

ORDINANCE NO. 636

AN ORDINANCE AMENDING ORDINANCE NO. 538 AND REGULATING SANITARY SEWER CONNECTIONS FOR THE PURPOSES OF ELIMINATING THE INTRODUCTION OF PROHIBITED WATERS INTO THE TOWN OF ST. JOHN SANITARY SEWER SYETEM, PROVIDING FOR PERIODIC INSPECTIONS AND/OR TESTS OF SEWER LINES AND FACILITIES OF BUILDINGS AND APPURTENANCES CONNECTING TO SAID SYSTEM, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, OTHER MATTERS CONNECTED THEREWITH, AND DECLARING THAT AN EMERGENCY EXISTS

WHEREAS, the Town of St. John, Indiana, owns and operates a Sanitary Sewage Collection System, whereby sanitary sewage is collected and transmitted to the sewage treatment plant of the Town of Schererville, Indiana, for treatment for the purposes of improving the public health, safety, welfare and benefit of the residents of the Town and the area served by the system collectively; and

WHEREAS, the Town has constructed, purchased or otherwise acquired the sanitary sewage collection system through the use of funds obtained from local sources as well as from certain Federal and State grant programs for the purpose of protecting the public health, safety, convenience and general welfare of the residents of the Town and the area served by the system; and

WHEREAS, as a continuing condition for the receipt of the Federal and State grants, the Town has obligated itself and is responsible for adherence to and compliance with certain Federal and State pollution control rules and regulations regarding the implementation, use and control of its system for the protection of the public health, safety and welfare of the residents of the Town and the area served by the system; and

WHEREAS, as a condition for the receipt of the Federal and State grants, the Town was required to and did enact Ordinance No. 538 on which provides, among other things, that:

" . . .
Section 2(B). No person shall discharge or cause to be discharged to any sanitary sewer, either directly or indirectly, storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water. The Town shall require the removal of unpolluted water from any wastewater collection or treatment facility if such removal is cost effective and is in the best interests of all users of those facilities;" and

WHEREAS, the Board of Trustees of the Town has, from time to time, made public requests of the users, of the Town's system that the foregoing ordinance, and all portions thereof, be adhered to by the voluntary action of all users of the Town's system; and

WHEREAS, the public requests have been met with a minimal response from the users of the Town's system; and

WHEREAS, the Board of Trustees of the Town in the past obtained adequate information and data which shows that excessive inflow/infiltration exists within the Town's system; and

WHEREAS, the Board of Trustees, now finds that an increasing amount of inflow/infiltration is being caused by various and diverse violations that are prohibited by Ordinance No. 538, Section 2(B) of the Town; and

WHEREAS, the Board of Trustees now finds that these violations which have existed, and continue to exist, have caused, and may continue to cause, sanitary sewage flow conditions at an excessive level which has created, and may continue to create, a direct hazard and danger to the health, safety and welfare of the residents of the

Town and of the area served by the system; and

WHEREAS, the Board of Trustees now finds that the violations which have existed, and continue to exist have resulted in, and will continue to result in, excessive costs incurred by the Town in the maintenance and operation of its system and the cost of treatment at the sewage treatment plant of the Town of Schererville; and

WHEREAS, the Board of Trustees, being charged and obligated to enforce the provisions of its laws and ordinances, desires to enforce the ordinances as efficiently, effectively and reasonably as possible; and

WHEREAS, the Board of Trustees now finds that it is in the best interests of the health, safety, and welfare of the residents of the Town of St. John and of the area served by its system to efficiently, effectively and reasonably accomplish the goals of compliance and enforcement of Ordinance No. 538 and that in order to accomplish such goals, it is necessary and proper that a comprehensive, systematic compliance and enforcement procedure be approved to govern the conduct of all of the users of such system, whether they be within the geographical area of the Town of St. John or within the geographical area served by the system, or whether they be residents and users of any other area which contracts with the Town for the providing of sanitary sewage treatment services.

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of St. John, Lake County, Indiana, that:

Section 1. Ordinance No. 538 of the Town of St. John, Lake County, Indiana, Section 2(B) is hereby amended by adding the following sections:

Section 2. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

A. "Compliance" shall, wherever necessary, mean compliance with the provisions of Ordinance No. 538, Section 2(B), and any amendments thereto and/or the provisions of this Ordinance.

