

# Chapter 17.32 Public Sewer and Drainage System Permits, Connections, ~~and~~ Maintenance, and Damage

## 17.32.010 Purpose.

This Chapter ~~regulates~~ addresses access and connection or damage to, and the use, construction, modification, maintenance, repair, ~~or and~~ removal of, components of the City sewer, storm sewer and drainage systems, and their easements. This Chapter operates in conjunction with Chapter 17.38 to regulate the collection, conveyance, and disposal of sanitary and stormwater discharges from public and private properties. This Chapter is administered by the Director of the Bureau of Environmental Services (BES).

## 17.32.020 Definitions.

~~As used in this Chapter, t~~The following definitions apply to this Chapter:

- A. **“Building ~~s~~Sewer”** means that portion of the horizontal piping system that receives the discharge of building drains and extends to a public sewer, private sewer, private sewage disposal system, or other approved discharge point; and is located on private property.
- B. **“Capacity”** means the flow volume or rate for which a specific facility is designed to safely contain, receive, convey, infiltrate, or reduce pollutants from sanitary sewage, stormwater, wastewater, or other discharge in order to meet a specific performance standard.
- C. **“City ~~S~~storm ~~S~~sewer and ~~D~~drainage ~~S~~system”** means a City conveyance or system of conveyances, including but not limited to pipes, pumps, drainage ditches, constructed channels, groundwater-related disposal systems, underground injection control devices, stormwater management facilities, and storm drains, that are designed or used to collect and transport stormwater. “City storm sewer and drainage systems” does not include natural streams,

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creeks, ponds, lakes, a combined sewer, or any part of a Publicly Owned Treatment Works, as defined in 40 CFR ~~122.2403.3~~.

**D. “Combined Ssewer”** means a sewer designed to convey both sanitary sewage and stormwater.

**E. “Commercial or Industrial Occupancy”** means any structure or facility wherein preparation, processing, treating, making, compounding, assembling, mixing, improving, or storing any product or any solid, liquid or gaseous material for commercial or industrial purposes occurs, or wherein cleaning, processing or treating of tanks, vats, drums, cylinders or any other container used in transportation or storage of any solid, liquid or gaseous material for commercial or industrial purpose occurs.

~~**F. “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.~~

**GF. “Connection”** means the connection of all sanitary waste and drainage disposal lines from all development on a property to the public sewer and drainage system.

**HG. “Conveyance”** means the transport of sanitary sewage, stormwater, wastewater or other discharge from one point to another point.

**IH. “Director”** means the Director of the Bureau of Environmental Services or the Director’s designee.

**JJ. “Discharge Ppoint”** means the connection point or destination for a discharge leaving a site.

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**KJ. "Drainage"** means the flow of waters across public and private properties.

**LK. "Drainage Improvements"** means management facilities or modifications to storm sewers, drainage systems or drainage patterns to address safety issues, increase capacity, or improve water flows or quality.

**ML. "Green Street"** means a vegetated stormwater management facility located within a public or private right-of-way.

**NM. "Groundwater Discharge"** means a discharge pumped or directed from the ground. Groundwater-related discharges include but are not limited to, subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, and subsurface water associated with construction or property management dewatering activities.

~~**O. "Nonconforming Sewer"** means a private sanitary sewer that is:~~

- ~~1. Not on the same public or private property as the structure or structures being served by the sewer; and~~
- ~~2. Not located within a recorded sewer easement or subject to a recorded covenant for easement regarding use of the sewer and meeting the standards for easements specified in administrative rules.~~

**N. Nonconforming sewer** means a private sewer system that accesses the public sewer by any of the following:

1. A sewer lateral draining more than one property that conveys the discharge to the public sewer in the public right-of-way (ROW) or in a public sewer easement, also known as a "party" sewer. Exception: This does not apply to Middle Housing Land Division (MHL) shared sewers that meet all City requirements and standards.
2. A sewer lateral crossing one or more properties without the benefit of a recorded easement that meets City standards.
3. A nonconforming private sewer line.

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4. A sewer lateral in the public ROW or in a public sewer easement with an alignment or other physical characteristic contrary to the approved standards of the Sewer and Drainage Facilities Design Manual (SDFDM).

**PO. "Public Rright-of-Wway"** means the area within the confines of a dedicated public street, an easement owned by the City, or other area dedicated for public use for streets or public ~~utility~~ facilities.

**QP. "Public Ssewer Eeasement"** is a grant of the right by a property owner to the City to use land for placement and maintenance of public sewer facilities.

**Q. Responsible party** means, except as separately defined by applicable administrative rule, any person who, regardless of knowledge or intent, causes or contributes to a violation of this Chapter or associated rules.

**R. "Route of Cconveyance"** means the BES-approved path of conveyance from a property or private stormwater system to the approved discharge point.

