

Amend PCC Chapter 17.32

Amend Title of PCC Chapter 17.32

CHAPTER 17.32 - PUBLIC SEWER SYSTEM AND DRAINAGE SYSTEM IMPROVEMENT PERMITS, CONNECTIONS, AND MAINTENANCE

Amend Section 17.32.005

17.32.005 Purpose.

This Chapter protects the public sewer and drainage system by ~~regulating the requiring permits to construction, modification, maintenance or and removal of~~ elements of those public systems and of the private systems that discharge to them. ~~In addition, this Chapter promotes safe drainage conveyance by requiring approval of planned modifications to drainage.~~

Replace Section 17.32.055

17.32.055 Maintenance of Sewer and Drainage Systems.

Sewer system maintenance obligations including inspection, rehabilitation, routine cleaning and repair are based on ownership of the system:

A. Private Systems. A sewer or drainage system that was not constructed by the City, built under a public works permit, or otherwise accepted pursuant to Subsections B.1 or B.2 must be maintained by the parties served by the system, regardless of whether the system is located within a public right-of-way.

1. If any portion of an existing sewer or drainage system extends into a public right-of-way, the property owner must obtain a permit pursuant to Chapter 17.24 before beginning work within the right-of-way.

2. For a sewer or drainage system located in a public right-of-way that is under either private or unclear ownership, the Chief Engineer may grant or deny a permit to repair, upgrade, or replace the system as provided by Section 17.32.130. Such a system may only remain in the public right-of-way at the discretion of the Chief Engineer.

3. Incidental, inadvertent, or emergency City maintenance of private sewer or drainage systems or systems with unclear ownership does not obligate the City to perform future maintenance, imply acceptance of the system, or confer ownership of the system on the City.

B. Public Systems. A sewer or drainage systems constructed by the City, constructed under a public works permit, or accepted by the City pursuant to Subsections B.1. or B.2. will be maintained by the City unless otherwise specified by written agreement with the City.

1. Acceptance of Systems with Unclear Ownership. The Chief Engineer may agree to conduct future maintenance of a sewer or drainage systems located in a public right-of-way or City utility easement where the ownership is unclear if, in the judgment of the Chief Engineer, the public will benefit thereby and:

a. The system conveys only domestic sanitary or stormwater flows from residential property; or

b. The system has been specifically modified through City permit or by the City to accept stormwater flows from City rights-of-way or other City-controlled property.

c. Acceptance of a system under this Section does not include or imply acceptance by the City of any maintenance responsibility, cost, liability or damage that arises from conditions or use of the system before acceptance by the City.

2. Adoption of Private Systems in the Public Right-of-Way. The Chief Engineer may agree to take ownership of a private sewer system or drainage improvement in the public right-of-way as provided by administrative rule. At the discretion of the Chief Engineer, a system meeting the following general criteria may be adopted:

a. All the properties connected to the system are participating in the City's Nonconforming Sewer Conversion Program pursuant to Chapter 17.33;

b. The sewer system conveys only domestic sanitary or stormwater flows from residential property;

c. The owners of all properties connected to the system provide the City with detailed information about the design, location, and condition of the system, and the properties connected to it as specified by administrative rule. Property owners must release rights for use of the line to the City for sewer systems to be adopted;

- d. The owners of all the properties connected to the system relinquish all claims to the system; and
- e. All branch fees assessed by the City are paid or financed.

3. A system accepted under Subsection B.1 or adopted under Subsection B.2 will be added to the City maintenance roles as of the date of acknowledgment by the Chief Engineer.

4. The City's responsibility for maintenance of any sewer or drainage system, branch or connection point is subject to the City's annual budget appropriation and shall be limited to the level of service dictated by the City Council's discretionary budget decision. The City assumes no responsibility for activities requiring a level of maintenance in excess of the level for which funds have been appropriated.

