



RE: First Reading – Council Bill #2024-36 – Amendments to Private Sewer Code.

Background:

Currently, private sewer disposal systems within the city limits are prohibited, temporary or otherwise, and all buildings shall be connected to the public sewer system. Passage of this Council Bill would modify city code to permit the use of temporary private sewer systems in certain areas of town where the public sewer system is not yet available.

Analysis:

Nixa Utilities Sewer department is nearing completion of the design phase for the new West Regional lift station that will add sewer capacity to western portions of Nixa. Because certain areas along the western part of Nixa, particularly west of Gregg Rd., do not have sewer availability, city staff has turned down all development activities until the new lift station is operational. Adoption of this Council Bill allows for temporary private system(s) to be installed until the West Regional system expansion is operational.

Generally, the installation of a temporary private sewer system requires that the owner obtain a permit for the private system from the city. Requirements to obtain the permit are spelled out in detail in the code sections attached but generally include fees for permits or violations of permit regulation, rules for connecting to the new public sewer system, operational and financial obligations of the owner as well as remedies in the event of default of any of the requirements by the permit holder.

Finally, this code section also provides a formula for connection fees associated with the West Regional Lift Station. This collection fee reimburses the city for a portion of the cost to construct the West Regional system. Because the new lift station will replace the existing Oakmont Lift Station, the city is obligated to absorb the cost of that capacity which will be diverted to the new system.

Staff has developed a formula for collection fees that, along with the city's portion, will cover the cost of the expansion facilities. The connection fee shall be calculated as follows: $(A/B) \times (C)$, where A equals the "total cost of the West Regional Lift Station"; B equals "1,001" total acres that can be served by the West Regional Lift Station; and C equals the total acres of property seeking connection to the system.

To provide an example for how the formula works:

If the total cost of the construction of the West Regional Lift Station is \$1,000,000.00 and the total acres of property served by the West Regional Lift Station is 1,001 acres and the acreage of the property to be connected is 10 acres, then the fee would be calculated as follows:

$$(\$1,000,000.00/1,001) \times (10) = \$9,990.01.$$

Recommendation:

Staff will bring this back for second reading consideration along with a recommendation for passage. Until then, we are available to address any questions or concerns you may have.

MEMO SUBMITTED BY:

Doug Colvin | Assistant City Administrator, Director Nixa Utilities and Public Works
dcolvin@nixa.com | 417-725-2353

1 AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING SECTIONS
2 2-151, 22-103, & 22-112 OF THE NIXA CITY CODE; ESTABLISHING DIVISION 2 OF
3 CHAPTER 22, ARTICLE III, OF THE NIXA CITY CODE; AND ESTABLISHING
4 SECTION 22-246 OF THE NIXA CITY CODE FOR THE PURPOSE OF PROVIDING
5 REGULATIONS RELATED TO PRIVATE SEWAGE DISPOSAL SYSTEMS.

6
7 WHEREAS the City operates a public sanitary sewer system which serves
8 properties located within the City limits; and
9

10 WHEREAS the City is actively engaged in efforts to construct a new lift station,
11 known as the West Regional Lift Station, to better serve properties on the west side of
12 the City’s limits; and
13

14 WHEREAS to accommodate anticipated development in this region of the City,
15 City staff have proposed the amendments contained in this Ordinance to temporarily allow
16 for controlled development while the City completes construction of the West Regional
17 Lift Station; and
18

19 WHEREAS the City Council desires to adopt the amendments contained herein.
20

21 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
22 NIXA, AS FOLLOWS, THAT:
23

24 SECTION 1: Chapter 2, Article IV, Section 2-151 of the Nixa City Code is hereby
25 amended by adding the language contained on “Council Bill Exhibit A,” which is attached
26 hereto and incorporated herein by this reference, to Section 2-151(b)(5), under the “Public
27 Works – Sewer” heading. Aside from the modifications described in this Section 1, all
28 other provisions of Section 2-151 of the Nixa City Code shall remain unmodified.
29

30 SECTION 2: Chapter 22, Article III, Division 1, Section 22-103 of the Nixa City
31 Code is hereby amended by repealing said Section in its entirety and adopting in lieu
32 thereof a new Section 22-103, which said Section shall read as follows (Explanation:
33 Language in bold-face type (e.g., **thus**) is language to be to be added. Language in bold-
34 faced brackets (e.g., **[thus]**) is not enacted and is intended to be omitted or deleted.):
35

