

**ORDINANCE NO. 377**

**AN ORDINANCE OF THE CITY OF HAMILTON TO AMEND THE TEXT OF CHAPTER 13.04, CHAPTER 13.08 AND CHAPTER 13.16 OF THE HAMILTON MUNICIPAL CODE**

WHEREAS, the amended text of Hamilton Municipal Code Chapter 13.04, Chapter 13.08 and Chapter 13.16 has been reviewed and approved by the City Council; and

WHEREAS, the City published notice of the related public hearings before the City Council in the Ravalli Republic newspaper on October 5, 2013, and on October 12, 2013, thereby complying with legal notice requirements; and

WHEREAS, the Hamilton City Council held its public hearings on October 15, 2013 and November 5, 2013; and

WHEREAS, the City Council held a first reading of this Ordinance No. 377 on October 15, 2013; and

WHEREAS, the City Council held a second reading of this Ordinance No. 377 on November 5, 2013.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hamilton that the text of Chapter 13.04, Chapter 13.08 and Chapter 13.16 of the Hamilton Municipal Code shall be amended with the text set forth in Exhibit "A" to this Ordinance No. 377 in all respects.

BE IT FURTHER ORDAINED by the City Council of the City of Hamilton that this Ordinance No. 377 is passed, approved and adopted effective thirty (30) days following the second reading thereof on November 5, 2013.

By: \_\_\_\_\_  
Jerry E. Steele, Mayor

Attest: \_\_\_\_\_  
Rose M. Allen, City Clerk

**EXHIBIT "A" TO  
ORDINANCE NO. 377**

**13.04.010 - Definitions.**

As used in this title the following terms are defined in this section:

"Base rate" means a fixed monthly charge set by Resolution of the city council payable by property owners with water service to cover the cost of improvements to the existing water system, and will be calculated based on water meter size.

"Building" means any physical structure located on the ground.

"Building lot," means a parcel of ground, which meets the minimum requirements for construction under the zoning regulations.

"Connection fee" means a fee based on the EDU cross sectional area diameter of a water service line which fee is intended to cover each water service's proportionate share of the existing cost of the public water system.

"Department" means the City of Hamilton Water Department.

"Director of public works" means manager of the water department and water system of the city or his/her authorized deputy, agent or representative.

"EDU" or "Equivalent Dwelling Unit" means the cross section area of a water service line pipe.

"Finance department" means the City of Hamilton finance department.

"Metered charges," means a charge per thousand gallons for actual water used.

"MDEQ" means Montana Department of Environmental Quality state regulatory agency over public water systems.

"Non-metered charges" means a fixed monthly charge for water when gallons are not metered.

"Owner" means the owner of record of a property or his/her agent designated on application for water service.

"Private wells" means a water well that is not part of the city water system.

"User" means the person, whether renter or owner, who actually uses the water.

"Water service" means each individual water line capable of carrying water including the curb cock valve, curb box riser, meter pits, pipes and all apparatus from the connection in the city water supply to and within the owners premises.

"Water supply" means water produced by the water system.

"Water system" means all water mains, water wells, water storage tanks, booster stations and apparatus owned and operated by the city.

"Water use charges" means metered charge for gallons of water used, or non-metered rate when not metered.

"Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed and intended for the location, diversion, artificial recharge or acquisition of ground water. The term does not include spring development or excavations, by backhoe or otherwise, for recovery and use of surface waters or for the purpose of stock watering or irrigation where the depth is twenty-five (25) feet or less.

#### **13.04.020 - Agreement for water service.**

All owners who require water service or water supply shall enter into an agreement at the Finance department office. The agreement shall:

1. Set forth all purposes for which the water will be used;
2. Be signed by the property owner, and filed with the Finance department account file. The agreement shall be binding for all heirs and successors of the property and shall state the property owner must comply with all applicable rules and regulations.
3. Any change in ownership of the premises will require a new application for water service.

#### **13.04.030 - Tapping.**

- A. After an agreement for new water service on an existing main has been recorded, the department will tap the main and furnish the corporation cock and clamp and any other material used or labor furnished in connection with the tapping of the main. Actual tapping of the water main will be made by department personnel or a licensed plumber under department supervision.

- B. A tapping fee, also referred to as a connection fee, shall be paid as specified in Section 13.04.050 to cover the permit and inspection.
- C. The contractor shall notify the director of public works three working days before a tap will be made and coordinate all activities in this regard. Tapping of the main shall be performed only during a regularly scheduled workday.