B. "Sanitary Board of Appeals" or "Board" shall mean the Town of St. John Sanitary Board of Appeals to be comprised of the Building Commissioner, Plumbing Inspector and Electrical Inspector. Whoever shall be serving in such capacity shall automatically be a member of the Board and shall serve thereon for so long as he shall occupy such capacity in the Town. The Clerk-Treasurer shall keep all minutes and records of the meetings of the Board. All meetings of the Board shall be governed by the rules of procedure then in effect governing the conduct of business by the Board of Trustees of the Town, or such other rules as are specifically adopted by the Board from time to time.

C. "System" shall mean all of the facilities for collecting, pumping and disposing of sewage owned by the Town within the sanitary sewer service area of the Town of St. John.

D. "Town" shall mean the Town of St. John, Indiana.

E. "Town Official" shall, whenever necessary, mean and include such employees or designated representatives or officials of the Town as the Board of Trustees of the Town of St. John shall, from time to time, designate and utilize in making the inspections and/or tests hereafter described and in carrying out the other duties as prescribed herein to be performed on behalf of the

Town.

F. "User" shall mean the owner of the property on which the buildings and/or appurtenances that are connected to the system of the Town are located.

G. "Utility Board" or "Board of Trustees" shall mean the elective or appointed Board of Trustees charged with the legal responsibility of overseeing, managing and/or operating the sanitary sewer utility of the Town of St. John, and shall be the Board charged with enforcing the terms of this Ordinance and where deemed necessary, shall be deemed to be the branch of the government of the Town charged with the decision making requirements prescribed herein, although the same may be delegated to a Town official by proper action of this Board.

Throughout this Ordinance, the masculine gender shall be deemed to include the feminine and/or the neuter, the singular the plural, and vice versa, wherever required by the context.

Section 3. Following the passage and adoption of this Ordinance by the Board of Trustees of the Town of St. John, Indiana, all users of the sanitary sewage treatment and collection system of the Town shall, on or before October 1, 1984, bring themselves into voluntary compliance with the terms and conditions of the ordinances of the Town governing connection to and use of the sanitary sewage treatment and collecting system of the Town, including but not limited to the requirements of Ordinance No. 538, Section 2(B).

Section 4. Upon expiration of the term provided for in Section 3, a user utilizing the system of the Town may avoid the imposition or levy of any fines, fees, charges or penalties with

regard to such use and utilization by presentation of proof of compliance and continuing compliance with the provisions of Section 2(B) of Ordinance No. 538, of the Town, and any amendments thereto, which proof shall consist of and include compliance with the following procedures and conditions as to each building and/or appurtenance connected to the system of the Town.

A. Upon request by the Town official, either in writing or by personal contact, each user utilizing the system shall within ten (10) days, as to each building and/or appurtenance so connected to the system, execute a "Grant of Inspection" to the Town, to permit entry upon the property served by the system on which the buildings and/or appurtenances are located, to inspect and/or perform such tests as may be deemed necessary by the Town, to verify and prove compliance with the provisions of Section 2(B) of Ordinance No. 538, and any amendments thereto.

B. The Grant of Inspection shall be deemed to include the right of periodic inspections and/or tests thereafter, as may be reasonably determined to be necessary by the Town, to maintain, monitor and ensure continued compliance with the provisions of Section 2(B) of Ordinance No. 538, and any amendments thereto.

C. Once a Grant of Inspection has been executed, it may be revoked at any time by the original grantor thereof, or any subsequent owner of the property covered by the Grant of Inspection, provided however that any person revoking a Grant of Inspection shall be subject to the provisions of Section 4, Paragraph G, except that in addition to the surcharge to be charged in accordance with

Section 4, Paragraph G, if any, the user shall be liable for payment of a sum equal to the sum of the months since the last determination of compliance was made or the date of a Grant of Inspection whichever is later, multiplied by the monthly surcharge amount provided for in Section 4, Paragraph G, for knowingly, wilfully and/or intentionally creating or permitting such violation to commence and continue.

D. Reasonable written notice of at least forty-eight (48) hours shall be given by the Town official to the user of the time and place at which the inspections and/or tests provided for herein are to be made.

E. There shall be no fees charged for any inspections and/or tests conducted and performed by the designated representatives or officials of the Town.

F. In the event a user utilizing the system executes the Grant of Inspection, and the Town determines that said buildings and/or appurtenances are in compliance, no surcharge, fines or other penalties shall be imposed or levied upon the user; provided, however, that the Town shall be imposed or levied upon the user; provided, however, that the Town shall have the right and authority, pursuant to the Grant of Inspection executed as required hereby and the terms of this Ordinance, to conduct additional inspections and/or tests at a later date to determine that compliance still exists.

