

CERTIFICATE AS TO ORDINANCE AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Red Lodge, Montana (the "City"), hereby certify that the attached ordinance is a true copy of an Ordinance entitled: "ORDINANCE ESTABLISHING STORM WATER UTILITY; DEFINING TERMS; SETTING FORTH INITIAL REGULATIONS AND RESPONSIBILITIES THEREFOR, ESTABLISHING A STORM WATER SYSTEM FUND, ESTABLISHING A METHOD FOR CALCULATION AND COLLECTION OF STORM WATER CHARGES AND RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE" (the "Ordinance"), on file in the original records of the City in my legal custody; that the Ordinance was duly presented for first reading by the City Council of the City at a meeting on October 27, 2020, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

WITNESS my hand and seal officially this 27th day of October, 2020.

(SEAL)

City Clerk /Treasurer

I further certify that the Ordinance was duly adopted on second reading by the City Council of the City at a meeting on November 24, 2020, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Ordinance at said meeting, the following Council members voted in favor thereof: _____; voted against the same: _____; abstained from voting thereon: _____; or were absent: _____.

WITNESS my hand and seal officially this 24th day of November, 2020.

(SEAL)

City Clerk /Treasurer

ORDINANCE NO. 953

ORDINANCE ESTABLISHING STORM WATER UTILITY;
DEFINING TERMS; SETTING FORTH INITIAL
REGULATIONS AND RESPONSIBILITIES THEREFOR,
ESTABLISHING A STORM WATER SYSTEM FUND,
ESTABLISHING A METHOD FOR CALCULATION AND
COLLECTION OF STORM WATER CHARGES AND
RELATED MATTERS; AND PROVIDING AN EFFECTIVE
DATE

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Red Lodge, Montana (the “City”) as follows:

Section 1. Findings and Authority.

1.01. Purpose of Ordinance. The purpose of this Ordinance is to decrease drainage-related damage to public and private property; to preserve and lessen the burden on and costs of improving and enlarging the sanitary sewer system; to facilitate making land in the City developable; to minimize adverse impacts on property owners adjacent to developing and developed land from increased runoff; to preserve and enhance the aesthetic quality of the waters; to maintain and protect valuable ground water resources; to minimize adverse effects of alterations on ground water quantities, locations and flow patterns; to ensure the safety of public roads and rights of way; to promote sound development policies and construction procedures to preserve the historic, natural or constructed watercourses; and to minimize water quality degradation and control the sedimentation of rivers, streams, ponds, lakes and other water bodies.

1.02. Necessity. The City presently owns and operates a sanitary sewer system for the collection and disposal of sewage (the “Sanitary Sewer System”), into which storm and other surface waters are being discharged. The Sanitary Sewer System is frequently infiltrated by storm and ground water, which has caused significant stresses on the Sanitary Sewer System. In addition, storm and ground water has caused damage to public infrastructure and facilities and created difficulties for businesses and residences, including health hazards. This Council has caused various studies to be conducted and, based thereon and on an investigation of facts and circumstances relating to the Sanitary Sewer System (including state and federal policies concerning the collection and disposal of sewage and storm and surface waters), has determined that it is necessary and desirable to establish rules and regulations relating to storm water and drainage and construct improvements for the collection and disposal of storm and surface waters separate and distinct from the Sanitary Sewer System.

1.03. Authority. The City is authorized by Title 7, Chapter 7, Parts 42 and 43, and Title 7, Chapter 7, Part 44, M.C.A., to construct, better, improve and extend a storm water system and issue revenue bonds to finance in whole or part the costs thereof. The City is further authorized and required by Title 7, Chapter 7, Parts 42 and 43 and Title 69, Chapter 7, Part 1, M.C.A., to establish just and equitable rates, fees and charges and rentals for the services and facilities provided by a storm water system so as to make the system self-supporting.

