


## CERTIFICATE AS TO ORDINANCE AND ADOPTING VOTE

I, the undersigned, being the duly qualified Secretary of Big Sky County Water & Sewer District No. 363 (the "District"), Big Sky, Montana, hereby certify that the attached ordinance is a true copy of amended Ordinance 97-1002 entitled: AN ORDINANCE REGARDING RATES, FEES, AND CHARGES FOR THE PUBLIC SEWER AND WATER SYSTEM OF THE BIG SKY COUNTY WATER & SEWER DISTRICT NO. 363; PROVIDING FOR ESTABLISHING RATES, FEES AND CHARGES BY RESOLUTION (the "Ordinance"), on file in the original records of the District in my legal custody; that amended Ordinance 97-1002 was duly adopted by the Board of Directors of the District at a public meeting June 21, 2021 and that the public hearing was duly held by the Board of Directors and was attended throughout by a quorum, pursuant to call and notice of such public hearing given as required by law.

I further certify that, upon vote being taken on the amended Ordinance 97-1002 at said meeting, the following Directors voted in favor thereof: President Tom Reeves, and Directors Mike Ducuennois, Dick Fast, Peter Manka, Bill Shropshire and Brian Wheeler; voted against the same: \_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_; or were absent: Mike Wilcynski.

WITNESS my hand and seal officially this 1st day of June, 2021.

  
\_\_\_\_\_  
Richard Fast, 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;  
Amended June 22, 2004, Amended July 15, 2008; Amended August 23, 2016  
Amended December 18, 2019; Amended June 16, 2020; Amended: June 1, 2021

### **AN ORDINANCE REGARDING RATES, FEES, AND CHARGES FOR THE PUBLIC SEWER AND WATER SYSTEM OF THE BIG SKY COUNTY WATER & SEWER DISTRICT NO. 363; PROVIDING FOR ESTABLISHING RATES, FEES AND CHARGES BY RESOLUTION.**

**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; and

**WHEREAS**, the District has determined that the rates and charges of the District should be set by resolution.

**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 and Section 7-13-2301, MCA, the following provisions regarding rates, fees and charges for the public sewer and water system:

#### **ARTICLE I - WASTEWATER RATES**

##### **A. Wastewater User Charge for Unmetered Accounts**

The OM&R wastewater user charge for the public system is 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 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.

Tracts, Sites, and Areas- A 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 charge shall be set by resolution. In the event that a tract, site, area, or other buildable property is subdivided into vacant lots, the lots shall be charged in accordance with the resolution.

##### **B. Wastewater User Charge for Single 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 a 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 charge for wastewater system service and the usage of the Districts public wastewater system shall be set by resolution of the Board of Directors of the District duly adopted with notice thereof given as provided by law.

**C. Wastewater User Charges for Multiple or Clustered Metered Accounts**

It is the Districts 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 served by a single, common meter, the wastewater charges shall be calculated as follows:

1. Wastewater Consumption. Wastewater consumption will be calculated by the meter read cycle from the metered consumption. The charge for multiple or clustered units whether residential or commercial will be the monthly base rate for each unit, plus a combined charge for each units share of the variable rate charge for wastewater use.

2. 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 October through March each year. The District shall use the first available meter reading in October and the last meter reading in March 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 accounts electing to use this billing method and approved by the District for the next six (6) month period. Wastewater usage average for metered accounts using this billing method shall be recalculated each year.

3. Flat Rate Wastewater Charges. If water meter data is not available to calculate 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.

**D. 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.

**E. 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 set by resolution.

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.

**F. 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. The PIC shall be reserved in a segregated and restricted account for engineering and construction of capital improvements to expand the capacity of the public system or existing debt service. The PIC shall be set by resolution.

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. Water User Charge for Unmetered Accounts**

The OM&R water user charge for the public water system 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 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. The charge shall be set by resolution.

b. Property Outside of the District. 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 unless otherwise agreed under the terms of the written agreement.

#### **B. Water User Charges for Single Metered Accounts**

The charges for water system service and the usage of the Districts public water system shall be set by resolution of the Board of Directors of the District duly adopted with notice thereof given as provided by law.

#### **C. Water User Charges for Multiple or Clustered Metered Accounts**

It is the Districts 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 in some cases. 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 served by a single, common meter, the water charges shall be calculated as follows:

1. Water Consumption. Water consumption will be calculated by the meter read cycle, based on the metered consumption. The charge for multiple or clustered units whether residential or commercial will be the monthly base rate for each unit, plus a combined charge for each unit's share of the variable rate charge for water usage if it can be calculated from meter read data.

#### **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**

1. Water Inspection 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. The water connection inspection charge shall be set by resolution.

2. Water Meter Equipment Charge. For new single residential and multiple residential unit water connection permits where 3/4 and 1 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 where feasible, and must be purchased by the owner at the owners 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 or debt service for the public water system.

**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. Upon payment, the District shall reinstate water service.

**H. Bulk Water Charge**

Connections to fire hydrants at any location are prohibited except by the Big Sky 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 set by resolution.

**ARTICLE III – OTHER FEES AND CHARGES**

**B. Property Transfer Fees.**

The District charges for administrative costs related to account maintenance on real property transfers. The real property transfer fee will be added to the water and sewer charges submitted to the title company transfer agents for collection at closing. The charges will then be remitted to the District along with all other water and sewer charges due on District serviced real property.

**ARTICLE IV - 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 one percent (1.0 %) per month, or twelve percent (12%) per annum penalty for sewer and water charges and accrued penalties 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. In addition, the District shall charge an additional fee for each account transferred to the county for collection to cover the District's additional administrative costs related to transfer.

**ARTICLE IV – REFUNDS AND BILLING ERRORS****A. Wastewater and Water User Charge Refunds and Back Billing**

If the District determines that the a billing error attributable to a particular parcel of real property occurred, 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 or undercharges caused by the change in SFEs, or usage error or billing error will be refunded or charged by the District for the twelve (12) month period prior to the date 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 retain a portion of the fee to cover administrative costs.

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 retain a portion of the fee to cover administrative costs.

**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****C. 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.

**D. 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.

**E. 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 1st day of June, 2021 by the following vote:

6 Ayes 0 Nays 0 Abstains.

  
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Tom Reeves  
President, Big Sky County Water & Sewer District

**ATTEST:**

  
\_\_\_\_\_  
Dick Fast  
Secretary, Board of Directors

June 1, 2021  
Date



