

Ordinance No.

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO WASTEWATER; AMENDING SECTIONS 13.08.000, 13.08.010, 13.08.020, 13.08.050, 13.08.180, 13.08.190, 13.08.230 AND 18.75.020 OF THE OLYMPIA MUNICIPAL CODE; REPEALING SECTION 13.08.120, OF THE OLYMPIA MUNICIPAL CODE; AND ADDING A NEW SECTION 13.08.090 TO CHAPTER 13.08, ARTICLE I OF THE OLYMPIA MUNICIPAL CODE

WHEREAS, approximately 4,200 septic systems, also known as onsite sewage systems or OSS (the Systems), are located within the City of Olympia and its Urban Growth Area; and

WHEREAS, the Systems may pose a long-term public and environmental health risk as Olympia continues to grow; and

WHEREAS, the *2007 Wastewater Management Plan* (the 2007 Plan) and subsequent regulatory changes placed appreciable constraints on repairing existing and installing new septic systems; and

WHEREAS, after a review of the policies and regulations enacted after the 2007 Plan, staff has determined that such policies and regulations may be restricting development unnecessarily; and

WHEREAS, information compiled by the Thurston County Health Department in 2013 reveals that surface and ground water contamination due to septic systems in Olympia is likely to be limited to specific locations, rather than widespread; and

WHEREAS, the *2013 Wastewater Management Plan* (the 2013 Plan) anticipated limited modifications of current regulations to allow limited development with septic systems, while still ensuring that public and environmental health is maintained at an acceptable level; and

WHEREAS, based on the new information from Thurston County along with the 2013 Plan objectives, proposed regulation changes were presented to the Utility Advisory Committee (UAC) in April 2014 and the Land Use and Environment Committee (LUEC) in June 2014; and

WHEREAS, both the UAC and the LUEC recommended that the proposed regulation changes be forwarded to the City Council for consideration; and

WHEREAS, changing the City's regulations to allow more new septic systems will necessitate clear criteria that can be readily implemented; and

WHEREAS, the City Council determines it to be in the best interest of the City of Olympia to amend the current wastewater regulations regarding septic systems;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 13.08.000. Olympia Municipal Code Section 13.08.000 is hereby amended to read as follows:

Chapter 13.08 SEWERS

13.08.000 Chapter Contents

Sections:

ARTICLE I. SEWER CONNECTIONS

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13.08.200 Payment of sewer bills.

13.08.205 Sewer general facility charges.

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ARTICLE III. AREA SERVICE CHARGE

13.08.290 Charges become lien on property.

Section 2. Amendment of OMC 13.08.010. Olympia Municipal Code Section 13.08.010 is hereby amended to read as follows:

13.08.010 Definitions

For the purpose of this Article:

A. "Building sewer" shall mean the same as "side sewer."

AB. "City Engineer" shall mean the City Engineer of the City of Olympia, or his/her designee, who has the duty and authority to enforce the codes and standards adopted by the City Council, as they relate to the development and operation of the City's infrastructure by private development, including other governmental agencies, and City projects.

BC. "Domestic user" shall mean any person who contributes, causes, or allows the contribution of wastewater into the POTW that is of a similar volume and/or chemical make-up as that of a residential dwelling unit. Discharges from a residential dwelling unit include ~~up to 900 cu.ft. of flow,~~ flows with up to 300 mg/l of Biological Oxygen Demand and 300 mg/l of Total Suspended Solids ~~per month.~~

D. "Downtown Deferred General Facility Charge Payment Option Area" shall mean all properties located within the area bounded by: Budd Inlet to the north; Budd Inlet and Capitol Lake on the west; Sid Snyder Avenue extending between Capitol Lake and Capitol Way, and 14th Avenue extending to Interstate 5 on the south; Interstate 5 on the southeast; Eastside Street on the east, and Olympia Avenue extending to Budd Inlet on the north.

E. "Gravity sewer system" shall mean that portion of the public sewer in which wastewater flows through pipes by means of gravity and the sewer lift stations and force mains that connect the gravity pipes in the system. S.T.E.P. and grinder pump systems, and associated low pressure mains, are not part of the gravity sewer system.

F. "Grinder pump system" shall mean a facility consisting of a holding tank, grinder pump, and pressure piping system for conveying wastewater liquid and solids into the sewer system.

