

Chapter 21

SEWERS

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Chapter 21**SEWERS****Article 1. General Provisions.****Section 21-1. Intent of chapter.**

It is the intention of the sewer code to regulate the use of all public sewers. A further intent of this code is to fix the rates of installing lateral and service charge on lots furnished with sewer service. (1975 C.C., c. 14, art. 1, sec. 1.)

Section 21-2. Definitions.

As used in this chapter, unless the context specifically indicates otherwise:

“Accessible to a sewer” means having a sanitary sewer with laterals available to the lot.

“B.O.D. (biochemical oxygen demand)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees centigrade, expressed in milligrams per liter by weight.

“Building or house sewer” means that portion of the sewer line extending from a building to the public sewer or private disposal system.

“Cesspool” means an individual wastewater system consisting of an excavation in the ground whose depth is greater than its widest surface dimension, which receives untreated wastewater and retains the organic matter and solids discharging therein, but permits the liquid to seep through the bottom or sides to gain access to the underground formation.

“Commission” means the environmental management commission of the County.

“Connection” means an opening in the public sewer to which the building sewer may be connected.

“Director” means the director of the department of environmental management, or the director’s authorized representative.

“Equivalent population” means the calculated population which would normally contribute the same amount of suspended solids, biochemical oxygen demand or volume of flow per day as the daily wastes discharged by an industrial or commercial establishment, using as standard basis pounds of suspended solids or biochemical oxygen demand and one hundred gallons per capita per day.

“Extension” means the continuation of an existing public sewer through public or private property not owned, in whole or in part, by the applicant or owner of the particular property or subdivision to be served.

“Gang cesspool” means a cesspool designed to accept sewage from two or more sources.

“Garbage” means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

“Garbage, properly shredded” means food wastes that have been properly shredded to such a degree that all particles will be carried freely under normal flow conditions in public sewers.

“Grease” means any material which is extractable from an acidified sample of a waste by hexane or other designated solvent and as determined by the appropriate procedure in Standard Methods. (Includes fats and oils.)

“Grease traps” means a pretreatment device designed and installed to separate fats, oils, and grease from wastewater.

“Industrial wastes” means the liquid wastes from industrial processes.

“Infiltration” means water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from inflow.

“Inflow” means water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from infiltration.

“Lateral” means a side sewer from a public branch or main sewer to the property line to serve one or more lots.

“Main” means a sewer to which several laterals or other branch sewer lines are connected.

“Natural outlet” means any natural outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

“pH” means the logarithm of the reciprocal of the weight of hydrogen ion in grams per liter of solution.

“Public sewer” means a sewer system, including a cesspool and a gang cesspool system, controlled by the County.

“Sanitary sewer” means a sewer which carries sewage and to which storm and surface waters and drainage are not intentionally admitted.

“Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments.

“Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.

“Sewage works,” “sewer system,” or “sewer,” means all public facilities for collecting, pumping, treating and disposing of sewage.

“Subdivision” means a division of a piece of property into two or more lots.

“Suspended solids” means solids that are in suspension in sewage or waste waters, and which are removable by laboratory filtering.

“Unoccupied unit” means a unit that is not occupied but has accessibility to a sewer, plumbing fixtures located on it, and currently receives a water bill.

(1975 C.C., c. 14, art. 1, sec. 2; Am. 1985, Ord. No. 85-15, sec. 1; Am. 1986, Ord. No. 86-119, sec. 3; Am. 1987, Ord. No. 87-71, sec. 1; Am. 1988, Ord. No. 88-7, sec. 6; Am. 1989, Ord. No. 89-68, sec. 2; Am. 1992, Ord. No. 92-77, secs. 2 and 3; Am. 2000, Ord. No. 00-82, secs. 1 and 2; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec. 8.)

Section 21-3. Tampering with public sewers.

A written permit from the director shall be required for any person to:

- (1) Obstruct or otherwise make inaccessible any portion of the public sewer;
- (2) Uncover or molest in any way, any public sewer; or
- (3) Throw anything into any sewer manhole.

(1975 C.C., c. 14, art. 1, sec. 5.01; Am. 2002, Ord. No. 02-66, sec. 4.)

Section 21-4. Sealing disconnected sewers.

No person shall remove or demolish any building or structure with plumbing fixtures connected directly or indirectly with the public sewer without first notifying the director of such intention. All openings in the sewer line caused by the removal of any building or structures shall be sealed in such a manner as to prevent earth, debris, rain, surface, storm or other water from entering the public sewer system.

(1975 C.C., c. 14, art. 1, sec. 5.02; Am. 2002, Ord. No. 02-66, sec. 4.)

Article 2. Public Sewers.

Section 21-5. Connection to sewer required.

- (a) Owners of all dwellings, buildings, or properties used for human occupancy, employment, recreation, or other purposes, which are accessible to a sewer are required at their expense to connect directly with the public sewer within one hundred eighty days after date of official notice.
- (b) If, due to rock, wastewater collection system depth, or other construction problems, a building cannot be practically served, the owner shall install, operate and maintain a residential pumping station.
- (c) The director may grant a variance/exemption of the foregoing connection requirements to owners of single-family dwellings existing at the time of installation of the public wastewater system, if the following is found:
 - (1) There are special or unusual circumstances applying to the subject real property which exist that render the ability to connect to a wastewater system an extreme physical or financial hardship; and
 - (2) There are no other reasonable alternatives; and
 - (3) The variance is consistent with the general purpose of the chapter and will not be materially detrimental to public health, safety, or welfare.
- (d) To obtain a time extension under the provisions of subsection (a) of this section, owners must file a written request to the connection requirement before the expiration of the aforesaid one hundred eighty days. The written request shall document the need for the extension and the requested amount of time.
- (e) Time extensions granted pursuant to subsection (d) of this section shall be for a period not to exceed two years.
- (f) An appeal from the decision of the director in subsection (c) or (d) may be filed with the environmental management commission within thirty days of receipt of the decision. A person is aggrieved by a decision of the director if:
 - (1) The person has an interest in the subject matter of the decision that is so directly and immediately affected, that the person's interest is clearly distinguishable from that of the general public; and
 - (2) The person is or will be adversely affected by the decision.

