

ORDINANCE NO. 99-23

AN ORDINANCE of the City of Bainbridge Island, Washington, implementing regulations designed to reduce storm and surface water infiltration and inflow from private side sewers into the city's sanitary sewer system; adding a new Chapter 13.14; adding a new Section 13.24.085; and amending Section 13.24.086 of the Bainbridge Island Municipal Code.

WHEREAS, an excessive amount of storm and surface water is entering into the city's sanitary sewer system from private side sewers in the form of infiltration and inflow;

WHEREAS, this excessive infiltration and inflow is resulting in excessive system capital, operation and maintenance costs to the city;

WHEREAS, the city, in an effort to cost-effectively and efficiently operate and maintain public sewer facilities, recognizes the need for all sanitary system users to assist in the reduction of the excessive infiltration and inflow;

WHEREAS, the city has determined that the regulations promulgated herein are designed to create a more efficient use of the city's sanitary sewer system; and

WHEREAS, pursuant to RCW 35.67.360, the city wishes to offer private property owners financial assistance in making corrective work required under this ordinance; now, therefore,

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. A new Chapter 13.14 is added to the Bainbridge Island Municipal Code to read as follows:

Chapter 13.14

**SIDE SEWER STORM AND SURFACE WATER
INFILTRATION AND INFLOW REDUCTION PROGRAM**

13.14.010 Purpose.

The city has determined that it is in the public's best interest to more efficiently utilize the sewer capacity of the city's current sewer plant and to conserve water resources. The purpose of this chapter is to create a cooperative program

between the city and the users of the city's sanitary sewer system, which program is designed to reduce storm and surface water infiltration and inflow from private side sewers into the city's sanitary sewer system.

13.14.020 Storm and surface water-- Discharge into sanitary sewer prohibited.

A. No person shall discharge, cause to be discharged or allow to be discharged any storm water, surface water, ground water, roof runoff or subsurface drainage into any sanitary sewer.

B. No person shall connect, cause to be connected, or continue to connect a roof drain or drains to any private sanitary side sewer lines. Any person who has connected a roof or ground drain to any private side sewer line shall disconnect the roof drain or drains within 90 days from the effective date of this ordinance.

C. Storm water and other unpolluted drainage shall be discharged to such drains as are specifically designated as storm sewers, or to a natural outlet approved by the city engineer or designee.

13.14.030 Testing for Infiltration and Inflow.

A. The city engineer and/or the city engineer's designee shall test various areas within the city's jurisdiction for infiltration and inflow in accordance with a testing plan to be established by the public works director. To the extent that the city engineer and/or designee must enter private property to conduct the testing provided by this section, the city engineer and/or designee shall first obtain the permission of the owner of the property to be tested prior to entering the property. The city shall restore any private property tested for excessive infiltration or inflow to the condition of the property prior to the testing.

B. The city engineer and/or the city engineer's designee may utilize any means available for testing for infiltration or inflow, including, but not limited to: the "smoking" test; closed circuit TV equipment; and flow charts of various lift stations.

13.14.040 Repair of Defective Side Sewer.

A. Whenever any side sewer line connected with the public sanitary sewer system becomes inadequate or unable to prevent infiltration and/or inflow from entering into the public sewer due to damage, deterioration, improper installation or substandard materials of the side sewer line, the owner of the property served by the

defective side sewer shall repair, replace or disconnect the side sewer line as deemed necessary by the city engineer to remove or reduce further infiltration and inflow from entering into the side sewer line. The owner of the property serviced by the side sewer line shall be responsible for all costs associated with the repair, replacement or disconnection of defective side sewer lines.

B. In cases where the city is replacing or repairing a public sewer main to which an identified defective side sewer line is connected, the city and the owner of the property serviced by the side sewer line may enter into an agreement by which the city shall also repair or replace the side sewer line; provided, that all costs incurred by the city in repairing or replacing the defective side sewer line shall be borne by the owner of the property serviced by the side sewer line, and; provided further, that the owner of the property serviced by the side sewer line shall grant the city all easements necessary for the repair or replacement construction of the defective side sewer line.

