

ORDINANCE NO. 2019-0-005

AN ORDINANCE AMENDING ORDINANCE 2019-0-002 ENTITLED AN ORDINANCE REQUIRING ACCESS TO CERTAIN PROPERTIES, IN ORDER TO PERFORM TESTING, INSPECTION AND MAINTENANCE OF CERTAIN ADJUNCT SEWER FACILITIES

WHEREAS, the Board of Metro East Sanitary District, Madison and St. Clair Counties, Illinois (“MESD”) finds that the presence of grease, chemicals and other suspended solids from Industrial and Commercial users of and contributors to the MESD sewer network is a problem with serious consequences, leading to decreases in efficiency, increase in costs, and the need in some cases for repair and monitoring; and

WHEREAS, MESD’s Ordinances relating to the use of public and private sewers, and setting rates therefore (see for example, Ordinance No. 2018-0-002), have set surcharge rates for the presence and amount of Biological Oxygen Demand (BOD) and Total Suspended Solids (TSS) within the flow into MESD sewers; and

WHEREAS, the Board finds that MESD must be able to access the inside of certain commercial and industrial buildings, in order to take samples of flow, and inspect and/or repair and maintain grease traps, clean outs and other pipes and connections which transmit material into the MESD sewer network; and

WHEREAS, the Metro East Sanitary District Act of 1974 provides in relevant part that MESD has the power, *inter alia*:

To lay out, locate, establish, construct, maintain and operate one or more drains, conduits, treatment plants, pumping plants, works, ditches, channels or outlets of such capacity and character as may be required for the treatment, carrying-off and disposal of swamp, stagnant or overflow water, sewage, industrial wastes and other drainage of such district, and to lay out, establish, construct, maintain and operate all such adjuncts or auxiliary improvements or works as may be necessary or proper for the accomplishment of the purposes intended.

(70 ILCS 2905/2-3, emphasis added.); and

WHEREAS, the Metro East Sanitary District Act of 1974 further provides in relevant part that MESD has the power, *inter alia*:

To regulate, limit, extend, deny or otherwise control any connection to any sewer that is tributary to the district's sewer system, regardless of whether the sewer to which the connection is made is directly under the jurisdiction of the district.

(70 ILCS 2905/2-4, emphasis added.); and

WHEREAS, the Metro East Sanitary District Act of 1974 further provides in relevant part that MESD has the power, *inter alia*:

To require that before any person or municipal corporation connects to the sewage system of the district the district be permitted to inspect the drainage lines of the

person or municipal corporation to determine whether they are adequate and suitable for connection to its sewage system. In addition to the other charges provided for in this Act, the sanitary district may collect a \$200.00 charge for this inspection service. Funds collected as inspection charges shall be used by the sanitary district for its general corporate purposes after payment of the costs of making the inspections.

(70 ILCS 2905/2-6, emphasis added.); and

WHEREAS, the Metro East Sanitary District Act of 1974 further provides in relevant part that MESD has the following power, *inter alia*:

Whenever it shall be necessary for or in connection with any improvement or work authorized by this Act, to enter upon any public property, or property held for any public use, or acquire any easement or rights therein, such sanitary district shall have the power so to do, and when necessary for such purpose may avail itself of any Eminent Domain laws of this State, and may enter upon, use, widen, elevate, and improve any street, highway, wharf, levee, or other property, necessary in furtherance of said purposes: Provided, the former use of any such public property, or property devoted to public use, shall not be unnecessarily interrupted or interfered with.

(70 ILCS 2905/2-8, emphasis added.)

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF THE COMMISSIONERS OF THE METRO EAST SANITARY DISTRICT, ST. CLAIR AND MADISON COUNTIES, ILLINOIS, AS FOLLOWS:

SECTION 1: In order to obtain the initial authority and permission from MESD to tap on to any sewer line owned or maintained by MESD, or any sewer line that is tributary to MESD's sewer system, regardless of whether the sewer to which the connection is made is directly under the jurisdiction of MESD, owner of a Commercial or Industrial Structure must allow MESD inspectors to enter upon the property and inside any buildings as necessary, to inspect for the presence of adequate grease traps, clean outs, valves, controls, or other facilities deemed necessary by MESD for testing and maintenance.

SECTION 2: In order to maintain and keep permission and authority from MESD to continue to tap onto and use any sewer line owned or maintained by MESD, or any sewer line that is tributary to MESD's sewer system, regardless of whether the sewer to which the connection is made is directly under the jurisdiction of MESD, the owner of a Commercial or Industrial Structure must allow MESD inspectors to enter upon the property and inside any buildings as necessary, to inspect grease traps, clean outs, valves, controls, or other facilities deemed necessary by MESD, or to perform testing of any materials flowing into the MESD system.

SECTION 3: Any entry onto private property, as required in Sections 1 and 2 will be undertaken in a manner so as not to unnecessarily interrupt or interfere with the operations of such property.

SECTION 4: In the event that any written request to enter and inspect, test or maintain pursuant to Sections 1 and 2 is not complied with by the property owner within 30 days of the request, the MESD Board in its discretion may block access to the sewer system. This section applies only to property owners whose sewer connection is tapped directly onto a sewer system owned by MESD.

SECTION 5: In the event that any written request to enter and inspect, test or maintain pursuant to Sections 1 and 2 is not complied with by the property owner within 30 days of the request, the MESD Executive Director in his or her discretion may impose a fine of up to but not exceeding \$500 per month, until access to test is granted. This section applies to any property owner whose sewer line is tapped directly onto a sewer system owned by MESD, or whose sewer line is tributary to MESD's sewer system, regardless of whether the sewer to which the connection is made is directly under the jurisdiction of MESD.

SECTION 6: Any property owner upon who a penalty is imposed under Sections 4 or 5 above, may appeal that result to the MESD Board of Commissioners within 60 days of the penalty being imposed. Upon receipt of such an appeal, the Board will convene a hearing within 14 days, unless a date and time is otherwise agreed to by the property owner. At such hearing, the property owner will be allowed to present testimony and arguments on the matter, and will have the right to be represented by counsel. The Board will render its final determination in writing, within 5 days of the hearing.

PASSED by the Board of Commissioners of the Metro East Sanitary District of Madison and St. Clair Counties of Illinois on the 16th day of April, 2019.

APPROVED this 16th day of April, 2019

METRO EAST SANITARY DISTRICT BY:



President

ATTEST:



Clerk (Seal)

Ayes: 4 Nays: 0