



CITY COUNCIL AGENDA REPORT

Meeting Date: March 2, 2023

From: Director of Public Works/City Engineer

Subject: Municipal Code Changes to Sewer System Chapter

Recommendation

Adopt an ordinance, waiving second reading, amending Section 13.04.420 of Chapter 13.04 of the Brisbane Municipal Code pertaining to "Sewer System."

Background

This ordinance was introduced at the regular City Council meeting held on February 16, 2023, and was passed unanimously with no requested changes.

Attachments

1. February 16, 2023 staff report, including the introduced ordinance.

Handwritten signature of Randy Breault in blue ink.

Randy Breault, Public Works Director

Handwritten signature of Clayton L. Holstine in blue ink.

Clay Holstine, City Manager



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Meeting Date: February 16, 2023

From: Director of Public Works/City Engineer

Subject: Municipal Code Changes to Sewer System Chapter

Community Goal/Result: Ecological Sustainability

Purpose

To introduce an ordinance that will update the municipal code chapter relating to joint sewer laterals; this action is consistent with the community's goals of making decisions based on stewardship of the environment, and reducing waste streams.

Recommendation

Introduce an Ordinance, waiving first reading, amending Section 13.04.420 of Chapter 13.04 of the Brisbane Municipal Code pertaining to "Sewer System ." Introduction and adoption of this Ordinance is not subject to further environmental review because it is not a project under the California Environmental Quality Act (CEQA). CEQA Guidelines, section 15378 (b) (2).

Background

Paragraph I of BMC §13.04.420 states:

- I. The city council may, by resolution, upon finding good cause therefor, grant approval for a private sewer lateral (one which traverses another's private property in order to connect to the public sewer main); provided, that each applicant therefor shall submit plans in advance to the director for approval. Any approval granted by the city council for a private sewer lateral is contingent on an access easement and maintenance agreement between the private parties, in a form acceptable to the director, being recorded with the county recorder.

BMC §13.04.430 provides detailed conditions under which the Director of Public Works may approve a joint sewer lateral, including paragraph "G", which is nearly identical to the language quoted above:

13.04.430 - Joint sewer lateral installation and maintenance.



The director may upon finding good cause therefor, grant approval for a joint sewer lateral (one that services two (2) or more properties); provided, that each property owner shall submit plans to the director for prior approval. Any approval granted by the director for a joint sewer lateral shall be in a form as approved by the city attorney and shall be generally subject to the following terms and conditions:

- A. Installation and maintenance costs of the joint sewer lateral shall be shared equally by the parties thereto. Any person who subsequently connects to the joint sewer lateral shall share in the cost thereof on a pro rata basis.
- B. Original installation and repairs must be pursuant to code, and approval of the plumbing or building inspector is required.
- C. One owner may hire a licensed plumber to make emergency repairs without the consent of the other owners, in the event they are not available, and the cost of the emergency repairs shall be shared on a pro rata basis.
- D. No user shall interrupt the continuity of the service or cause to have interrupted the continuity of the service of the joint sewer lateral, in such a manner as to cause damage or inconvenience to the other users, other than for a reasonable time required for repair.
- E. In the event that the owner or users fail to act and the director and/or health officer determines that conditions in the joint sewer lateral are such as to be a hazard to health or safety, then the city may, pursuant to written notice, order the work done and divide the cost, as specified in subsection A of this section, on the tax bill if it is not compensated within fifteen (15) days from the time of billing by registered mail to each of the users last known address or that shown on the last equalized assessment roll.
- F. The owners and users of the joint sewer lateral shall assume all responsibility and liability in connection therewith and they shall hold the city harmless.
- G. The owners of the property on which the joint sewer lateral is located shall grant and have recorded an easement of not less than ten (10) feet in width for the maintenance and repair of the joint sewer lateral.

Discussion

In discussion with legal counsel, there seems to be no added value to have the City Council approve by Resolution a private sewer lateral on another's property, when the exact same requirements (minus the passing of a Resolution) are also found in the conditions imposed on the Public Works Director. An argument might also be made that the requirement to obtain Council's approval is overly restrictive on the property rights of the landowner who would grant the easement.

In practice over the last 22 years, the Council has not questioned any request to approve a joint sewer lateral. When willing parties do desire to enter into a joint sewer lateral agreement, this action is to the benefit of the city because it provides specificity as to responsibility for repair and maintenance of sewer laterals, which has in past been problematic when a shared lateral overflowed without benefit of assigned responsibility.

The recommended action removes only the requirement for Council to approve joint sewer laterals by Resolution. All other existing requirements remain in effect. This action will expedite the processing of shared sewer lateral agreements.

