

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO
WASTEWATER; AMENDING SECTIONS 13.08.000, 13.08.205 AND 13.08.215
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 the Systems continue to age; and

WHEREAS, information compiled by 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; and

WHEREAS, the City Council adopted ordinance 6647 in July 2009 establishing limited incentives for conversion from OSS to public sewer; and

WHEREAS, the 2013 Wastewater Management Plan (the 2013 Plan) has a stated objective to further encourage OSS conversions through the Septic to Sewer Program ; and

WHEREAS, the proposed regulation changes were presented to the Land Use and Environment Committee (LUEC in June 2014 and September 2016) and Utility Advisory Committee (UAC in October 2016); and

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

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

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

**Chapter 13.08
SEWERS**

13.08.000 Chapter Contents

Sections:

ARTICLE I. SEWER CONNECTIONS

- 13.08.005 Purpose and policy.
- 13.08.010 Definitions.
- 13.08.020 Connection required when.
- 13.08.030 Permit required to open public sewer.
- 13.08.040 Side Sewer Installation and Maintenance.

- 13.08.050 Wastewater Management Plan.
- 13.08.080 Work in streets or public places.
- 13.08.090 Sewer connection type.
- 13.08.150 Tampering with and depositing rubbish in public sewer--Prohibited discharges.
- 13.08.180 Sewer service outside city limits.
- 13.08.185 Sewer service outside city limits--Agreements to run with the land.

ARTICLE II. SEWER RATES

- 13.08.190 Sewer rates--Definitions.
- 13.08.200 Payment of sewer bills.
- 13.08.205 Sewer general facility charges.
- 13.08.210 LOTT capacity development charge--Payment.
- 13.08.215 Septic to Sewer Program and ~~line~~ infrastructure extension charges.
- 13.08.220 Charges become lien on property--Enforcement.
- 13.08.230 Shutting off water upon default.

ARTICLE III. AREA SERVICE CHARGE

- 13.08.290 Charges become lien on property.

ARTICLE IV. VIOLATIONS

- 13.08.380 Violations--Penalties.

Section 2. Amendment of OMC 13.08.205. Olympia Municipal Code 13.08.205 is hereby amended to read as follows:

13.08.205 Sewer general facility charges

A. A sewer general facility charge ("Sewer GFC") shall be assessed in the amount set forth in Title 4, Fees and Fines, of this code, as defined in Section 13.08.190. Except as provided in subsections ~~B~~ and C ~~and D~~ of this Section, such charge shall become due and payable no earlier than at the time of issuance of a building permit and no later than at the time of issuance of each permit to connect to the public sewer connection is completed, and at the rate in effect at the time of payment, except for the deferred payment option stated below. For projects located outside the City, the date of building permit issuance by Thurston County shall constitute the earliest time of payment. This charge shall be assessed in addition to any other charges or assessments levied under this chapter. Said funds shall be deposited in the sewer capital improvement fund established under Section 3.04.750 of this code and shall be used only for the purposes enumerated therein.

B. The Sewer GFC may be deferred for residential developments in the Downtown Deferred General Facility Charge Payment Option Area ~~and for connections to the public sewer by residential properties with an existing onsite sewage system ("OSS")~~. An unpaid Sewer GFC deferred under this section shall constitute a lien against the property for which it is payable. Payment of a Sewer GFC need not be made prior to the time of connection if the payer provides the Community Planning and Development Department with proof that a Voluntary General Facility Charge Lien Agreement, in a form approved by the City Attorney, has been executed by all legal owners of the property upon which the development activity allowed by the building permit is to occur, and the agreement has been recorded in the office of the Thurston County Auditor. When such deferral is sought for a portion of the development activity, the City, at its sole discretion, shall determine the portions of the Sewer GFC to be applied to the portions of the development activity. If a Voluntary General Facility Charge Lien Agreement has been recorded, payment of the general facility charge shall be deferred under the following conditions:

