

TOWN COUNCIL



STAFF REPORT Department of Growth Management

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| MEETING DATE: | March 10, 2015 |
| PROJECT: | Ordinance Amending Chapter 12, Environment of the Code of Ordinances for the Town of Bluffton to add Article IV Sewer Connection Ordinance - Second/Final Reading and Public Hearing |
| PROJECT MANAGER: | Kendra Lelie, AICP Planning and Community Development Manager |

RECOMMENDATION: The Planning Commission recommends that Town Council approve Second/Final Reading of the following application:

ZONE-12-14-8754. A Town Code Text Amendment to amend Chapter 12 Environment to add Article IV, Sewer Connection Ordinance, establishing uniform sewer connection requirements and standards.

UPDATE SINCE FIRST READING: On February 10, 2015, Town Council approved First Reading of this Ordinance as presented by Town Staff. As a result no changes have been made to the Ordinance since First Reading approval.

INTRODUCTION: At the August 2014 Town Council meeting, Town Staff requested guidance from Town Council regarding the implementation of future sewer connectivity policies and regulations. Specifically, Town Council provided the following direction:

1. Provide an ordinance that requires sewer connection for new development and failing septic systems;
2. Make the exemptions to the required connections very clear;
3. Work with Beaufort Jasper Water and Sewer Authority to clearly define the distance requirement and the timeframe for connection; and
4. Work on a financing plan to encourage existing structures that are currently on septic to connect to sewer in the future.

In response to the comments received at the Town Council and Planning Commission meeting, Staff developed an amended draft ordinance for Planning Commission's review and consideration (attached).

Below are a few key elements of the draft ordinance:

1. Sewer connection is required for new development and for existing structures that have failing septic systems in accordance with BJWSA regulations;
2. Deferrals from the required sewer connection are provided with approval from the Town Manager for economic reasons and other hardships; and

3. A deferral is not permitted for any structure that has a failing septic system.

At the December 2014 and January 2015 Planning Commission meeting, Planning Commission members reviewed the draft Ordinance and requested the following amendments:

1. Reduce the minimum improvement value requiring existing structures not serviced by public sewer facilities to connect to available public sewer facilities from 50% (Staff recommendation) to 25% of the market value of the structure and require the improvement cost to be cumulative over a period of 2 years;
2. Include that a change of use requires connection to an available public sewer facility when the result is an increased water flow;
3. Include that a subdivision application shall not be approved without requiring connection to public sewer facilities that are available as set forth in the Ordinance.

BACKGROUND: In 2006 the Old Town Master Plan acknowledged that there were still homes in the Old Town area that remained on septic systems and that, "The sewer should be expanded to service every structure in Old Town." Additionally, the May River Watershed Action Plan (MRWAP, 2011) identified failing septic systems as a potential contributor of pollution to the May River and recommended the Town prepare rules and regulations relating to sewer and septic. Most recently, drafting a sewer connection ordinance in critical areas with the Beaufort-Jasper Water & Sewer Authority (BJWSA) was identified by Town Council as a top policy priority in the Town of Bluffton 2014 Strategic Plan.

While there has been significant progress providing public sewer service to the Buck Island/Simmonsville Neighborhood, and planning is progressing for sewer improvements in the Jason Street neighborhood, there are lots within the Town that still utilize septic systems for wastewater disposal. Given the possibility of public health concerns and contamination of the Town's waterways from existing and future structures utilizing septic systems in the Town, staff evaluated the existing BJWSA sewer connectivity policy, South Carolina Department of Health and Environmental Control (DHEC) Onsite Wastewater Systems regulations, Town of Bluffton Unified Development Ordinance (UDO) and the City of Beaufort ordinance in order to provide further guidance on the development of future sewer connectivity policies appropriate for the Town of Bluffton.

TOWN COUNCIL ACTIONS: The Town Council has the authority to take the following actions with respect to the application:

1. Approve the Ordinance as submitted;
2. Approve the Ordinance with conditions; or
3. Deny the Ordinance as submitted by the Applicant.

REVIEW CRITERIA & ANALYSIS: The Planning Commission and Town Council are not required to consider the criteria set forth in Section 3.5.3 of the Unified Development Ordinance in assessing this particular Ordinance amendment as the

proposed Ordinance will be incorporated into the Town Code not the Unified Development Ordinance.

However, the proposed Ordinance does provide consistency with many of the Town of Bluffton planning goals and objectives especially as it relates to health and environmental issues. The sewer connection requirement for development and redevelopment projects will provide the Town of Bluffton additional powers and assurances that the use of public sewer will become the main source for wastewater conveyance and treatment in the Town.

PLANNING COMMISSION RECOMMENDATION: Planning Commission recommends that the Town Council approve the Ordinance amending Chapter 12 Environment of the Town Code Adopting New Chapter 12 Environment, Article IV Sewer Connection Ordinance with the changes noted previously and as incorporated into the current Ordinance.

NEXT STEPS:

| UDO Text Amendment Procedure | Step Completed |
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| Step 1. Public Notification | ✓ |
| Step 2. Planning Commission Public Hearing and Recommendation – January 28, 2015 | ✓ |
| Step 3. Town Council – 1 st Reading – February 10, 2015 | ✓ |
| Step 4. Town Council Public Hearing, 2 nd Reading – March 10, 2015 | |

ATTACHMENTS:

1. Ordinance No. 2015-_____
 - a. Exhibit A: Chapter 12 Article IV Sewer Connection Ordinance

ORDINANCE NO. 2015 - _____

TOWN OF BLUFFTON, SOUTH CAROLINA

AN ORDINANCE AMENDING CHAPTER 12, ENVIRONMENT, OF THE CODE OF ORDINANCES FOR THE TOWN OF BLUFFTON TO ADD ARTICLE IV SEWER CONNECTION ORDINANCE

WHEREAS, the Town of Bluffton is a coastal community with strong ties to its local water bodies; and,

WHEREAS, the Town of Bluffton desires to improve the general safety, welfare, health and properties of the citizens of the Town of Bluffton; and,

WHEREAS, on November 9, 2011, the Town of Bluffton Town Council adopted the May River Watershed Action Plan by Resolution which provides the initial framework needed to identify all appropriate water quality initiatives, and projects for the May River watershed; and,

WHEREAS, the May River Watershed Action Plan identifies the adoption of a Sewer Connectivity Ordinance as a water quality initiative; and,

WHEREAS, the establishment of sewer connectivity standards and regulations serve to reduce the number of septic systems within the Town in an effort to maintain and ultimately improve the water quality of the Town's water bodies; and,

WHEREAS, to establish the necessary provisions to accomplish the above, the Town of Bluffton has authority to enact resolutions, ordinances, regulations, and procedures pursuant to South Carolina Code of Laws 1976, Section 5-7-30; and,

WHEREAS, the Code of Ordinances for the Town of Bluffton, Chapter 12, Environment does not currently contain regulations pertaining to sewer connectivity; and,

WHEREAS, the Town Council shall from time to time examine ordinances to ensure that they are properly regarded, enforced, sufficient and satisfactory to the needs of the community and can further suggest changes as deemed appropriate; and,

WHEREAS, the Town of Bluffton Town Council desires to amend Chapter 12, Environment by adding a new Article IV, Sewer Connectivity Ordinance to establish sewer connectivity standards and requirements for properties within the municipal boundary to enable the Town of Bluffton to better facilitate, regulate, supervise, and provide consistent treatment throughout the Town.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, in accordance with the foregoing, the Town hereby amends the Code of Ordinances for the Town of Bluffton as follows:

SECTION 1. AMENDMENT. The Town of Bluffton hereby amends the Code Ordinances for the Town Of Bluffton, South Carolina by adopting and incorporating a new Article IV, Sewer Connection to Chapter 12, Environment as shown in Exhibit A, which is attached and incorporated hereto.

SECTION 2. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. ORDINANCE IN FULL FORCE AND EFFECT. This entire Ordinance shall take full force and effect upon adoption.

DONE, RATIFIED AND ENACTED this _____ day of _____, 2015.

This Ordinance was read and passed at first reading on February 10, 2015.

Lisa Sulka, Mayor
Town of Bluffton, South Carolina

Sandra Lunceford
Clerk, Town of Bluffton, South Carolina

A public hearing was held on this Ordinance on _____, 2015.

Lisa Sulka, Mayor
Town of Bluffton, South Carolina

Sandra Lunceford
Clerk, Town of Bluffton, South Carolina

This Ordinance was passed at second reading held on _____, 2015.

Lisa Sulka, Mayor
Town of Bluffton, South Carolina

Sandra Lunceford
Clerk, Town of Bluffton, South Carolina

CHAPTER 12 – ENVIRONMENT

ARTICLE IV. SEWER CONNECTION ORDINANCE

Sec. 12-88. Purpose and Intent.

The purpose and intent of this article is as follows:

- (a) To protect the public health and safety;
- (b) To reduce pollutant loadings in and damage to the groundwater and the May River by limiting the use of septic systems and requiring connection to sewer in accordance with the May River Watershed Action Plan;
- (c) Apply uniform sewer connection standards for developing properties;
- (d) Facilitate property owner compliance with sewer connection requirements; and
- (e) Minimize any hardships and dislocations caused by sewer connection requirements.

Sec. 12-89. Definitions.

- (a) *Available Public Sanitary Sewer.* A public sewer is deemed immediately available when the subject property is within 300 feet of an approved route of service to a public sanitary sewer branch or lateral at a curb line, property line, or at the boundary of a permanent easement. Sanitary sewer availability is not dependent on the provision of gravity service to the property.
- (b) *Connection.* The connection of all sanitary waste and drainage disposal lines from all development on a property to the public sanitary sewer system, and the disconnection or removal of all other waste disposal systems such as cesspools or septic systems.
- (c) *Plumbing Facilities.* The pipes, fixtures and other apparatus of a water and sewerage system within a building where the disposal is directed into a wastewater system.
- (d) *Public Sanitary Sewer.* A pipeline designed and constructed for the collection and/or transmission of wastewater, including both conventional sewers and sewer force mains.

Sec. 12-90. Regulatory Authority

Section 1.1 of the Beaufort-Jasper Water and Sewer Authority (BJWSA) Sewer Use Regulations authorizes municipal regulations to take precedence over the BJWSA regulations provided the municipal regulations are at least as equally stringent.

Sec. 12-91. Connection Requirements

- (a) As set forth herein, a property owner or legal title holder is required to connect to the available public sanitary sewer when notified by the Town Manager or designee that public sanitary sewer is available and the onsite structure contains plumbing facilities requiring sanitary waste disposal. In absence of an on-site inspection or other documentation demonstrating existing sanitary disposal for the structure, the receipt of water service from BJWSA, another water provider or a private well will be evidence of the presence of sanitary waste disposal. The property owner or legal title holder shall be required a connection if any of the following conditions are proposed or exist:
1. There is no functioning sewer system serving structure with plumbing facilities;
 2. There is a cesspool or septic system failure as determined by South Carolina Department of Health and Environmental Control (DHEC);
 3. Plumbing facilities are being added to an existing structure;
 4. A structure with plumbing facilities is being renovated, rehabilitated, altered, improved, expanded, or replaced and the actual cost of construction exceeds 25% of the market value of the structure as reported by the current records of the Beaufort County Assessor or actual property appraisal that is less than 5 years old, whichever is greater, which is applicable for all improvements constructed within a 2 year period;
 5. Construction of a new structure with plumbing facilities;
 6. Change of use resulting in an increased water flow: or
 7. Any proposed subdivision as defined in Chapter 23, Article 9, Definitions and Interpretations within the Unified Development Ordinance, shall be required to provide a connection to the sewer system for each lot resulting from the subdivision when the property being subdivided has Available Public Sanitary Sewer.
- (b) Property owners must meet their mandatory sewer connection obligation within 180 days of receiving notice that public sewer is available.
- (c) Any construction for which a building permit is required that meets the requirements of *Section 12-91(a)* must connect to the public sewer system prior to a final building permit inspection (or issuance of a Certification of Occupancy).
- (d) Any proposed subdivision that meets the definition of subdivision, as defined in Chapter 23, Article 9, Definitions and Interpretations within the Unified Development Ordinance, shall be required to provide a viable connection to the sewer system for each lot resulting from the subdivision.

Sec. 12-92. Connection Deferrals

Property owners may request deferrals of the 180 day connection due date for the following property and owner specific reasons:

(a) **Deferrals related to Financial or Other Hardship.**

1. *Financial Hardship.* A property may qualify for a connection deferral in the event of financial hardship of the property owner.
 - a. Owner Occupants. The Town Manager or designee will use the criteria established by the Neighborhood Assistance Program (NAP) to determine eligibility. The applicant must submit documentation required by the NAP. A determination for Town financial assistance will be provided by the Town based on income eligibility.
 - b. Non-Occupancy Owner. A non-occupant owner may qualify for a connection deferral for a one-year period only if financial hardship prevents the applicant from financing the cost of sewer connection. The applicant must provide financial documentation, including an accounting of net operating income and net assets of the property, outstanding debts and other financial obligations. The applicant must submit a plan and schedule for future connection.
2. *Unforeseen Events.* A property may qualify for a connection deferral in the event of death, injury or long-term serious illness of a household member or an unforeseen event. The applicant must describe and document the situation and submit a plan for future connection.

(b) **Deferrals related to Extraordinary Circumstance.**

The Town Manager or designee may grant a connection deferral for extraordinary circumstances that do not otherwise qualify under this Section. The applicant must describe and document the situation and submit a plan for future connection.

(c) **Deferrals Prohibited.**

Notwithstanding any other provision of these rules, in the event of cesspool or septic system failure in accordance with the DHEC all deferrals will be terminated and connections must occur immediately. No connection deferrals will be granted if the property poses an immediate health concern or public nuisance.

(d) **Terms and Conditions**

1. Deferrals granted to property owners will not exceed one-year from the original due date.
2. The Town and BJWSA must approve the deferral request.
3. The deferral may be renewed for an owner-occupant for an additional one-year period if the applicant continues to qualify for the deferral.
4. The deferral is discontinued when property ownership changes due to sale, transfer or other transaction. The new owner will be given 180 days from the date of title transfer to connect.

Sec. 12-93. Penalty.

Any person, persons, firm, company, representative of any firm or company otherwise violating the provisions of this article shall, upon conviction, be guilty of a misdemeanor. Each day during which a violation of the provisions of this article occurs, or each separate instance, shall be considered a separate offense punishable as provided in *Section 1.7*.