C. Nuisance Abatement.

1. The Chief Engineer may determine that a sewer or drainage located in a public right-of-way that is under either private or unclear ownership constitutes a public nuisance if it:

- a. Impairs or threatens to impair the operation, maintenance or installation of any street or public utility;
- b. Is so deteriorated that its flows infiltrate or threaten to infiltrate any public utility or impact or threaten to impact the support structures of any street or public utilities; or
- c. Otherwise creates a public health or safety hazard.

2. Summary abatement of the nuisance is authorized when the Chief Engineer determines it is necessary to take immediate action to meet the purposes of this Title.

3. Notice to the responsible party before summary abatement is not required. Following summary abatement, the Chief Engineer shall notify all owners identified in this Chapter or Chapter 25.09 as having maintenance or repair responsibilities. An error in the name of the property owner or address listed in the county assessment and taxation records shall not affect the sufficiency of the notice.

4. The City will bill each property that the City determines caused or contributed to the nuisance to recover the costs of abatement. Civil penalties of up to \$500 may be levied for failure to abate a nuisance. If the amount due is not paid in full within 30 days of the date of notice, the City may place a lien against the property.

See Figure 13 for an example visual representation of ownership situations.

The rest of the Chapter is unchanged

Amend PCC Chapter 17.33

CHAPTER 17.33 - REQUIRED PUBLIC SEWER CONNECTION

Amend Section 17.33.050

17.33.050 Converting Nonconforming Sanitary Sewer Connections.

A. Applicability. ~~A p~~Properties using a nonconforming sewer systems shall be required to must convert to a conforming sewer connections when a public sewer is available, within 100 feet of the property being served by the nonconforming system. ~~All The new connections shall must be made along a route of service approved by the Director. Regardless of distance from available sewers~~ In addition, when a public sewer is extended into an area, the City shall voluntarily may request that property owners along routes identified for sewer extension in the area who are not required to connect nevertheless, volunteer to participate in the Nonconforming Sewer Conversion Program regardless of their distance from the new sewer, as identified in administrative rule.

B. Exemption. The Director may exempt properties with nonconforming sewer connections from the requirement to convert to a conforming public sewer connection ~~if in the following circumstances:~~

- 1. The Director determines that conversion of a nonconforming connection to a conforming connection would have detrimental effects on public health or safety or the environment; or
- 2. Other circumstances exist justifying exemption as identified in BES administrative rules.

C. Timing. The City requires property owners to convert or abandon a nonconforming sanitary sewer connection within 180 days of the date on the notice of sewer availability. All individual sewer connections shall be made in conformance with the Sewer and Drainage Facilities Design Manual. The City will provide written notice to all affected property owners at 180, 90, and 30 days prior to the conversion deadline. The Director may choose to delay enforcement of this deadline for a property where a connection would be unreasonably technically difficult, a public sewer is not immediately available, or substantial

Amend Section 17.33.060

17.33.060 Required Sanitary Sewer Conversion Charges

Property owners shall must pay the sanitary sewer conversion charges as required by Chapter 17.36 at the time the City provides a new sewer connection or when they property owner requests a permit for a new conforming sewer connection. A property owner can elect to pay or finance conversion charges and connection construction costs as described required in Chapter 17.36 and associated program administrative rules. ~~The conversion charge is paid in lieu of standard line, branch and system development and connection charges set forth in Chapter 17.36. Council adopts sanitary sewer conversion charges annually as part of the BES rate ordinance.~~

~~**A. Calculation of Conversion Rates.** Council shall establish rates for connecting to the sanitary sewer by general ordinance adopted annually for the purposes provided in Chapter 17.36 of this Title and the associated program administrative rules. Sanitary sewer conversion rates are categorized on the level of project complexity and recover costs for City sewer extension projects that serve the property.~~

~~**B. Calculation of Total Charges.** Total charges shall be calculated by multiplying the conversion rate by the assessable square footage of benefited property as determined by City Code Section 17.36.040 and associated administrative rules.~~

~~**A.C. Timing.** Property owners must pay or finance the sewer conversion charges prior to the issuance of permits required by Chapter 17.32 to replace the nonconforming sanitary sewer connection with an individual and direct connection to a public sanitary sewer. BES shall calculate will assess sanitary sewer conversion charges for subject properties based on the sewer conversion rates in effect at the time of connection. ~~on the earliest of the following dates:~~~~

