

156

RESOLUTION NO. R-49-04

A RESOLUTION AUTHORIZING EXECUTION OF AN  
ORDINANCE DEFERRAL AGREEMENT-814 N. SUMMIT STREET  
(ORME)

WHEREAS, the owners of the real property located at 814 N. Summit Street, Wheaton, Illinois, have acknowledged that their property is in violation of Section 74-77 of the Wheaton City Code (illegal connection to sanitary sewer system); and

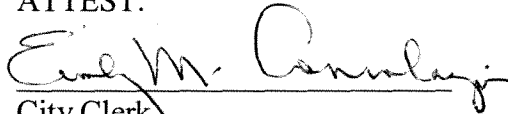
WHEREAS, correction of the ordinance violation will require a significant amount of construction activity; and

WHEREAS, the property owners have requested an extension of time in which to correct the ordinance violation (April 1, 2006).

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the City Manager is authorized to execute an Ordinance Enforcement Deferral Agreement a copy of which is attached to this resolution by reference.

ADOPTED this 19<sup>th</sup> day of July, 2004.

ATTEST:

  
City Clerk

  
Mayor

Ayes:

Roll Call Vote:

Councilman Mouhelis  
Councilman Bolds  
Councilwoman Corry  
Councilman Johnson  
Mayor Carr  
Councilwoman Johnson  
Councilman Mork

Nays:

None

Absent:

None

Motion Carried Unanimously

### **ORDINANCE ENFORCEMENT DEFERRAL AGREEMENT**

David Orme and Marianne Orme (hereinafter the "Owners"), hereby acknowledge that they are the owners of the real property located at 814 N. Summit in Wheaton, Illinois (hereinafter the "Property"). Owners further acknowledge and admit that the Property is in violation of City of Wheaton Ordinance Section 74-77, in that a drain exists in/on Owners' driveway that is illegally connected to the City of Wheaton's Sanitary Sewer System. The City of Wheaton has demanded that Owners bring the Property into compliance with City of Wheaton Ordinance Section 74-77 and the Owners have requested that they be granted until April 1, 2006, to do so. The City of Wheaton hereby agrees to defer enforcement of the Owners' admitted violation of City of Wheaton Ordinance Section 74-77 through April 1, 2006, in consideration of the following promises and covenants from the property owner:

- 1) Owners agree to bring their admitted above-referenced violation of Wheaton City Ordinance Section 74-77 into compliance with all applicable Wheaton Codes and Ordinances, at their cost, on or before April 1, 2006
- 2) Owners agree that if an emergency arises the City of Wheaton may require immediate correction of the Owners' above-referenced violation of City of Wheaton Ordinance Section 74-77.
- 3) Owners agree that should they attempt to sell or market for sale their Property before the Property is brought into compliance with Wheaton City Ordinance Section 74-77, they will provide the City of Wheaton with written notice of such acts within 5 days.
- 4) Owners agree that should they enter into a contract to the sell the Property they will bring the Property into compliance with Wheaton Ordinance Section 74-77 prior to closing.
- 5) Owners agree that if they fail to bring the Property into compliance with Wheaton Ordinance Section 74-77 on or before April 1, 2006, they will be liable for all reasonable attorneys fees and costs to enforce this agreement and to bring said Property into compliance with Wheaton City Ordinance Section 74-77.
- 6) Owners agree that should they sell their Property without bringing it into compliance with Wheaton City Ordinance Section 74-77 they shall remain jointly, severally, and personally liable for all of the costs of repairs and for all reasonable attorneys fees and costs required to bring the Property into compliance with City of Wheaton Ordinance Section 74-77. Nothing in this provision or any portion of this agreement is intended to create any third party beneficiaries.



The City of Wheaton and the Owners agree and represent that this Ordinance Enforcement Deferral Agreement contains the entire agreement between the parties hereto, and that the terms of this Ordinance Enforcement Deferral Agreement are contractual in nature, and not a mere recital. This agreement does not constitute any waiver of the City of Wheaton's Police Powers.

The undersigned hereby acknowledge that they have read the foregoing Ordinance Enforcement Deferral Agreement, know the contents thereof, agree to all of its terms and are executing that same as their own free and voluntarily act.

<u>David Orme</u>	<u>6/30/2004</u>	<u>        </u>
David Orme	Date	Witness

<u>Marianne Orme</u>	<u>6/30/04</u>	<u>        </u>
Marianne Orme	Date	Witness

<u>Donald Rose</u>	<u>7.30.04</u>
City of Wheaton Representative Donald Rose	Date

