

ORDINANCE NO. 931

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK ADOPTING REGULATIONS PERTAINING TO ON-SITE WASTEWATER (SEPTIC) SYSTEMS, REQUIRING A LICENSE FOR ON-SITE WASTEWATER (SEPTIC) SYSTEMS, AND IMPOSING AN EXCISE TAX UPON THE USE OF ON-SITE WASTEWATER (SEPTIC) SYSTEMS WHEN PUBLIC SEWERS ARE AVAILABLE.

WHEREAS, the City of Lake Forest Park (the “City”), an optional municipal code city located within the designated urban growth boundary of King County, is required to plan under the State’s Growth Management Act and to adopt zoning that establishes density at levels consistent with urban growth; and

WHEREAS, the Growth Management Act recognizes the City as the presumptive provider of urban services within its boundaries and imposes upon the City an obligation to provide urban services to serve urban densities; and

WHEREAS, certain areas within the City are developed to levels consistent with urban density, but those properties are served by septic systems that are incompatible with current levels of urban density and pose a potential risk of contamination of aquifers, streams, and lakes and a potential risk to the public’s safety; and

WHEREAS, Article 11, Section 11 of the Washington State Constitution delegates to the City the police power to make and enforce all police and sanitary regulations not in conflict with the general law of the State; and

WHEREAS, the City is authorized by Chapter 35.67 RCW to own and operate a wastewater system and, pursuant to that authority, the City has constructed and purchased a wastewater system that serves certain areas of the City; and

WHEREAS, the City has expanded its wastewater system to meet its obligations under the Growth Management Act to provide urban services and to protect the environment and the public safety by providing a public wastewater system as an alternative for those properties served by on-site wastewater systems; and

WHEREAS, the City financed the extension of its wastewater system by a Public Trust Fund loan to be repaid from revenue derived from connection charges imposed upon property that connects to the expanded system and from loans from the City’s real estate excise tax funds; and

WHEREAS, the City is authorized by law to require property owners to whom sewer service is available to connect to the public sewer system:

All property owners within the area served by such sewerage system shall be compelled to connect their private drains and sewers with such city or town system, under such penalty as the legislative body of such city or town may by ordinance direct....

RCW 35.67.190; and

WHEREAS, the optional municipal code empowers the City to license for the purposes of regulation and revenue:

A code city may exercise the authority authorized by general law for any class of city to license ..., to regulate, make inspections and to impose excises for regulation or revenue in regard to all places and kinds of business, production, commerce, entertainment, exhibition, and upon all occupations, trades and professions and any other lawful activity

RCW 35A.82.020; and

WHEREAS, cities of the first class are empowered by RCW 35.22.280(32) “[t]o grant licenses for any lawful purpose....”; and

WHEREAS, the City has determined to allow a property owner to continue to use on-site systems instead of compelling connections to the wastewater system, subject to city licensing and regulation, until a failure of the owner’s on-site system requires connection to the wastewater system; now, therefore,

**THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON,
DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. Pursuant to the city’s authority to license for regulation and revenue, a new chapter 13.10. of the Lake Forest Park Municipal Code is adopted as follows:

Chapter 13.10

On-Site Wastewater System Regulation, Taxation, and Loans

Sections:

- 13.10.010 Definitions.
- 13.10.020 On-site Wastewater System – Installation and Repair of Failing System Prohibited – Connection Required.
- 13.10.030 On-Site Wastewater System –License.
- 13.10.040 Application.
- 13.10.050 License – Conditions - Revocation.
- 13.10.060 Inspections.

- 13.10.070 License - Denial.
- 13.10.080 On-Site Wastewater System Excise Tax – Deferred Payments.
- 13.10.090 On-Site Wastewater Systems – Annual Reports.
- 13.10.100 Abatement.

