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# 191725

Ordinance

## Amend Public Improvements Code to reflect reimbursement policies for sewer and drainage improvements and update sewer connection requirements (amend Code Chapter 17.32, replace Code Chapter 17.33)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. Recommendations of the Bureau of Environmental Services (BES) rate study and corresponding policy changes in Portland City Code (PCC) Chapter 17.36 were adopted by Council in December 2023 (Ordinance No. 191537). The new rate structure and charges supported by PCC Chapter 17.36 will go into effect July 1, 2024.
2. Updates to PCC Chapter 17.32 and PCC Chapter 17.33 are necessary to reflect the policy changes to PCC Chapter 17.36.
3. Changes to PCC Chapter 17.32 update policy language pertaining connection charge requirements by removing references to sewer line and branch charges.
4. Changes to Subsection 17.32.120.B remove and update reimbursement policies for sewer line and drainage extensions. The changes to Subsection 17.32.120.B expand the type of sewer and drainage improvements that are eligible for cost-share reimbursements by establishing a framework for reimbursing development projects that construct sewer and drainage improvements beyond what is required to serve the developing property to further BES system planning goals and benefit the City.
5. BES is authorized to make changes to PCC Chapter 17.32 in addition to those required by Chapter 17.36. These changes more clearly allow BES to assign responsibility when supported by the facts in Code enforcement and improve language clarity and consistency

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Environmental Services](#)

Contact

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

May 22, 2024


throughout the chapter to support implementation of BES administrative rule.


6. BES is authorized to make changes to PCC Chapter 17.33 beyond those required by PCC Chapter 17.36 to reflect programmatic changes pertaining to the bureau's retirement of the mandatory sewer connection program. The changes to PCC Chapter 17.33 retain the bureau's authority to protect public health, water quality, and the environment and better communicate the general circumstances and site conditions that may require a property owner to connect their property, structure, use or activity to the public sanitary sewer system.

NOW, THEREFORE, the Council directs:

- A. City Code Chapter 17.32, Public Sewer and Drainage System Permits, Connections and Maintenance, is amended as shown in Exhibit A.
- B. City Code Chapter 17.33, Required Public Sewer Connection, is replaced as shown in Exhibit B.
- C. This ordinance takes effect on July 1, 2024.

## Documents and Exhibits

 [Exhibit A](https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-a-chapter-17.32.pdf) 425.75 KB  
(<https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-a-chapter-17.32.pdf>)

 [Exhibit B](https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-b-chapter-17.33.pdf) 131.02 KB  
(<https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-b-chapter-17.33.pdf>)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council  
May 22, 2024

Auditor of the City of Portland  
Simone Rede

## Impact Statement

### Purpose of Proposed Legislation and Background Information

The Code amendments proposed are necessary to reflect the recommendations of the BES rate study and the associated policy changes in Portland City Code (PCC) Chapter 17.36 which were adopted by Council in December 2023 (Ordinance No. 191537). More specifically, changes to PCC

Chapter 17.32 and PCC Chapter 17.33 were prompted by the elimination of sanitary sewer line and branch connection charges from PCC Chapter 17.36. BES is using the opportunity provided by this amendment process to make additional changes to correct obsolete code citations and improve language clarity and consistency.

The substantive changes to PCC Chapter 17.32 and PCC Chapter 17.33 are described below and reflect corresponding changes to program-specific administrative rules related to rate study changes.

### **PCC Chapter 17.32 Updates**

Substantive changes to Section 17.32.120.B update the bureau's policies for reimbursing public works permit improvements. Current reimbursement policies are available only to property owners that fund a sewer line extension that will incidentally benefit unserved properties, regardless of whether that sewer line extension was required to serve the developing property. Under the existing policy, the City will reimburse the property owner an amount equal to that which the City would receive from sanitary sewer line and branch charges if all the unserved properties were to connect. Changes to this section are necessary to address the elimination of sewer line and branch charges from PCC Chapter 17.36 and update the existing reimbursement framework to allow consideration of a broader range of improvements that would be eligible for reimbursement.