#### **13.04.040 - Public water connection, permit required.**

No unauthorized person shall uncover, tap, make any connections with or opening into, use, alter or disturb any public water service or system or apparatus, including fire hydrants or pertinences thereof, without first obtaining a written permit approved by the director of public works.

#### **13.04.050 - Permits, inspections and connection fees.**

- A. For residential, commercial and industrial water service, the property owner or their agent shall make the water permit application on a form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information required by the director of public works.
- B. A connection fee shall be established by resolution of the city council and shall be paid by the owner to the department at the time the application for hookup to existing city services is filed. Such fee shall cover the water connection cost, the cost of the first water meter pit, water meter, curb stop valve, curb stop valve riser, the inspection(s) and the tap into the water system. The connection fee shall be based on the EDU cross sectional diameter size of the water service pipe connected to the city water main.
- C. A differential connection fee shall be paid by the owner for upgrading the size of an existing established water service based on the differential cost of the existing EDU cross section diameter size of the water and service and the EDU cross sectional diameter size of the new upgrade water service established by resolution of the city council. The connection fee shall be paid by the owner to the department at the time the water service line size is upgraded.
- D. The department shall control all water supply at the curb stop valve.

#### **13.04.060 - Inspection of water supply line required.**

A permit for a water supply line shall not become effective until the director of public works grants final inspection approval. The director of public works shall be allowed to inspect all water supply line work at any stage of construction. The applicant for the permit shall notify the director of public works when the work is ready for final inspection, and before any underground portions are covered. The director of public

works shall make the inspection within forty-eight (48) hours of the receipt of notice, excluding all legal holidays and weekends.

**13.04.070 - Regulations for water supply line connections to the public systems.**

- A. The type, capacities, location and layout of a water supply line shall comply with all recommendations of the Department of Environmental Quality of the State of Montana.
- B. The Montana Public Works Standard and Specifications most current edition adopted by the State of Montana are incorporated herein by reference as standard specifications for private water service installations.
- C. Private water wells are prohibited from being cross-connected to the City of Hamilton Public Water System.
- D. All time periods stated herein for the city and director of public works shall exclude legal holidays and weekends.

**13.04.080 - Water to be turned on and off by authorized person.**

Water supply shall be turned on and off only at the curb stop valve and only by an authorized employee of the department.

**13.04.090 - One connection for two or more buildings.**

It is unlawful for any owner or user, to provide or transport any water supply to more than one building through one and the same water service, including owner's of townhouses, except with written permission of the city council.

An owner may provide water supply through one water service to any other of the same owners buildings sited on the same lot, or to a condominium unit of the same building, provided the water service is approved by the director of public works and provided that all water use is measured through a single master meter which shall be billed to one identified owner. Individual units may request separate meters at the owner's request. However, any such individual separate meters are the owner's responsibility and shall not be read or billed by the city.

**13.04.100 - Owner responsibility.**

- A. The cost and installation of a new water supply line from the city main to the building or premises and all street, public right of way and sidewalk repairs required for installation shall be the responsibility of the owner. After all said repairs, inspections and acceptances by the director of public works or his/her designee, the city shall assume ownership and be responsible for operation,

and maintenance of the water system portion from the city main to the property line.

- B. The water service from the property line to within the building is the responsibility of the owner, who shall protect it from freezing, keep it repaired, maintain access to the curb stop valve riser cap (if the curb stop valve is located on the private property), and be responsible for damages resulting from leaks and breaks. No claims shall be made against the city because of breaks in any water service pipe or apparatus, or for failure in supply of water.
- C. In the event of a leak in the water service or water system, the department shall investigate to determine the origin of the leak. If the leak is in the water system or water supply line on city property to the private property line, the department shall repair the break. If the leak is in the water service from the property line to within the building, the owner shall be notified by a written notice of noncompliance issued by the director of public works and shall be required to obtain all city permits necessary and shall excavate, repair the leak, replace the street, and assume the cost of all repairs and damages that result from the leak.
- D. If the owner does not make all necessary repairs within the time stated by the director of public works, the department shall excavate and install a water meter pit at the curb stop valve located in the street right of way boulevard to record and assess costs for all water losses generated from the leaking condition. All costs for labor and materials to install the meter pit including but not limited to, labor, machinery, and materials whether incurred by the department or contracted out, plus an administrative fee of two hundred fifty dollars (\$250.00) shall be assessed against the owner. If the assessment is not paid within thirty (30) days, the water service shall be terminated until paid in full, and the city still may pursue all other remedies to enforce this section as well as to collect the assessment.
- E. If the director of public works is not able to immediately notify the owner and determines that in the interest of public safety and welfare that any leak in water service requires immediate repair, the director of public works is authorized to terminate water service, or under extreme circumstances that water service is required, the director of public works is authorized to make such repair and the reasonable costs of repair shall be assessed against the owner.
- F. No person may commit waste of the city's water supply. Owners shall keep their fixtures and service pipes in good working order and shall close all water services when not in use. The city shall have the right to seek damages against an owner who wastes the city's water supply.

