

ENROLLED ORDINANCE

*PUBLISHED PURSUANT TO CHAPTER 1 SECTION 4.5 OF THE REVISED ORDINANCES OF THE CITY OF
EVERETT AND IN COMPLIANCE WITH MASSACHUSETTS GENERAL LAWS Chapter 43, Section 23.*

ENROLLED:

DATE OF PROPOSED ORDAINMENT:



CITY COUNCIL**No. C0267-18**

IN THE YEAR TWO THOUSAND AND EIGHTEEN

**AN ORDINANCE DELETING CHAPTER 15 IN ITS ENTIERTY AND REPLACING IT
WITH A NEW CHAPTER 15**

Councilor /s/ Peter A. Napolitano, as President

Whereas: There is a need update the current chapter on Sanitary Sewers and Storm Drains, and

Now, therefore, by the authority granted to the City Council of the City of Everett, Massachusetts to make ordinances:

Be it Ordained by the City Council of the City of Everett, Massachusetts that the Revised Ordinances of the City of Everett be amended as follows:

Chapter 15 is hereby amended by deleting the Chapter in its entirety and replacing it with the the new Chapter 15 as follows:

Chapter 15 Sanitary Sewers and Storm Drains

Sec 15-1. Definitions

The following words and phrases, when used in this chapter, shall have the meaning ascribed to them in this section:

- a) Appurtenances. All other connections, including vents, manholes, and cleanouts that are connected to the public and private storm drains and sanitary sewers.
- b) Design Flow. The estimated generated flow for a building or Facility based on the type of establishment as set forth in 310 CMR 15.203, expressed in terms of gallons per day (“gpd”).

- c) Director. The Director of the City of Everett Department of Public Works or his/her designee
- d) Facility. Any real property (including abutting real property) and any buildings thereon where legal title is held or controlled by the same owner or owners, or where the Director determines that such real property is in single ownership or control using the criteria set forth in 310 CMR 15.011.
- e) Infiltration. Water other than sanitary flow that enters a sewer system (including sewer service connections and foundation drains) from the ground through means which include, but are not limited to, defective pipes, pipe joints, connections, or manholes.
- f) Inflow. Water other than sanitary flow that enters a sewer system (including sewer service connections) from sources which include but are not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, sump pump discharges, or drainage.
- g) Infiltration/Inflow. The quantity of infiltration/inflow (I/I) without distinguishing the source.
- h) Lateral connections. Drains and sewers that are connected from a property to the public or private storm drains and sanitary sewers.
- i) New Construction. Any construction of a new building or Facility requiring connection to the City's sanitary sewer system or any construction or change in use of a building or Facility with an existing connection to the City's sanitary sewer system when the construction or change in use increases the Design Flow of the building or Facility.
- j) Private storm drains and sanitary sewers. Drains, sewers, and service laterals that are privately owned and are connected to the public drains and sewers of the City and the Massachusetts Water Resources Authority (MWRA)
 - 1) The cost of installing and maintaining these drains and sewers is the responsibility of the owner up to and including the connection to the public sewers
- k) Public storm drains and sanitary sewers or Sanitary Sewer System. Drains and sewers that are owned by the City.

Sec 15-2. Responsibility for administration

- a) The Director shall administer, implement and enforce this ordinance. Any powers granted to or duties imposed upon by the Director may be delegated by the Director to its employees, agents, or designee.
- b) The Director shall construct or cause to be constructed public storm drains and sanitary sewers.
- c) The Director shall have the general control of all the public and private storm drains and sanitary sewers of the city, and of all the appurtenances thereto, and of the construction, maintenance, repair and use of the same.

- d) The Director shall care for all catch basins and cleanouts within a Public Way or City maintained facility.
- e) The City Engineer shall provide accurate plans showing the location, depth and materials, with a section plan of each storm drain or sanitary sewer, indicating its size, shape, thickness and construction.
- f) The City Engineer shall cause to be shown by such plans all existing connections as they may be made. Plans and descriptions of all public and private storm drains and sanitary sewers and lateral connections thereto shall be kept in the office of the City Engineer.
- g) The Director shall enact and from time-to-time amend such regulations and fees as may be required to carry-out the purposes of this Ordinance and to effectuate compliance with federal, state and/or MWRA requirements, and to otherwise provide for the management, oversight and supervision of the sanitary sewer system of the City.

