

---

# Guidelines for Sewer Build Overs

---

## **General Rule**

It is generally prohibited to construct a structure over or within a certain distance of a public sewer operated by the Metropolitan Sewer District of Greater Cincinnati (“MSD”) pursuant to Sections 206 and 207 of the MSD RULES AND REGULATIONS GOVERNING THE DESIGN, CONSTRUCTION, MAINTENANCE, OPERATION AND USE OF SANITARY AND COMBINED SEWERS, which state as follows:

### **Section 206 “Construction of Structures Over Sewers”**

The policy of the Board of County Commissioners of Hamilton County (BoCC) regarding the construction of structures over public sewers and appurtenances and regarding the construction of public sewers and appurtenances beneath structures within the jurisdiction of MSD is as follows:

MSD will permit no structure of any kind which can interfere with access to a public sewer or exert loading upon a public sewer to be placed in or upon a permanent sewer easement, excepting items such as recreational surfaces, paved areas for parking lots, driveways or other surfaces used for ingress or egress, plants, trees, shrubbery, fences, landscaping or other similar items, being natural or artificial.

MSD will permit no public sewer to be constructed beneath a structure of any kind which can interfere with access to the said public sewer or exert loading upon the said public sewer, excepting items such as recreational surfaces, paved areas for parking lots, driveways, or other surfaces used for ingress or egress, plants, trees, shrubbery, fences, landscaping or other similar items, being natural or artificial. Any deviation from the aforesaid restrictions may be allowed only by the BOCC. An owner may petition for an exception by written request to the BOCC. Each such request shall be considered on an individual basis, and BOCC will grant any such exceptions by resolution.

### **Section 207 “Sewer Easement Restrictions”**

All easements for public sanitary and combined sewers obtained or granted after September 13, 1978, shall be subject to the following restrictions:

No structure of any kind which can interfere with access to said public sewer shall be placed in or upon a permanent sewer easement, excepting items such as recreational surfaces, paved areas for parking lots, driveways, or other surfaces used for ingress and egress, plants, trees, shrubbery, fences, landscaping or other similar items, being natural or -artificial. Any of the aforesaid surfaces, paved areas, plants, trees, shrubbery, fences, landscaping or other similar items which may be placed upon such said permanent easement shall be so placed at the sole expense of the property owner, and the grantees or assigns of any permanent easement henceforth shall not be responsible to any present owners of the property, nor to their heirs, executors, administrators or assigns, for the condition, damage to, or replacement of any such aforesaid items, or any other items placed upon the easement, resulting from the existence or use of the said permanent easement by the grantees or assigns.

Any structure constructed on said property in which said permanent sewer easement exists shall be kept not less than three (3) feet outside the permanent sewer easement line nearest the site of the proposed structure.

Any deviation from the aforesaid restrictions shall be petitioned by written request to the Board or their assigns. Each such request shall be considered on an individual basis.

In the best interest of your proposed structure as well as the MSD sewers, **MSD strongly recommends modifying your proposed design to avoid construction over or within a prohibited distance from an MSD sewer.** This may include, if feasible, relocation of the MSD sewer at your cost.

## **Exception Process**

If design modification and/or sewer relocation are not feasible alternatives, building permit applicants may pursue an exception to Section 206 and/or 207 if desired.

Any exception must ultimately be approved by the BoCC through a formal resolution. Historically, exceptions have been granted in cases where the applicant has undertaken additional efforts to protect the proposed structure as well as MSD. Such efforts have included but are not limited to the following:

- Completion of pre- and post-construction closed circuit television (CCTV) examination of the MSD sewer, at the applicant's expense, to determine the current condition
- Preparation of plans and easements and recording of easements, at the applicant's expense, to re-route the subject MSD sewer, if needed in the future
- Preparation of a structural design, at the applicant's expense, specific to removing loads from the subject MSD sewer
- Obtain an excavation/fill permit from MSD prior to the commencement of construction and post any bond required
- Negotiation and execution of a covenant and agreement, which is a contract that is recorded on the subject property and all requirements are attached to the land and applicable to future owners. Past examples of covenant and agreements have included terms requiring completion of the aforementioned activities as well as requiring the property owner to be financially responsible for any damages that MSD incurs as a result of the construction and the presence of the structure over the sewer, which may include causing deterioration or damage or impeding access to the sewer.

A petition requesting an exception may be sent to the BoCC at any time (***see petition template below***), but MSD recommends contacting its Development Services Section at (513) 244-1330 to discuss what requirements are necessary to best protect your proposed structure and the MSD sewers as well as negotiate the terms of the aforementioned covenant and agreement.

Once these items are agreed upon, MSD will prepare legislation for consideration by the BoCC to approve the exception. If approved, the covenant and agreement will be recorded on your property and your permit application will no longer be denied on the basis of Section 206 and/or 207.

Should you choose to pursue an exception without coordinating with MSD Development Services, MSD will not facilitate your petition and may object to your request.

## SAMPLE PETITION

[Name of Property Owner(s)]  
[Street Address]  
[City, State, Zip Code]

[Date]

Board of County Commissioners of Hamilton County, Ohio  
138 East Court Street, #603  
Cincinnati, Ohio 45202

### **Re: PETITION FOR SECTION [206 AND/OR 207] EXCEPTION FOR [ADDRESS]**

Honorable Commissioners:

This letter serves as a formal petition for an exception to Section [206 and/or 207] of the Metropolitan Sewer District of Greater Cincinnati's RULES AND REGULATIONS GOVERNING THE DESIGN, CONSTRUCTION, MAINTENANCE, OPERATION AND USE OF SANITARY AND COMBINED SEWERS to construct a [description of structure] [over and/or within \_\_\_ feet of] an MSD public sewer at [address].

[Insert any further information or arguments in support of the requested exception].

**I request this petition be entered into the Commissioners Minutes and placed on the Board's agenda for consideration at its earliest convenience.**

Sincerely,

[Signature(s) of Property Owner(s) or Agent(s)]

[Printed Name(s) of Property Owner(s) or Agent(s)]

Copy to:  
Metropolitan Sewer District of Greater Cincinnati  
Attn: Director  
1600 Gest Street  
Cincinnati, Ohio 45204

Enclosure(s):

- [Any enclosed documents included in support of the requested exception]