

COMMITTEE OF THE WHOLE

DECEMBER 5, 2022

6:00 P.M.

1. Discussion on easements and encroachments throughout the City of Lewistown.

**NOTICE FOR, AND AGENDA FOR, A REGULAR MEETING OF THE CITY COMMISSION,
CITY OF LEWISTOWN, DECEMBER 5, 2022 AT 7:00 P.M. AT THE CENTRAL MONTANA
COMMUNITY CENTER LOCATED AT 307 W WATSON**

To participate virtually the options are as follows:

To join by zoom: <https://zoom.us/j/8486275925?pwd=dTVGbndDK253ZUJLMjRuZXU5QVpMdz09>

Meeting ID: 848 627 5925 Passcode: 59457

To participate by phone: dial (253) 215-8782 Meeting ID: 848 627 5925 Passcode: 59457

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES – November 7, 2022, November 14, 2022 & November 21, 2022

COURTESIES

PROCLAMATIONS

BOARD AND COMMISSION REPORTS

CITY MANAGER REPORT

PUBLIC COMMENT – non agenda items

CONSENT AGENDA

Acknowledgement of the claims that have been paid from November 17, 2022 to November 30, 2022 for a total of \$140,817.89.

***REGULAR AGENDA – Resolutions, Ordinances & Other Action Items:**

1. Discussion and action on approving second reading of Ordinance No. 1769, an ordinance amending Title 4, Chapter 6 of the Lewistown City Code pertaining to sewer use regulations and fees (**Action: approve, disapprove or amend second reading of Ordinance No. 1769**) City Manager Holly Phelps
2. Discussion and action on approving Resolution No. 4107, a resolution of the Lewistown City Commission to set the of the City of Lewistown sewer rates and schedule of fees (**Action: approve, disapprove or amend Resolution No. 4107**) City Manager Holly Phelps
3. Discussion and action on accepting the proposal to hire a vendor to replace the radio and telephone voice recording system (**Action: approve, disapprove or amend accepting a proposal to hire a vendor to replace the radio and telephone voice recording system**) City Manager Holly Phelps
4. Discussion and action on accepting the proposal to hire a vendor to replace the P25 conventional/trunked mobile and portable radios (**Action: approve, disapprove or amend accepting the proposal to hire a vendor to replace the P25 conventional/trunked mobile and portable radios**) City Manager Holly Phelps
5. Discussion on how to move forward with the request from the Neudicks, regarding the 909 W Erie encroachment – City Manager Holly Phelps

CITIZENS' REQUESTS

COMMISSIONER'S MINUTE

ADJOURNMENT

* All citizens are invited to make comment on any agenda item prior to action being taken by the Commission

ORDINANCE NO. 1769

AN ORDINANCE AMENDING TITLE 4, CHAPTER
6 OF THE LEWISTOWN CITY CODE
PERTAINING TO SEWER USE REGULATIONS
AND FEES

BE IT ORDAINED THAT Title 4, Chapter 6 of the Lewistown City Code is hereby amended to read as follows:

Section I. 4-6-1 DEFINITIONS: are hereby added or amended as follows:

Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be used as follows:

BIOCHEMICAL OXYGEN DEMAND (BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees centigrade (20°C), expressed in milligrams per liter.

BUILDING DRAIN: That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer.

BUILDING SEWER: The extension from the building drain to the public sewer or other place of disposal, also called house connection.

COMBINED SEWER: A sewer intended to receive both wastewater and storm or surface water.

COMMERCIAL: Customers that are receiving sewer service for use in connection with a business, industry, institution, educational facility or commercial enterprise. An EDU shall be assessed per customer connected to the building sewer.

CUSTOMER: An individual, partnership, association, firm, public or private corporation or governmental agency receiving sewer services from the utility.

EASEMENT: An acquired legal right for the specific use of land owned by others.

EDU: Equivalent Dwelling Unit

FLOATABLE OIL: Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved

pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE: The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

INSTITUTION: An organization founded for religious, educational, social, or similar purposes.

INDUSTRIAL WASTES: The wastewater from industrial processes, trade or business.