Sec 15-3. Construction requirements

- a) New sanitary sewers and laterals shall be designed in accordance with the latest version of TR-16: Guides for the Design of Wastewater Treatment Works published by NEIWPCC and the following requirements, or as required by the Director:
 - 1) Sewer service laterals shall be 6-inch with minimum slope of 1%
 - 2) Sanitary sewers shall be installed at a minimum depth of 4 feet.
 - 3) Sewer manholes shall be installed at a maximum distance of 300 feet.
 - 4) HDPE pipe is prohibited.
 - 5) Maximum trench widths for sewer installation shall be diameter plus 12-inches. Trenches shall typically be excavated to 6-inches below pipe or 12-inches below pipe when installing sewer in ledge.
 - 6) Sewer trenches shall be backfilled and compacted in 6-inch lifts.
 - 7) Contractor shall follow latest ASTM F-1417 guidelines for air pressure testing procedures for plastic pipe
- b) All demolished or raised property shall have sanitary sewer connections relayed to the City or MWRA controlled main in a Public Way or CCTV for confirmation of suitability to be reused. All TVC, ABS, transite, or non-water tight pipes shall be replaced. Any encountered illicit connections are required to be disconnected and rerouted to locations approved by the Director.
- c) Every lateral connection storm drain entering its main system shall be built in such manner as shall be satisfactory to the Director and with due observance of all regulations of the board of health, so far as applicable thereto.
- d) The openings, excavations, construction, or repair of lateral connections shall be made by a person licensed in writing for that purpose by the Director as provided in section 15-9, and by no other person.
- e) The applicant and the contractor shall be solely responsible for repairing any damage to the sanitary sewer and storm drain system and/or to any public or private property that

occurs in the course of the work or as a result thereof; and the applicant and the contractor shall indemnify, defend, and hold the City harmless from any claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting from the work.

Sec. 15-4. Inspection of work.

- a) The Director 's staff shall inspect all storm drain, sanitary sewer, or lateral connections prior to backfilling of trench.
- b) The drainlayer shall notify the Director prior to laying storm drains, sanitary sewers, or lateral connections and again when that work is ready for inspection.
- c) It is the responsibility of the drainlayer to ensure that all work is inspected and constructed in accordance with City standards.
- d) The Director may require re-excavation of storm drain, sanitary sewer, or lateral connection if an inspection was not completed at time of installation.

Sec. 15-5. Procedure where pipes for water, gas, etc. obstruct storm drains or sanitary sewers.

- a) Whenever any street is opened for the laying of pipes for water, gas or for other purposes, such laying of pipes or other work shall be so done as not to obstruct in any way the course, capacity or construction of a storm drain or sanitary sewer.
- b) Whenever such pipes or works are found to exist, interfere with or obstruct any existing storm drain or sanitary sewer or the building of any storm drain or sanitary sewer of the required size and at the proper depth and grades, the Director shall notify the department, corporation or person maintaining the same, to remove, change or alter such pipes or other works at once and in such manner as the City Engineer may direct.
 - 1) If such department, corporation or person neglects to comply immediately with the terms of such notice the Director may cause such removal, change or alteration, and the cost thereof shall be paid by such department, corporation or person.

Sec. 15-6. Report of cost of construction to the City.

The Director shall keep an accurate account of the cost of operating and maintaining the sanitary sewer system, and make report thereof to the City on an annual basis.

Sec. 15-7. Assessments.

- a) Every person owning land abutting upon any way in which a main or common sewer has been laid out, and who enters his particular drain into such main drain or common sewer, or who by more remote means receives a benefit thereby, shall be assessed in accordance

with provisions of chapter 83 of the General Laws, and of acts in amendment thereof or addition thereto.

- b) The Director shall have the power as set forth in G.L. c. 83, §15, when ascertaining assessments as a betterment for construction to apply a rate based on a uniform unit method. A uniform unit method shall be based on an amount equal to one-half the cost of construction divided among the total number of existing and potential sewer units to be served after having proportioned the cost of special and general benefit facilities, and for that purpose the Director shall furnish the treasurer with such facts as to cost of construction, owners of abutting estates, and other persons benefited thereby, and such other information as may be required in making such assessments.
- c) The treasurer shall deliver a list of such assessments provided for in the preceding section, when made, with their warrant to the collector of taxes, who shall demand payment of the same forthwith, in writing, and proceed in the collection thereof in the manner prescribed by law.

Sec. 15-8. Permit to construct.

- a) No person shall uncover, excavate, connect or cause to be connected to, or make any opening into, use, alter, or disturb any portion of the Sanitary Sewer System, including but not limited to storm drains and lateral connections, except by written permit from the Director.
- b) The permit application fee shall be established by the Engineering Department, with the approval of the Director and may be revised periodically.
- c) Upon completion of the work authorized by a permit the licensed drainlayer shall return the permit to the office of the Director with a statement thereon of the work done, and signed by him; including as-built location and ties.
- d) No person shall interfere with, or obstruct a sanitary sewer, or shall enter or attempt to enter a sanitary sewer, except by permit of the Director.
- e) Permits shall be subject to such terms and conditions as may be imposed by the Director either by regulation or on a case-by-case basis.