**S. "Route of Sservice"** means the BES-approved path of connection of a building sewer or private stormwater conveyance to a City sewer, storm sewer or drainage system.

**T. "Sampling Mmanhole"** means a manhole in a sewer lateral or other monitoring access that is acceptable to BES, and that allows for observation, sampling or measurement of all discharges to the City's sewer or drainage system.

**U. "Stormwater"** means water that originates as precipitation on a particular site, basin, or watershed.

**V. "Wye"** means a connection joint or pipe between a public sewer and more than one sewer service lateral, building sewer, or common private sewer system.

### **17.32.030-Permit RequiredProtection of the City Sewer and Drainage System.**

**A. Except for emergency repairs described in Subsection 17.32.030 B.,** it is unlawful for any person to take the following actions without first obtaining

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authorization from the Director and approval from the BES Chief Engineer via permit, contract or other legal agreement and paying applicable fees:

1. Access any ~~City-public sewer or drainage system~~ component;
  2. Encroach into a City sewer easement;
  3. Dig up, break into, excavate, disturb, dig under, or undermine any public street or City sewer easement ~~for the purpose of laying or working upon any City or private sewer or drainage improvement of any kind;~~
  4. Make a connection ~~with~~, obstruct or interfere with the ~~City-public sewer, storm sewer or drainage system;~~
  5. ~~Cut, break~~Damage, connect, modify or remove any component of the ~~City-public sewer or drainage system;~~ or
  6. Direct water, from any source, on private property to run onto any City sidewalk, street, easement or right of way.
- B.** In the case of the need for emergency repair to a ~~City sewer, storm sewer or drainage system~~ component of the public sewer to protect public health, safety or the environment, the person making the repair may commence work without first obtaining a permit provided that:
1. The person immediately notifies the City of the need for repair;
  2. Any emergency repair work is limited to what is needed to remove the emergency situation as deemed necessary by BES Chief Engineer;
  3. The work is performed in compliance with standard City construction specifications, the Sewer and Drainage Facilities Design Manual, the Source Control Manual, and the Stormwater Management Manual; and
  4. The person making repairs files an application for a BES permit within three business days of the emergency and complies with all permit conditions and pays all applicable fees.
- C.** Repair of nonconforming sewers located in public right-of-way or a City easement is prohibited unless the BES Chief Engineer determines that it is in the public interest to allow the nonconforming system to remain.

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**D.** The Portland Bureau of Transportation may require a permit and approval from the BES Chief Engineer to construct and attach drainage improvements to the ~~City public sewer system, storm sewer and drainage system~~ as needed to provide stormwater drainage for public streets.

**E.** Except as otherwise allowed by the Director, it is unlawful for any person to allow or cause a connection that will result in the discharge of sanitary sewage into a City storm sewer and drainage system.

**F.** Except as otherwise allowed by the Director, it is unlawful for any person to allow or cause a connection that will result in the discharge of storm drainage, collected groundwater or other water to a public sewer designated by the BES Chief Engineer to be used solely for sanitary sewage.

**G.** Except as otherwise allowed by the Director, it is unlawful for any person to allow or cause damage to the public sewer. In addition to the enforcement tools listed in Section 17.32.140, each Responsible Party is jointly, severally, and strictly liable for all of the City's reasonable costs to repair, replace, or conduct any other work needed to restore the public sewer and any associated facilities or properties to their pre-damage condition and functionality, including consequential damages, third-party damages, and associated legal costs.

### 17.32.040 Types of Permits and Reviews.

The Director has established a permitting system to review, approve and enforce proposals to access, use, connect to, modify, repair or remove components of the City sewer, storm sewer and drainage system. BES administrative rules identify application submittal requirements, permit issuance decision-making, inspection, bond, and warranty requirements.

**A.** In general, the Director authorizes the following permits, reviews, and authorizations:

**A1.** Access and system use permits for limited use of sewer systems for monitoring, sampling or other non-structural activity;

**B2.** Encroachment reviews for City sewer and drainage systems and their easements, including both temporary staging and permanent structural modifications;

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**C3.** Connection permits for new laterals or permanent routing of any discharges to the City sewer, storm sewer or drainage system;

**D4.** Public works permits for construction, modification, repair or removal of a component to the City sewer, storm sewer or drainage system; and

**E5.** Pre-issuance reviews on projects in the vicinity of City sewer, storm sewer and drainage systems that are required to obtain other City permits or authorizations to conduct work.

**F6.** Authorization the activities described in Section 17.32.030 through a binding contract or other legally binding agreement or a BES discharge permit or authorization.