#### **13.04.110 - Other applications for sale of water.**

No person including contractors, builders or others shall use any water supply until first having made application to the Finance department , approved by the Public Works Director, and agreeing to pay an amount based on the prevailing base rate calculation and metered charges as billed by the Finance department.

#### **13.04.120 - Shut off water for repairs.**

Users shall be given twenty-four (24) hour notice if water supply will be shut off for repairs, extensions, or other necessary cause. In the case of an emergency, the department may shut off the water supply without notice. No claims may be made against the department for breakage of any service pipe, or other damages, resulting from shutting off the water supply.

#### **13.04.130 - Access to buildings.**

The department shall have access, upon reasonable notice to an owner, at all reasonable times to all parts of any building or premises to which water is being delivered from the water mains to inspect the condition of the pipes and fixtures and the manner in which the water is used, and shall also have the right to remove the meters from the premises for examination and tests when necessary.

#### **13.04.140 - Watering hours for irrigation customers.**

Metered customers may water at any hour of any day of the week. Non-metered customers are restricted to sprinkling during the following hours:

Odd numbered houses on odd days:

6:00 a.m. to 10:00 a.m. and 5:00 p.m. to 10:00 p.m.

Even numbered houses on even days:

6:00 a.m. to 10:00 a.m. and 5:00 p.m. to 10:00 p.m.

Violators will be issued two warning notices. A third notice will carry a ten dollar (\$10.00) fine. Subsequent violation fines shall increase incrementally ten dollars (\$10.00) for each violation.

#### **13.04.150 - Discontinuance of service.**

- A. Permanent discontinuance. An owner who wishes to have the city's water supply permanently discontinued shall give the director of public works at least

twenty-four (24) hours written notice and shall specify the date that the supply be discontinued. The owner shall remain responsible for all water service to the premises.

- B. City disconnects. Any owner who permanently discontinues the city water supply shall protect the city's public water system and water supply by:
  - 1. Eliminating all cross connections. This is the preferred method to achieve the highest protection of the public water system and water supply; or  
Disconnecting and capping off the water service from the water system and water supply; or
  - 3. Inserting into the water service piping, an approved backflow device approved by the director of public works, which shall protect the public water system and water supply.
- C. Maintenance of any backflow device is the owner's responsibility at the owner's expense. The owner shall keep records of all maintenance or replacement of the backflow device and provide records to the director of public works upon request. A cross connection shall be disconnected for failure to maintain the backflow device in  
  
a good and operating condition or for failure to keep and provide maintenance records. The director of public works shall have the right to inspect all such devices and records, and shall have the right to protect and direct the appropriate measures to best protect the city's water supply.
- D. Any owner who permanently discontinues the city water supply and system shall be required to pay a new connection fee prior to connecting back into the city water supply.
- E. Temporary discontinuance. If an owner elects to temporarily discontinue the water supply, the owner shall give the director of public works at least twenty-four (24) hour notice and specify the date of discontinuance. The department may seasonally turn off the curb stop valve at no charge for users whose accounts are not delinquent, upon forty-eight (48) hour notice. The department will provide one complete (on/off) courtesy call each year without a charge. Any additional calls shall be subject to a fee. The department shall assess a reconnection fee of thirty-five dollars (\$35.00) at the time of reconnection which fee shall be paid prior to reconnection.
- F. Exempt: For bonafide emergency situations, the director of public works may waive this fee.

### 13.04.160 - Meter regulations.

All water services connected to the public water system shall have a water meter installed for the purpose of accurate measurement of the volume of water used through the water service.