1. The Sewer GFC will be assessed at the rate in effect at the time of issuance of the building permit for the project ~~or issuance of a permit to connect to the public sewer from properties with an existing OSS~~, and
2. Payment of the Sewer GFC will be made at the earlier of (a) the closing of sale of the property or any portion of the property, or (b) three (3) years from the date of the City's issuance of a Certificate of Occupancy ~~or (c) three (3) years from the date of connection to the public sewer from properties with an existing OSS for the property against which the Sewer GFC is assessed~~, and
3. A GFC payment made within one (1) year of issuance of the Certificate of Occupancy for the development ~~or connection to the public sewer from properties with an existing OSS~~, shall pay the fees assessed at the time of issuance of the building permit, or
4. A GFC payment made within the second year from issuance of the Certificate of Occupancy for the development ~~or connection to the public sewer from properties with an existing OSS~~, shall pay the Sewer GFC plus an interest component, for a total of 105% of the remaining balance of the fees assessed at the time of issuance of the building permit, or
5. A GFC payment made within the third year from issuance of the Certificate of Occupancy for the development ~~or connection to the public sewer from properties with an existing OSS~~, shall pay the Sewer GFC plus an interest component, for a total of 110% of the remaining balance of the fees assessed at the time of issuance of the building permit.

In the event that the Sewer GFC and/or interest (if any) is not paid within the time provided in this subsection, all such unpaid charges, fees and interest shall constitute a lien against the property for which they were assessed. The lien may be enforced either by foreclosure pursuant to RCW 61.12 external link or by termination of water service pursuant to Section 13.04.430 of this Code. The City may use other collection methods at its option. In the event of foreclosure, the owner at the time of foreclosure shall also pay the

City's reasonable attorney fees and costs incurred in the foreclosure process. Notwithstanding the foregoing, the City shall not commence foreclosure proceedings less than thirty (30) calendar days after providing written notification to the then-present owner of the property via certified mail with return receipt requested advising of its intent to commence foreclosure proceedings. If the then-present owner cures the default within the thirty-day cure period, no attorney fees and/or costs will be owed.

~~The deferred payment option set forth in this subsection shall terminate on August 1, 2015, unless otherwise re-authorized by the City Council.~~

C. The Sewer GFC will be waived for properties with served by an existing OSS that connect to the public sewer within two years following notice by the City of eligibility for a GFC waiver that a sewer line is available for connection. Notice will be sent to property owners when sewer becomes available to their property. Notice will be effective as of the date it is sent to the property owner by certified first class mail. Properties that fail to connect to the public sewer within two years following such notice shall be charged the Sewer GFC in effect at the time of connection to the public system, ~~but and~~ those properties may defer payment of the Sewer GFC as provided in subsection ~~DB above~~below.

A property shall also be eligible for a GFC waiver at such time as the property becomes eligible for a full or partial rebate of the LOTT capacity development charge (CDC). The GFC waiver shall expire on the same date as the expiration of the LOTT CDC rebate.

In addition, the Sewer GFC will be waived for properties served by an existing OSS that connect to the public sewer within two years of a transfer of ownership of the property. Property owners are required to

provide documentation to the City of the transfer of ownership in order to be eligible for this waiver. The City will not provide notification to new property owners.

D. The Sewer GFC for properties abandoning an existing OSS and connecting to public sewer without an increase in ERUs shall be paid in full or under installment contract with the following conditions:

1. The property must be served by public water with an individual City of Olympia metered water utility account.

2. In order to defer payment of a Sewer GFC, a property owner must execute a Sewer Connection Fee Contract with the City in a form approved by the City Attorney in which the property owner agrees to pay specified progress payments. The Sewer Connection Fee Contract shall also provide that the City shall be entitled to attorney's fees and costs, should legal action need to be commenced to collect or enforce the contract. Connection to the public sewer will be allowed after the Sewer Connection Fee Contract has been recorded in the office of the Thurston County Auditor. Recording fees shall be paid by the property owner upon submittal of the signed Sewer Connection Fee Contract.

3. Payments toward the deferred Sewer GFC shall be made monthly, including principle and interest, until the Sewer GFC and associated loan costs are paid. The minimum monthly payment shall be calculated such that full payment shall be completed within 8 years, with at most 96 monthly payments.

5. The interest rate charged on any unpaid balance shall be equal to the interest rate of the most recent general obligation bonds issued by the City prior to execution of the Sewer Connection Fee Contract.

6. Upon sale of the property, the unpaid GFC shall be paid in full or the new owner shall execute a Sewer Connection Fee Contract with the City for the balance of the GFC owed under the terms of this section.

7. In the event that the Sewer GFC and/or interest (if any) is not paid within the time provided in this subsection, all such unpaid charges, fees and interest shall constitute a lien against the property for which they were assessed. The lien may be enforced either by foreclosure pursuant to RCW 61.12 or by termination of water service pursuant to Section 13.04.430 of this Code. The City may use other collection methods at its option. In the event of foreclosure, the owner at the time of foreclosure shall also pay the City's reasonable attorney fees and costs incurred in the foreclosure process. Notwithstanding the foregoing, the City shall not commence foreclosure proceedings less than thirty (30) calendar days after providing written notification to the then-present owner of the property via certified mail with return receipt requested advising of its intent to commence foreclosure proceedings. If the then-present owner cures the default within the thirty-day cure period, no attorney fees and/or costs will be owed.

