

PROPOSED REVISED SEWER ORDINANCE SECTIONS

Clean Draft

13.08.070 Connection with public sewer required.

A. General requirements.

1. The owner of each lot that generates sewage or industrial waste within the City shall provide lawful wastewater disposal at the owner's expense and shall comply with Table 13.08.070-1.
2. Connection to, or extension of, the public sewer system is required only as provided in Table 13.08.070-1, subsection C of this section, or another express provision of this chapter.
3. An existing OSS that was lawfully approved and remains operational and functioning as designed may continue to serve the existing development notwithstanding that public sewer is available to the lot, unless:
 - a. The development or OSS is altered in a manner that triggers connection under Table 13.08.070-1;
 - b. The OSS fails as provided in subsection C of this section;
 - c. Connection is required by an order of the local health officer or other agency with jurisdiction; or
 - d. Connection is otherwise expressly required by this chapter.
4. The Director may require the lot owner to provide inspection reports, permits, maintenance records, or other information reasonably necessary to establish that an existing OSS was lawfully approved and remains operational and functioning as designed.

Table 13.08.070-1: Sewage and Wastewater Disposal Requirements

Development or activity	Public sewer available	Public sewer not available
New Development		
Commercial or industrial development	Connect to public sewer.	Extend and connect to public sewer unless the City authorizes an OSS or other lawful wastewater-disposal alternative and the system is approved and permitted by the local health officer.
Multifamily development	Connect to public sewer.	Extend and connect to public sewer unless the City authorizes an OSS or other lawful wastewater-disposal alternative and the system is approved and permitted by the local health officer.
Subdivision or other land division resulting in five or more lots	Install or extend the public sewer improvements necessary to serve each lot. Each sewage-generating development shall connect as development occurs.	Extend public sewer and install the improvements necessary to serve each lot unless the City authorizes OSS facilities or another lawful wastewater-disposal alternative and each system is approved and permitted by the local health officer.
Short subdivision or other land division resulting in four or fewer lots	Install the public sewer improvements necessary to serve each lot. Each sewage-generating development shall connect as development occurs.	Install an OSS or other lawful wastewater-disposal system for each lot, as approved and permitted by the local health officer.
Single-family or two-family development	Connect to public sewer.	Install an OSS or other lawful wastewater-disposal system approved and permitted by the local health officer.
Existing Development		
Continued use, routine maintenance, or alteration that does not require replacement, expansion, extension, resizing, or relocation of the existing OSS	Continued use of the existing approved and functioning OSS is permitted, subject to subsection A of this section.	Continued use of the existing approved and functioning OSS is permitted, subject to applicable health requirements.
Alteration that requires expansion, extension, resizing, or relocation of the existing OSS	Connect to public sewer.	Alter or replace the OSS only as approved and permitted by the local health officer.
Failed OSS as determined by the health official requiring repair or replacement	Connect to public sewer, subject to subsection C of this section and the appeal rights in SMC 13.08.078.	Repair or replace the OSS as approved and permitted by the local health officer.

Table notes:

1. Nothing in this table authorizes the installation, repair, replacement, expansion, extension, relocation, or continued use of an OSS without all approvals and permits required by the local health officer or another agency with jurisdiction.
2. For a short subdivision or subdivision approved after the effective date of this ordinance, the City may require the applicant to demonstrate how public sewer service can be provided to each lot, including the proposed location of future sewer mains, service laterals, easements, and connection points.
3. When public sewer becomes available to one lot within a land division approved after the effective date of this ordinance, public sewer shall be deemed available to another lot within the land division only when an approved plat, utility plan, easement, or required improvement provides a practicable means of serving that lot.
4. Any requirement to extend or install public sewer as a condition of development or land-division approval shall be based on applicable City standards, adopted utility plans, public health and safety considerations, and the extent to which the improvement is reasonably necessary as a result of the proposed development or land division.

B. Voluntary extension.

When public sewer is not available and this chapter does not require an extension, a lot owner may, at the owner's expense and subject to City approval, extend and connect to the public sewer system.

C. Failed OSS—Mandatory connection to available public sewer.

1. If the local health officer determines that an OSS has failed, is no longer operational, has been decommissioned or red-tagged, or requires replacement, the lot owner shall connect the lot and all structures requiring sanitary sewer service to the public sewer system when public sewer is available to the lot.
2. Except as provided through the appeal process in SMC 13.08.078, connection to available public sewer is required in lieu of replacing, expanding, extending, resizing, relocating, or otherwise continuing use of the failed OSS.
3. Temporary emergency measures may be used only when expressly authorized by the local health officer to abate an immediate public health or safety condition pending repair, replacement, or connection.
4. Upon connection, the owner shall abandon or decommission the OSS in accordance with applicable state and local health requirements.
5. Failure to connect as required by this subsection constitutes a violation of this chapter and is subject to SMC 13.08.076.

