

ORDINANCE NO. 12-2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, REPEALING CHAPTERS 13.05, 13.10, AND 13.15; ADDING A NEW CHAPTER 13.10; AND AMENDING SECTION 13.45.010 OF THE COVINGTON MUNICIPAL CODE, RELATING TO SEWER AND WATER SERVICE.

WHEREAS, Chapter 35A.63 of the Revised Code of Washington (RCW) empowers the City of Covington (the "City") to enact planning and environmental regulations; and

WHEREAS, Title 13 of the Covington Municipal Code (CMC) provides regulations for administering public utilities within the City; and

WHEREAS, the City of Covington does not provide water or sewer service within the City limits;

WHEREAS, City staff transmitted drafts of the proposed amendments to staff at the Covington Water District, Soos Creek Water and Sewer District, and Public Health - Seattle & King County and received comments and suggestions to the draft that were incorporated in to the new Chapter 13.10 Sewer and Water Service.

WHEREAS, the proposed amendments to CMC Title 13 are consistent with the goals, objectives, and policies of the City's comprehensive plan; and

WHEREAS, the City Council of the City of Covington, upon review of the facts and findings, and after reviewing information provided by City staff, find that all applicable and substantive requirements of the law have been met, that the adoption of this ordinance promotes the public health, safety, and general welfare of the community, and that the adoption of this ordinance serves the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The "Whereas" provisions above shall constitute Findings of Fact and are incorporated by reference as if fully set forth herein.

Section 2. Repeals. The following Chapters are repealed:

Chapter 13.05 Definitions, is repealed.

Chapter 13.10 Side Sewer Work and Connections, is repealed.

Chapter 13.15 Sewer and Water Comprehensive Plans, is repealed.

Section 3. Additions. Chapter 13.10 Sewer and Water Service is added to read as follows:

Chapter 13.10

SEWER AND WATER SERVICE

Sections:

- 13.10.010 Purpose.
- 13.10.015 Definitions
- 13.10.040 Development proposals - sewer connections required.
- 13.10.045 Approved on-site sewage systems.
- 13.10.050 Development proposals - water connection required.
- 13.10.060 Certificates of water and sewer availability required.
- 13.10.070 Connection to public water and sewer-Right of Way Permit Required.
- 13.10.080 Use of the public sewers.
- 13.10.090 Protection from damage.

13.10.010 Purpose.

The purpose of this chapter is to:

- (1) Ensure that adequate public facilities for potable water and wastewater treatment are provided in an efficient and coordinated manner with applicable water-sewer district(s) Comprehensive Plans, as referenced or amended.
- (2) Provide information to assist in the review of development proposals.

13.10.015 Definitions

Certain words and phrases used in this chapter, unless otherwise clearly indicated by their context, mean as follows. Unless otherwise defined below the definitions in Chapter 18.20 CMC apply.

- (1) "Designated City Official" means the City employee(s) designated by the City Manager to be responsible for enforcing the terms of this chapter.
- (2) "Group A water system" means a public water system with 15 or more service connections, regardless of the number of people served, or a system serving an average of 25 or more people per day for 60 or more days within a calendar year, regardless of the number of service connections.
- (3) "Group B water system" means a public water system that is not a Group A water system, with less than 15 service connections and:
 - (a) Fewer than twenty-five people per day; or
 - (b) Twenty-five or more people per day for fewer than sixty days per year, provided the system does not serve one thousand or more people for two or more consecutive days.
- (4) "Public sewer" means any sewer or appurtenant facility other than a side sewer, either owned or operated by a water-sewer district within the jurisdiction of the City of Covington

and approved by or under permit from the Washington State Department of Ecology, the Washington State Department of Health, and/or a local health officer at Public Health - Seattle-King County.

- (5) "On-site sewage system" (OSS) means an integrated system of components, located on or nearby the property it serves, that conveys, stores, treats, and/or provides subsurface soil treatment and dispersal of sewage. It consists of a collection system, a treatment component or treatment sequence, and a soil dispersal component. An on-site sewage system also refers to a holding tank sewage system or other system that does not have a soil dispersal component.
- (6) "Sewage" means liquid-carried waste discharged from the sanitary facilities of buildings occupied or used by people.
- (7) "Side sewer" means any sewer line used or installed by any person to conduct waste from any property to a public sewer.

