

ARTICLE 26-200. WATER AND WASTEWATER SERVICE AREA

Sec. 26-201. Intent and purpose.

The intent and purpose of this article is to:

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

(Ord. No. 85-4618, § 1(18.05.010), 1-14-85)

Sec. 26-202. Adoption of service area.

The official water or wastewater service area for the city is that area of the city within the boundaries of the city, any areas presently served outside the city and any subsequently approved amendments thereto. A map depicting the water service area adopted herein, and any enlargements that may be from time to time approved by the city council, shall be made available at all times for public inspection during regular working hours at the Utility Service Center, 2251 Belknap Avenue, Billings, Montana. A map depicting the wastewater service area shall be developed and maintained in the same manner.

(Ord. No. 85-4618, § 1(18.05.020), 1-14-85; Ord. No. 06-5356, § 4, 1-9-06)

Sec. 26-203. Prerequisite to application.

Unless this section is waived by the mayor and city council as provided in section 26-207, the following conditions shall be met prior to making application for enlargement of the service area:

- (1) The property at the time the application is filed shall be:
 - a. Contiguous to the boundary of the service area as same exists;
 - b. Entirely within areas allowed for annexation as described in the city annexation policy;
 - 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 26-

203), the city council may, upon receipt of application for waiver and upon a proper showing, waive the requirements of this section.

(Ord. No. 85-4618, § 1(18.05.030), 1-14-85; Ord. No. 11-5535, § 2, 6-13-11; Ord. No. 16-5673, § 1, 6-27-16; Ord. No. 24-5870, § 1, 2-12-24)

Sec. 26-204. Annexation requirements.

- (a) Unless this section is waived by the mayor and city council as provided in section 26-207, all properties to be included within the service area shall be annexed or an attempt at annexation shall be made first and before any service area enlargement applications may be considered. Further, that whenever possible the property being considered for inclusion in the service areas 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 in its sole discretion only in those particular cases where good and sufficient cause is shown and a hardship would result if waivers were not accepted.
- (b) A prospective applicant shall first petition the city to annex the property involved prior to submission of a service area enlargement application. The city council shall then consider such petition. 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.
- (c) The city administrator 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.

(Ord. No. 85-4618, § 1(18.05.040), 1-14-85; Ord. No. 16-5763, § 2, 6-27-16)

Sec. 26-205. Enlargement application.

Applications and required documentation for water and/or wastewater service area enlargements shall be submitted in writing using forms provided by the city.

(Ord. No. 85-4618, § 1(18.05.050), 1-14-85; Ord. No. 16-5763, § 3, 6-27-16)

Sec. 26-206. Public hearing.

At the time of completion of 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 application.

(Ord. No. 85-4618, § 1(18.05.060), 1-14-85; Ord. No. 16-5763, § 4, 6-27-16)

Sec. 26-207. City council action.

After the conclusion of a public hearing as provided in section 26-206, by a simple majority vote of those members present and voting, the mayor and city council may waive the requirements of sections 26-203 and 26-204 if in their discretion there exists unique or exceptional factual circumstances that convince them that such requirements within these two (2) sections are unnecessary or impractical.

If the requirements of 26-203 and 26-204 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 26-203 and 26-204 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.

(Ord. No. 85-4618, § 1(18.06.070), 1-14-85; Ord. No. 16-5763, § 5, 6-27-16)