Section 2. Definitions. The following definitions of terms shall apply unless the context clearly indicates another meaning or unless elsewhere expressly stated for specific application:

“Drainage Plan”: A storm water management plan to be prepared by a developer as described in Section 4 hereof, which should include drainage calculations, proposed manner of mitigation of Storm Water and a description of the proposed Storm Water system, including any required detention areas. Drainage Plans must use current hydraulic hydrology practices and conform with the Storm Water Master Plan.

“Hazardous Substances”: Caustic, poisonous, flammable or other material that may be dangerous to the public safety and welfare, as may be defined by the United States Environmental Protection Agency and the Montana Department of Environmental Quality from time to time.

“Impervious Area”: the portion of any parcel consisting of roofs, concrete, decks, asphalt, gravel, and other impervious surfaces situated on the property.

“Manmade or Open Flow Drainageway”: An open channel designed to carry storm water.

“Operating Expenses”: The current expenses, paid or accrued, of operation, maintenance and minor repair of the System, excluding principal of and interest on bonds and depreciation, as calculated in accordance with generally accepted accounting principles, and shall include, without limitation, administrative expenses of the City relating solely to the System, premiums for insurance on the properties thereof, labor and the cost of materials and supplies used for current operation and for maintenance, and charges for the accumulation of appropriate reserves for current expenses which are not recurrent regularly but may reasonably be expected to be incurred.

“Service Area” means the City limits, as may be adjusted from time to time, and such other areas as may be served by the System.

“Storm Water”: An overland flow of water as a result of rain, snow, hail storms or snow melt or other surface water event.

“Storm Water Master Plan”: The plan described by the June 2018 *Preliminary Engineering Report –Stormwater Facility Improvements* prepared by Great West Engineering, Inc., as it may be amended or revised from time to time, which is hereby adopted by reference and declared to be part of this Ordinance. The plan is on file in the office of the City Clerk-Treasurer. Modifications of the plan may be initiated by the Mayor and submitted to the City Council for approval.

“Storm Water Charge”: The fee or charge described in Section 6 hereof.

“Storm Water Manager”: The City Public Works Director or, if other than the City Public Works Director, a City employee designated by the Mayor.

“Storm Water System” or “System”: The infrastructure system owned, operated and maintained by the City, which regulates and transmits storm and surface water through the City.

The System includes the existing storm water improvements and the improvements to be constructed and installed in accordance with the Storm Water Master Plan.

“Storm Water System Fund” or “Fund”: The fund established in Section 3.01, into which the storm water fees and charges shall be deposited.

“System Permit and Plan Fees”: The fee or fees to be established by the City Council by resolution in an amount sufficient to cover costs of the review of the Drainage Plans and the issuance of permits.

Section 3. Creation of Storm Water System.

3.01. Storm Water System; Storm Water System Fund. The City hereby creates and establishes the System. The City intends to construct the System as required to implement the purpose of the Ordinance. The City hereby creates a Storm Water System Fund to be used as provided herein and into which the storm water fees and charges, including, but not limited to, Storm Water Charges and System Permit and Plan Fees, shall be deposited. The Storm Water System Fund will consist of various funds or accounts as determined by subsequent resolution or resolutions of the City. The Storm Water Manager shall be responsible for the operation, maintenance, capital improvements, and all other functions of the System.

3.02. Service Area. The City reserves the right to plan for and construct storm drainage improvements comprising part of the System outside the City limits when necessary or appropriate. If it does so, such additional benefited properties located outside of the City shall become part of and be included in the Service Area.

3.03. Duty of Property Owners to Protect Property. Storm Water currently does and will likely continue to exceed the capacity of the System, even following completion of improvements to the System. Neither the adoption of this Ordinance nor the imposition of the storm water fees and charges imply that property in the City will be free from storm water flooding or flood damage. The establishment of the System does not purport to reduce the need or the necessity for property owners in the Service Area to obtain flood insurance and protect their property from storm or surface water.

Section 4. Drainage Plans.