- A. The department shall own, rent or lease, and shall maintain and operate all meters and equipment necessary for the regulation and accurate measurement of water usage.
- B. The department shall assess against each owner using the public water system the actual cost of meters and equipment, including readout, couplings, meter pits and all connections, plus a ten percent administration fee. Each owner shall pay the assessed amount within thirty (30) days of installation.
- C. Owners shall allow access for meter installation, inspections, maintenance or replacement upon forty-eight (48) hour notice by the director of public works or designee.
- D. Water service shall be terminated if the owner refuses to allow access or otherwise fails to fully cooperate in installation, maintenance or replacement of water meters, or if the owner fails to timely pay amounts due.
- E. The director of public works or designee shall determine the type and size of each water meter to be installed.
- F. The water meter shall be installed according to the manufacturer's specifications and where it is easily accessible for reading, maintenance, replacement, inspection and repair.
- G. Meter pits shall be installed outside any building when the director of public works determines that a regular meter installation cannot be reasonably accomplished. All new water service lines shall be required to have a meter pit installed on the water service line located on public property when space permits.
- H. The water usage shall be determined from a master water meter provided, by the city. Secondary meters may be purchased from the department for the convenience of the owner, as in apartment houses or multi-plexes, at the owner's request and expense. The department shall issue one bill for the water supplied and used. All secondary meters shall be installed in a manner so that all water supplied passes through the master meter prior to passing through the secondary meter. Secondary meters shall not be read or billed separately.
- I. The owner shall protect meters from frost or other damage. Owners and users may not tamper with meters nor permit others to do so. If the meter seal is broken, working parts have been tampered with, or time

meter damaged, the owner shall be assessed with the full cost of repairing or replacing the meter.

- J. The Finance department shall normally read meters each month. In no instance shall a meter be read less often than once in a two-month period.
- K. An owner may request that the meter be removed and tested for accuracy. If the meter is found to be recording within two percent accuracy, the cost of removal, testing, and replacing shall be borne by the owner. If the meter is found to be recording incorrectly (greater than two percent error) the cost of removal, testing, and replacing shall be borne by the department.
- L. When a meter fails to correctly record water usage for any period, the Finance department shall average usage for the three-month period immediately preceding and following the period when the meter was found defective, to determine the amount of water used during that time.
- M. Each year the department shall test a random sampling of the meters in service for accuracy of recording. If any meter is found to have an average error of more than two percent the director of public works shall authorize a refund for any overcharge and the owner shall be assessed any undercharge for a period no more than three months, based on the corrected reading, unless the overcharge or undercharges are attributable to a cause for which a date can be determined, and in which event, the overcharge or undercharge shall be computed back to but not beyond such date.

#### **13.04.170 - Access to buildings and property.**

The director of public works or designee shall have access at all reasonable times to all parts of any building or premises to which water is being delivered from the city's water supply to inspect the condition of time pipes and fixtures and the manner in which the water is used, inspection of backflow devices, maintenance records of backflow devices and shall also have the right to remove the meters, from the buildings or premises for examination and tests when necessary.

#### **13.04.180 - Separate curb stop valve required.**

- A. A separate curb stop valve to control the water supply for each separate building or premises shall be placed at a point located within the dedicated city property as designated by the director of public works. The curb stop valve shall be in workable condition. The owner of the building or premises shall be responsible for installation of the first curb stop valve meeting City of Hamilton

Public Works Standards and Specifications at the property owner's expense. Upon approval and acceptance of the curb stop valve and curb stop valve riser by the director of public works, the department shall assume ownership and be responsible for operation, maintenance and accessibility of the curb stop valve and curb stop valve riser. If the owner fails to properly locate, install and provide access to the first curb stop valve and curb stop valve riser, the department shall not provide water service until repair/replace or re-locate of the curb stop valve is completed at the owner's expense and approved and accepted by the director of public works.

- B. Curb stop valves located within the private property shall be allowed to remain in their present location. The owner of the building or premises shall be responsible for maintaining accessibility of the curb stop valve and curb stop valve riser. If the curb stop valve is no longer in a workable condition in the valve open position and not causing a water line leak, it can be abandoned at the owner's option. A new curb stop valve shall be required to be installed to replace the non-operational curb stop valve on the dedicated city property as designated by the director of public works at the owner's sole expense.

