

ORDINANCE NUMBER 3336

AN ORDINANCE AMENDING MISSOULA MUNICIPAL CODE TITLE 13 "PUBLIC SERVICES" ADDING CHAPTER 13.01 TO BE TITLED "DEFINITIONS;" AMENDING ALL SECTIONS OF CHAPTER 13.04 "SEWER REGULATIONS" BY RENUMBER SECTIONS FROM 13.04.010 THROUGH 13.04.140; CHANGING SECTION 13.04.010 AND ADDING NEWLY NUMBERED SECTION 13.04.020 TO REQUIRE CONNECTION OF PROPERTY IN THE CITY OF MISSOULA TO PUBLIC SANITARY SEWER UPON TRANSFER OF OWNERSHIP, ALL EFFECTIVE AS OF JULY 1, 2007.

FURTHER AMENDING TITLE 13, CHAPTER 13.04 BY DELETING EXISTING SECTION 13.08.025 REMOVING A CONNECTION FEE EXCEPTION THAT HAS SUNSET AND ADDING 13.04.030 REQUIRING A RECORD OF NON-COMPLIANCE FOR PROPERTIES WITH EXISTING PLUMBED BUILDINGS OR STRUCTURES NOT CONNECTED TO PUBLIC SANITARY SEWER; AND BY REPEALING CHAPTER 13.20 ENTITLED "PRIVY VAULTS AND CESSPOOLS, BOTH EFFECTIVE WITHIN 30 DAYS OF THE DATE OF THIS ORDINANCE."

BE IT ORDAINED BY THE MISSOULA CITY COUNCIL THAT TITLE 13, CHAPTER 13.20 IS HEREBY REPEALED, CHAPTER 13.01 IS ADDED AND CHAPTER 13.04, SECTIONS 13.04.010 THROUGH 13.04.130 OF THE MISSOULA MUNICIPAL CODE ARE HEREBY AMENDED TO STATE:

SECTION I

TITLE 13

PUBLIC SERVICES*

Chapters:

13.01 Definitions
13.04 Sewer Regulations
13.06 Industrial Wastewater
13.08 Sewer Service Charges
13.10 Phosphorus Content of Wastewater Discharges
13.11 Water Development Fees
13.12 Protection of Water Mains
13.16 Drain Layers
13.18 Wastewater Haulers
13.20 Repealed
13.24 Gas
13.26 Aquifer Protection
13.28 Electrical and Natural Gas Regulations

* For statutory provisions giving the city power to regulate the construction, use and repair of sewers, see MCA §7-13-4105.

Chapter 13.01

DEFINITIONS

Sections:

13.01.010 Generally
13.01.020 Available public sewer
13.01.030 City
13.01.040 City Engineer

- 13.01.050 Domestic sewage
- 13.01.060 Failed septic system
- 13.01.070 Increased (effluent flow) use
- 13.01.080 Industrial wastewater
- 13.01.090 Legal representative
- 13.01.100 Person
- 13.01.110 Public Works Director
- 13.01.120 Public sewer
- 13.01.130 Septic system
- 13.01.140 Service lateral
- 13.01.150 Sewer Tank Effluent Pump (STEP) sewer

13.01.010 Generally. The following words and phrases, when used in this chapter, shall have the following meanings respectively ascribed to them in this title and these chapters and sections.

13.01.020 Available public sewer. Public sewer is considered to be available when any building or structure or any exterior drainage facility connected to a building is located 200 feet or less from any public sewer system abutting and serving the lot or premises of the building or exterior drainage facility.

13.01.030 City. "City" means the city of Missoula, Missoula County, state of Montana.

13.01.040 City Engineer. The person occupying that position or his or her designee including, but not limited to the Utility Section Coordinator.

13.01.050 Domestic wastewater. Liquid and water-borne wastes derived from the ordinary living processes, free from industrial wastes, and of such character as to permit satisfactory disposal, without special treatment, into the public sewer or by means of a private sewage disposal system.

13.01.060 Failed septic system. A septic system shall be deemed to be a failed system whenever: the absorption system fails to accept waste at the rate of application, requires repair or replacement of wastewater lines exterior to the source structure, no longer provides the treatment and/or disposal for which it was intended, when a septic tank suffers structural failure, or whenever a system violates Regulation 1, Section I(A) of the Missoula City-County Health Code. Maintenance that can be accomplished by rotor-routing or jet flushing shall not constitute failure.

13.01.070 Increased use. The enlargement or change in use of a structure served by a septic system where the enlargement or change in use is likely to increase the effluent flow from the structure. Increased use includes, but is not limited to, the addition to a residence of one (1) or more spaces that can be used as bedrooms. The City Engineer shall have the sole discretion to determine if an enlargement or change in use is an increased use.

