

RESOLUTION NO. 4928

A RESOLUTION PROCLAIMING A "HEALTH HAZARD" AT 1410 HOP STREET SW TO ALLOW AN EXCEPTION TO THE GENERAL PROHIBITION AGAINST EXTRATERRITORIAL SEWER EXTENSIONS.

WHEREAS, the Albany City Council voted on September 8, 1999, to approve Ordinance No. 5419, which created a health hazard exception to the general prohibition against extraterritorial sewer extensions, and

WHEREAS, in order for a property to be eligible for this health hazard exception, the City Council must determine that the criteria in AMC 10.01.050(5) are met, and

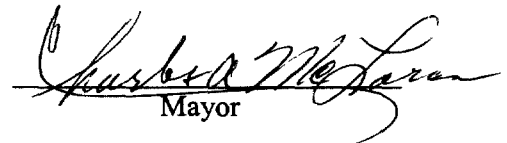
WHEREAS, the findings attached as Exhibit A show that the criteria for the property located at 1410 Hop Street SW have been met,

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council adopt the findings attached as Exhibit A; and

BE IT FURTHER RESOLVED by the Albany City Council that the property at 1410 Hop Street SW is eligible to receive city sanitary sewer service as allowed in AMC 10.01.050(5); and

BE IT FURTHER RESOLVED that the city will require the property owners to satisfy all requirements set forth in AMC 10.01.050(5) prior to receiving said city sanitary sewer service.

DATED AND EFFECTIVE THIS 28TH DAY OF JANUARY, 2004


Mayor

ATTEST:


City Clerk

BEFORE THE ALBANY CITY COUNCIL

In the Matter of the Health Hazard)	
Determination of Property at)	
)	FINDINGS
1410 Hop Street SW)	

I. Background

1. Lora Morris, owner of property at 1410 Hop Street SW, contacted City staff in January of 2004 requesting connection to the public sanitary sewer system. She said that the existing residence at this address is experiencing significant problems with the private septic system.

2. Staff discussions with representatives from the Oregon Health Division indicate that the state would be unable to intervene in this case due to cutbacks in staffing, as well as the limited scope (land area) of the problem. This precludes the applicant from receiving a state-declared health hazard exemption from a public vote for annexation.

3. The Linn County Department of Health Services indicated by letter on December 29, 2003, that a "hazard to public health and the environment" exists at this site. City sewer exists adjacent to the subject property and is available for connection; therefore, Linn County is prohibited by OAR 340-71-160(5)(f) "from issuing a permit for an on-site sewage disposal system."

4. On September 8, 1999, the Council passed an ordinance allowing a health hazard exception to the prohibition against providing public sanitary sewer service to properties outside of the city limits. The Albany Municipal Code [10.01.050(5)] states:

(5) Health Hazard Exception. The Council may authorize the extension of sanitary sewer facilities to property outside of the City limits upon finding that all elements of the following criteria have been met:

(a) The extension will serve only existing residential use(s);

(b) The extension is necessary to mitigate an existing hazard to human health resulting from a failing or inadequate sewage disposal system;

(c) The health hazard cannot practicably be mitigated without connection to the City sanitary sewer system;

(d) Provisions have been or will be made to connect a residential user to the sanitary system at no cost to the City;

(e) The owner(s) of the property to be served pursuant to this exception has executed an irrevocable application for annexation, on a form provided by the City, whereby the City may submit the question of annexation to the voters at any election(s). The property must be contiguous to the City limits and within the Urban Growth Boundary. The annexation application shall not require the owner(s) to pay for the cost of the election. The application shall be binding upon the heirs and subsequent assigns of the owner;

(f) The property owner has tendered the required sewer system development charges to the City and waived any objection thereto;

(g) The property owner has waived, in writing, any objection to a sewer rate differential which may exist, or may be subsequently created, whereby sewer users outside the City are

charged a reasonable premium over and above that charged to city residents.

(6) Limitation on Subsequent Sewer Utilization in the Event of Health Hazard Exception. *Subsequent to the sewer connection subject to a health hazard exception, no additional sewer connections shall be permitted prior to annexation. (Ord. 5419 §§ 1, 2, 3, 1999; Ord. 5016, 1992).*

II. Responsibilities of the Property Owner

5. The property owners must pay the applicable System Development Charge and Connection Charge for connection to the public sanitary sewer system before connection of the dwelling to the main.

6. The property owners must submit an irrevocable request to annex agreement and a signed application to annex the subject property. The City Council will have the option of forwarding the question of annexation of the subject property to the voters at any subsequent general election. The submittal of the application for annexation does not commit the City Council to forward the annexation to the voters until they determine that the annexation meets the timeliness criterion.

7. The property owners must agree to pay sewer usage fees at a rate no less than that charged to sewer users within the city limits. The City can require sewer users outside the city limits to pay a reasonable premium over and above that charged to city residents, and the property owner must waive any objection to such a rate differential.

III. Criteria [from AMC 10.01.050(5)]

8. ***(a) The extension will serve only existing residential use(s).***
The existing dwelling located at 1410 Hop Street SW is currently inhabited and is used exclusively as a residence. The property is owned by Michael and Lora Morris and is occupied by the Morris family.

9. ***(b) The extension is necessary to mitigate an existing hazard to human health resulting from a failing or inadequate sewage disposal system.***

On January 7, 2004, City staff received a faxed copy of a letter by Jan Heron, Field Supervisor with the Linn County Environmental Health Program, regarding this site. In the letter, Ms. Heron reports that a county sanitarian investigated the site and observed sewage discharge onto the ground surface. The letter further states that "the discharge of sewage constitutes a hazard to public health and the environment, and is prohibited."

