

CERTIFICATE AS TO RESOLUTION 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 resolution is a true copy of a Resolution entitled: "RESOLUTION OF INTENTION OF THE CITY OF RED LODGE, MONTANA TO ESTABLISH A BASIS ON WHICH STORM WATER SYSTEM CHARGES ARE DETERMINED AND CHARGED AND PROPOSING RATES AND CHARGES" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution 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 officially this 27th day of October, 2020.

\_\_\_\_\_  
City Clerk-Treasurer

RESOLUTION NO. 3556

RESOLUTION OF INTENTION OF THE CITY OF RED  
LODGE, MONTANA TO ESTABLISH A BASIS ON WHICH  
STORM WATER SYSTEM CHARGES ARE DETERMINED  
AND CHARGED AND PROPOSING RATES AND CHARGES

RECITALS

WHEREAS, the City of Red Lodge, Montana (the “City”) presently owns and operates a sanitary sewer system for the collection and disposal of sewerage (the “Sanitary Sewer System”) and into which storm and other surface waters are being discharged; and

WHEREAS, the Sanitary Sewer System also takes on storm water that seeps underground and infiltrates pipes and conduits; and

WHEREAS, the surface and storm water entering the Sanitary Sewer System is reducing the life expectancy of and the capacity of the wastewater treatment plant to treat wastewater; and

WHEREAS, accordingly the City has determined that it is necessary and desirable to establish a separate and distinct storm water system as a municipal utility, to establish rules and regulations relating to storm water and to construct improvements for the collection and disposal of storm and surface waters separate and distinct from the Sanitary Sewer System; and

WHEREAS, pursuant to Montana Code Annotated, Title 7, Chapter 7, Parts 42 and 43, and Title 7, Chapter 7, Part 44, M.C.A., the City is authorized to construct, better, improve and extend a storm water drainage system and issue revenue bonds to finance in whole or part the costs thereof; and

WHEREAS, the City Council (the “Council”) of the City is further authorized and required by Title 7, Chapter 13, Parts 42 and 43, Title 7, Chapter 7, Part 44, 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 and surface water drainage system so as to make a storm water drainage system self-supporting; and

WHEREAS, the City has committed to establishing a separate and distinct storm and surface water drainage system that will initially consist of the existing storm water improvements, which will, to the extent practicable, ultimately be incorporated into and form a part of the new and expansive storm and surface water drainage system (the “System”), owned and operated by the City; and

WHEREAS, under Section 69-7-101, Montana Code Annotated, the City has the power and authority to regulate, establish, and change, as it considers proper, rates, charges, and classifications imposed for utility services to its inhabitants and other persons served by the municipal systems. Rates, charges, and classifications must be reasonable and just.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City as follows:

Section 1. Intent to Adopt Resolution Establishing Rates and Charges. It is the intent of the City to establish rates and charges for the establishment, use and availability of the System will be imposed by the City. The City is simultaneously proceeding with the enactment of an ordinance setting forth, among other things, rules and regulations regarding the System (as it may be amended from time to time, the “Ordinance”). The proposed rates and charges, if approved, will go into effect commencing July 2021.

Section 2. Proposed Rates and Charges.

2.1. Two Components. The City proposes to impose a storm and surface water drainage charge (the “Storm Water Charge”), which will ultimately have two components: the maintenance charge described in Section 2.2 hereof (the “Maintenance Charge”) and a capital improvement charge described in Section 2.3 hereof (the “Capital Improvement Charge”).

2.2. Maintenance Charge; Benefit and Applicability.

(a) Operation and Maintenance; Benefit. The City currently operates and maintains existing storm water improvements and, following establishment of the System, shall continue to do so as part of the operation and maintenance of the System. Operation and maintenance undertaken with respect to the System include, without limitation, cleaning leaves and debris from gutters, surface drainages and storm inlets; clearing plugged culverts; videoing and cleaning storm water pipes; and addressing localized flooding during large precipitation events. The City hereby determines that each lot, tract and parcel located within the Service Area (as defined in the Ordinance) is benefitted by the operation and maintenance undertaken with respect to the System.