METER: The complete assemblage, including auxiliary devices and equipment, if any, used to measure the water supplied to a customer. To exclude fittings or piping necessary to modify existing plumbing to allow installation of meter assemblage.

MIXED USE OCCUPANCY: A building containing a mix of both commercial units and residential dwelling units. An individual EDU shall be assessed to each commercial unit and each residential dwelling unit connected to the building sewer. This customer shall be regarded as a commercial customer.

MULTI-UNIT DWELLING: A building or group of buildings containing a dwelling unit or combination of dwelling units with individual bath and kitchen facilities. This definition includes apartments, condominiums, townhouses, duplexes, triplexes, etc. An individual EDU shall be assessed to each unit connected to the building sewer.

NATURAL OUTLET: Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water.

PERSON: Any individual, firm, company, association, society, corporation or group.

pH: The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven (7) and a hydrogen ion concentration of ten- seven (10^{-7}).

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1/2") (1.27 cm) in any dimension.

PUBLIC SEWER MAIN: A common sewer controlled by a governmental agency or public utility.

PUBLIC WORKS DEPARTMENT: A department of the city of Lewistown. The public works director, or their duly appointed deputy, agent or representative.

RESIDENTIAL: Customers are those receiving sewer service solely for domestic purposes.

RESIDENTIAL DWELLING UNIT: Any room or combination of rooms, including trailers and mobile homes, with bath and kitchen facilities, designated for permanent occupancy. An EDU shall be assessed per unit connected to the building sewer.

SANITARY SEWER: A sewer that carries liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

SEWAGE: The spent water of a community. The preferred term is "wastewater".

SEWER: A pipe or conduit that carries wastewater or drainage water.

STORM DRAIN OR STORM SEWER: A drain or sewer for conveying water, ground water, subsurface water or unpolluted water from any source.

SUSPENDED SOLIDS: The total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods For The Examination Of Water And Wastewater" and referred to as nonfilterable residue.

UNPOLLUTED WATER: Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

WASTEWATER: The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, together with any ground water, surface water and storm water that may be present.

WASTEWATER FACILITIES: The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

WASTEWATER TREATMENT WORKS: An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant".

WATERCOURSE: A natural or artificial channel for the passage of water, either continuously or intermittently.

Section II. 4-6-2 USE OF PUBLIC SEWERS shall remain the same as follows:

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of said city, any human or animal excrement, garbage or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(D) The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city abutting on any street, alley or right of way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at the owner(s) expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within sixty (60) days after date of official notice to do so, provided that said public sewer is within three hundred feet (300') of the property line. (Ord. 1508, 2-21-1984)

Section III: 4-6-3 PRIVATE WASTEWATER DISPOSAL shall be amended to replace Superintendent with Public Works Department as follows:

(A) Where a public sanitary or combined sewer is not available under the provision of subsection 4-6-2(D) of this chapter, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this chapter.

(B) Before commencement or construction of a private wastewater disposal system the owner(s) shall first contact the Fergus County Board of Health and any other state agency having authority over septic systems. The system owner(s) shall follow all the rules and regulations of these agencies. Upon approval, a copy approval shall be provided to the Public Works Department.

(C) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in subsection 4-6-2(D) of this chapter, a direct connection shall be made to the public sewer within sixty (60) days in compliance with this chapter, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

(D) The owner(s) shall always operate and maintain the private wastewater disposal facilities in a sanitary manner, at no expense to the city. (Ord. 1508, 2-21-1984)

Section IV: 4-6-4 SANITARY SEWERS, BUILDING SEWERS AND CONNECTIONS shall be amended to replace Superintendent with Public Works Department as follows:

(A) No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Public Works Department.

(B) There shall be two (2) classes of building sewer permits:

1. For residential and commercial service, and
2. For service to establishments producing industrial wastes.

In either case, the owner(s) or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Public Works Department. A permit and inspection fee of fifty dollars (\$50.00) for a residential or commercial building sewer permit and seventy five dollars (\$75.00) for an industrial building sewer permit shall be paid to the city at the time the application is filed.

(C) All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(D) A separate and independent building sewer shall be provided for every building; except where on building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(E) Old building sewers may be used in connection with new buildings only when they are found, by the Public Works Department, to meet all requirements of this chapter.