#### **13.04.190 - Duty of water users.**

In the event of a water emergency, proclaimed by the city mayor, every water user of the Hamilton Water System shall immediately close all water outlets used for irrigation purposes. Every water user shall thereafter comply with all emergency water use instructions issued by the director of public works including but not limited to boil orders or cessation of all water use until the emergency is proclaimed to be over.

#### **13.04.200 - Private wells.**

The intent of the city is to reduce and minimize the waste and contamination of ground water resources in the City of Hamilton by reasonable rules and regulations for the establishment and operation of private wells to protect the health and general welfare of the City of Hamilton's Water System and Water Supply.

- A. New or improved private water wells. Any person proposing to drill or install private water well or improve existing water well within the city limits, must receive a permit from the City of Hamilton before proceeding with any work. No permit shall be processed or issued without the approval from the Department of Natural Resources and Conservation. The approved permit from the City of Hamilton shall be recorded with the Department of Natural Resources Center. Private water wells of any type may not be cross-connected with the city water system and must meet all rules and regulations required by the State of Montana.

1. Private water wells for the purpose of providing irrigation water shall be permitted upon application to the Department of Public Works. The permit application shall include a site plan indicating the proposed location of the well, any other wells within two hundred (200) feet of the proposed well location, and a description of land area to be irrigated. An irrigation well shall be permitted to be used for irrigation purposes only. Any other use of the irrigation well shall be cause for revocation of the permit. A permit for private water wells for potable water shall be submitted to the Department of Public Works and shall only be granted when there is not city water system within two hundred (200) feet of the subject property and when all applicable rules and regulations issued by the State of Montana are met. The permit application shall include a site plan indicating the proposed location of the well, any other wells within two hundred (200) feet of the proposed well location and a description of the existing or proposed use of the subject property.

All private water wells are subject to the following stipulations:

- A. The City shall revoke the permit for any private water well, which violates the provisions of this Title or any of the laws of the State of Montana. The City reserves the right to revoke any permit of any private potable well at such time that the city domestic water services become available within two hundred (200) feet of the subject property.
- B. In the event of a violation in the water service or water system, the owner shall be notified by a written notice of violation issued by the Director of Public Works and shall be required to correct the violation within the time set by the Director of Public Works and obtain all city permits necessary.
- C. If the owner does not correct the violation within the time stated by the director of public works, the permit shall be revoked and the well shall be considered abandoned.
- D. The location of private water wells approved by the City of Hamilton shall be shown on a plat map and well log shall be recorded with the clerk and recorder's office of Ravalli County.
- E. Private water wells shall have a city water meter installed when the owner is connected to the city wastewater system. The meter installation shall be done at the expense of the property owner for the purpose of measurement of sewage generated. Meters shall be replaced at the expense of the owner.

- F. All private water wells shall be subject to inspection by the director of public works or his/her designee to insure compliance with city regulations and the State of Montana rules and regulations for the use of private wells. Noncompliance with city regulations may be cause for revocation of the private well. Any inspection, which reveals any threat to the city water system or city water supply, as determined by the director of public works, shall be subject to a cease and desist order, which shall remain in effect until such threat is eliminated.

Any water wells, which are not in continuous use for one hundred eighty (180) days, shall be deemed abandoned and shall be sealed in a manner, which meets the approval of the Director of Public Works for the City of Hamilton and the laws of the State of Montana.

#### **13.04.210 - Automated sprinkler/irrigation systems.**

- A. Connection of any sprinkler or irrigation system to the public water supply shall require a plumbing permit approved by the director of public works or designee before the installation of any sprinkler or other irrigation system. The city shall provide a plumbing permit application form. The plumbing permit requirement applies to systems installed after the date of enactment of this section.
- B. Sprinkler and irrigation system specifications shall be provided with the application for a plumbing permit to install sprinkler and irrigation systems. The specifications shall include the gallon per minute volume required, water pressure requirement, type of backflow preventor device and any other information deemed necessary to the director of public works or designee prior to approval and installation of the system.
- C. All sprinkler and irrigation systems, including existing systems, shall meet all standards and requirements of the current edition of the Uniform Plumbing Code (adopted by the City of Hamilton as well as all applicable other federal, state and city laws, rules and regulations).
- D. Time: Director of public works shall review and approve sprinkler and irrigations system specifications and flow and pressure requirements to determine if the system requirements exceed the current installed water meter specifications before the plumbing permit approval and issuance.
- E. A water meter shall be installed which is properly sized to measure the increase in flow demand. The owner shall pay the cost of any change in meter as well as any corresponding change in the water service connection. The increased service connection fee shall be charged according to the connection fee rates adopted by the city.
- F. The property owner shall pay the cost for the new water meter and all plumbing installation costs of the new water meter. The owner shall pay the differen-

tial water system connection fees. The connection fee shall be calculated by subtracting the current meter size from the required larger meter size using the current connection fee schedule adopted by the city. The director of public works and/or the city plumbing inspector shall complete the inspection of the installation.