**GB.** The BES Chief Engineer may refuse to issue a permit if:

- 1.** In the judgment of the BES Chief Engineer, the proposed work or activity is not suitable in the circumstances or will not be consistent with or protective of existing or proposed public sewer, storm sewer or drainage improvements or activities in the immediate vicinity;
- 2.** The application is not modified as the BES Chief Engineer deems necessary;
- 3.** The City Engineer has not issued a street opening permit if the public sewer or drainage improvement or proposed work or activity is occurring or will occur within a public right-of-way or area to be designated as a public right-of-way;
- 4.** The application is to repair, replace or upgrade an existing private sewer or drainage system that is nonconforming; or
- 5.** The requirements of any previously issued permit have not been met including the payment of delinquent fees or City charges.

### **17.32.050 Work Allowed and Required Under Permit.**

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**A.** Upon receipt of the completed application, proper and satisfactory bond, and payment of all applicable fees, the BES Chief Engineer may issue the requested permit, unless there are reasons of public interest to the contrary. The permit may include restrictions or conditions as deemed necessary by the BES Chief Engineer.

**B.** All persons doing work under a permit must comply with all the conditions of the permit as specified by the Director and perform work to the standards set by the BES Chief Engineer. The BES Chief Engineer may establish standards for particular types or classes of work to be performed by persons permitted to work on BES facilities in streets, easements, or other public property. Such conditions may include:

1. Full payment of permit fees.
2. Specifics about the kind of work and the time in which the ~~same~~[work](#) is to be completed.
3. Such other requirements as the BES Chief Engineer finds appropriate in the public interest.

**C.** The BES Chief Engineer may refuse to accept work that is not in full compliance with the plans, specifications, permit or other contract documents. If the work is refused, it will not be accepted unless it is brought into full compliance.

1. All work must comply with the following design and construction standards;
  - a. Sanitary, wastewater or other discharges to the sanitary or combined system must comply with the Sewer and Drainage Facilities Design Manual and the Source Control Manual.
  - b. Stormwater, groundwater discharge or other waters discharged to the City's storm sewer and drainage system must comply with the Stormwater Management Manual, the Source Control Manual, and Chapter 17.38.

**D.** All components of the City sewer, storm sewer and drainage system must be located within public rights-of-way, including easements. The width of public

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rights-of-way must be adequate to allow reasonable access for inspection, maintenance, repair and replacement, using standard construction methods. The minimum width for City sewer, storm sewer or drainage easements located outside of the public right-of-way is 15 feet. The Director may require enlargement of an easement as necessary to address topographic conditions, the design of the improvement, or other relevant factors.

**E.** It is unlawful for any person who obtains a permit to fail or refuse to immediately remove all surplus sand, earth, rubbish, and other material from public streets and other public areas. All public streets, easements, and other public properties must be repaired or replaced to a condition satisfactory to the City Engineer, or the BES Chief Engineer for sewer, storm sewer and drainage easements, at the permittee's own expense for the period of two years from the date of the completion of the work, as acknowledged in writing by the City.

### **17.32.060 Permit-Related Records.**

BES will keep a record of permitted activities and improvements made under permit, permits issued under this Chapter, permit conditions, and the dates of acceptance of improvements. Any plans, specifications, survey notes, or other original documents as required by the BES Chief Engineer that were prepared for or produced during permit application or the design of, construction of, or connection to of a public sewer or drainage improvement, become the property of the City and must be delivered to the BES Chief Engineer before acceptance of the improvement by the BES Chief Engineer. The permittee must provide copies of any sampling data or other information obtained as a result of accessing the City sewer, storm sewer and drainage system.

### **17.32.070 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 17.32.070 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.

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- 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 BES Chief Engineer may grant or deny a permit to repair, upgrade, or replace the system as provided by Section 17.32.030. Such a system may only remain in the public right-of-way at the discretion of the BES 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 system constructed by the City, constructed under a public works permit, or accepted by the City pursuant to Subsections 17.32.070 B.1. or B.3. will be maintained by the City as explained below in this Section unless otherwise specified by written agreement with the City.

- 1. Limits of City Maintenance Responsibility.** The City maintains City sewer and drainage improvements that are located in City rights-of-way and that are described as part of the City ~~public~~ sewer, storm sewer and drainage system. However, the City only maintains laterals as follows:
  - a.** For a City-paved street with curbs, the City will maintain a lateral from the sewer main to the street-side curb face nearest the property being served. If there is more than one curb, as with stormwater facilities, the City will maintain to the street-side curb face closest to the property line. Otherwise, the City will maintain only the wye or tee connection for laterals.
  - b.** For a City-paved street without curbs, the City will maintain a lateral from the sewer main to the edge of the City paved street area.
  - c.** Under Subsections 17.32.070 B.1.a. and b., when the sewer main is located in the right-of-way between the property line and

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the street-side curb face closest to the property line, the City will maintain only the wye or tee connection for the lateral.