13.01.080 Industrial wastewater. Liquid wastes generated by commercial or industrial processes or any waste other than domestic wastewater.

13.01.090 Legal representative. Any person, corporation, partnership, company, association, or society legally authorized to act on behalf of any owner of parcel(s) of real property as the trustee, property manager, power of attorney or legally appointed representative serving as the property owner's surrogate or substitute signatory for the purposes of real property transfer.

13.01.100 Person. "Person" means a corporation, partnership, company, association, or society as well as a natural person and the legal representatives thereof.

13.01.110 Public Works Director. The person occupying that position or his or her designee including but not limited to the City Engineer, Wastewater Treatment Facility Superintendent and Pretreatment Coordinator.

13.01.120 Public sewer. A common sewer directly controlled by the City of Missoula.

13.01.130 Septic system. Any wastewater system including individual, multi-user, and public systems which receive domestic or industrial wastewater or both; treats the effluent; and disposes of the effluent through application into or onto the soil, or any sealed vault, pit privy, or holding tank.

13.01.140 Service lateral. The portion of sewer line connecting the wastewater disposal system of a building or structure to a public sanitary sewer main for the purpose of serving the individual dwelling or building.

13.01.150 Septic Tank Effluent Pump (STEP) sewer. A public sanitary sewer system that includes small diameter sewer mains combined with on-site septic tanks with built in effluent pumps providing on-site wastewater pretreatment and pumped effluent removal to a wastewater treatment facility for further treatment and disposal in accordance with the Department of Environmental Quality.

Chapter 13.04

SEWER REGULATIONS*

Sections:

- 13.04.010 Connections with public sanitary sewers-Required.
- 13.04.020 Connection to public sanitary sewer upon property transfer - Required.
- 13.04.030 Record of non-compliance with this chapter.
- 13.04.040 Authority to order sewer connection-Notice.
- 13.04.050 Failure to connect.
- 13.04.060 Separate and independent connections for plumbed buildings or structures.
- 13.04.070 Sewer service laterals ownership and responsibility.
- 13.04.080 Prohibited connections.
- 13.04.090 Sewer pipe.
- 13.04.100 Inspection.
- 13.04.110 Entering manhole--Depositing material.
- 13.04.120 Damaging, tampering with, etc., sewage works.
- 13.04.130 Rebate for privately financed public sanitary sewer main extensions.
- 13.04.140 Prohibited practices.

* For statutory provisions giving the city power to regulate the construction, use and repair of sewers, see MCA §7-13-4105.

13.04.010 Connections with public sanitary sewers-Required. Plumbed buildings or structures on any lot or premises within the City of Missoula, which is or will be generating wastewater and has public sanitary sewer available, is required to connect to available public sanitary sewer in accordance with this section as follows:

A. Connection according to Specification. Connections to a public sanitary sewer main shall be in accordance with the city master sanitary sewer plan or a city preferred sanitary sewer design as determined by the City Engineer.

B. Exceptions. Plumbed buildings or structures or related exterior drainage facilities, existing and connected to an approved septic system where there is available public sewer may remain connected to the septic system until:

1. The system is a failed septic system; or

2. Enlargement or change in use of a building or structure is likely to increase the effluent flow from the structure as determined by the City Engineer. Increased (effluent flow) use includes, but is not limited to, the addition to a residence of one (1) or more spaces which can be used as bedrooms.

13.04.020 Connection to public sanitary sewer upon property transfer - Required. Within the Missoula city limits, it is unlawful for any person to sell, transfer or convey any real property containing plumbed buildings or structures with available public sanitary sewer until the plumbed buildings or structures have been connected to the public sanitary sewer.

A. Property owner and purchaser responsibility – Required. Property owner and purchaser shall arrange to connect any plumbed buildings or structures on the property prior to recording the deed or conveyance transferring ownership to the purchaser at their own expense.

B. City Engineer shall grant a one (1) time delay with evidence of a property owner/purchaser negotiated financial holdback, upon request of the property owner and/or purchaser, up to a maximum of six (6) months when extenuating circumstances prohibit immediate connection of plumbed buildings on a property being sold at the City Engineer’s discretion.

13.04.030 Record of Non-Compliance with this chapter.

A. The office of the City Engineer will file a Record of Non-Compliance with this chapter at the Missoula County Clerk and Recorder’s Office for each lot or premises containing existing plumbed buildings or structures, which have public sanitary sewer available, but have no verifiable record of connection to the public sanitary sewer system.

B. The Record of Non-Compliance with this chapter shall state that:

1. There are existing plumbed buildings and structures on the property; and,
2. There is available public sewer; and
3. The plumbed building or structure or associated septic system has no verifiable public sewer connection record.