GG. "Industrial user" shall mean any Person with a source of discharge which does not qualify that person as a Domestic User who discharges an effluent into the POTW by means of pipes, conduits, pumping stations, force mains, tank trucks, constructed drainage ditches, intercepting ditches, and any constructed devices and appliances appurtenant thereto.

H. "Onsite sewage system" shall mean a wastewater system consisting of a tank for settling and digesting wastewater solids that disposes of effluent on the same property that produces the wastewater. This type of system is commonly called a septic system.

~~D.I.~~ "Person" shall mean natural persons of either sex, associations, copartnerships and corporations, whether acting by themselves or by a servant, agent, or employee. The singular number includes the plural, and the masculine pronoun includes the feminine.

~~E.J.~~ "Premises" shall mean a continuous tract of land, building or group of adjacent buildings under a single control with respect to connection to City sewer and responsibility for payment of fees and rates thereof. Subdivisions of such use or responsibility shall constitute a division into separate premises as defined in this section.

~~F.K.~~ "Publicly Owned Treatment Works or POTW" shall mean a treatment works, as defined by Section 212 of the Federal Water Pollution Control Act, also known as the Clean Water Act (33 U.S.C. Section 1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, including sanitary sewer and storm sewer collection systems, which convey wastewater to a treatment plant.

~~G.L.~~ "Public combined sewer" shall mean that portion of the public sewer system (excluding side sewers) intended to collect both sanitary sewage and stormwater in a single sewer system and located within public rights-of-way or easements and operated and maintained by the City.

~~H.M.~~ "Public sewer" shall mean that portion of the ~~sanitary sewer-wastewater~~ system (excluding side sewers) located within public rights-of-way or easements and operated and maintained by the City.

N. "Septic tank effluent pumping or S.T.E.P. system" shall mean a facility consisting of a tank or tanks for settling and digesting wastewater solids and a pressure piping system for conveying the supernatant liquid into the sewer system. Most of the wastewater solids remain in the S.T.E.P. tank and are removed periodically.

~~I.O.~~ "Side sewer" shall mean that portion of the sewer beginning ~~2-feet~~ outside the outer foundation wall of the ~~a structure, and extending~~ to and including the connection to the ~~public sewer main, STEP tank or grinder system service connection~~. Also referred to as a building sewer or a service lateral.

Section 3. Amendment of OMC 13.08.020. Olympia Municipal Code Section 13.08.020 is hereby amended to read as follows:

13.08.020 Connection required when

1. The owner or occupant of any lands, buildings or premises to which a public sewer is currently or becomes adjacent and available, shall not be required to connect the lands, buildings or premises to the public sewer so long as the property is served by an existing lawfully functioning individual onsite sewage system. In the event any lands, buildings, or premises are served by an individual onsite sewage system which fails to function and cannot be remedied through minor repairs, and there is a public sewer adjacent and available within 300 two hundred (200) feet of the property by way of a public right of way or easement, the owner or occupant shall be required to connect the property to the public sewer. All premises within two hundred (200) feet of a public

sewer main shall be deemed to be within the area served by such public sewer. The distance to the public sewer shall be measured from the nearest adequate public sewer, by way of a public right-of-way or easement, to the nearest edge of the property.

In the event lands, buildings, and premises are served by an individual onsite sewage system which fails to function and there is no public sewer ~~adjacent and available~~ within two (200) hundred feet and a replacement individual system cannot be lawfully approved to serve the property, it must nevertheless be connected to the public sewer or the premises shall cease to be occupied. A user can avoid the requirement to connect by discontinuing the generation or discharge of any waste from the site and abandoning the onsite sewage system. The abandonment of the onsite sewage system shall be in accordance with Thurston County Environmental Health regulations.

2. Pursuant to RCW 35.21.940, upon the failure of an on-site septic system for which the City requires a connection to a public sewer system, the owner of such system may appeal the City's recommendation for denial of the permit to repair or replace existing, failing on-site septic systems that:

(a) Were made for a single-family residence by its owner or owners;

(b) Were denied solely because of a law, regulation, or ordinance requiring connection to a public sewer system; and

(c) Absent the applicable law, regulation, or ordinance requiring connection to a public sewer system upon which the denial was based, would be approved.

