

**RULES AND REGULATIONS**

**GOVERNING**

**WATER AND WASTEWATER**

**SERVICE**

**PUBLIC WORKS DEPARTMENT**  
**CITY OF BILLINGS, MONTANA**

2224 Montana Avenue  
(406) 657-8230

**June 2017**

## **CHAPTER 28 - WASTEWATER SERVICE AREA**

### **28-1. INTENT AND PURPOSE**

The intent and purpose of the rules and regulations set forth in this chapter is to:

- (1) Adopt an official wastewater service area that specifically designates that particular territory which is to be served with wastewater service from the municipal wastewater system;
- (2) Provide for an orderly, planned, and cost effective method of enlarging the wastewater service area so adopted;
- (3) Promote annexation to the corporate city limits of all properties to be served with municipal wastewater service from the municipal wastewater system.; and,
- (4) Ensure public participation and comment in the decision making process with respect to all enlargements of the wastewater service area into an unannexed area of the City of Billings hereafter to be granted by the City Council.

### **28-2. THE WASTEWATER SERVICE AREA**

The wastewater service area for the city is that area within the boundaries of the city, any areas presently served outside the city, and any subsequently approved amendments thereto. A map depicting the wastewater service area adopted herein, and any enlargements shall be made available at all times for public inspection during regular working hours at the Public Works Department Service Center, 2251 Belknap Avenue, Billings, Montana.

### **28-3. PROHIBITED ACT**

It is prohibited for any person to extend, or cause to be extended, beyond the wastewater service area boundary any public or private sanitary sewer and/or wastewater facilities which are, in turn, either directly or indirectly connected with the municipal wastewater system.

### **28-4. ANNEXATION REQUIREMENTS**

- (1) Unless this section is waived by the Mayor and City Council as provided by City code section 26-207, all properties to be included within the wastewater service area shall be annexed or an attempt at annexation shall be made first and before any wastewater service area enlargement applications may considered. Further, whenever possible the property being considered for inclusion in the wastewater service area shall be annexed to the city rather than accepting waivers of the property owner's right to protest annexation of said property to the city. Waivers may be accepted by the City Council in its sole discretion only in those particular cases where good and sufficient cause is shown and a hardship would result if

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waivers were not accepted. Any waivers must be in legal form as approved by the City Attorney; be recorded with the County Clerk and Recorder, Yellowstone County, Montana; run with the land; and shall be signed by owners of the majority of the land area and by a majority of the land owners of the area to be considered for inclusion in the water service area.

- (2) Unless this section is waived by the Mayor and City Council as provided by City code, the property owner shall first petition the City to annex the property involved prior to submission of a wastewater service area enlargement application. The City Council shall then consider such petition.
- (3) The City Administrator or designee shall notify in writing the prospective applicant of denial of annexation or right to file waivers or both, and approval or denial of enlargement of the service area. If approved the applicant shall be notified as to when the requirements set forth in this section have been satisfactorily completed and authorize said applicant to proceed with the service area enlargement application.

#### **28-5. ENLARGEMENT APPLICATION**

Applications and required documentation for wastewater service area enlargements into unannexed areas shall be submitted in writing to the Public Works Director or designee using forms provided by the city.

#### **28-6. PREREQUISITES TO APPLICATION**

Unless this section is waived by the Mayor and City Council as provided in City code, the following conditions shall be met prior to making application for enlargement of the wastewater service area:

- (1) The property at the time the application is filed shall be:
  - (a) Contiguous to the boundary of the wastewater service area as same exists;
  - (b) Entirely within the city's full service urban planning area; and,
  - (c) Entirely within the city's facilities planning area.
- (2) Applicant shall complete annexation requirements.
- (3) Provided, that should a state or federal governmental entity, as a condition of providing funds or grants, require that service be extended to other areas outside the scope of this section (Section 28-6), the City Council may, upon receipt of application for waiver and upon a proper showing, waive the requirements of this section.

## 28-7. APPLICATION REVIEWS AND RECOMMENDATIONS

The Public Works Director or designee shall review all water service area enlargement applications into unannexed areas so filed with the director, and upon completion of said review, the Public Works Director shall submit the application to the City Council for action. A service agreement for the property shall also be submitted to the City Council for action.

The Public Works Director shall review each wastewater service area enlargement application filed with the director for the purpose of determining compliance with the following specific conditions:

- (1) Each application for enlargement of the wastewater service area so filed with the Public Works Director shall be accompanied with a legally binding and lawfully recorded special agreement wherein 100 percent (100%) of the owners-of-record of the property under consideration for inclusion in the wastewater service area shall have agreed to the following:
  - (a) To waive their right to protest any future water and sanitary sewer special improvement districts that may be created in the future by the City Council for the purpose of providing water and/or wastewater service to the property in question;
  - (b) Agree to fully comply with all rules, regulations, resolutions, ordinances, and laws governing the providing of water and wastewater service by the City, or as same may be lawfully changed from time to time;
  - (c) Make commitment to construct all the necessary water and/or wastewater system facilities and to begin development of the entire parcel of property to be included in the wastewater service area within two years from the date of the City Council's approval of the enlargement application. In the event the applicant fails to comply with this particular commitment, the property in question shall automatically be excluded from the wastewater service area; and,
  - (d) Agree to fully comply with any such other conditions and/ or requirements as the City Council may establish from time to time.
- (2) Under no circumstances shall the City Council grant approval to any applicant for enlargement of the wastewater service area which would include property in the wastewater service area that is beyond the service capabilities of the municipal wastewater system.

## 28-8. PUBLIC HEARING

At the time of completion of an annexation, the annexed territory shall automatically be included in the service area; however, before officially acting upon any application for enlargement of the service area into an unannexed area the City Council shall hold a public hearing thereon and shall give public notice of hearing upon each such

waivers were not accepted. Any waivers must be in legal form as approved by the City Attorney; be recorded with the County Clerk and Recorder, Yellowstone County, Montana; run with the land; and shall be signed by owners of the majority of the land area and by a majority of the land owners of the area to be considered for inclusion in the water service area.

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- (3) The City Administrator or designee shall notify in writing the prospective applicant of denial of annexation or right to file waivers or both, and approval or denial of enlargement of the service area. If approved the applicant shall be notified as to when the requirements set forth in this section have been satisfactorily completed and authorize said applicant to proceed with the service area enlargement application.

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  - (a) Contiguous to the boundary of the wastewater service area as same exists;
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- (2) Applicant shall complete annexation requirements.
- (3) Provided, that should a state or federal governmental entity, as a condition of providing funds or grants, require that service be extended to other areas outside the scope of this section (Section 28-6), the City Council may, upon receipt of application for waiver and upon a proper showing, waive the requirements of this section.

application

**28-9. CITY COUNCIL ACTION**

After the conclusion of a public hearing as provided in Section 26-8, by a simple majority vote of those members present and voting, the Mayor and City Council may waive the requirements of Sections 28-4 and 28-6 if in their discretion there exists unique or exceptional factual circumstances that convince them that such requirements within these two sections are unnecessary or impractical.

If the requirements of 28-4 and 28-6 are not waived, the City Council shall approve, conditionally approve or deny an application for enlargement of a service area that has met the requirements of Section 28-4 and 28-6 within thirty (30) days after the date of the public hearing. The approval or conditional approval shall be in force for the period of time set forth in the approval. A denial of an application shall be in force for one (1) year after date of such denial.

In all circumstances where an enlargement of a service area has been approved or conditionally approved but annexation has been denied, prior to the provision of services by the City the applicant shall enter into a service agreement with the City and shall submit a written waiver of right to protest annexation.