Sec. 15-9. Drainlayer licenses.

- a) No person shall perform any work or disturb any portion of the Sanitary Sewer System unless they are the holder of a drainlayer license issued by the Director in accordance with this ordinance and any regulations promulgated pursuant thereto.
- b) All licenses issued hereunder shall expire on the first day of May, annually, unless sooner revoked by the Director.
- c) Drainlayers shall pay an annual fee in an amount established by the Director.
- d) All drainlayer licenses shall be subject to such terms and conditions as the Director may deem necessary to further the purposes of this ordinance, including but not limited to the

conditions that he will prosecute his work in a thorough and workmanlike manner; that he will leave no material or obstruction of any description in the storm drain or sanitary sewer which he may open, or in any storm drain, sanitary sewer or lateral connection leading into any storm drain or sanitary sewer; that he will close up the excavation properly, restore the earth and pavement taken up, regrade and repave the street, put the same in good and proper condition, and remove all superfluous material, all to the satisfaction of the Director.

- e) All drainlayer licenses shall be subject to the condition that the drainlayer shall indemnify, defend and hold harmless the City, its officers, boards, commissions, agents, volunteers and employees, from an against any and all claims, demands, liabilities, actions, causes of action, costs and expenses, including attorneys' fees, caused by or arising out of any act, omission or default on the part of the drainlayer, or any of its agents or employees, and further that the drainlayer shall be responsible for repairing any damage to the sanitary sewer system, or any portion thereof, or any public or private property caused by or as a result of any act, omission or default on the part of the drain layer, or any of its agents or employees.
- f) Any person licensed as provided in subsection (a) of this section, before performing any work authorized thereby, shall obtain a policy of insurance with coverages and amounts deemed appropriate by the Director and shall provide the Director with a certificate of insurance naming the City as an additional insured.
- g) Any person licensed as provided in subsection (a) of this section, before performing any work authorized thereby, shall obtain a performance bond with coverages and amounts established by the Director. Said bond shall be in full effect for a period of two (2) years from the effective date of the license and shall be required for each year of licensure. Upon renewal of a license or in subsequent years application the drainlayer shall either submit a new bond which shall remain in full force and effect for a period of two (2) years from the date of application of renewal, or extend the length of the current bond on file, by means of a certificate or rider so that the expiration date of the current bond will be changed to be in full effect for a period of two (2) years from the date of application or renewal.
- h) The insurance and bonds obtained pursuant to this ordinance shall be sufficient to ensure that the drainlayer will fulfill its indemnification, defense and repair obligations as set forth herein, as determined by the Director.
- i) In addition to any penalties set forth in this ordinance or regulations promulgated pursuant thereto, the Director may revoke or suspend any drainlayer license upon due notice and after a public hearing for any violation of this ordinance, the regulations or orders of the Director, or any other applicable law concerning the work of the drainlayer.

Sec. 15-10. Tide traps and check valves.

- a) No storm drain subject to the action of the tidewater shall be constructed without a tide trap or check valve, to prevent completely the backing up or reverse flow of drainage matter, storm or tidedwaters.
- b) Watertight covers shall be installed on all storm drains or sanitary sewer structures within floodplain areas.
- c) Buoyancy calculations shall be provided by a licensed professional engineer to verify all storm drain or sanitary sewer structures within floodplain areas are stable with respect to buoyancy.

Sec. 15-11. Prohibited discharges into sanitary sewers.

- (a) No person shall discharge or cause to be discharged any substances, materials, waters or wastes to the Sanitary Sewer System prohibited under 360 CMR 10, the regulations or orders of the Director or any other applicable federal, state or local law.
- (b) Under no circumstances will water drainage from any source such as, but not limited to, roof leaders, cellar, yard, area drains, foundation drains, cooling water discharges, drain from springs and swampy areas, storm waters, surface runoffs, and be it city, county, district, state or federal government, be permitted to connect to the city sanitary sewer system.

Sec. 15-12. Connections to, discharges in sanitary sewer system.

- a) Connections to the city sanitary sewer system is absolutely prohibited without permit approval by the board of public works.
- b) Under no circumstances will water drainage from any source such as, but not limited to, roof leaders, cellar, yard, area drains, foundation drains, cooling water discharges, drain from springs and swampy areas, storm waters, surface runoffs, and be it city, county, district, state or federal government, be permitted to connect to the city sanitary sewer system.
- c) Sewer Connection Permits shall be subject to such terms and conditions as may be imposed by the Director either by regulation or on a case-by-case basis, including but not limited to I/I mitigation fees and/or additional capacity related mitigation as determined by the Director.

