King County Environmental Health Division
Policy and Procedures Technical Memorandum for No-Protest Notice on Title (NOT) Agreement to Participate in Utility Local Improvement District (ULID) and/or Connect to Sewer

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Subject:	No-Protest NOT Agreement to Participate in ULID and/or Connect to Sewer
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Goal: To protect public health and the environment while providing an affordable option to urban property owners where sewer connection is prohibitively expensive at the time of needed onsite sewage system (OSS) repair or replacement.

Definitions:
Chapter 246-272A-0010 Definition - Conforming system: (13) "Conforming system" means any OSS or component, meeting any of the following criteria:

(a) In full compliance with new construction requirements under this chapter; or
(b) Approved, installed, and operating in accordance with requirements of previous editions of this chapter; or
(c) Permitted by the waiver process under WAC 246-272A-0420. NOTE: Per WAC 246-272A-0025, this excludes repairs authorized by WAC 246-272A-0280 (Table X).

King County BOH Title 13 - 13.08.267 Nonconforming. "Nonconforming" means an on-site sewage system that does not meet applicable standards for new construction of an on-site sewage system.
Objective: Provide urban property owners with an affordable option when the cost to connect to sewer is a significant hardship and a sewer connection waiver application has been submitted. Evaluating hardship is detailed in the sewer connection waiver internal guidance documents.

The proposed criteria to evaluate requiring a No-Protest Notice on Title (NOT) is based on:

- The Growth Management Act
- The King County Comprehensive Plan
- The 2025 revision of BOH Title 13 and Chapter 246-272A
- Feedback from the King County On-site Sewage System Technical Advisory Committee (TAC).

Policy: A NOT is required when:

- All following conditions are met:
    1. The utility confirms that a sewer connection is available within 200’ of the property line, and

2. The proposed OSS is non-conforming[1,2], and
3. The proposed design has an approved waiver,
4. No reserve area is identified or available,

- Or when the local jurisdiction requires NOT,
- Or when sewer connection has been designated as the reserve area.

Applicability: This policy applies when a conforming OSS cannot be designed and installed after an existing OSS in the urban growth area (UGA) has failed, AND a sewer connection is available within 200' of the property line.

First, exhaust all possible options for connection to public sewer.

Second, follow these Procedures:
Work with a licensed OSS designer to apply for a sewer connection waiver:[3]

a. **Determine Sewer Availability:** When an OSS fails in the UGA the property owner must contact their local sewer utility to determine whether connection or access to sewer is in front of the property, or a connection point is within 200' of the property line. See KCBOH Title 13 reference section for connection requirements. Use the Waiver from Sewer Connection Requirement Packet to document the sewer connection information. (Include a link to the Waiver Packet Document)

b. **Obtain Sewer Utility Information:**
   i. Some utilities may provide sewer availability information by email.
   ii. Property owners may also request a Sewer Availability Certificate (SAC), which may include potential easement options. Utilities may charge a fee for the SAC.
   iii. If sewer is available, the next step is for the property owner to discuss with a sewer utility representative
      1. Feasibility of connection
      2. Construction costs
      3. Financing options – including learning about Craft3
      4. Monthly sewer service charges
      5. Utilities may maintain a list of contractors that are approved to perform this work within their service area.
         a. Property owner should contact at least three contractors from that list and request an estimate to connect.

c. **Submit the sewer waiver application.**
   i. If approved, a recorded NOT is one of the specified mitigation measures that allow us to waive the code.

NOTE: This NOT will be combined with the non-conforming OSS NOT for properties in the UGA.

Background: Board of Health (BOH) Title 13 and Chapter 246-272A require properties within the UGA that have a failing OSS to connect to sewer if a sewer line is located within 200' and the utility allows connection. Individual utility or local jurisdictions may use their own versions of the

[1] Exceptions may include distribution box replacement, or similar situations subject to review and approval. No new development is allowed, possibly including minor remodels that do not extend the usability of the dwelling.
[2] An OSS proposal that does not include an adequate reserve is identified by codes as non-conforming.
[3] The sewer waiver applies to KCBOH Title 13 only. Waiver from WAC 246-272A needs to be reviewed and approved by Washington State Department of Health.

NOT document with unique requirements. This guidance is intended to promote consistent decision-making about future sewer connections when non-conforming OSS are approved in the UGA.

Code References:

1. KCBOH Title 13.04.050 A. for new development:
    a. New residential or nonresidential construction in the UGA must connect to public sewer if the utility permits such connection.
    b. Proposed subdivisions or short subdivisions must connect to public sewer if the utility permits.
    c. Within unincorporated urban King County, connection shall be in accordance with King County Code 13.24.136.
    d. Within incorporated cities, connection shall be in accordance with the policies of that city or local sewer utility.

2. KCBOH Title 13.04.050 B. for existing development within the UGA:
    a. A sewer connection is available within 200 feet of the property line, calculated along the shortest route in road rights-of-way and easements.
    b. Connection is required when repair, modification or replacement of the OSS is necessary, or the existing OSS has failed, and,
    c. A system conforming to this title cannot be designed and installed; or,
    d. Additional construction which in any way affects the OSS is proposed.

3. WAC 246-272A-0025 Connection to public sewer system.
    a. (1) When adequate public sewer services are available within two hundred feet of the residence or facility, the local health officer, upon the failure of an existing on-site sewage system may: (a) Require hook-up to a public sewer system; or (b) Permit the repair or replacement of the on-site sewage system only if a conforming system can be designed and installed.
    b. (2) Except as noted in subsection (1) of this section, the owner of a failure shall abandon the OSS under WAC 246-272A-0300 and connect the residence or other facility to a public sewer system when: (a) The distance between the residence or other facility and an adequate public sewer is two hundred feet or less as measured along the usual or most feasible route of access; and (b) The sewer utility allows the sewer connection.
    c. (3) The owner of a residence or other facility served by a system meeting the requirements of Table IX of this chapter shall abandon the OSS according to the requirements specified in WAC 246-272A-0300, and connect the residence or other facility to a public sewer system when: (a) Connection is deemed necessary to protect public health by the local health officer; (b) An adequate public sewer becomes available within two hundred feet of the residence or other facility as measured along the usual or most economically feasible route of access; and (c) The sewer utility allows the sewer connection.
    d. (4) Local boards of health may require a new development to connect to a public sewer system to protect public health.
    e. (5) Local boards of health shall require new development or a development with a failing system to connect to a public sewer system if it is required by the comprehensive land use plan or development regulations.
4. KCC 13.24.136 On-site sewage treatment and disposal systems in the Urban Growth Area.

a. All new development within the Urban Growth Area shall be served by an adequate public or private sewage disposal system, including both collection and treatment facilities, as required by K.C.C. 21A.28.030. On-site sewage treatment and disposal systems shall be permitted in the Urban Growth Area only for single-family residences or for short subdivisions only on an interim basis and only as follows:

b. A. For existing individual lots (proposing new development or a remodel), the department of local services permitting division manager or designee may authorize individual on-site sewage treatment and disposal systems given the following findings:

    i. 1. Application of the requirement of K.C.C. 13.24.035 that all development in the urban growth area be served by public sewers, would deny all reasonable use of an individual lot;

    ii. 2. The applicant has submitted a certificate of sewer availability from the most logical sewer utility accompanied by a letter that demonstrates to the satisfaction of the department of local services permitting division manager or designee that the requirement to receive public sewer service from the utility is unreasonable or infeasible at the time of construction; and

    iii. 3. The applicant has provided a certificate of future connection from the appropriate utility that certifies that an irrevocable agreement has been entered into with the utility providing that the property shall be connected to public sewers upon availability of such sewers and that the property owner shall pay all costs of connection to the sewer. This certificate shall stipulate that the applicant and the applicant's successor's and interest agree to participate in and not protest the formation of a utility local improvement district or local improvement district or utility project that is designed to provide public sewer services to the property. This certificate shall be recorded in the real property records of King County and shall be a permanent condition on the property running with the land until such time as the costs for connection are fully paid to the utility.