

ORDINANCE NO. 1986-1

AN ORDINANCE ESTABLISHING A SURCHARGE FOR
SANITARY SEWER SERVICE FOR THE PURPOSE OF ELIMINATING
THE INTRODUCTION OF PROHIBITED WATERS BY PERSONS INTO
THE FORT BRANCH 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 Fort Branch, 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 Fort Branch, 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 Fort Branch enacted an Ordinance on the 15 day of July, 1952 which, among other things, provided that:

Section 2: Discharge of wastes in sewers: It shall be unlawful for any owner, operator or lessee of any residence, factory, shop, garage, filling station, institution, business, buildings, or industries;

(d) To connect any rain leader, cistern overflow, or any other storm water drain to the sanitary sewerage system or to any drain connected thereto. All such leaders or conductors now installed shall be removed, and the connection to the sanitary sewer closed in a permanent and satisfactory manner;

(e) To discharge water used only for cooling or refrigeration purposes into the sanitary or combined sewerage system which is connected to a sewage treatment plant.

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 Fort Branch, Indiana, commissioned an Inflow/Infiltration Analysis of the sanitary sewer system in the Town of Fort Branch the purpose of which was, inter alia, "to demonstrate whether excessive Inflow/Infiltration exists within the system or portions thereof", which analysis did in fact demonstrate that such Inflow/Infiltration exists and that an appreciable amount of said Inflow/Infiltration has, as its source, the means prohibited in said prior Ordinance of the Town of Fort Branch; 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 Sections of said Ordinance by means of indirect studies and analysis; and

WHEREAS, the Board of Trustees desires to enforce the Ordinance 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 Fort Branch and surrounding areas.

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

SECTION ONE:

This ordinance shall be deemed supplemental to all other ordinances and provisions thereof for enforcement and compliance purposes only and shall not be deemed to be amendatory or rescissionary 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 in the amount of the monthly minimum sewer charge 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 Fort Branch.

SECTION THREE:

There shall be a moratorium upon the requirement for payment by any persons for a period of (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 a showing that he is in compliance with all provisions of said Ordinance and any amendments thereto of the Town of Fort Branch, Indiana, which Ordinance was initially adopted the 15 day of July, 1952, 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 Fort Branch, to come upon the property and within the premises thereon, of such persons to inspect and/or perform sewer tests as may be deemed necessary by the Town of Fort Branch 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 Fort Branch to maintain, insure and monitor compliance with the provisions of Section 2 of said Ordinance;
- (C) The term "Town of Fort Branch" as used herein, shall mean and include such employees, or designees of the Town of Fort Branch, 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 thirty (30) days from the date of said inspection to 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 any 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 percent (50%) of said amount if said person complies within a period of thirty (30) days after notice by the Town of Fort Branch

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 up 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 the prior Ordinance adopted on July 15, 1952 and are further necessary to protect and insure the health, safety and welfare of the citizens of Fort Branch, Indiana, and surrounding areas.

SECTION SEVEN:

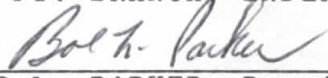
The provisions of this Ordinance shall be severable and should any Section or part thereof be deemed invalid or unenforceable, by a Court of competent jurisdiction, such section, clause, sentence or provision shall be deemed stricken and said invalidity or unenforceability shall not affect the validity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

PASSED AND ADOPTED by the Board of Trustees of the Town of Fort Branch, Indiana, this 12th day of February, 1986.

BOARD OF TRUSTEES OF THE TOWN
OF FT. BRANCH, INDIANA



BOB L. PARKER, President




FAYE NEUFELDER, Member



STAN MAY, Member

ATTEST:

MARY FERN PRICE, Clerk-Treasurer