- ~~1. The date the property owner files a signed waiver of remonstrance for the formation of a future local improvement district to construct public sanitary sewers;~~
- ~~2. The date the property owner pays the sanitary sewer conversion charges or finances the charges by means of the City's assessment loan or safety net program;~~
- ~~3. Where the property is served by a local improvement district, the date the City calculates estimated special assessments for the district formation notice; or~~
- ~~4. Where a property is served by a sewer extension project, the date the property owner seeks sewer connection and/or plumbing permits to make an individual and direct connection to the public sewer system.~~

~~**B.D. Relationship to Special Assessments for Local Improvement Districts.** BES will shall apply the following conditions to the calculation of special assessments for local improvement districts organized for the purposes of this Section:~~

- ~~1. The estimated special assessment roll will shall be limited to the amount of the sanitary sewer conversion charges as established in the annual BES rate ordinance determined by Section 17.33.060.~~
- ~~2. In the event that a benefited property owner paid or financed branch fees or sanitary sewer conversion charges prior to the preparation of the estimated special assessment roll as provided in this Section, BES will shall establish a zero assessment for the benefited property.~~
- ~~3. BES will shall pay to the LID Construction Fund the difference between the final total costs of each local improvement district organized for the purposes of this Section, and the sum of estimated assessments that were established at the formation of the district.~~
- ~~4. To the greatest extent practicable BES will shall refund property assessments in the event that the total actual costs of the local improvement district are less than the sum of sanitary sewer conversion charges calculated for the benefited properties, taking into account the following:
 - ~~a. BES will shall apportion the difference to each affected property in proportion to the property's share of the sum of sanitary sewer conversion charges paid, financed or incorporated into the local improvement district special assessment roll.~~
 - ~~b. The final assessment roll will shall reflect the apportionment based on the actual project costs.~~
 - ~~c. Where a property owner paid or financed the sanitary sewer conversion charge prior to the notice of estimated assessment, BES will shall determine the most administratively efficient method to refund or credit the apportioned difference allocated to the property. Any refund or credit will shall be provided to the current equitable title holder of the property at the time the Council adopts the final assessment roll for the local improvement district.~~~~

17.33.070 Deferrals of Required Sewer Connections

~~A d~~Deferrals for making the actual of the requirement to connection to a public sewers may not exceed shall be limited to five years, although it may be renewed based on a re-evaluation of eligibility, and it does shall not transfer with the sale or transfer of property. Deferred The property remains shall be subject to the requirements of this Chapter following termination of the connection deferral. Eligibility criteria vary for the Mandatory Sewer Connection and the Nonconforming Sewer Conversion programs. Deferral requests will be considered may be based on either of on the following, as described more fully in program administrative rules:

A. Mandatory Connection. Deferrals shall may be granted for the following:

- 1. Applicant-based criteria. These criteria include financial, medical or other hardship criteria related to the property owner; and
- 2. Property-related criteria. These criteria are based on hardship conditions related to the property and the work required to complete the sewer connection.

B. Nonconforming Sewer Conversion. The Director may defer conversion to conforming sewer connections according to criteria established in administrative rule. if:

- 1. ~~The property owner obtains a temporary easement from all property owners along the existing nonconforming sewer lines route of service;~~
- 2. ~~All users of the nonconforming line sign a public sewer waiver to assure their participation in paying for future public sewer extensions; and~~
- 3. ~~All users of the nonconforming system shall prove the integrity of the nonconforming line and shall grant the City authority to inspect the line to assure its integrity.~~
- 4. ~~The Director may waive one or more of these requirements for deferrals in cases of hardship of the applicants as described in associated administrative rules.~~

Amend Section 17.33.110

17.33.110. Resolution Actions before the City Code Hearings Officer Available to Property Owners

A. Code Compliance Hearings Mandatory Sewer Connections. Property owners not in compliance subject to with the Mandatory Sewer Connection and the Nonconforming Sewer Conversion Program requirements will be summoned to a may appear in code compliance cases hearing before the City Code Hearings Officer per Title 22. Property owners shall receive notice of the deadlines and procedures for testifying before the City Code Hearings Officer. The Code Hearings Officer shall schedule a hearing to hear evidence from both the property owners and City on whether the City followed established procedures for requiring connection. The Code Hearings Officer's decision is final. No property owner initiated appeals are allowed in the Mandatory Sewer Connection Program.

