

**CITY OF SNOHOMISH
Snohomish, Washington**

ORDINANCE 2327

AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON, RELATING TO SEWER CONNECTIONS AND AMENDING SNOHOMISH MUNICIPAL CODE (SMC) 15.04.047 ENTITLED “NE SEWER AREA”; AMENDING SMC 15.04.140 ENTITLED “CONNECTION TO SEWER SYSTEM REQUIRED”; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE

WHEREAS, the City Council maintains the policy that all structures intended for human occupation or business within the City Limits shall eventually connect to the City’s sewer and water systems; and

WHEREAS, the City Council desires to maintain the policy above and yet provide flexibility within a limited framework for existing structures and lots; and

WHEREAS, the City’s sewer system within the NE Sewer Area, as defined by Ordinance 2239, contributes flows to parts of the sewer system that require improvements and were identified with capacity issues in the 2019 General Sewer Plan, and any new sewer connections and/or increase in sewer flow from the NE Sewer Area presents a risk of adverse impacts and consequences to public health, safety, welfare, and property; and

WHEREAS, the City’s 2019 General Sewer Plan identifies and describes the need for the North Sewer Trunkline to divert a portion of the sewer flows from the NE Sewer Area to the Cemetery Creek Trunkline that is on the west side of SR 9; and

WHEREAS, implementation and completion of the North Sewer Trunkline will decrease flows to that part of the sewer system that require improvements and allow for new sewer connections in the NE Sewer Area; and

WHEREAS, the City Council finds that it is in the interest of the City of Snohomish to allow limited development activities within the NE Sewer Area with no new connections to the City sewer system in order to ensure that the sewer system is not further impacted;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SNOHOMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. SMC Section 15.04.047 entitled “NE Sewer Area” is hereby amended to read as follows:

15.04.047 NE Sewer Area.

- A. ~~Existing Structures.~~ Within the NE Sewer Area, existing Existing structures with on-site septic systems, sewage disposal systems (septic tanks) new structures and new lots, as defined in SMC 15.04.140(B), within the NE Sewer Area, as defined by Ordinance 2239, will be required to connect to City sewer as follows: if within the City limits, as to connection and extension, at such time as required by SMC 15.04.140.

1. If within a newly annexed area, sewer connections shall be in accordance with the requirements of SMC 15.04.022 and allowed after the North Sewer Trunkline Project is completed.
 2. If within the City limits, sewer connections shall be in accordance with the requirements of SMC 15.04.140 and allowed after the North Sewer Trunkline Project is completed.
- B. Existing structures, new structures and new lots within the NE Sewer Area shall pay for the development of extensions and capacity improvements as follows:
1. As to the Cemetery Creek Sewer Trunkline Special Project, if and when required by any ordinances addressing the Cemetery Creek Sewer Trunkline Special Project.
 2. As to any local or interim capacity or extension improvements, if any, when required by any applicable ordinance, cost recovery agreement, or as required by any assessment for a local improvement district.
- C. At the time of connection, existing structures, new structures and new lots also shall be required to pay meter and related charges and any City general facility charge, unless some other provision of City ordinance allows for the said meter and facility charge to be deferred or paid by an increase in the amount of monthly service charge.
- ~~B. Lots without Structures. Lots with new structures for human habitation or commercial use in the NE Sewer Area will be required to connect to City sewer at such time as a building permit is issued for any building or structure for human habitation or commercial use. At such time of building permit issuance, payment of all fees for meter placement of the City's general facility charge shall be required.~~
- ~~C.D. Issuance of Building Permit for New Structures. No building permit will ~~issue~~ be issued for a new structure for human habitation or commercial use in the NE Sewer Area, ~~except:~~ until the earlier of the following:~~
1. Construction of one new single family home on an existing lot within the NE Sewer Area. Such single family home must satisfy Snohomish Health District criteria for an approved on-site septic tank system.
 2. Construction of one Equivalent Residential Unit (ERU) on an existing lot within the NE Sewer Area, including non-residential and multi-family structures. Improvement must satisfy Snohomish Health District criteria for an approved on-site septic tank system.

If the existing lot within the NE Sewer Area has an existing side sewer connection, the new structure can be reconnected to the sewer system.

- ~~1. Segments 2 and 3 of the Cemetery Special Project and any local extensions have been built and are available for connection; or~~
- ~~2. Interim sewer extensions and capacity improvements have been built to serve the new structures for human habitation and commercial use. Such interim extensions and capacity improvements shall not be built by the City but shall have been built by such owner or developer prior to the issuance of any occupancy permit. Such extensions and capacity improvements shall not increase the degree or amount of capacity insufficiency at any~~

location in the City's sewer system. The owner or developer of such extensions or capacity improvements, to the extent allowed by law, may seek cost recovery under a recovery contract, or if a local improvement district is formed, from the local improvement district. If the extension or capacity improvements are for improvements designated on the City's Capital Facilities Plan, the owner or developer also may seek, to the extent allowed by law, a credit against any general facilities charge. At the time of connection to such extension or capacity improvements, payment for all fees for meter placement and of the City's general facility charge shall be required.

