

CITY OF LOG CABIN, TEXAS

ORDINANCE NO. 78

STATE OF TEXAS §

COUNTY OF HENDERSON §

AN ORDINANCE PROVIDING FOR THE MANDATORY CONNECTION OF PROPERTY TO THE SEWER SYSTEM OF THE CITY OF LOG CABIN, TEXAS IN ACCORDANCE WITH THE LOCAL GOVERNMENT CODE OF THE STATE OF TEXAS (ARTICLE 214.000 ET SEQ.) PROVIDING FOR DEFINITIONS, PROPERTY DESIGNATION, FEES AND PENALTIES, SEVERANCE CLAUSE AND REPEALING CLAUSE.

WHEREAS, the City of Log Cabin is seeking financial assistance from the Texas Water Development Board; and

WHEREAS, pursuant thereto the City has previously agreed to enforce and adopt Texas Water Development Board Resolution 99-23 regarding its sewer system; and

WHEREAS, it is necessary that the City, by ordinance, enact such mandatory connection ordinance; and NOW, THEREFORE:

Be It Ordained By the City Council of The City of Log Cabin, Texas:

I.

Definitions and General Terms

Section A. Words Used - Generally.

Whenever any word in any section of this ordinance importing the plural number is used, in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to by words importing the singular number only, or the masculine gender, several matters, parties or persons and females as well as males and bodies corporate shall be deemed to be included. The words "person, firm or corporation," shall be deemed to include any association or organization of any kind. Words in the present shall include the future. The words "this ordinance" shall be held and taken to mean the entire enactment, including each and every section thereof. The word "city" whenever used shall be held and taken to mean the City of Log Cabin. The words "written" and "in writing" may include printing, copier, telecopier, mimeograph, off-set, or any other reproduction of the words.

Provided, that these rules of construction shall not be applied to any section of an ordinance which contains any express provisions excluding such construction or where the subject matter or content of such section may be repugnant thereto.

Section B. Specific definitions.

Section 1. Undefined terms.) In interpreting any term used in this ordinance, when the term is not defined in the ordinance in question or in this ordinance, the ordinary meaning of the term will apply unless the context clearly indicates that a different meaning is intended.

Section C. Specific definitions.) As used in this city ordinance the following terms shall have the following meanings unless the ordinance contains a different definition or the context clearly indicates that a different meaning is intended:

**Computer:** Any electronic device for storing information, organizing information, processing information and supply information. Unless the context indicates a limited meaning is intended, "computer" shall include not only the device enclosed in a casing but also all cards, tapes, disks and other devices used to store or retrieve information, and all hardware and software. The word "computer" shall also include a computer system.

**Connection:** The actual tying on by a property owner or tenant to the city's collection line of its sanitary sewer system.

**Individual:** A natural person.

**Knowingly:** With a knowledge that the facts exist which bring the act or omission within the provisions of this ordinance; with or without knowledge of the unlawfulness of such act or omission.

**Negligence:** A want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

**Offense:** The doing of any of the acts or things which are prohibited by any provisions of this ordinance or the failure or refusal to do any act which is commanded to be done as more fully specified and set forth in this ordinance is an offense. Every act which is declared to be unlawful is also hereby declared to be an offense.

**Peace Officer:** Signifies any sheriff, health officer, constable, police officer or fire marshal or any other officers whose duty it is to enforce and preserve the public peace, safety and welfare.

**Person:** Every natural person, firm, partnership, association or corporation.

**Personal Property:** Every kind of money, goods, chattels, effects, evidences of right in action and written instruments by which any pecuniary obligation, right or title to personal property is created or acknowledged, transferred, increased, defeated, discharged or diminished.

Property: Real and personal property.

Property Owner or Tenant: The designated grantee on any deed of record in the county clerk's office of Henderson County, Texas or any individual or other entity designated in any instrument whether of record in the County Clerk's office of Henderson County, Texas or not that states that such individual or other entity is entitled to occupy and/or possess the property.

Sanitary Sewer System: The City's centralized system designed and operated for the purpose of the collection and disposal of liquid and solid waste in the City of Log Cabin, Texas.