10. ***(c) The health hazard cannot practicably be mitigated without connection to the city sanitary sewer system.***

In the letter from Jan Heron of the Linn County Environmental Health Program, she states that "in discussion with the City of Albany, I was advised that the municipal sewerage system is both legally and physically available to your property. Oregon Administrative Rule 340-71-160(5)(f) prohibits us from issuing a permit for an on-site sewage disposal system when a sewerage system...is both legally and physically available. I am therefore requiring that you contact the City of Albany to pursue connection to the sewer."

11. ***(d) Provisions have been or will be made to connect a residential user to the sanitary sewer system at no cost to the city.***

Public sanitary sewer mains currently exist along all frontages of the subject property, so no main extension will be required. A Connection Charge and System Development Charge for connection to the public sanitary sewer system must be paid before connection of the dwelling will be allowed. Monthly sewer use will be charged at a rate not less than that of other sewer users within the city limits.

12. ***(e) The owner(s) of the property to be served pursuant to this exception has executed an irrevocable application for annexation, on a form provided by the City, whereby the City may submit the question of annexation to the voters at any election(s). The property must be contiguous to the City limits and within the Urban Growth Boundary. The annexation application shall be binding upon the heirs and subsequent assigns of the owner.***

Before the subject property will be allowed to make connection to the public sanitary sewer system, the property owners must sign an irrevocable request to annex agreement. The submittal of this agreement does not commit the City Council to placing the annexation question for this property on any particular ballot, nor does it preclude the City Council from placing the annexation question on subsequent ballots should the annexation fail to pass at a previous election. The subject property is contiguous to the city limits and is within the Urban Growth Boundary; therefore, it is eligible for annexation.

13. ***(f) The property owner has tendered the required sewer system development charges to the City and waived any objection thereto.***

Prior to connection of the dwelling to the public sanitary sewer system, the property owner must pay to the City the applicable System Development Charge and Connection Charge for connection to the public sanitary sewer system.

14. ***(g) The property owner has waived, in writing, any objection to a sewer rate differential which may exist, or may be subsequently created whereby sewer users outside the City are charged a reasonable premium over and above that charged to city residents.***

Prior to connection of the dwelling to the public sanitary sewer system, the applicant must submit to the City a signed and notarized document, in a form approved by the City Attorney, waiving any objection to a reasonable potential sewer rate premium in excess of that charged to city residents.



Linn County Department of Health Services

P.O. Box 100, Albany, OR 97321

Toll Free 1-800-304-7468

www.co.linn.or.us

"Working together to promote the health and well-being of all Linn County residents."

December 29, 2003

Michael Morris
1410 Hop Street SW
Albany, OR 97321

Re: Sewage disposal system
T 11S, R 4W, Section 12CB, Tax Lot 8500
1410 Hop Street SW, Albany

Dear Mr. Morris:

I have received a complaint that the sewage disposal system on your property referenced above is failing. On December 23, a sanitarian from this office investigated the complaint. He saw a discharge from a pipe behind your property, on City of Albany right-of-way. He observed the discharge of sewage from the pipe onto the ground surface. In his subsequent discussion with you, you agreed that the source of the discharged sewage was plumbing fixtures in your house.

Sewage is being discharged in violation of Linn County Code Chapter 240, Oregon Administrative Rule 340-71-130 (3), and Oregon Revised Statute 164.785. The discharge of sewage constitutes a hazard to public health and the environment, and is prohibited. This letter constitutes a **Notice of Violation** as required by Linn County Code 240.100.

In discussion with the City of Albany, I was advised that the municipal sewerage system is both legally and physically available to your property. Oregon Administrative Rule 340-71-160(5)(f) prohibits us from issuing a permit for an on-site sewage disposal system when a sewerage system...is both legally and physically available. I am therefore requiring that you contact the City of Albany to pursue connection to the sewer. Please provide written verification by January 15, 2004, that you have initiated extension of the sewer and a timeline for completion of connection.

Failure to correct this violation will leave me no choice but to refer this case to the Linn County Enforcement Committee for action. Further enforcement procedures may include citation and prosecution by the District Attorney.

Please call me at (541) 967-3821 if you have any questions.

Sincerely,

Jan Heron *ext 2371*
Jan Heron, Field Supervisor
Linn County Environmental Health Program

Administration Office (541)967-3888 Fax:(541)924-6904 ddahlen@co.linn.or.us	Alcohol & Drug Treatment (541)967-3819 Fax:(541)967-7259 linnAD@co.linn.or.us	Commission on Children and Families (541)967-3823 Fax:(541)924-6918 ccf@co.linn.or.us	Developmental Disabilities (541)967-3890 Fax:(541)924-6905 lwhitmev@co.linn.or.us	Environmental Health (541)967-3821 Fax:(541)926-2060 bruh@co.linn.or.us	Mental Health (541)967-3886 Fax:(541)926-3020 linn@co.linn.or.us	Public Health (541)967-3888 Fax:(541)926-2102 linn@co.linn.or.us
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Existing San Sewer Mains -----

City Limits

TRACY CT

13TH AVE.

13TH AVE

14TH AVE.

15TH AVE.

Subject Property

15TH AVE.

HOP ST

16TH AVE

BROADWAY ST.

BONNIE ST

CRITTELDEN ST

GAME ST.

LINCOLN ST

17TH AVE

QUEEN AVE.

1410 Hop Street SW

100 0 100 200 Feet

Jan 20, 2004

The City of Albany's infrastructure records drawings and other documents have been gathered over many decades using differing standards for quality control documentation and verification. All the information provided represents current information in a readily available format. While the information provided is generally believed to be accurate, occasionally the information proves to be incorrect, and thus its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the information provided, it is specifically advised that you independently field verify the information contained within our records.



Resolution 4928 regarding 1410 Hop Street.

The property was annexed into the City following the island annexation election of November 2004.