

CERTIFICATE AS TO ORDINANCE AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of Big Sky County Water & Sewer District No. 363, Montana (the "District"), hereby certify that the attached ordinance is a true copy of an Ordinance entitled: "AN ORDINANCE ESTABLISHING RATES, FEES AND CHARGES FOR THE PUBLIC SEWER AND WATER SYSTEM OF THE BIG SKY COUNTY WATER & SEWER DISTRICT NO. 363." (the "Ordinance"), on file in the original records of the District in my legal custody; that the Ordinance was duly adopted as amended by the Board of Directors of the District at a regular meeting on January 30, 2002 and that the meeting was duly held by the Board of Directors and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Directors voted in favor thereof: Skip Radick, Dick Wiggins, Dee Rothschiller, Wendell Ingraham, Gary McRae, Stewart Peacock, and William Shropshire; voted against the same: none; abstained from voting thereon: none; or were absent: none.

WITNESS my hand and seal officially this 30nd day of January, 2002.

Secretary

ORDINANCE NO. 97-1002

PUBLIC SEWER AND WATER SYSTEM RATE ORDINANCE

Originally Approved October 23, 1997

Amended June 16, 1998; Amended February 16, 1999;

Amended July 20, 1999; Amended June 20, 2000; Amended January 30, 2002

AN ORDINANCE ESTABLISHING RATES, FEES AND CHARGES FOR THE PUBLIC SEWER AND WATER SYSTEM OF THE BIG SKY COUNTY WATER & SEWER DISTRICT NO. 363.

WHEREAS, the Big Sky County Water & Sewer District No. 363 ("District") was created to operate and maintain a public sewer system ("public system") for purposes beneficial to the District; and

WHEREAS, the District may establish, by ordinance, rules and regulations for the operation, maintenance, use, and availability of the public system; and

WHEREAS, the District sets rates, fees and charges to cover the operation, maintenance and replacement ("OM&R") expenses of the public system including penalties and interest charges for delinquent accounts; and

WHEREAS, the District submitted (January 2, 1996) a Long Term Compliance Work Plan to the Department of Environmental Quality ("DEQ") for their review for capital improvements to the public system at an estimated cost of ten million six hundred thousand dollars (\$10,600,000) in addition to the costs associated with the DEQ approved Interim Action Work Plan completed in 1997; and

WHEREAS, the District and its predecessor, Rural Improvement District 305 (RID 305) has a long standing policy of exempting from paying Plant Investment Charges (PICs) the lots that were all located adjacent to the originally installed public sewer collection system, all within RID 305 expanded jurisdiction as of April 30, 1973; and

WHEREAS, these lots are platted and recorded within the three original subdivisions (the "exempt lots"): Meadow Village Subdivision, Sweetgrass Hills Subdivision, and Cascade Subdivision Blocks 1 & 6; and

WHEREAS, the District completed a comprehensive due diligence review of the assets and liabilities claimed by RID 305 and on 16 February 1994 the District's Board of Directors passed a Resolution accepting the assets and liabilities from RID 305 and became the owner and operator of

the District; and

WHEREAS, the District Board has the authority under Section 7-13-2218 and Section 7-13-2301, MCA to establish and collect rates, fees and charges for various services; and

WHEREAS, the District's Board of Directors has determined that the previously exempt lots should be treated as other lots serviced by the public sewer system and also share in the cost of new capital improvements and sewer treatment facilities required by the Long Term Compliance Work Plan beginning September 30, 1999; and

WHEREAS, the District's Board of Directors has determined that the exempt lots will therefore no longer be exempt from paying PICs after said date; and

WHEREAS, the District has started implementing a district-wide water metering project for the purpose of measuring water usage to bill customers of the District's public sewer and water systems for water and sewer services.

NOW, THEREFORE, be it ordained and enacted by the Board of Directors of the Big Sky County Water & Sewer District No. 363, State of Montana, pursuant to the authority granted under Section 7-13-2218(9) and Section 7-13-2301, MCA, the following rates, fees and charges for the public sewer and water system:

ARTICLE I - WASTEWATER RATES

A. Monthly Wastewater User Charge for Unmetered Accounts

The OM&R monthly wastewater user charge for the public system is twenty five dollars and seventy five cents (\$25.75) per Single Family Equivalent (SFE) per month and billed quarterly the last day of the quarter.

