

ORDINANCE NO. 05-5322

AN ORDINANCE OF THE CITY OF BILLINGS, MONTANA PROVIDING THAT THE BILLINGS, MONTANA CITY CODE SECTION 22-1003 PROVIDING FOR AN ARTERIAL CONSTRUCTION FEE, PROVIDING FOR A PROCEDURE WHEREBY FEES CAN BE DETERMINED, IMPOSED, AND APPEALED, ESTABLISHING AN EFFECTIVE DATE, AND PROVIDING A SEVERABILITY CLAUSE BE AMENDED FOR CLARIFICATION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That the Billings, Montana City Code Section 22-1003 be amended to read as follows:

SECTION 22-1003. Rates for arterial construction.

(a) For the purpose of paying the cost of construction and/or reconstruction of arterial roadways and depreciation and replacement of arterial roadways to provide safe facilities on which citizens and visitors may travel, including the principal and interest on all revenue bonds to be issued for that purpose, as authorized by MCA Title 7 Chapter 7 Part 44 or Title 7 Chapter 13 Part 43, as amended, an annual arterial construction fee is imposed and made applicable to all premises within the city limits. The financial services manager shall report to the city council when all revenue bonds issued for the construction or reconstruction of such arterial roadways, and bond refunding the same, have been fully paid and redeemed, and the city council shall then provide for the reduction of the charge to such amount as will be sufficient to pay the reasonable expense of the construction or reconstruction of arterial roadways. The charge shall be based on both the area of the parcel of land and its zone classification. Charges against properties zoned Residential-5000 (R-50), Residential-6000 (R-60), Residential-7000 (R-70), Residential-8000 (R-80), and Residential-9600 (R-96) shall be capped at a maximum of the applicable rate for that **zoning** classification times 9600 square feet per parcel. Other residential zoning classifications created in the future will be similarly treated, except that Residential Multi-Family (RMF), Residential Manufactured Home (RMH), Residential Professional (RP), **and** Residential Multi-Family-Restricted (RMF-R), ~~Planned Development (PD)~~ zones will not be subject to any such maximum square footage cap. **Planned Development (PD) zones will be**

charged based on their underlying zoning classifications and will be subject to the maximum 9600 square footage cap for the underlying zoning classifications of R-50, R-60, R-70, R-80, and R-96. All other underlying zoning classifications will not be subject to any such maximum square footage cap. If the underlying zoning does not match any zoning classification listed below, the parcel will be charged at the rate of the most reasonably comparable zoning classification. If there is no reasonably comparable zoning classification, the parcel will be charged at the Planned Development (PD) zoning rate. The City Council may provide an exemption to commercially zoned properties that are currently owner-occupied as a single-family residence. The property owner must annually request the exemption through the Public Works Department by August 31 of each year.

The per square foot charges for each parcel shall be as follows and shall be made to the owner of the parcel as the same shall appear according to the tax code number or account number thereof in the office of the Dept. of Revenue, Yellowstone County, Montana:

<b>ZONING</b>	<b>Proposed Rate</b>
<b>P</b>	0.00212
<b>R-96</b>	0.00371
<b>R-80</b>	0.00404
<b>R-70</b>	0.00425
<b>RMH</b>	0.00477
<b>R-50</b>	0.00512
<b>PD</b>	0.00585
<b>R-60</b>	0.00638
<b>RP</b>	0.00692
<b>RMF-R</b>	0.00721
<b>RMF</b>	0.00748
<b>NCL</b>	0.00769
<b>NC</b>	0.00824
<b>ELC</b>	0.00824
<b>MCPZD</b>	0.00850

<b>CC</b>	0.00879
<b>ELG</b>	0.00902
<b>PZD</b>	0.00892
<b>HC</b>	0.00902
<b>CI</b>	0.00960
<b>HI</b>	0.01068
<b>CBD</b>	0.01279
<b>ELI</b>	0.00902

**Undeveloped**

**– any zoning**      0.00125      Cap \$988

The arterial construction assessment rates shall be established on an annual basis consistent with state law by resolution passed by a simple majority of the City Council, but the assessment rates may only be changed through passage of a resolution by a super-majority of the City Council consisting of at least two-thirds (2/3) of all council members present and voting. The zone classification shall be that which is on the official map on record at the city-county planning department.

(b) The financial services manager shall, on or before the last day of October of each year, cause to be mailed by the county treasurer to every owner of a lot or parcel within the city, on the same date and in the same manner as are real property taxes, a separate statement of arterial construction charges setting forth the annual charge to be assessed on the lot or parcel for arterial roadway construction thereto. Such charge shall be due and payable on or before 5:00 p.m. on the thirtieth day of November of each year. Upon failure of the owner to pay the charge, the same will be in arrears and delinquent on December 31<sup>st</sup> of such year, and shall be collected by the financial services manager according to the provision and authority of MCA §§ 7-1-101 through 120, and the City of Billings Charter.

(c) All arterial construction charges shall be collected as provided in this article and credited to a fund to be known as the “municipal arterial construction system fund”, which fund shall be at all times segregated and maintained by financial services manager 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 arterial roadway construction charges or otherwise establishing a system of funds and accounts for such charges, all arterial construction charges shall be applied and accounted for in the manner provided in such resolution.

(d) Any party who considers the charges applicable to his premises unfair, inequitable or unreasonable may apply to the ~~city engineer~~ **public works director** for adjustment thereof, stating the facts and grounds of complaint, and the ~~city engineer~~ **public works director** may notify the owner of any premises as to which he considers the rates and charges to be inadequate. In either case, the ~~city engineer~~ **public works director** shall cause appropriate investigation and report to be made by himself or his duly authorized representative.

(e) The ~~city engineer~~ **public works director**, or his duly authorized representative, shall consider each and all of such complaints and reports and communicate his findings with respect thereto to the city council. The city council shall have the right to order a public hearing as to any such matter and, if convinced that an adjustment of the charges for such premises is necessary to provide reasonable equality with those charged to others, it shall so provide, either by ordinance amendatory hereto, or by resolutions fixing special charges for individual premises during the period of continuance of special circumstances which make the standard charges unfair, inequitable, unreasonable or inadequate.

Section 4. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 5. 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 28th day of March, 2005.

PASSED, ADOPTED and APPROVED on second reading this 11<sup>th</sup> day of April, 2005.

CITY OF BILLINGS

By \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

By \_\_\_\_\_  
Marita Herold, CMC/AAE City Clerk