**d.** For an unpaved street, the City will maintain those portions of any lateral within an area of right-of-way up to 28 feet wide and centered on the centerline of the City right-of-way, as determined by the City, as follows:

**(1)** When the sewer main is within the 28-foot maintenance area, the City will maintain the lateral to the limit of the maintenance area;

**(2)** When the sewer main is outside the 28-foot maintenance area and at least a portion of the lateral lies within the maintenance area, the City will maintain the lateral to the limit of the maintenance area; and

**(3)** When the sewer main is outside the 28-foot maintenance area and no portion of the lateral lies within the maintenance area, the City will maintain only the wye or tee connection for the lateral.

**e.** In City sewer, storm sewer and drainage system easements, the City will maintain public sewer mains and only the wye or tee connections for laterals.

**f.** Those portions of a lateral not addressed by Subsections 17.32.070 B.1.a. through d. are the responsibility of the property owner receiving service through the lateral.

### 2. Acceptance of Systems with Unclear Ownership.

**a.** The [BES](#) Chief Engineer may agree to conduct future maintenance of a sewer or drainage system located in a public right-of-way or City utility easement where the ownership is unclear if, in the judgment of the BES Chief Engineer, the public will benefit thereby and:

**(1)a.** The system conveys only domestic sanitary or stormwater flows from residential property; or

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~~b.(2)~~ 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.

~~b. 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.

**3. Acceptance of Systems from Other Agencies, Utilities or Individuals.** The BES Chief Engineer may accept sewer, storm sewer and drainage systems from other public or private utilities, public agencies, non-profit groups or other persons as the BES Chief Engineer deems appropriate. This acceptance may include full ownership or only assumption of maintenance responsibilities.

**4. Adoption of Private Systems in the Public Right-of-Way.** The BES Chief Engineer may agree to take ownership of a private sewer system or drainage improvement in the City right-of-way as provided by administrative rule. At the discretion of the BES 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; and

**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.~~

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**5.** A system accepted under Subsection 17.32.070 B.1. or adopted under Subsection 17.32.070 B.2. will be added to the City maintenance roles as of the date of acknowledgment by the BES Chief Engineer.

**6.** 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 will 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.

**7.** Any private piping, collection or conveyance structures needed to provide service to or used to transport discharges to the City's sewer, storm sewer or drainage system, will be the sole responsibility of the property owners(s) served by such systems. System installation, maintenance and repair will occur at the expense of the applicable property owner(s).

**8.** Volunteer Maintenance. Property owners adjacent to City green street or other drainage improvement are not responsible for routine maintenance of the facilities, but BES-approved volunteers may voluntarily perform any of the following tasks:

- a.** Trash, debris, and sediment removal;
- b.** Weed removal;
- c.** Leaf pick up and removal;
- d.** Watering of vegetation;
- e.** Clearing inlets and outlets to allow stormwater to freely enter and exit the facility; and
- f.** Planting vegetation with written approval from BES.

### **C.** Nuisance Abatement.

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

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- 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;
  - c. Violates City operation, maintenance or construction standards or rules, ~~or~~ or
  - d. Otherwise creates a public health or safety hazard.
2. Summary abatement of the nuisance is authorized when the BES 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 BES Chief Engineer will 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 ~~does~~ will 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. 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.~~

### 17.32.080 Use and Access Permits.

- A.** Access to or use of the City sewer, storm sewer and drainage system requires the written approval of the Director and payment of all applicable fees. Public agencies or BES discharge permittees may be eligible for multi-use or programmatic permits. Structural modification of the City sewer, storm sewer and drainage systems requires a public works permit under Section 17.32.100.
- B.** Drainage System Modifications. Modifications of any public or private stormwater management systems require the written approval of the Director.

## 17.32.090 Connection Permits.

Connecting to a City sewer, storm sewer or drainage system, requires the written permission of the Director and payment of all applicable fees. A permit application must include the purpose of the work; the name of the street or proposed or existing easement or right of way where work is proposed; the location of potentially affected components of the City sewer, storm sewer and drainage system; the location of the building or lot to be connected by the work (if any); and the location and the area to be drained.

**A.** If the application is for a permit to connect a commercial or industrial occupancy it must also include:

1. A description of the business, a plat of the property, plans and specifications for any special installations;
2. A description of the character and quantity of waters and wastes to be discharged through the connection;
3. A proposed schedule for work; and
4. Any further information required by the BES Chief Engineer.

**B.** If the application is for a permit to connect properties outside the City limits, connection approval will be at the sole discretion of the BES Chief Engineer. No connection from property outside the City limits or within a neighboring jurisdiction will be permitted ~~which~~that, in the opinion of the BES Chief Engineer, may overload or otherwise compromise any component of the City sewer, storm sewer or drainage system. Connection of properties outside the City's boundaries is subject to the requirements and limitations of the City's adopted urban services policy.