1. Application of Charges. The wastewater user charge shall be applied to all properties that have any residential, commercial, industrial, condominium, recreational, apartment, or other development ("improvements") that generate, or will generate wastewater that are connected to the public sewer system.

a. Vacant Lots- A seven dollar and fifty cent (\$7.50) monthly charge shall be applied to all vacant lots that have sewer service available to them for the purpose for paying a portion of the ongoing operation and maintenance expense for upkeep and repair of the sewer collection and wastewater treatment system. Sewer service availability shall mean lots that have a sewer collector

that is connected to the public sewer system that runs adjacent to the lot in the public right-of-way or in an easement.

b. Tracts, Sites and Areas- A monthly charge shall also be applied to all vacant tracts, sites, areas, or other buildable properties that have sewer service available to them as defined in Section I(A)(1) above and are developable. The monthly charge shall be five percent (5%) of the "Total SFE's Committed" less the "Total SFE's Currently Occupied" as shown on Exhibit A, Ordinance 97-1001. In the event that a tract, site, area, or other buildable property is subdivided into vacant lots, the lots shall be charged according to Section I(A)(1).

B. Monthly Wastewater User Charge for Metered Accounts

The District requires the installation of an approved water meter for all new construction before any water service is turned on. The term "metered account" means any improvement that is connected to the public water system and for which an approved water meter and remote read device has been installed and is in good working condition. For purposes of this Ordinance the term "approved water meter" shall mean an Invensys™ SRII water meter that is a minimum of 3/4 inches in size and equipped to be read remotely using either radio read or telephone read equipment. The monthly charge for wastewater system service and the usage of the District's public wastewater system shall be calculated by one of the following means:

1. Winter Mean Water Usage. The District shall use the average water usage by the metered account as determined by actual water meter data for the period of November through April each year. The District shall use the first available meter reading in November and the last meter reading in April to calculate a daily average which is then multiplied by a factor of 30 to determine the average monthly wastewater charge. The monthly average shall be used for the metered account for the next six (6) month period. Wastewater charges for metered accounts shall be recalculated each year.

2. Flat Rate Wastewater Charges. If water meter data is not available to calculate average usage in accordance with Article I(B)(1) then the District shall use the SFE method and rate described in Article I(A) for wastewater user charges.

C. Commencement of Billing Wastewater Charges.

Applicable wastewater user charge shall start from the date that water is available to the customer with the first billing rendered on or about the first day of the next billing period. Water availability will generally be the date on which the curb stop is opened for permanent water service delivery. In the event that a change in SFE's occurs either through remodeling, change in use, or SFE audit on the date that the change in SFEs is verified by the District. In the case of an SFE audit, charges will be retroactive for the previous twelve (12) month period from the date of the SFE audit.

D. Wastewater Connection Inspection Charges.

A connection inspection charge for improvements shall be paid to the District before final approval and permit issuance. The connection inspection charge shall cover the cost of processing the application and providing sewer lateral inspection services. The wastewater connection inspection charge shall be as follows:

Type of Improvement	Wastewater Connection Inspection Charge
• Remodeling or change in use that changes SFEs	\$ 25
• Single Family Residence	\$ 100
• Two (2) through Four (4) units of improvement	\$ 200
• Five (5) through ten (10) units of improvement; and each commercial building less than or equal to 10,000 square feet	\$ 300
• Eleven (11) or more units of improvement; and each commercial building greater than 10,000 square feet	\$ 750

1. Wastewater Connection Inspection Charges on Westland/TM Projects. A connection inspection charge in the amount of fifty percent (50%) of the applicable charge according to Article I(B) for improvements constructed on land located in either Section 31, Township 6 South, Range 4 East; or Section 1, Township 7 South, Range 3 East, Gallatin County, Montana owned by Westland or its successors in interest.

E. Plant Investment Charge (PIC)

All qualifying improvements allowed to connect to the public sewer system shall pay a PIC after the District issues a written notice of approval or preliminary approval, and prior to issuing written notice of final approval and permit issuance. Beginning September 30, 1999, the exempt lots will also pay PICs. The PIC shall be reserved in a segregated and restricted sinking account for engineering and construction of capital improvements to expand the capacity of the public system. The PIC shall be three thousand five hundred dollars (\$3,500) per SFE as determined by the Board after reviewing the Wastewater Service Charge Study (Kerin & Associates, August 1997) and spreadsheet analysis including the Boyne Settlement (attached as Exhibit A).