- G. Sprinkler and Irrigation system permit fees shall be set by the Uniform Plumbing Code (adopted by the city council or established by the city council by resolution).
- H. A separate water meter shall be installed at the owner' s expense for all irrigation and sprinkler systems where time building' s main water meter is unable to be used to measure water use. A separate control valve shall be installed on all systems where the connection is made to the water supply to provide for isolation of the sprinkler and irrigation system from the main water supply.
- I. An approved backflow device shall be installed on all sprinkler and irrigation water systems.
- J. The owner, upon forty-eight (48) hour notice, shall allow access to the premises for the director of public works or designee to inspect system connections and backflow device. Failure to allow access for inspection shall be cause for immediate termination of water service.
- K. Existing systems installed without an approved backflow device shall be required to have an approved backflow device installed at the owner's expense. The director of public works or designee shall provide written notice of a non-compliant water service. Failure to install an approved backflow device within thirty (30) days shall require disconnection of irrigation sprinkler systems. If the owner fails to disconnect the irrigation sprinkler system within thirty (30) days, the water service shall be terminated.
- L. All other meter installations shall comply with Section [13.04.160](#)

#### **13.04.220 - Violation—Penalty.**

Any person or business violating a provision of this chapter not covered by penalty shall, upon conviction thereof, be punished as set forth in [Chapter 1.28](#) of this Code.

#### **13.08.010 - Purpose.**

The purpose of this chapter shall be to generate sufficient revenue to pay all costs of the Hamilton water system. Insofar as practicable, the costs shall be distributed equitably among all users of the water system.

### **13.08.020 - Determining the total annual cost of water system.**

The city council shall determine the annual budget for the water system. The annual budget shall include but need not be limited to labor, repairs, power, sampling, necessary modifications, equipment replacement, capital improvements, servicing the city water debt, and a reasonable contingency fund.

### **13.08.030 - Base rate charge to property owners.**

- A. A base rate charge per month shall be assessed against the owner of property in which a water service is installed and to which water supply is available. This monthly base rate will be based upon water meter size regardless of water service line size.
- B. Owners of non-metered property shall pay the appropriate base rate plus estimated water usage charges calculated according to the current American Water Works Standards and based upon the number of persons in the household.
- C. Each metered water service shall pay the base rate set by city council.

### **13.08.040 - User charge.**

- A. Meter rates shall apply to all metered water services. The metered rate charge shall be the rate approved by the city council.
- B. Non-metered rates. When a meter has not been installed, a non-metered rate shall be charged the owner of the property. The non-metered charge shall be the rate approved by the city council.
- C. Irrigation rates.
  - 1. It is the intent of the city council that all irrigation and sprinkler systems shall be metered. However, for existing non metered systems, the following applies:
    - a. Non-metered city water users shall be charged an annual irrigation fee which will be calculated at one dollar and twenty-three cents (\$1.23) per one hundred (100) square feet of property being irrigated. This includes areas the property owner is responsible for, including boulevards, easements areas, gardens, shrubs, etc. Areas not requiring water shall be excluded from the calculation. These include: buildings, driveways, concrete aprons, patios, sidewalks, or any other areas devoid of vegetation.
    - b. The irrigation fee shall be charged beginning May 1st and ending September 30th and billed in equal monthly amounts during this period. The irrigation fee shall be in addition to the non-metered charge for domestic use.

- c. If an owner or user refuses to allow the department to measure his or her yard for assessment of the irrigation fee, the department shall use an estimated square footage charge based on platted information filed in the county courthouse or by using similar charges for residences in that area.

