

**CITY OF MONROE
ORDINANCE NO. 019/2019**

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, AMENDING CHAPTER 13.08 MMC SEWER SYSTEM REGULATIONS; PROHIBITING THE EXTENTION OF NEW SANITARY SEWER SERVICE OR INCREASING EXISTING SEWER CAPACITY BEYOND THE CITY LIMITS UNTIL THE SUBJECT PROPERTY IS FORMALLY ANNEXED TO THE CITY; ENTERING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City owns and operates a sanitary sewer utility, and has adopted regulations governing said utility that are presently codified at Chapter 13.08 MMC; and

WHEREAS, the City Council desires to amend Chapter 13.08 MMC to clarify that new sanitary sewer service will not be extended and the capacity of existing sanitary sewer lines shall not be increased to property located outside the City limits unless and until such property has been annexed to the City.

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

Section 1. Findings. The above recitals, together with the Planning Commission recommendation dated August 26, 2019, are hereby adopted as findings in support of this ordinance. The City Council further makes the following additional findings:

- A. Cities are authorized by state law, including without limitation Chapter 35.67 RCW, to own and operate sanitary sewer utilities, and to adopt local regulations governing the same.
- B. Pursuant to RCW 35.67.310, cities may permit connections to their sanitary sewer facilities by property located outside the city limits on such terms and conditions as may be prescribed by ordinance or contract. Washington courts have acknowledged that the authority provided by this statute is permissive, and that it does not impose a general duty for cities to extend sanitary sewer service to property located outside the City limits.
- C. The City of Monroe has historically prohibited the extension of new sanitary sewer service to property located outside the City limits.
- D. The City's policy was changed in 1998 through the adoption of Ordinance No. 1130, which authorized the extension of sanitary sewer service to property located outside the City limits.
- E. The City's policy was further changed in 2018 by the adoption of Ordinance No. 001/2018, which generally prohibited extension of sanitary new sewer service to

property located outside the City limits except to the extent required by state law; prescribed various terms and conditions for such extensions; and required the landowner/applicant requesting such extension to support and/or waive objection to annexation of the subject property.

F. The City is prohibited under state law from applying and enforcing its development regulations to property located outside the City limits until such property has been annexed to the City.

G. Extension of new sanitary sewer service or increasing existing sewer capacity to property located outside the City limits facilitates permanent high-density and/or otherwise intensive development located immediately adjacent to the City in a manner that is potentially inconsistent with the City's Comprehensive Plan and development regulations.

H. Extension of new sanitary sewer service or increasing existing sewer capacity to property located outside the City limits implicates numerous potentially significant impacts to the City, including, without limitation, impacts to the City's law enforcement resources, roadway network, storm drainage infrastructure, and parks and recreational facilities.

I. Extension of new sanitary sewer service or increasing existing sewer capacity to property located outside the City limits facilitates development of the subject property before such property is annexed to the City, thereby depriving the City of the revenues associated with such development, including without limitation permit fees, impact fees, property taxes and real estate excise taxes.

J. The City Council is deeply concerned about the above-referenced consequences of extending new sanitary sewer service or increasing existing sewer capacity to property located outside the City limits.

K. The City is authorized by State law, including but not limited to Chapter 35A.63 RCW, Chapter 36.70A RCW, Chapter 36.70B RCW and Chapter 58.17 RCW, to adopt local regulations governing the use, development and of land, as well as local procedures therefore.

L. The regulations set forth in this ordinance have been processed and considered by the City in material compliance with all applicable procedural requirements, including but not limited to requirements related to public notice and comment.

M. All relevant requirements of SEPA have been satisfied with respect to this ordinance.

N. The Planning Commission held a public hearing on this ordinance on August 26, 2019, and recommended adoption to the City Council.

O. A second public hearing on this ordinance was held in front of the City Council on October 22, 2019.

P. The City Council has carefully considered, and the regulations set forth in this ordinance satisfy the review requirements and criteria set forth in Title 22 MMC. In adopting this ordinance, the City considered and was guided by the applicable GMA planning goals enumerated at RCW 36.70A.020.

Q. The regulations set forth in this ordinance are consistent with and will implement the City's Comprehensive Plan, and will meet the requirements and intent of the MMC.

