

ORDINANCE NO. 753-07

CITY OF GRANITE FALLS

**AN ORDINANCE OF THE CITY OF GRANITE FALLS, WASHINGTON,
AMENDING TITLE 13, WATER AND SEWER, OF THE GRANITE FALLS
MUNICIPAL CODE TO ADD A NEW CHAPTER 13.28 RELATING TO UTILITY
SERVICE EXTENSIONS AND PROVIDING FOR REASONABLE CONDITIONS
FOR EXTENSIONS WITHIN THE CITY OF GRANITE FALLS URBAN
GROWTH AREA OUTSIDE THE CITY OF GRANITE FALLS CORPORATE
BOUNDARY LIMITS**

WHEREAS, the city of Granite Falls is not the sole or exclusive provider for water or sewer service in any area outside the city limits, and property owners have other options for water and sewer service to such properties outside the city limits; and

WHEREAS, pursuant to Washington statutes RCW 35.92.200 and RCW 35.67.310 and case law, the city of Granite Falls is not legally required to provide water or sewer services to properties located outside the city's limits, but that cities have the discretion to provide such utilities as a legislative decision on terms and conditions set forth in ordinance and contract; and

WHEREAS, the Growth Management Act ("GMA") contemplates that a city is the appropriate provider of utility services within its Urban Growth Area ("UGA")

WHEREAS, one of the underlying policies of the Washington Growth Management Act ("WGMA"), codified as Chapter 36.70A RCW is to insure that urban development occur in an orderly fashion in established growth areas; and

WHEREAS, the city of Granite Falls Comprehensive Plan Capital Facilities Element—CF 14 and CF 15 defines the City's potential service area to be the same as Granite Falls UGA; and

WHEREAS, the extension of sewer and water service beyond the corporate limits of the city of Granite Falls is subject to such reasonable conditions as the law may allow the city to impose by ordinance and contract; and

WHEREAS, the Granite Falls City Council desires to provide for its authority to extend utility service outside the city limits within the Granite Falls UGA and establish reasonable conditions for the extension of utility service;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GRANITE FALLS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1: A new Chapter 13.28, entitled: "Water and Sewer Service Outside City Limits" is hereby added to Title 13, Water and Sewers, of the Granite Falls Municipal Code to read as follows:

Chapter 13.28

WATER AND SEWER SERVICE OUTSIDE CITY LIMITS

Sections:

- 13.28.010 City's authority to provide service outside city limits.**
- 13.28.020 City is not the sole or exclusive provider of utility services outside the city limits**
- 13.28.030 Water or sewer service application.**
- 13.28.040 City council approval required.**
- 13.28.050 Charges for water or sewer service.**
- 13.28.060 Utility extension agreement.**
- 13.28.070 Permit issuance for outside city connection.**

13.28.010 City's authority to provide service outside city limits.

A. The city is authorized, pursuant to RCW 35.67.310 and 35.92.200, to provide sewer and water service to property outside the city limits. The city providing such service is not mandatory. In all circumstances in which the city agrees to provide water or sewer service to property beyond its limits, the applicants for such service must comply with all of the terms and conditions of this chapter.

B. After designation of the city's urban growth area boundary by the county as contemplated by RCW 36.70A.110, the city is prohibited from annexing territory beyond such boundary (RCW 35A.14.005). Therefore, the city's extension of water and sewer service outside the city limits to property not contained within the city's Urban Growth Area is not appropriate under Granite Falls Municipal Code ("GFMC") 13.28.040.

13.28.020 City is not the sole or exclusive provider of utility services outside the city limits. The city council hereby asserts and affirms its position that the city of Granite Falls is not the sole or exclusive provider of sewer or water service in any area outside of the city's corporate limits. The city shall not be considered or construed as being the sole or exclusive utility purveyor for any properties outside of the city's corporate limits or within the city's urban growth area, and no action, omission, statement or decision of the city, other than a valid legislatively approved utility extension agreement fully complied with by the property owner, shall in any way be considered or construed as a contract, express or implied, for the extension or supply of water or sewer utilities to the urban growth area.

13.28.030 Water or sewer service application. Any person owning property outside the city limits and desiring to have their property connected to the city's water supply system or sewer system shall make application at the office of the city clerk on the appropriate form. Every such application shall be made by the owner of the property to be connected

and supplied the service, or by his/her authorized agent. The applicant must state fully the purposes for which the water and/or sewer service is required. Applicants must agree to conform to the city's rules and regulations concerning water and sewer service set forth in this title, as the same now exists or may be amended in the future. If the city receives such a water/sewer service application and subsequently issues a water/sewer availability certificate, such certificate shall expire within six months' of the date of issuance, if the applicant does not pay the required fees and request an actual hook-up or connection to the subject property within that time period.

13.28.040 City council approval required. It shall be the policy of the city of Granite Falls that all applicants for the extension/connection of water or sewer service outside the corporate limits of the city of Granite Falls shall be subject to review and require approval by the city council prior to the issuance of a permit for the extension/connection of water or sewer service. Applicants must demonstrate that they have initiated or are part of an ongoing annexation process which would bring the property that is subject to a utility extension/connection application into the Granite Falls city limits. In its review, the city council may consider the following: impact on the water or sewer system usage; annexation consideration; compliance with the city of Granite Falls' comprehensive plan and the city of Granite Falls development standards; and any other considerations deemed appropriate by the city council. The council shall consider the recommendations of the city planner and the city attorney. The decision of the city council shall be a discretionary, legislative act. If approval is granted by the city council, it shall be in the form of a utility extension agreement approved by the city attorney and consistent with the minimum terms and conditions set forth in Granite Falls Municipal Code ("GFMC") 13.28.060.