An appeal shall be in writing, in the form prescribed by the environmental management commission, and shall specify the person's interest in the subject matter of the appeal and the grounds of the appeal. Any such appeal shall be accompanied by a filing fee of \$50. The person appealing a decision of the director shall provide a copy of the appeal to the director and to the owners of the affected property and shall provide the environmental management commission with the proof of service.

The appellant, the owners of the affected property, and the director shall be parties to an appeal. Other persons may be admitted as parties to an appeal, as permitted by the environmental management commission.

The director and the environmental management commission shall adopt rules to implement this section.

(1975 C.C., c. 14, art. 1, sec. 3.01; Am. 1989, Ord. No. 89-68, sec. 3; Am. 1996, Ord. No. 96-51, sec. 2; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec. 9; Am. 2004, Ord. No. 04-57, sec. 1.)

Section 21-6. Subdivisions.

Where public sewer service is accessible to any subdivision, the subdivider shall install all necessary sewage works to serve all lots. All new sewers and connections shall be properly designed and connected. For areas planned for sewers within the ten years after May 22, 1989, developers are required to install interceptor, household, and collection sewers, even if they will not be used until the area is sewerred. Where public sewers are not accessible or dry sewers planned, the requirements or interim requirements for proper disposal of sanitary sewage for the subdivision shall be determined by the State department of health and the director.

(1975 C.C., c. 14, art. 1, sec. 3.02; Am. 1985, Ord. No. 85-15, sec. 2; Am. 1989, Ord. No. 89-68, sec. 4; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec. 10.)

Section 21-7. Industrial wastes of unusual strength.

- (a) The County may accept into its public sewer system, an industrial waste of unusual volume, strength or character under a special agreement or arrangement between the County and the industrial concern, subject to payment of appropriate charges agreeable to both parties. The contributing person shall pay a proportionate share of the construction costs or sewer service charge based on the ratio of population equivalent to normal design population.
- (b) Where sewers, pumping stations, force main or outfall are to be provided, the population equivalent of the wastes shall be computed on the basis of the volume of the industrial wastes. Where primary treatment facilities are to be provided the population equivalent of the wastes shall be computed on the basis of the suspended solids of the industrial wastes. Where secondary treatment facilities are to be provided, the population equivalent of the wastes shall be related to the suspended solids as above or to the biochemical oxygen demand of the industrial wastes, whichever is greater.
- (c) Fats and greases shall not be discharged to the sewer system if their concentration and physical dispersion results in separation and adherence to sewer structures and appurtenances. If there is evidence of adherence of such materials to said structures, or if such materials cause blockage in the sewer system, then the wastewater carrying such materials must be effectively pretreated by a process or device to effect removal from the flow before its discharge to the sewer system.
- (d) Where preliminary treatment is deemed necessary by the director to render any water or wastes acceptable for discharge into the public sewage works, suitable preliminary treatment facilities shall be provided by the owner and maintained continuously in satisfactory and effective operation at his expense. In the maintaining of those interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured materials and shall maintain records of the dates, amounts, and means of disposal which are subject to review by the director. Grease, oil, sand and dirt interceptors, screening devices, facilities for pH adjustment, and other necessary preliminary treatment facilities shall be of a type and capacity as approved by the director.
- (e) When the standards of the director for requiring pretreatment are less stringent than those promulgated by the U.S. Environmental Protection Agency, the standards of the U.S. Environmental Protection Agency will be those used for waste flows being discharged into wastewater treatment facilities.

(1975 C.C., c. 14, art. 1, sec. 3.03; Am. 1977, Ord. No. 316, sec. 1; Am. 1987, Ord. No. 87-71, sec. 2; Am. 2002, Ord. No. 02-66, sec. 4.)

Section 21-8. Drainage of storm water and unpolluted water into sewers.

No person shall discharge or cause to be discharged, directly or indirectly, any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, swimming pool water or other unpolluted drainage into any public sewer.

(1975 C.C., c. 14, art. 1, sec. 4.01.)

Section 21-9. Prohibited wastes.

Except as hereinafter provided in this chapter, no person shall, directly or indirectly, discharge or cause to be discharged into a public sewer any of the following:

- (1) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit;
- (2) Any water or waste which may contain more than one hundred parts per million, by weight, of fat, oil or grease;
- (3) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;
- (4) Any garbage that has not been properly shredded;

- (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;
 - (6) Any water or wastes having pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
 - (7) Any water or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters;
 - (8) Any noxious or malodorous gas or explosive liquids or substance capable of endangering public property and safety, or creating a public nuisance; or
 - (9) Other restrictions as provided in accordance with regulations or requirements of the State department of health or the U. S. Environmental Protection Agency.
- (1975 C.C., c. 14, art. 1, sec. 4.02; Am. 1989, Ord. No. 89-68, sec. 5.)

Section 21-10. Volume and rate of discharge; additional flow beyond capacity.

The director may prohibit admission into the public sewers of any additional volume of water or wastes, wherever and to the extent that the existing sewage works of the County shall not be capable of receiving and disposing of the same, together with the normal sewage flow of that tributary area.

(1975 C.C., c. 14, art. 1, sec. 4.03; Am. 2002, Ord. No. 02-66, sec. 4.)

Article 3. Sewage Works and Connections.

Division 1. General Provisions.

Section 21-11. Disposal of sewage into natural outlet; treatment and disposal plan required.

Where sewage is to be discharged into any natural outlet, primary or complete treatment facilities shall be provided in accordance with regulations and requirements of the State department of health. The type, capacity and location of the treatment plant shall be approved by the director.

(1975 C.C., c. 14, art. 2, sec. 1.01; Am. 2002, Ord. No. 02-66, sec. 4.)

Section 21-12. Pumping stations.

