

CITY OF BLAINE
REQUEST FOR COUNCIL ACTION
MEETING DATE: September 13, 2010

SUBJECT: Amendment of Title 13 regulating the public sewer system

DEPARTMENT: Public Works **PREPARED BY:** _____
(Digital Signature)

AGENDA LOCATION: Consent Agenda Council Action Unfinished Business

ATTACHMENTS:

1. Draft Ordinance No. 10-2769

BACKGROUND/SUMMARY: The East Blaine area annexed to the City in 1996 was developed under the County's jurisdiction without public sewer service. Owners of undeveloped property in East Blaine, as well as owners of developed sites served by failing private septic systems, are interested in the extension of the public sewer lines to serve that area. In evaluating issues associated with sewer system design, staff has revisited Title 13 and found a number of code provisions that are in need of amendment because of redundancy or internal conflict. These include a reference to lien procedures for sewer service that are inconsistent and redundant, and are thus proposed for deletion.

The attached draft ordinance addresses overall requirements for connections to the public sewer system, taking into account the existence of private septic systems in various states of repair. The review culminating in the draft ordinance included a survey of similar regulations in other communities within Whatcom County.

BUDGET IMPLICATIONS: None. This is an amendment to administrative provisions.

RECOMMENDATION: Waive the second reading. Staff recommends that Council adopt ordinance 10-2769, amending title 13 of the Blaine Municipal Code regarding the requirement to connect to the public sewer system and repeal of redundant lien provisions.

REVIEWED BY:

City Manager _____ Finance Director _____ City Clerk _____
(Digital Signature) (Digital Signature) (Digital Signature)

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to: _____

ADDITIONAL INFORMATION: _____

ORDINANCE NO. 10-2769

**AN ORDINANCE OF THE CITY OF BLAINE, WASHINGTON
AMENDING TITLE 13 OF THE BLAINE MUNICIPAL CODE REGARDING
THE REQUIREMENT TO CONNECT TO THE PUBLIC SEWER SYSTEM
AND REPEAL OF REDUNDANT LIEN PROVISIONS**

WHEREAS, the City of Blaine has increased wastewater treatment capacity and has the ability to serve areas not previously served by the publicly owned wastewater system, and

WHEREAS, the City is the extension of the wastewater collection system along H Street as part of the widening and improvement of that roadway, and

WHEREAS, the City is anticipating further extension of the collection system by major developers into the East Blaine area annexed into the City in the 1996, and

WHEREAS, this area was previously developed without public sewer service as part of Whatcom County, and

WHEREAS, developed properties in this area are currently served by private on-site septic systems that may be in good working condition, and

WHEREAS, other areas currently located within the City's Urban Growth Area will also eventually be served by the City's wastewater system and have also been developed using on-site septic systems, and

WHEREAS, the Blaine Municipal Code (BMC) currently requires that owners of properties within 200 feet of a public sewer main connect to that main within 180 days of notice to connect, and

WHEREAS, the BMC currently also allows a maximum five-year deferral for connection and provisions for monthly sewer payment, a portion of which is applied to connection fees, and

WHEREAS, the City has currently reduced the wastewater connection fees to zero for a period of at least four more years, and

WHEREAS, BMC 13.16.161 is redundant and the provision for liens for non-payment of all utilities is already adequately addressed in BMC 13.18.010 which also references the applicable chapters of the Revised Code of Washington (RCW);

NOW, THEREFORE, Title 13 of the Blaine Municipal Code is hereby amended as follows:

SECTION 1: Sections 13.08.255 and 13.08.256 are hereby repealed.

~~**13.08.255 Permitted use of septic systems.**~~

~~**A. Legal lots of record as of the effective date of the ordinance codified in this section and individual lots developed through subdivision consistent with BMC Title 17 may utilize septic systems when the lot is located over 200 feet from the city sewer main as provided herein. All**~~

~~other development shall be required to connect to the public sewer system, except as provided in BMC 13.08.256.~~

~~B. Owners of lots that meet the above condition shall install septic systems only after meeting the following additional requirements:~~

~~1. The property owner must obtain Whatcom County health department approval of the septic system and obtain any other permits which may be required by law for such systems; and~~

~~2. The septic system must be designed and built to facilitate eventual conversion to city sewer; and~~

~~3. The property owner shall record with the Whatcom County auditor's office an executed "Agreement to Connect" in a form approved by the city. The agreement shall provide that the property owner will not protest the formation of any future LID or ULID for extension of a sewer system that would serve the property, and shall further require connection to the city sewer system and payment of all connection charges at the time service is extended to within 200 feet of the property. The agreement shall be a covenant that runs with the land and is binding on the owner and successors in interest of the property. The agreement shall provide that the structure shall be connected to the public sewer system at such time as the system is available and that the property owner will not protest the formation of any future LID or ULID for extension of a sewer system that would serve the property. (Ord. 2541 § 1, 2003; Ord. 2507 § 2, 2002; Ord. 2366 § 1, 1998; Ord. 2305 § 2, 1997)~~

~~**13.08.256 Interim use of septic systems where city sewer is available.**~~

~~A. When city sewer service is extended to within 200 feet of a property with an existing residence within the city limits, the city manager may in limited cases grant a connection deferral from the mandatory sewer connection requirement to allow for continued use of an existing on-site septic disposal system for a maximum of five years.~~

~~B. Deferral from immediate connection to the city sewer system must be requested in writing, and may be granted only when the city manager finds that both of the following conditions exist:~~

~~1. The existing septic system will not have an adverse environmental effect on potable water wells, ground water, streams, or other surface bodies of water; and~~

~~2. The proposed or existing septic system complies with all applicable federal, state and local health and environmental regulations.~~

~~C. Connection deferrals approved by the city manager under this section shall be subject to the following requirements:~~

~~1. The applicant must provide proof of Whatcom County health department approval of the septic system and must possess any other permits required by law for such a system.~~

~~2. The applicant shall record a "Connection Deferral Agreement" with the Whatcom County auditor's office. Such agreement shall require payment of all connection charges at the time of actual connection to the system, and shall be a covenant that runs with the land and is binding on the owner and successors in interest of the property. The agreement shall provide that~~

~~the property owner will connect immediately to the public sewer system should the on-site system fail to meet conditions specified at subsection (B)(1) or (2) of this section, upon termination of the period of deferral, or within 60 days of the sale of the property, whichever is sooner.~~

~~D. Charges and Credits. Property owners granted deferrals under this subsection will be assessed the then existing base monthly sewer service charge applicable to the property connected to the public sewer system. Fifty percent of the base monthly sewer charge will be credited toward the general facility connection fee in existence at the time of connection (without interest). In the event that the total credited monthly sewer charges exceed the general facility connection fee, no refund of excess payments will be provided. Credits will not accrue beyond the expiration of the deferral. General facility connection charge credits apply only to the property for which they have been accumulated. This credit may be transferred or sold to any successor in interest to the property, if that successor connects to city sewer within 60 days of transfer.~~

~~E. Termination Upon Septic System Failure. Should the septic system fail during the time of the connection deferral, no repairs will be permitted and immediate connection to the sewer system is required.~~

~~F. Expiration of Connection Deferral. A deferral granted under this chapter shall expire five years from the date of issuance irrespective of any successor in interest to the property.~~

~~G. Appeals. Any person aggrieved by a final administrative determination of the city may submit an appeal to the hearing examiner. (Ord. 2541 § 2, 2003)~~

SECTION 2: Article III. “Private Sewage Disposal” is revised to read as follows:

13.08.390 Connection to available public sewer.

~~In addition to the requirements of ordinances regulating the installation of private sewage disposal systems, the following shall apply:~~

~~A. At such time as a public sewer becomes available to property served by the private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with a suitable material; provided, however, that a property owner is relieved from the requirements of this section if they have first obtained a variance pursuant to BMC 13.08.255. The duration and terms of the relief from this section shall be governed by BMC 13.08.255.~~

~~B. When a public sewer becomes available, the building sewer shall be connected to the sewer within 180 days and the private sewage disposal system shall be cleaned of sludge and filled with clean, bank run gravel or dirt; provided, however, that the property owner has not obtained a variance pursuant to BMC 13.08.255. (Ord. 2318 § 1, 1997; Ord. 1532, 1979; prior code § 8-404)~~

13.08.390 Permitted use of on-site septic systems.

A. Legal lots of record as of the effective date of annexation into the city and individual lots developed through subdivision consistent with BMC Title 17 may utilize septic systems only when the lot is located over 200 feet from the city sewer main as provided herein. All other development shall be required to connect to the public sewer system, except as provided in BMC 13.08.392.

B. Owners of lots that meet the above condition shall install septic systems only after meeting the following additional requirements:

1. The property owner must obtain Whatcom County health department approval of the septic system and obtain any other permits which may be required by law for such systems; and

2. The septic system must be designed and built to facilitate eventual conversion to city sewer; and

3. The property owner shall record with the Whatcom County auditor's office an executed "Agreement to Connect" in a form approved by the city. The agreement shall provide that the property owner will not protest the formation of any future LID or ULID for extension of a sewer system that would serve the property, and shall further require connection to the city sewer system and payment of all connection charges at the time service is extended to within 200 feet of the property. The agreement shall be a covenant that runs with the land and is binding on the owner and successors in interest of the property. The agreement shall provide that the structure shall be connected to the public sewer system at such time as the system is available and that the property owner will not protest the formation of any future LID or ULID for extension of a sewer system that would serve the property. (Ord. 2541 § 1, 2003; Ord. 2507 § 2, 2002; Ord. 2366 § 1, 1998; Ord. 2305 § 2, 1997)

13.08.392 Deferral of connection to city sewer.

A. When city sewer service is extended to within 200 feet of a developed property with an on-site septic system, that property owner will be required to construct a connection to the city sanitary sewer system within 60 days. Owners of properties within 200 feet of the public sewer main will be notified by the City of the requirement to connect following extension of sewer service. A deferral may be granted with the approval of the City Manager if:

1. The property has only residential use; and

2. The existing on-site septic system is working properly and has a current Whatcom County Health Department approval and all other permits required by law; and

3. The owner(s) sign a Connection Deferral Agreement on a form provided by the City. This agreement provides certification by the property owner of the above conditions. No modifications or expansions of on-site septic systems will be allowed under a Deferral Agreement. This agreement requires the property owner(s) to connect to the public sanitary sewer system within 60 days of any of the following conditions occurring:

a. Failure of the on-site septic system (no repairs are permitted)

b. Sale of the property; or

c. Repairs, reconstruction or improvements are made to the occupied building structure which exceed 50% of the assessed value of the structure prior to such repairs, reconstruction or improvements.

B. Any property owner not granted a deferral may submit an appeal to the hearing examiner pursuant to Blaine Municipal Code Section 17.06.180A.

C. The city shall record the fully executed Connection Deferral Agreement with the Whatcom County Auditor's Office. Such agreement shall require payment of all connection charges in the future at the time of actual connection to the sewer system, and shall be a covenant that runs with the land and is binding on the owner and successors in interest of the property.

13.08.394 Abandoning on-site septic systems.

A. Once a connection to the city sanitary sewer system has been completed and inspected by the city, the property owner shall ensure that the private onsite system has as a minimum been completely cleaned of wastewater and sludge and all tanks filled with suitable backfill material.

SECTION 4: Section 13.08.260 is hereby amended to read as follows:

13.08.260 Toilet facilities and connection to available sewer.

The owner of all houses, buildings or properties for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located, or in the future may be located, a public sanitary sewer of the city, is required, at his expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within ~~30~~ 60 days after the date of official notice to do so; provided, that the public sewer is within 200 feet (61.0 meters) of the property line. (Ord. 2572 § 2, 2004; Ord. 1532, 1979; prior code § 8-402(D))

SECTION 5: Section 13.16.161 is repealed

~~13.16.161 Lien on premises.~~

~~All electric rates shall be charged against the premises for which the service was installed. All charges for electricity, when the same become delinquent and unpaid, shall be a lien against the premises to which the same has been furnished. Such lien shall be imposed to guarantee payment up to four months past due account, plus service charge applicable as the expense of disconnection and reconnection, to be enforced as provided by the laws of the state for the foreclosure of liens. (Ord. 2746 § 6, 2009; Ord. 2620 § 1, 2005; Ord. 1696 § 4, 1983)~~

SECTION 6: Severability: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance, and each section, subsection, sentence, clause or phrase thereof, separately and independently and, in the event that any one or more sections, subsections, sentences, clauses or phrases may later be declared invalid or

unconstitutional, then any ordinance or ordinances, or parts thereof, amended or repealed by such portion of this Ordinance shall remain in full force and effect.

SECTION 7: Effective Date: This Ordinance shall take effect and be in force upon its passage by the City Council and approval by the Mayor, if approved; otherwise, as provided by law and five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON on the 13th day of September, 2010, and signed by the Mayor on the same day.

Bonnie Onyon, Mayor

ATTEST/AUTHENTICATE:

Sheri Sanchez, City Clerk