

ORDINANCE NO. 744

AN ORDINANCE OF THE CITY OF TENINO, WASHINGTON, RELATING TO CITY UTILITIES; MAKING MANDATORY CONNECTION TO THE SANITARY SEWER SYSTEM AND PAYMENT OF FEES AND CHARGES RELATED THERETO; ESTABLISHING A SEWER UTILITY FUND; COORDINATING UTILITY BILLINGS OF THE WATERWORKS UTILITY; AMENDING CHAPTERS 13.06; 13.08 AND 13.10 TMC; REPEALING CHAPTER 8.36 TMC AS OF AN EFFECTIVE DATE.

THE CITY COUNCIL OF THE CITY OF TENINO, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. RECITALS AND FINDINGS.

1.1 The City of Tenino (“City”) developed without a sanitary sewer system and consequently all occupied properties are served currently by septic systems or cesspools.

1.2 There is growing concern by the City, state and federal agencies, for the potential for ground water and surface water pollution resulting from this extensive use of septic systems and cesspools. In response to these concerns the City has had plans prepared, by consulting engineers, for a system (“sewer system”) to collect, transport and treat all sewer wastes and waste water from developed properties within the City. The City has adopted its General Sewer and Facilities Plan (as amended, December 2005).

1.3 The City is in the process of contracting for construction of the sewer system with completion scheduled for 2009.

1.4 The City created in 2004 its municipal sewer utility, and combined the sewer utility with the City’s existing waterworks utility consistent with RCW 35.67.331. TMC 13.06.010. The sanitary sewer system is part of the City sewer utility.

1.5 The City is authorized under RCW 35.67.010 to own, operate and collect fees for the use of a sewer system. The City is authorized under RCW 35.67.190 to make connection of the sewer system mandatory. The City has since 1953 made connection to available public sanitary sewers a mandatory requirement under City ordinance TMC. 13.08.040.

1.6 The cost of the City sewer system is to be paid in part from grants, with the balance paid by borrowing from the State Public Works Trust Fund and other sources. In order to repay the funds borrowed to pay for the sewer system, the City must charge each developed property in the City its fair share of the cost of debt service and operation and maintenance by means of monthly user fees and possible special assessments.

1.7 The City has received certain, limited grant funding from Community Development Block Grant – Community Investment Fund, Department of Ecology – Centennial Clean Water Fund, and USDA-Rural Development to facilitate connections and help reduce the

cost of connection and reconnection to the sewer system, and these funds may be used to help offset the monthly sewer utility cost.

1.8 It is the purpose of this Ordinance to provide for the mandatory connection of all current and future developed properties in the City and to provide standards and practices for failure to connect as required by law.

Section 2. MANDATORY CONNECTION TO SEWER SYSTEM. A new section 13.06.200 is added to the Tenino Municipal Code, as follows:

13.06.200 Connection Required

- A. All developed properties in the City are hereby required to connect to the City sanitary sewer system upon notice by the City of system availability. During the initial construction the City will design, construct and install the connection of each developed property to the sanitary sewer system, such connection subject to the City system of rates and charges.
- B. Future development of any property in the City shall, as a condition of development, connect to the sanitary sewer system and pay all appropriate fees, rates and charges as established by the City by ordinance.
- C. Notice of availability shall be given in writing to the property owner as shown in the records of the Thurston County Assessor and to the person shown on the records of the City water utility, if different.

Section 3. ACCESS TO PROPERTY. A new section 13.06.210 is added to the Tenino Municipal Code, as follows:

13.06.210 City Access to Property

- A. As a condition of continued service by the City waterworks utility (which includes the sewer utility) the Public Works Director and other duly authorized officers, employees and contractors shall have free and safe access at any reasonable time to any and all premises furnished with water and/or sewer service by the City for the purpose of surveys; inspections; construction and installation; operation and maintenance; and, repair and replacement of any part of the City sanitary sewer system.
- B. The Public Works Director and other duly authorized employees of the City or of the Thurston County Department of Public Health bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurements, sampling, and testing in accordance with the provisions of the Tenino Municipal Code.

Section 4. SEWER FUND CREATED. A new section 13.06.300 is added to the Tenino Municipal Code, as follows:

13.06.300 Sewer Utility Fund

There is hereby created a special fund of the City to be known as the Sewer Utility Fund.

Section 5. CAPACITY CHARGE. A new section 13.06.310 is added to the Tenino Municipal Code, as follows:

13.06.310 Connection Charge – Payment

- A. (1) As a condition of connection to the sewer system each property that (a) is occupied and/or served by a private waste water system within city limits as of June 1, 2009, or (b) holds a permit for development issued on or before May 31, 2009, shall pay an initial, one-time capacity charge in the amount of \$3,500 per ERU.
- (2) The one-time capacity charge for existing development shall be due and payable to the City on June 1, 2009.
- (3) As a condition of permit and development of property, and as a condition of connection to the sewer system, each property developed after January 1, 2010 shall pay a capacity charge in the amount of \$7,000 per ERU.
- (4) Future capacity charges and/or rates shall be reviewed at budget time and changes shall be established by ordinance.
- B. After initial construction of the City sanitary sewer system, all properties later seeking connection to the sanitary sewer system shall pay all costs of connection to the system and the capacity charge in effect at the time of application for a sewer permit prior to the issuance of a sewer permit which is required for issuance of any development permit.