C. Owners of properties with a Record of Non-Compliance may request the City Engineer’s office to provide a Certificate of Compliance with this chapter by providing satisfactory evidence verifying the plumbed buildings or structures have been connected to the public sanitary sewer system. The City Engineer’s office will file the Certificate of Compliance with this chapter at the Missoula County Clerk and Recorder’s office.

D. Property owners or legal representatives of owners and purchasers or their legal representatives shall not be liable for violating Section 13.04.020 where no Record of Non-Compliance was recorded for a parcel of property at the time the property transfer occurred.

13.04.040 Authority to order sewer connection-Notice. The City Council shall have power to order owners or legal-representatives of owners of plumbed buildings and structures to connect the same with a public sanitary sewer system when the public sanitary sewer system is available, and when so ordered by the City Council, it shall be the duty of the City Clerk or other authorized officer, to give notice of the order to the owner(s) of the plumbed buildings or structures, or to their legal representative(s). (Ord. 2340 (part), 1983: prior code §27-2).

13.04.050 Failure to connect. If the owner(s) or legal representative(s) of any building or structure designated in Section 13.04.010 or 13.04.020 shall fail to make such sewer connection within thirty (30) days after receiving such notice as described in Section 13.04.040, the owner(s) or legal representatives shall be deemed guilty of maintaining and fostering a nuisance, and upon conviction thereof shall be

punished pursuant to the general penalty provision in Chapter 1.20. (Ord. 2340 (part), 1983: prior code §27-3).

13.04.060 Separate and independent connections for buildings. Every building or structure shall be separately and independently connected with the public sanitary sewer, provided that exceptions may be allowed by the City Engineer when it is advisable to connect two (2) or more buildings to one (1) sewer service connecting to the public sanitary sewer system. (Ord. 2340 (part), 1983: prior code §27-4).

13.04.070 Sewer Service Laterals Ownership and Responsibility

A. The property owner shall be responsible for the cost of construction and maintenance of the sewer service pipeline/s and appurtenances from the public sewer main to the premises of the property owner, including any and all costs for construction, repairs, maintenance, replacement, removal, utility locations, pretreatment facilities, clean-outs, manholes, saddles, and any other items necessary for the construction, operation, or maintenance of the service lateral.

B. Exceptions:

1. STEP (Septic Tank Effluent Pump) sewer service pipeline/s and appurtenances accepted by the City of Missoula with easements granted to and accepted by the City of Missoula shall be owned and maintained by the City of Missoula.
2. Wyes or tees that are an integral part of the sewer main when the main is installed shall be owned and maintained by the City of Missoula. (Ord. 3049, 1998)

13.04.080 Prohibited connections.

A. It is unlawful for any person owning, controlling or managing any plumbed building or structure upon any property to connect or cause to be connected to the City's public sanitary sewer system, any drainage whatsoever, except domestic waste water, except when such connections are specifically allowed by the Director of Public Works. However, pursuant to the authority granted in this section the Director of Public Works may not allow any storm water drainage or clear water to be connected to the City's public sanitary sewer system. In no case shall storm water drainage or clear water be connected to the public sanitary sewer system.

B. It is unlawful for any person to discharge or cause to be discharged into the City's public sanitary sewer system any special or industrial wastes that will have a deleterious effect, nuisance effect, or endanger the safety of sewage works personnel; or will adversely affect the ability of the sewage system to meet pollution control requirements imposed by regulatory agencies, except as allowed under Chapter 13.06, Industrial Waste Water Regulations. The Director of Public Works may prohibit discharge of such wastes into the sewage system, or may require pretreatment or controlled discharge at point of origin of such wastes to a pollution level acceptable for discharge to the sewage system and amenable to the treatment with domestic waste.

C. It is unlawful for any person to discharge or cause to be discharged into the storm sewage system any waste other than surface storm water drainage or clear water except when other connections are specifically allowed by the Director of Public Works. The Director of Public Works may require pretreatment prior to discharge to the storm sewer to remove sediment, grease or other objectionable characteristics, which would adversely affect the ability of the storm sewer system to carry storm water or meet pollution control requirements imposed by regulatory agencies. (Ord. 2340 (part), 1983: prior code §27-5).

13.04.090 Sewer pipe. This section applies to all sanitary sewer pipes from two (2) feet outside the face of a building or structure to the sewage treatment plant; and to all storm sewer pipes. (Ord. 2340 (part), 1983).

A. Pipe diameter. Minimum size for private gravity sanitary sewer service lines shall be four (4) inches diameter. Minimum size for a private sanitary sewer service line for commercial or industrial

properties shall be six (6) inches unless approved by the City Engineer. Minimum size for public sanitary sewer mains or laterals shall be eight (8) inches diameter unless approved by the City Engineer. Minimum size for all storm sewer mains shall be twelve (12) inches. In all cases, sewers shall be of sufficient size to accommodate the property they are intended to serve, as approved by the City Engineer. (Ord. 2340 (part), 1983).