36 Sec. 22-103. Violations.
37

38 (a) *Violation of article.* ~~[Any person found to be violating any provision of this article shall
39 be served by the city with written notice stating the nature of the violation and providing
40 a reasonable time limit for the satisfactory correction thereof. The offender shall, within
41 the period of time stated in such notice, permanently cease all violations.]~~ **Violations
42 of this Article shall be punishable in accordance with Section 1-9 of the Nixa
43 City Code.**
44

45 ~~[(b) *Fine for violation.* Any person who shall continue to be in violation beyond the time~~
46 ~~limit provided for in subsection (a) of this section shall be guilty of a misdemeanor, and~~
47 ~~on conviction thereof, shall be fined not less than \$25.00.]~~
48

49 ~~[(e)]~~ **(b) *Reimbursement to city for expenses.*** Any person violating any of the provisions
50 of this article shall become liable to the city for any expense, loss or damage
51 occasioned the city by reason of such violations.
52

53 **SECTION 3:** Chapter 22, Article III, Division 1, Section 22-112 of the Nixa City
54 Code is hereby amended by repealing said Section in its entirety and adopting in lieu
55 thereof a new Section 22-112, which said Section shall read as follows (Explanation:
56 Language in bold-face type (e.g., **thus**) is language to be to be added. Language in bold-
57 faced brackets (e.g., **[thus]**) is not enacted and is intended to be omitted or deleted.):
58

59 **Sec. 22-112. Construction of proper toilet facilities and connection to public sewer**
60 **required.**
61

62 The owner of all houses, buildings, or properties used for human occupancy,
63 employment, recreation, or other purposes, situated within the city and abutting on any
64 street, alley, or right-of-way in which there is now located or may in the future be located
65 a public sanitary ~~[or combined]~~ sewer of the city, is hereby required at **said owner’s [his]**
66 expense to install suitable toilet facilities therein and to connect such facilities directly with
67 the proper public sewer in accordance with the provisions of this chapter, **within 90 days**
68 **after notice from the Director of Public Works to do so, provided that said public**
69 **sanitary sewer is within 400 feet of the nearest property line and contains adequate**
70 **capacity.**
71

72 **SECTION 4:** Chapter 22, Article III of the Nixa City Code is hereby amended by
73 adding thereto a new Division, which said Division shall read as follows (Explanation:
74 Language in bold-face type (e.g., **thus**) is language to be to be added. Language in bold-
75 faced brackets (e.g., **[thus]**) is not enacted and is intended to be omitted or deleted.):
76

77 **Division 2 – PRIVATE SEWAGE DISPOSAL SYSTEMS.**
78

79 **Sec. 22-130. Private Sewage Disposal Systems – Authorized When.**
80

81 **(a) Where a public sanitary sewer is not available under the provisions of Section**
82 **22-112 of the Nixa City Code, and where the property in question is located west**
83 **of Gregg Road and is within the City limits, the Director of Public Works may**
84 **authorize the construction of a private sewage disposal system pursuant to the**
85 **provisions of this Division.**
86

87 **(b) The Director of Public Works shall administer the provisions of this Division and**
88 **is authorized to establish additional rules and procedures regarding the**
89 **administration and enforcement of this Division. Further, the Director of Public**

90 Works is authorized to do all things necessary or convenient to carry out the
91 terms and intent of this Division.

92
93 **Sec. 22-131. Permit for Private Sewage Disposal Systems.**

94
95 **(a) Before the operation of a private sewage disposal system, the property owner**
96 **shall first obtain a permit for a private sewage disposal system issued by the**
97 **Director of Public Works.**

98
99 **(b) Prior to the issuance of a private sewage disposal system permit, the property**
100 **owner shall place in escrow with the City 150 percent of the cost, as determined**
101 **by the Director of Public Works, of dismantling the private sewage disposal**
102 **system and connecting the property, or any buildings located on the property,**
103 **to the City’s public sanitary sewer system. The escrow shall comply and be**
104 **governed by the following:**

105
106 **(1) The escrow amount shall include the costs of any sewer or lift station**
107 **connection fees charged by the City, including the West Regional Lift Station**
108 **Connection fee authorized by Section 22-246 of the Nixa City Code.**

109
110 **(2) The escrow shall be provided in the form of an irrevocable letter of credit.**

111
112 **(3) The irrevocable letter of credit shall be issued by a financial institution**
113 **approved by the city attorney.**

114
115 **(4) The irrevocable letter of credit may be drawn on by the City when: (1) public**
116 **sanitary sewer is available within 400 feet of the property line and contains**
117 **adequate capacity; (2) the Director of Public Works has issued an Order to**
118 **Connect as provided in Section 22-134(b); and (3) the property owner has**
119 **not complied with the Director of Public Works order to dismantle the private**
120 **sewage disposal system or order to connect the property to public sanitary**
121 **sewer within 60 days after issuance.**