1. PIC and Capital Improvement Debt Service Exemptions by Agreements and Court Order.

By agreement and/or court order the following properties are exempt from paying PICs or paying debt service costs related to new capital improvements for the wastewater treatment facility:

- a. Westfork Meadows (Sewer Dedication Agreement, May 17, 1982)
- b. Westland's properties in Sections 31 and 1 of the Meadow Village area (Supreme Court decision Westland v. Boyne, May 15, 1989, and amended in District Court Judgment, June 2, 1989).

2. Other Exemptions.

a. Improvement projects requesting permits to connect to the public sewer system that are associated with providing fire service, law enforcement, emergency life support services, and other recognized government units under the Montana statutes. Other improvements requesting permits to connect to the public sewer system may be exempt at the discretion of the Board for good cause shown.

ARTICLE II - WATER RATES**A. Monthly Water User Charge for Unmetered Accounts**

The OM&R monthly water user charge for the public water system is nineteen dollars (\$19.00) per SFE per month and billed quarterly the last day of the quarter.

1. Application of Charges. The water user charge shall be applied to all properties that have any residential, commercial, industrial, condominium, recreational, apartment, or other development ("improvements") that use or will use water that is connected to the public water system.

a. Vacant Lots- A seven dollar and 50 cent (\$7.50) monthly charge shall be applied to all vacant parcels of land including lots, tracts, sites and areas that have water service available to them for the purpose for paying a portion of the ongoing operation and maintenance expense for upkeep and repair of the water distribution system. Water service availability shall mean lots that have a water main line that runs adjacent to the lot in the public right-of-way, or in an easement.

b. Property Outside of the District- All property allowed by agreement to connect to the District's water system shall be charged at a rate which is one hundred and twenty five percent (125%) of the rate paid by users within the District.

B. Water User Charges for Single Metered Accounts

Effective January 1, 2002, the monthly charge for water system service and the usage of the District's public water system shall include two components:

1. Base Rate Charge. The first component is a base rate charge which shall be based on a minimum water use and fifty two and one half percent (52.5%) of total budgeted costs for the District's water system operation divided by the number of metered accounts. The base rate volume of water shall be 0-3,000 gallons per month and the charge for the base rate volume shall be \$15.00 per month as shown in Exhibit B.

2. Variable Rate Charge. The second component is a variable rate charge which shall be based increments of water usage that exceed the base rate volume and forty seven and one half percent (47.5%) of total budgeted costs for the District's water system operation divided by the number of metered accounts. The variable rate charge shall be \$1.89 for each 1,000 gallon increment of water used per month that exceeds the base rate volume as shown on Exhibit B.

C. Water User Charges for Multiple or Clustered Metered Accounts

It is the District's policy to meter each individual customer served and each individual parcel or property served. Due to existing piping arrangements, this may not be possible or cost effective. The District may elect to meter a group of customers, or parcels, or properties, at the sole discretion

of the District. On clusters of condominium units, multiple residential units, and multiple commercial units, the number of meters shall be at the discretion of the District. Multiple residential, condominium, and commercial developments constructed after the effective date of this Ordinance shall be individually metered unless authorized otherwise by the District.

Where multiple units are in separate ownership served by a single, common meter, the water charges shall be calculated as follows:

1. Water Consumption. Water consumption will be calculated by subtracting the allowable gallons in the meter read cycle, based on the number of units served, from the metered consumption. Allowable water use shall be the base rate volume of water times the number of units. Any amount over the allowable shall be equally apportioned and charged to each unit. The charge for multiple or clustered units whether residential or commercial will be the monthly base rate for each unit, plus an equal share of the variable rate charge for water use over the allowable base rate charge based on the number units.

D. Commencement of Billing

Applicable water charges for metered accounts shall start from the date that water is available to the customer, with the first billing being rendered on or about the first day of the next billing period.

E. Water Service Connection Charges

A water service connection inspection permit charge for new water service connections shall be paid to the District before final approval and permit issuance. The connection inspection charge shall cover the cost of processing the application, applicable water metering equipment, temporary water use during construction, and water service inspection services.