Changes to this section clarify that the City can reimburse property owners when the City requests public works permit improvements that expand the public sewer beyond the applicable City design standards otherwise required to serve the developing property. As a general policy, the City will reimburse the difference in cost between the improvements required to serve the developing property and the additional improvements requested by the City. The updated policy framework establishes two approaches for reimbursements. These approaches include a standard per-unit reimbursement for common scenarios (e.g., stormwater facilities) and a case-by-case cost-sharing reimbursement for unique or large-scale improvements that further the bureau's system planning goals and benefit the City. All cost-sharing amounts are based on available funds and may be subject to City Council approval by ordinance.

Other changes to Section 17.32.120.B make clear that all expenses incurred for the construction of public sewer improvements required to serve a developing property or as a condition of approval are the sole responsibility of the property owner or their agent. The City is not obligated to reimburse property owners for public sewer improvements required to serve the developing property that incidentally benefit other properties, including but not limited to situations where a sewer extension passes properties located between the existing public sewer and the developing property.

### **PCC Chapter 17.33 Updates**

Comprehensive changes to PCC Chapter 17.33 reflect a change to the bureau's regulatory stance on mandatory sewer connection requirements and decision to retire the mandatory sewer connection program and associated Administrative Rule ENB-4.18. The impetus for the bureau's stringent connection policies and related enforcement actions stems from a compliance order issued by the Oregon Environmental Quality Commission (EQC) in the early 1980's. That order required a consortium of Portland, Gresham, and Multnomah County to provide for the abandonment of cesspools through public sewerage and to provide locally enforceable connection requirements. A comprehensive sewer plan known as the Mid-Multnomah County Sewer Implementation Plan (MMCSIP) was prepared in response to the order. PCC Chapter 17.33 and associated Administrative Rule ENB-4.18 were created to support the implementation of that plan within the affected areas of the City.

Following the completion of the MMCSIP, implementation of the mandatory connection program and the collection of sewer line and branch charges continued to support system development for areas that lacked access to a public sewer. Through this program, the City has been successful in providing public sewer to the most densely urbanized areas of the City. The City has built in the relatively small cost of extending sewer to the few remaining unsewered properties into other charges borne by all who benefit from City sewer service. For these reasons, the bureau has decided to retire the mandatory connections program and make corresponding changes to PCC Chapter 17.33 and associated rule.

Connections to the public sewer can be required through various existing local, state, and federal regulatory processes. In addition, most new connections to the public sanitary sewer system are made to serve new development as developers are responsible for the construction of all public sewer improvements required to serve the developing property. As such, the decision to retire the mandatory connection program provided the bureau an opportunity to amend PCC Chapter 17.33 with language that better communicates when property owners may be required to connect to the public sanitary sewer system.

The changes to PCC Chapter 17.33 continue to support the City's responsibility to protect public health, water quality, and the environment by identifying the general circumstances and site conditions that will require a property owner to connect their property, structure, use or activity to the public sanitary sewer system. Changes to PCC Chapter 17.33 retain City's authority to enforce violations of this Code when warranted, and do not require taking additional regulatory authority. Required sewer connections will now be made through the development process, at the time of sale of properties and when onsite systems are no longer operable rather than based on a regulatory deadline imposed by the City. Required sewer connections will now be made through the development process, at the time of sale of properties and when onsite systems are no longer operable rather than based on a regulatory deadline imposed by the City.

## Financial and Budgetary Impacts

### PCC Chapter 17.32 Updates

Changes to PCC Chapter 17.32 do not require amendments to the budget or changes to current appropriations. Funds to reimburse property owners for additional public works permit improvements requested by the bureau are allocated each year in the bureau's capital budget. Additional funds would need to be reallocated if project needs exceeded the amount budgeted and would be evaluated by the BES Chief Engineer on a case-by-case basis. Changes to PCC Section 17.32.120.B will facilitate infrastructure improvements through development by establishing a framework that allows the bureau to consider a broader range of system improvements that would be eligible for reimbursement. Decisions regarding reimbursements for additional public works permit improvements will be evaluated at the discretion of the BES Chief Engineer. Bureau-estimated reimbursement amounts will be based on recent, previous construction costs. All reimbursements are subject to available funding. These changes replace obsolete language limiting the type of improvements the bureau can consider for reimbursement and eliminates the arbitrary cap that a single project cannot use more than 50% of the budget.