122
123 **(5) The Director of Public Works may order a draw or draws on the irrevocable**
124 **letter of credit in an amount necessary to pay expenses for any work to bring**
125 **the property into compliance with said Director’s order.**

126
127 **(6) The Director of Public Works shall notify the property owner by prepaid first**
128 **class United States mail of the amount and purpose for each draw ordered**
129 **on the irrevocable letter of credit.**

130
131 **(7) If the actual cost of any work done or caused to be done by the City is less**
132 **than the amount drawn from the letter of credit, that amount shall be**
133 **refunded to the institution issuing the irrevocable letter of credit, without**
134 **interest. Once all work is done to bring the property into compliance with the**
135 **Order to Connect and the provisions of this Division, the Director of Public**

136 Works shall notify the institution issuing the irrevocable letter of credit and
137 the property owner that any remaining portion of the letter of credit may be
138 released.
139

140 (8) The Director of Public Works shall notify the institution issuing the
141 irrevocable letter of credit and the property owner that the letter of credit may
142 be released once the property owner has connected their property to public
143 sanitary sewer, the private sewage disposal system has been dismantled
144 and the property passes a final inspection by the City.
145

146 (9) If a property owner who has posted an irrevocable letter of credit on a
147 property pursuant to this Division transfers title of the property, the City may
148 release that letter of credit if the subsequent owner furnishes an acceptable
149 replacement letter of credit. If the property owner transfers a portion of the
150 property, the property owner shall maintain the letter of credit equal to the
151 portion of the original property covered by the letter of credit they retain and
152 the City may release a portion of the letter of credit equal to the portion of
153 the original property covered by the letter of credit if an acceptable letter of
154 credit in the same amount is furnished by a subsequent property owner.
155

156 (c) The property owner shall execute an agreement with the City guaranteeing
157 connection to public sewer when available, guaranteeing the payment of the
158 escrow, guaranteeing the construction of the improvements secured by the
159 escrow if the escrow amount is insufficient or the escrow is invalid,
160 guaranteeing the property owner's compliance with the provision of this
161 Division, and any other provisions deemed necessary by the Director of Public
162 Works. All such agreements shall be recorded with the county recorder. The
163 agreement shall contain at least the following terms:
164

165 (1) Name and address of the property owner. If a property owner is anything
166 other than a natural person, the name and address of a natural person
167 designated to act on behalf of and receive notice for the entity regarding the
168 subject of this agreement.
169

170 (2) Legal description of the property covered by the agreement including the
171 size in acres and fractions thereof.
172

173 (3) That the terms of the agreement may be enforced by specific performance
174 by the City.
175

176 (4) That the City may recover any costs from the property owner incurred by the
177 City to dismantle the private sewage disposal system and connect the
178 property to the City's public sewage disposal system and which costs are
179 not covered by the escrow.
180

181 (5) That the City may recover any costs incurred by the property owner’s breach
182 of the agreement or failure to comply with the provisions of this Division.
183

184 (6) That the agreement shall be binding on the property owner and any
185 subsequent property owners and that the terms of the agreement shall
186 touch, concern, and run with the land.
187

188 (7) Any other terms found to be reasonable, necessary, and convenient by the
189 Director of Public Works to carry out the purposes of this Division.
190

191 (d) The property owner shall provide plans, specifications, and other information
192 as is deemed necessary by the Director of Public Works for review of an
193 application for a permit.
194

195 (e) Before the operation of a private sewage disposal system the property owner
196 shall obtain a permit for the private sewage disposal system from the
197 appropriate State or County regulatory agency. Such permit shall be provided
198 to the Director of Public Works prior to the operation of a private sewage
199 disposal system.
200

201 (f) Permits for private sewage disposal systems shall expire one year after
202 issuance. If 60 days prior to the expiration of a private sewage disposal permit,
203 public sanitary sewer is not available under the provisions of Section 22-112 of
204 the Nixa City Code, the property owner is authorized to renew their private
205 sewage disposal permit. No fee shall be charged to renew a private sewage
206 disposal permit. Failure to maintain a private sewage disposal system without
207 a permit shall be a violation of this section.
208

209 (g) Permits for private sewage disposal systems may be revoked by the Director of
210 Public Works upon a showing, by preponderance of evidence, of any violation
211 of the provisions of this Division. Revocation may only occur after providing at
212 least 10 days’ notice to the property owner of the alleged violation and after
213 conducting a hearing on the alleged violation. Operating a private sewage
214 disposal system without a valid permit shall be a violation of this Division.
215

216 (h) No certificate of occupancy shall be issued for a building until the provisions of
217 this Section have been complied with. Certificates of occupancy may be
218 revoked if a private sewage disposal permit has expired or if the private sewage
219 disposal system is operated in violation of this Division.
220

221 **Sec. 22-132. Inspection of private sewer.**
222

223 A permit for a private sewage disposal system shall not become effective
224 until the installation is completed to the satisfaction of the Director of Public Works.
225 The Director of Public Works shall be allowed to inspect the work at any stage of
226 construction. The property owner shall notify the Director of Public Works when

227 the work is ready for final inspection and before any underground portions are
228 covered.