(b) Applicability. Based on its determination that all lots, tracts and parcels within the Service Area are benefitted by the City’s operation and maintenance activities, the City hereby determines that it is reasonable and just to spread the Maintenance Charge across all lots, tracts and parcels within the Service Area.

(c) Maintenance Charge. The City proposes to set the initial Maintenance Charge at \$3.39 per month for each lot, tract or parcel within the Service Area.

2.3. Capital Improvement Charge. In addition to its ongoing operation and maintenance activities, the City expects to undertake various improvements to the System in multiple phases. As the City determines to move forward with each phase of improvements, it will determine the amount and applicability of the Capital Improvement Charge by determining (1) those properties are benefitted by or burden the System as improved by the applicable phase of improvements, and (2) the costs of constructing and or financing construction of the particular phase of improvements. The City is not currently proposing a Capital Improvement Charge and will establish any Capital Improvement Charge by resolution following a public hearing in accordance with law.

Section 3. Billing. For administrative convenience only, the City proposes to place the Storm Water Charge on the property tax statements applicable to the properties being charged. Approximately one-half of the Storm Water Charge would be due with the November 30 property tax payments and approximately one-half of the Storm Water Charge would be due with

the May 31 property tax payments. The Storm Water Charge is proposed to commence July 2021 and will first appear on property tax bills due November 30, 2021.

Section 4. Late Charges. Delinquent payments will be charged a late payment equal to 10% of the delinquent amount of the Storm Water Charge for each month that the Storm Water Charge remains unpaid.

Section 5. Amount of Increase. The proposed Storm Water Charge is a new charge in conjunction with establishing the System as a separate municipal utility. Accordingly, all of the Storm Water Charge (which currently consists only of the Maintenance Charge) would be an increase over current utility bills, recognizing that in the absence of the new System, rates and charges relating to the Sanitary Sewer System would need to be increased to deal with the deleterious effects that storm and surface waters are having on the Sanitary Sewer System.

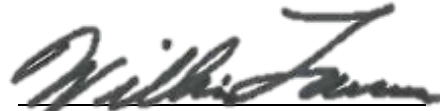
Section 6. Determination of Annual Budget for System. Each year the Council of the City shall determine the amount of money needed to pay the costs of the System including but not limited to: (a) the payment of the reasonable expense of operation and maintenance of the System; (b) administration of the System; (c) the payment of principal and interest on any bonded or other indebtedness of the System; and (d) the establishment or maintenance of any required reserves, including reserves needed for expenditures for depreciation and replacement of facilities, as may be determined necessary from time to time by the Council or as covenanted in the ordinance or resolution authorizing any outstanding bonds of the System. Based on the annual needs of the System, the Council will establish monthly or semi-annual rates and charges for the use or availability of the System.

Section 7. Further Rate Increases. Subsequent adjustments to the Storm Water Charge or adoption of a new charge, including any Capital Improvement Charge to be imposed as a component of the Storm Water Charge, may be made by resolution of the Council duly adopted after a public hearing with notice thereof given as provided by law.

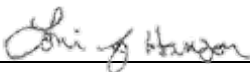
Section 8. Public Hearing. A public hearing on the establishment of the proposed rates and charges for the System will be held on November 24, 2020, commencing at 7:00 p.m. at the City Hall, 1 Platt Avenue North, in Red Lodge, Montana.

Section 9. Notice. The City Clerk-Treasurer is hereby authorized and directed to publish or cause to be published a copy of a notice of the passage of this resolution in the *Carbon County News*, a newspaper of general circulation in the City, on November 5, November 12 and November 19, 2020, and to mail or cause to be mailed a copy of said notice to all persons who own property in the City and to all customers of the System at least 7 days and not more than 30 days prior to the public hearing. The mailed notice must contain an estimate of the amount that the customer's average bill will increase. The City Clerk-Treasurer is also authorized and directed to mail by first class, postage prepaid, notice the public hearing to the Montana consumer counsel.

Passed and approved this 27th day of October, 2020.

  
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Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk-Treasurer