3. Any such appeal of the City's recommendation in circumstances set forth in subsection 2 shall be to the City's hearing examiner as provided in OMC 18.75.020, who will consider, at a minimum whether:

(a) It is cost-prohibitive to require the property owner to connect to the public sewer system. In complying with this subsection 3(a) the city must consider the estimated cost to repair or replace the on-site septic system compared to the estimated cost to connect to the public sewer system;

(b) There are public health or environmental considerations related to allowing the property owner to repair or replace the on-site septic system. In complying with this subsection (3)(b), the city must consider whether the repaired or replaced on-site septic system contributes to the pollution of surface waters or groundwater;

(c) There are public sewer system performance or financing considerations related to allowing the property owner to repair or replace the on-site septic system; and

(d) There are financial assistance programs or latecomer agreements offered by the city or state that may impact a decision of the property owner to repair or replace the on-site septic system.

A copy of the City hearing examiner's decision shall be provided to the appropriate official at Thurston County for consideration in the County's decision to approve or deny the permit or in consideration of an appeal. Appeal of the final permit decision made by Thurston County shall be made through the appropriate Thurston County appeal process.

4. Within the area to be served by the public sewer of the City as it now exists and as it may be improved and extended in the future, the owner of each lot or parcel of real property, upon which is a building or structure for human occupation or use for any purpose shall, within thirty days of notification by the City for connections to be made therewith, cause a connection to be made between the sewage system and each such building or structure within such lot or parcel.

5. If any connection to the public sewer is not made within the time provided in this Section, the City Engineer or such other employee of the City as the City Council may hereafter designate is authorized and directed to cause such connection to be made and to file a statement of the cost with the City Treasurer, and a check shall be issued under the direction of the City Council by the City Treasurer, and drawn on the sewer fund of the City for the payment of such cost. Such amount, together with a penalty of ten percent (10%), plus interest at the rate of six percent (6%) per year upon the total amount of such cost and penalty, shall be assessed against the property upon which the building or structure is situated, and shall become a lien thereon as provided in this chapter. Such total amount, when collected, shall be paid into the sewer fund.

Section 4. Amendment of OMC 13.08.050. Olympia Municipal Code Section 13.08.050 is hereby amended to read as follows:

13.08.050 Adoption of Wastewater Management Plan

~~There is hereby adopted by reference as Exhibit "A" the "City of Olympia Wastewater Management Plan, with 2007 amendments," a copy of which shall be kept on file in the offices of the City Clerk and the Public Works Department. This plan shall be considered a part of this ordinance as though fully set forth herein. Specific substantive requirements of the plan include:~~

~~A. New onsite sewage systems shall be permitted within the city limits only to serve a single family residence, provided:~~

- ~~1. The property being served is an undeveloped lot of record larger than one (1) acre located more than 300 feet from the sewer and the lot existed prior to November 21, 2006;~~
- ~~2. The lot size determination shall include only those portions of a lot unencumbered by flood hazards, wetlands and/or landslide hazards as defined in OMC 18.32;~~
- ~~3. Permitted onsite sewage systems shall be considered interim facilities and must be designed for conversion to the public sewer when sewer becomes available;~~

4. Development of properties with onsite sewage systems shall be in accordance with the Residential Districts' Development Standards for Developments without Public Sewer on Individual Lots, in OMC Section 18.04.080(E)(2).

B. All properties being served by onsite sewage systems and located within the urban growth boundary including those within the city limits shall enter into an appropriate agreement with the City agreeing to connect the residence directly to the public sewer in accordance with the provisions herein, within one (1) year after date of official notice to connect, provided that the sewer is within 300 feet of the property. A user can avoid incurring the charges provided herein by discontinuing the generation or discharge of any waste from the site and capping the wastewater connection. The capping of the wastewater connection must pass City inspection. In addition, the following shall apply to these new onsite sewage systems:

1. Application fees as established by the City Council shall be paid upon the submittal of a signed Onsite Sewage System Agreement requesting use of an onsite sewage system;
2. The cost of the sewer extension shall be borne in whole by the applicant for sewer services, subject to any provisions in effect at the time of connection for latecomer reimbursement;
3. The agreement shall not be executed prior to the time formal application is made for approval of the project for which onsite sewage system is requested. Said agreement shall terminate at the time any project application or approval expires or is revoked for any reason. A new agreement shall also be required for any extension of project applications or approvals, or when in the opinion of the Director of Community Planning and Development a substantial change or addition is made to the project; and
4. Following execution, the agreement shall be recorded by the City in the records of the Thurston County Auditor, at the cost of the applicant.