13.10.040 Development proposals -- sewer connections required.

- (1) All development proposals, including but not limited to multi-family and single-family development proposals, commercial site plans, subdivisions and short-subdivisions within the City shall be served by public sewer facilities.
- (2) Exemptions from connecting to a public sewer system. The following are exempt from providing a sewer connection as follows. An exemption does not eliminate the requirement for the applicant to obtain approval from other agencies with jurisdiction.
 - (a) Nonresidential developments that are located more than 300 feet from public sewer may be approved without connection to the public sewer system provided the following criteria are met prior to the issuance of the underlying land use decision associated with the development type:
 - (i) The applicant has received approval for an on-site sewage system design from Public Health – Seattle & King County (PHSKC) in accordance with the codes of the King County Board of Health. Any approval and preliminary design for an on-site sewage system shall be submitted with the underlying land use application in accordance with the City's application completeness requirements; and
 - (ii) Proposed on-site sewage systems shall be located on the same lot as the buildings they are designed to serve. An off-site sewage system may be considered if an easement is obtained and recorded against the subject properties and if the off-site system is designed in accordance with the determination of the King County Board of Health and PHSKC; and
 - (iii) The applicant shall provide the City a certificate of future connection from the sewer district that certifies that an irrevocable agreement has been entered into with the sewer district requiring that the property shall be connected to public sewers upon availability of such sewers and that the property owner shall pay all costs of connection to the sewer and report the septic tank abandonment to the health officer on a form obtained from the PHSKC to the City and the PHSKC. The certificate of future connection shall stipulate that the applicant and the

applicant's successors in interest agree to participate in and not protest the formation of a utility local improvement district or local improvement district or sewer district project that is designed to provide public sewer services to the property. This certificate shall be recorded in the real property records of King County and shall be a permanent condition on the property running with the land until such time as the costs for connection are fully paid to the sewer district. The applicant cannot receive any development permits for the site until said agreement is executed, unless otherwise determined by the sewer district and Designated City Official.

- (b) A new single-family home or an expansion or a remodel of a single-family home on a pre-existing lot is not required to connect to the public sewer system if the availability of such sewer connection is greater than 300 feet from the property and the applicant has obtained approval for an on-site sewage system design from PHSKC in accordance with the codes of the King County Board of Health. Any approval and preliminary design for an on-site sewage system shall be submitted with the building permit application in accordance with the City's application completeness requirements.
 - (c) A new Accessory Dwelling Unit (ADU) permitted pursuant to Chapter 18.25 CMC is allowed on lots with an approved on-site sewage system, provided approval from PHSKC demonstrates that the existing on-site sewage system has adequate capacity for the ADU. If the existing on-site sewage system is inadequate to accommodate the ADU, then the applicant should obtain approval for an upgraded on-site sewage system design from the PHSKC in accordance with the codes of the King County Board of Health. Any approval and preliminary design for an improved on-site sewage system, associated with an ADU, shall be submitted with the building permit application in accordance with the City's application completeness requirements.
 - (d) The development proposal does not require sewer service for its operations in accordance with Chapter 15.05 CMC International Codes Adoption and as determined by the PHSKC or sewer district.
 - (e) Repair, modification, or replacement of an existing on-site sewage system. If the on-site sewage system has failed and a new system conforming to the PHSKC cannot be designed and installed, then the applicant shall be required to connect to the public sewer system, unless otherwise determined by the sewer district.
- (3) If the applicant fails to obtain approval from PHSKC for the use of an on-site sewage system, then the applicant shall coordinate with the sewer district to provide an appropriate connection or other method of sewer disposal as determined by the sewer district.

13.10.045 Approved on-site sewage systems.

On-site sewage systems approved consistent with CMC 13.10.040 shall also meet the following:

- (1) Any proposed on-site sewage system shall not impact any stormwater facility pursuant to Chapter 13.25 CMC; and
- (2) No on-site sewage system shall be used that directly or indirectly discharges upon the surface of the ground or into any critical areas as defined in Chapter 18.65 CMC within the City; and

- (3) All on-site sewage systems shall be maintained in accordance with state and local codes and at the sole expense of the owner and occupant.