4.01. Permits and Approvals Requiring Drainage Plan. All persons or entities applying for any of the following permits and/or approvals shall submit to the City a drainage plan prepared by a professional engineer with their application and/or request:

- A. Subdivision plat approval;
- B. Conditional Use and/or Design Review applications to accommodate multi-family, business or industrial uses;
- C. Building permits where the permit relates to twenty thousand (20,000) or more square feet of development coverage within the property, or where development is

in a critical area as determined by the Community Development Department or Storm Water Manager;

- D. Planned unit development (PUD); and
- E. Annexation.

4.02. Approval Required to Commence Work. Commencement of construction work under any of the above permits or applications shall not begin until such time as final approval of the Drainage Plan is obtained in accordance with this Ordinance.

4.03. Contents of a Drainage Plan: Drainage Plans shall be prepared in accordance with current hydraulics and hydrology design standards and shall be consistent with the Storm Water Master Plan. The same Drainage Plan submitted during one permit/approval process may be subsequently submitted with further required applications. The Drainage Plan shall be supplemented with such additional information as may be requested by the Storm Water Manager.

4.04. Exceptions. A Drainage Plan will not be required if the person or entity can demonstrate to the satisfaction of the Storm Water Manager, in his or her sole discretion, that the proposed development will:

- A. not adversely impact the water quality conditions of any affected receiving bodies of water;
- B. not alter the surface discharge location, alter the drainage pattern on adjoining properties, alter drainage patterns, increase the discharge, or cause any other adverse effects in the drainage area; and
- C. not alter the subsurface drainage patterns, flow rates and discharge points, or result in any significant adverse effects to property or residents.

4.05. Review and Approval of the Drainage Plan: All Drainage Plans prepared in connection with any of the permits and/or approvals listed in Section 4.01 shall be submitted for review by and approval of the Storm Water Manager. The Storm Water Manager may approve, not approve or require modifications to Drainage Plans. If a Drainage Plan is approved and the applicant has paid all applicable System Permit and Plan Fees, a schedule for inspection of construction and facilities will be established by the Storm Water Manager.

4.06. System Permit and Plan Fees. The City may establish and revise System Permit and Plan Fees by resolution duly adopted by the City Council. All moneys received from the System Permit and Plan Fees shall be deposited in the Storm Water System Fund.

Section 5. Rules Applicable to Care and Use of System.

5.01. Hazardous Substances. It shall be unlawful to introduce Hazardous Substances into the System. The originators of any Hazardous Substance spill or introduction shall be held

responsible therefor and shall pay all applicable cleanup costs, including the cost of equipment, materials, staff time and consultant charges.

5.02. Compliance with Federal and State Law Regarding Discharge into System. All persons or entities shall comply with federal and State of Montana laws, rules, and regulations regarding discharge of substances into the System. The originators of any discharge that is in violation of federal or State of Montana law shall pay all applicable cleanup costs, including the cost of equipment, materials, staff time and consultant charges.

5.03. Cross Connections. It shall be unlawful to cross connect a sanitary sewer service with a storm drain. Any connection of sanitary sewer services to the storm drainage system shall be disconnected and abandoned at the offender's expense plus reasonable fees or penalties the City may establish from time to time. The sanitary sewer service shall be routed to the nearest sanitary sewer main at no cost to the City.

5.04. Connection to System. Persons or entities who wish to connect roof drains or other site specific storm water facilities to the System shall (i) pay any applicable fees; (ii) obtain a permit from the Storm Water Manager; and (iii) install the connection in accordance with City specifications.

5.05. Manmade or Open Flow Drainageways.

A. It shall be unlawful to encroach upon Manmade or Open Flow Drainageways with:

1. Temporary or permanent structures;
2. Fill material, construction debris, garbage, tree limbs or other undesirable material; and
3. Household items.

B. Manmade or Open Flow Drainageways may be altered under the supervision of, and upon application to, the Storm Water Manager under the following circumstances:

1. A roadway crossing, provided drainage is considered in the design and culverts are designed to handle proper flow as specified in the Storm Water Master Plan and updates, or bridges are designed such that the opening is adequate;
2. Improvements such as detention basins; and
3. Slope improvements.