C. New septic tank effluent pump (S.T.E.P.) systems shall be permitted provided:

1. The property being served is a lot of record existing prior to February 15, 2005 abutting on any street, alley, right-of-way or easement in which there is now located a S.T.E.P. force main; or
2. The property is located within a subdivision vested as of July 2005 in accordance with Section 18.72.060, Determination of Complete Application.

D. New grinder pump systems shall be permitted only to serve properties provided:

1. The property being served is:
 - a. Contiguous to a gravity sewer, but terrain, natural features or other physical barriers prohibit a gravity connection;

b. The property being served is converting from an onsite sewage system to the sewer; or

c. The property being served is undeveloped and terrain, natural features or other physical barriers will prevent the orderly extension of the public sewer including the use of sewage pump stations.

2. All grinder pump sewer systems including the grinder pumps and side sewer shall be purchased, owned, and operated by the property owner.

3. Publicly owned grinder pump force mains shall be permitted only when it is in the City's best interest as determined by the City Engineer and only if the force main will be serving:

a. Existing residential properties where onsite sewage systems have failed or have been determined to be an impending health hazard by the Thurston County Health Department; or

b. Infill development in terrain isolated areas.

The Director of Public Works, or his/her designee, is authorized and directed to prepare a wastewater management plan for the City wastewater conveyance system, in accordance with RCW 90.48.110. The Director of Public Works will also determine the standards for development and improvement of the wastewater system to provide safe and adequate conveyance of sewage to the POTW. A copy of the wastewater management plan shall be kept on file in the offices of the City Clerk and the Public Works Department.

Section 5. NEW SECTION OMC 13.08.090. A NEW SECTION 13.08.090 is hereby added to Chapter 13.08.090 of the Olympia Municipal Code as follows:

13.08.090 Sewer connection type.

The City of Olympia permits only gravity sewer systems, with lift stations when needed, except as follows:

A. New onsite sewage systems shall be permitted within the city limits only to serve a single-family residence or a single-family residence with an accessory dwelling unit, provided:

1. The property being served is an undeveloped lot of record located more than two hundred (200) feet from an available sewer, as determined by the Public Works Director or his/her designee, and the lot is either larger than one (1) acre or is granted an exception to the lot size requirement under Section 5 below; and

2. Permitted onsite sewage systems shall be considered interim facilities and must be designed and constructed to facilitate conversion to the public sewer when sewer becomes available; and

3. Onsite sewage systems for new development within the shoreline jurisdiction, as defined in the Shoreline Master Program, are prohibited, regardless of lot size; and

4. The lot size determination shall include only those portions of a lot unencumbered by streams and important riparian areas, wetlands and small lakes, landslide hazard areas, and their associated buffers as defined in OMC 18.32.

5. Exceptions to the one acre minimum lot size will be considered by the Public Works Director or his/her designee when application is made in writing to the Public Works Director. Application shall be made on forms provided by the City. New onsite sewage systems for undeveloped lots of record smaller than one (1) acre will be evaluated using the following criteria:

a. New onsite sewage systems shall not be permitted on lots located within an area at high risk for onsite septic systems, nor within a marine recovery area, nor within a shellfish protection area, as determined by input from Thurston County Environmental Health; and

b. New onsite sewage systems shall only be permitted on lots served by public water service; and

c. New onsite sewage systems shall not be permitted within two hundred (200) feet of an available sewer as defined in OMC 13.08.020; and

d. New onsite sewage systems shall not be permitted on lots smaller than 12,500 square feet.

6. Each property owner constructing a new residence with a new onsite sewage system located within the Urban Growth Boundary, including those within the city limits, shall enter into an Agreement for Interim Onsite Sewage System with the City, agreeing to connect the residence directly to the public sewer in accordance with the provisions herein within one (1) year after the date of official notice to connect; provided, that an available sewer is within two hundred (200) feet of the property. In addition, the following shall apply to new onsite sewage systems:

a. Recording fees shall be paid upon the submittal of a signed Agreement for Interim Onsite Sewage System; and

b. Following execution, the agreement shall be recorded by the City in the records of the Thurston County Auditor; and

c. Said agreement shall terminate if at any time any project application or approval expires or is revoked for any reason; and

d. Any cost of sewer extension required at the time of connection shall be borne in whole by the property owner.

