

SKOKOMISH PUBLIC SEWER CONNECTION ORDINANCE

TABLE OF CONTENTS

GENERAL PROVISIONS

- 2.13.101 Title
- 2.13.102 Authority and Purpose
- 2.13.103 Goals
- 2.13.104 Sovereign Immunity
- 2.13.105 Severability
- 2.13.106 Definitions

CONNECTIONS AND PERMITS

- 2.13.201 Mandatory Connection to the Sanitary Sewer System
- 2.13.202 Permit Required
- 2.13.203 Application for Connection Work Permit

FEES AND CHARGES

- 2.13.301 Wastewater Service Charges
- 2.13.302 Notice of Rates

REQUIREMENTS

- 2.13.401 Public Rights of Way for Public Sewer and Drainage Improvements
- 2.13.402 Separation of Storm and Sanitary Sewer Lines on Private Property
- 2.13.403 Maintenance of Sewer and Drainage Systems
- 2.13.404 Nuisance Abatement

PENALTIES

- 2.13.501 Penalties
- 2.13.502 Failure to Obtain and Comply with Permit
- 2.13.503 Enforcement of Penalty in Court

GENERAL PROVISIONS

2.13.101 Title

This Ordinance shall be known as the Skokomish Public Sewer Connection Ordinance.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.102 Authority and Purpose

Article V, Sections 1(h) and (j) of the Constitution of the Skokomish Indian Tribe empowers the Skokomish Tribal Council to “manage, develop, protect, and regulate the use of water, fish and wildlife, minerals, timber, and all other natural resources within the Skokomish Tribe’s jurisdiction; and to regulate land use and development in areas within

the tribe's jurisdiction" and to "enact laws and ordinances governing the conduct of individuals, to maintain order and to protect the health, safety, and welfare of all persons within the Skokomish Tribe's jurisdiction." This Ordinance is adopted to protect the environment under the jurisdiction of the Skokomish Indian Tribe for the enjoyment and use of present and future generations of the Skokomish Tribal Community.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.103 Goals

The Tribal Council intends to further the following goals in adopting this Ordinance:

- a) To protect the natural resources of the Skokomish Reservation, including Hood Canal and its tributaries from contamination, pollution and other degradation; and
- b) To protect and enhance the habitat of all types of fish, shellfish and wildlife resources, particularly the Skokomish River estuary and associated wetlands that are critically important components of the ecosystems which support fish and shellfish resources.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.104 Sovereign Immunity

The sovereign immunity of the Skokomish Indian Tribe is in no manner waived by this Ordinance. The employees and appointees of the Skokomish Indian Tribe, the members of the Skokomish Tribal Council, and the personnel of the Skokomish Tribal Court are cloaked with the sovereign immunity of the Skokomish Indian Tribe. No person named above shall be liable for his or her actions or failure to act under this Ordinance.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.105 Severability

If any provision of this Ordinance or its application to any person, entity, or circumstance is held to be invalid, the remainder of the Ordinance shall not be affected.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.106 Definitions

- (a) Where a term is not defined in this Ordinance, it shall be given its ordinary meaning.
- (b) Terms used in this Ordinance, and regulations adopted under it, shall have the following meaning given to them in this section, except where specifically defined or the context clearly indicates otherwise:

- (1) “Abandoned Property” means property that is no longer being maintained by its owners and is either vacant or not lawfully occupied.
- (2) “Building Sewer” means the part of the horizontal piping of a drainage system that extends from the end of the building drain and that receives the discharge of the building drain and conveys it to a Public Sewer, private sewer, private sewage disposal system, or other point of disposal.
- (3) “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;
- (4) “Common Private Sewer System” means that portion of a Building Sewer that:
 - (A) Is not owned by the Skokomish Indian Tribe;
 - (B) Is used for draining more than one building under different ownership; and
 - (C) Conveys the discharge to a Sewer Service Lateral, Public Sewer, private sewage disposal system, or other point of disposal.
- (5) “Connection” means the connection of all sanitary waste and drainage disposal lines from all development on a property to the Public Sewer System, and the disconnection and/or removal of all other waste disposal systems such as cesspools or septic systems.
- (6) “Department” means the Skokomish Department of Natural Resources.
- (7) “Director” means the Director of the Skokomish Department of Natural Resources.
- (8) “Industrial Wastes” means wastes or waste waters that include wastes from a Commercial or Industrial Occupancy.
- (9) “Private Sewer Service Lateral” means a sewer pipe that:
 - (A) Has been designated as “private” by the Director or has not been accepted as a public improvement by the Director; and

(B) Serves as a conveyance system for individual or Common Private Sewer Systems.

(10) "Projected Future Curbline" means:

(A) The designated location of the curbline on county or tribal plans for street construction; or

(B) The location of the future curbline based on an assumed future street width of 28 feet centered in the Public Right of Way; or

(C) The edge of the right of way if it is less than 28 feet wide.

