

ORDINANCE NO. F-0043

**AN ORDINANCE AUTHORIZING THE COLLECTION OF FEES
(RECAPTURE) ASSOCIATED WITH THE CONSTRUCTION OF THE
ORCHARD TERRACE WATER MAIN PROJECT WITHIN THE CITY OF WHEATON**

WHEREAS, the City of Wheaton, Illinois ("City"), is an Illinois home rule municipality pursuant to the provisions of Article VII, Section 6, of the Illinois Constitution of 1970; and, as such, the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the subject matter of this ordinance pertains to the government and affairs of the City and its residents; and

WHEREAS, the corporate authorities of the City may, pursuant to ordinance, pay for all, or a portion, of the cost of certain public improvements and may secure reimbursement for all, or a portion, of such costs from fees charged to owners of property which will benefit from the public improvement, as collected from such owners; and

WHEREAS, the City has determined that the installation of the Orchard Terrace Water Main Project ("Water Main") is necessary for the promotion of the public health, safety, and welfare of the City and its residents and that the Water Main will be dedicated to the public and will be used for the benefit of certain real estate within the City; the real estate which will be benefitted by the Water Main is legally described as follows:

LOTS 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 AND THE NORTH HALF OF LOT 3 IN ORCHARD TERRACE SUBDIVISION BEING A SUBDIVISION IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPLE MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

hereafter referred to as "Benefitted Real Estate"; and

WHEREAS, the City has also determined that it is in the best interests of the City and its residents that the construction costs for the Water Main be recaptured from the benefitted property owners ("Owners") upon connection to the water main; and

WHEREAS, the City has determined the cost of the installation of the water main to be SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00); and

WHEREAS, pursuant to notice, a public hearing was conducted by the City Council on January 9, 1995, to consider the terms and conditions of the recapture; and

WHEREAS, the City deferred action on the recapture ordinance presented at the January 9, 1995 Public Hearing in order for the affected parties to discuss the recapture in greater detail with the City staff.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, Du Page County, Illinois, pursuant to its home rule powers, as follows:

Section 1: *Description of Recapture.* It is necessary and desirable that construction costs of the Water Main, SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), be recaptured by the City from the Owners upon connection to the Water Main. The Water Main benefits Orchard Terrace Subdivision and consists of a public water main and fifteen (15) individual water services, (Buffalo boxes included); a map and address listing are attached to this ordinance as Exhibits A and B, respectively.

Section 2: *Collection of Recapture Expense.* The administrative staff of the City are authorized, directed, and empowered to collect the recapture expense at the time any Owner of Benefitted Real Estate applies for connection to the Water Main; it shall be a condition precedent to the connection to the Water Main that the Owner of the Benefitted Real Estate abandon any private well on his, her, or its Benefitted Real Estate and seal the well in accordance with the standards of the DuPage County Health Department. A cash deposit of \$500 shall be collected from the owner at the time of permit application to connect to the Water Main; said deposit shall be retained by the City until such time as a certificate of well abandonment and sealing has been submitted to the City Engineer. The certificate of well abandonment and sealing shall be provided to the City Engineer within sixty (60) days following a permit to connect to the Water Main.

Section 3: *Amount of Recapture (Recapture Calculation).* The amount of the recapture shall reflect the total sum of the City's expense for construction divided by the number of Benefitted Real Estate parcels (\$75,000.00 divided by 15 parcels equals \$5,000.00 per parcel). The recapture expense shall include annual interest at the rate of six and one half percent (6½); interest shall begin six (6) months after the date of passage of this recapture ordinance.

Section 4: *Payment of Recapture Expenses.* All recapture expenses, plus earned interest thereon, collected by the City pursuant to this ordinance shall be retained by the City in its Water Fund as reimbursement of its cost for the construction of the Orchard Terrace Water Main.

Section 5: *Other Fees and Charges.* Nothing contained in this ordinance shall limit, or in any way affect, the right of the City to collect other appropriate fees and charges pursuant to City ordinance, resolution, motion, or policy; the recapture fees provided in this ordinance are in addition to any other fees and charges of the City.

Section 6: *Binding Effect.* This ordinance shall be binding upon the owners of the Benefitted Real Estate, their successors, assigns, and grantees.

Section 7: *Recording.* The City Clerk is authorized and directed to record a copy of this recapture ordinance with the Office of the Recorder of Deeds; additionally, a copy of this ordinance shall be mailed, first class postage affixed, to the Owners of the Benefitted Real Estate.

Section 8: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 9: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Mayor

ATTEST:



City Clerk

Roll Call Vote:

Ayes:

Councilman Mork
Councilwoman Culler
Councilwoman Davenport
Councilman Eckhoff
Mayor Carr
Councilman Gresk

Nays:

None

Absent:

