

TOWN OF WESTPORT, INDIANA

ORDINANCE NO. 1985-2.

AN ORDINANCE ESTABLISHING A SURCHARGE FOR SANITARY SEWER SERVICE FOR THE PURPOSE OF ELIMINATING THE INTRODUCTION OF PROHIBITED WATERS BY PERSONS INTO THE WESTPORT SANITARY SEWER SYSTEM: PROVIDING FOR PERIODIC INSPECTIONS AND/OR TESTS OF SEWER LINES OF BUILDINGS AND APPURTENANCES CONNECTED TO SAID SYSTEM: AND PROVIDING FOR MORATORIUM ON THE COLLECTION OF SAID SURCHARGE.

WHEREAS, the Town of Westport, Indiana, has constructed, purchased or otherwise acquired sanitary sewer systems for the use and benefit of the residents of said Town and other areas connected thereto; and

WHEREAS, the Town of Westport, Indiana, received funds pursuant to certain Federal and State grant programs which funds made it possible for said system to be implemented for the protection of the general health, safety and welfare of the citizens of the Town and surrounding area; and

WHEREAS, as a condition precedent to the receipt of the aforementioned grants, the Town of Westport enacted Ordinance No. 1965-3 on the 10th day of May, 1965, which, among other things, provided that:

"Sec. 5(a). No Person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, sub-surface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer."

WHEREAS, the Board of Trustees is legally bound to enforce said provisions of said ordinance; and

WHEREAS, the Town has experienced and is experiencing formal compliance action by the Indiana Stream Pollution Control Board and the United States Environmental Protection Agency for various and diverse alleged violations of the various pollution control laws administered and enforced by said agencies; and

WHEREAS, in an effort to ascertain the causes of said alleged violations and attempt to correct apparent deficiencies in said system the Town of Westport, Indiana, commissioned an Inflow/Infiltration Analysis of the sanitary sewer system in the Town of Westport the purpose of which was, inter alia, "to demonstrate flow rates during various ground water and storm conditions, and to demonstrate whether excessive Inflow/Infiltration has, as its source, the means prohibited in said Section 5(a) of said Ordinance No. 1965-3 of the Town of Westport; and

WHEREAS, such sources contribute to or exacerbate sewage flow conditions of a scope that can or may create a direct hazard to the health, safety, and welfare of the citizens of said Town and surrounding areas as well as cause the encumbrance of excessive costs of operation and maintenance of said system by the Town; and

WHEREAS, it is practically impossible or financially prohibitive to isolate specific individual violations of said Section 5(a) of said Ordinance No. 1965-3 by means of indirect studies and analysis; and

WHEREAS, the Board of Trustees desires to enforce the Ordinances of said Town in as efficient, effective and rational a manner as possible so as not to be offensive, oppressive or unfair to the persons using said sanitary sewer system; and

WHEREAS, the Board of Trustees believes that in order to accomplish the aforesaid goals and insure, as completely as possible, compliance with the Ordinances of said Town, a comprehensive, systematic compliance and enforcement procedure is necessary, proper and in the best interests of the health, safety and welfare of the citizens of Westport and surrounding areas.

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Westport, Indiana;

SECTION ONE:

This ordinance shall be deemed supplemental to all other ordinances and provisions hereof for enforcement and compliance purposes only and shall not be deemed to be amendatory or recissionary with respect to same and further, any charges, fees, fines or penalties hereinafter imposed or levied shall be in addition to any charges, fees, fines or penalties heretofore in effect or which may hereafter be imposed.

SECTION TWO:

A surcharge of Twenty Dollars (\$20.00) per month, per billing account, shall be imposed in addition to all other charges heretofore authorized and imposed beginning the month immediately following passage and adoption of this Ordinance by the Board of Trustees of the Town of Westport.

SECTION THREE:

There shall be a moratorium upon the requirement for payment by any persons for a period of six (6) months from the time of imposition of said surcharge as set forth in Section Two above. Further, any person who has, pursuant to Section Four below, consented to the inspection of their respective premises

within ninety (90) days of the date of adoption of this Ordinance, shall not be liable for payment until such inspection has been accomplished and the person given the opportunity to bring said premises into compliance within the time frame set out in said Section Four.