Environmental Review

Introduction and adoption of this Ordinance is not a project under CEQA because it is a continuing administrative activity, such as general policy and procedure making, and not applied to any specific instance. CEQA Guidelines, Section 15378 (b)(5). Accordingly, no further environmental review is necessary.

Fiscal Impact


None as a direct result of the recommended action.

Measure of Success

An updated sewer system municipal code chapter that expedites the processing of shared sewer lateral approvals.

Attachments

- 1. Proposed Ordinance
- 2. Red-line version comparing existing code section to proposed changes



Randy Breault, Public Works Director

Clay Holstine, City Manager

ORDINANCE NO. - - -

**AN ORDINANCE OF THE CITY OF BRISBANE
AMENDING SECTION 13.04.420 OF CHAPTER 13.04
OF THE BRISBANE MUNICIPAL CODE CONCERNING SEWER SYSTEM**

The City Council of the City of Brisbane hereby ordains as follows:

Section 1: Section 13.04.420 of the Brisbane Municipal Code is amended by deleting subsection I thereof and Section 13.04.420 to read as follows:

"13.04.420 - Sewer installation specifications and requirements.

Sewers to be installed in the city shall satisfy the following requirements:

- A. All sewers constructed in the public right-of-way shall be constructed in accordance with plans and specifications approved by the city council upon recommendation of the director. Sewer laterals shall be constructed in accordance with standard plans prepared by the director and approved by the city council.
- B. Minimum size of all sewer laterals shall be four (4) inches and shall require a cleanout at the property line.
- C. The minimum size of public sewers shall be eight (8) inches and standard manholes shall be placed at frequencies no greater than three hundred (300) feet or in places of change of direction or grade, except sewers twelve (12) inches in diameter or greater, under which circumstances the specific design shall be approved by the director.
- D. When sewers cannot be placed in the public right-of-way or in existing rights-of-way of ten (10) feet in width or greater, special easements shall be acquired a minimum of ten (10) feet in width and wherever possible shall straddle existing property lines.
- E. Wherever easements ten (10) feet in width or greater can be acquired, public sewers shall be extended in accordance with approved plans and specifications and in accordance with proper master planning for the area being served.
- F. Wherever a public sewer can be extended along public rights-of-way or standard easements, each service shall be extended to the public sewer by a sewer lateral serving only one unit of ownership unless the city council, by resolution, approves the service of more than one unit of ownership by a lateral.
- G. A cleanout shall be placed on each sewer lateral at the transition between the upper and lower portions of the lateral. The director may additionally require the installation of a backflow

prevention device on the sewer lateral when he or she reasonably believes backflow has or may occur.

H. Wherever a substandard extension of the public sewer exists, i.e., a line smaller than eight (8) inch or across private easements, no further extension of the sewer line can be made until such a time as an agreement for maintenance and rights of easement for all individuals using the line is recorded with the office of the county recorder."

Section 2: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 3: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Madison Davis, Mayor

ATTEST:

Ingrid Padilla, City Clerk

APPROVED AS TO FORM:

Thomas R. McMorrow, City Attorney

“Redlined” proposed change to BMC §13.04.420

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B. Minimum size of all sewer laterals shall be four (4) inches and shall require a cleanout at the property line.

C. The minimum size of public sewers shall be eight (8) inches and standard manholes shall be placed at frequencies no greater than three hundred (300) feet or in places of change of direction or grade, except sewers twelve (12) inches in diameter or greater, under which circumstances the specific design shall be approved by the director.

D. When sewers cannot be placed in the public right-of-way or in existing rights-of-way of ten (10) feet in width or greater, special easements shall be acquired a minimum of ten (10) feet in width and wherever possible shall straddle existing property lines.

E. Wherever easements ten (10) feet in width or greater can be acquired, public sewers shall be extended in accordance with approved plans and specifications and in accordance with proper master planning for the area being served.

F. Wherever a public sewer can be extended along public rights-of-way or standard easements, each service shall be extended to the public sewer by a sewer lateral serving only one unit of ownership unless the city council, by resolution, approves the service of more than one unit of ownership by a lateral.

G. A cleanout shall be placed on each sewer lateral at the transition between the upper and lower portions of the lateral. The director may additionally require the installation of a backflow prevention device on the sewer lateral when he or she reasonably believes backflow has or may occur.

H. Wherever a substandard extension of the public sewer exists, i.e., a line smaller than eight (8) inch or across private easements, no further extension of the sewer line can be made until such a time as an agreement for maintenance and rights of easement for all individuals using the line is recorded with the office of the county recorder.

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