Pumping stations shall be provided where the terrain of the developable area is such as to require pumping to lift the sewage to proper elevation for discharge to a treatment plant site, public sewer or discharge outfall. These stations shall be of adequate capacity and shall include the necessary physical units for proper operation, control and maintenance. Suitable locations of these stations shall be approved by the director.

(1975 C.C., c. 14, art. 2, sec. 1.02; Am. 2002, Ord. No. 02-66, sec. 4.)

Section 21-13. Sewer mains.

Sewer mains shall be of length, type and size necessary to provide the area with adequate sewage disposal and so located as not to be contrary to the location fixed for utilities by the County master plan.

(1975 C.C., c. 14, art. 2, sec. 1.03.)

Section 21-14. Laterals.

A lateral shall be installed to provide service to each lot in accordance with section 21-22. When a lateral is required by the county in order for the landowner to receive the final inspection approval, the county shall construct the lateral within six months from the date of the requirement.

(1975 C.C., c. 14, art. 2, sec. 1.04; Am. 2004, Ord. No. 04-53, sec. 2.)

Section 21-15. Construction standards.

All sewage works construction shall be performed in accordance with the latest edition of the standard specifications for public works construction and the standard details for public works construction.

(1975 C.C., c. 14, art. 2, sec. 1.05; Am. 1977, Ord. No. 316, sec. 1.)

Division 2. Subdivisions.**Section 21-16. Cost of construction.**

(a) In every subdivision where sewers, sewage pumping station, force main, outfall and sewage treatment units are deemed necessary by the director and State department of health, the cost of constructing such sewage works shall be borne by the owner of the subdivision.

(b) Additional costs brought about by increasing the pipe sizes or depths of laying or the capacity of the pumping station, force main, outfall or treatment plant to serve areas other than the subdivision shall be borne by the County.

(1975 C.C., c. 14, art. 2, sec. 2.01; Am. 2002, Ord. No. 02-66, sec. 4.)

Section 21-17. Approval of plans required; time limit for beginning work.

All construction plans and specifications for sewage works shall be approved by the director. In the event that construction has not commenced within one year after date of approval, the construction plans and specifications shall be resubmitted for reapproval.

(1975 C.C., c. 14, art. 2, sec. 2.02; Am. 2002, Ord. No. 02-66, sec. 4.)

Section 21-18. Inspections during construction required; costs.

(a) During the construction of all sewage works, the County shall have access thereto for inspection purposes and, if considered advisable by the director, to require an inspector on the job continuously. At no time shall sewer work be backfilled or covered until the director has been notified of and approved the work after proper inspection and test. If the work is not approved, it shall be repaired or removed and reconstructed, as directed by the director. The subdivision sewer may then be connected to the public sewer.

(b) All costs of inspection, testing and connection to the public sewers shall be borne by the owner of the subdivision.

(1975 C.C., c. 14, art. 2, sec. 2.03; Am. 2002, Ord. No. 02-66, sec. 4.)

Section 21-19. Acceptance of sewage works and treatment facilities.

(a) All sewage works found acceptable by the director shall become the property of the County and shall be maintained and operated as part of the public system. Prior to final acceptance, the subdivider shall deliver to the County perpetual easements for all portions of the subdivision sewer system installed in other than publicly owned property. The subdivider shall also convey to the County fee simple title to all sites on which a pumping station or treatment plant is constructed by the subdivider as part of the public sewage works, together with easements for ingress and egress.

(b) Final approval and acceptance of subdivision sewage works shall not be granted until the subdivider has settled all financial accounts with the County.

(1975 C.C., c. 14, art. 2, sec. 2.04; Am. 2002, Ord. No. 02-66, sec. 4.)

Division 3. Laterals.**Section 21-20. Application.**

An application for a lateral to a lot shall be made on a prescribed form to the bureau of sewers. If the lateral has not already been run to the property line, the County will construct it as soon as possible at the expense of the applicant, except as provided by section 21-14.

(1975 C.C., c. 14, art. 2, sec. 4.01; Am. 2002, Ord. No. 02-66, sec. 11; Am. 2004, Ord. No. 04-53, sec. 3.)

Section 21-21. Location.

New laterals shall be installed as near as practicable to the exact location desired by the applicant, but if branches are already in the main or other outlets are available near at hand, the lateral may be run from them. The County reserves the right to establish the alignment of the lateral, the location of the connection and to provide service to other lots from the same lateral.

(1975 C.C., c. 14, art. 2, sec. 4.02.)

Section 21-22. Construction specifications.

(a) All laterals shall be six inches in diameter and constructed at right angles to the main on a minimum grade of nine-tenths of one percent, unless excepted by the director. Each lateral shall terminate at the property line with a six-inch by four-inch cast iron pipe reducer, properly capped.

(b) Connection of the building sewer to this reducer shall be made with a forty-five degree cast iron "Y," with the branch facing upward and extended about one inch above the ground with a four-inch brass cleanout at the end. This connection shall not be backfilled or covered until approved by the director.

(1975 C.C., c. 14, art. 2, sec. 4.03; Am. 2002, Ord. No. 02-66, sec. 4.)

Section 21-23. Deposit required; inadequate deposit; refunds.

A deposit of not less than \$25 and at least equal to the County's estimate of the cost of the lateral shall be required of the applicant before the lateral is installed. If the actual cost of the lateral is in excess of the deposit, the applicant will be billed and shall pay for the difference. If the actual cost is less than the deposit, the applicant shall be refunded the difference.

(1975 C.C., c. 14, art. 2, sec. 4.04.)

Section 21-24. Charge for pre-existing lateral.

No new charge shall be made for a lateral which has already been installed to the property line of the lot, the charge for which has already been paid.

(1975 C.C., c. 14, art. 2, sec. 4.05.)

Section 21-25. Permit to connect; plumbing permit prerequisite; fee.

(a) A permit to connect shall be obtained from the wastewater division, department of environmental management, before making any connection to the lateral.

(b) The connection permit shall be issued only after a plumbing permit has been obtained from the building division, department of public works.