229
230 **Sec. 22-133. Requirements for private sewer.**

231
232 (a) The type, capacities, location, and layout of a private sewage disposal system
233 shall comply with all applicable requirements and regulations of the Missouri
234 Department of Natural Resources, the Missouri Department of Health and Senior
235 Services, and the Christian County Health Department.

236
237 (b) Only sewer holding tanks shall be permitted as an acceptable private sewer
238 system. A sewer holding tank is defined as a watertight tank for the temporary
239 storage of sewage until it can be transported to a point of approved treatment
240 and disposal.

241
242 **Sec. 22-134. Availability of public sewer and abandonment of private sewer.**

243
244 (a) When public sanitary sewer becomes available within 400 feet of the property
245 line of a property served by a private sewage disposal system a direct
246 connection shall be made by the property owner to the public sewer and any
247 private sewage disposal facilities shall be abandoned and dismantled according
248 to the rules and regulations of the Missouri Department of Natural Resources,
249 the Missouri Department of Health and Senior Services, and/or the Christian
250 County Health Department, whichever regulations are applicable.

251
252 (b) When public sanitary sewer becomes available to the property, the Director of
253 Public Works may order the connection to public sewer and the property owner
254 shall cause the property to be connected to the public sewer within 60 days of
255 the issuance of said order.

256
257 (c) In the event that the property owner fails to dismantle the private sewage
258 disposal system and connect their property to public sanitary sewer, the
259 Director of Public Works shall use the escrow obtained when the permit was
260 issued and shall use such proceeds to dismantle the private sewage disposal
261 system and connect the property to public sewer. The City may perform this
262 work with its own employees or contract with third parties.

263
264 **Sec. 22-135. Maintained at owner's expense.**

265
266 The property owner shall operate and maintain the private sewage disposal
267 facilities in a sanitary manner at all times at no expense to the city. This includes,
268 but is not limited to, the following:

269
270 (a) Owner shall maintain the private sewage disposal system at all times in
271 accordance with all applicable federal, state, and local laws.

272

273 (b) Owner shall have the private sewage disposal system pumped before its
274 capacity is exceeded and the pumped sewage disposed of according to all
275 applicable federal, state, and local laws.

276
277 (c) Owner shall not allow any sewage to leak, overflow, seep from, or otherwise
278 escape the private sewage disposal system. If that should happen, Owner shall
279 report and remediate the incident in accordance with all applicable federal, state
280 and local laws.

281
282 **Sec. 22-136. Lien for unpaid fees.**

283
284 (a) If there are any amounts of expenses due and owing to the City after exhaustion
285 of the escrow, the Director of Public Works shall certify that amount to the City
286 Clerk. The City Clerk shall then file with the Christian County Recorder of Deeds
287 a notice of delinquency to be a lien upon the property until paid, along with
288 interest, any recording fees, or attorney fees. Upon the lien being paid, the City
289 Clerk shall file a release of that lien with the Christian County Recorder of
290 Deeds.

291
292 (b) This lien shall have the same priority as and be enforced in the same manner as
293 taxes levied for state and county purposes.

294
295 (c) If the expenses that are the subject of this lien are unpaid for a period in excess
296 of 90 days, the City may discontinue supplying water to the premises until such
297 time as the expenses and costs as set forth in paragraph (a) of this section are
298 fully paid.

299
300 **Sec. 22-137. Violations.**

301
302 Any persons or entities found to be in violation of the provisions of this
303 division or who fail to comply with any order issued by the Director of Public Works
304 shall be punished as set forth in section 1-9 of the Nixa City Code.

305
306 **SECTION 5:** Chapter 22, Article III, Division 6 of the Nixa City Code is hereby
307 amended by adding thereto a new Section, which said Section shall read as follows
308 (Explanation: Language in bold-face type (e.g., **thus**) is language to be to be added.
309 Language in bold-faced brackets (e.g., [~~thus~~]) is not enacted and is intended to be omitted
310 or deleted.):

311
312 **Sec. 22-246. West Regional Lift Station Connection Fee.**

313
314 (a) There shall be charged a fee prior to any connection by any person, property,
315 or development to the public sanitary sewer which is served by the West
316 Regional Lift Station.