13.14.050 Notice of Corrective Work

A. If the city engineer and/or the city engineer's designee determines that a side sewer line is inadequate or unable to prevent infiltration and/or inflow from entering into the public sewer from the side sewer line, the city engineer and/or designee issue to the record owner of the property served by the defective side sewer line a notice of corrective work. The notice shall identify the nature of the defect and the corrective work necessary to remedy the defect. The notice shall further inform the owner that the owner shall have 45 days from the date of the issuance of the notice of corrective work to respond to the notice and to provide the city with satisfactory proof that the required corrective work has been completed or that the required corrective work has been commenced and shall be completed within a reasonable time thereafter.

B. The notice of corrective work shall be personally served or mailed, via certified mail, return receipt requested, to the record property owner. If the notice is sent via certified mail, service of the notice shall be deemed effective three days after the notice was placed in the mail.

13.14.060 Notice of Violation

A. If the record owner of the property served by the defective side sewer line fails to comply with the notice of corrective work as provided in BIMC 13.13.050, the city shall issue a notice of violation to the record owner of the property served by the defective side sewer line.

B. The notice shall be served on the property owner by personal service or by certified mail, return receipt requested. If the notice is sent via certified mail, service

of the notice shall be deemed effective three days after the notice was placed in the mail. The notice shall provide the following information:

1. The street address or legal description of the real property served by the defective side sewer;
2. A statement of the nature of the violation;
3. A statement of the required corrective work to be performed to remedy the violation;
4. A statement that the owner has 60 days to complete the required corrective work;
5. A statement that failure to complete the work within the 60 day time period shall constitute a civil infraction, punishable by a fine of up to \$500 per day;
6. A statement that the property owner may, for good cause, request an extension of the time period in which to complete the required corrective work;
7. Notice that the property owner may apply for financing from the city for the required corrective work.

13.14.070 Extension of Deadline in Which to Complete Corrective Work.

Any property owner who is ordered to complete corrective work to the owner's side sewer under this chapter may submit to the city engineer, at any time prior to the expiration of the deadline for completion of the corrective work, a written request for an extension of the deadline. The city, in its discretion, may extend the deadline for compliance based on the following considerations:

- A. Type and degree of violation;
- B. The property owner's intent to comply;
- C. Procedural requirements for obtaining a permit to carry out the corrective action;
- D. The complexity of the corrective action;
- E. Whether an appeal of the notice of violation has been timely filed; and
- F. Any other circumstances beyond the control of the property owner.

13.14.080 Appeal of Notice of Violation.

A. Any person affected by a notice of violation under this chapter may file a written notice of appeal with the city clerk within 20 days from the date upon which the notice of violation was served. Any notice of appeal filed under this section shall include a statement by the property owner as to why the notice is erroneous.

B. All appeals of notices of violations under this section shall be heard by the hearing examiner. The city shall have the burden of proving that the side sewer line is inadequate or unable to prevent infiltration or inflow into the city's sanitary sewer system. The results of any testing performed by the city engineer or designee pursuant to BIMC 13.13.030 may be introduced as prima facie evidence of the defectiveness of the subject side sewer line. If the city meets its burden of proof, the hearing examiner may reverse the notice of violation only upon a clear and convincing showing by the property owner of one or more of the following:

1. That the testing of the engineer and/or designee is inaccurate or erroneous and that the side sewer line is not defective;

2. That the property owner is not the responsible party for the defective side sewer line;

3. That the corrective work required by the city to remedy the defective side sewer line is not reasonable. In establishing that the required corrective work is unreasonable, the property owner must conclusively prove that a more cost-effective alternative to the required corrective work exists, and that this alternative will reduce and prevent infiltration or inflow as efficiently as the required corrective work.