R. The regulations set forth in this ordinance are beneficial to the public health, safety, and welfare, and are in the public interest.

Section 2. Amendment of MMC 13.08.240. Section 13.08.240 of the Monroe Municipal Code is hereby amended to provide in its entirety as follows:

13.08.240 Sanitary sewer service outside the city limits prohibited.

~~((A-))~~The city will not extend sanitary sewer service or increase existing sewer capacity to areas properties located beyond the city limits ((except to the extent required by law))unless and until such properties have been annexed to the city. In the event of any inconsistency between the provisions of this section and any other provision(s) of this title, the provisions of this section shall control to the extent of such inconsistency. For purposes of this section, "increase existing capacity" shall mean an increase in the meter capacity equivalent (MCE) identified in MMC 13.08.270(B).

~~((B. Where sanitary sewer service is extended to areas located beyond the city limits, the applicant/landowner must first execute an outside utility extension agreement in a form provided by the city and containing the following provisions:~~

- ~~1. The applicant/landowner shall consent and waive objection to annexation of the subject property, including without limitation the applicant's/landowner's signature on an annexation petition if so requested by the city;~~
- ~~2. The applicant/landowner shall secure and obtain, at its sole expense, all permits, easements, licenses and other real property interests necessary to construct and install the requested sewer extension;~~
- ~~3. The applicant/landowner shall reimburse the city's administrative, legal, and other professional costs;~~
- ~~4. The applicant/landowner shall bear all costs of completing the requested sewer extension, including without limitation all design, engineering, construction and installation costs;~~
- ~~5. The applicant/landowner shall design, construct and install the requested sewer extension in full compliance with all applicable city codes, standards, policies and rules;~~
- ~~6. The applicant/landowner shall design, construct and install the requested sewer extension in a manner that allows for reasonable future connections by other properties, including without limitation through the installation of stubs, utility access corridors and/or similar features as may be required by the city;~~
- ~~7. The applicant/landowner shall convey and dedicate to the city all property interests and sewer utility infrastructure comprising the requested sewer extension following the city's approval and acceptance thereof, using forms and instruments approved by the city;~~
- ~~8. The applicant/landowner shall post a maintenance bond or other security, in a form approved by the city attorney, ensuring the workmanship of the sewer utility infrastructure for a period of two years;~~

- ~~9. The applicant/landowner shall agree to pay all applicable connection charges, fees and utility service charges;~~
- ~~10. The applicant/landowner shall comply fully with all applicable city of Monroe regulations;~~
- ~~11. Any other conditions determined appropriate by the city; and~~
- ~~12. The outside utility extension agreement shall be subject to approval by the Monroe city council, shall be recorded against the title of the applicant's/landowner's property, shall run with the land, and shall bind future owners.~~
- ~~C. Sanitary sewer service shall not be extended to areas located beyond the city's boundaries unless the city's sewer system has sufficient capacity to accept, convey and process the additional demand created by such extension. Prior to executing an outside utility extension agreement pursuant to this section, the applicant/landowner shall submit to the city a written documentation, from a professional engineer licensed in Washington State, confirming the volume and extent of the additional demand.~~
- ~~D. The extension of sanitary sewer service beyond the city's boundaries shall be at no expense to the city.))~~

Section 3. Prospective Effect. The provisions of this ordinance shall have prospective effect only. Without limitation of the foregoing, nothing in this ordinance shall be construed as prohibiting: (i) the extension of sanitary sewer service to properties located beyond the City limits where the City and an applicant/landowner have executed an agreement for such extension pursuant to MMC 13.08.240 prior to the effective date of this ordinance, or (ii) the continued provision of sanitary sewer service to properties located beyond the City limits, at previously established capacity, where such service has been established prior to the effective date of this ordinance.

Section 4. Transmittal to Department of Commerce. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 6. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe,
at a regular meeting held this 17th day of November, 2019.

First Reading: October 22, 2019
Final Reading: November 12, 2019
Published: November 15, 2019
Effective: November 20, 2019

(SEAL)

ATTEST:



Elizabeth M. Adkisson, MMC, City Clerk

CITY OF MONROE, WASHINGTON:



Geoffrey Thomas, Mayor

APPROVED AS TO FORM:



J. Zachary Lell, City Attorney