



CITY COUNCIL AGENDA ITEM

To: Mayor Graham and City Council

From: Ted Shekell, Planning Director
Walter Denton, City Administrator

Date: October 5, 2009

Subject: Ordinance No. _____: Proposed Change to Code of Ordinances –
Nuisances, Chapter 94, Section 94.01 and Streets and Sidewalks,
Chapter 98, Section 98.11 – **First Reading**

List of committees that have reviewed: The Community Development Committee reviewed the proposed ordinance changes and revisions at their meeting on September 28, 2009 and unanimously recommended approval.

Background: These ordinances both address drainage discharge, specifically gutters, sump pumps, etc. and where they can discharge. In the previous two ordinances, in Paragraph (S)3 (Ord. # 3154) and B. (Ord. # 3155), it states that you could not discharge the above listed water sources any closer than 10 feet from the public sidewalk, street, curb or street gutter. This drainage issue is covered in two separate sections of the Code of Ordinances to ensure compliance and to allow a means to enforce them if there is a nuisance violation. The verbiage is similar in both sections.

Since the passage of the ordinances in February 2003, they have provided staff with a means to enforce water discharge problems across sidewalks and streets which have created safety concerns ranging from slippery surfaces, ice forming and mold growing on sidewalks and streets. We have been experiencing a dramatic increase in the number of complaints from residents stating that adjoining properties are running these water sources right up to the property lines and discharging water onto their property, particularly sump pump drains. While some of the issues fall under general Illinois Drainage Laws, our ability to effectively enforce these complaints has been limited.

After discussions between the Planning and Zoning Department and the Engineering Department on ways to assist in enforcement and reviewing ordinances from other cities, we have determined that prohibiting water discharge no closer than 10 feet to any property line will make enforcement much easier and effective. This allows the drainage water to soak in the yard, which minimizes the negative effects to adjoining properties. The current ordinance only prohibits those drains from being closer than 10 ft. from the public sidewalk or street. We have discussed this issue with the Engineering Department and have agreed to leave the section concerning roof drains as it is currently and only address the discharge of sump pumps and similar drains. The

vast majority of the complaints we receive are from sump pump drains and we feel if we can at least address the discharge of those within 10 ft. from any property line, it will give us the necessary tools to enforce the majority of the drainage complaints we handle.

We have also added a section (listed below) to both ordinances that states that if any drainage system creates a nuisance, of which we have clearly defined, we can enforce it. This would include a situation where the discharge is possibly 11 ft. from the property line and still is clearly creating a nuisance for an adjoining property owner, we will have an enforcement tool to help resolve the issue. It reads as follows:

S)4. To discharge any water or other fluids originating from sumps, sump pits, other pumps, or other mechanical means, any reservoir serving as a water drain or receptacle for water, from pipes or other structures, swimming pools or their drains or from roof gutter drains into or onto any adjoining property in such a manner as to create a nuisance as described below:

- a. Ponding or stagnating of water
- b. Causing soil erosion
- c. Creating conditions that would deny adjoining property owners reasonable use of their property
- d. Accumulation of water that freezes, creates mildew/mold or produces offensive odors.

Legal Considerations, if any: None

Budget Impact: None

Staff Recommendation: Staff recommends approval of the ordinance as presented in the attachment.