SECTION FOUR:

A person may avoid liability for payment of the surcharge established in Section Two above upon showing that he is in compliance with all provisions of Section 5(a) of said Ordinance No. 1965-3 and any amendments thereto of the Town of Westport, Indiana, which Ordinance was initially adopted the 10th day of May, 1965, which showing shall consist of the following procedures and conditions as to each building or appurtenance connected to the sanitary sewer:

- (A) Each such person shall, as to each such building or appurtenance so connected to the sanitary sewer, execute a "Grant of permission" to the Town of Westport, to come upon the property and within the premises thereon, of such persons to inspect an/or perform sewer tests as may be deemed necessary by the Town of Westport to verify the compliance hereinbefore referred to;
- (B) The Grant of Permission set forth in Section 4(A) shall be deemed to include periodic inspections and/or tests as may be determined to be necessary by the Town of Westport to maintain, insure and monitor compliance with the provisions of Section 5(a) of said Ordinance No. 1965-3;
- (C) The term "Town of Westport" as used herein, shall mean and include such employees, or designees of the Town of Westport, Indiana, as it shall, from time to time utilize in making the inspections and/or tests heretofore referred to. Such persons shall have on their persons, identification to verify the fact that they in fact represent said Town for said purposes;
- (D) The inspections shall be made upon reasonable notice of at least forty-eight (48) hours. There shall be no fee charged for said inspections;
- (E) If, upon the initial inspection contemplated by Section 4(A) above to verify compliance, a person is in fact not found to be in compliance, said person shall

be given fourteen (14) days from the date of said inspection to so comply.

SECTION FIVE:

In the event, a person is found to be in compliance as heretofore set forth and, upon subsequent inspection is found not to be in compliance, said person shall be liable for payment of an amount equal to the sum of the months since adoption of this Ordinance, multiplied by the monthly surcharge in effect during such periods as the case may be; provided that, such liability shall be reduced to fifty percentum (50%) of said amount if said person complies within a period of ten (10) days after notice by the Town of Westport of his non-compliance. In the event a person is found to be in a state of non-compliance a second or subsequent time, then said person shall be liable for a sum equal to One Thousand Dollars (\$1,000.00) plus an amount equal to the sum of the months since adoption of this Ordinance multiplied by the monthly surcharge in effect during such periods as the case may be.

SECTION SIX:

The Board of Trustees has determined that the measures heretofore set out are a reasonable means of insuring compliance with Section 5(a) of Ordinance No. 1965-3 and are further necessary to protect and insure the health, safety and welfare of the citizens of Westport, Indiana, and surrounding areas.

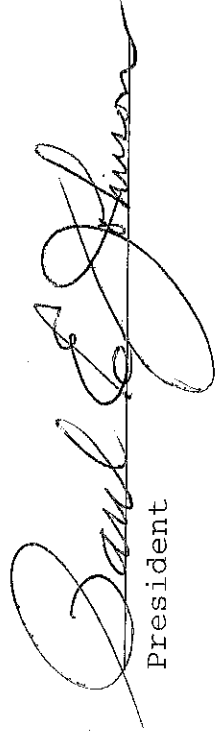
SECTION SEVEN:

The provisions of this Ordinance shall be severable and should any Section or part thereof be deemed invalid or unenforceable, by a Court of competent jurisdiction, such section, clause, sentence or provision shall be deemed stricken and said invalidity or unenforceability shall not effect 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.

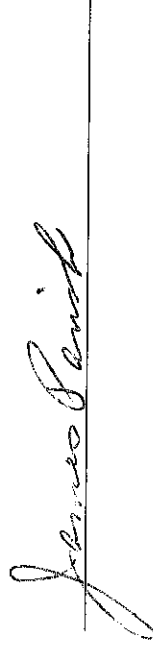
SECTION EIGHT:

This Ordinance shall be in full force and effect from and after its passage, approval, recording, and publication.


PASSED and ADOPTED by the Board of Trustees of the Town
of Westport, Indiana, this 11 day of March,
1985.


President





ATTEST:



Virginia Allen, Clerk/Treasurer

(This instrument prepared by Roger P. Hoffman, A Professional
Law Corporation, 109 West Main Street, Post Office Box 426,
Westport, Indiana 47283.)