

**WATER POLLUTION CONTROL LOAN PROGRAM
SAMPLE ORDINANCE AUTHORIZING LOAN AGREEMENT
NON-HOME RULE ENTITY (e.g. Village, City, Town)**

Loan applicants or their attorney are requested to contact Stephanie Flowers at the Illinois EPA, Division of Legal Counsel (217/782-5544; stephanie.flowers@illinois.gov) to discuss the attached Sample Ordinance and Dedicated Source of Revenue Requirement.

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ORDINANCE NUMBER _____

AN ORDINANCE authorizing the [ENTITY] of _____, _____, County, Illinois to borrow funds from the Water Pollution Control Loan Program

WHEREAS, the [ENTITY] of _____, _____ County, Illinois operates its sewerage system (“the System”) and in accordance with the provisions of [insert APPROPRIATE AUTHORIZING STATUTE] and the Local Government Debt Reform Act, 30 ILCS 350/1 (collectively, “the Act”), and

WHEREAS, the [e.g., MAYOR/PRESIDENT AND CITY COUNCIL/BOARD OF TRUSTEES] of the [ENTITY] (“the Corporate Authorities”) have determined that it is advisable, necessary and in the best interests of public health, safety and welfare to improve the System, including the following:

INSERT PROJECT DESCRIPTION

together with any land or rights in land and all electrical, mechanical or other services necessary, useful or advisable to the construction and installation (“the Project”), all in accordance with the plans and specifications prepared by consulting engineers of the [ENTITY]; which Project has a useful life of _____ years [**must be greater than the maturity period stated below**]; and

WHEREAS, the estimated cost of construction and installation of the Project, including engineering, legal, financial and other related expenses is \$ _____, and there are insufficient funds on hand and lawfully available to pay these costs; and

WHEREAS, the loan shall bear an interest rate as defined by 35 Ill. Adm. Code 365, which does not exceed the maximum rate authorized by the Bond Authorization Act, as amended, 30 ILCS 305/0.01 et seq., at the time of the issuance of the loan; and

WHEREAS, the principal and interest payment shall be payable semi-annually, and the loan shall mature in _____years, **(cannot be more than 30 years)** which is within the period of useful life of the Project; and

WHEREAS, the costs are expected to be paid for with a loan to the [ENTITY] from the Water Pollution Control Loan Program through the Illinois Environmental Protection Agency, the loan to be repaid from [insert SOURCE OF REVENUE, e.g., revenues of the System, sales tax, etc.] and the loan is authorized to be accepted at this time pursuant to the Act; and

WHEREAS, in accordance with the provisions of the Act, the [ENTITY] is authorized to borrow funds from the Water Pollution Control Loan Program in the aggregate principal amount of \$_____ to provide funds to pay the costs of the Project;

WHEREAS, the loan to the [ENTITY] shall be made pursuant to a Loan Agreement, including certain terms and conditions, between the [ENTITY] and the Illinois Environmental Protection Agency;

NOW THEREFORE, be it ordained by the Corporate Authorities of the [ENTITY] of _____, _____County, Illinois, as follows:

SECTION 1. INCORPORATION OF PREAMBLES

The Corporate Authorities hereby find that the recitals contained in the preambles are true and correct, and incorporate them into this Ordinance by this reference.

SECTION 2. DETERMINATION TO BORROW FUNDS

It is necessary and in the best interests of the [ENTITY] to construct the Project for the public health, safety and welfare, in accordance with the plans and specifications, as described; that the System continues to be operated in accordance with the provision of the Act; and that for the purpose of constructing the Project, it is hereby authorized that funds be borrowed by the [ENTITY] in an aggregate principal amount (which can include construction period interest financed over the term of the loan) not to exceed \$_____.

SECTION 3. PUBLICATION

This Ordinance, together with a Notice in the statutory form (attached hereto as Exhibit A), shall be published once within ten days after passage in the _____, a newspaper published and of general circulation in the [ENTITY], and if no petition, signed by electors numbering 10% or more of the registered voters in the [ENTITY] (i.e., [insert NUMBER OF ELECTORS EQUAL TO OR GREATER THAN 10%]) asking that the question of improving the System as provided in this Ordinance and entering into the Loan Agreement therefore be submitted to the electors of the [ENTITY], is filed with the [ENTITY] Clerk within 30 days after the date of publication of this Ordinance and notice, then this Ordinance shall be in full force and effect. A petition form shall be provided by the [ENTITY] Clerk to any individual requesting one.