13.10.010 Definitions.

- A. “Available” or “availability” means the capability of connecting to the city’s wastewater system as defined in Lake Forest Park Municipal Code (LFPMC) 13.08.320.
- B. “City Engineer” means the engineer appointed by the Mayor as the City Engineer and includes any person designated to act for the City Engineer.
- C. “Failure” means a condition of an on-site sewage system that threatens the public health by inadequately treating sewage or by creating a potential for direct or indirect contact between sewage and the public. Examples of failure are listed in WAC 246-272-01001 and include:
 1. Sewage on the surface of the ground;
 2. Sewage backing up into a structure caused by slow soil absorption of septic tank effluent;
 3. Sewage leaking from a septic tank, pump chamber, holding tank, or collection system;
 4. Inadequately treated effluent contaminating ground water or surface water.
- D. “Federal Reserve Prime Rate” means the interest rate set through the Federal Reserve Bank System as the rate charged to their most creditworthy customers.
- E. “On-site wastewater system” means any system of wastewater disposal that occurs on site, including septic systems, mound systems, and any other on-site systems allowed by law.
- F. “Public system” means the city’s wastewater system as it currently exists or as it may be extended hereafter.
- G. “Repair” means the replacement, addition, or alteration of a septic tank or any replacement of or addition or alteration to a soil absorption system, excluding, however, replacement, addition or alteration of septic tank lids, septic tank baffles, septic tank pumps, pump control floats, pipes connecting septic tanks, and drain field inspection boxes and ports if the subsurface soil absorption system is not failing.

- H. “Qualified professional” means an on-site wastewater system inspector approved by the Seattle-King County Board of Health or licensed by the State of Washington Department of Licensing, or a civil engineer licensed by the State of Washington.
- I. “Wastewater” shall have the meaning ascribed in the Washington Administrative Code.

13.10.020 On-site Wastewater System – Installation and Repair of Failing System Prohibited – Connection Required.

- A. After the effective date of this ordinance the installation of on-site wastewater systems serving property to which wastewater service is available from the public system is prohibited.
- B. After the effective date of this ordinance the repair of a failing on-site wastewater system serving property to which wastewater service is available from the public system is prohibited.
- C. Any property served by a failing on-site wastewater system shall be required to connect to the public system.
- D. A violation of this section shall be a gross misdemeanor and punished as prescribed by law.

13.10.030. On-Site Wastewater System – License.

- A. After the effective date of this ordinance, an owner of property served by an on-site wastewater systems shall, no later than January 30 of the year following the date the property owner receives notice that service is available, apply for an On-Site Wastewater License as provided herein.
- B. An owner of property served by an on-site wastewater system to which service is available from the public system who fails either to connect to the public system or to obtain an On-Site Wastewater License shall be guilty of a gross misdemeanor and punished as prescribed by law.

13.10.040. Application.

- A. Application for an On-Site Wastewater License shall be made to the City Engineer on a form provided by the city. The application shall be signed by the property owner under penalty of perjury. The application shall provide the following information:

1. The property owner’s name;
2. The property address, legal description, and tax parcel number(s);

3. The date the on-site system was last inspected and the identity of the inspector;
4. The date the system was installed and a copy of the Board of Health permit authorizing the on-site system; provided that the City Engineer may waive this requirement whenever the permit cannot be obtained from the Board of Health;
5. A schedule showing dates of maintenance of the system, or the last date of maintenance, if production of a schedule is not possible;
6. The location of the system on the property shown schematically; and
7. A statement of the applicant agreeing:
 - a. to perform annual self-inspections of the on-site system(s),
 - b. to maintain the system(s), including, but not limited to, pumping on a regularly scheduled basis,
 - c. to have the system inspected by a qualified professional not less than once every six (6) years,
 - d. to pay the city connection charge when their property sells or transfers ownership,
 - e. to their responsibility to pay the annual On-Site Wastewater Excise Tax,
 - f. to acknowledge that the city will file notice on title as to their responsibility to pay the annual On-Site Wastewater Excise Tax.

B. The application shall be accompanied by a fee established by the city council in an amount sufficient to recover city administrative costs.

13.10.050. License – Conditions - Revocation.

A. The City Engineer is authorized to issue an On-Site Wastewater License for any on-site system, subject to the following conditions:

1. An application inspection establishes that to the satisfaction of the City Engineer the on-site wastewater system is operating properly and does not constitute a threat to public safety.
2. A schedule of maintenance (including, but not limited to pumping) and inspection is established.

B. An initial license shall not be issued in the absence of proof that;

1. the system has been maintained and professionally inspected on a schedule of not less than once every six (6) years, or

2. the system was inspected and maintained during the year immediately preceding the submission of the application or during the application period.

- C. The license shall be valid as long as the licensed homeowner owns, operates, and maintains the on-site wastewater system and inspects or has the system regularly inspected as provided herein.
- D. Each successive homeowner shall apply for an On-Site Wastewater License as provided herein.
- E. The City Engineer is authorized to revoke a license whenever an inspection determines that a system is in failure, or whenever a property owner fails to comply with LFPMC 13.10.070C.
- F. Whenever the City Engineer denies or revokes a license because the on-site system is failing, the Seattle-King County Board of Health shall be notified. In addition, the property owner shall be required to connect to the public system.