1. Application for a permit to connect must be made in writing by the owner or other person having a recorded equitable interest in the property for which the connection is desired. Before a permit can be issued, all fees and special charges must be paid and any permits that may be required for street or highway opening and use must be obtained.

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- 2.** Any person connecting a property outside the City limits to the City sewer, storm sewer or drainage system may be required to~~must~~ enter into a maintenance agreement ~~as may be required by the Director~~.
  - 3.** Flows from outside the City limits may be required to meet the standards in the Source Control Manual, the Stormwater Management Manual or the Sewer Drainage Facilities Design Manual, as determined by the BES Chief Engineer based on the needs of the City sewer, storm sewer and drainage system.
- C.** All permitted work must meet the following general sewer and drainage system construction standards, if applicable:
- 1.** All discharges must be routed to the City sewer, storm sewer and drainage system by gravity service when possible, unless otherwise approved by the BES Chief Engineer.
  - 2.** If separate City storm and sanitary sewers are available, separate connection must be made to the City's sewer, storm sewer and drainage system from the private property:
    - a.** Sanitary sewage from private property must be separately conveyed to the property line and connected through individual laterals for discharge to the City separate sanitary or combined sewer.
    - b.** Drainage from private property, whether from the roof of a building, the surface of a structure, footings of a structure or any other surface, groundwater discharge or other drainage must be conveyed separately from sanitary sewage to City systems via an approvable route of conveyance or discharge point to the City storm sewer and drainage system;
    - c.** If separate storm and sanitary sewers are not available, but a combined sewer is available, the BES Chief Engineer may require or allow:
      - (1)** Separate connections for the separate sewage lines from the property to the City's combined sewer;

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(2) Joining of the separate lines at the curb line closest to the property line or edge of an easement for single discharge into the City's combined sewer; or

(3) Onsite infiltration of surface, groundwater discharge or other drainage to minimize or eliminate the need for offsite discharge.

3. All discharges must be connected via an approved route of service or route of conveyance to a discharge point approved by the BES Chief Engineer.

D. The BES Chief Engineer may require that a property owner modify or abandon an existing sewer connection when a new or renovated public sewer becomes available. The BES Chief Engineer may dictate a new route of service or route of conveyance and new approved connection point to the City sewer, storm sewer and drainage system for sewage, wastewater or other drainage discharges. A new connection may be:

1. Required or provided by BES as part of an infrastructure replacement project that addresses issues such as but not limited to pipe stability, capacity expansion, water quality improvement, or reduction of inflow or infiltration into existing laterals.

2. Required for a property with a private sewer, storm sewer and drainage system located in City right-of-way to obtain a City encroachment permit; or

3. Required in order to remove an illegal connection that is subject to an enforcement action.

### 17.32.100 Public Works Permits.

A. The construction, modification, repair or removal of a component of the City sewer, storm sewer and drainage system requires a public works permit prior to beginning work. All applicants must complete a public works application form that provides:

1. A description of the proposed work and the applicable public improvements.

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2. Locations and names of proposed streets where work is proposed, location of any off-street improvements, and the name of a new proposed plat development, if any.

3. Any other information the BES chief Engineer deems appropriate.

A permit will be issued by the City after the sewer or drainage improvement plans and/or description of proposed work have been approved by the BES Chief Engineer.

**B.** Prior to City issuance of a permit, the applicant must provide a performance bond, cash, or other financial guarantee in an amount ~~not to exceed~~ sufficient to pay the City's estimated for construction, ~~and~~ engineering, and other costs for the City to perform the permitted work.

**C.** The BES Chief Engineer will only issue a permit for the construction of a public sewer or drainage improvement in advance of plat recording of a subdivision or planned unit development after:

1. The sewer or drainage improvement plans have been approved;

2. The final plat, with or without required signatures affixed, has been submitted to the Bureau Development Services;

3. The Bureau of Development Services has given written assurances that subdivision or planned unit development approval conditions have been or will be met;

4. All applicable easements outside the subdivision or planned unit development have been obtained, and

5. The applicant has complied with Section 17.32.050 of this Code.

6. The issuance of a BES public works permit in no way waives any requirements by the City or any other public agency that may be associated with the development of a plat or Planned Unit Development.

**D.** Persons wishing to utilize City design services must include payment of a deposit in an amount to be determined by the Director with the permit application. All deposits must be made before any City design work begins. BES

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will retain the deposit as compensation for the preparation of design and plans or for review efforts if:

1. A permit application or issued public works permit has had no action or communication for one year from the previous contact; or
2. A permit is not issued for the proposed improvement within one year from the time the design and plans are reviewed and completed.
3. If a public works permit is issued for the proposed improvement within one year from the time the design and plans are completed, the amount of the required deposit will be applied to the cost of the permit fee for such improvements.