13.14.090 Failure to Comply with Notice of Violation--Penalty.

Failure to comply with the requirements of a notice of violation issued pursuant to BIMC 13.14.060 shall constitute a civil infraction, which shall be enforced as provided in Chapter 1.26 BIMC.

13.14.100 Financing of Corrective Work by City.

The city may use public moneys or credit derived from operating revenues from the sale of its sewer services to assist property owners in making any corrective work to defective side sewers ordered pursuant to this chapter. Any property owner wishing to obtain financing from the city to assist the owner in making ordered

corrective work shall apply in writing to the city for such assistance, on a form provided by the city. The city shall evaluate each request for assistance on a need basis, and may award any amount which the city, in its discretion, deems an appropriate financing of the corrective work. Except for those cases in which the city determines the financing is necessary support for the poor and infirm, an appropriate charge-back, to be established by resolution, shall be imposed for any financing extended pursuant to this section.

13.14.110 Reimbursement for "Low-Flush" Commodes.

A. Any private property owner who is connected to the city's sewer main, who is using one or more "high-flush" commode(s) as of the effective date of this ordinance and who subsequently replaces the high-flush commode with a low-flush commode may be reimbursed by the city, in its discretion, \$100 or one-half of the cost of a new "low-flush" commode, whichever is less.

B. To qualify for the reimbursement provided by this section, a private property owner must provide the city with a valid receipt evidencing the purchase price of the low-flush commode and the date of the purchase. The private property owner must further provide to the city evidence which the city deems to be reliable proof that the low-flush commode for which the owner seeks reimbursement has been installed and is in working condition.

C. For the purposes of this section, a "high-flush" commode shall mean a commode which uses between five to seven gallons of water per flush. A "low flush" commode shall mean a commode which uses no more than 1.6 gallons of water per flush.

Section 2. A new Section 13.24.085 is added to the Bainbridge Island Municipal Code as follows:

13.24.085 Rate for Disconnection of Property with Disconnected Roof Drains.

For any property where the property owner, at any time prior to a notice of corrective work, or within the time period provided by a notice of corrective work issued to the property owner pursuant to BIMC 13.14.060, disconnects all roof drains located on the property from the city's sanitary sewer system and permanently seals the ingress point(s) of the drain(s), the city shall waive the annual storm and surface water service fee otherwise assessed against the property pursuant to this chapter for a period of three years from the date of the disconnection. Upon the expiration of the three year waiver provided in this section, the property shall again be assessed at the applicable rate, as provided by this chapter.

Section 3. Section 13.24.086 of the Bainbridge Island Municipal Code is amended as follows:

A. In order to qualify for the rate reductions set forth in BIMC 13.24.082, 13.24.084 and 13.24.085, the property owner must file an application with the director of finance by November 15th of the year prior to the year in which the rate reduction is to be effective.

B. Any person aggrieved by any decision of the director of finance relating to an application for the rate reductions authorized by BIMC 13.24.082, 13.24.084 and 13.24.085 may appeal the director's decision by filing a writ of review with the superior court of the county within 30 days of the date of the director's decision.

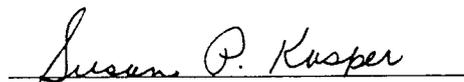
Section 4. This ordinance shall take effect and be in force five days from and after its passage, approval and publication as required by law.

PASSED by the City Council this 28th day of July, 1999.

APPROVED by the Mayor this ____ day of _____, 1999.


Dwight Sutton, Mayor

ATTEST/AUTHENTICATE:


Susan P. Kasper, City Clerk

APPROVED AS TO FORM:

Rod P. Kaseguma, City Attorney

FILED WITH THE CITY CLERK:	May 3, 1999
PASSED BY THE CITY COUNCIL:	July 28, 1999
PUBLISHED:	August 4, 1999
EFFECTIVE DATE:	August 9, 1999
ORDINANCE NO.:	99-23