1. Inspection Charge. The water connection inspection charge shall be as follows:

Type of Improvement	Water Service Connection Inspection Charge
• Remodeling or change in use that changes SFEs	\$ 25
• Single Family Residence	\$ 100
• Two (2) through Four (4) units of improvement	\$ 200

Type of Improvement	Water Service Connection Inspection Charge
<ul style="list-style-type: none"> • Five (5) through ten (10) units of improvement; and each commercial building less than or equal to 10,000 square feet 	\$ 300
<ul style="list-style-type: none"> • Eleven (11) or more units of improvement; and each commercial building greater than 10,000 square feet 	\$ 750

2. Water Meter Equipment Charge. For new single residential and multiple residential unit water connection permits where 5/8 inch meters are required, the District shall sell meter horns, water meters, and remote read devices and charge the applicant as part of the connection permit fee. For these improvements the applicant must pay the District all applicable meter equipment charges before the District issues a connection permit that allows the water service line to be connected to the public water system. For large multiple unit and commercial projects, the meter equipment shall be specified by the District in the connection permit, and must be purchased by the owner at the owner's expense. The cost of any meter components that are provided by the District shall be charged to the permit holder.

In no circumstance shall any improvement be allowed permanent water service until all applicable meter equipment charges have been paid in full. In the event that the application for a permit is rejected or withdrawn, any water meter equipment charges paid under this section will be refunded in total after the meter equipment is returned to the District in good working condition.

F. Water System Investment Charge

The Board may establish an additional charge to be assessed against new water service connections for future capital improvements for the mountain and meadow village area water systems.

G. Water Service Reactivation Charge

Any owner violating the rules and regulations of the District which has resulted in the termination of water service shall be charged a water service reactivation fee in the amount of twenty five dollars (\$25.00) . Upon payment, the District shall reinstate water service.

H. Bulk Water Charge

Connections to fire hydrants at any location are prohibited except by the Gallatin Canyon Rural Fire Department, or by a written Hydrant Use Permit issued by the District. Permitted connections to fire hydrants shall be made only at hydrants designated by the District. The fees for hydrant use permits shall be follows:

1. Water Tank Trucks. Water tank trucks purchasing water from the District shall:
 - a. Pay Permit Connection Fee. The nonrefundable connection fee is \$50 for each Hydrant Use Permit issued.
 - b. Pay Damage Deposit. A damage deposit of \$100 is required at the time the permit is issued. All or a portion of the damage deposit will be refunded depending upon any costs incurred by the District to repair a damaged hydrant. If damage to a hydrant meter exceeds the damage deposit, the permit holder responsible for the damage will be billed for the repair or replacement cost of the hydrant meter.
 - c. Pay Monthly Water User Fee. All hydrant use permit holders shall pay a flat monthly maintenance and water user fee of \$50. This monthly fee shall not be prorated and may be adjusted higher at the District's discretion if the District determines that the volume of water used by a permit holder exceeds 25,000 gallons per month.
2. Other Bulk Purchases of Water. Other small volume purchasers of water from the District shall:
 - a. Pay Permit Connection Fee. The nonrefundable connection fee is \$10 for each Hydrant Use Permit issued which will also cover water use up to 1,000 gallons of water. Any amount over 1,000 gallons shall be charged at the bulk rate water rate.
3. Bulk Water Rate. The charge for bulk water from fire hydrants shall be \$2.00 per 1,000 gallons.

ARTICLE III - PENALTIES**A. Penalty Provision**

If a sewer and/or water connection inspection permit has been issued, and the applicant changes the plan resulting in an increase to the number of SFE's that were originally approved on the sewer and/or water connection permit, and does not notify the District of the change, the District shall charge the applicant a minimum five hundred dollar (\$500) penalty. The penalty for an unapproved increase that exceeds one (1) SFE shall be calculated by prorated.

B. Penalty for Nonpayment of Charges

The District shall charge a point eight three percent (.83%) per month, or ten percent (10%) per annum penalty for sewer and/or charges that are not paid by February 15, May 15, August 15, and November 15 of each year.

C. Delinquent Accounts

If a customer user fee account balance is more than ninety (90) days past due as of June 30th each year, then the entire balance on the account is due and payable immediately. The District shall notify the Madison and/or Gallatin County Assessor's office of all delinquent accounts of record for collection as an assessment on property tax bills in accordance with Section 7-13-2301(4), MCA.

D. Replacement Fund

It shall be the policy of the District to calculate, collect and reserve an annual replacement fund based on a depreciation allowance for capital assets. Replacement funds collected shall be accounted for as required in Section 7-13-2301, MCA, and are included in the monthly water and wastewater user charges.