**E.** In addition to the standard permit conditions of Section 17.32.050, public works permits must meet the following standard conditions:

1. The resulting public improvement must be located in a public easement or public right of way and will come under City control upon plat and easement recording with the County.
2. The permittee ~~shall~~ must agree to indemnify, defend, and hold the City of Portland harmless in writing against any liability that may arise from or in connection with the permitted activity prior to any dedication of rights-of-way or recording of easements. The permittee must assume all risk of loss that may arise in the event the City or any other public agency subsequently requires changes in or additions to plans or refuses to approve all or any part of the permittee's improvements.
3. The permittee must, at the permittee's own expense, maintain any permitted City sewer or drainage improvement for a period of 24 months following the issuance of a letter of permit completion by the City Engineer. The warranty period ensures that workmanship and materials are not defective and that the improvement is operating properly. BES may extend the warranty period for any repairs, alterations or rehabilitations that needed to occur during the original warranty period.
4. Any drainage improvements made on private property and private or shared private/public facility systems allowed in a City right-of-way or easement will remain the maintenance responsibility of the private

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property owner as a condition of the approved permit and associated maintenance agreement unless accepted as a City maintenance responsibility by the Director.

**5.** All plats and easements must be recorded with the County prior to final acceptance of the public sewer or drainage improvements.

### F. Acceptance of Improvements.

**1.** Notice of Construction Completion. During the course of construction, and before issuance of a letter of permit completion from the BES Chief Engineer or a certificate of completion from the Bureau of Transportation for joint projects, the BES Chief Engineer will inspect the sewer or drainage improvement and to determine if the improvements were constructed in compliance with the plans, specifications and conditions of the permit and if they meet City standards for quality of workmanship. The BES Chief Engineer will check the improvement for alignment and conformance with the established grade. Once this acceptance is garnered, the maintenance and warranty period will commence.

**2.** Certificate of Completion of the Maintenance and Warranty Period. All of the work required during the warranty period must be completed to the satisfaction of the Chief Engineer prior to completion certificate issuance and issuance of a warranty completion certificate accepting the improvement.

**3.** In the event the BES Chief Engineer does not accept a public sewer or drainage improvement within one year after completion of the warranty period, the permittee must remove the improvement and restore the public area to at least its prior condition or to the extent directed by the BES Chief Engineer or City Engineer at the permittee's expense.

## 17.32.110 Permit and Review Fees.

Permit and review fees are ~~described on~~[established by](#) the BES annual rate ordinance required by Chapter 17.36. BES may withhold issuance of any permit until applicable connection charges and review fees are paid in full. Multi-tiered permit fees may be applicable.

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- A.** Access, Use and Encroachment Reviews and Permits. Sewer access, use and encroachment permit review fees will recover the cost of BES reviews including all applicable overhead and inspection charges.
- B.** Connection Permits. Connection permit review fees will recover the cost of all City reviews including all applicable overhead charges for review and inspection. Overhead rates are set annually by the Director.
- C.** Public Works Permits. Public works permit review fees recover the true costs of engineering and superintendence services in connection with public sewer or drainage improvement projects based on City records of time, materials, services, overhead and indirect costs incurred to provide the services. Public works permit and review fees recover the costs for all projects completing work whether performed by contract in the name of the City, by private contract between a permittee and a contractor, or directly by the permittee.
- D.** All fees must be paid prior to receiving a permit and commencing work.
- E.** BES may withhold a portion of permit fees and charges to cover costs associated with opening and reviewing a permit. Canceled connection, use, encroachment, proximity review and standard public works permits are generally not eligible for refund unless meeting the criteria set by the Director. Complex public works permits are eligible for refund of the applicable portions of the public works permit deposit not already spent on City design or review services.

### **17.32.120 Reimbursements for Work.**

- A.** Backflow Device Reimbursement. A property owner may submit an application for partial reimbursement of the cost for installation of a sewer backflow device on a combined sewer line. To be eligible, the building or structure must be connected to the City combined sewer system and be in an area vulnerable to sewer backups, as determined by the BES Chief Engineer. All backflow devices installed pursuant to this Section will be owned by the building owner, who must assume the costs of maintenance, repair and replacement.
  - 1. Backflow devices must be installed per Title 25, Plumbing Regulations.
  - 2. ~~As of July 1, 1996, if~~ the reimbursement is approved, the building owner must pay the first \$100 of the cost of such installation, and the City

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pays the next \$1,500 of such costs. The building owner must pay any amount in excess of \$1,600. Payment to the property owner of the City's share of the expense is made upon the Bureau of Development Services' final inspection and the owner's submittal of the plumber's billing for the work.