**13.08.050 - Payment of water use and base rate charges.**

- A. Payment of the water use and base rate charges shall be the obligation of the owner of the lot or parcel of real estate served.
- B. Billing procedures.
  - 1. Each month, the Finance department shall bill the owner of each property served. No water service account may be held in the name of, and no billing may be sent solely to, a rental tenant of a serviced property. Upon receipt by the Finance department of a dated and signed letter of instruction from an owner of a serviced property, the Finance department will send water service billings to such owner in care of an established property management company. In addition, if a property enters foreclosure, the owner may request that the property listing agent or real estate firm receive bills for the property by completing a change of billing information form. If a property enters bankruptcy, the owner may request that the bank or trustee receive the bills for the property by completing a change of billing information form.  
If the bill is not paid within twenty-eight (28) days, it becomes past due and the arrears shall be shown on the next billing.
  - 3. The Finance department shall notify the owner by letter when an account becomes fifteen (15) days past due.
  - 4. If the account is still delinquent at the end of forty-five (45) days, a letter of termination shall be sent by US Mail to the property owner and a copy will be posted in a conspicuous place on the property with a dated digital photograph taken showing placement of the notice with date/time and address of the property. The letter will state that service will be terminated forty-eight (48) hours after the shut off notice is posted at the premises, excluding weekends and holidays, unless the full amount of the bill, including current and delinquent charges has been paid, or a written payment agreement is entered into between the property owner/tenant and the city.

The mayor or the finance administrator or his/her designee is authorized to enter into such payment agreement on behalf of the city. If the

property owner/tenant defaults on the agreement, water service shall be terminated immediately.

5. When a customer's check is returned unpaid by the bank for not sufficient funds, the customer will be assessed a fifteen dollars (\$15.00) returned check fee. If the check represented a payment to avoid water service termination, water service shall be terminated when the city receives notice of the NSF from the bank, following a twenty-four-hour shut off notice being posted at the property. Water service will be restored once all current and past due amounts, all penalties, all returned check fees, and the reconnect fee have been paid. The form of payment must be in cash, cashier's check, money order, or a credit/debit card.

If a customer issues a second NSF check to the city, that customer will no longer be able to use checks, ACH, or online bank checks for payment to the city.

#### **13.08.060 - Termination of service.**

- A. Any time fraudulent use of water is detected or the department's regulating or measuring equipment has been tampered with, or an emergency situation is found to exist on the user's premises, the director of public works may direct the water be shut off immediately without notice.
- B. In all other circumstances, the director of public works may not discontinue service on Friday, Saturday, Sunday, a legal holiday or a day prior to a legal holiday. All disconnections shall be performed between the hours of eight a.m. and four p.m.
- C. If a letter of termination is sent to the owner and posted on the property as set forth in Section 13.08.050 and the full amount of the bill has not been paid or a payment agreement approved by 10:00 a.m. on the shut off day identified in the letter, a \$35.00 administrative termination fee shall be assessed. The termination fee shall be assessed even if the water cannot be turned off due to city work schedules, a faulty non-working curb stop valve, or an inaccessible curb stop valve.
- E. Before water service is restored, the termination fee and all water bills, delinquent and current, shall be paid unless written payment agreement is approved as set forth in Section 13.08.050. For each month the account is past due, the lawful rate of interest, currently ten percent (10%) per annum, shall be charged.

- F. An account is past due if it has not been paid in full within thirty (30) days of the date it was billed. If the payment agreement is violated, the total amount becomes due immediately. If this amount is not paid, the water supply shall again be terminated.

**13.08.070 - Billing errors.**

If an over-collection error has occurred, the Finance department must go back in time as far as is necessary to correct the erroneous billing. If an under-collection error has occurred, the department shall go back to the date of the service application of the current owner or where applicable to the date of the most recent meter test.

**13.08.080 - Violation—Penalty.**

Any person or business violating a provision of this chapter not covered by penalty shall, upon conviction thereof, be punished as set forth in [Chapter 1.28](#) of this Code.

**13.16.010 - Purpose.**

The purpose of this chapter shall be to generate sufficient revenue to pay all costs for the improvements to, and operation and maintenance of, the public sewer system. Insofar as practicable, the costs shall be distributed equitably to all users of the public sewer system.

**13.16.020 - Determining the total annual cost of operations and maintenance.**

The city shall determine the total cost of improvements to, and operation and maintenance of, the public sewer system. The total cost shall include, but need not be limited to, labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory tests and a depreciation fund.

**13.16.030 - Determining each user's public sewer contribution.**

The city shall determine each user's average daily volume of sewage waste discharged into the public sewer system. Each owner shall install a water meter as specified in Section [13.04.160](#) in order to measure the volume of discharge into the city's public sewer system.