B. New septic tank effluent pump (S.T.E.P.) systems shall be permitted provided:

1. The property being served is a lot of record existing prior to February 15, 2005, abutting on any street, alley, right-of-way or easement in which there is now located a S.T.E.P. force main; or

2. The property is located within a subdivision vested as of July 2005, in accordance with OMC Section 18.72.060, Determination of Complete Application.

C. Grinder pump sewer systems shall not be installed and used in lieu of the orderly extension of gravity sewers. Grinder pump installation and use shall be subject to the following requirements and/or limitations:

1. New individual grinder pump system use is limited where:

a. A public gravity sewer is contiguous to the property, but terrain, natural features, or other physical barriers prohibit a gravity connection; or

b. For the conversion of onsite sewage systems to public sewer or for infill development only where it is specifically determined by the City Engineer to be in the best interest of the City of Olympia.

2. Grinder pumps and side sewers which are installed as part of a grinder pump sewer system shall be purchased, owned, maintained and operated by the property owner.

3. Grinder pump force mains receiving effluent from more than one property shall be publicly owned and maintained. Publicly-owned grinder pump force mains shall be permitted only where the City Engineer determines it to be in the best interest of the City and construction of a gravity and lift station sewer system is not feasible, provided that:

a. The proponent of the grinder pump force mains can demonstrate that no other feasible alternative is available; and

b. In such cases, the cost of installation of the public grinder pump force mains shall be borne by the proponent; and

c. The installation is in accordance with the Olympia Engineering Design and Development Standards.

4. Grinder pump side sewers and force mains shall not be permitted to discharge to designated Septic Tank Effluent Pump (S.T.E.P.) force mains unless it is determined by the City Engineer or his/her designee to be in the best interest of the City.

Section 6. Repeal of OMC 13.08.120. Olympia Municipal Code 13.08.120 is hereby repealed:

~~13.08.120 Public notice that connection required—Construction and use—City action upon nonconnection~~

~~A.—All premises within 300 feet of a public sewer line by way of a public right-of-way or easement, shall be deemed to be within the area served by such public sewer.~~

~~B.—Within the area to be served by the public sewer of the City as it now exists and as it may be improved and extended in the future, the owner of each lot or parcel of real property, upon which is a building or structure for human occupation or use for any purpose shall, within thirty days of notification by the City for connections to be made therewith, cause a connection to be made between the sewage system and each such building or structure within such lot or parcel.~~

~~C.—Repealed by Ord. 6774.~~

~~D.—If any connection to the public sewer is not made within the time provided in this Section, the City Engineer or such other employee of the City as the City Council may hereafter designate is authorized and directed to cause such connection to be made and to file a statement of the cost with the City Treasurer, and a check shall be issued under the direction of the City Council by the City Treasurer, and drawn on the sewer fund of the City for the payment of such cost. Such amount, together with a penalty of ten percent (10%), plus interest at the rate of six percent (6%) per year upon the total amount of such cost and penalty, shall be assessed against the property upon which the building or structure is situated, and shall become a lien thereon as provided in this chapter. Such total amount, when collected, shall be paid into the sewer fund.~~

Section 7. Amendment of OMC 13.08.180. Olympia Municipal Code Section 13.08.180 is hereby amended to read as follows:

13.08.180 Sewer service outside city limits

A. Property lying within the urban growth boundary and contiguous to the Olympia city limits shall annex to the City as a condition of sewer connection. ~~In the alternative,~~ Alternatively, the City may elect to defer annexation and require execution of an agreement described in subsection B of this section.

B. Property lying within the urban growth area which is not annexed as a condition of sewer service shall be permitted sewer connection only upon entering into an ~~appropriate a~~ Agreement to Annex with the City containing a waiver of protest to annexation and/or power of attorney authorizing annexation at such time as the City determines the property should be annexed to the City. ~~In addition, the following shall apply:~~

~~1. Application fees as established by the City Council shall be paid upon the submittal of a signed Utility Extension Agreement requesting sewer service for property outside the City;~~

~~2. The cost of the sewer extension shall be borne in whole by the applicant for sewer services, subject to any provisions in effect at the time of connection for latecomer reimbursement;~~

~~3. The agreement shall not be executed prior to the time formal application is made for approval of the project for which utilities are requested. The agreement shall terminate at the time any project application or approval expires or is revoked for any reason. A new agreement shall also be required for any extension of project applications or approvals or when a substantial change or addition is made to the project.~~

C. Following execution, such agreements shall be recorded by the City Clerk in the chain of title for such property in the official records of Thurston County.