3. City participation in the cost of installation does not guarantee or in any manner warrant any backflow device, nor does the City give any ~~warranty~~ guarantee that the device will prevent future flooding. The City does not assume any responsibility for damages incurred as a result of flooding subsequent to installation of any backflow device. The owner may look to a warranty or guarantee from the manufacturer of the backflow device or the installation contractor.

### B. Sewer and Drainage System ~~Extensions~~ Improvements.

~~1. Payment for Extension. When a City sewer or drainage improvement is extended past or to properties, all property owners benefiting from the extension will be assessed a share of the anticipated cost of the extension based on either Local Improvement Districts as described in Chapter 17.08; or other charges as specified in Section 17.36.040.~~

~~2. Reimbursement for Extension. The property owner or developer paying for a sewer or drainage system extension that will serve unserved properties will be reimbursed by the City for part of the cost of such extension:~~

~~a. The amount of reimbursement for a sewer extension is limited to the amount of revenue that would be received from the line and branch charge established in Section 17.36.040 if, upon acceptance of the sewer by the City, all properties adjacent to and capable of receiving gravity service were to connect. The reimbursement will not exceed the cost of an equal length of 8-inch-diameter sewer line, as determined by the BES Chief Engineer.~~

~~b. The amount of reimbursement for a drainage improvement extension is limited to the cost to manage the drainage basin area drained to new facilities that will be accepted by the City for long term maintenance.~~

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~~c. The reimbursement for any project will not exceed 50 percent of the amount budgeted by the City in any fiscal year, unless otherwise approved by the Director. The total reimbursement in any fiscal year must not exceed the amount budgeted for that purpose in that year; however funds may be committed against the next year's budgeted amount.~~

1. Improvements Required for Development. As a general rule, all expenses incurred for the construction of public sewer and drainage system improvements required to serve a developing property or as a condition of approval are the sole responsibility of the property owner or their agent. Public sewer and drainage system improvements required to serve the developing property that incidentally benefit other properties, or the City are not eligible for cost-sharing reimbursement, including but not limited to situations where a sewer extension passes properties located between the existing public sewer and the developing property.

2. City-Requested Improvements. When the City requests improvements to the public sewer and drainage system that exceed the applicable City design standards otherwise required to serve the developing property, the City may enter into a mutual cost-sharing agreement with the property owner or their agent. Cost-sharing amounts are based on available funds and may be subject to City Council approval by ordinance. Only the proportional costs associated with the excess improvements, as determined by the BES Chief Engineer, are eligible for cost-sharing reimbursement.

3. Amount of Cost Share. As 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.

a. Certain common improvement types will be reimbursed using standard unit costs that are established based on recent engineering estimates, project costs, and bid estimates.

b. Other improvements that are completed as part of the development project that further the bureau's system planning goals and benefit the City are eligible for cost-sharing reimbursements at the sole discretion of the Chief Engineer.

These will be evaluated on a case-by-case basis and documented in a mutual cost-sharing agreement. Bureau-estimated reimbursement amounts will be based on recent, previous construction costs. All reimbursements are subject to available funding.

## **17.32.130 Inspections.**

**A.** Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose. This authorization includes but is not limited to inspection surveying, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or agreement.

**B.** Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.
2. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

## **17.32.140 Enforcement.**

**A.** Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold ~~the person or persons solely~~ each Responsible Party jointly and severally responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to obtain a permit for actions in Section 17.32.030, including failure to supply correct application materials;

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2. Failure to comply with the conditions of a permit;
3. Failure to comply with the conditions of or prohibited access to a public sewer or drainage easement;
4. Failure to comply with a written directive or timeline of the Director made under authority of this Chapter;
5. Damage, ~~to~~ [regardless of intent](#), ~~or modification to any component of~~ [the public sewer](#); ~~or drainage improvement; and~~
6. [Unauthorized modification of the public sewer; and](#)
- ~~6~~7. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15).

**B. Enforcement Tools.** BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, withholding of final inspection, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

**C. Civil Penalties.** ~~Persons violating this Chapter or associated rules~~ [A Responsible Party](#) may be assessed civil penalties of up to \$10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

**D. Cost Recovery.** The Director may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15.

**E. City Summary Abatement.** To the extent permitted by law, the Director may recover from ~~the person causing the violation~~ [a Responsible Party](#) all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;

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2. A situation that poses an imminent danger to human health, public safety, or the environment; or
3. Continued noncompliance with ~~PCC~~[this Code](#) or associated rules.

