

## **RESOLUTION NUMBER 8181**

### **A RESOLUTION REVISING THE CITY'S POLICY FOR REVIEW AND APPROVAL OF REQUESTS FOR MUNICIPAL UTILITY SERVICES TO PROPERTY OUTSIDE THE CORPORATE LIMITS. THIS RESOLUTION SUPERCEDES ALL PRIOR RESOLUTIONS PERTAINING TO MUNICIPAL UTILITY SERVICE CONNECTIONS LOCATED OUTSIDE THE CITY LIMITS.**

**WHEREAS**, Sections 7-13-4312 and 7-13-4314 of the Montana Code Annotated (MCA) authorize a municipality to extend sewer or water services or both to persons owning property outside the city limits and provides that owners of the property be required to consent to city annexation of the property to be served. Further, Montana's municipal annexation statutes in Title 7, Chapter 2, Parts 42 through 47 MCA grants sole authority to City Council to determine whether or not annexation of land receiving municipal utility services is to occur prior to municipal utility connections or in the future; and

**WHEREAS**, the City of Missoula recognizes there may be urgent circumstances involving the immediate need to provide municipal utility services to property with existing structures located outside the city limits, so the City is willing to allow property to receive municipal utility services with delayed annexation while retaining the City's authority and ability to require annexation at any time in the future; and

**WHEREAS**, the City of Missoula desires that all new development, redevelopment, and new subdivisions seeking municipal utility service install urban infrastructure in accordance with city standards, guidelines, and regulations at the time of construction as a condition of municipal utility service. Further, that new development, redevelopment, and new subdivisions outside the city limits seeking municipal utility services be subject to the same municipal utility costs and connection, development, and impact fees as any new development, redevelopment, or new subdivision inside the city limits is subject to; and

### **NOW THEREFORE BE IT RESOLVED:**

#### **SECTION 1 – ADMINISTRATIVE AUTHORITY**

- A. The Mayor of the City of Missoula is authorized by City Council to review and approve requests administratively for extension of municipal utility services whether to extend a main and/or connect or stub-out a service, and execute contracts on behalf of the City for the purpose of extending services to property outside the incorporated city limits that meets conditions outlined in this resolution.
- B. The Utility Service Review Committee (USRC) shall be composed of a representative from the City Engineering Division, Development Services Director's Office, City Attorney's Office, Public Works Director's Office, and Fire Department; Chair of the Land Use and Planning Committee or a designee; and an advisory representative from each of the County Public Works and County Community and Planning Services Departments.
- C. City Council authorizes USRC to:
  - 1. Review applications for municipal utility service connections to new development, redevelopment, and new subdivisions and utility main extensions.
  - 2. Determine if the property meets all of the requirements outlined in this resolution; and
  - 3. Approve or deny these requests and/or impose additional conditions to meet City standards or that are necessary to ensure compliance with this resolution.

4. USRC approval of applications shall expire two (2) years from the date approval was granted. Applicants granted approval must have:
    - a. Executed utility service contract documents and begun excavation before the expiration date or;
    - b. Executed utility main extension contract documents and submitted preliminary design plans to the City Engineer for approval.
    - c. A written request for a time extension submitted prior to the two (2) year expiration date may be granted by the Development Services Director where good cause is shown.
  5. In the case of a multi-phase subdivision, the expiration date is not applicable. However, the USRC reserves the right to re-review the application and add or amend conditions in the event that City regulations or development plans are revised.
- D. The Development Services Department is authorized to accept, process, forward to USRC for consideration, prepare documentation, and make referrals to City Council on behalf of USRC. Development Services will research and prepare documents required for annexation of any land areas subject to utility service contracts that the City Council desires to annex upon referral by a Council member to the City Council's Land Use and Planning Committee.
- E. The Development Services Department has the authority to:
1. Approve, approve with conditions, or deny applications for:
    - a. Existing developed single parcels that are not undergoing a land-use change;
    - b. Proposed new single-family development in accordance with all criteria outlined in this resolution and Development Services' departmental administrative rules; and
    - c. Proposed new duplex development in accordance with all criteria outlined in this resolution and Development Services' departmental administrative rules.
  2. Issue water service repair permits for existing structures that are connected to the municipal water system if said structure was connected before July 1, 2017.
  3. Approve, approve with conditions, or deny applications for the installation of utility stubs for existing parcels in accordance with all criteria outline in this resolution and Development Services' departmental administrative rules.
- F. City Council retains the authority to annex property benefitting from municipal utility services in accordance with Section 7-13-4314 of the MCA at any time in the future at its convenience.