(F) The size, slope, alignment, materials of construction of all sanitary sewers, including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF manual of practice no. 9 shall apply.

(G) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(H) No person(s) shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(I) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF manual of practice no. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Public Works Department before installation.

(J) The applicant for the building sewer permit shall notify the Public Works Department when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Public Works Department or his representative.

(K) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from the hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (Ord. 1508, 2-21-1984)

Section V: 4-6-5 USE OF PUBLIC shall be amended to replace Superintendent with Public Works Department as follows:

(A) No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, ground water, roof runoff, subsurface drainage or cooling water to any sewer, except storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the Public Works Department.

(B) Storm water other than that exempted under section 4-6-1 of this chapter and subsection (A) of this section, and all other unpolluted drainage, shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Public Works Department and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Public Works Department, to a storm sewer, combined sewer or natural outlet.

(C) No person(s) shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
2. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works;
3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works;
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater works; and

5. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(D) The following substances, materials, waters or waste shall be limited in discharges to municipal systems in concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The Public Works Department may set limitations lower than the limitations established in the regulations below if, in their opinion, such more severe limitations are necessary to meet the above objectives. In forming their opinion as to the acceptability, the Public Works Department will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer shall not be violated without approval of the Public Works Department as follows:

1. Wastewater having a temperature higher than one hundred fifty degrees Fahrenheit (150°F) (65°C);
2. Wastewater containing more than twenty five milligrams per liter (25 mg/l) of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin;
3. Wastewater from industrial plants containing floatable oils, fats or grease;
4. Any garbage that has not been properly shredded (see section 4-6-1 of this chapter). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originated from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers;
5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater

treatment works exceeds the limits established by the Public Works Department for such materials;

6. Any waters or wastes containing odor producing substances exceeding limits which may be established by the Public Works Department;

7. Any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the Public Works Department in compliance with applicable state or federal regulations;

8. Quantities of flow, concentrations, or both, which constitute a "slug" as defined herein;

9. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amendable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters; and

10. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

(E) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in this section, and which, in the judgment of the Public Works Department, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Public Works Department may:

1. Reject the wastes;

2. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Require control over the quantities and rates of discharge; and/or

4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 4-6-10 of this chapter.

When considering the above alternative, the Public Works Department shall give consideration to the economic impact of each alternative on the discharger. If the Public Works Department permits the pretreatment or

equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Public Works Department.

(F) Grease, oil and sand interceptors shall be provided when, in the opinion of the Public Works Department, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in subsection (C) of this section, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Public Works Department, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates, and means of disposal which are subject to review by the Public Works Department. Any removal and hauling of the collected materials not performed by owner(s) personnel must be performed by currently licensed waste disposal firms.

(G) Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.

(H) When required by the Public Works Department, the owner(s) of the property serviced by a building sewer carrying industrial wastes shall install a suitable structure, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Public Works Department. The structure shall be installed by the owner at their expense, and shall be maintained by them so as to be safe and accessible at all times.

(I) The Public Works Department may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements may include:

1. Wastewaters discharge peak rate and volume over a specified time period.
2. Chemical analysis of wastewaters.
3. Information on raw materials, processes and products affecting wastewater volume and quality.
4. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.

5. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.

6. Details of wastewater pretreatment facilities.

7. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

(J) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods For The Examination Of Water And Wastewater", published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis, subject to approval by the Public Works Department.

(K) No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment. (Ord. 1508, 2-21-1984)

Section VI: 4-6-6 DAMAGE TO PUBLIC SEWERS shall remain the same as follows:

No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest. (Ord. 1508, 2-21-1984)

Section VII: 4-6-7 POWERS AND AUTHORITY OF INSPECTORS shall be amended to replace Superintendent with Public Works Department as follows:

(A) The Public Works Department and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system in accordance with the provisions of this chapter.

(B) The Public Works Department or other duly authorized employee is authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation

to the public of the information in question might result in an advantage to competitors.

(C) While performing the necessary work on private properties referred to in subsection (A) of this section, the Public Works Department or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in subsection 4-6-5(H) of this chapter.