(c) No fee shall be charged for the permit to connect.

(1975 C.C., c. 14, art. 2, sec. 4.06; Am. 2002, Ord. No. 02-66, sec. 12.)

Division 4. Extensions.**Section 21-26. Applications for extensions.**

Any individual wishing to extend or connect to the public sewer system shall submit an application to the director or designee. The application shall be in the form of a letter detailing where and why the sewer extension is being requested. The application shall be processed in the manner set forth in this article.

(1975 C.C., c. 14, art. 2, sec. 3.01; Am. 1996, Ord. No. 96-51, sec. 4; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec.13.)

Section 21-26.1. Approval of extensions of the public sewer system.

- (a) All sewer extensions shall be approved by resolution of the County council.
- (b) Private Development and Construction. Once an application for an extension of the public sewer system has been approved by the director or their designee, the application and a recommendation from the director shall be forwarded to the County council with all of the supporting material attached. Upon review of the recommendation of the director and the payment mechanism chosen by the applicant, the council may approve the application.

(1996, Ord. 96-51, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec. 14.)

Section 21-27. Determination of construction specifications.

The County shall make, or allow the applicant to make, the extension, including any lateral, to serve the applicant's property. The County director shall determine or approve a plan submitted by the applicant for, the alignment, the materials to be used, and the manner of construction. The property owner shall not have any title to the extension.

(1975 C.C., c. 14, art. 2, sec. 3.02; Am. 1996, Ord. No. 96-51, sec. 5; Am. 2002, Ord. No. 02-66, sec. 4.)

Section 21-28. Payment of costs; construction by the applicant or by the County.

- (a) If the applicant chooses to construct the extension, then the applicant shall bear the total cost of the construction. However, the applicant may receive for ten years after completion of the extension one-half of all moneys for sewer charges collected by the County from other properties connecting to the extension provided the total of such reimbursement shall not exceed the cost incurred by the applicant to construct the extension. Plans to reimburse the applicant for construction of the sewer extension shall require the approval of the County council by resolution.
- (b) If the applicant chooses for the County to construct the extension, the applicant shall elect to:
 - (1) Pay the full cost for the extension and for ten years after completion of the extension receive all moneys for sewer charges collected by the County from other properties connecting to the extension. However, the total of such reimbursements shall not exceed the cost incurred to construct the extension. Plans to reimburse applicant for construction of sewer extensions shall require the approval of the County council by resolution; or
 - (2) Pay for one-half of the cost for the extension with the other half of the cost being paid by the County. If the applicant chooses this method of payment the director or designee shall make an estimate of the cost of construction and submit it to the applicant. If the applicant then deposits with the County a sum equal to one-half of such cost, then the matter shall be referred to the council for review, approval and appropriation of the County's share of the costs.

(1975 C.C., c. 14, art. 2, sec. 3.03; Am. 1996, Ord. No. 96-51, sec. 6; Am. 1998, Ord. No. 98-106, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec. 15.)

Article 4. Sewer Service Charges.**Section 21-29. Sewer user charges for nonresidential customers.**

Sewer user charges for nonresidential customers, including those connected to gang cesspools, shall be assessed to all lots accessible to a public sewer whether connected or not. User charges for sewer service to nonresidential customers, which include industrial, commercial, agricultural, governmental and miscellaneous services users, hotels, and service stations shall be based on water volume usage based on water meter reading and shall be assessed according to the schedule shown under section 21-36.1; provided that water consumed for the purpose of coolers or swimming pools shall not be included in water consumption totals on which these rates are based. No sewer charges shall be levied on water used for irrigation or other uses when the water is not discharged into the sewer system and a separate metering system is installed to provide a method of accounting for the amount of water which is or is not subject to the sewer use charges, as the case may be. A minimum monthly charge shall be applicable and shall be equal to the schedule under section 21-36.1. Unoccupied units will be assessed a monthly maintenance fee equal to the current minimum monthly charge. (1975 C.C., c. 14, art. 3, sec. 1.01; Am. 1985, Ord. No. 85-15, sec. 3; Am. 1986, Ord. No. 86-86, sec. 1; Am. 1987, Ord. No. 87-71, sec. 3; Am. 1989, Ord. No. 89-68, sec. 6; Am. 1992, Ord. No. 92-77, sec. 4; Am. 2000, Ord. No. 00-82, sec. 3; Am. 2004, Ord. No. 04-157, sec. 2.)

Section 21-29.1. Charges for private haulers discharging wastewater into a municipal facility.

- (a) A minimum charge according to the schedule shown under section 21-36.1 shall be made for the discharging of pumped waste into any municipal system. The hauler shall be responsible for notification of the receiving facility personnel of the type of waste and of the discharge schedule. Preliminary treatment of the wastewater may be required prior to disposing of the waste into the system.
- (b) "Pumped waste" shall include cesspool septage, chemical toilet waste, sludge, or any other waste not prohibited under section 21-9.
- (c) Private haulers are required to have a valid permit from the wastewater division to discharge wastewater into any municipal facility and shall maintain the following records and information:
 - (1) The number of cesspools and other types of wastewater facilities pumped;
 - (2) The name and address of the owner of each cesspool or other facility pumped;
 - (3) The date of pumping of each cesspool or other facility;
 - (4) The location of each cesspool or facility pumped;
 - (5) Volume of wastewater pumped at each cesspool or other facility; and
 - (6) Disposal site of each for pumped waste from each cesspool or other facility.
- (d) Reports containing the tabulated information shall be submitted to the wastewater division no later than thirty days after the last day of the month. Failure to provide the requested information may lead to revocation of the permit.

(1987, Ord. No. 87-71, sec. 4; Am. 1989, Ord. No. 89-68, sec. 7; Am. 1992, Ord. No. 92-77, sec. 5.)

Section 21-30. Sewer user charges based on flat rate.