13.28.050 Charges for water or sewer service. Applicants for water and/or sewer service to property outside the city limits shall be charged the rates for such service as set forth in Granite Falls Municipal Code ("GFMC") 13.16.242 through 13.16.259 (water service) and 13.02.100, 13.02.101, and 13.02.102 (sewer service), as those code sections now exist or may hereafter be amended. All other additional charges applicable to water and/or sewer service to property within the city limits in this title shall also be imposed, where appropriate.

13.28.060 Utility extension agreement.

Every applicant for water and/or sewer service outside the city limits must agree to sign an agreement with the city, which conditions the provision of the service on the following terms:

A. Agreement to Run with the Property. The agreement shall be recorded against the property in the Snohomish County Auditor's office, and shall constitute a covenant running with the land. All covenants and provisions of the agreement shall be binding on the owner and all other persons subsequently acquiring any right, title or interest in or to said property.

B. Warranty of Title. The agreement shall be executed by the owner of the property, who shall also warrant that he/she is authorized to enter into such agreement.

C. Costs of Design, Engineering and Construction of Extension. The owner shall agree to pay all costs of design, engineering and construction of the extension, which shall

be accomplished to city standards and conform to plans approved by the city public works director, or his designee. Costs of plan review and construction inspection shall also be paid by the owner.

D. Capacity Commitment Payments. The owner shall agree to pay for the city's reservation of sewer and/or water capacity, which is calculated as a percentage of the connection fee for the sewer and/or water service. Such payments shall be made under the payment schedule determined by the city.

E. Easements and Permits. The owner shall secure and obtain at the owner's sole cost and expense, all permits, easements and licenses necessary to construct the extension.

F. Dedication of Capital Facilities. The owner shall agree to dedicate all capital facilities constructed as part of the water and sewer extension (such as water or sewer main lines, pump stations, wells, etc.), at no cost to the city, upon the completion of construction, approval and acceptance by the city.

G. Connection Charges. The owner shall agree to pay the connection charges set by the city in Granite Falls Municipal Code ("GFMC") 13.02 and 13.16 (as these chapters now exist or may hereafter be amended), as a condition of connecting to the city water and/or sewer system. Such connection charges shall be calculated at the rate schedules applicable at the time of actual connection.

H. Agreement Not to Protest Annexation. The owner shall provide the city with an irrevocable power of attorney to allow a city representative to sign a petition for annexation on behalf of the property owner or the property owner shall agree to sign a petition(s) for annexation of his/her property when requested to do so by the city.

I. Waiver of Right to Protest LID. If, at the time of execution of the agreement, the city has plans to construct certain improvements that would specially benefit the owner's property, the agreement shall specifically describe the improvement. The owner shall agree to sign a petition for the formation of an LID or ULID for the specified improvements at the time one is circulated, and to waive his/her right to protest formation of any such LID or ULID.

J. Development of Property to Conform to City Code – Exceptions. The owner shall agree to comply with all requirements of the city's land use plan, zoning, fire codes and those portions of the city building code which are referenced by the fire code, and the city public works standards when developing or redeveloping the property subject to the agreement. The city council may grant exceptions to the requirements contained in this subsection only under the following conditions:

1. The applicant must demonstrate that the proposed departure from the city's land use standards, zoning code, or public works standards would result in a development which meets the intent of the applicable provisions of the comprehensive plan, zoning code or public works standards, based upon compliance with all of the following criteria:

a. That the site of the proposed use is adequate in size and shape to accommodate such use and all yards, spaces, walls and fences, parking, loading, landscaping and other features necessary to ensure compatibility with and not inconsistent with the underlying zoning district;

b. That the site for the proposed use relates to streets, adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed uses and that adequate public utilities are available to serve the proposal;

c. That the proposed use will have no significant adverse effect on existing uses or permitted uses;

d. That the establishment, maintenance and/or conducting of the uses for which the utility agreement is sought will not, under the circumstances of the particular case, be detrimental to the public welfare, injurious to the environment, nor shall the use be inconsistent with or injurious to the character of the neighborhood or contrary to its orderly development.

K. Termination for Noncompliance. In addition to all other remedies available to the city for the owner's noncompliance with the terms of the agreement, the city shall have the ability to disconnect the utility, and for that purpose may at any time enter upon the property.

13.28.070 Permit issuance for outside city connection. Permits or approvals for connections to city sewer or water utility service may be issued only upon the written application of the property owner and subject to the condition that the applicant's property be within the city of Granite Falls urban growth area and the applicant shall first obtain city council approval as required by Granite Falls Municipal Code ("GFMC") 13.28.040.

Section 2. Repealer. All Ordinances or parts of the Ordinances of the city of Granite Falls in conflict herewith, be and the same are hereby repealed.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Publication and Summary. This Ordinance or summary thereof consisting of the title shall be published in the official newspaper of the City.

Section 5. Effective Date. This Ordinance shall be in full force and effect five (5) days' after publication of the summary consisting of the title.

Said Ordinance was passed in open session by the City Council of the City of Granite Falls on the 7 day of NOVEMBER, 2007, and signed in authentication of its passage this 7 day of NOVEMBER, 2007.

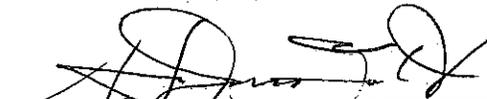

LYLE ROMACK, MAYOR

Attest:



Lotta HINES, CITY CLERK

Approved as to form:



H. James Zacher, CITY ATTORNEY

DATE OF FIRST READING: OCTOBER 3, 2007
DATE OF SECOND READING: November 7, 2007
DATE OF PUBLICATION:
EFFECTIVE DATE: NOVEMBER 12, 2007