Section 8. Amendment of OMC 13.08.190. Olympia Municipal Code 13.08.190 is hereby amended to read as follows:

13.08.190 Sewer rates--Definitions

A. A charge for sanitary sewage disposal shall be levied against all accounts and premises connected to a sewer line ~~main~~ or City-maintained community onsite system at the rate set forth in Title 4, Fees and Fines, of this code.

B. For purposes of subsection A, the term "equivalent residential unit" or "ERU" ~~means~~ shall be as follows:

~~1. One separate single-family residence, one single-family residence with accessory dwelling unit, one mobile home, or one mobile home space in a mobile home or trailer park: one ERU; or~~

~~2. One single-family residence with accessory dwelling unit: one ERU; or~~

~~3. One mobile home, or one mobile home space in a mobile home or trailer park: one ERU; or~~

~~24. With respect to residential duplexes, one per single-family unit Duplex: two ERUs; or~~

~~35. With respect to each rResidential structure having more than two single-family residential living units, the number of units times seven-tenths of an ERU per living unit; or~~

~~46. With respect to uses other than residential, one ERU shall be designated for each nine hundred (900) cubic feet for LOTT joint facilities wastewater service charges and seven hundred (700) cubic feet for public sewer charges per month of water consumed or sewage discharged as measured at the source; provided, that for volumes in excess of nine hundred (900) cubic feet per month and seven hundred (700) cubic feet per month, the service charge per one hundred (100) cubic feet shall be~~

computed at the rate of one-ninth of the LOTT ~~joint facilities wastewater service~~ charge, plus one-seventh of the public sewer charge, ~~plus one-ninth of the LOTT equipment replacement charge~~; and

57. With respect to an account consisting of both residential and nonresidential uses, ~~or combination thereof~~, the residential uses shall be charged as set forth in subdivisions 1, 2, or 3 of this subsection B Nos. 1 through 5 and the nonresidential uses shall be charged an additional one ERU, ~~regardless of the number~~; provided, that if the total monthly volume of the account exceeds the number of ERUs computed pursuant to this subsection times nine hundred (900) cubic feet for LOTT ~~joint facilities wastewater service~~ charges and seven hundred (700) cubic feet for local collection charges, the charge per one hundred (100) cubic feet for the account shall be computed at the rate of one-ninth of the LOTT ~~joint facilities wastewater service~~ charge, plus one-seventh of the public sewer charge, ~~plus one-seventh of the public sewer charge, plus one-ninth of the LOTT equipment replacement charge~~.

Section 9. Amendment of OMC 13.08.230. Olympia Municipal Code 13.08.230 is hereby amended to read as follows:

13.08.230 Shutting off water upon default—~~Reconnection charge~~

In the event that any such bill for sewage disposal service rates and charges or connections is not paid by the date established by the Director of Administrative Services as set forth in Chapter 4.24 of this code, the City shall shut off the water furnished to the premises to which the services were rendered or connection made. The water shall not be turned on again until such bill, together with all penalties and interest due thereon has been paid, ~~plus a charge as set forth in Title 4 of this code for shutting off and turning on the water, has been paid~~; provided, however, that such reconnection charge shall not be assessed if the user has already paid a reconnection charge assessed for the same reconnection pursuant to Section 13.04.430.

Section 10. Amendment of OMC 18.75.020. Olympia Municipal Code Section 18.75.020 is hereby amended to read as follows:

18.75.020 Specific appeal procedures

A. Administrative Decision. Administrative decisions regarding the approval or denial of the following applications or determinations/interpretations may be appealed to the Hearing Examiner within fourteen (14) days, or twenty-one (21) days if issued with a SEPA threshold determination including a comment period, of the final staff decision using procedures outlined below and in OMC Chapter 18.82, Hearing Examiner (Refer to 18.72.080 for other appeal authorities).