The director may establish a flat rate for sewer services for sewer properties (residential and/or nonresidential) utilizing public or private water systems. The flat rates may be based upon the amount of water actually consumed and drawn through the water meters of the private system, or in the absence of meters, based upon a reasonable estimate of the water consumption with due consideration to the type and nature of the premises. This flat rate shall be reviewed annually.

(1975 C.C., c. 14, art. 3, sec. 1.02; Am. 1985, Ord. No. 85-15, sec. 4; Am. 2002, Ord. No. 02-66, sec. 4.)

Section 21-31. Sewer user charges for residential customers.

Sewer user charges for residential customers shall be assessed to all lots accessible to a public sewer or public gang cesspools whether connected or not. User charges for sewer service to residential customers, which include service for single-family dwellings, duplexes, housing projects, condominiums, townhouses, apartments, and dormitories shall be according to the schedule shown under section 21-36.1. Unoccupied units will be assessed a monthly maintenance fee equal to the current monthly sewer user fee.

(1977, Ord. No. 316, sec. 1; Am. 1985, Ord. No. 85-15, sec. 5; Am. 1986, Ord. No. 86-86, sec. 2; Am. 1987, Ord. No. 87-71, sec. 5; Am. 1989, Ord. No. 89-68, sec. 8; Am. 1992, Ord. No. 92-77, sec. 6; Am. 2000, Ord. No. 00-82, sec. 4.)

Section 21-31.1. Rates based on ad valorem taxes.

Residential and nonresidential customers will be assessed a sewer charge based on the ad valorem charge system for any additional expenses not covered by the flat rate and/or flow rate system.

(1985, Ord. No. 85-15, sec. 6.)

Section 21-31.2. Infiltration/inflow expenses.

The sewer service charge system will distribute the operational maintenance and replacement expenses for infiltration/inflow flows in the same manner as the ad valorem charges.

(1985, Ord. No. 85-15, sec. 6.)

Section 21-32. Billing of charges; payment; late penalty.

- (a) The sewer service charge levied pursuant to this chapter shall be collected by the director of finance or any bank designated by the wastewater division as an agent for collection. Billings for sewer service charges of nonresidential users shall be processed monthly or bimonthly in accordance with the department of water supply billing cycle. Billing for single unit and multi-unit residential users shall be processed monthly or bimonthly.
- (b) Payment shall be due thirty days after date of bill. In addition, interest at the rate of one and one-half percent per month shall be imposed upon the outstanding balance for all accounts that are past due.
- (c) Charges for sewer service shall be billed to the owner or owners of the lot, parcel of land, building or premises, (herein, referred to as the “property”) to which the services are provided. If requested by the owner, the department will bill a tenant or other individual designated (herein, referred to as the “designated person”) by the owner. Such request shall be in writing and signed by all parties involved, including all property owners and the designated person. The property owners and the designated person shall be jointly and severally liable for the entire sewer service charge without further notice of any delinquency to the property owners.
- (d) Where a landlord has requested that the department bill a tenant pursuant to paragraph (c):
 - (1) the director shall notify the landlord if a tenant’s payment is past due; and
 - (2) the interest on the outstanding balance shall not commence until thirty days after the department has sent such notice to the landlord of the delinquency.
- (e) Sewer service charges levied shall be a debt due to the county. If this debt is not paid when due, it shall be deemed delinquent and may be recovered by the county by a civil action filed against the property owners, or the designated person, or both. Any judgment against the property owners or responsible parties shall be filed with the Bureau of Conveyances. As used herein, “person” means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust estate, government entity, or any other legal entity, and their legal representatives, agents, and successors and assigns.

(1975 C.C., c. 14, art. 3, sec. 2; Am. 1989, Ord. No. 89-68, sec. 9; Am. 1992, Ord. No. 92-77, sec. 7; Am. 2005, Ord. No. 05-19, sec. 1.)

Section 21-33. Charges for discontinued service.

- (a) For any lot, building, dwelling unit or premises for which connection is made with the sanitary sewerage systems, a sewer service charge shall be made pursuant to this chapter starting from the first day of the month following the date of the connection.
- (b) Where it is proposed to discontinue any connection to the sewer from any lot, parcel of land, building or premises upon a written notice being given to the wastewater division by the owner or tenant of such lot, parcel of land, building or premises, such lateral sewer, shall be disconnected by the owner or tenant and the sewer charges for the month within which such discontinuance of sewer service takes place shall be for the full month based on the regular monthly charge to such lot, parcel of land, building, dwelling unit or premises.

(1975 C.C., c. 14, art. 3, sec. 3; Am. 1989, Ord. No. 89-68, sec. 10; Am. 1992, Ord. No. 92-77, sec. 8.)

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Section 21-34. Sewer fund designated; disposition of funds.

The funds received from the collection of the sewer service charges authorized by this chapter shall be deposited daily with the director of finance, and shall be accounted for and be known as the "County sewer fund" and shall be expended for the purpose authorized.

The County sewer fund shall consist of three accounts. The first account will be the "user charge account" and the revenues for this account will come only from the sewer service charges. Expenditures from this fund shall be limited for the purpose of carrying out the operation and maintenance of the sewage treatment system, including replacement.

The second account will be the "fixed costs account." Expenditures from this account shall be for items such as billing expenses, debt service charges, construction costs, and other costs not related directly to the operation and maintenance of the sewage treatment system. The revenues for this account will come from the sewer service charges.

The third account will be the "equipment replacement expenses reserve account." This account will set aside a portion of the revenue for sewer service charges as a cushion for equipment replacement expenses to compensate for fluctuation in the amount of payment out of the account for equipment replacement.

This financial management system shall be maintained by the wastewater division and based on an adequate budget identifying the basis for determining the annual operating and maintenance cost and costs of personnel, material, energy, and administration.

(1975 C.C., c. 14, art. 3, sec. 4; Am. 1985, Ord. No. 85-15, sec. 7; Am. 1986, Ord. No. 86-119, sec. 4; Am. 1988, Ord. No. 88-7, sec. 7; Am. 1992, Ord. No. 92-77, sec. 9.)