(11) "Public Right of Way" means the area within the confines of a dedicated public street, an easement held by the Bureau of Indian Affairs on behalf of the Tribe, an easement owned by the Tribe, or owned or maintained by Washington State Department of Transportation (WSDOT), or other area dedicated for public use for streets or public utility facilities.

(12) "Public Sewer" means all pipes, manholes, and other appurtenances:

(A) Constructed by the Tribe, County, Public Utility or designee of the Tribe, and

(B) Designed for the collection and transport of stormwater, wastewater and sewage received from Sewer Service Laterals and Common Private Sewer Systems.

(13) "Public Sewer Easement" is a grant of the right by a property owner to the Tribe, public utility or designee of the Tribe to use land for placement and maintenance of Public Sewer facilities.

(14) "Public Sewer Service Lateral" is a conduit extending from a Public Sewer to a private plumbing system of a building, buildings or property. "Public Sewer Service Lateral" is the portion of a conduit that:

(A) Is located in a Public Right of Way;

(B) Extends from a Public Sewer to the curbline, or Projected Future Curbline, if no curb exists;

(C) Receives the discharge from a Building Sewer or Common Private Sewer System; and

(D) Is not a Common Private Sewer System.

(15) "Public Sewer System" is the entire sewage collection and treatment system, including but not limited to, laterals, pipes, conduits, outfalls,

pumps, treatment facilities, physical and biological processes, and any other components involved in the collection, detention, transportation, treatment, reuse, and disposal of stormwater, wastewater and sludge.

- (16) "Public Works Department" means the Skokomish Tribe Public Works Department.
- (17) "SKEPA" means the Skokomish Environmental Protection Act, adopted by Resolution No. 88-22, Amended by Resolution No. 01-83, Skokomish Tribal Code 6.03.
- (18) "Skokomish Tribal Community" means all persons residing within the boundaries of the Skokomish Indian Reservation and all enrolled members of the Skokomish Indian Tribe regardless of place of residence.
- (19) "Tribal Council" means the governing body of Skokomish Indian Tribe as constituted and empowered under Article IV of the Constitution of the Skokomish Indian Tribe.
- (20) "Tribe" means the Skokomish Indian Tribe.
- (21) "Wye-Head" is the Connection between a Public Sewer and a Sewer Service Lateral, a Building Sewer, or a Common Private Sewer System.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

CONNECTIONS AND PERMITS

2.13.201 Mandatory Connection to the Sanitary Sewer System

- (a) The owners of all houses, buildings or properties used for human occupancy, employment or recreation or in any way generating wastewater flows, situated within the exterior boundaries of the Skokomish Indian Reservation, whether situated on federal trust or fee simple land, and in which there is located, or may in the future be located, a public sanitary sewer system of the Tribe or a public utility, shall be required to connect to the same by a Building Sewer as defined within this ordinance, provided that said Public Sewer is within 500' of the property line.
- (b) Such Connection shall be at time of construction of the Tri-Party Consortium Building Sewer.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.202 Permit Required

- (a) It is unlawful for any person to take the following actions without first obtaining the appropriate permit as prescribed in SCT 6.03, SKEPA and obtaining concurrence from the Public Works Department.
 - (1) Dig up, break into, excavate, disturb, dig under, or undermine any public street or Public Sewer Easement for the purpose of laying or working upon any sewer, pipe, culvert, or sewer or drain appurtenance or improvement of any kind;
 - (2) Make Connection with, obstruct or interfere with the sewer system or existing drainage;
 - (3) Cut or break into the Public Sewer System;
 - (4) Connect the blowoff or exhaust pipe of any boiler, steam engine or other pressurized facility with the Public Sewer System; or
 - (5) In the case of leakage or breakage in any sewer pipe, drain or conduit requiring emergency action, any otherwise authorized person may commence repairs on the same without first obtaining a permit provided that:
 - (A) The authorized person immediately notifies the Public Works Department; and
 - (B) The authorized person files an application for a permit with the Director and complies with any permit conditions thereon, as required under SCT 6.03; and
 - (C) The work is performed in compliance with generally accepted standards for traffic control and protection of the public.
- (b) Public Sewer System stormwater inlets, leads, and other such facilities as are needed to provide stormwater drainage for public streets may be constructed without permit, upon approval of the Director or his designee.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.203 Application for Connection Work Permit

Any person who desires a Connection work permit as required by STC 6.03 shall apply in writing to the Department as prescribed. The application shall include the name of the street in which work is to be done, or if not working in a named street, a description of the proposed or existing easement or right of way, the purpose of the work, the location and potentially affected components of the Public Sewer System, the location of any affected drainage, and the location of the building or lot, if any, to be connected by the work. The application shall also include the name of the contractor and copies of the contractor's license, bond, and insurance.