13.10.060 Inspections.

- A. Before an initial license may be issued, the property owner shall obtain an inspection by a qualified professional and submit a report to the City Engineer. For this purpose, an inspection conducted within three years prior to submission of the application will suffice. The six (6) year period within which the next required professional inspection shall run from the date of the inspection upon which the initial license is based.
- B. As a condition of maintaining a license, the property owner shall provide for the inspection of the on-site system by a qualified professional according to the six (6) year schedule incorporated in the On-Site Wastewater License. The report of the qualified professional shall be provided to the City Engineer.
- C. Whenever the City Engineer is in possession of specific and credible information that the system is or may be in failure, the City Engineer shall require the property owner to obtain an inspection of the system by a qualified professional and provide the inspection results to the City engineer as soon as practicable.

13.10.070 License – Denial.

- A. Whenever the City Engineer denies or revokes a license to a property owner for a reason other than system failure, the owner shall have three (3) months to correct the identified defect(s) and provide proof satisfactory to the City Engineer of such correction; and thereafter the City Engineer shall issue or reinstate a license as provided herein.

- B. Whenever the owner cannot legally repair an on-site system and has been directed by the court to abate such system, then the City Engineer is directed to work with the property owner to extend the public system to the property in any legal manner.

13.10.080 On-Site Wastewater System Excise Tax – Deferred Payments.

- A. There is imposed upon every person who exercises the privilege of operating an on-site wastewater disposal system in lieu of connecting to the public system, when service from that system is available, an excise tax in the amount of \$10 per month to be billed and payable bi-monthly.
- B. Delinquent amounts shall bear an annual interest rate equal to the Federal Reserve Prime Rate, adjusted annually in January or biannually (January and July) if the change in the prime rate exceeds 1% in any six-month period.
- C. Payment of the excise tax plus interest may be deferred until connection to the city's wastewater system is made or until sale or transfer of their property. Such deferral may be requested at the time of license application or at any time thereafter. Until such deferral has been requested, the city shall bill for the excise tax as provided in LFPMC 13.10.080A. Upon deferral request, the city may cease such billing. Upon request, the city shall provide the owner a statement showing the accrued and unpaid excise tax and the accrued and unpaid interest.
- D. To receive a deferral, a homeowner must enter into an agreement with the city agreeing that the city will place a lien on the homeowner's property for payment of the excise tax and sewer connection charge, plus interest.
- E. Payments of the excise tax that have been deferred become fully payable upon sale of the property or transfer of the property to a new owner. All accrued and unpaid excise tax shall be paid at the time of transfer. Any accrued and unpaid excise tax and interest that is not paid at the time of such transfer shall thereafter be subject to the same late payment charges plus interest as any unpaid sewer bill and shall be subject to enforcement and collection procedures as any unpaid sewer bill. Thereafter the new owner shall pay the excise tax on an ongoing basis as billed subject to the same late payment charges plus interest as any unpaid sewer bill.

13.10.090 On-Site Wastewater Systems – Annual Reports.

Each year no later than May 1, the City Finance Director shall report to the City Council with respect to the preceding year, the number of licenses issued, the number of licenses refused, enforcement actions taken, taxes collected, tax payment deferrals requested, the number of properties served by on-site systems that connected to the City's wastewater system, and the cost incurred by the City in administering this ordinance.

13.10.100 Abatement.

Any on-site wastewater system, installed, repaired or operated in violation of this chapter shall be abated as follows: At the direction of the Mayor, the City Attorney shall file a complaint for injunctive relief in the King County Superior Court seeking an order directing that the on-site wastewater system be disconnected and directing further that the property owner immediately connect the owner's property to the public wastewater system in accordance with city ordinances. All costs of litigation, including a reasonable attorney's fee, shall be awarded to the city.

Section 2. This ordinance shall take effect after publication and posting as provided by law.

PASSED BY A MAJORITY VOTE of the members of the City of Lake Forest Park City Council this 25th day of August 2005.

APPROVED:

David R. Hutchinson, Mayor

Attest:

Susan Stine, City Clerk

First Reading	<u>March 24, 2005</u>
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