~~D~~E. The Sewer GFC for properties on public combined sewers shall apply to properties located within the Downtown Deferred General Facility Charge Payment Option Area and discharging sanitary sewage to the public combined sewer upon change in the character of the use of any structure on such property or upon a significant increase of sewage discharge therefrom.

Section 3. Amendment of OMC 13.08.215. Olympia Municipal Code 13.08.215 is hereby amended to read as follows:

13.08.215 Septic to Sewer Program and ~~line-infrastructure~~ extension charges

A. There is hereby established the City of Olympia Septic to Sewer Program with the goal of connecting properties served by onsite sewage systems (OSS) to the public sewer. In furtherance of the Septic to Sewer Program, the City may construct sewer ~~lines-infrastructure~~ to facilitate connection of properties served by onsite sewage systems. Infrastructure may include sewer mains, sewer manholes, sewer cleanouts, sewer lift stations, sewer force mains and STEP (septic tank effluent pumping) systems. Infrastructure extension proposals may be submitted by the owner of an OSS. Infrastructure extension proposals shall be reviewed by staff and prioritized using the following factors:

1. Public health risk for the OSS as determined with input from Thurston County Environmental Health, including factors such as depth to groundwater, soil type, lot size, OSS density, proximity to drinking water sources. Projects serving higher risk OSS shall be given higher priority;
2. Scope of infrastructure extension required with respect to number of existing OSS to potentially benefit. Projects requiring less extensive infrastructure extension and potentially benefitting a higher number of properties shall be given higher priority;
3. Public drinking water availability. Projects without public drinking water available shall be given higher priority;
4. Available funds.

Final approval of the infrastructure extension shall be made by the Public Works Director or his/her designee.

B. A capital charge (CC) or the portion of the CC described below shall be paid for connections to sewer infrastructure that was extended as part of the Septic to Sewer program after September 1, 2017 (date TBD). The CC is defined as the total project cost, divided by the potential number of ERUs as defined under OMC 13.08.190, to be served by the infrastructure. The total project cost of a sewer infrastructure extension, including the costs of design, material, labor and contract administration, shall be based on the City's Engineering Design and Development Standards for latecomer agreements. Payment of the CC or the portion of the CC due must be made prior to issuance of permit for sewer connection, except as provided in section C below. The CC shall be charged as follows:

1. For properties abandoning an existing OSS, and connecting to an infrastructure extension within two years of notification of completion of the extension, without an increase in ERUs, the amount due shall be 20% of the CC.
2. For properties abandoning an existing OSS, and connecting to an infrastructure extension more than two years after notification of completion of the extension, without an increase in ERUs, the amount due shall be 50% of the CC.
3. For all properties for which number 2 and 3 above do not apply, the amount due shall be 100% of the CC.
4. For properties that connect more than one year after completion of the infrastructure extension, the CC will be adjusted by the intervening annual changes in the CPI for all urban consumers in the Seattle-Tacoma-Bremerton urban area, in which Olympia is included.

C. For properties abandoning an existing OSS and connecting to an infrastructure extension without an increase in ERUs, the CC or the portion of the CC due shall be paid in full prior to issuance of permit for sewer connection, or under installment with the following conditions:

1. The property must be served by public water with an individual City of Olympia metered water utility account.
2. In order to defer payment of the CC or the portion of the CC due, a property owner must execute a Sewer Connection Fee Contract with the City in a form approved by the City Attorney in which the property owner agrees to pay specified progress payments. The Sewer Connection Fee Contract shall also provide that the City shall be entitled to attorney's fees and costs, should legal action need to be commenced to collect or enforce the Sewer Connection Fee Contract. Connection to the infrastructure extension will be allowed after the Sewer Connection Fee Contract has been recorded in the office of the Thurston County Auditor. Recording fees shall be paid by the property owner upon submittal of the signed Sewer Connection Fee Contract.
3. Payments toward the deferred CC or the portion of the CC due shall be made monthly until the CC or the portion of the CC due and associated loan costs are paid. The minimum monthly payment shall be calculated such that full payment shall be completed within 8 years, with at most 96 monthly payments.
4. The interest rate charged on any unpaid balance shall be equal to the interest rate of the most recent general obligation bonds issued by the City prior to execution of the Sewer Connection Fee Contract.
5. Upon sale of the property, the unpaid CC or the portion of the CC due shall be paid in full.
6. In the event the CC or the portion of the CC due and interest (if any) is not paid within the time provided in this subsection, all such unpaid charges, fees and interest shall constitute a lien against the property for which they were assessed. The lien may be enforced either by foreclosure pursuant to RCW 61.12 or by termination of water service pursuant to Section 13.04.430 of this Code. The City may use other collection methods at its option. In the event of foreclosure, the owner at the time of foreclosure shall also pay the City's reasonable attorney fees and costs incurred in the foreclosure process. Notwithstanding the foregoing, the City shall not commence foreclosure proceedings less than thirty (30) calendar days after providing written notification to the then-present owner of the property via certified mail with return receipt requested advising of its intent to commence foreclosure proceedings. If the then-present owner cures the default within the thirty-day cure period, no attorney fees and/or costs will be owed.

~~B.— In addition to Sewer GFC charges provided in OMC 13.08.205, and labor and material, and the LOTT charges provided in OMC 13.08.210, a proportionate capital charge shall be paid for connections to sewer lines that were extended as part of the Septic to Sewer program after July 26, 2009. Line extensions shall first be reviewed by the Utility Advisory Committee. The Utility Advisory Committee shall move to recommend and forward said recommendation to the City Council for consideration. Final approval of the line extension, including apportionment of the capital costs for such line extension, must be made by the City Council.~~

~~C.— The capital costs of a sewer line extension, including the costs of design, material, labor and contract administration, shall be based on the City's Engineering Design and Development Standards for latecomer agreements. Except as otherwise provided in subsection D below for connections to a line extension from properties with an existing onsite sewage system ("OSS"), the proportionate capital costs, following approval by the City Council, shall be charged as follows:~~

~~1.—Apportionment between properties to be connected shall be based on the projected ERUs under OMC 13.08.190.~~

~~2.—For properties that connect within one year of completion of the line extension, the proportionate charge will be based on the engineer's estimate of construction costs or the actual construction costs, whichever is less.~~

~~3.—For properties that connect after one year of completion of the line extension, the proportionate charge will be based on the actual construction costs, adjusted by the intervening annual changes in the CPI for all urban consumers in the Seattle-Tacoma-Bremerton urban area, in which Olympia is included.~~

~~4.—Payment of the proportionate line extension costs must be made prior to connection.~~

~~D.—For connections to a line extension from properties with an existing OSS, the line extension charge may be paid in full prior to connection, or it may be deferred under the following conditions:~~

~~1.—An unpaid proportionate line extension charge deferred under this section shall constitute a lien against the property for which it is payable. The property owner must execute a lien in favor of the City in a form approved by the City Attorney in which the property owner agrees to pay specified progress payments and agrees that the full amount of the applicable proportionate line extension charge shall be due and payable upon sale of the property. The agreement shall also provide that the City shall be entitled attorney's fees and costs, should legal action need to be commenced to collect or enforce the agreement. Connection to the line extension will be allowed after the lien agreement has been recorded in the office of the Thurston County Auditor.~~

~~2.—Payments toward the deferred charge shall be set at a minimum level of \$200.00 per month until the proportionate line extension charge is paid. The monthly deferred charge payment value shall be established at the time the lien in favor of the City is executed. The payment value for liens executed in the year 2009 shall be \$200 per month. Deferred monthly progress payments in subsequent years shall be adjusted annually with changes in the CPI for all urban consumers in the Seattle-Tacoma-Bremerton urban area, in which Olympia is included.~~

~~3.—If the proportionate line extension charge for the property exceeds a threshold value, the total due will be the threshold value plus 50% of any amount over the threshold value. The threshold value shall be established at the time the lien in favor of the City is executed. The threshold value for the year 2009 shall be \$20,000 and shall be adjusted annually with changes in the CPI for all urban consumers in the Seattle-Tacoma-Bremerton urban area, in which Olympia is included. Interest will be applied to the total remaining balance due and will be compounded on an annual basis from the date of connection. The interest rate will be based on the interest rate on bonds that included the project or, if no bonds were issued for the project, on the interest rate of the most recent general obligation bonds issued by the City prior to construction of the line extension.~~

Section 4. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. 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 6. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 7. Effective Date. This Ordinance shall take effect thirty (30) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: