

ORDINANCE NO. 04-5300

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING SECTIONS TO BE NUMBERED 22-1001 THROUGH 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 IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That the Billings, Montana City Code be amended by adding a section to be numbered 22-1001, to read as follows:

**SECTION 22-1001. Duties of city engineer.**

The city engineer shall have full authority and control over the arterial roadway system of the city, subject to the supervisory control of the city administrator and pursuant to policies adopted by the city council.

Section 2. That the Billings, Montana City Code be amended by adding a section to be numbered 22-1002, to read as follows:

**SECTION 22-1002. Duties of financial services manager.**

The financial services manager shall have full responsibility for billings and collection of all arterial construction accounts in the manner provided in this article, and the financial services manager shall be deemed agent of the public works department.

Section 3. That the Billings, Montana City Code be amended by adding a section to be numbered 22-1003, 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 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), Residential Multi-Family-Restricted (RMF-R), and Planned Development (PD) zones will not be subject to any such maximum square footage cap.* 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 Department of Revenue, Yellowstone County, Montana:

<u>ZONING</u>	<u>Proposed</u> <u>Rate</u>
<u>P</u>	<u>0.00212</u>
<u>R-96</u>	<u>0.00371</u>
<u>R-80</u>	<u>0.00404</u>
<u>R-70</u>	<u>0.00425</u>
<u>RMH</u>	<u>0.00477</u>
<u>R-50</u>	<u>0.00512</u>
<u>PD</u>	<u>0.00585</u>
<u>R-60</u>	<u>0.00638</u>
<u>RP</u>	<u>0.00692</u>
<u>RMF-R</u>	<u>0.00721</u>
<u>RMF</u>	<u>0.00748</u>
<u>NCL</u>	<u>0.00769</u>
<u>NC</u>	<u>0.00824</u>
<u>ELC</u>	<u>0.00824</u>
<u>MCPZD</u>	<u>0.00850</u>
<u>CC</u>	<u>0.00879</u>
<u>ELG</u>	<u>0.00902</u>
<u>PZD</u>	<u>0.00892</u>
<u>HC</u>	<u>0.00902</u>
<u>CI</u>	<u>0.00960</u>
<u>HI</u>	<u>0.01068</u>
<u>CBD</u>	<u>0.01279</u>
<u>ELI</u>	<u>0.00902</u>
<u>Undeveloped</u>	
<u>– any zoning</u>	<u>0.00125</u> <u>Cap \$988</u>

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 the 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 for adjustment thereof, stating the facts and grounds of complaint, and the city engineer 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 shall cause appropriate investigation and report to be made by himself or his duly authorized representative.
- (e) The city engineer, 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 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 23<sup>rd</sup>. day of August, 2004.

PASSED, ADOPTED and APPROVED on second reading this 13<sup>th</sup> day of September, 2004.

CITY OF BILLINGS

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

ATTEST:

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