## **SECTION 2 – DEFINITIONS**

- A. Emergency Service: For the purposes of this resolution, emergency services are considered to mean:
1. Sewer emergency consists of any failed private on-site or private community sewage system that no longer treats waste adequately; or
  2. Water emergency consists of any failed private on-site or private community drinking water system that no longer produces adequate flows or has become contaminated and unusable for human consumption; and

3. Property experiencing these conditions is ineligible for a City-County Environmental Health Department repair or replacement permit.
- B. Extension of Utility Services: May include extending a main, extending a service connection or a service stub, or any combination of these.
- C. Main Extension: Larger water or sewer pipe installed in streets, alleys, or utility easements for the purpose of providing utility services to a neighborhood or larger geographical area.
- D. Service Connection: Water or sewer pipe extending from a main into a property and connecting to a building or structure on the property.
- E. Service Stub: Also known as a stub-out, stub-in, or lateral. A water or sewer pipe that extends from a utility main to the property line to accommodate a future connection but does not connect to a building or structure at that time.
- F. Development Area: The area within a parcel of land that has been or will be developed, to include structures and parking facilities.

### **SECTION 3 – APPEALS**

- A. The Development Services Department will refer to the USRC a request for utility service that has been denied by the department and the applicant wants to appeal the decision to the USRC. If the USRC denies the appeal, the applicant may appeal to the City Council as listed in Section 3 B.
- B. The Development Services Department will refer to City Council a request for utility service that has been denied by the USRC and the applicant wants to appeal the decision to the City Council. If the City Council denies the appeal, applicant may elect to notify the City in writing of the intent to return with a revised or amended request or withdraw their request.

### **SECTION 4 – COMPLIANCE CONFIRMED AND SERVICES AUTHORIZED**

- A. When the USRC or the Development Services Department approves an application for service, the following actions will occur:
  1. Development Services will prepare a utility service contract related to the types of municipal utility service requested that includes a petition to annex and contains all conditions related to utility service as approved by USRC.
  2. Property owner and the Mayor or a designee will execute the municipal utility service contract.
  3. City Clerk's Office will forward municipal utility service contracts and petitions to the Missoula County Clerk & Treasurer's Office for filing and will refer these petitions to annex to the City Council's Land Use and Planning Committee.

### **SECTION 5 - PROPERTY CRITERIA**

- A. The existing development area or proposed new development area within the property must be located within:
  1. Wastewater Service Area when requesting sanitary sewer service, and/or
  2. Water Service Area if requesting city water service.
- B. The property has access, or is able to obtain access, to existing municipal utility facilities.

- C. Main extensions should be consistent with good utility and land-use planning practices.
- D. Any property for which utility service is being requested must be zoned, or the owner must obtain zoning for any unzoned property as a condition of utility service. Exceptions to this zoning criteria include:
  - 1. Residential parcels with up to two (2) existing single family dwelling units or one (1) existing duplex dwelling.
  - 2. Residential parcels with up to two (2) new single family dwelling units or one (1) new duplex dwelling.
- E. When zoning is not a requirement for municipal utility service, utility service shall be limited to the uses identified in the application. Any expansion or significant change in use will be considered a breach of the utility service contract.
- F. Any proposed new use of the property and related development standards must be consistent with applicable City zoning and City ordinances.
- G. Any property approved for extending a utility service connection or a utility stub must have an executed utility service or utility stub contract in place prior to issuance of an excavation permit for construction.
- H. Any application not meeting all of the requirements in this section may be appealed to City Council as specified in Section 3 of this resolution.

#### **SECTION 6 - OWNER OBLIGATIONS**

- A. Owner shall complete and submit an application for municipal utility service extension outside the corporate city limits along with the application fee outlined in this resolution.
- B. Obtain a utility easement or other legal access to a utility main when such is unavailable to the property to be served.
- C. Pay all costs and fees associated with the extension of municipal utility services to the property.
- D. If approved for municipal utility services, the property owner must be willing to execute a utility service contract that includes a petition to annex related to receiving municipal utility service and includes any conditions of approval that are related to utility service and/or annexation.

#### **SECTION 7 – COMMUNITY UTILITY SYSTEM CONNECTIONS**

- A. An emergency exception from the utility service contract requirement is allowed when a community system for a multi-parcel development fails. To qualify, the development must comply with all criteria outlined in the “Property Criteria” section of this resolution. In addition, the exception shall be:
  - 1. Temporary; and
  - 2. Documented in one of two ways:
    - a. More than 50 percent of the property owners shall execute utility service contracts that describe the nature of and reason for the temporary exemption; or
    - b. The president of the homeowners association or other authorized individual for all the properties shall execute a single utility service contract that describes the nature of and reason for the temporary exemption; and
  - 3. For each parcel of the multi-parcel property receiving emergency utility service, the City will file a notice with the Missoula County Clerk & Treasurer’s Office.

- B. If a main extension is approved, owner shall proceed with plans and designs to extend municipal utility mains according to specifications approved by the City Engineer in easements dedicated to the City where necessary, and with the exception of private service lines, shall be transferred to the City's ownership.
- C. In all cases of approval, owners shall proceed with plans to extend service after paying any applicable utility connection fees adopted by the City, hiring a licensed and bonded excavation contractor, and securing all necessary permits and approvals from the Development Services Department.

## **SECTION 8 – FEE TYPES, AMOUNTS, AND PAYMENT SCHEDULE**

- A. Fees that apply to most extensions of municipal utility services and the payment schedule for fees are as follows:

<b>FEE TYPE</b>	<b>AMOUNT</b>	<b>PAYMENT SCHEDULE</b>
Utility Service Review Committee Application Fee	\$100.00	Due with utility service application submittal.
Utility Service Contract Fee	\$50.00	Due at the time property owner signs the utility service contract.
County Clerk & Treasurer Filing Fee	\$7.00 per page or the current rate set by Missoula County	Due at the time property owner signs the utility service contract.
Connection Fees	TBD by the Development Services Department	Due prior to connection to the utility.
Impact Fees	TBD by the Development Services Department	Due prior to connection to the utility.
System Utility Development Fees	TBD by the Development Services Department	Due prior to connection to the utility.
Excavation Permit Fee	See current fee schedule in Development Services Department	Due at the time of purchasing excavation permits prior to connection to the utility.

- B. Fee descriptions and purpose:
1. USRC Application Fee pays the cost to convene the USRC and staff for review and consideration of the application.
  2. Utility Service Contract Fee pays the cost of administrative services to prepare the contract documents for property owner and City signatures.
  3. County Clerk & Treasurer Filing Fee pays the cost to record the contract documents in the public record.
  4. Connection Fees are authorized by Montana law and adopted by the City to offset the cost of connecting the municipal utility service line between the lot line and the utility main and may include a combination of SID shares, main installation rebates, service installation rebates, or any other fee type that may be authorized by Montana law or adopted by the City at the time a property connects to a utility.

5. Impact Fees are authorized by Montana law and have been adopted by the City to ensure that new development contributes its fair and proportionate share towards the costs of public facilities reasonably necessitated by such new development.
6. System Utility Development Fees are authorized by Montana law and have been adopted by the City to fund capital infrastructure needs brought about by municipal service expansion.
7. Excavation Permit Fees cover the cost of necessary inspections to oversee the excavation and installation of municipal utility services.

**PASSED AND ADOPTED** this 17th day of July, 2017.

**ATTEST:**

**APPROVED:**

/s/ Martha L. Rehbein

/s/ John Engen

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Martha L. Rehbein, CMC  
City Clerk

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John Engen  
Mayor

(SEAL)