

MEMORANDUM

TO: MICHAEL JONES, CITY MANAGER  
STACIE PRATSCHNER, COMMUNITY DEVELOPMENT DIRECTOR  
BERNIE ZIEMIANEK, PUBLIC WORKS DIRECTOR  
CITY COUNCIL MEMBERS

FROM: JON SITKIN AND PETER RUFFATTO, CITY ATTORNEYS

DATE: SEPTEMBER 8, 2021

RE: INTERPRETATION AND APPLICATION OF ARTICLE IV. BUILDING SEWERS  
AND CONNECTIONS, BMC 13.08.400, AND BMC 13.08.410<sup>1</sup>

The following opinion is provided as an interpretation of Blaine Municipal Code ("BMC") provisions related to connection to the City's sewer system.

I. CITY CODE PROVISIONS

Article IV. Building Sewers and Connections, BMC 13.08.400, and BMC 13.08.410 provide as follows:

**13.08.400 Permit – Required.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city subject to the approval of the director of public works.

**13.08.410 Permits – Classes – Application – Fees.**

A. There shall be two classes of building sewer permits: (1) for residential and commercial service, and (2) for service to establishments producing industrial wastes, or commercial establishments processing food. In either case, the owner or his agent shall make application on a form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent by the public works director.

<sup>1</sup> The State Supreme Court has ruled that considerable judicial deference is given to the construction of legislation by those charged with its enforcement. See *Keller v. Bellingham*, 92. W. 2d 726 (1979).

B. A permit and inspection fee for a residential or commercial building sewer permit for an industrial building sewer permit shall be paid to the city at the time the application is filed, as specified in the unified fee schedule. The rates, fees, charges, penalties, interest and required deposits for water (sic)service are set forth in the unified fee schedule. Any rate fee, charge or similar set forth herein is in addition and supplemental to those set forth in the unified fee schedule.<sup>2</sup>

## II. INTERPRETATION OPINION

Prior to connecting to the City's sewer system and receiving sewer services, a person must first obtain a sewer permit from the City. The determination regarding whether to approve the "written permit from the City" has been delegated by the municipal code to the City Public Works Director. The municipal code also provides that the form used for the permit is to be furnished by the City. Based upon the municipal code provisions set forth above, the Public Works Director has been delegated the authority to determine the appropriate form of the permit. The form used by the City is the Utility Request application (current form is attached). The Utility Request application must be submitted with a building permit application and is subject to review and approval by the Public Works Director.

The permit under BMC 13.08.400 is the Public Works Department applicant executed and issued Utility Request. At the time the Utility Request application is submitted, the Public Works Director reviews several factors, including system capacity to ensure that there is ability to provide service, feasibility to make adequate physical connection, and applicable design and related standards. BMC 13.08.410.(A) authorizes the Public Works Director to require plans, specifications, and other information related to the requested sewer connection. This permit may be conditioned as reasonably determined by the Public Works Director based upon the nature of the utility request. The same form is to be used and the same review criteria are to be applied for all applicants, and the conditions imposed, if any, may not be arbitrary or capricious.

BMC 13.08.410.B requires the fees and charges set forth in the then-current unified fee schedule to be paid at the time the application for the sewer permit (the Utility Request application) is filed with the City. At the time of issuance, the applicant will have paid in full all applicable fees, charges, deposits, or similar as set forth in the unified fee schedule. Once the permit is issued with an executed Utility Request application and all applicable fees and charges have been paid in full, the property owner then has the right to receive sewer service in common with other customers of the utility.<sup>3</sup> Prior to an executed Utility Request and issuance of a sewer

---

<sup>2</sup> BMC 13.08.410 is within Article IV- Building Sewers and Connections. Reference to water in BMC 13.08.410.B second sentence is a scrivener's error and is to be a reference to sewer not water. Water and water connections are addressed in BMC 13.04 and BMC 13.07. Interpretation opinions expressed here would generally also apply to water connections under BMC 13.04 and BMC 13.07.

<sup>3</sup> Changed circumstances and/or public health emergencies may necessitate the imposition of a suspension or moratorium on any connection within an affected area until the condition causing the emergency is remedied.

permit, the right and ability to connect and reserve capacity in the system is not perfected. This interpretation of the municipal code is consistent with applicable State law.<sup>4</sup>

BMC 13.08.400 is the only provision in the City Code that allows a sewer connection or extension. Accordingly, BMC 13.08.400 must also be interpreted to implement RCW 35.91.020 that requires a City to allow a developer to extend sewer (or water) facilities at the owner's expense if requested by the owner.

Land use entitlements and developments approved thereby require compliance with the City Code, regardless of whether expressly stated or not in a City permit, approval, or similar action. Thus, any development or project that depends on a sewer connection is required to comply with Article IV. Building Sewers and Connections, BMC 13.08.400, and BMC 13.08.410. Similarly, any project that is dependent upon or requires a water connection must comply with BMC 13.04 and BMC 13.07.

These requirements are standard and applicable to all property owners that seek to connect to the City's sewer system.

---

<sup>4</sup> See *Funk v. City of Duvall*, 126 Wash. App. 920 (2005).



# UTILITY REQUEST

**PLEASE NOTE: Applicants will be notified of any deficiencies in their application within 30 days of receipt. If any unresolved deficiencies remain at the end of 120 days the application will become void. All fields below must be completed or your request will be considered deficient.**

APPLICANT IS:  OWNER  CONTRACTOR  OTHER

APPLICANT

MAILING ADDRESS

CITY

STATE

ZIP CODE

CONTACT PHONE NUMBER

EMAIL ADDRESS

STREET ADDRESS OR SUBDIVISION/LOT # OF PROPERTY FOR WHICH SERVICE IS REQUESTED

TAX PARCEL ID NUMBER      S.F. APPROXIMATE FLOOR AREA      USE OF STRUCTURE  
 SINGLE FAMILY     DUPLEX       MULTI-FAMILY  
 NEW STRUCTURE?     YES     NO       COMMERCIAL     OTHER      NUMBER OF UNITS

S.F. TOTAL IMPERVIOUS\* AREA    TOTAL SQ. FOOTAGE OF LOT(S)    SITE PLAN ATTACHED?     YES     NO

\*(IMPERVIOUS AREA INCLUDES BUILDING FOOTPRINT, DRIVEWAYS, PARKING, PATIO, HARD SURFACES, ETC.)  
**ANY AREA GREATER THAN 2000 SQ.FT. MUST INCLUDE A STORMWATER PLAN**

IS/WAS SITE PREVIOUSLY DEVELOPED?  YES  NO    IF YES, PLEASE DESCRIBE:

**SERVICES REQUESTED FOR SINGLE FAMILY RESIDENCE (SFR)**

<input type="checkbox"/> <b>WATER</b> This includes one 3/4" meter	<input type="checkbox"/> <b>SEWER</b> 6" LATERALS TO BE CONSTRUCTED BY OWNER AND BE INSPECTED BY THE CITY.	<input type="checkbox"/> <b>POWER * See reverse side for details</b> This includes one meter, temporary power, early PVC & permanent power AMPERAGE <input type="checkbox"/> 200 <input type="checkbox"/> 320 <input type="checkbox"/> 400
---	---	--

**SERVICES REQUESTED FOR COMMERCIAL, DUPLEX, MULTI-FAMILY OR OTHER**

<input type="checkbox"/> <b>WATER</b> METER SIZE    QTY. 3/4" Irrigation 1" 1-1/2" 2" <b>See Development Standard Sheet 4-16</b>	<input type="checkbox"/> <b>SEWER</b> 6" LATERALS TO BE CONSTRUCTED BY OWNER AND BE INSPECTED BY THE CITY. <b>See Development Standard Sheet 5-12</b>	<input type="checkbox"/> <b>POWER</b> <input type="checkbox"/> PERMANENT <input type="checkbox"/> TEMPORARY    NUMBER OF METERS <input type="checkbox"/> SINGLE PHASE (120/240V) <input type="checkbox"/> THREE PHASE    VOLTAGE <input type="checkbox"/> REWIRE <input type="checkbox"/> LINE EXTENSION AMPERAGE <input type="checkbox"/> 200 <input type="checkbox"/> 320 <input type="checkbox"/> 400 <input type="checkbox"/> Other <b>See Development Standard Sheets 6-1, 6-2 &amp; 6-3</b>
---	---	--

CONTRACTOR INFORMATION(FOR BILLING DURING CONSTRUCTION)

OWNER INFORMATION(FOR PERMANENT BILLING)

NAME

NAME

MAILING ADDRESS

MAILING ADDRESS

CITY

STATE

ZIP CODE

CITY

STATE

ZIP CODE

CONTACT PHONE NUMBER

CONTACT PHONE NUMBER

APPLICANT ACKNOWLEDGES HE/SHE MUST **PAY IN FULL** ALL FEES AND CHARGES BEFORE THE CITY WILL **ISSUE A BUILDING PERMIT** (IF APPLICABLE), OR **SCHEDULE SERVICE CONNECTIONS**.

SIGNATURE

DATE

## BASICS:

- Please refer to our website ([www.cityofblaine.com](http://www.cityofblaine.com)) for Development Standards, questions & forms.
- Utility fees are paid with your building permit fees. Those fees must be paid prior to installation of any utilities
- Please call Public Works at 360-332-8820 when you are ready for any utility connections.
- Addresses & unit numbers must be clearly marked.

## ELECTRICAL:

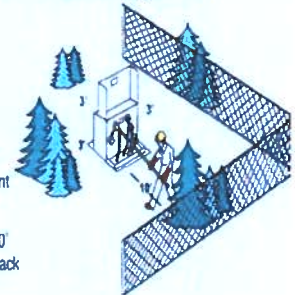
- **Early Conduit** is a fee charged for an additional trip to your jobsite when you or your contractor has a trench open and ready for conduit during the early phase of construction.
- **Temporary Power** provides you with power during your construction phase. You will need to set your own power pole and have it inspected & approved by L&I before we install the meter. **L&I** can be reached at **360-647-7300**.
- All new services within City Limits are underground.
- Electric meter height must be between 5 & 7 feet from the ground to the center of the meter.
- Trenches must be a minimum of 2 feet deep.
- Underground temporary services must be installed with service wires to the service point.
- The City installs conduit from the service point to service entrance pipe for all SFR. **DO NOT** install bell ends on the service pipe.
- Multi-Family, Commercial or Industrial services are installed by the owner/contractor.
- Current Transformer (CT) meter bases are required for single phase & 3phase services 400 amps or greater. The City supplies CTs for all services. CT enclosures must be positioned within 8 feet of the meter.
- All electrical services **MUST** be inspected & approved by an L&I inspector prior to our crews doing any connections. L&I can be reached at 360-647-7300.
- Padmount transformers must have a minimum 3' clearance from the back and sides as well as any trees, shrubs or plants and a 10' clearance must be maintained in front of it. per drawing →

### ENERGIZED ELECTRICAL EQUIPMENT

**We Must Have Room  
To Work Safely On This Equipment**

Obstructions will cause delays in restoring service during an outage. Vegetation may be removed for inspections, maintenance, repairs and restoration of electrical service per R.C.W. 64.12.035 and District Easement Agreement

Please keep all fences, shrubs and trees 10' away from the door and 3' away from the back and sides.



## SITE PLAN SHOULD INCLUDE:

- The property outline with the dimensions marked.
- The footprint(s) of new & existing structures with the dimensions marked.
- Existing and/or proposed (if any) on-property utility and/or access easement (identified accordingly) with the dimensions marked.
- Foundation footing and/or basement drain discharge destination(s) (e.g. roadside ditch, dispersion trench(es)).
- Roof stormwater discharge destination(s) (e.g., splash blocks, dispersion trench(es)).
- Opened and/or unopened street(s) and/or alley(s) that now abut, or will abut the property line(s).
- ROW improvements (e.g., sidewalks, edges of opened streets) with the dimension(s) from the abutting property line to the edge of the improvements.
- All non-roof impervious surfaces (e.g., driveways, walkways) with the dimensions marked (NOTE: Gravel counts as an impervious surface).
- Stormwater ditches or swales with their approximate width dimensions.
- Culvert crossing(s) under roads, driveways, or walkways.
- Show existing water meter box location OR your desired water meter location (must be in a Right-of-Way (ROW) or easement).
- Show existing side sewer stub location OR desired side sewer to sewer main connection location.