

**CITY OF MONROE
ORDINANCE NO. 011/2019**

AN INTERIM ORDINANCE OF THE CITY OF MONROE,
WASHINGTON, AMENDING CHAPTER 13.08 MMC
SEWER SYSTEM REGULATIONS; PROHIBITING THE
EXTENTION OF SANITARY SEWER SERVICE BEYOND
THE CITY LIMITS UNTIL THE SUBJECT PROPERTY IS
FORMALLY ANNEXED TO THE CITY; ENTERING
LEGISLATIVE FINDINGS; PROVIDING FOR
SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE;
AND PROVIDING FOR A SIX-MONTH EFFECTIVE TERM

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, on an interim basis, to amend Chapter 13.08 MMC to clarify that sanitary sewer service will not be extended 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, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The above recitals, together with the content of Agenda Bill Nos. AB19-117 and AB19-134, 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 sanitary sewer service to property located outside the City limits.
- D. The City's policy was changed in 1998 by 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 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 sanitary sewer service 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 sanitary sewer service 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 sanitary sewer service 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 sanitary sewer service to property located outside the City limits.
- K. The City Council desires to impose a temporary prohibition upon extensions of sanitary sewer service to property located outside the City limits while the City carefully and thoroughly studies this issue and promulgates new permanent plans, policies and regulations for its sanitary sewer utility.
- L. Through the adoption of Ordinance No. 005/2019 on April 23, 2019, the City has recently enacted a comprehensive amendment and restructuring of its development regulations. As part of the above-referenced study, the City Council desires to review the City's sanitary sewer utility regulations to ensure their consistency with the City's newly adopted development regulations.

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 to areas located beyond the city limits ((except to the extent required by law))unless and until such areas 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.

~~((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 property 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 property located beyond the City limits where such service has been established prior to the effective date of this ordinance.


Section 4. 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 5. Effective Date; Duration. 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, and shall remain effective for a period of six months unless terminated earlier or subsequently extended by the City Council.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 11th day of June, 2019.

First Reading: May 14, 2019
Final Reading: June 11, 2019
Published: June 14, 2019
Effective: June 19, 2019

CITY OF MONROE, WASHINGTON:



Geoffrey Thomas, Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM:



Elizabeth M. Adkisson, MMC, City Clerk



J. Zachary Lell, City Attorney