G. In the event a user utilizing the system fails or refuses to execute a Grant of Inspection to the Town or records a Grant of Inspection previously executed, for the purposes provided

for herein, a surcharge of Twenty-Five Dollars (\$25) per month, per billing account for such user, shall be imposed in addition to all other charges authorized and imposed under any applicable Ordinances of the Town, commencing at the next billing period following the date of the failure or refusal to execute or the revocation of the Grant of Inspection to the Town.

H. In the event a user utilizing the system executes the Grant of Inspection, and the Town inspects, conducts tests, and determines that the buildings and/or appurtenances of said user are not in compliance, then, and in such event, the Town by its Town official, shall provide written notice of the results of the inspection and tests to the user, who shall be required to permanently comply with the applicable provisions of Ordinance No. 538 within ninety (90) days of the date of the notice. The user shall have the right to appeal the findings by filing with the Chairman of the Sanitary Board of Appeals, within ten (10) days from the date of such notification, a written Notice of Appeal which shall set forth all matters being appealed, the reasons therefore, and such additional evidence, test results, findings, or other new matters in support of such appeal. The form of the notice of appeal shall be in substantially the form as set forth in the Addendum to this Ordinance. The Chairman of the Board shall, within fourteen (14) days of the date of the filing of such appeal, convene a special meeting of the Board for the purpose of making a determination in such appeal. The Board shall have the right, if it so decides, to require additional, oral or written testimony at such time. The Board may, in the alternative, determine such appeal

solely on the basis of the written findings of the Town and the written matters set forth by the user in the request for an appeal. The Board shall make its determination within (7) days of the date of the appeal meeting. The Board shall serve written notice of its determination upon the user within seven (7) days after the determination is reached. If the appeal by the user is unsuccessful, the user shall be required to comply with the provisions of Ordinance No. 538 within sixty (60) days of the date of the Board's determination. The Town shall, upon completion of the corrective work, again inspect the buildings and/or appurtenances of the user to verify the compliance with the aforementioned ordinance.

I. In the event that the buildings and/or appurtenances of the user are determined not to be in compliance with Ordinance No. 538 of the Town, any amendments thereto, and the time period referred to herein for corrective work expires, and the user refuses or fails to bring buildings and/or appurtenances in compliance with the aforementioned ordinance, a surcharge of Fifty Dollars (\$50) per month per billing account for such user shall be imposed, in addition to all other charges authorized and imposed under any applicable ordinances of the Town, commencing at the next billing period following the date of the inspection or testing by the Town wherein said non-compliance, was determined, for permitting such violation to continue to exist.

J. The surcharge referred to herein shall be removed only upon the following conditions:

(1) The user utilizing the system, executes a

Grant of Inspection to the Town or makes the required corrective action to bring about compliance; and

- (2) The Town inspects and/or performs tests on the buildings and/or appurtenances connected to the system and determines that the building and/or appurtenances so connected to the system are in compliance; and
- (3) The payment in full of all surcharges billed to the user utilizing the system until the time period the buildings and/or appurtenances in question of the user are determined to be in compliance.

K. The failure or refusal by a user utilizing the system to execute a Grant of Inspection or the revoking of a Grant of Inspection or to cause his buildings and/or appurtenances to be in compliance, after being determined not to be in compliance, within ninety (90) days from date of the failure, refusal, revocation or notice of non-compliance, unless an appeal has been taken, in which event it shall be within sixty (60) days of the date of service of the affirming Order of the Board, shall cause the Town, by its Clerk-Treasurer, or other Town official, to prepare a Notice of Violation of Town Ordinance as to the property in violation of this Ordinance and/or Ordinance No. 538, and to file the Notice for record in the Office of the Recorder of Lake County, Indiana. The Notice of Violation shall set forth the name of the Owner of the property, the correct legal description of the

property, a brief summary of the violation, a statement that the applicable surcharge, or surcharges, as the case may be, depending upon which is applicable, is assessed against the user and the property, and a statement that the violation of this Ordinance is a continuing one until the property is brought into compliance. Any subsequent purchaser of the property described in the Notice of Violation shall take title subject to such violations and shall be responsible for compliance with the terms of the ordinances set out therein and the payment of any surcharges due by reason of such violations. Within fifteen (15) days after a user, who has had a Notice of Violation of Town Ordinances recorded against property in violation of this Ordinance, or Ordinance No. 538, and any amendments thereto, has cured the non-compliance, as provided for herein, the Town, by its Town manager, or other Town official, shall cause to be prepared and recorded a Release of Notice of Violation of Town Ordinance in the Office of the Recorder of Lake County, Indiana. The release shall set forth the name of the owner of the property, the correct legal description of the property, and the date on which the non-compliance has been corrected.