**F.** Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

### **17.32.150 Administrative Reviews, Appeals, and Compliance Cases.**

**A.** Reviews and Appeals. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal with the Code Hearings Officer per ~~PCC~~ Title 22 [of this Code](#), unless appeal is limited by administrative rule.

**B.** BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under ~~PCC~~ Title 22 [of this Code](#) to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence.

### **17.32.160 Conflict.**

This Chapter supersedes all ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter.

### **17.32.170 Severability.**

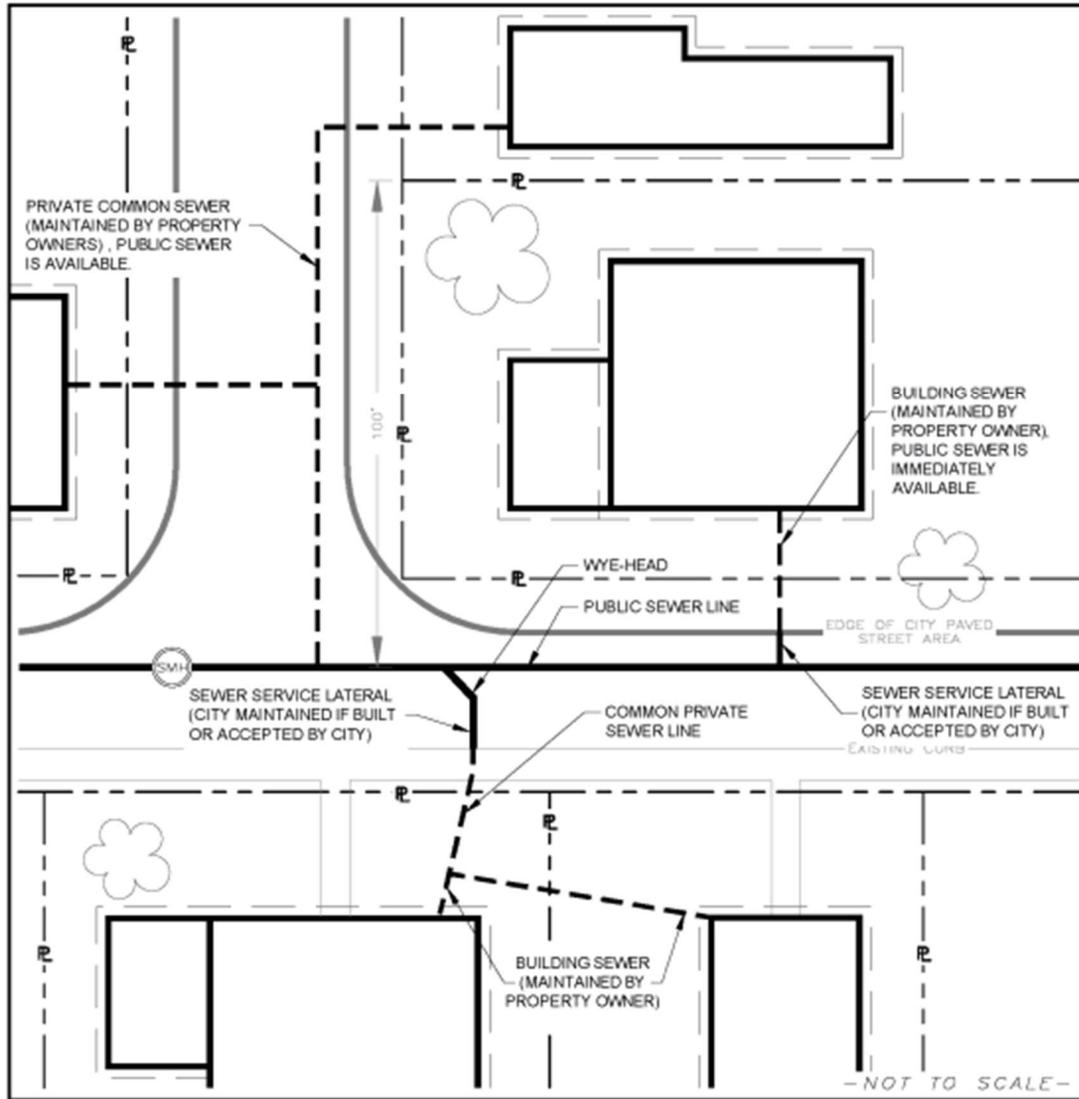
If any provision, paragraph, word, or Section of this Chapter or associated administrative rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and ~~s~~Sections ~~shall~~[will](#) not be affected and ~~shall~~[will](#) continue in full force and effect.

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Figure 13 is repealed.

**FIGURE 13 - (SECTION 17.32.070 AND 17.33.020)**

(Figure replaced by Ordinance No. 186659, effective July 18, 2014.)



**Legend**

- PUBLIC SEWER
- - - -** PRIVATE SEWER