Private well users who are also connected to the city's wastewater system shall have a master meter as specified in Section [13.04.160](#) installed at the owner's expense to measure the amount of water used from any well which is not used exclusively for irrigation purposes.

**13.16.040 - Determining sewer usage during irrigation and non-irrigation months.**

Calculation of sewer waste discharge shall be based upon a three-month average using the months December, January and February, which average shall apply to the next twelve (12) month period. Properties that show no water usage during this three month period shall have the "minimum waste water usage" applied. Newly constructed sites shall also have the "minimum waste water usage" applied upon the inception of water and sewer services. During the averaging months, the "minimum water usage" is established at five thousand (5,000) gallons per month. Exception: The Bitterroot Aquatic Center will have its sewer waste discharge calculated on a twelve (12) month average of its metered water usage. This average will be based on the months of February to January, and will be applied to the next twelve (12) month period for billing purposes.

**13.16.050 - Base rate and use charges.**

All owners of property connected to the public sewer system shall pay a monthly base rate charge as established by resolution of the city council, from time to time.

All owners of property connected to the public sewer system shall also pay a monthly user rate as established by resolution of the city council, from time to time, to cover all costs of operation and maintenance of the public sewer system. This use rate shall be calculate according to the metered water volume used monthly.

**13.16.060 - Determining each user's public sewer service charge.**

- A. Residential users may be considered to be one class of user and equitable service charge may be determined for each user based upon an estimate of the total wastewater contribution of this class of user. The governing body may classify industrial and commercial establishments as a residential user, provided that it is determined that such user will introduce primarily segregated domestic wastes and wastes from sanitary conveniences.
- B. Commercial and Industrial. All commercial and industrial customers will be charged the same rates for volume usage as the residential customers. The volume will include a total metered usage exclusively of any irrigation water measured through a secondary meter. The commercial and industrial users will be additionally charged for the processing of extra strength sewage, which the city agrees to accept and treat. Extra strength sewage is any sewage having an excess of two hundred fifty (250) milligrams per liter (mpl) biochemical oxygen demand and/or two hundred fifty (250) milligrams (mph) suspended solids. The additional charges are to be as follows:

1. Biochemical Oxygen demand:	\$0.17 per pound in excess of 250 mpl
2. Suspended solids	\$0.18 per pound in excess of 250 mpl

### **13.16.070 - Payment of sewer service charges and penalties.**

- A. Payment of the sewer use and base rate charges shall be the obligation of the owner of the lot or parcel of real estate served.
- B. Billing procedures.
  - 1. Each month, the Finance department shall bill the owner of each property served. No sewer service account may be held in the name of, and no billing may be sent to, a rental tenant of a serviced property. Upon receipt by the Finance department of a dated and signed letter of instruction from an owner of a serviced property, the Finance department will send sewer service billings to such owner in care of an established property management company.

If the bill is not paid within twenty-eight (28) days, it becomes past due and the arrears shall be shown on the next billing.
  - 3. The Finance department shall notify the owner by letter when an account becomes fifteen (15) days past due.
  - 4. If the sewer account is still delinquent at the end of forty-five (45) days, the city Finance administrator shall give the notice prescribed by Section 7-13-4309 MCA as amended and the charges and amounts remaining unpaid and delinquent shall be inserted as a tax lien against the lot or parcel of real estate to which the service has been furnished.

### **13.16.080 - Rates deemed equitable—Complaint.**

The rates, charges, and rentals specified in this chapter shall be deemed prima facie fair, reasonable, and equitable. In any case where any contention is made that the rates are unfair, inequitable or unreasonable, the party objecting thereto shall apply to the director of public works, stating the facts and grounds of the complaint, and the director of public works shall investigate and report with recommendations to the Mayor. The Mayor may also report to the city council any cases where the amount or character of the sewage from any plant, building or premises is such that collection and disposal thereof is substantially more expensive than average sewage, and give recommendation as to higher rates to be imposed for the collection and disposal of sewage. The city council shall have the right to order public hearings as to any such matter, and if convinced that an adjustment of sewerage rates or charges for such plant, building, or premises is necessary to provide equality with those charged to others, it shall so provide by law amendatory hereto.

### **13.16.090 - Notification.**

Each owner shall be notified annually, in conjunction with a regular bill, of the base rate.