D. Notice and appeal.

A requirement imposed on existing development under this section is subject to notice under SMC 13.08.072 and appeal under SMC 13.08.078. A requirement imposed as part of a project permit or land-division decision shall be appealed through the administrative appeal procedure applicable to that decision.

13.08.072 Public sewer availability—Notice, response, and connection.

A. Notice required.

When the Director determines that an existing development must connect to public sewer under SMC 13.08.070, the Director shall serve the lot owner with a written notice complying with this section and SMC 13.08.075.

A project permit or land-division decision that expressly imposes a sewer connection or extension requirement satisfies this subsection for new development.

B. Contents of notice.

The notice shall:

1. Identify the lot and the applicable development or use;
2. State the factual and legal basis for requiring connection;
3. State whether public sewer is available to the lot;
4. State the deadline for responding and the deadline for completing the connection;
5. Describe any available exception, incentive, or potential relief;
6. State the consequences of failing to connect, including any penalty, lien, permit restriction, or other enforcement action; and
7. Explain the right to appeal under SMC 13.08.078 and the deadline and filing requirements for the appeal.

C. Owner response.

Within 90 days after service of the notice, the lot owner shall submit a City form stating that the owner:

1. Intends to complete the required connection within the applicable deadline;
2. Requests the connection incentive under SMC 13.08.074; or
3. Appeals the connection requirement under SMC 13.08.078.

An owner may select more than one applicable response.

D. Connection deadline.

1. For new development, required sewer improvements and connections shall be completed before final approval, occupancy, or commencement of the sewage-generating use, as applicable.
2. For existing development, connection shall be completed within 365 days after service of the notice unless:
 - a. A shorter period is required by an order of the local health officer or another agency with jurisdiction;
 - b. The City Council establishes a different deadline in a decision under SMC 13.08.078; or
 - c. A written agreement approved by the City establishes a phased connection schedule.
3. A timely appeal tolls the City connection deadline and any City incentive deadline until the Council issues its final written decision. An appeal does not stay an independent health order or authorize continued use of an OSS contrary to applicable health requirements.

E. Connection work.

A required connection shall be made by gravity or approved pumping facilities, in accordance with this chapter and the Stevenson Engineering Standards. All connection, extension, pumping,

permitting, and OSS-decommissioning costs shall be borne by the lot owner unless the City expressly agrees otherwise in writing.

13.08.074 Public sewer available—Connection incentive.

A. Incentive established.

A wastewater system development charge incentive is established for existing development that is required to connect to available public sewer under SMC 13.08.070.

The incentive is intended to encourage timely connection, reduce risks associated with continued OSS use, reduce administrative burdens, and lessen the immediate financial impact of connection.

B. Eligibility.

The City shall waive the wastewater system development charge applicable to an existing development when the lot owner:

1. Timely requests the incentive in the response required by SMC 13.08.072(C); and
2. Completes the required connection within 365 days after service of the connection notice or within another deadline established in a final decision under SMC 13.08.078.

C. Application.

The incentive applies both to:

1. Existing lots to which public sewer is available on the effective date of this ordinance; and
2. Existing lots to which public sewer becomes available after the effective date of this ordinance.

D. Scope of waiver.

The incentive waives only the wastewater system development charge. Unless separately authorized by the City, the waiver does not include the cost of a building sewer, sewer extension, pumping facility, permit, inspection, right-of-way restoration, easement, or OSS abandonment or decommissioning.

E. Appeal tolling.

A timely appeal under SMC 13.08.078 tolls the incentive period until the Council issues its final written decision. The Council may extend the incentive period as part of the relief granted on appeal.

F. Prospective modification.

The Council may prospectively extend, modify, or terminate the incentive by ordinance or resolution. A modification or termination does not impair an incentive for which a lot owner has already timely qualified unless expressly authorized by law.

13.08.075 General notice and service.

A. Method of service.

Unless another method is expressly required, a notice under this chapter may be served by:

1. Personal delivery;
2. First-class mail;
3. Certified mail; or
4. Another method reasonably calculated to provide actual notice.

B. Effective date of service.

Service is effective:

1. On the date of personal delivery;
2. Three calendar days after deposit in the United States mail, postage prepaid, unless the notice is returned as undeliverable; or
3. On the date established by reliable evidence of delivery when another method is used.

