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ORDINANCE NO. 11-2012

**AN ORDINANCE AMENDING CHAPTER 24, WATER, SEWERS
AND SEWAGE DISPOSAL, ARTICLE III, SEWERS AND
SEWAGE DISPOSAL, BY ADDING DIVISION 5, COST-
SHARING PROGRAM, OF THE MUNICIPAL CODE OF THE
VILLAGE OF EVERGREEN PARK**

JAMES J. SEXTON
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Village Clerk

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Village Attorney

ORDINANCE NO. ___-2012

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WHEREAS, the Village of Evergreen Park is a home rule municipality duly existing under the Constitution of the State of Illinois;

WHEREAS, the residents of the Village of Evergreen Park have experienced an increase in basement flooding problems associated with sewer back-ups;

WHEREAS, the Village of Evergreen Park strives to provide safe, reliable and effective utility services and, to that end, has a policy and practice of regularly maintaining, repairing and upgrading its infrastructure, including its sanitary sewer system;

WHEREAS, while the maintenance, repair and upgrade of the Village of Evergreen Park's infrastructure is likely to reduce the number of sewer back-up incidents, it is impossible to eliminate those problems due to the age of the infrastructure, the current level of technology, and a lack of the financial resources;

WHEREAS, the Village of Evergreen Park has determined that the most effective way to prevent sewer back-ups is for individual property owners to protect their own basements by installing an overhead sewer system;

WHEREAS, the Village of Evergreen Park finds that establishing a cost-sharing program will provide an incentive to homeowners to take steps to prevent sewage back-ups in their basements and has, therefore, proposed to appropriate \$150,000.00 over the next five (5) years to fund the cost-sharing program; and,

WHEREAS, the Village of Evergreen Park has determined that the cost-sharing program will benefit the public health, safety and welfare by allocating resources to reduce the potential for property damage, reduce the likelihood of recurring health hazards associated with sewage and mold exposures, and to foster cooperation between the Village of Evergreen Park and its residents; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Evergreen Park, Cook County, Illinois, as follows:

Section 1

The recitals set forth in the preamble are incorporated herein by reference the same as if they were set forth herein verbatim and they are adopted as the findings of the Village Board.

Section 2

That Chapter 24, Water, Sewers and Sewage Disposal, Article III, Sewers and Sewage Disposal, be amended by adding Division 5, Cost-Sharing Program, to read as follows:

DIVISION 5. COST-SHARING PROGRAM

Sec. 24-250 Sewer Back-Up Prevention Program.

(a) Cost-sharing program. Subject to the terms and conditions established in this section, a property owner who meets the eligibility standards of this section may apply to the Village of Evergreen Park for reimbursement of a portion of the costs associated with the installation of an overhead sewer.

(b) Terms and conditions of the program.

- (1) Participants must meet the eligibility standards established by this section.
- (2) The maximum reimbursement for the initial installation of an overhead sewer shall be 50% of the actual cost or \$3,500.00, whichever is less.
- (4) Only those costs associated with the initial installation of an overhead sewer shall be considered eligible for reimbursement. No reimbursement shall be allowed for the replacement, upgrade, repair or maintenance of an overhead sewer.
- (5) Reimbursements shall be available only if the Village of Evergreen Park has allocated funds for such purpose in the annual budget. The Village of Evergreen Park shall retain the sole and exclusive discretion to determine, for each fiscal year, whether and to what extent the program shall be funded.
- (6) The cost-sharing program is to be considered a voluntary undertaking of the Village of Evergreen Park.
- (7) The Village of Evergreen Park reserves the right and shall be entitled to terminate or suspend the cost-sharing program at any time for any reason.
- (8) The cost-sharing program shall not be construed as an assumption of responsibility for, or legal liability arising from the design, installation, operation, maintenance, repair or replacement of any private sewer line, overhead sewer, including without limitation, any damages or injuries arising from the failure or malfunction of such sewer line or overhead sewer.

- (9) The cost-sharing program shall not be construed as a waiver of any statutory or common law defense or immunity the Village of Evergreen Park may be entitled to raise in response to any action or claim of liability for damage to property or injury to person arising from the design, installation, use, operation or maintenance of any public or private sewer line or of any overhead sewer, including without limitation, damages or injuries arising from the failure or malfunction of any such sewer line or overhead sewer.

(c) Eligibility standards. No person shall be eligible for reimbursement under this cost-sharing program unless all of the following conditions are met:

- (1) The applicant must be the owner of record of a single-family home that was built before 1970, and not otherwise protected by an overhead sewer.
- (2) The reimbursement request must be for the initial installation of an overhead sewer. The cost of replacement, upgrade, repair or maintenance of an existing overhead sewer is not eligible for reimbursement.
- (3) The property owner, or a qualified contractor acting on the owner's behalf, shall procure all necessary permits to install the overhead sewer. All work shall comply with all applicable provisions of the Evergreen Park Municipal Code, including all provisions relative to inspections, contractor bonds or licenses. The property owner, or the owner's contractor, shall be responsible for scheduling all necessary inspections. No reimbursement will be made for work that does not pass all required inspections.
- (4) The application for reimbursement shall be submitted with the permit application for the installation of the overhead sewer. The application form shall be provided by the Director of Public Works.
- (5) The application for reimbursement shall include a waiver, signed by the owner of record, waiving any and all claims against the Village of Evergreen Park for damage to property or injuries to persons of any kind arising from the installation, operation, maintenance or repair of the overhead sewer, including without limitation, the failure or malfunction of the overhead sewer. The statement of the waiver shall be prescribed by the Village of Evergreen Park.
- (6) The property owner shall arrange for a pre-construction inspection, to be performed by the Village of Evergreen Park or its authorized agent, to locate any prohibited sources of storm water inflow or infiltration to the sanitary sewer system. If the inspection reveals any prohibited sources of storm water inflow or infiltration to the sanitary sewer system, the property owner shall correct it or cause it to be corrected, and arrange for a

re-inspection by the Village of Evergreen Park or its authorized agent. All prohibited sources of storm water inflow or infiltration to the sanitary sewer system shall be corrected before the applicant is eligible for reimbursement under the cost-sharing program.

- (7) No reimbursement shall be made until the work has been completed and has passed the final inspection.
- (8) No reimbursement shall be made unless the property owner provides the Village with evidence, in the form of a signed and sworn contractor's statement, certifying that the contractor has been paid in full for the completed work by the property owner.

(d) Authority of Director. The Director of Public Works shall have the authority and discretion to administer the cost-sharing program subject to the control and direction of the Mayor and Board of Trustees. The Director of Public Works shall establish administrative procedures as may be necessary to implement the cost-sharing program, which shall include but not be limited to, establishing administrative priorities for processing and granting reimbursement requests based on factors such as the time of filing, time of completion, location in a floodplain or in flood-prone areas, and availability of funding.

Section 3

This ordinance was passed pursuant to the home rule powers of the Village of Evergreen Park.

Section 4

If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this ordinance.

Section 5

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict herewith.

Section 6

This ordinance shall be immediately in full force and effect after passage, approval and publication. This ordinance is authorized to be published in pamphlet form.

This ordinance was passed and deposited in my office the 7th day of May, 2012.

Catherine T. Aparo

CATHERINE T. APARO, Village Clerk

APPROVED by me this 7th
day of May, 2012.

James J. Sexton

JAMES J. SEXTON, Mayor



I DO HEREBY CERTIFY that this ordinance was, after its passage and approval, published in pamphlet form by authority of the Village of Evergreen Park, in accordance with law, this 7th day of May, 2012.

Catherine T. Aparo

CATHERINE T. APARO, Village Clerk