Section 21-35. Miscellaneous requirements.

- (a) The user charges attributed to any wastewater treatment facility shall be reviewed and evaluated annually and revised if necessary on the basis of actual operation and maintenance costs.
- (b) The user charge system shall take precedence over any terms or conditions or agreements or contracts which are inconsistent with the requirements of section 204(b)(1)(A) of the Clean Water Act and 40 CFR 35.2140.
- (c) Every user of the public sewer system shall be notified annually of the user's current sewer service charge rate and that portion of the rate and/or ad valorem taxes which are attributable to wastewater treatment service in accordance with 40 CFR 35.2140. Notification may be in conjunction with a regular bill, newspaper notice, or other means acceptable to the regional administrator, Environmental Protection Agency.

(1977, Ord. No. 316, sec. 1; Am. 1985, Ord. No. 85-15, sec. 8.)

Section 21-36. Penalty.

Any person convicted of violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$500. The continuance of any such violation after conviction shall be deemed a new offense for each day of such continuance.

(1975 C.C., c. 14, art. 3, sec. 5.)

Section 21-36.1. Wastewater service charge rates.

Sewer user charges for customers connected to gang cesspools shall be effective August 1, 2000, and sewer service charges paid prior to the effective date shall be reimbursed or credited. Sewer charges not paid prior to the effective date shall be waived.

WASTEWATER SERVICE CHARGE RATE							
USER CATEGORY	Effective Date*						
	7/01/97	2/01/98	7/01/00	7/01/02			
A. Single Unit Residential:							
1. Monthly charge per unit		\$ 25.00	\$ 26.00	\$ 27.00			
B. Multi-Unit Residential:							
1. Monthly base rate charge per unit		25.00	26.00	27.00			
C. Nonresidential:							
1. Monthly base rate charge per unit	20.00	20.00	21.00	22.00			
2. Monthly usage charge per 1,000 gallons (after the first 8,000 gallons) per unit	3.55	3.55	3.80	4.05			
D. Private Haulers Discharge Fee:							
1. Discharge fee per 500 gallons or fraction thereof	30.00	30.00	30.00	30.00			
2. Minimum charge per load	30.00	30.00	30.00	30.00			
E. Gang Cesspools:							
1. Monthly charge per unit			15.00	15.00			
					07/01/03	07/01/05	07/01/07
F. Recycled Water:							
1. Distribution charge per 1,000 gallons or fraction thereof					1.00	1.20	1.20

*Rate begins on first full billing cycle after effective date.
 (1997, Ord. No. 97-68, sec. 2; Am. 1998, Ord. No. 98-21, sec. 1; Am. 2000, Ord. No. 00-82, sec. 5; Am. 2003, Ord. No. 03-92, sec. 1.)

Section 21-36.2. Remission of charges.

Sewer users who have been charged for sewer services pursuant to section 21-29, may ask for a remission of such charges to the extent and in the manner set forth herein:

- (1) The user establishes and the director determines that the user is entitled to an adjustment in water consumption totals.
- (2) Any application for such adjustment must be made with the director within one year of the alleged error in determination of water consumption totals.

(2000, Ord. No. 00-83, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec 16.)

Article 5. Sewer Connection Loan Program.

Section 21-37. Findings and purpose.

Increasingly strict Federal and State government requirements springing from the Federal Water Pollution Control Act, P.L. 92-500, commonly called the Clean Water Act, have been placed on local governments to upgrade the treatment of wastewater. The County of Hawai‘i, as a condition of receiving Federal construction grants for wastewater treatment facilities, has been mandated by the Environmental Protection Agency to construct sewer lines and laterals in Hilo and Kona and to expedite full utilization of the collector lines by requiring existing houses adjacent to those sewer lines and laterals to connect to the sewer system.

While sewer connections to future new subdivisions can be planned to minimize the cost and the cost can be amortized in the mortgage, sewer connections to existing houses are more problematic. The cost of connecting an existing house to the sewer can be very expensive and varies greatly with the geology (soil or rock), the elevation of the house in relation to the lateral, the distance from the house to the lateral, and the topography and improvements between the house and the lateral. Many of the houses mandated for sewer hookup are owned by elderly people on fixed incomes who may find it financially difficult or impossible to pay for the connection at an estimated cost ranging from \$3,000 to over \$30,000.

Section 21-5, requires connection to the sewer of lots accessible to a sewer. Conditions of Federal Environmental Protection Agency grants for construction of wastewater facilities in Hilo and Kailua-Kona also require the County of Hawai‘i to ensure full utilization of those facilities by mandating connection of existing houses to the sewer systems. For the Hilo wastewater treatment and conveyance project, Federal EPA Grant no. C150062 02, condition no. 14 of Grant amendment no. 1 requires the County of Hawai‘i to enforce the sewer use ordinance and require each and every existing dwelling or dwelling equivalent accessible to a sewer in Hilo to connect to the collection system. For the Kailua-Kona Sewerage System, Federal EPA Grant no. C150080 06, condition no. 8 requires the County of Hawai‘i to assure the timely hookup of residences to collection sewers.

The connection cost may be financially burdensome for many owners. Therefore, the council finds that, in order to assure that all possible lots are connected to the sewer to meet Federal and State requirements, it is in the public interest to create, in cooperation with a bank or other financial institution, a program by which the County of Hawai‘i assists owners to connect to the sewer by guaranteeing loans for this purpose.

The guaranteed loan program would allow the owner to get a County-guaranteed loan from the bank or other financial institution after it agrees that the County of Hawai‘i shall place a lien on the property at the time the loan closes. The lien would be for the hookup cost, interest, loan fees and loan costs. The County of Hawai‘i would guarantee the bank or other financial institution that it will pay the balance of the loan in full should the owner default on the loan. If the owner cannot qualify for a loan, the County of Hawai‘i will pay a contractor for the hookup, and charge the same interest rate as the bank or financial institution that handles the County-guaranteed loan program.