13.10.050 Development proposals - water connection required.

All development proposals, including but not limited to multi-family and single-family development proposals, commercial site plans, subdivisions and short-subdivisions within the City shall be served by the appropriate water district unless service cannot be provided in a timely and reasonable manner as provided in RCW 43.20.260, RCW 70.116.060 and the local water district's adopted policies and codes. Alternative water service should be permitted on an interim basis only, as follows:

- (1) For development proposals on existing individual lots, the Designated City Official may authorize interim water service from an existing Group B water system or the development of an individual well given the following findings:
 - (a) The applicant has submitted a certificate of water availability from the appropriate Group A water system that demonstrates to the satisfaction of the Designated City Official that the requirement to receive water service from the appropriate Group A water system cannot be provided in a timely and reasonable manner in accordance with RCW 43.20.260, RCW 70.116.060 (3)(b), and the local water district's adopted policies and codes; and
 - (b) The applicant has provided a certificate of future connection from the appropriate Group A water system that certifies an irrevocable agreement has been entered into with the appropriate existing Group A water system providing that the property shall be connected to the water system upon availability of such water service and that the property owner shall pay all costs of connection. This certificate shall state the applicant and his grantees agree to participate in and not protest the formation of a utility local improvement district or local improvement district or water district project that is designed to provide public water services to the property. This certificate shall be recorded in the real property records of King County and shall be a permanent condition on the property running with the land until such time as the connection is made to the public water system. The applicant cannot receive any development permits for the site until said agreement is executed, unless otherwise determined by the appropriate Group A water system and Designated City Official; and
 - (c) The applicant has provided documentation that a Group B water system is approved for use by PHSKC or the Washington State Department of Health and the property is included in the recorded water use agreement.
- (2) For subdivisions and short subdivisions, interim water service from a new or existing Group B water system may be approved as follows:
 - (a) The applicant has received approval from PHSKC or the Washington State Department of Health for the creation of a new Group B water system in accordance with the coordinated water system plan, or the property is included in the recorded water use agreement; and

- (b) The Designated City Official makes the following findings:
- (i) The applicant has provided a certificate of future connection from the appropriate Group A water system that certifies an irrevocable agreement has been entered into with the district providing that the property shall be connected to the Group A water system upon availability of such water service and that the property owner shall pay all costs of connection. This certificate shall state the applicant and his/her grantees agree to participate in and not protest the formation of a utility local improvement district or local improvement district or water district project that is designed to provide public water service to the property. This certificate shall be recorded in the real property records of King County and shall be a permanent condition on the property running with the land until such time as the costs for connection are fully paid to the district; and
 - (ii) A new Group B water system formed in the planning area of an existing water district as identified in a coordinated water system plan shall be operated through satellite system management; and
 - (iii) Any new Group B water system shall be built to the design standards of the appropriate Group A water system to which it will eventually be connected.
- (3) Either existing wells or Group B water systems, or both, may serve the lots that the systems are ultimately designed to serve and shall be managed in compliance with applicable codes.
- (4) Exemptions from connecting to a public water system. The following are exempt from providing a certificate of water availability and connecting to a public water system. An exemption does not eliminate the requirement for the applicant to obtain approval from other agencies with jurisdiction.
- (a) Any expansion and remodeling of an existing structure that does not involve the drilling of a new well provided that the expansion or remodeling project does not place a higher demand on the appropriate Group A water system. A change in use or a change in the service line that increases demand on the Group A water system will need to be approved through the issuance of a certificate of water availability, pursuant to all applicable state and local laws and regulations and the local water district's adopted policies and codes.
 - (b) The development proposal does not require potable water service for its operations in accordance with Chapter 15.05 CMC International Codes Adoption and as determined by PHSKC.
- (5) If the applicant fails to obtain approval from the PHSKC for the use of an alternative water service, then the applicant shall coordinate with the appropriate water district to obtain an appropriate connection.

13.10.060 Certificates of water and sewer availability required.

The issuance of a certificate of water availability by a water district or sewer availability by a sewer district shall be submitted to the City at the time of the development proposal's application to document that adequate water and sewer service is available.