ARTICLE IV - REFUNDS**A. Wastewater and Water User Charge Refunds**

If the District determines that the actual number of SFEs attributable to a particular parcel of real property are less than the total number of SFEs previously assigned to the parcel, or if a change in SFEs occurs which causes the total number of SFEs assigned to the parcel to decrease, wastewater and water user overcharges caused by the change in SFEs will be refunded by the District for the twelve (12) month period prior to the date the decrease in SFEs is verified by the District. If the

parcel has been overcharged for less than twelve (12) months, then the District's refund to the property owner shall be limited to a refund of those overcharges actually paid. The form of the refund shall be either as a check, or as a credit against the affected account at the owner's discretion.

B. Reimbursement of Permit Charges.

1. Permit Issued. If at any point in the permitting process, a sewer and/or water connection permit has been paid for, and the applicant later decides not to build, the District shall reimburse all but one hundred dollars (\$100) of all fees that have been paid by the applicant.

2. Permit Pending Final Approval. If a sewer and/or water connection permit has not been issued pending conditions for final approval but has been paid for, and the applicant later decides not to build, the District shall reimburse all but one hundred dollars (\$100) of all fees that have been paid by the applicant.

ARTICLE V - TEMPORARY ADJUSTMENT OF USER CHARGES**A. Wastewater and/or Water User Charge Adjustments**

A person may request a temporary adjustment to the application of wastewater and/or water user charges limiting the charges to actual SFEs which are occupied if the permitted improvement(s) under construction becomes partially occupied during the project construction. The request must be submitted to the General Manager in writing and must explain the following:

1. Equitable grounds supporting the applicant's request that applicant not be charged for all permitted SFEs on a temporary basis;
2. Copy of an occupancy certificate for that portion of the building being occupied; and
3. The applicant's planned schedule for full occupancy and use of the permitted SFEs.

B. User Charge Adjustment Procedure

The General Manager must present the request for a temporary user charge adjustment and the General Manager's recommendation to the Board at its next regularly scheduled meeting after receiving the written request for a temporary adjustment. The Board shall have the discretion to either approve or deny the request for adjustment. The Board shall make its decision within sixty (60) days of receiving the recommendation of the General Manager.

ARTICLE VI - VALIDITY

A. Superseding Previous Ordinances

This Ordinance governing rates, fees and charges for the public system shall supersede all previous ordinances of the District pertaining to rates, fees and charges, but shall in no way be deemed to supersede any provision of Ordinance 97-1001 and Ordinance 99-1002.

B. Invalidation Clause

Invalidity of any section, clause, sentence or provision in the Ordinance shall not affect the validity of any other section, clause, sentence or provision of this Ordinance which can be given effect without such invalid part or parts.

C. Amendment

Pursuant to Section 7-13-2275, MCA, the District, through its duly authorized officers, reserves the right to amend this Ordinance in part or in whole whenever it deems necessary.

Passed and adopted by the Board of Directors of the Big Sky County Water and Sewer District No. 363, State of Montana, on this 30th day of January, 2002 by the following vote: 7 Ayes 0 Nays 0 Abstains.

YES NO _____
JOHN 'SKIP' RADICK, President

YES NO _____
DICK WIGGINS, Vice President

YES NO _____
DEE ROTHSCHILLER, Secretary

YES NO _____
WENDELL INGRAHAM, Director

_____ YES	_____ NO	_____ GARY McRAE, Director
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_____ YES	_____ NO	_____ STEWART PEACOCK, Director
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_____ YES	_____ NO	_____ W.W. SHROPSHIRE, Director
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ATTEST:

Dee Rothschiller, Secretary

Date

[S E A L]

CERTIFICATION

The undersigned, Dee Rothschiller, hereby certify that I am the Secretary of the Big Sky County Water & Sewer District No. 363, and that the foregoing amended Ordinance 97-1002 was duly adopted on the third reading by the Board of Directors of the District at a regular meeting on January 30, 2002 . I further certify that, upon a vote being taken on Ordinance 97-1002 at said meeting, the following Directors voted in favor thereof: _____; voted against the same: _____; abstained from voting thereon: _____; or were absent: _____.

Witness my hand and seal officially this 30th day of January, 2002.

Dee Rothschiller, Secretary

EXHIBIT A

SPREADSHEET ANALYSIS

NPV.XLS FILE

EXHIBIT B

WATER METERING CHARGE TABLE