This law shall cover the sewer connections which will be required in the following increments:

Waiakea Houselots	110 lots
Waiakea Mill Pond	100 lots
Ainako “A”	114 lots
Kalaniana‘ole Laterals	125 lots
Ainako “B”	93 lots
(Optional Hookups)	100 lots
Alii Drive “A” — “F”	200 lots

(1992, Ord. No. 92-136, sec. 1.)

Section 21-38. Definitions.

For purposes of this article, the following words and phrases, unless the context otherwise requires, shall be defined as indicated:

“Default” means the failure of a guaranteed borrower to make a required payment to a designated bank within ninety days of the date upon which the payment is due as stated in the contract between a designated bank and a guaranteed borrower.

“Designated bank” means any bank or financial institution approved by the director of finance pursuant to this article to provide loans to owners who are required to connect property to sewers by section 21-5.

“Guaranteed borrower” means an owner who has executed the appropriate agreements with the County of Hawai‘i required by this article and whose loan with a designated bank is guaranteed by the County of Hawai‘i in accordance with this article.

“Increment” means any one of the planned sewer construction projects stated in section 21-37.

“Owner” means:

- (1) A person or persons, including joint tenants, tenants in common, tenants by the entirety, corporations, and partnerships who hold the fee title to real property which is required to be connected to sewer lines pursuant to section 21-5; or
- (2) A person or persons, including joint tenants, tenants in common, tenants by the entirety, corporations and partnerships to whom has been entrusted pursuant to law the legal or equitable titles to real property which is required to be connected to sewer lines pursuant to section 21-5, and who are empowered to act as trustees of that real property for the benefit of another or others, or as trustees of a self-trusted revocable living trust; or
- (3) A person or persons who hold equitable title pursuant to an agreement of sale of real property which is required to be connected to sewer lines pursuant to this chapter; or
- (4) A person or persons who hold, under a lease for a term of five years or more for residential purposes, real property which is required to be connected to sewer lines pursuant to this chapter.

“Self-directed revocable living trust” means a trust formed for the purpose of management and administration of real property and in which the owner(s) of an interest in real property becomes settlor(s) and trustee(s) of the trust by making said real property the trust res, and administering said property for the benefit of the owner(s).

(1992, Ord. No. 92-136, sec. 1.)

Section 21-39. Sewer connection loan program.

- (a) Before the director, pursuant to section 21-5, notifies property owners in an increment of the requirement that they connect their properties to the sewer line, the director of finance shall be authorized to develop a sewer connection loan program for the purpose of guaranteeing loans used to connect lots which are a part of that increment to the sewer lines. The director of finance may consult with any banks or financial institutions about participation in a program of loan guarantees for owners of properties who are required to connect to sewers pursuant to section 21-5.
- (b) After consultation, the director of finance shall designate one or more banks or financial institutions to handle the County-guaranteed loan program. In designating a bank or financial institution, the director shall consider the interest rates offered on the loans by the bank, the number of months and monthly payments of the loan, and the willingness of the institution to make the same agreed-upon rate offered on the County-guaranteed loans available to others borrowing money to pay for sewer hookup fees whose loans are not guaranteed by the County of Hawai‘i. Any bank or financial institution which complies with the terms of the loan program shall qualify as a designated bank.

- (c) The director of finance shall require that a designated bank agree that:
 - (1) The loan to a guaranteed borrower will be at a rate of interest and terms agreed upon at the inception of the program for that increment;
 - (2) The loan will be guaranteed by the County of Hawai'i;
 - (3) In the event that a guaranteed borrower fails to pay the required payment on the loan within ninety days of the date upon which the payment is due, the loan shall be considered in default and the designated bank shall immediately notify the director of finance of the County of Hawai'i, as well as the guaranteed borrower;
 - (4) In the event of a default of any guaranteed borrower, a designated bank shall accept payment in full from the County of Hawai'i as full satisfaction for the loan; and
 - (d) The director of finance shall inform the mayor and the County council of the names of banks and financial institutions which are designated banks, and shall provide them with copies of the agreement negotiated with the designated banks and the contract which the designated banks will execute with guaranteed borrowers.
- (1992, Ord. No. 92-136, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec. 17.)

Section 21-40. Loan application.

- (a) Any owner who is required to connect such owner's property to a sewer pursuant to section 21-5, and who has been rejected by any bank or financial institution for any type of a loan to pay for the sewer connection, based on insufficient ability to repay said loan, may apply to a designated bank for a sewer connection loan which is guaranteed by the County of Hawai'i. Any application for a guaranteed loan must be submitted to a designated bank no more than forty calendar days after the date of the notification by the director requiring the owner to connect to the sewer.
- (b) All such timely applications for guaranteed loans shall be sent by any receiving designated bank to the director of finance. Any owner whose application for a sewer connection loan is referred to the director of finance by a designated bank may participate in a loan guaranteed by the County of Hawai'i and become a guaranteed borrower. As conditions of participation, the applicant shall execute:
 - (1) A loan agreement with a designated bank, with the County of Hawai'i as guarantor of the loan, providing that:
 - (A) The money will be paid by the bank directly to the contractor performing the connection; and
 - (B) In the event the guaranteed borrower fails to pay the required payment on the loan within ninety days of the date upon which payment is due, the loan shall be considered in default and the County of Hawai'i will repay the loan in full to the designated bank, and will assume the designated bank's status as creditor.
 - (2) An agreement with the County of Hawai'i giving the County of Hawai'i a lien on the property to be connected. In situations in which the guaranteed borrower is a corporation or an owner holding property in a trust other than a self-directed revocable living trust, the County of Hawai'i shall initiate foreclosure proceedings immediately upon default by the owner and payment by the County of Hawai'i. In situations in which the guaranteed borrower consists of two people holding as tenants by the entirety, the County of Hawai'i shall initiate foreclosure proceedings immediately upon the death of the survivor of the tenancy by the entirety or upon the sale, exchange, transfer or forced sale of the property. In all other situations, upon the death of the guaranteed borrower, or the sale, exchange, transfer or forced sale of the property, or the death of the last surviving settlor of a self-directed revocable living trust, foreclosure action shall be brought concerning any amounts remaining on the amount owed to the County of Hawai'i. Upon execution, the loan agreement and the lien document shall be recorded at the bureau of conveyances.