C. Required contents.

Unless a more specific section applies, a notice shall identify the property or use, state the action required, state the deadline for compliance, describe available administrative appeal rights, and provide City contact information.

13.08.076 Failure to connect—Penalty, billing, lien, and collection.

A. Failure to connect to available sewer.

When public sewer is available and a lot owner fails to complete a required connection by the deadline established under SMC 13.08.072 or by a final decision under SMC 13.08.078, the City may impose a failure-to-connect penalty as authorized by RCW 35.67.190.

B. Penalty amount.

The amount of the penalty shall be established by Council ordinance or resolution and shall not exceed the charge that would apply if the lot were connected to and receiving sewer service.

C. Commencement of penalty.

The penalty begins with the first full billing cycle after:

1. The applicable connection deadline has expired; and
2. Any timely administrative appeal has been finally decided or withdrawn.

No failure-to-connect penalty shall be imposed merely because the 90-day response period has expired when the applicable connection deadline has not yet expired.

D. Effect of appeal.

The City shall not impose a failure-to-connect penalty or record a lien securing that penalty while a timely appeal under SMC 13.08.078 is pending. This subsection does not prevent collection or enforcement of other sewer charges that are independently due.

E. Billing, interest, and lien.

Failure-to-connect penalties, delinquent sewer charges, connection charges, and other amounts authorized by this chapter may be billed, collected, and secured by lien as authorized by RCW 35.67.200 through 35.67.290.

Delinquent amounts may accrue interest at the rate established by ordinance or resolution, not exceeding the maximum rate authorized by state law.

F. Required extension for new development.

When public sewer is not available and new development is required to extend public sewer under Table 13.08.070-1, the City may withhold project approval, construction permits, final plat approval, certificates of occupancy, or other development authorization until the required sewer improvements are completed or secured to the City's satisfaction.

G. Other remedies.

Nothing in this section limits the City's authority to enforce this chapter, collect lawful rates, charges, penalties, and interest, or pursue any other remedy authorized by law.

13.08.078 Administrative appeal of sewer connection requirement.

A. Applicability.

1. Except as provided in subsection A.2, a lot owner may appeal:
 - a. A notice requiring connection to available public sewer;
 - b. A requirement to extend or install public sewer;
 - c. A denial of eligibility for a connection incentive;
 - d. A proposed failure-to-connect penalty; or
 - e. Another City determination under SMC 13.08.070 through 13.08.076 that applies a sewer connection requirement to a specific lot.
2. When a sewer connection or extension requirement is imposed as part of a project permit, subdivision, short subdivision, binding site plan, or other land-use decision for which another administrative appeal procedure is provided, the requirement shall be appealed through the procedure applicable to that decision. A lot owner is not entitled to two separate administrative appeals of the same requirement.

B. Filing deadline and contents.

1. An appeal under this section must be filed with the Director within 90 days after service of the notice or determination being appealed.
2. The appeal shall be in writing and shall include:
 - a. The appellant's name and contact information;
 - b. The street address and parcel number of the affected lot;
 - c. Identification of the notice or determination being appealed;
 - d. Each factual and legal basis for the appeal;
 - e. The specific relief requested; and
 - f. Any documents or other evidence on which the appellant relies.
3. The Director may request additional information reasonably necessary to determine whether the appeal is complete. The hearing period in subsection D begins when the appeal is complete.

C. Effect of timely appeal.

1. Except when immediate action is required to protect public health, safety, water quality, or to comply with an order of the local health officer, the City shall not impose a failure-to-connect penalty while a timely appeal is pending.
2. A timely appeal tolls the applicable City response, connection, and incentive periods until the Council issues its final written decision.
3. An appeal does not:
 - a. Stay or modify an independent county, state, or local health requirement;
 - b. Authorize use of a failed OSS contrary to an order of the local health officer;
 - c. Authorize construction or occupancy contrary to a project permit or development approval; or
 - d. Stay an emergency action necessary to abate an immediate threat to public health or safety.

D. Council hearing and decision.

1. The City Council shall hear a complete appeal not less than 10 days and not more than 45 days after the appeal is determined complete, unless the appellant agrees to a later hearing date.
2. The City shall provide the appellant at least seven days' written notice of the hearing.
3. The appellant and City staff may submit documents, testimony, and argument relevant to the appeal.
4. The Council shall issue a written decision containing findings, conclusions, and any conditions of relief.

