

ORDINANCE NO. 94-1001

AN ORDINANCE LIMITING THE USE OF INDIVIDUAL WASTEWATER TREATMENT SYSTEMS AND ESTABLISHING REQUIREMENTS FOR CONNECTION TO THE PUBLIC WASTEWATER TREATMENT SYSTEM OPERATED AND MAINTAINED BY THE BIG SKY COUNTY WATER AND SEWER DISTRICT #363.

PREAMBLE

1. The Big Sky County Water and Sewer District #363 (“sewer district”) was formed to protect the public health and to operate, maintain and upgrade the public wastewater treatment system (“public system”) for the Big Sky area.
2. The use of the public wastewater treatment system is crucial for the protection of ground water and surface water quality and for the protection of the public health.

BE IT ORDAINED by the Board of Directors of the Big Sky County Water and Sewer District #363 as follows:

1. **Definitions.** For the purposes of this ordinance, the following definitions apply:
 - (a) “Person” means any individual, corporation, partnership, firm, company, association, or other organized group, and includes any lessee;
 - (b) “Permit” means a sanitary connection permit issued by the sewer district;
 - (c) “Individual waste water treatment system” means any privy, privy vault, septic tank, drain field, cesspool, or other individual facility for the treatment or disposal of waste water;
 - (d) “District manager” means the person employed by the district to oversee the operation and maintenance of the public system.
 - (e) “District Board” means the Board of Directors of the Big Sky County Water and Sewer District #363.
 - (f) “Lessee” means one who holds real property through a lease agreement with the owner for a term that exceeds two (2) years.

2. **Connection to the public system.** The owner or lessee of any residence, commercial establishment, public institution, or any other structure within the sewer district requiring the disposal of waste water shall, at his own expense, properly connect to the public system.
3. **Permit.** No person may connect to the public system without first obtaining a written permit from the sewer district.
4. **Application for a permit.** Any person who wishes to obtain a permit must submit an application on forms provided by the sewer district. The application shall be in writing, shall be signed and verified by the owner or lessee of the property which is to be connected to the sewer system, and shall contain the following:
 - (a) the name and address of the owner and lessee, if applicable;
 - (b) the legal description of the parcel which is to be connected to the public system;
 - (c) the size, type, and proposed use of the building which the owner or lessee intends to construct or connect to the public system;
 - (d) the load anticipated to be placed on the public system by the proposed use of the building, including when appropriate:
 - (i) when the building is residential, the number of anticipated residents; or
 - (ii) for all other uses, the anticipated load shall be listed in anticipated total gallons or liters of sewage flow.
 - (e) a description of the plumbing fixtures to be installed and their flow rates as expressed in gallons per flush, or gallons per minute, whichever is appropriate.
5. **Individual waste water treatment systems.**
 - (a) A person may not construct or maintain any individual waste water treatment system within the boundaries of the sewer district after the date of enactment of this ordinance, except as provided in subsection (b) of this section.
 - (b) If a sewer main for the public system does not pass within 500 feet of a person's property line, a person may install an individual waste water treatment system, provided that:
 - (i) any individual waste water treatment system that is installed pursuant to this section must comply with all applicable state regulations and county

ordinances and must be properly permitted by county officials; and

(ii) any person with an individual waste water treatment system must connect to the public system within 180 days after a main for the public system is constructed within 500 feet of the person's property line, or within 180 days after an easement across intervening property is secured.

6. Variance for Hardship.

(a) A person may obtain a variance from the prohibition against the construction of an individual wastewater treatment system as described in sections 2 and 5 of this ordinance by submitting an application to the district manager, on forms provided by the sewer district, requesting a variance from the provisions of sections 2 and 5 and a showing that compliance with those provisions will impose a hardship.

(b) In order to establish a hardship justifying a variance under this section, the applicant must show that:

(i) the hardship is unique and peculiar to the applicant's land and is different from any hardship that the ordinance may impose on all properties in the district;

(ii) the hardship is caused by conditions beyond the applicant's control;

(iii) the failure to grant the variance will result in a loss to the applicant of virtually all value for any of the uses to which the property could reasonably be put; and

(iv) the granting of the variance will not violate the spirit of this ordinance and will not jeopardize the goals of water quality protection embodied in the ordinance.

(c) Economic hardship, as characterized by a decrease in property value or other financial loss, will not, of itself, constitute hardship for the purpose of securing a variance under this section;

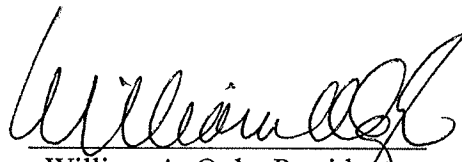
(d) The district manager must present the variance request and his recommendation to the district board at its next regularly scheduled meeting after receiving a complete application for variance.

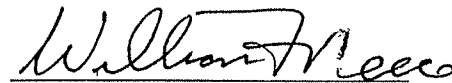
(e) The district board must either approve or deny the variance application within 45 days of receiving the recommendation of the district manager.

7. Change of use. Any person who proposes to change his current property use so as to increase the amount of contribution to the public system must submit an application to

the district manager on forms provided by the sewer district and receive his approval from the district manager before changing the use of his property.

8. **Denial of permits.** The district manager may deny a permit for connection to the public system or an application for change of use for any one of the following reasons:
 - (a) the applicant's proposed connection fails to comply with state law and regulations;
 - (b) the public system has reached its capacity for the treatment and disposal of sewage;
 - (c) a state, federal, or local order specifically precludes the connection of additional service to the public system.
9. **Appeals.** If the district manager denies a permit application or a change of use application, the applicant may file an appeal with the district board within 30 days after the denial is issued. The district board must act upon the appeal within 45 days of receiving it.
10. **Penalty.** Any person violating any provision of this ordinance shall be guilty of a misdemeanor and shall be subject to a criminal penalty of up to six months in jail and a fine of \$500.
11. **Effective Date.** The effective date of this ordinance is February 21, 1995.


William A. Ogle, President


William F. Neece, Secretary