Service Line: The line which connects the dwelling to the collection line of the sewer system.

Signature: Any name, mark or sign, written with the intent to authenticate any writing.

Willfully: With a purpose or willingness to commit the act or the omission referred to.

Section D. Gender.) Unless the context clearly indicates a different intention, words used in the masculine gender comprehend as well the feminine gender and neuter, and words in the feminine gender include the masculine and neuter gender.

Section E. Person as designating party whose property may be subject of offense.) Where the term "person" is used in an ordinance to designate the party whose property may be the subject of any offense, it includes this city, the State of Texas or any other state, government or country which may lawfully own any property within the city and all public and private corporations, partnerships and joint ventures as well as individuals.

Section F. Present and future tense; singular and plural references.) Words used in the present tense include the future; the singular number includes the plural and the plural the singular when used in this ordinance.

Section G. Writing includes printing.) The term "writing" includes printing. Where any city records are kept in a computer, a backup copy shall be kept in writing unless this ordinance relating to such record specifies that a written backup record is not required.

Section H. Particular definitions—Officers and employees.

Whenever reference is made in this ordinance to a city officer or employee by title only, this shall be construed as though followed by the words "of the city of Log Cabin" and shall be taken to mean the officer or employee of this city having the title mentioned or performing the duties indicated.

No provision of an ordinance designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided in this ordinance for a failure to perform such duty, unless the intention of the council to impose such

fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

## II.

### City Actions No Guarantee or Warranty

Section A. No guarantee or warranty.) Nothing in this city ordinance shall be interpreted as guaranteeing or warranting that any method, construction, product, service, building or anything whatsoever is safe, free from defects or suited for the purpose for which it is intended.

Section B. Actions by city officers and employees.) No issuance of a permit, approval, inspection or other action by any city officer or employee shall constitute a warranty or guarantee that any method, construction, product, building, service or anything whatsoever is safe, free from defects or suited for the purpose for which it is intended.

## III.

### Separability and Constitutional Rights

Section A. Separability.

In the absence of specific language to the contrary, each section and each provision or requirement of any section of this ordinance shall be considered separable, and the invalidity of any portion of this ordinance shall not affect the validity or enforceability of any other portion.

Section B. When restitution no Ordered.) If a court does not order restitution, the victim of any ordinance violation may sue in a civil case for damages or other appropriate relief.

Section C. Free speech.

Section 1. Free speech recognized.) It is the intent of the city to avoid restricting speech that is protected by the United States Constitution and speech that is protected by the Constitution of the State of Texas. This ordinance shall not be interpreted as restricting such protected speech or as regulating the content of such protected speech. This section shall not be interpreted as protecting material that is obscene or pornographic. This section shall not be interpreted as permitting any person to urge or advise another to commit a crime or misdemeanor, nor shall this section be interpreted as permitting any persons to engage in a conspiracy to commit a crime or misdemeanor. It is the intent of this ordinance that it shall be interpreted in a way consistent with constitutional free speech and free press protections.

Section D. Constitutional rights.

Section 1. Constitutional rights respected.) It is the policy of the city to avoid infringing

on any constitutional right of any person. This ordinance shall be interpreted in accordance with the principles set out in this section. If this ordinance is capable of more than one interpretation, the interpretation which raises the least question of infringing on any right guaranteed by the United States Constitution or the Constitution of the State of Texas shall be deemed to be the intended construction. If the application of an ordinance provisions to a particular set of facts is capable of more than one interpretation, the interpretation shall be made in accordance with the principles set out in this section.

#### Section E. Equal rights.

Section 1. Equal rights intended.) The terms of this ordinance shall be interpreted in accordance with this section, unless the context clearly requires a different interpretation:

- (a) Each provisions shall be deemed to apply equally to males and females.
- (b) Each provisions shall be deemed to apply equally to all persons regardless of skin color or ethnic group.
- (c) Each provision shall be deemed to apply equally to each person regardless or religion.

### IV.

#### Connection Responsibilities

##### Section A. Sanitary sewer connection permits.

Section 1. Mandatory Connection. It shall be mandatory for a property owner or tenant to connect his property to the city's sanitary sewer system.