Sec. 15-13. Sewer use charge.

- a) There is hereby established a sewer use charge, which shall be paid by every person whose lateral connection is connected to the sanitary sewers of the city.
- b) The purpose of this sewer charge is to establish just and equitable charges for the use of the sanitary sewers.

- c) For the purpose of this section "person" shall include, but shall not be limited to, a trust, a realty trust, tenants in common, tenants by the entirety, joint tenants, or any other entity of form of ownership by which real property is held.
- d) The Director shall, establish a sewer use charge as a fixed sum per one hundred (100) cubic feet of water used by every person subject to the provisions of this section.
- e) The Director shall send notice of such sewer use charge as established, to the mayor, the clerk of the City, the clerk of the common council, the city clerk, and the treasurer/collector, and shall cause notice of such sewer use charge to be published once in a newspaper of general circulation within the city.
- f) The sewer use charge as established shall be billed to every person subject to the provisions of this section.
- g) The Director is hereby authorized, directed and empowered to determine and render bills for the sewer use charge against every person subject to the provisions of this section at the rate authorized.
- h) The revenues collected as a result of user charges shall be reserved exclusively for the purpose of paying the city's sewer charges assessed by the Massachusetts Water Resources Authority (MWRA) and for other expenses incurred to maintain, repair and improve the city's sanitary sewer system.
- i) The city treasurer/collector is hereby authorized, directed and empowered to collect any sums so determined and billed, enjoying all powers delegated to him by general law, special law, the city charter or ordinance.
- j) Any person who is of the opinion that his sewer use charge is inequitable may make written application to the Board of Public Works requesting a review of the use charge.
 - 1) The written request shall, when deemed necessary by the Board of Public Works, show the actual or estimated average flow of his waste water in comparison with the factors upon which the charge is based, including a description of how the measurements or estimate were made.
 - 2) The Board of Public Works may require, as a condition of such review, the installation of a separate sewer flow meter, at the expense of the person, in order to validate such measurements or estimates.
 - 3) The Board of Public Works, following a thorough review of the sewer use charge being contested, may vote to abate all or a portion of such sewer use charge as may be warranted by the facts pertaining to each case.

Sec 15-14. Enforcement and Penalties

- a) The Director or its authorized agent shall enforce this ordinance, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations. The City may enforce this Ordinance or enjoin violations thereof through any lawful process, and the election of one remedy by the City shall not preclude enforcement through any other lawful means.

- b) Civil relief. If a person violates the provisions of this ordinance, or any associated regulations, permit, notice, or order issued thereunder, the Director may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- c) Criminal penalty. Any person who violates any provision of this ordinance, regulation, order or permit issued thereunder may be penalized by indictment or on complaint brought in a court of competent jurisdiction. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be \$5,000. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- d) Non-Criminal Disposition. Any person who violates any provision of this ordinance, regulation, order or permit issued thereunder may be penalized by non-criminal disposition as set forth in MGL c. 40, § 21D and in the revised Ordinances of the City of Everett Section 1-8. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- e) Entry to perform duties under this ordinance. To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Director, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this ordinance and regulations and may make or cause to be made such examinations, surveys or sampling as the Director deems reasonably necessary.
- f) Permit Suspension or Revocation. The Director may revoke or suspend any license or permit upon due notice and after a public hearing for any violation of this ordinance, the regulations or orders of the Director, or any other applicable law concerning the sanitary sewer system.
- g) Correction of Violations. The Director or its authorized agent may issue a written order to enforce the provisions of this ordinance or any regulations thereunder, for the protection or public health, safety and welfare, or to prevent or minimize damage to the sanitary sewer system. Said orders shall specify a deadline by which the required action shall be completed and if the violator or property owner fails to perform the required action or remediation within the specified deadline, the City may, at its option, undertake such work, at the owner and/or violator's sole costs and expense, that it deems necessary to protect public health, safety and welfare.
- h) The Director is hereby authorized the take such actions and to issue such orders and regulations as it deems necessary to protect the Town's sanitary sewer system from damage or harm.