Section 6. SEWER UTILITY RATES AND CHARGES. A new section 13.06.320 is added to the Tenino Municipal Code, as follows:

13.06.320 Sewer User Fee Payment

- A. The City of Tenino shall establish and modify from time-to-time, by ordinance, a monthly fee and other charges for the use of the sanitary sewer system to cover all costs of the system to include debt service, administration, operation, and maintenance.
- B. A surcharge may be added to the user fee, with the agreement of the property owner, to cover costs for connecting the property to the sanitary sewer system and for any capacity charge.

Section 7. ENFORCEMENT. A new section 13.06.400 is added to the Tenino Municipal Code, as follows:

13.06.400 Enforcement

A. Connection to the Sanitary Sewer System:

Any property that is not connected to the sanitary sewer system is hereby declared uninhabitable, water service shall be terminated under Chapter 13.04 TMC, and the property shall be vacated.

B. Payment of Capacity Charges:

Refusal to pay the required capacity charge shall mean the property refuses to connect to the sanitary sewer system and is therefore subject to TMC 13.06.400A.

C. City May Connect and Assess Costs:

As authorized by RCW 35.67.190, if any owner or occupant shall fail, neglect or refuse to connect his lands, buildings or premises with the public sewer within the time specified in the notice referred to within this chapter, or shall fail, neglect or refuse to do the other work specified and ordered to be done as this chapter provides within the time specified in the notice served upon such owner or occupant, the City shall make such connection or do such work and the cost of the connection or of such work done by the City shall be assessed against the property so connected or upon which such work is done and the amount of such cost shall become a lien upon the premises so connected or upon which such work is done. The City Attorney is hereby authorized, empowered and directed to collect the amount of the cost of such connection or the doing of such work including attorney fees, either by foreclosure of the lien or by a suit against the owner or occupant of the premises. The suit shall be maintained in the name of the City, as plaintiff, in any court of competent jurisdiction.

D. Penalty for Violation:

Any person found guilty of violating this chapter or any part thereof shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine not exceeding one thousand dollars (\$1000) for each such violation.

Section 8. UTILITY AND PROPERTY OWNER RESPONSIBILITIES. A new section 13.06.500 is added to the Tenino Municipal Code, as follows:

13.06.500 Utility and Property Owner Responsibilities

A. Utility. After the initial construction and connection of a property to the sanitary sewer system, the City shall have the responsibility for the maintenance, operation, repair and replacement of the sanitary sewer system to, and inclusive

of, the City-installed and owned grinder pump and pipe from the pump to the public right of way.

- B. Property. At the time of initial construction and connection, the property owner shall be responsible for all electrical service and connections to the grinder pump control panel, as necessary to serve and support the grinder pump. After the initial construction and connection of a property to the sanitary sewer system, the property owner or designee shall have the responsibility for the maintenance, operation, repair and replacement of the sewer line from the point of connection to the grinder pump to the property's wastewater system of drains and lines; and, for the power and power supply to the grinder pump control panel that serves the property."

Section 9. Chapter 13.08 Amended. Sections 13.08.020, 13.08.030, and 13.08.040 Tenino Municipal Code are each amended as follows:

13.08.020 Definitions.

The following definitions are used in this chapter, and in title 13 TMC unless the text of the law provides otherwise:

"City" means the City of Tenino and anywhere within the corporate limits.

"ERU" or "Equivalent Residential Unit" is the estimated measure of use of or impact on the sewer system from a typical single family residential parcel, as determined by the City's engineer, and is applied as a factor in determining the measure of use or impact of other development on the City sewer system.

13.08.030 Permit required.

On and after the effective date of the ordinance codified in this chapter, it is unlawful for any person to dig, construct, use or cause to be used any cesspool, septic tank or drain pit or field, or to connect into any sewer lines for any dwelling or building within the City, without first having applied for and received a written permit from the City and the department of health or city council. No permits for cesspools, septic tanks or drain pits or fields will be issued after the availability of the City sanitary sewer system under Chapter 13.06 TMC.

13.08.040 Connection to proximate sewer.

- A. Every building where persons reside, congregate or are employed, shall be connected to the City sanitary sewer system by the owner or agent of the premises, in the manner consistent with and subject to Chapter 13.06 TMC. Following connection to the City sanitary sewer system, the owner shall cause any cesspools, septic tanks, privy wells or vaults, drain fields or other private wastewater disposal systems to be filled and/or decommissioned consistent with standards of the Thurston County Department of Health.

Section 10. Plumbing code. TMC 13.10.110 is amended to read as follows:

13.10.110 Plumbing code.

As a condition of water service, customers shall install, maintain, and operate their piping and plumbing systems in accordance with all Washington State plumbing codes and the 2006 Uniform Plumbing Code, or as amended, and Chapter 13.04 and 13.06 TMC.

Section 11. Repealer.

11.1 Sections 13.08.050, 13.08.060, 13.08.080, 13.08.100, 13.08.110, 13.08.120, 13.08.130, 13.08.150 TMC and Ordinance 183 are hereby repealed.

11.2 Chapter 8.36 TMC (and Section 2, Ordinance 722) is repealed, effective January 1, 2010.

Section 12. 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 13. Ratification and Confirmation; Inconsistent Acts.

13.1 Any acts made consistent with the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

13.2 All ordinances or parts of ordinances in conflict herewith are hereby superceded and repealed.

Section 14. Effective Date. This ordinance shall be published in the official newspaper of the city, and shall take effect and be in full force 5 days after date of publication as required by law.

PASSED AND ADOPTED by the City Council of the City of Tenino, Washington, and approved by its Mayor, at a regularly scheduled open public meeting this ____ day of _____, 2008.

Kenneth A. Jones, Mayor

ATTEST:

Betty J. Garrison, Clerk/Treasurer