Section 2. Sanitary sewer connection permit.) It shall be unlawful for any person to connect, or permit the connection of, or authorize the connection of any service line to a sanitary sewer main or lateral within the city without first obtaining a sanitary sewer connection permit from the City of Log Cabin, Texas.

No building permit for the construction or alteration of any building or structure which requires a potable water supply or sanitary sewer connection shall be issued unless the owner of the property on which such building or structure is to be situated has obtained a sanitary sewer connection permit.

Section 3. Application for permit. (A) The owner of any real estate who desires a sanitary sewer connection permit shall submit an application therefor on forms approved by the city engineer. The application shall be in writing, shall be signed and verified by the owner of the property which is to be connected to the sanitary sewer system, and shall contain the following information:

- (1) The name and address of the owner;
- (2) The legal description and tax parcel number of the parcel which is to be connected to the sanitary sewer system;
- (3) The location by volume, page, and document number of the place where the instrument by which the owner obtained title to the parcel was recorded in the office of the register of deeds;
- (4) The length of time that the owner has held title to the parcel and, if less than two years, the name and address of the person who conveyed the property to the owner;
- (5) The size, type, and proposed use of the building which the owner intends to construct;
- (6) The legal description and tax parcel number of any real estate situated within the city which the owner has conveyed, has in any manner leased, donated, mortgaged, placed in trust, or agreed to sell or convey subsequent to the passage of this ordinance;
- (7) The number of sanitary sewer connection permits previously obtained by the owner.

(a) The application shall be referred to the city engineer.

Section 4: Abandonment of Septic System: The property owner or tenant of any real estate shall, if applicable, abandon any septic system on such real estate and shall connect to the sewer system of the city within 90 days of the date of application for the sanitary sewer connection permit. Further, the property owner or tenant of any real estate shall not be allowed to, in any manner, to disconnect from the sanitary sewer system and resume usage of the abandoned septic system. This requirement applies to all real estate whether such real estate shall have improvements constructed on the same or whether such real estate is vacant property with no improvements on the same.

Section 5: Additional regulations.)

Sanitary sewer connection permits shall be issued on a first come, first served basis provided, however:

A sanitary sewer connection permit shall lapse and become void unless a building permit for the structure to be connected to the sanitary sewer system is issued and the construction authorized by the building permit is commenced with \_\_\_\_\_ days of the date upon which the sanitary sewer connection permit lapses and becomes void, the building permit for the structure which was to be connected to the sanitary sewer system shall also lapse and become void.

Section B. Service line.) Any service line which was connected without a sanitary sewer connection permit, or which was connected pursuant to a sanitary sewer connection permit as a result of any false statement, misrepresentation, or nondisclosure on the application therefor, or

which was connected pursuant to any sanitary sewer connection permit obtained through any means which circumvented the limitations created by this ordinance shall be disconnected from the sanitary sewer system.

Section C. Deferring sewer connection charges.) The City may approve a payment plan of all sewer connection charges for a single family home in a case where hardship prevents payment of the charges prior to connection. Hardship means a situation in which neither the owner nor the occupant of a single family home can pay the connection charges in full before connection, due to poverty. If charges are deferred until after the sewer connection is made, the connection shall not be made until the owner of the property signs an agreement in a form approved by the city attorney, suitable for recording and creating a lien against the property for the amount of unpaid charges. The agreement will state the installment payments, if any, required, and will contain all disclosures required by law to be made for deferred payments to consumers relating to installments, total amount due, and interest charges. Any connection charge not paid within thirty days after the connection is made shall bear interest at the rate of \_\_\_\_\_ percent per year on the unpaid balance.

## V.

### Penalties

Section A. Penalty.) Any person, firm or corporation violating any provision of this ordinance shall be fined not less than five dollars nor more than two hundred dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

#### Section B. Penalties.

In all cases where the same offense is made punishable or is created by different clauses or sections of this ordinance the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

#### Section C. Pending suits.

No new ordinance shall be construed or held to repeal this ordinance, whether this ordinance is expressly repealed or not, as to any offense committed against this ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under this ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after

the new ordinance takes effect.

