

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending "Code of Ordinances, City of Lowell, Massachusetts," with respect to Chapter 272, entitled Water and Sewers, by striking §272.30 entitled "Permit to enter main drain or common sewer" and substituting therefor, a new §272.30.

WHEREAS, the City Council, by virtue of Massachusetts General Laws, Chapter 43, Section 95, has the right to general management and control of the City of Lowell; and

WHEREAS, the City Council has an interest in maintaining good order in the sewers and drains of the City of Lowell and wants to ensure the quality of work being performed in the water and wastewater system in the City of Lowell.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

- I. "The Code of Ordinances City of Lowell, Massachusetts" hereinafter called the "Code", adopted by the City Council on December 23, 2008, as amended, is hereby further amended with respect to Chapter 272, entitled Water and Sewers, by amending Section 272.30 by striking in its entirety, Chapter 272.30 and substituting the following:

§272.30 Drain Layer Licensing Regulations

A. Generally. No person shall make or cause to be made any entrance into any main drain, common sewer or water main unless she or he shall have been licensed to do so by the Commissioner of Public Works and shall have given a bond in the sum of not less than \$25,000 for the faithful performance of his or her work, satisfactory to the City Engineer, that:

- a. he or she will properly make the openings into all common sewers opened by him or her;
- b. he or she will construct or repair the drains to be connected by him or her with the common sewers or with other drains in a thorough and workmanlike manner;
- c. he or she will leave no material or obstruction of any description in the sewer which he or she may open, or in any drain leading into any sewer; and
- d. he or she will properly close up the excavation, and restore the earth and pavement taken up, and regrade and repave the street, and put it in good and proper condition, and remove all superfluous material, all to the satisfaction of the Commissioner of Public Works.

Licenses will be authorized through the Department of Public Works, City Engineer's Office. Each license shall be granted for one (1) calendar year from January 1st to December 31st. All licenses shall expire on December 31st regardless of the date of application. Fees are not prorated. Early renewal for the next calendar year starts December 1st. These values may be amended per the most recent Drain Layer Regulations. The required bond and insurance shall be coterminous with the license. Such license may be suspended for cause by the City Engineer or Commissioner of Public

Works. Every application for a drainlayer's license shall first be submitted to the City Engineer, who shall endorse thereon her or his recommendation for approval or disapproval and the reason therefor.

B. Corporations. Every corporation shall submit with its application a copy of its current annual certificate of condition and a copy of any subsequent certificate of change of corporate officers on file with the Secretary of State as required by MGL c. 156, §§ 24 and 47.

C. Fee. The fee for an application for a drainlayer's license and the yearly license fee shall be as provided in Chapter 150, Fee Schedule, of the City Code. Application fee of \$250.00 for first time and reinstating Drain Layer applicants and \$100 for annually renewing applicants. These values may be amended per the most recent Drain Layer Regulations.

D. Drain layer license name shall not be used by or for another Person, either for the purpose of obtaining permits or doing any work under such license. Any Drain Layer that allows the use of the Drain Layer's license by another shall be issued a written warning notifying the Drain Layer of the violation of this section. Subsequent offences will result in the forfeiture of the Drain Layer's license and/or fines.

E. Violations and Forfeit of License. The City Engineer's Office reserves the right to suspend or revoke a contractor's license. The City Engineer's Office may suspend, revoke, or refuse to issue a license if, in the opinion, of the City Engineer or Commissioner of Public Works, the contractor or the drain layer are not adequately skilled or competent to undertake work under this license. Any drain layer violating any provisions of these Regulations shall be notified of such violation by means of a written violation letter. The order and magnitude of these violations may be amended per the most recent Drain Layer License Manual

F. Penalties for Continued Violation. Violation fines are \$300 per day the violation exists. This amount is based on the current version of the City of Lowell Code of Ordinances.

G. Compliance. Drain layers will comply with the City of Lowell Drain Layer License Manual, City of Lowell Code of Ordinances, City of Lowell Department of Public Works Permit Manul, City of Lowell Zoning Book, City of Lowell Standard Specifications and Details, City of Lowell Trench, Roadway, and Sidewalk Repair Requirements, and all applicable state and federal regulations which may be at any time in force in relation to sewers, drains and streets, and with such orders and regulations as the city council have adopted, or may from time to time adopt, for the government of persons licensed to construct or repair private drains, or open or dig in the street for that purpose.

H. Indemnification. Drain layers will indemnify and save harmless the city from all damages, costs and expenses which it may incur or sustain, by reason of any kind, all injuries resulting to anyone in person or property, from the neglect or carelessness of himself or herself or his or her servants in opening, closing, making or repairing any sewer or drain, in performing work connected therewith or in properly fencing, or in lighting by night, any excavation or obstruction caused or

made by him or her or his or her servants, or which the city may incur or sustain in any other manner by reason of the excavation or construction of any sewer or drain by him or her or his or her servants or agents, or any work or acts performed or done by him or her or them connected therewith.

I. Survival. If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance, which remaining portions shall continue in full force and effect.

This Ordinance shall take effect upon its passage in accordance with the provisions of Chapter 43 and 40A of the General Laws of the Commonwealth of Massachusetts.

APPROVED AS TO FORM:

Corey Williams
City Solicitor