B. Nonconforming Sewer Conversions. Property owners subjected to the Nonconforming Sewer Conversion Program may seek review by the City Code Hearings Officer as follows:

- 1. ~~Testifying at Code Compliance Hearings. When BES is presenting a Code Compliance case to the City Code Hearings Officer as allowed in Subsection 17.33.100 B., property owners shall receive notice of the deadlines and procedures for testifying at the hearing with the City Code Hearings Officer. The Code Hearings Officer shall schedule a hearing to hear evidence from both the property owner and City on whether the City followed established procedures for requiring connection. The Code Hearings Officer's decision is final.~~

B.2. Property Owner-Initiated Appeals. Property owners may initiate appeals to the City Code Hearings Officer on the following issues:

- 1a. Conversion Charges. The property owner may appeal the amount of the charges and the methodology used to determine them the determination that the complex rate will be charged.
- 2b. Deadline for Connection or Resolution. Unless a sewer is immediately available, the property owner may appeal the 180-day deadline based on extenuating circumstances.

Amend PCC Chapter 17.36

CHAPTER 17.36 – SEWER USER CHARGES

Amend Section 17.36.040

17.36.040 Sewer System Connection and Adoption Charges.

The following charges are for connection to and use of the public sewer and drainage system and for adoption of private systems by the City. ~~stormwater management services under City control, from properties either inside or outside the City.~~ These Charges are calculated based on rates established, annually, by general ordinance, and are collected upon issuance of a building permit, or where a building permit is not required, upon issuance of a sewer connection permit.

Amend Subsection 17.36.040 A.3.

3. Branch charge.

~~a. The Bureau BES~~ collects a branch charge prior to the issuance of a permit to connect a property to the public sewer system.

~~b. The Bureau BES~~ collects the a charge for a branches that the City has extended from the public sewer ~~during or after its construction,~~ and if the property has not been assessed for the branch or its equivalent.

~~c. The Bureau BES~~ collects additional charges for additional branches that were ~~have been~~ requested by the user representative at the time of sewer design or construction but not used at the time of initial connection. The charges are collected prior to subsequent connection to the public sewer system.

d. BES collects a branch charge for City adoption of private nonconforming sewer lines located within the public right-of-way as provided under Subsection 17.32.055 B.2.

Add Subsection 17.36.040 A.4. and renumber A.4. – 6. to A.5. – 7.

4. Sewer Conversion Charges. A property owner must pay the sanitary sewer conversion charges according to the following two categories and as determined by administrative rule at the time the City provides a new sewer connection or when the property owner requests a permit for a new conforming sewer connection.

a. Residential Conversion Charges. Single-family, duplex, three-plex, or four-plex properties are assessed the residential sewer conversion charge, which is the branch rate in place at the time of connection.

b. Commercial Conversion Charges. All multifamily (not listed in Subsection 17.36.040 A.4.b), commercial, mixed-use, industrial, and institutional properties are assessed the commercial conversion charge. Commercial conversion charges are assessed according to project complexity as described in administrative rule and are calculated to recover costs for City sewer extension projects that serve the property. The commercial conversion charge replaces line, branch, system development and connection charges in this context.

Add Section 17.36.075

17.36.075 Fees for Adoption of Nonconforming Sewer Lines

The owners of a property connected to the public sewer via a nonconforming sewer line in a public right-of-way may request that the City adopt the nonconforming line under Subsection 17.32.055 B.2. and associated administrative rules. Adoption fees will be assessed as provided by Subsection 17.36.040 A.3.d. unless the nonconforming line meets City standards as described in administrative rule.