(Note: The 30-day publication requirement is not mandatory for entities whose statutory authorization to borrow money does not include the requirement.)

SECTION 4. ADDITIONAL ORDINANCES

If no petition meeting the requirements of the Act and other applicable laws is filed during the 30-day petition period, then the Corporate Authorities may adopt additional ordinances or proceedings supplementing or amending this Ordinance providing for entering into the Loan Agreement with the Illinois Environmental Protection Agency, prescribing all the details of the Loan Agreement, and providing for the collection, segregation and distribution of the [insert DEDICATED REVENUES, e.g., revenues of the System], so long as the maximum amount of the Loan Agreement as set forth in this Ordinance is not exceeded and there is no material change in the Project or purposes described herein. Any additional ordinances or proceedings shall in all instances become effective in accordance with the Act or other applicable law. This Ordinance, together with such additional ordinances or proceedings, shall constitute complete authority for entering into the Loan Agreement under applicable law.

However, notwithstanding the above, the [ENTITY] may not adopt additional ordinances or amendments which provide for any substantive or material change in the scope and intent of this

Ordinance, including but not limited to interest rate, preference, or priority of any other ordinance with this Ordinance, parity of any other ordinance with this Ordinance, or otherwise alter or impair the obligation of the [ENTITY] to pay the principal and interest due to the Water Pollution Control Loan Program without the written consent of the Illinois Environmental Protection Agency.

SECTION 5. LOAN NOT INDEBTEDNESS OF [ENTITY]

Repayment of the loan to the Illinois Environmental Protection Agency by the [ENTITY] pursuant to this Ordinance is to be solely from the revenue derived from [insert SOURCE OF REVENUE, e.g., revenues of the System], and the loan does not constitute an indebtedness of the [ENTITY] within the meaning of any constitutional or statutory limitation.

(NOTE: Sources of revenue other than revenues of the system may not qualify for the exemption contained in this model paragraph.)

SECTION 6. APPLICATION FOR LOAN

The [APPROPRIATE OFFICIAL] is hereby authorized to make application to the Illinois Environmental Protection Agency for a loan through the Water Pollution Control Loan Program, in accordance with the loan requirements set out in 35 Ill. Adm. Code 365.

SECTION 7. ACCEPTANCE OF LOAN AGREEMENT

The Corporate Authorities hereby authorize acceptance of the offer of a loan through the Water Pollution Control Loan Program, including all terms and conditions of the Loan Agreement as well as all special conditions contained therein and made a part thereof by reference. The Corporate Authorities further agree that the loan funds awarded shall be used solely for the purposes of the project as approved by the Illinois Environmental Protection Agency in accordance with the terms and conditions of the Loan Agreement.

SECTION 8. OUTSTANDING BONDS

(Please keep the sentence that is applicable and remove the other two.)

The [ENTITY] has outstanding bonds, payable from revenues of the system, that are senior to the loan authorized by this Ordinance, and the [ENTITY] establishes an account, coverage, and

reserves equivalent to the account(s), coverage(s) and reserve(s) as the senior lien holders in accordance with 35 Ill. Adm. Code 365.350(a)(10)(C)(WPC). **OR**

The [ENTITY] has outstanding bonds that are payable from revenues of the system but the outstanding bonds are not senior to, but on parity with, the loan authorized by this Ordinance. **OR**

The [ENTITY] has no outstanding bonds that are payable from revenues of the system

SECTION 9. AUTHORIZATION OF [PRESIDENT/MAYOR] TO EXECUTE LOAN AGREEMENT

The [PRESIDENT/MAYOR] is hereby authorized and directed to execute the Loan Agreement with the Illinois Environmental Protection Agency. The Corporate Authorities may authorize by resolution a person other than the [MAYOR/ PRESIDENT] for the sole purpose of authorizing or executing any documents associated with payment requests or reimbursements from the Illinois Environmental Protection Agency in connection with this loan.

SECTION 10. SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

SECTION 11. REPEALER

All ordinances, resolutions or orders, or parts thereof, which conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

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PASSED by the Corporate Authorities

on _____, 20____.

Approved _____, 20____.

[PRESIDENT/MAYOR]

[ENTITY]

_____, County, Illinois

AYES: _____

NAYS: _____

ABSENT: _____

PUBLISHED in the _____ on _____, 19____.

