

ORDINANCE NO. 16 -5673

AN ORDINANCE OF THE CITY OF BILLINGS PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 26-203, 26-204, 26-205, 26-206 and 26-207 PROVIDING UPDATES AND WAIVER PROVISIONS FOR THE CITY'S WATER AND WASTEWATER SERVICE AREAS FOR PROPERTY OWNERS OUTSIDE OF THE CORPORATE LIMITS OF THE CITY

**Section 1.** That Section 26-203 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 26-203. - Prerequisite to application.

Unless this Section is waived by the Mayor and City Council as provided in Section 26-207,  
~~T~~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 the city's Red Area on the Limits of Annexation Map;
  - 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.

**Section 2.** That Section 26-204 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 26-204. - Annexation requirements.

- (a) Unless this Section is waived by the Mayor and City Council as provided in Section 26-207,  
~~A~~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.

**Section 3.** That Section 26-205 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 26-205. - Enlargement application.

Applications and required documentation for water and/or wastewater service area enlargements ~~and for wastewater service area enlargements~~ shall be submitted in writing using ~~made on forms provided prescribed by the city administrator and shall be accompanied by all documentation requested by the city.~~

**Section 4.** That Section 26-206 of the Billings, Montana City Code be amended so that such section shall read as follows:

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. ~~published once each week for two (2) consecutive weeks in a newspaper of general circulation in the county. Said notice shall set forth the time, place and site of the public hearing and shall be published not less than fifteen (15) nor more than thirty (30) days prior to the date of the hearing. Prior to the public hearing the public utilities board shall make its recommendation to the city council regarding said application.~~

**Section 5.** That Section 26-207 of the Billings, Montana City Code be amended so that such section shall read as follows:

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 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.

**Section 6.** EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 7.** REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 8.** SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 13th day of June 2016.

PASSED, ADOPTED and APPROVED on second reading this 27th day of June 2016.

CITY OF BILLINGS

By \_\_\_\_\_  
Thomas Hanel, Mayor

ATTEST:

By \_\_\_\_\_  
Toni Keehner, Deputy City Clerk