

**CITY OF SNOHOMISH  
Snohomish, Washington**

**ORDINANCE 2252**

**AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON TERMINATING AND REPEALING THE MORATORIUM ESTABLISHED BY ORDINANCE 2239, EXTENDED BY ORDINANCE 2248 AND ESTABLISHING CRITERIA FOR DEVELOPMENT, EXTENSION OF SEWERS, AND CONNECTION TO SEWERS IN THE AREA DEFINED GENERALLY NORTH OF BLACKMANS LAKE AND EAST OF STATE ROUTE 9 (THE “NE SEWER AREA”) BY AMENDING SECTIONS 14.55.005 C.17, 14.100.020, 14.215.020, 14.215.120, 15.04.022 AND ENACTING NEW SECTION 15.04.047**

**WHEREAS**, the area defined generally as north of Blackmans Lake and east of State Route 9 is depicted on the map attached and incorporated as Exhibit A to this Ordinance; and

**WHEREAS**, the area depicted in Exhibit A is known as the “NE Sewer Area;” and

**WHEREAS**, the NE Sewer Area includes properties located in the City limits and outside the City limits but within the City’s urban growth area; and

**WHEREAS**, if sewers were available in the urban growth portion of the NE Sewer Area, owners of such properties might seek annexation into the City and pursue residential development of said properties; and

**WHEREAS**, if sewers were available within the City limits portion of the NE Sewer Area, owners of such properties might pursue residential development of said properties; and

**WHEREAS**, for development to occur, sewers lines and improvements must be extended to serve the NE Sewer Area; and

**WHEREAS**, even if sewer lines were extended to serve the NE Sewer Area, capacity downstream in those portions of the NE Sewer Area already served by sewers is limited and severely restricted; and

**WHEREAS**, in accordance with the City’s Sewer Comprehensive Plan and other GMA planning policies, long term capacity issues will ultimately be resolved by the construction of Segments 2 and 3 of the Cemetery Creek Sewer Trunkline; and

**WHEREAS**, in February 2009 the City Council approved an agreement with Perteet Engineering for the design of Segments 2 and 3 of the Cemetery Creek Special Project; and

**WHEREAS**, in September 2009 and due to the continuing economic downturn, decrease in revenues, and reduction in development activity, the City placed the agreement with Perteet Engineering on hold with only 10% of the design completed; and

**WHEREAS**, during 2009 to 2012 the collection of development fees for the Cemetery Creek Special Development Area, an area including the NE Sewer Area and other areas, was and is insufficient for the City to pay the annual payment towards an existing Public Works Trust Fund loan, and as a result the City had to borrow approximately \$1,297,500, as of year-end December 31, 2011, from other City funds to cover the loan debt service; and

**WHEREAS**, the City has made efforts to obtain funds and/or financing to complete construction of Segments 2 and 3 of the Cemetery Creek Special Project, but has been unable to obtain funds or secure such financing from other sources; and

**WHEREAS**, the City needs development in the NE Sewer Area to generate utility revenue including development fees to secure funds and/or financing to proceed with Segments 2 and 3 of the Cemetery Creek Special Project;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SNOHOMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:**

Section 1. Findings of Fact. The above “whereas” clauses constitute findings of fact in support of the termination of the moratorium established by Ordinance 2239 as extended by Ordinance 2248 and adoption of the regulations contained in this Ordinance to allow development and sewer connection in the NE Sewer Area.

Section 2. Termination and Repeal of Moratorium. The moratorium established by Ordinance 2239 as extended by Ordinance 2248 is hereby repealed on the effective date of this Ordinance.