- (1) Water availability. Certificates of water availability shall document that the water district's service capability is adequate for the proposed development consistent with criteria or standards of the Washington State Department of Health, Washington State Department of Ecology, and PHSKC, or local water district as appropriate to the development. The City will not accept a certificate of water availability if information provided on the certificate is not complete or not consistent with CMC Title 13.
- (2) Sewer availability. Certificates of sewer availability shall document that the sewer district's service capability is adequate for the proposed development consistent with criteria or standards of the of the Washington State Department of Ecology and PHSKC, or local sewer district, as appropriate to the development. The City will not accept a certificate of sewer availability if information provided on the certificate is not complete or consistent with this CMC Title 13.
 - (a) The applicant is required to obtain certificates of sewer availability or other approval as determined by the sewer district to ensure that the applicant has met the requirements of CMC Title 13.
 - (b) Where a development has obtained approval for an on-site sewage system or other wastewater treatment method, if service is not provided by a local sewer district, PHSKC approval shall be submitted with the development application.

13.10.070 Connection to public water and sewer-Rights-of-Way Permit Required.

- (1) It is unlawful for any person to make any opening for the installation of public water or sewer within a public rights-of-way or other public place without complying with the provisions of this chapter.
- (2) Rights-of-Way Use permit requirement. A rights-of-way use permit is required for any use of the City rights-of-way in accordance with Chapter 12.35 CMC.
- (3) Financial Guarantee Required. The City may request a financial guarantee for any work within the City rights-of-way in accordance with Chapter 14.105 CMC.
- (4) Restoration. Excavating for the purpose of connecting to public water or sewer within any public rights-of-way or other public place shall be restored pursuant to Chapter 12.115 CMC.

13.10.080 Use of the public sewers.

- (1) It is unlawful for any person to discharge or cause to be discharged any of the following into any public sewer or into any side sewer discharging into any public sewer: subsoil, foundation, footing, window-well, door-well, yard, or unroofed basement floor drains, unpolluted industrial process water, roof drains or downspouts from areas exposed to rainfall or other precipitation, or surface or underground water from any source.
- (2) Use of the public sewer shall be in accordance with Chapter 13.25 CMC and other local and state regulations and requirements pertaining to surface and stormwater design and management.

13.10.090 Protection from damage.

It is unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the public sewer system or water system.

Section 4. Amendments. Section 13.45.010 Authority, is amended to read as follows:

The City Council is vested with the discretion to grant latecomer's agreements ~~which~~ that provide for the reimbursement of a pro rata portion of ~~water system, sanitary sewer system, stormwater drainage system,~~ and street improvement expenditures by developers. Reimbursement agreements relating to water or sewer facilities constructed by developers may be available from the applicable water-sewer district in accordance with Chapter 57.22 RCW.

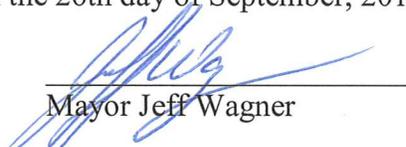
Section 5. Savings. The enactment of this ordinance shall not affect any application, case, proceeding, appeal, or other matter currently pending administratively or judicially in any court or in any way modify any right or liability, civil or criminal, that may be in existence on the effective date of this ordinance.

Section 6. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 7. Corrections. Upon approval of the city attorney, the city clerk and/or code codifier is authorized to make necessary corrections to this ordinance, including, but not limited to, the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or section/subsection numbering.

Section 8. Effective Date. This ordinance shall be in full force and effect five (5) days after publication in the City's newspaper of record. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

PASSED BY THE CITY COUNCIL OF THE CITY OF COVINGTON,
WASHINGTON, at a regular meeting thereof on the 26th day of September, 2017, and signed in authentication of its passage.



Mayor Jeff Wagner

PUBLISHED: September 29, 2017

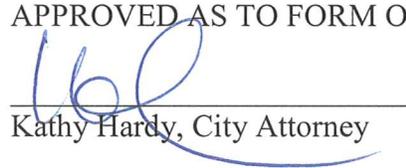
EFFECTIVE: October 4, 2017

ATTESTED:



Sharon Scott, City Clerk

APPROVED AS TO FORM ONLY:



Kathy Hardy, City Attorney