Replace Section 17.36.160

17.36.160 Collection of Charges and Fees.

A. All charges and fees for services provided directly by the City remain the responsibility of the person benefiting or using said service at that premises or any former premises where services were supplied. If the premises are not in use, all charges and fees, not including fees incurred by a prior tenant other than the owner, are the responsibility of the owner as the person with the right to possession of the premises. A property owner or his agent may become obligated for charges and fees for furnishing such services to the person benefiting from services by accepting responsibility for payment or by agreement with the City. Where a ratepayer or property owner has a delinquent bill for one premises, this delinquency is a charge against the ratepayer or property owner for sewer service obtained} at any other premises serviced by the City for the same ratepayer or owner.

B. The Director, with approval of the Commissioner-in-Charge, may discontinue sanitary sewer service by disconnecting and plugging the sewer service line to properties whose delinquent user charges exceed \$10,000 for a period of 90 days or more. Ratepayers and property owners will be notified in writing of the City's intent to disconnect the sewer not less than 30 days prior to disconnection. Payment of the delinquent

amount, including outstanding user charges, accrued interest and collection costs, and all costs associated with disconnecting and reconnecting the sewer line, must be received by the City before the property may be reconnected to the sewer. The delinquent amount remains the responsibility of the ratepayer. In the event a ratepayer who is not the owner terminates their lease and moves from a disconnected property before reconnection has occurred, the City will reconnect the property and collect the cost as well as all delinquent amounts from the ratepayer who originally incurred the charges.

C. Sewer charges assessed under this Chapter are a personal obligation of the ratepayer and will become due, and be collected monthly, bimonthly, or quarterly, coincident with user charges for water service. For ratepayers who do not receive water service from the City, user charges will be computed and billed monthly, bimonthly, or quarterly. Any bill for a user charge, whether included with user charges for water service or otherwise, is delinquent and subject to collection charges if not paid in accordance with the collection schedule published in the annual rate ordinances. Nonpayment of delinquent user charges will result in water shutoff pursuant to Title 21 of this Code when the premises are furnished water service by the City.

Amend PCC Title 25

TITLE 25 –PLUMBING REGULATIONS

Replace Subsection 25.08.020 A.

25.08.020 Definitions.

A. “Common Private Sewer System (also called Party Sewer)” means that portion of a building sewer that:

1. Is not owned by the City of Portland;
2. Is used for draining more than one building under different ownership; and
3. Conveys the discharge to a sewer service lateral, public sewer, private sewage disposal system, or other point of disposal.

Common private sewers are found on private property and in private and public rights-of-way, including easements.

Add Chapter 25.09

25.09 Conversion or Abandonment of Nonconforming Sewers

25.09.010 Purpose

The purpose of this Chapter is to transfer from the Bureau of Development Services to the Bureau of Environmental Services (BES) certain regulatory authority over nonconforming sewers, as that term is defined in Chapter 17.33.

25.09.020 Authority of the Bureau of Environmental Services to Regulate by Administrative Rule.

The Director of BES may adopt, amend, repeal, and enforce administrative rules and procedures pertaining to nonconforming sewers as provided by Titles 3, 17, and 22.

25.09.030 Authority of the Bureau of Environmental Services to Require Information.

BES may require owners of properties connected to nonconforming sewers to submit photographic or plumbing records or other evidence as it deems appropriate.

25.09.040 Damaged Nonconforming Sewer as Nuisance.

A damaged nonconforming sewer is deemed a nuisance. Subject to Title 22, BES may abate such nuisances and recover any costs incurred thereby through the assessment of liens against properties served by the nonconforming sewers.

25.09.050 Equal Responsibility for Repair and Nuisance Abatement.

The owner of each property connected to a damaged nonconforming sewer is proportionally liable for all costs of repair of the sewer, all costs associated with any City abatement efforts, and all penalties for violations of this Code.

25.09.060 Participation of the Bureau of Development Services in Appeals.

Appeals of BES requirements pertaining to nonconforming sewers will be processed in conjunction with the Bureau of Development Services Board of Appeal.