All improvements or changes to drainageways shall be designed by a registered professional engineer and submitted for approval to the Storm Water Manager. Approval must be obtained before any on-site work commences.

5.06. Violations. To the full extent permitted by law, a violation of rules and regulations relating to the care and use of the System (except for delinquent payments), including, without limitation, the requirements set forth in this Section 5, shall be a misdemeanor punishable by a fine or jail time.

Section 6. Storm Water Charges.

6.01. Imposition of Storm Water Charges. As authorized by Title 7, Chapter 7, Part 44, Title 7, Chapter 13, Part 43, and/or Title 69, Chapter 7, Part 1, M.C.A., as amended, the City is authorized to regulate, establish and change, as it considers proper, rates, charges and classifications imposed for the System to its inhabitants and other persons served by or that burden the System. Rates, charges and classifications must be reasonable and just. The City shall hold a public hearing prior to imposing rates and charges on properties within the Service Area for the benefits afforded by and burdens imposed on the System (such rates and charges, the "Storm Water Charge"). The Storm Water Charge shall be set and may be changed from time to time by resolution of the City following a public hearing and in accordance with State law.

6.02. Annual Budget for System. The City shall prepare an annual budget for the System. The budget shall include amounts necessary to pay the principal of and interest on any debt payable from the Storm Water System Fund, to pay Operating Expenses, and to establish replacement and depreciation reserves as may be appropriate or necessary.

6.03. Deposit of Collections. All Storm Water Charges shall be collected as provided in this section and credited to a fund to be known as the Storm Water System Fund, which fund shall be at all times segregated and maintained by the City Clerk/Treasurer on the books of the City as a separate and special fund. Upon adoption by the City Council of a resolution authorizing the issuance of revenue bonds of the City payable from Storm Water Charges or otherwise establishing a system of funds and accounts for such charges, all Storm Water Charges shall be applied and accounted for in the manner provided in such resolution.

6.04. Billing and Collection. The Storm Water Charge shall be billed as provided in the resolution approving the Storm Water Charge, which shall be adopted following a public hearing.

6.05. Late Fee; Delinquencies; Other Fees/Charges. The resolution approving the Storm Water Charge adopted following a public hearing may provide for determining when a bill is delinquent and late fees and any other pertinent fees or charges.

6.07. Procedures for Nonpayment. If the Storm Water Charge remains unpaid for a period of sixty (60) days, the City may elect to have the delinquent Storm Water Charges and any late fees or other pertinent charges collected as a tax against the property by following the procedures in Montana Code Annotated, Section 7-13-4309, as it may be amended from time to time.

6.08. Remedies for Nonpayment. In addition to the remedies set forth in Section 6.06 and 6.07, the City may proceed in court to collect any delinquent storm water charges and any

delinquencies and penalties and may pursue and exercise any other remedy available in law or in equity.

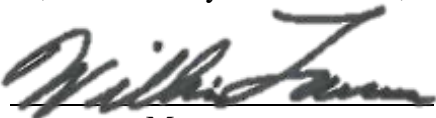
Section 7. Severability. If any provision of this chapter or its application to any person or property is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances shall not be affected.


Section 8. Miscellaneous. A copy of the ordinances of the City and any contracts and applications applicable to the City shall be maintained for full inspection by the public. The passage of this Ordinance shall not preclude the Council from altering or amending it, in whole or in part, or from requiring other or additional service, equipment, facility or standard, either upon complaint, upon its own motion, or otherwise.

Where this Ordinance is in conflict with other laws, regulations, ordinances or resolutions, the more restrictive requirements shall apply or those of a higher authority shall prevail.

Section 9. Effective Date of Ordinance. This ordinance shall come into effect thirty days after approval on second reading.

Passed by the City Council of the City of Red Lodge, Montana on second reading and approved by the Mayor of the City of Red Lodge, Montana, this 24th day of November, 2020.

Approved: 
Mayor

Attest: 
City Clerk/Treasurer

(SEAL)