B. Materials and installation. All pipe materials, appurtenant materials, and installation shall conform to the current city standards and specifications as established by the City Engineer. (Ord. 2340 (part), 1983).

13.04.100 Inspection. Construction of sewers is subject to inspection at any time, and city inspectors shall have adequate access to any construction site for purposes of inspection. (Ord. 2340 (part), 1983).

13.04.110 Entering manhole--Depositing material. It is unlawful for any unauthorized person to open or enter any manhole or other structure on the city sewer system or to deposit any item, material or obstruction in the same. (Ord. 2340 (part), 1983).

13.04.120 Damaging, tampering with, etc., sewage works. It is unlawful for any person to maliciously, willfully or negligently break, damage, destroy, cover or uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Upon conviction, the penalty shall be as provided in Chapter 1.20. (Ord. 2340 (part), 1983).

13.04.130 Rebate for privately financed public sanitary sewer main extensions.

A. Private property owners may contract to install public sewer mains within public rights-of-way or public easements at their own expense after obtaining applicable approval from both city and state authorities and obtaining applicable permits. Any public sewer main must be installed in conformance with the regulations and rules of both city and state and under the direction of the City Engineer including, but not limited to the property owners granting to the city any and all necessary easements required by the city for the construction, operation and maintenance of the sewer line to be connected to the city municipal sewage system.

B. Once acceptance and approval of any installed public sewer main has occurred, property owners who financed the installation of the public sewer main, if interested, may request the city to establish a rebate program for them for future connections to the newly installed public sewer main; they shall file with the City Engineer such data that is necessary to establish the rebate program, specifying the itemized expense in connection with the installation of the sewer main including construction and engineering expenses. Any rebate program request is to be filed with the City Engineer within thirty (30) days after acceptance and approval by the City of the public sewer main in order to be eligible to participate in a rebate program. Eligible property owners who financed public sewer mains that were accepted and approved prior to the enactment of this provision shall have thirty (30) days after the date of written notification to them by the City Engineer of this rebate program and their eligibility to submit a proper request for a rebate program.

C. If a rebate request is submitted within thirty (30) days after the city's acceptance and approval of an installed public sewer main, the rebate program for that public sewer main shall remain in effect for up to ten (10) years after the City's acceptance and approval of the public sewer main. Any property owner who financed such an installation must submit a written filing of a rebate program request with the city prior to another property owner tapping into that public sewer main in order to be eligible for a rebate from that other property owner. Thereafter, within ten (10) years after the city's acceptance and approval of the public sewer main no property owner or their representative desiring to tap that public sewer main to connect a building or structure shall be issued any sewer connection permit or be allowed to tap the sewer main until their proportionate rebate has been paid to the City Finance Officer or designee their proportionate rebate. If the sewer main is tapped for a sewer service lateral which is extended only to the property line, payment of the rebate is delayed until the building or structure is connected to the sewer service lateral and is to be paid only if the building or structure is connected to the public sewer main within ten (10) years after the city has accepted and approved the public sewer main. The amount of the

rebate is to be a proportion of the original developer property owner's total cost, excluding any accrued interest, to install the sewer main, the rebate proportion including construction and engineering costs. The rebate proportion is to be determined by the front footage of the lot, which is connecting to the public sewer main and this lot's front footage proportion of the total front footage which can be connected to the public sewer main under the rebate program. In addition to the rebate payment, property owner or their representative desiring to tap the public sewer main shall pay an administrative fee to the city amounting to five percent (5%) of the rebate amount. The administrative fee shall be payable to the city and deposited in the city general fund.

D. City Finance Officer or designee is to place the monies in a special fund and shall pay the proportionate share(s) to the property owner(s) of the property that originally was financially responsible for the installation of the public sewer main who is the current deeded property owner of record in the county clerk and recorder's office, excluding pending notice of purchaser's interest, at the time the rebate payment is made. (Ord. 2679, 1989; Ord. 2571, 1987).

13.04.140 Prohibited practices. No person shall own or operate a septic system that violates the City-County Health Code and/or Uniform Plumbing code as amended.

Chapter 13.20

PRIVY VAULTS AND CESSPOOLS REPEALED

SECTION II

Severability.

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

PASSED by an 11 Ayes, 0 Nays, 0 Passes and 1 Absent vote; and

APPROVED by the Mayor this 5th day of February, 2007.

ATTEST:

APPROVED:

/s/ Martha L. Rehbein _____
Martha L. Rehbein
City Clerk

/s/ John Engen _____
John Engen
Mayor

(SEAL)