~~3. *Effect of Interim Sewer Extensions and Capacity Improvements.* Connection to interim sewer extension and capacity improvements, and payment of fees and charges associated with the same, shall not affect and shall not reduce any requirement for payment of fees, charges, and assessments imposed for the Cemetery Creek Special Project and the future connection to said special project upon demand by the City.~~

Section 2. SMC Section 15.04.140 entitled "Connection to Sewer System Required" is hereby amended to read as follows:

15.04.140 Connection to Sewer System Required.

- A. **Existing structures within 200 feet of sewer.** All existing structures within the City limits intended for human occupation or business on an existing lot within two hundred (200) feet of a sewer line ~~or lateral~~, measured from the exterior boundary of the lot, shall connect to the City's sewer system upon:
1. A determination by the Snohomish Health District that the existing on-site sewage (septic) disposal system for the structure has failed; or
 2. Expansion of floor area of more than 20% to an existing structure or any combination of additions greater than 20% of the original structure as of July 1, 2014 and thereafter.
- B. **New lots.** Any new lot within a subdivision or short subdivision for which preliminary plat approval was received after July 1, 2014, within the City limits shall be connected to the City's sewer system.
- C. **New structures on existing lots within 200 feet of sewer.** Any new structure within the City limits designed or intended for human occupation or business ~~any portion of which is built on an existing lot~~ within 200 feet of a sewer line, measured from the exterior boundary of the lot, shall be connected to the City's sewer system, ~~except:~~
1. Construction of one new single family home on an existing lot within the NE Sewer Area. Such single family home must satisfy Snohomish Health District criteria for an approved on-site septic tank system.
 2. Construction of one Equivalent Residential Unit (ERU) on an existing lot within the NE Sewer Area, including non-residential and multi-family structures. Improvement must satisfy Snohomish Health District criteria for an approved on-site septic tank system.
- D. **New structures or expansion of existing structures greater than 200 feet from sewer.** Any new structure or the expansion of an existing structure on an existing lot within the City limits

that is greater than 200 feet from a sewer line, measured from the exterior boundary of the lot, shall be connected to the City's sewer system, except:

1. Construction of one single family home on an existing ~~parcel~~ lot or expansion of an existing single family home on an existing lot (and expanded structure is still one single family home). Such single family home must meet Snohomish Health District criteria for an approved on-site septic tank system.
2. Construction of one Equivalent Residential Unit (ERU), including non-residential and multi-family structures, and less than 2,000 square feet of additional floor area of any structure intended for human occupation or business on an existing lot. Improvement must meet Snohomish Health District criteria for an approved on-site septic tank system.

~~Approval of any building permit or land division application utilizing one of the exceptions above (D1 or D2) to avoid or defer connection to the City's sewer system is contingent upon submittal of a legally binding agreement with the City of Snohomish, which must be recorded with the property records of the county and in a form acceptable to the Public Works Director, in which the property owner and successors in interest agree to: prompt connection with sanitary sewers when they become available, and participation without protest in any sewer Local Improvement District (LID) or Utility Local Improvement District (ULID), including agreement to pay any connection fees and monthly charges assessed by the City, LID, or ULID. Nothing in this section shall be construed to limit the ability of the applicant or any successor in interest to challenge the amount of any assessment.~~

E. Approval of any building permit or land division application utilizing one of the exceptions. Utilizing one of the above exceptions (C1, C2, D1 or D2) to avoid or defer connection to the City's sewer system is contingent upon submittal of a legally binding agreement with the City, which must be recorded with the property records of the county and in a form acceptable to the City Engineer, in which the property owner and successors in interest agree to prompt connection to the sanitary sewer when they become available, and participation without protest in any sewer Local Improvement District (LID) or Utility Local Improvement District (ULID), including agreement to pay any connection fees and monthly charges assessed by the City, LID, or ULID. Nothing in this section shall be construed to limit the ability of the applicant or any successor in interest to challenge the amount of any assessment.

E. F. Water connections required. Connections to the City sewer system will require simultaneous connection to the City water system, unless City water is not available within five hundred (500) feet of the lot or parcel. (Ord. 2086, 2005)

F. G. Variation from distance determination. When determining the distance to connect to a public utility, the City Engineer shall take into account hardships caused by sensitive areas (e.g. stream crossing) or other physical barriers which make sewer main extension extremely difficult. The City Engineer shall have authority to administratively grant a variance from the distance calculation and requirement to connect. No variance shall be granted which would be detrimental to the public health, welfare, or environment, or which would be inconsistent with the long-range plans of the City utility system. Conditions may be imposed upon the granting of a variance to ensure the protection of the public health, welfare, and environment. Each variance shall be considered on a case-by-case basis, and shall not be construed as setting precedent for any subsequent application. The decision of the City Engineer on a variance application shall be final, subject to appeal to the City land use Hearing Examiner pursuant to the procedure of Chapter 14.75 within a 20-day period after the written decision of the City Engineer.

G. H. Connections. All connections shall be made to such sewer system in a permanent and sanitary manner, subject to all applicable utility requirements of the City and payment of fees, connection charges, local or general facility charges to be set by the City Council and subject to the approval of the City Engineer of the City and subject to such permit and construction requirements and regulations fixed by the City Council and in force at the time.

Provided that nothing in this ~~ordinance~~ code section will be construed to compel the City to extend utility services to any property.

Section 3. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such a decision or preemption shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other persons or circumstances.

Section 4. Effective Date. This ordinance shall be effective five days after adoption and publication by summary.

ADOPTED by the City Council and APPROVED by the Mayor this 4th day of May, 2021.

CITY OF SNOHOMISH

By John T. Kartak
John T. Kartak, Mayor

ATTEST:

APPROVED AS TO FORM:

By Brandi Whitson
Brandi Whitson, Deputy City Clerk

By Grant Weed
Grant Weed, City Attorney

Date of publication: May 9 2021

Effective date: May 13 2021