- (a) If the application is for a permit to connect a Commercial or Industrial Occupancy with any component of the Public Sewer System or drainage improvement, it shall contain a description of the business, a plat of the property, plans and specifications for any special installations, a description and time schedule of the character and quantity of waters and wastes to be discharged through the Connection.
- (b) No permit shall be issued for Connection from a Commercial or Industrial Occupancy until the Director approves the application and determines that the Connection as described in the application will comply with the provisions of this Title.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

FEES AND CHARGES

2.13.301 Wastewater Service Charges

Wastewater service charges for the use of and for the service supplied by the Public Sewer System shall consist of basic user charge to pay fix and variable expenses of the cost of operation and maintenance of the system.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.302 Notice of Rates

The users of the wastewater treatment services will be notified annually of the rate. A copy of the fee schedule adopted by the Tribe or its designee shall be sent to each customer at least 30 days prior to the date the established fees take effect.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

REQUIREMENTS

2.13.401 Public Rights of Way for Public Sewer and Drainage Improvements

- (a) All components of the Public Sewer and drainage system shall be located within public rights of way, including easements. The width of public rights of way shall be adequate to allow reasonable access for inspection, maintenance, repair and replacement, using standard construction methods as well as for planning and design purposes and cultural surveys. The minimum width for public easements shall be 15 feet. The Director may require enlargement of the easement as is reasonably necessary considering topographic conditions, the design of a improvement or other relevant factors. The Director may consider a request for waiver of minimum width as is reasonably necessary to accommodate irregular lot sizes, topographic conditions or other relevant factors.

- (b) The Director and other duly authorized personnel bearing proper identification shall be permitted to enter all private properties through which the Tribe holds a duly negotiated easement for the observation, measurement, sampling, repair and maintenance of any portion of the Building Sewer lying within said easement. All entry on said easement shall be done in accordance with the terms of the duly negotiated easement pertaining to the private property.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.402 Separation of Storm and Sanitary Sewer Lines on Private Property

Sanitary sewage from private property shall be separately conveyed to the property line and connected through individual laterals for discharge into a Public Sewer. Drainage from private property, whether from the roof of a building, the surface of a structure, footings of a structure or any other surface or subsurface drainage shall be conveyed separately from sanitary sewage.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.403 Maintenance of Sewer and Drainage Systems

- (a) Sewer system maintenance obligations including inspection, rehabilitation, routine cleaning and repair are based on ownership of the system:
 - (1) *Private Systems.* Sewer systems that were not constructed by the Tribe or its designee shall be maintained by the parties served by the system, regardless of whether they are within a Public Right of Way.
 - (2) *Public Systems.* Sewer or drainage systems constructed by the Tribe or its designee shall be maintained by the Tribe or its designee, unless otherwise specified by written agreement with the Tribe.
- (b) The Tribe's responsibility for maintenance of any sewer or drainage system, service lateral or Wye-Head is subject to availability of funds collected for such purposes and shall be limited to the level of service dictated by the availability of funds.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.404 Nuisance Abatement

- (a) The Director may determine that a private sewer and drainage system or a system with unclear ownership records or connected to an Abandoned Property and that is located in a Public Right of Way constitutes a public nuisance if it:
 - (1) Is located in a manner that impairs or threatens to impair the operation, maintenance or installation of any street or public utility;

(2) Is so deteriorated that flows from the system infiltrate or threaten to infiltrate into any public utility or impact or threaten to impact the support structures of any street or public utilities; or

(3) Otherwise creates a public health and safety hazard.

(b) Summary abatement of the nuisance is authorized when the Director determines it is necessary to take immediate action to meet the purposes of this Title.

(c) Whenever a nuisance is abated under this section, the Director shall keep an accurate account of all expenses incurred and shall bill the properties that the Tribe or its designee has determined has caused or contributed to the nuisance to recover the costs of abatement. Civil penalties of up to \$500 may be levied for failure to abate the nuisance.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

PENALTIES

2.13.501 Penalties

(a) Violations of this Chapter or administrative rules adopted hereunder may result in assessment of civil penalties in an amount up to \$500 per day per violation.

(b) Penalties and costs under this chapter are a debt owing to the Tribe and may be collected in the same manner as any other debt. Penalties shall accrue interest and any other applicable charges until the penalty is paid in full.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.502 Failure to Obtain and Comply with Permit

(a) *Failure to Obtain a Permit.* Any person who fails to obtain a permit required under this Ordinance and as prescribed under STC 6.03, shall be issued a notice of violation which may include an order to cease and desist (stop work order).

(b) *Failure to Comply with Permit.* Any person who fails to comply with the terms of a permit under this Ordinance shall be issued a written warning to comply by the Director, or his/her designee, which may include an order to cease and desist (stop work order). If the activity continues in noncompliance after issuance of the warning, the Director shall issue a written notice of violation which may include an order to cease and desist (stop work order).

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

2.13.503 Enforcement of Penalty in Court

The Tribe may enforce its notice to cease and desist and its assessment of a penalty in the Tribal Court. The Tribe may request the Court to enter an injunction against the continued activity, to order payment of the fine, and to order other remedies where appropriate. Failure of any person to abide by the lawful order of the Skokomish Tribal Court is punishable by civil and criminal contempt of court proceedings.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

Legislative History prior to July 5, 2017

Adopted by Resolution No. 10-122 (December 1, 2010)

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

+Ordinance and/or amendments not attached to the resolution in the Skokomish Tribal Archives