by a homeowner's association or other governing body and building drains are identified as a common element of the property.

(Code 1982, § 16-79; Code 1997, § 118-328)