317
318 (b) The connection fee shall be calculated using the following formula:

319
 320 (1) (A/B)(C), where A equals the “total cost of the construction of the West
 321 Regional Lift Station; B equals “1,001,” which is the total number of acres
 322 to be served by the West Regional Lift Station; and C equals “the total
 323 acres of the property seeking connection to public sanitary sewer which
 324 is served by the West Regional Lift Station.”

325
 326 (2) By way of example and to guide the implementation of the fee authorized
 327 by this Section, the following scenario is provided:
 328

329 a. If the total cost of the construction of the West Regional Lift Station is
 330 \$1,000,000.00 and the total acres of the property connecting to the
 331 public sanitary sewer which is served by the West Regional Lift
 332 Station is 10 acres, then the fee would be calculated as follows:
 333

334 $(1,000,000.00/1,001) (10) = \$9,990.01.$
 335

336 (c) The Director of Public Works is authorized to certify the final costs of
 337 construction of the West Regional Lift Station to the City Clerk for the
 338 purposes of calculating the fee authorized by this Section. This certification
 339 shall occur as soon as practicable after the construction of the West
 340 Regional Lift Station is completed. The final costs shall include any design
 341 costs, real property acquisition costs, including any easement acquisition,
 342 bond repayment amounts, and actual construction costs for the West
 343 Regional Lift Station.
 344

345 (d) If the fee authorized in this Section is to be included in any escrow authorized
 346 by Chapter 22, Division 2 of the Nixa City Code and the final costs of the
 347 construction of the West Regional Lift Station have not been certified to the
 348 City Clerk as required by Section 22-246(c) because the construction of the
 349 West Regional Lift Station is not complete, then, for purposes of calculating
 350 the fee authorized by this Section for any such escrow the Director of Public
 351 Works shall provide within 10 days a good faith estimate of the final total
 352 cost based on information known at the time as the figure for the variable of
 353 the “total cost of the construction of the West Regional Lift Station” for the
 354 formula established in Section 22-246(b) of the Nixa City Code.
 355

356 (e) The fee established in this Section shall be paid by the owner of real property
 357 seeking to connect to the public sanitary sewer which is served by the West
 358 Regional Lift Station. Such payment shall be made to the City before any
 359 sewer connections to the public sanitary sewer are permitted.
 360

361 (f) The Director of Public Works shall administer the provisions of this Section
 362 and is authorized to establish additional rules and procedures regarding the
 363 administration and enforcement of this Section. Further, the Director of

364 **Public Works is authorized to do all things necessary or convenient to carry**
365 **out the terms and intent of this Section.**

366
367 **SECTION 6:** Savings Clause. Nothing in this Ordinance shall be construed to
368 affect any suit or proceeding now pending in any court or any rights acquired, or liability
369 incurred nor any cause or causes of action occurred or existing, under any act or
370 ordinance repealed hereby.

371
372 **SECTION 7:** Severability Clause. If any section, subsection, sentence, clause, or
373 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
374 the validity of the remaining portions of this Ordinance. The Council hereby declares that
375 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
376 phrase thereof, irrespective of the fact that any one or more sections, subsections,
377 sentences, clauses, or phrases be declared invalid.

378
379 **SECTION 8:** This Ordinance shall be in full force and effect from and after its final
380 passage by the City Council and after its approval by the Mayor, subject to the provisions
381 of section 3.11(g) of the City Charter.

382
383
384 **ADOPTED BY THE COUNCIL THIS _____ DAY OF _____ 2024.**

385
386 ATTEST:
387
388 _____
389 PRESIDING OFFICER CITY CLERK

390
391
392 **APPROVED BY THE MAYOR THIS _____ DAY OF _____ 2024.**

393
394 ATTEST:
395
396 _____
397 MAYOR CITY CLERK

398
399 APPROVED AS TO FORM:

400
401 _____
402 CITY ATTORNEY
403

COUNCIL BILL EXHIBIT A

Fee Name	Fee Amount	Fee Description/Code Section
Private Sewage Disposal System Permit Fee.	\$50.00	Fee to reimburse the City for costs associated with the inspection and approval of a Private Sewage Disposal System. (See Ch. 22, Art. II, Div. 2).
West Regional Lift Station Connection Fee.	(Total cost of the construction of the West Regional Lift Station/1,001) (Total acres of the property connecting to public sanitary sewer which is served by the West Regional Lift Station.) = Fee Amount	Connection fee to reimburse the City for construction costs of the West Regional Lift Station. (See Sec. 22-246).