RECORDED in the [ENTITY] Records on _____, 19____.

ATTEST:

[ENTITY] Clerk

[ENTITY] of _____

_____ County, Illinois

**NOTICE OF INTENT TO BORROW FUNDS
AND RIGHT TO FILE PETITION**

NOTICE IS HEREBY GIVEN that, pursuant to Ordinance Number _____, adopted on _____, 20____, the [ENTITY] of _____, _____ County, Illinois (the "ENTITY"), intends to enter into a Loan Agreement with the Illinois Environmental Protection Agency in an aggregate principal amount not to exceed \$_____ and bearing annual interest at an amount not to exceed the maximum rate authorized by law at the time of execution of the Loan Agreement, for the purpose of paying the cost of certain improvement to the sewerage system of the [ENTITY]. A complete copy of the Ordinance accompanies this notice.

NOTICE IS HEREBY FURTHER GIVEN that if a petition signed by **[insert number]** or more electors of the [ENTITY] (being equal to 10% of the registered voters in the [ENTITY]), requesting that the question of improving the sewerage system and entering into the Loan Agreement is submitted to the [ENTITY] Clerk within 30 days after the publication of this Notice, the question of improving the sewerage system of the [ENTITY] as provided in the Ordinance and Loan Agreement shall be submitted to the electors of the [ENTITY] at next consolidated election to be held on _____, 20____. A petition form is available from the office of the [ENTITY] Clerk.

[ENTITY] Clerk
[ENTITY] of _____
_____ County, Illinois

CERTIFICATION

I, _____, do hereby certify that I am the duly elected, qualified and acting Clerk of the [ENTITY] of _____. I do further certify that the above and foregoing, identified as Ordinance Number _____, is a true, complete and correct copy of an ordinance otherwise identified as [insert TITLE OF ORDINANCE], passed by the [e.g., City Council/Board of Trustees] of the [ENTITY] of _____ on the ____ day of _____, 20____, and approved by the [e.g., President/Mayor] of the [ENTITY] of _____ on the same said date, the original of which is part of the books and records within my control as Clerk of the [ENTITY] of _____.

Dated this ____ day of _____, 20____.

NO REFERENDUM CERTIFICATE

I, the undersigned, do hereby certify that I am the duly qualified, and acting [ENTITY] Clerk of the [ENTITY] of _____, _____ County, Illinois (the "ENTITY"), and as such officer I am the keeper of the books, records, files and journal of proceedings of the [ENTITY] and of the [e.g., PRESIDENT/MAYOR] and [e.g., BOARD OF TRUSTEES/CITY COUNCIL] of the [ENTITY].

I do further certify that Ordinance Number _____, being the Ordinance entitled: [insert TITLE OF ORDINANCE] (the "Ordinance") was presented to and passed by the [e.g., PRESIDENT/MAYOR] and [e.g., BOARD OF TRUSTEES/CITY COUNCIL] of the [ENTITY] at its legally convened meeting held on the ____ day of _____, 20____ and signed by the [e.g., PRESIDENT/MAYOR] of the [ENTITY] on said day.

I do further certify that the Ordinance was duly and properly published in the _____, a newspaper published and of general circulation within the [ENTITY], on the ____ day of _____, 20____, being a date within ten days from the date of passage of the Ordinance.

I do further certify that publication of the Ordinance was accompanied by a separate publication of notice of (1) the specific number of voters required to sign the petition requesting the question of constructing improvements to the sewerage system as provided in the Ordinance; (2) the time in which such petition must have been filed; and (3) the date of the prospective referendum.

I do further certify that I did make available and provide to any individual so requesting a petition form, which petition form provided for submission to the electors of the [ENTITY] of the question as set forth therein. Such petition forms were available from me continuously from _____, _____, 20____, up to and including _____, _____, 20____.

I do further certify that no Petition has been filed in my office within ____ days after publication of the Ordinance or as of the time of the signing hereof as provided by statute asking that the question of improving the sewerage system as provided in the Ordinance and the Loan Agreement therefore be submitted to the electors of the [ENTITY].

IN WITNESS WHEREOF I have hereunto affixed my official signature and the corporate seal of the [ENTITY] of _____, _____ County, Illinois this ____ day of _____ 20____.

[ENTITY] Clerk
[ENTITY] of _____
_____ County, Illinois

(SEAL)