Councilwoman Johnson

Motion Passed Unanimously

Passed: July 1, 1996
Published: July 2, 1996

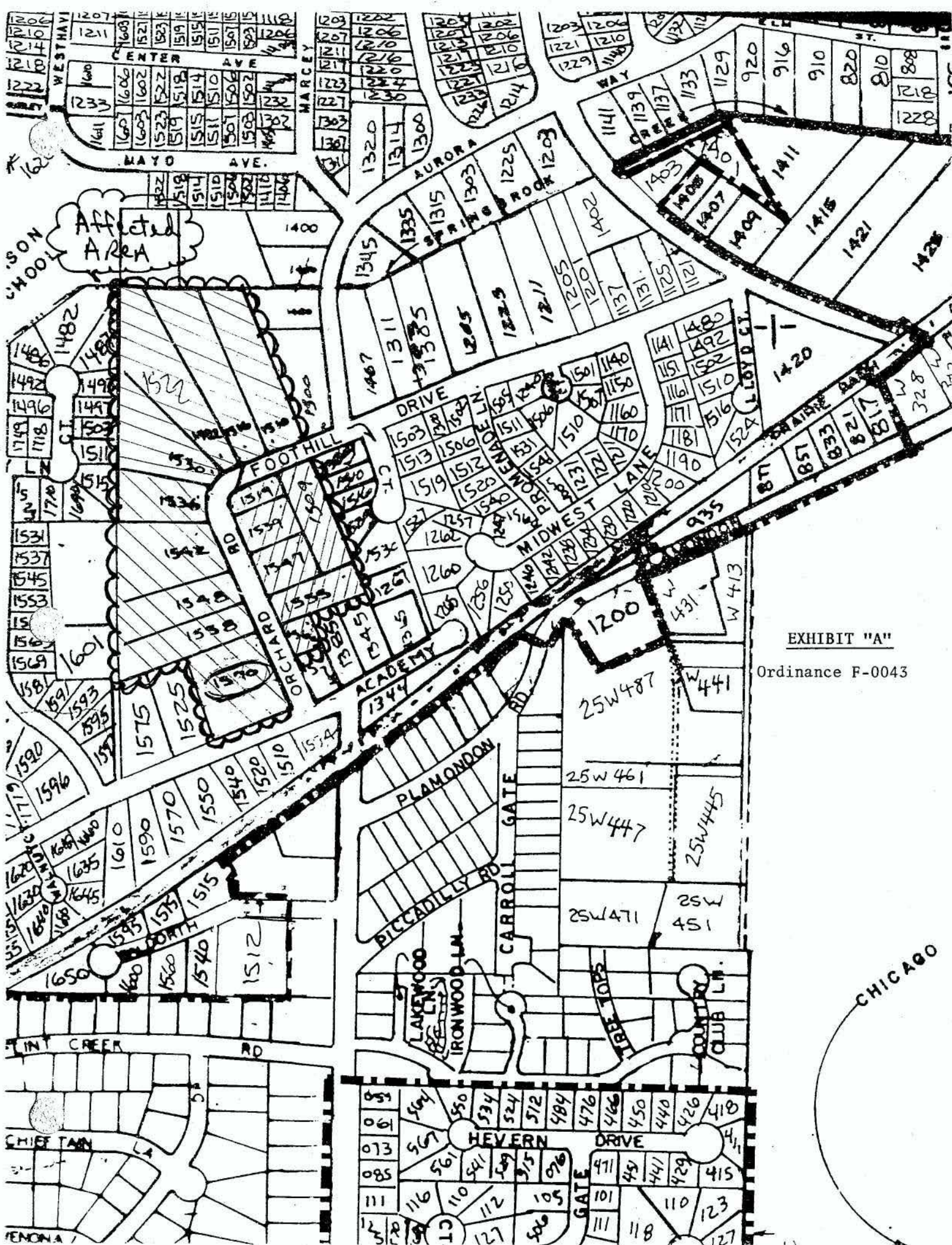


EXHIBIT "A"

Ordinance F-0043

EXHIBIT B

**ORCHARD TERRACE WATER MAIN PROJECT
Benefitted Real Estate**

LOT 16

05-20-304-001
1519 Foothill Drive
Mr. Norbert A. Gauthier

LOT 17

05-20-304-002
1539 Orchard Road
Mr. & Mrs. Mark Popularum

LOT 18

05-20-304-003
1547 Orchard Road
Mr. David A. Vander Veen

LOT 19

05-20-304-004
1555 Orchard Road
Mr. & Mrs. Peter Richey

LOT 15

05-20-304-005
1509 Foothill Drive
Mr. John C. Brown

NORTH ½ OF LOT 3

05-20-304-010
1565 Orchard Road
Mr. & Mrs. James E. Kray

LOT 14

05-20-302-034
1510 Foothill Drive
Mr. & Mrs. Glenn Doggett

LOT 13

05-20-302-035
1516 Foothill Drive
Mr. & Mrs. Kirk
c/o Citizens Savings Bank
301 Broadway
Normal, IL 61761

LOT 12

05-20-302-036
1522 Orchard Road
Mr. Daniel & M.A. Delay

LOT 11

05-20-302-037
1530 Orchard Road
Mr. John H. Mazurek

LOT 10

05-20-302-038
1536 Orchard Road
Mr. & Mrs. Eugene Ridge

LOT 9

05-20-302-039
1542 Orchard Road
Ms. Lily M. Johnson

LOT 8

05-20-302-040
1548 Orchard Road
Mr. Wilbur P. Nissen

LOT 7

05-20-302-041
1558 Orchard Road
Mr. & Mrs. Ronald W. Richardson

LOT 4

05-20-302-044
1570 Orchard Road
c/o West Suburban Bank
TR 9214
711 S. Westmore Avenue
Lombard, IL 60148