Section 3. Annexation of Properties in NE Sewer Area and Sewer Connection. In addition to any other conditions required by state law or City code, the City Council will pass no ordinance providing for annexation in the NE Sewer Area unless the owners of all properties within the annexation area enter into an agreement and covenant containing the following terms:

1. Affirming the obligation of the property owners and binding the properties annexed to the payment of all present or future charges for the Cemetery Creek Special Project and to connect said project if the area to be annexed is to be served by the project under the City’s Comprehensive Sewer Plan;
2. Conditioning any development of the annexed properties to the construction of sewer extensions to the annexed properties; and
3. Conditioning any development of the annexed properties to the construction of capacity improvements in the City’s sewer system to allow the sewer system to receive sewage from the development without increasing the lack of capacity in the City’s sewer system. Within the requirements of law, the agreement and covenant shall allow any developer to request and secure cost recovery, or to propose a local improvement district for any extension and capacity improvements.

Section 4. Section 14.55.005 C. 17. SMC 14.55.005 C. 17 is hereby amended to read as follows:

17. Utilities plan identifying the right-of-way or easement, size or capacity of all existing and proposed sewer, water, stormwater, power, telecommunications, and other public or private system. If the property is within the NE Sewer Area, the utilities plan will show how compliance with SMC 15.04.047 will be achieved.

Section 5. Section 14.100.020 Definitions. Section 14.100.020 Definitions is amended to add the following definitions, placed in their correct alphabetical location:

**Cemetery Creek Special Project** means the Cemetery Creek Sewer Trunkline, Segments 1-4.

**NE Sewer Area** means an area either within the City of Snohomish's Urban Growth Boundary or within the City limits of the City of Snohomish and located generally north of Blackmans Lake and east of State Route 9. The area is depicted on a map attached as Exhibit A to Ordinance 2252.

Section 6. Section 14.215.020. SMC 14.215.020 is hereby amended to read as follows:

**14.215.020 Preliminary Plat Approval Criteria.**

A. Preliminary subdivisions are Type 6 permits under Chapter 14.50 SMC. The preliminary subdivision application information shall include the following requirements: a title certificate, SEPA checklist, the required fees related to the review of the preliminary plat, and if the property is within the NE Sewer Area, an affirmation of the obligation of the property owners binding the properties to the payment of all present or future charges for the Cemetery Creek Special Project, and a preliminary description of developer proposed sewer extensions and capacity improvements.

B. The approval criteria for approval of preliminary plats shall be as follows:

1. The criteria stated in RCW 58.17.110, and if the property is in the NE Sewer Area, a showing that the criteria in SMC 15.04.047 will be satisfied.
2. Consistency with the Comprehensive Plan.
3. Consistency with this Development Code and the adopted City of Snohomish Engineering Standards Manual.
4. Consistency with the concurrency requirement of SMC 14.55.030.
5. Provision of off-site improvements or dedications of land to the public which are needed to mitigate the development's impacts and which are proportional to those impacts.

6. Compliance with the Stormwater Management requirements of Ch. 15.16 SMC.

Section 7. Section 14.215.120. Section 14.215.120 Short Subdivisions is hereby amended to read as follows:

**14.215.120 Short Subdivisions.** Preliminary short subdivisions are Type 3 or Type 4 permits under Chapter 14.20 SMC. The application shall include the following submittal requirements: a title certificate, SEPA checklist, the required fees related to the review of the preliminary short subdivision, and if the property is within the NE Sewer Area, an affirmation of the obligation of the property owners binding the properties to the payment of all present or future charges for the Cemetery Creek Special Project, and a preliminary description of developer proposed sewer extensions and capacity improvements.

A. The criteria for approval of short subdivisions shall be:

1. If the property is in the NE Sewer Area, a showing that the criteria in SMC 15.04.047 will be satisfied.
2. No more than four lots may be created by the short subdivision process.
3. Consistency with the Comprehensive Plan, the Development Code, and the City's Public Works standards.
4. Consistency with the concurrency requirement of SMC 14.55.030.
5. Any required off-site improvements or dedications of land to the public that are needed to mitigate the development's impacts, and are proportional to those impacts.
6. Consistency with the criteria stated in RCW 58.17.110.

Section 8. Section 15.04.022. Section 15.04.022 Utility Service Subject to Annexation Policies is hereby amended to read as follows:

**15.04.022 Utility Service Subject to Annexation Policies.** Connection to or use of City utility services for property located outside the City limits shall not be allowed until such property is annexed into the City; provided, however, that exceptions can be made by the City Council, where connection is required due to public health emergencies, where pre-existing contractual obligations limit the City's ability to require annexation, or as otherwise provided in the Growth Management Act, RCW 36.70A.110(4) as now or hereafter amended. For properties in the NE Sewer Area no annexation shall be permitted unless and until a covenant and agreement as required by Ordinance 2252 [the number of this ordinance] from each property in the area to be annexed is executed. The City shall not be obligated to extend sewers or increase the capacity of its sewer system to accommodate an annexation in the NE Sewer Area.

Section 9. New Section 15.04.047. SMC Chapter 15.04 is hereby amended to add a new Section 15.04.047 NE Sewer Area which shall read as follows:

**15.04.047 NE Sewer Area**

A. Existing Structures. Within the NE Sewer Area existing structures with on-site sewage disposal systems (septic tanks) will be required to connect to City sewer as follows:

1. If within a newly annexed area, then in accordance with the requirements of SMC 15.04.145.
2. If within the City limits, as to connection and extension, at such time as required by SMC 15.04.140.

Existing structures within the NE Sewer Area shall pay for the development of extensions and capacity improvements as follows:

1. As to the Cemetery Creek Special Project, if and when required by any ordinances addressing the Cemetery Creek Special Project;
2. As to any local or interim capacity or extension improvements, if any when required by any applicable ordinance, cost recovery agreement, or as required by any assessment for a local improvement district.

At the time of connection, existing structures also shall be required to pay meter and related charges and any City general facility charge, unless some other provision of City ordinance allows for the said meter and facility charge to be deferred or paid by an increase in the amount of monthly service charge.

B. Lots without structures. Lots with new structures for human habitation or commercial use in the NE Sewer Area will be required to connect to City sewer at such time as a building permit is issued for any building or structure for human habitation or commercial use. At such time of building permit issuance payment of all fees for meter placement and of the City's general facility charge shall be required.

C. Issuance of Building Permit for New Structures. No building permit will issue for a new structure for human habitation or commercial use in the NE Sewer Area until the earlier of the following:

1. Segments 2 and 3 of the Cemetery Special Project and any local extensions have been built and are available for connection, or
2. Interim sewer extensions and capacity improvements have been built to serve the new structures for human habitation and commercial use. Such interim extensions and capacity improvements shall not be built by the City but shall have been built by such owner or developer prior to the issuance of any occupancy permit. Such extensions and capacity

improvements shall not increase the degree or amount of capacity insufficiency at any location in the City's sewer system. The owner or developer of such extensions or capacity improvements, to the extent allowed by law, may seek cost recovery under a recovery contract, or if a local improvement district is formed, from the local improvement district. If the extension or capacity improvements are for improvements designated on the City's Capital Facilities Plan, the owner or developer also may seek to the extent allowed by law a credit against any general facilities charge. At the time of connection to such extension or capacity improvements, payment for all fees for meter placement and of the City's general facility charge shall be required.

3. Effect of interim sewer extensions and capacity improvements. Connection to interim sewer extension and capacity improvements, and payment of fees and charges associated with the same shall not affect and shall not reduce any requirement for payment of fees, charges, and assessments imposed for the Cemetery Creek Special Project and the future connection to said special project upon demand by the City.

Section 10. Severability. In the event any part or provision, or any section of this ordinance shall be declared unlawful, the balance of this ordinance shall remain in full force and effect.

Section 11. Effective Date. This ordinance shall be in full force and effect five (5) days after publication of a summary of this ordinance.

**ADOPTED** by the City Council and **APPROVED** by the Mayor this 5<sup>th</sup> day of March, 2013.

CITY OF SNOHOMISH

By: \_\_\_\_\_  
Karen Guzak, Mayor

ATTEST/AUTHENTICATED:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Torchie Corey, City Clerk

By: \_\_\_\_\_  
Grant K. Weed, City Attorney

Date of Publication: \_\_\_\_\_

Effective Date: \_\_\_\_\_

EXHIBIT A