E. General relief available.

Subject to subsections G and J, the Council may:

1. Affirm, reverse, or modify the City determination;
2. Extend the time for connection;
3. Approve a phased connection schedule;
4. Modify or reduce a City failure-to-connect penalty;
5. Extend the period for a City connection incentive;
6. Grant relief from a requirement to extend public sewer when the extension is not reasonably necessary to serve the proposed development or protect the City's sewer-planning and utility interests;
7. Approve an alternative sewer-extension, latecomer, utility local improvement district, no-protest, covenant, or cost-sharing agreement; or
8. Impose reasonable conditions necessary to protect public health, water quality, the public sewer system, or the City's utility-planning interests.

F. General review criteria.

In deciding an appeal, the Council may consider:

1. Whether public sewer is available to the lot as defined by this chapter;
2. Whether the existing or proposed development triggers connection under Table 13.08.070-1;
3. Whether the OSS has failed or remains lawfully approved, properly sized, operational, and functioning as designed;
4. Whether connection is necessary to protect public health, groundwater, surface water, potable water supplies, shorelines, or watercourses;
5. Whether the length of the required extension, topography, pumping requirements, easements, or other site-specific conditions create an extraordinary connection burden;
6. Whether connection creates a financial hardship. For a general appeal not governed by subsection G, financial hardship may include an unrecoverable connection cost equal to or exceeding five percent of the county-assessed market value of the building and building site;
7. Whether the lot owner has requested and been denied a latecomer reimbursement agreement when an extension is required;
8. Whether the lot owner is willing to enter into a sewer-extension agreement, latecomer agreement, utility local improvement district no-protest agreement, covenant, or other agreement to pay a proportionate share of future sewer improvements;
9. Whether the lot is owner-occupied or used for nonprofit purposes;

10. Whether the existing or proposed use or density is consistent with adopted City plans, zoning, and utility planning; and
11. Whether there is evidence of sewage surfacing, nuisance conditions, water-quality degradation, or risk to a potable water well, groundwater, shoreline, or watercourse.

G. Qualifying single-family failing-OSS appeal.

1. This subsection applies when:
 - a. The owner of a single-family residence applies to repair or replace an existing failing OSS;
 - b. The permit application is denied solely because a law, regulation, or ordinance requires connection to public sewer; and
 - c. The application would otherwise be approved in the absence of the public-sewer connection requirement.
2. In an appeal governed by this subsection, the Council shall consider:
 - a. Whether requiring public-sewer connection is cost-prohibitive, including a comparison of the estimated cost to repair or replace the OSS with the estimated cost to connect to public sewer;
 - b. Public health and environmental considerations, including whether the repaired or replaced OSS would contribute to pollution of surface water or groundwater;
 - c. Public-sewer system performance and financing considerations; and
 - d. Available City or state financial-assistance programs and latecomer agreements.
3. After considering the required factors, the Council may:
 - a. Uphold the connection requirement;
 - b. Modify the timing or conditions of connection; or
 - c. Grant City-side relief from the connection requirement so that the permitting authority may consider the proposed repair or replacement.
4. Nothing in this subsection authorizes the Council to issue an OSS permit or to authorize repair or replacement without the approval of the local health officer or other permitting authority.
5. When connection is required, the owner may select and hire qualified contractors at the owner's expense, subject to all applicable permits and City construction standards.

H. Conditions and recording.

When relief is conditioned on an agreement, covenant, no-protest agreement, latecomer agreement, sewer-extension agreement, or other obligation affecting the lot, the owner shall execute and record the document with the Skamania County Auditor at the owner's expense and in a form approved by the City.

I. Final decision and judicial review.

1. The Council's written decision is the City's final administrative decision.
2. A decision under subsection G requiring the owner of a qualifying single-family residence to connect to public sewer is not subject to further appeal except as otherwise required by law.
3. Judicial review of any other Council decision that constitutes a "land use decision" under RCW 36.70C.020 shall be commenced under the Land Use Petition Act, Chapter 36.70C RCW, including the 21-day filing and service requirements of RCW 36.70C.040.

4. Judicial review of a decision that is not governed by the Land Use Petition Act shall be conducted only as authorized by applicable law.

J. No waiver of health requirements.

Nothing in this section authorizes the City, Director, or Council to waive, reverse, stay, or modify an independent requirement or order imposed by the local health officer, Skamania County, the Washington State Department of Health, or another agency with jurisdiction. City relief is limited to City connection timing, penalties, incentives, fees, extension requirements, and utility agreements, except for the administrative consideration expressly required by subsection G.