Sec 15-15. Infiltration/Inflow Reduction Fund

- a) There is hereby established an Infiltration/Inflow (I/I) Reduction Program to support:

- 1) Reduction in occurrence of sanitary sewer overflows (SSOs) within existing City and MWRA sewer systems.
 - 2) Compliance with Massachusetts Department of Environmental Protection (DEP) I/I regulatory requirements under 314 CMR 12 and meeting DEP established I/I removal rate of four to one.
 - 3) Compliance with Massachusetts Water Resources Authority (MWRA) I/I removal program for member communities.
 - 4) Protection of public health.
 - 5) Promoting of current and future sewage transportation and treatment costs shared by at rate payers.
 - 6) Improving water quality of local waterways and wetlands.
 - 7) Separation of storm sewers and storm drainage from sanitary sewer.
- b) The City has completed preliminary work to identify and remove I/I from the sanitary sewer system. The I/I Reduction Fund Program be a continuation of the City's current I/I capital improvements program.

Sec 15-16. I/I Reduction Program Applicability

- a) The I/I Reduction Program shall apply to all New Construction with a Design Flow of 500 gpd or greater.
- b) I/I Reduction Program requirements must be met prior to issuance of sewer connection permit or certificate of occupancy for the construction or change in use.
- c) I/I Reduction Program requirements are in addition to all applicable Federal, State and local laws, ordinances, and regulations.

Sec 15-17. I/I Reduction Assessments

- a) For New Construction resulting in an increase in Design Flow of 500 gpd but less than 1,500 gpd, the applicant shall be assessed a one-time fee of \$2,500. This fee shall be in addition to the permit inspection fee and new service connection fee, if applicable.
- b) For New Construction resulting in an increase in Design Flow of 1,500 gpd or more, applicants shall have the option of choosing one of the following two methods to comply with I/I Reduction Program requirements:
 - 1) The applicant shall locate, quantify, remove, and verify successful removal of I/I from the City's existing sewer system at a rate of four gallons of I/I for every one gallon of Design Flow added to the sanitary sewer system. The Director shall identify a project of sufficient scope to satisfy sewer capacity requirements of the New Construction. The Design Flow calculations shall be provided by the applicant and verified by the Director; or

- 2) The applicant shall pay a one-time fee of \$7.50 per gallon of new Design Flow to be added to the sanitary sewer system. This fee shall be considered in addition to the permit inspection fee and new service connection fee, if applicable.
- c) Maximum daily flows from facilities not listed in 310 CMR 15 shall be calculated by a licensed Professional Engineer in the Commonwealth of Massachusetts and approved by the Director.
- d) Examples of calculating I/I Reduction Program rates for New Construction:

Residential:

$$4 \text{ houses} - 4 \text{ bedrooms per house} = 4h \times 4b \times 110\text{gpd} = 1,760 \text{ gpd}$$

$$\$7.50 \times 1,760 = \$13,200$$

Commercial/Industrial:

$$20,000 \text{ gpd requested} = \$7.50 \times 20,000\text{gpd} = \$150,000$$

- e) Applicants choosing to conduct an I/I removal project in lieu of paying the fee, shall submit an application describing the proposed project to the Director, including all information and plans needed for the Director to make an informed decision. After receipt of a completed application, the Director may approve the proposed project, reject the project, propose alterations to the project or propose an alternative project. An applicant that is aggrieved by the Director's decision may propose a new project or pay the I/I reduction fee instead.
- f) All design plans and work conducted on the sanitary sewer system shall be performed by licensed and insured contractors approved by the Director.
- g) The established I/I Reduction Program rates are based on the Capital Improvement Program established in the City's "Stormwater and Wastewater Infrastructure Integrated Plan"
- h) Revenues collected as a result of the I/I Reduction Program shall be kept in a separate account within the City's Sewer Enterprise Fund and shall be expended exclusively for the identification and removal of I/I from the City's sanitary sewer system.
- i) The Director is authorized and directed to promulgate such regulations, I/I reduction fees or conditions as may be required to effectuate the purpose of this Ordinance and/or to achieve compliance with federal, state, local or MWRA requirements.

Sec 15-18. I/I removal verification

- a) The Applicant shall comply with all applicable laws which may be in force in relation to sewers, drains, and streets.
- b) The applicant shall provide written documentation to the Director verifying the amount of I/I removed from the sanitary sewer system. Verification shall include pre- and post-rehabilitation testing.
- c) City staff shall inspect all I/I reduction projects.
- d) Applicant shall submit as-built documentation to the City within 90 days of construction completion.

This ordinance shall take effect upon passage by the City Council and subsequent approval by His Honor the Mayor.

, 2018	Enrolled in the City Council
	yeas; 0 nays
, 2018	Ordained in the City Council
	yeas; 0 nays
, 2018	Signed: Mayor Carlo DeMaria Jr.

A true copy attest



Sergio Cornelio

Sergio Cornelio, City Clerk