1. All Administrative Interpretations/Determinations
2. Boundary Line Adjustments
3. Home Occupation Permits

4. Preliminary Short Plats
5. Preliminary SEPA Threshold Determination (EIS required)
6. Shoreline Exemptions and staff-level substantial development permits
7. Sign Permits
8. Variances, Administrative
9. Building permits
10. Engineering permits
11. Application or interpretations of the Building Code
12. Application or interpretations of the Housing Code
13. Application or interpretations of the Uniform Fire Code
14. Application or interpretations of the Uniform Code for the Abatement of Dangerous Buildings
15. Application and interpretations of the Uniform Code for Building Conservation
16. Land Use (Director) decisions
17. Administrative decisions on impact fees
18. A recommendation to Thurston County to deny a permit to repair or replace existing, failing on-site septic systems that meet the criteria set forth in OMC 13.08.020(2), as required by RCW 35.21.940.

B. SEPA.

1. The City establishes the following administrative appeal procedures under RCW 43.21C.075 external link and WAC 197-11-680 external link:
 - a. Any agency or person may appeal the City's conditioning, lack of conditioning or denial of an action pursuant to WAC Chapter 197-11 external link. All such appeals shall be made to the Hearing Examiner and must be filed within seven (7) days after the

comment period before the threshold decision has expired. This appeal and any other appeal of a land use action shall be considered together.

b. The following threshold decisions or actions are subject to timely appeal.

i. Determination of Significance. Appeal of a determination of significance (DS) or a claim of error for failure to issue a DS may only be appealed to the Hearing Examiner within that fourteen (14) day period immediately following issuance of such initial determination.

ii. Determination of Nonsignificance or Mitigated Determination of Nonsignificance. Conditions of approval and the lack of specific conditions may be appealed to the Hearing Examiner within seven (7) calendar days after the SEPA comment period expires.

iii. Environmental Impact Statement. A challenge to a determination of adequacy of a Final EIS may be heard by the Hearing Examiner in conjunction with any appeal or hearing regarding the associated project permit. Where no hearing is associated with the proposed action, an appeal of the determination of adequacy must be filed within fourteen (14) days after the thirty (30) day comment period has expired.

iv. Denial of a proposal. Any denial of a project or non-project action using SEPA policies and rules may be appealed to the Hearing Examiner within seven (7) days following the final administrative decision.

c. For any appeal under this subsection the City shall keep a record of the appeal proceedings, which shall consist of the following:

i. Findings and conclusions; and

ii. Testimony under oath; and

iii. A taped or written transcript.

d. Any procedural determination by the City's responsible official shall carry substantial weight in any appeal proceeding.

2. The City shall give official notice under WAC 197-11-680 [external link\(5\)](#) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal. See Chapter 18.78, Public Notification.

C. Land Use Approval.

1. The Director's decisions may be appealed to the Hearing Examiner by any aggrieved or affected parties. All appeals shall be filed in writing with the Department within fourteen (14) days of the date of the decision being appealed. Where combined with an environmental threshold determination, such appeal period shall be extended to twenty-one (21) days.

2. The Department shall send written notification of receipt of the appeal to the applicant and to all appropriate city departments prior to the date the Hearing Examiner will consider the matter.

3. Any action taken by the Hearing Examiner which upholds, modifies or reverses a decision by the Director shall be final.

D. Building and Fire Permits Appeals. For building or fire code appeals, the Hearing Examiner is authorized to appoint a master, an individual with appropriate professional experience and technical expertise, to hear such appeals and to prepare findings and conclusions for issuance by the Hearing Examiner.

E. Takings and Substantive Due Process Review and Modifications.

1. The Hearing Examiner is hereby authorized to hear, by way of appeal or upon review of a project permit application, all assertions of project-specific taking of property for public use without just compensation and/or the denial of substantive due process of law, and all challenges to imposition of conditions on a project of a similar nature, whether based on constitutional, statutory or common law. Failure to raise a specific challenge to such condition or exaction shall constitute a waiver of such issue and a failure to exhaust an administrative remedy.

2. In deciding and resolving any such issue, the Examiner may consider all law applicable to the City. Should the Examiner determine that, but for a taking without just compensation or a violation of substantive due process of law, imposition of any such condition would be required by standard, regulation, or ordinance the Examiner shall so state in the decision and so report to the Olympia City Council. In lieu of failing to impose such condition, the Examiner shall first provide the City with due opportunity to provide just compensation. The Examiner shall specify a time period in which the Council shall elect to or not to provide just compensation. Upon notice of the election of the City Council not to provide such compensation, the Examiner is authorized

to and shall, within fourteen (14) days, issue a decision modifying to whatever degree necessary such condition to eliminate the taking or violation of substantive due process.

Section 11. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 12. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 13. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: