

CITY OF LANGLEY

ORDINANCE NO. [826]

AN ORDINANCE relating to the sewer utility and to incentives for conversion of on-site septic systems serving existing single family residences to public sewers for the purposes of further conserving and making more efficient use of the City's sewer services and protecting the City's groundwater supply; adding a new Chapter to Title 13 LMC to be codified as LMC 13.60; providing for the creation of a new fund and rules and regulations pertaining to the use of the new fund, for severability, and for effective dates.

WHEREAS, RCW 35.67.360 now expressly authorizes local governments to assist the public through loans or otherwise in converting existing on-site septic systems to public sewers for conservation or the more efficient use of sewer services, and in particular for the purpose of enabling homeowners to convert from septic systems to sewer systems to preserve water quality, and

WHEREAS, the City finds that conservation and more efficient use of the City's water and sewer service will be enhanced by converting existing residential septic systems to the public sanitary sewer system and will also help meet the goals of the City Sewer Policy and the requirements of the City Sewer Comprehensive Plan; that to this end, the Sewer Connection Incentive Program should be implemented immediately with financial assistance to owners of existing single family residential property for such septic-to-sewer conversions;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANGLEY DO HEREBY ORDAIN AS FOLLOWS:

Section 1. A new section is added to Title 13 to be codified as LMC 13.60.010 to read as follows:

13.60.010 Sewer Connection Incentive Program -- Established

There is established a new program designated the "Sewer Connection Incentive program". The sum of two hundred thousand dollars shall be appropriated to the sewer connection incentive program from moneys presently in the sewer expansion and improvement fund. The city may add or deduct moneys into said sewer connection incentive program as necessary to accomplish the program's purposes as set forth in this ordinance.

This fund is established to assist low and moderate income homeowners connect to a sewer system when a sewer system becomes available. Acceptance into this program is a privilege, not a right. The City maintains the discretion to consider all circumstances when reviewing an application, including other funds that may be

available, including supplemental funding such as grants or other loans.

Section 2. A new section is added to Title 13 to be codified as LMC 13.60.020 to read as follows:

13.60.020 Definitions

Definitions. As used in this chapter, except where the context clearly indicates a different meaning:

“Applicant” means a homeowner(s) who apply to the Sewer Connection Incentive Program hereinafter referred to as SCIP, for a loan of funds from the sewer connection incentive fund to benefit the applicant’s existing single-family residence in which the applicant resides. All applicants must be residing in the family residence at the time of application and distribution of loan proceeds.

“Disposable income” means adjusted gross income of all property owners as defined in the current federal internal revenue code, or as amended hereafter, plus all of the following items to the extent they are not included in the adjusted gross income:

- i. Military pay and benefits other than attendant-care and medical-aid payments;
- ii. Veterans benefits other than attendant-care and medical-aid payments;
- iii. Federal social security act and railroad retirement benefits;
- iv. Interest received on state and municipal bonds.

“Equity value” means the amount by which the assessed value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.

“Low Income” means a household that has 50% or less of the Median Family Income as defined in guidelines for the State of Washington Community Development Block program for Island County.

“Moderate Income” means a household that has 80% or less, but not less than 51% of the Median Family Income as defined in guidelines for the State of Washington Community Development Block program for Island County.

“Ownership interest” means a property interest in an existing single family residence under a recorded deed or under a contract of purchase, recorded mortgage, recorded deed of trust or recorded lease by which the applicant is responsible under penalty of forfeiture, foreclosure or default for payment of real property taxes and/or local improvement district assessments. The term shall also include a share ownership

in a cooperative housing association, corporation or partnership if the applicant can establish that his or her share represents the specific unit or portion of such structure in which he or she resides.

Section 3. A new section is added to Title 13 to be codified as LMC 13.60.030 to read as follows:

13.60.030 Sewer Connection Incentive Program.

Sewer Connection Incentive Program funds shall be dispersed only for the purposes set forth in this section.

A. **Authorized Expenditures.** Moneys in the sewer connection incentive fund established in LMC Section 13.60.010 shall be used only for the following purposes:

1. To finance a system connection charge imposed upon an existing single-family residential property by LMC 13.50.040.

2. To finance payment of any sewer reimbursement contract outstanding under LMC 15.01.090,

3. To finance the actual costs to any owner of an existing single family residential property to connect the property to a city sewer main and to pay for the costs of abandonment of the septic system for the property as documented by an invoice from a licensed contractor,

4. To finance the system connection charges, latecomer fees, and sewer reimbursement contracts, and actual on-site sewer connection and septic decommissioning costs for the owner/occupants of existing single family residences who are found to be low-income, subject to the deferral criteria and standards set forth in this chapter.

B. **Eligibility for SCIP.** Payments and waivers as set forth in subsection (A) of this section shall be made subject to the following eligibility criteria:

1. In order to qualify for the SCIP, the applicant must be low or moderate income as shown in the current guidelines set by the State of Washington Community Development Block Grant program for Island County.

2. The property is an existing single-family residential property.

3. The property is on a septic or other on-site sewage disposal system and is not connected to sewer.

4. The property has sewer available whether constructed by the city, or by a developer; or through other approved methods; provided that "available" as used in this

section means that the sewer abuts the property or said property is within two hundred feet of the sewer main and the public works director has determined that a sewer main extension across said property is not feasible.

5. The applicant for financial assistance is the owner of record of the property.

6. The applicant must submit a complete application within 18 months of the City's acceptance of the sewer main installation.

7. The applicant pays all application and permit fees pursuant to LMC13.50.040.

8. The applicant enters into loan and security agreements with the city providing for repayment and financing of the SCIP funds expended for the property.

C. **Application Process.**

1. Application for SCIP funds shall be made on the form provided by the City.
2. Each application shall be accompanied by an application fee in the amount as set by the Langley City Council in the Langley Fee Schedule.
3. Completed applications shall be delivered to the Clerk/Treasurer of the City of Langley.
4. The clerk/treasurer, with assistance of the city attorney, shall adopt appropriate forms for administration of the deferral program consistent with this chapter.

D. **Loan Terms and Conditions.**

1. The terms of the loan shall be as follows:
 - a. The loan will be structured as a promissory note.
 - b. The term of the note shall not exceed 10 years, commencing at the time the property is connected to the sewer.
 - c. The note will bear interest at the rate of 2 (two) percent above the City's current investment yield at the time of the loan.
 - d. The note will be secured by an interest in the property. The property interest may take the form of a lien, a deed of trust, or such other instrument as may be acceptable to the City.
 - e. The note shall provide for acceleration of the payment of principal upon default of any payment. In the event of default, the City shall have all available remedies, including, but not limited to, foreclosure of its interest in the property, notification to credit bureaus, use of collection agencies, and terminating service.
 - f. Loan principal and interest charges will be billed by the City and due monthly.
 - g. There shall be no penalty for prepayment of principal.
 - h. Administrative fees may be imposed for late payments.
 - i. The note will contain a due on sale clause that provides for

payment in full of all outstanding principal and interest upon sale of the property.

2. All loan funds disbursed shall be paid directly to the service provider.

3. The number and amount of loans shall be limited by available funds. The amount of available funds shall be at the discretion of the City Council and shall be determined periodically by City Council motion, resolution, or ordinance.

4. Security Provisions. The City shall not approve a loan unless the applicant and his or her spouse, if any, has signed a contract with the city providing that:

a. The city shall have a secured interest in the form of a lien, deed of trust or other document, on the benefited property in an amount equal to the amount of the loan, plus interest at the same rate of interest as set forth in the payment agreement, computed to the date the payment is made;

b. The applicant shall have and keep in force fire and casualty insurance on the benefited property in sufficient amount to protect the interest of the city in the property. Proof of insurance shall be provided to the City on an annual basis.

c. The obligations, pursuant to this section, shall become due and payable in full, as set forth in the note, including principal and accrued interest or upon the earliest of the following dates:

i. Upon the sale of property which is the subject of the loan;

ii. Upon the death of the applicant; except that a surviving family member who is qualified under this ordinance may elect to continue the loan, provided they are residing on the property.

iii. Upon the condemnation of property by a public or private body exercising eminent domain power, except as otherwise provided in RCW 84.60.070 for properties subject to a lien for taxes.

d. Each contract executed pursuant to this section shall be recorded by the city with the county auditor.

E. **Deferrals.**

1. **Eligibility.** If an applicant is approved for SCIP funds under the criteria set forth in Section B above, the applicant may request to defer repayment installments for sums advanced from the sewer connection incentive fund; provided that, the loan amount does not exceed the amount of the applicant's equity value in the existing residential property that is benefited by such sewer connection incentive fund monies. Collection of installments for repayment of such funds may be deferred, at the city's

discretion, upon application to the City for a deferral certificate, provided that the City finds all of the following:

a. The applicant has, at the time of application, an ownership interest in the existing residential property that is subject to repayment for the allowable costs set forth in subsection (A) of this section;

b. The applicant resides in such residence and the property is used for residential purposes only.

c. The applicant is low income as defined by this section.

d. Funds are available.

2. **Security Provisions**. In addition to the Security Provisions set forth in LMC 13.60.030 D (4) the following additional provisions apply to deferrals. The clerk/treasurer or designate shall issue a deferral certificate when the applicant and his or her spouse or co-tenant, if any, has signed a contract with the city providing that:

a. Unpaid interest on any deferred payments shall accrue and be added annually to the unpaid principal balance. The deferred payments together with any unpaid interest shall bear the same rate of interest as under the payment agreement;

b. Each contract and deferral certificate executed pursuant to this section shall be recorded by the city with the county auditor.

c. Each certificate shall be reviewed every 5 years for eligibility. In the event the applicant(s) is no longer eligible for deferral, the city may renegotiate the terms of the loan.

F. **Prioritization Criteria**. The City shall develop administrative criteria for prioritizing selection of projects and applications for assistance under SCIP taking into consideration the following:

1. Near proximity to groundwater supply.

2. Viability of existing septic systems in an area or particular property. For example, applicants in an area with failing systems may take priority over applicants in other areas.

3. Total cost of connection.

4. Other available funding resources for sewer construction and connections.

5. Whether applicants are low or moderate income. For example, low-income applicants may take priority over moderate-income applicants.

6. The availability of loan funds.
7. Other ongoing or proposed city projects

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this ordinance, or its application to any person is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

Section 5. Effective Date. This ordinance shall be in full force and effect five (5) days after publication and posting of an approved summary thereof, consisting of the title.

PASSED BY THE CITY COUNCIL OF THE CITY OF LANGLEY, WASHINGTON, and approved by the Mayor at a regular meeting held this _____ day of _____, 2003.

LLOYD H. FURMAN, Mayor

ATTEST:

DEBBIE L. MAHLER, Clerk-Treasurer

APPROVED AS TO FORM:

LYNN M. HICKS, City Attorney

PUBLISHED: South Whidbey Record - _____