- (c) For the protection of the interest of the County of Hawai‘i, a title search for any property upon which the County of Hawai‘i will have a lien shall be conducted prior to execution of any agreements, and the cost of the search shall be paid from the loan proceeds.
(1992, Ord. No. 92-136, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec. 18.)

Section 21-41. Default procedure.

In the event of a default, after the County of Hawai‘i has paid the designated bank or financial institution, the director of finance shall have the discretion to negotiate with the guaranteed borrower a plan for repayment of the loan to the County of Hawai‘i. In negotiating the loan repayment, the director of finance shall take into consideration the following guidelines:

- (a) In the event that the guaranteed borrower is capable of paying the monthly interest on the loan, the repayment plan shall include a minimum monthly payment at least equal to the amount of monthly interest, and at the same rate of interest charged by the designated bank.
- (b) In the event that the guaranteed borrower is unable to pay an amount equal to the monthly interest, the director of finance may negotiate a smaller monthly payment than the amount equal to the monthly interest, provided that in every case the guaranteed borrower in default shall pay no less than \$1 per month.
- (c) If no agreement on the plan for repayment is reached within ninety days of default, the County of Hawai‘i shall immediately initiate foreclosure proceedings against the subject property.
- (d) In the event that the guaranteed borrower is a corporation or is an owner holding property in a trust, then the County of Hawai‘i shall initiate foreclosure proceedings immediately upon default by the owner and payment of the loan by the County of Hawai‘i.
- (e) In the event that the guaranteed borrower is an owner holding property in a self-directed revocable living trust, or is any type of owner described in the definition of “owner,” with the exception of those described in section 21-41(d), then upon the death of the guaranteed borrower, or the sale, exchange, transfer, forced sale of the property, or termination of a trust created pursuant to chapter 558, Hawai‘i Revised Statutes, as amended, foreclosure action shall be brought concerning any amounts owed to the County of Hawai‘i.
- (f) In the event that the guaranteed borrowers are owners holding as tenants in the entirety, then upon the death of the surviving spouse, or the sale, exchange, transfer or forced sale of the property, foreclosure action shall be brought concerning any amounts owed to the County of Hawai‘i.

(1992, Ord. No. 92-136, sec. 1.)

Section 21-42. Connection contract.

- (a) Prior to notification of the owners within an increment pursuant to section 21-5, the director shall authorize a request for proposal for licensed contractors to connect all of the properties subject to guaranteed loans. Such a proposal shall require the contractor to give the director an estimate for the cost of connection for each property in the increment.
- (b) As a condition of selection by the County of a proposal, a contractor submitting a proposal shall agree to connect the property of any owner who becomes a guaranteed borrower to the sewer at the price estimated in the proposal.
- (c) The director shall inform the mayor and the County council of the selected proposal.
- (d) All guaranteed borrowers shall have their properties connected to the sewer by the contractor selected pursuant to this article. This shall be a condition of any loan guaranteed by the County of Hawai‘i.

(1992, Ord. No. 92-136, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec. 19.)

Section 21-43. Nonqualifying applicants.

- (a) Where an owner is unable to obtain a guaranteed loan from any designated bank, the County of Hawai'i shall contract with the contractor selected and approved pursuant to this article to connect the nonqualifying applicant's premises to the sewer. The applicant shall execute an agreement with the County of Hawai'i giving the County of Hawai'i a lien on the property. This agreement shall be identical to those executed between the County of Hawai'i and the qualified, guaranteed borrowers.
 - (b) Upon connection of the nonqualifying applicant's premises to the sewer, the County of Hawai'i shall proceed in the same manner provided for in the event of a default on the loan.
- (1992, Ord. No. 92-136, sec. 1.)

Section 21-44. Waiver of liability.

The contractor selected pursuant to this article, as well as the guaranteed borrower shall execute agreements with the County of Hawai'i in which each of them agrees to defend, indemnify and hold harmless the County of Hawai'i in the event of any personal injury or property damage resulting from the connection of the property to the sewer.

(1992, Ord. No. 92-136, sec. 1.)

Section 21-45. Reserve fund.

- (a) For the purpose of payment of guaranteed loans in default, there shall be created a reserve fund, to be known as the sewer connection reserve fund, which shall at all times be not less than fifteen percent of the total amount of loans guaranteed and shall be funded by the general fund or other available sources. If a guaranteed borrower defaults on a loan, the bank shall be paid from this reserve fund without further council action. If this repayment of the loan causes the reserve fund to fall below fifteen percent of the total amount of loans guaranteed, the director of finance will then submit to the council a bill for an ordinance to transfer the money from the general fund or other available sources if such a transfer is necessary to maintain the required level of the fund. All interest generated by the fund shall be deposited into the County of Hawai'i general fund.
- (b) At least once every three months the director of finance shall prepare and submit to the council a report on the status of the loan program, including but not limited to the following:
 - (1) The number of guaranteed loans outstanding;
 - (2) The total dollar value of all guaranteed loans outstanding;
 - (3) The balance in the reserve fund; and
 - (4) The number of hookups to be required in the next increment.

(1992, Ord. No. 92-136, sec. 1.)

Section 21-46. Loan fund.

- (a) For the purpose of funding loans to owners under section 21-43, there shall be created a loan fund, to be known as the sewer loan fund and which shall be funded by the general fund or other available sources.
- (b) At least once every three months the director of finance shall prepare and submit to the council a report on the status of the sewer loan fund, including but not limited to the following:
 - (1) The number of loans which the sewer loan fund is funding;
 - (2) The total dollar value of all such loans; and
 - (3) The balance available in the sewer loan fund.

(1992, Ord. No. 92-136, sec. 1.)