This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

Nothing contained in this or the preceding section shall be construed as abating any action now pending under or by virtue of any general ordinance of the city herein repealed; or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of passage of this ordinance.

#### Section D. Presumption of liability.

The occupant of any premises, and the owner of unoccupied premises, upon which a violation of this ordinance is apparent, the owner of any object or material placed or remaining anywhere in violation of this ordinance, and the occupant and owner of any premises served by any excavation connection, or structure illegally made or erected, shall be deemed prima facie responsible for the violation so evidenced and subject to the penalty provided therefor.

#### Section E. Violation as nuisance.

Section 1. Ordinance violation as nuisance.) In the absence of language indicating a contrary intent, when the violation of this ordinance results in injury or damage to persons or property on privately-owned land or on publicly-owned places, the act or omission constituting the ordinance violation shall be deemed to be a nuisance.

Section 2. Remedies.) In addition to all other penalties and remedies provided by law, any person damaged by a nuisance caused by this ordinance violation may, in an appropriate court action, obtain an award for damages, a temporary restraining order, a preliminary injunction or a permanent injunction. The City may also obtain a temporary restraining order, preliminary injunction, permanent injunction, and, if the City receives actual financial damages, an award for such damages.

#### Section F. Restitution for ordinance violation.

Section 1. Restitution orders.) Nothing in this city ordinance establishing a penalty for a violation of an ordinance shall be interpreted as preventing a court of competent jurisdiction from ordering a person violating this ordinance to make restitution to the victim of the violation. Such action may be ordered in lieu of a fine or other penalty, in addition to a fine or other penalty, or included in an order suspending a sentence on certain conditions.



VI.

Enabling Legislation and Statutory Authority

This ordinance is duly enacted by the City of Log Cabin, Texas by and pursuant to the general laws and Constitution of the State of Texas, to specifically include, but not being limited to, Article 214.000 et seq of the Texas Local Government Code.

PASSED AND APPROVED this the 5<sup>th</sup> day of June, 1999.

CITY OF LOG CABIN

Billy J. Hood  
MAYOR

ATTEST:

Shelby Townsend  
, City Secretary

## CERTIFICATE FOR ORDINANCE

I, the undersigned City Secretary of the City of Log Cabin, Texas, hereby certify as follows:

1. The City Council of said City convened in Special Session on June 5, 1999, at the regular meeting place thereof, and the roll was called of the duly constituted officers and members of said City Council, to-wit:

Billy L. Goodwin, Mayor  
Faye Burnett, Mayor Pro Tem  
Betty Leech  
Doris Gunnels  
George Taft  
Richard Harrah

and all of said persons were present, except for the following: Doris Gunnels; thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written Ordinance entitled

### Sewer Rate Ordinance

was duly introduced for consideration and passage. It was then duly moved and seconded that said Ordinance be passed on first reading; and, after due discussion, said motion, carrying with it the passage of said Ordinance, prevailed and carried by the following vote:

AYES: 4                      NOES: 0                      ABSTENTIONS: 1

2. A true, full and correct copy of the aforesaid Ordinance passed at the meeting described in the above and foregoing paragraph is attached to and follows this Certificate; said Ordinance has been duly recorded in the official minutes of said City Council; the above and foregoing paragraph is a true and correct excerpt from said minutes of said meeting pertaining to the passage of said Ordinance; the persons named in the above and foregoing paragraph, at the time of said meeting and the passage of said Ordinance, were the duly chosen, qualified and acting officers and members of said City Council as indicated therein; each of said officers and members was duly and sufficiently notified officially and personally in advance, of the time, place and purpose of the aforesaid meeting and that said Ordinance would be introduced and considered for passage at said meeting, and each of said officers and members consented in advance to the holding of said meeting for such purpose; and said meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Tex. Gov't Code Ann., ch. 551.

SIGNED AND SEALED this June 5, 1999.

Phuley Townsend  
City Secretary, City of Log Cabin, Texas



[CITY SEAL]