### PCC Chapter 17.33 Updates

Changes to PCC Chapter 17.33 do not require amendments to the budget or changes to current appropriations. Bureau staff managing the mandatory connection program will shift their work duties to support other programs. In addition, bureau staff responsible for implementing and enforcing the nonconforming sewer conversions program will not be affected as the changes proposed retain the existing Code authority for this program and associated rule. The decision to retire sewer line and branch and non-conforming conversion charges was accounted for in the overall bureau rate study, which was revenue neutral. Retiring these connection charges lowers the overall cost to property owners connecting to the public sewer for the first time. More information regarding changes to connection fees was included in Ordinance No. 191537.

## Community Impacts and Community Involvement

### PCC Chapter 17.32 Updates

Changes to PCC Section 17.32.120.B will streamline and expand reimbursements for specific project types. In addition, the changes provide increased flexibility for cost-sharing reimbursements by allowing the bureau to consider a broader range of system improvements that further the bureau's system planning goals and benefit the City. The effect of these changes will provide more opportunities for cost-sharing partnerships with local developers.

### PCC Chapter 17.33 Updates

Changes to PCC Chapter 17.33 reflect the bureau's decision to retire the mandatory sewer connection program. Specifically, changes to this chapter remove stringent sewer connection mandates including prescribed timeframes for compliance and sewer line and branch charge requirements. Language pertaining to nonconforming sewer conversion charges has also been removed, consistent with the elimination of these charges from PCC Chapter 17.36. The effect of these changes eliminates the need for aggressive enforcement actions, removes connection charge requirements, and lowers the overall cost of connecting to the public sewer. To be clear, the decision to retire the bureau's sewer line, branch, and conversion charges does not relieve the property owner from other required fees and charges associated with connecting to the public sewer. These fees and charges include, but are not limited to, applicable development review fees, system development charges, and permitting fees.

Following the updates to PCC Chapter 17.36, bureau staff have taken steps to repeal BES Administrative Rule ENB-4.18 (Mandatory Sewer Connection Program) and staff have ceased notifications to property owners informing them of the connection mandates. As it pertains to the retirement of nonconforming sewer conversion charges, the bureau will provide a full refund to property owners that have pre-paid sewer conversion charges but that will not have access to a public sewer by July 1, 2024. Refunds pertaining to the mandatory sewer connection program are not applicable as all properties that have previously paid the required sewer line and branch connection charges have received the benefit of, and are connected to, the public sewer.

Other changes to PCC Chapter 17.33 better communicate when properties are required to connect to the sanitary sewer by identifying the general circumstances and site conditions that will require a property owner to connect their property, structure, use or activity to the public sewer. These changes provide clarity to support program implementors and improves customer predictability regarding sewer connections. The circumstances and conditions provided in PCC Chapter 17.33 reflect existing requirements that may obligate a property owner to connect to the public sewer. The changes proposed do not impose new connection mandates or require the bureau to take additional regulatory authority. Connections to the public sewer will now be directed through existing processes and market demands, including the development review processes, voluntary connections to increase property values prior to sale, compliance with other Code regulations including Chapter 17.38 (Drainage and Water Quality) and Title 25 (Plumbing Regulations), and when onsite wastewater systems cannot be lawfully permitted.

## 100% Renewable Goal

Not Applicable

## Budget Office Financial Impact Analysis

These code changes do not require amendments to the current year budget, nor do they change current year appropriations.

## Agenda Items

385 Regular Agenda in [May 15-16, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/5/15)  
(<https://www.portland.gov/council/agenda/2024/5/15>)

Passed to second reading

Passed to second reading May 22, 2024 at 9:30 a.m.

413 Regular Agenda in [May 22, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/5/22)  
(<https://www.portland.gov/council/agenda/2024/5/22>)

Passed

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Mayor Ted Wheeler Yea