Section 5. In the event a user is found to be in compliance, and subsequent inspections and/or tests determine that non-compliance now exists, the terms and provisions of Section 4, Paragraphs D, H, I, and J, thereof shall be applicable, except that in addition to the surcharge to be charged in accordance with Section 4, Paragraph I, if any, the user shall be liable for payment of a sum equal to the sum of the months since the original determination of compliance was made, multiplied by the monthly

surcharge amount provided for in Section 4, Paragraph I, for knowingly, wilfully and/or intentionally creating or permitting such violation to commence and continue.

Section 6. In the event a user is found to be in a state of non-compliance a second, or subsequent time, then the user shall be liable for the payment of a sum equal to Five Hundred Dollars (\$500), plus an amount equal to the sum of the months since the original non-compliance was corrected (and if never corrected from the date of such non-compliance determination), multiplied by the monthly surcharge amount provided for in Section 3, Paragraph I or G, for knowingly, wilfully and/or intentionally permitting such violation to commence and continue.

Section 7. Any user violating any of the provisions of this Ordinance, or Ordinance No. 538, shall be liable to the Town for any expenses, costs and fees, including but not limited to reasonable attorney fees, occasioned or caused to the Town by reason of seeking enforcements of such Ordinances against the violator, as well as for any losses or damages occasioned or caused to the Town, or system users by reason of such violation.

Section 8. The Board of Trustees or the Utility Board shall have full power and authority to invoke any legal, equitable or special remedy for the enforcement of this Ordinance and/or Ordinance No. 538. In addition, the Board of Trustees or the Utility Board is hereby authorized to institute proceedings, in their name in the Circuit or Superior Courts of Lake County, Indiana, or any other court having jurisdiction, for prohibitory or mandatory injunctive relief to prevent or discontinue any violations

of this ordinance and/or Ordinance No. 538, or to enforce the provisions of the ordinances.

Section 9. This Ordinance shall be deemed supplemental to all other ordinances and provisions thereof for enforcement and compliance purposes, and shall not be deemed to amend or rescind said other ordinances and provisions; further, that any fines, fees, charges or penalties levied or imposed pursuant to this Ordinance shall be in addition to any fines, fees, charges or penalties levied or imposed pursuant to all other ordinances and provisions thereof.

Section 10. The Board of Trustees, by passage hereof, has determined that the measures hereinabove set out are a reasonable means of ensuring compliance with Ordinance No. 538 of the Town, and any amendments thereto, and further that the same are necessary to protect and ensure the health, safety and welfare of the residents of the Town and the area served by the system.

Section 11. The provisions of this Ordinance shall be deemed severable, and should any section or part hereof be deemed invalid or unenforceable by a court of competent jurisdiction, such section, clause, sentence or provision shall be deemed stricken and the invalid or unenforceable part shall not affect the validity or enforceability of any other part or parts of this Ordinance which can be given effect without such part or parts as may be so deemed invalid or unenforceable.

Section 11. By passage of this Ordinance, the Board of Trustees declares that an emergency exists and this Ordinance shall be in full force and effect from and after its passage.

Passed and adopted by the Board of Trustees of the Town of St.

John, Lake County, Indiana on this 9th day of July,
1984.

[Signature]
Jerry A. Matton
David M. Biddi
BOARD OF TRUSTEES, Town of St.
John, Lake County, Indiana

ATTEST:

[Signature]
Clerk-Treasurer

A D D E N D U M

NOTICE OF APPEAL

TO: The Sanitary Board of Appeals of the Town of St. John

The undersigned, _____ (Names) _____,
own certain property located within the Town of St. John, Indiana,
commonly known as _____ (Street Address) _____.

On _____ (Date of Notification) _____, the undersigned was notified that a condition described in Ordinance No. 538 and/or Ordinance No. 636, of the Municipal Code of the Town of Schererville, Indiana, as amended, exists on the above property. The undersigned do not believe that such a condition exists on the above property, and therefore, appeal the Town's determination for the following reasons:

(Set forth in detail all matters being appealed, the reasons therefore, and such additional evidence, test results, findings, or other new matters as are necessary to support this appeal.)

Dated: _____, 19____.

(Signatures of Property Owners)