(D) The Public Works Department and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observations, measurements, sampling, repairs and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. 1508, 2-21-1984)

Section VIII: 4-6-8: EXTENSIONS shall remain the same as follows:

(A) General:

1. Extension of mains will be made by the utility within its service area, where grades of streets and avenues have been established by law along streets dedicated to public use, county roads, highways or other satisfactory right of way; provided that such extensions shall be permitted only upon city commission approval and under such terms as may be specified by the city commission.

2. Extensions beyond the service area will be considered by the utility only upon execution of a service area enlargement application as approved by the city commission and under such terms as may be specified by the city commission. After the service area enlargement has been approved, a utility service agreement shall be executed in accordance with this section.

(B) Conditions Of Extensions:

1. The utility must be capable of providing the service requested, as long as conditions permit and sanitary conditions do not render the extension inadvisable.
2. All areas contiguous or eligible for annexation shall be annexed before the service agreement is approved.
3. Applicants of all areas not eligible for annexation shall furnish waivers of annexation, waiving the right of applicants to protest annexation of the area to the city when such annexation procedures are properly initiated. Waivers must be legally binding, recorded with the county clerk and recorder, Fergus County, Montana, and a copy thereof filed with the city clerk, and run with the land. For subdivisions created after the adoption of this chapter, such waivers must be included in the covenants for such subdivision. For subdivisions existing at the time of adoption of this chapter, waivers shall be in legal form, recorded as above, run with the land, and shall be signed by all of the owners of the land embraced by the application. (Ord. 1508, 2-21-1984)
4. All costs and expenses of the extension shall be paid for by the applicant with the following exceptions:
 - (a) The utility shall pay for the cost for additional facilities or increased main size required solely by the utility to serve future extensions. The amount to be paid by the utility shall be limited to the increased costs of materials only. The amount shall be agreed to prior to construction.
 - (b) When it is necessary to extend through an undeveloped area to the development, the city may enter into an agreement with the applicant to collect a payback charge from the area for a period not to exceed fifteen (15) years, such payback charges used to reimburse the applicant for costs of making such improvements. In no case shall the amount reimbursed exceed the actual cost of construction of the extension through the undeveloped area. The city will administer collection of payback charges and may collect a reasonable administration fee, payable from such payback charges. The city shall be under no obligation to enter into any such agreement with any applicant. All agreements shall be subject to the approval of the city commission.
5. The customers connected to any extension shall pay for services at those rates currently in effect and approved by the city commission and shall be governed by the sewer use regulations currently in force.
6. All improvements constructed from the utility's facilities to the point of delivery shall be built to the utility's standards for design and construction of public works.

7. Prior to construction of any residence, building or structure in the area covered by the application, a building permit for each building, residence or structure must be obtained from the city and shall comply with the building codes, zoning ordinance and subdivision regulations then in force.

8. The applicant shall comply with the city's current transportation plan and comprehensive storm drainage plan.

9. The applicant shall indemnify and hold the utility harmless from any and all damages or liability arising either directly or indirectly from furnishing said services. (Ord. 1508, 2-21-1984)

Section IX: 4-6-9 SEWER RATES: shall be amended as follows:

(A) Purpose: The purpose of this section shall be to generate sufficient revenue pay all costs for the operation and maintenance, finance capital improvements, meet debt service coverage requirements and to maintain appropriate reserves of the complete wastewater system.

(B) All rates or fees for use of the sewer system or for permits, licenses, connections or inspection shall be defined by resolution and approved by the City Commission. The City reserves the right to develop and implement separate rate schedules for classes of users not specified elsewhere in this title.

(i) Residential: The sewer use charge is computed by taking the average amount of water as billed for the months of January, February and March of each year, multiplied by the current sewer use rate. Months showing no usage shall not be included in the calculation. For those utility customers that show no water use for the billing periods of January, February or March as a result of the property being vacant, the sewer use charge shall be computed using an average of two thousand (2,000) gallons per month.

(ii) Commercial: Each user in this classification will be assessed a sewer use charge based on actual water use throughout the year. However, those users utilizing water for irrigation and which have a separate meter for this water, will be assessed a sewer use charge based only on total water used, less the water used for irrigation.

(C) Availability Of Sewer Service: Sewer service shall be deemed available to each premises connected to the municipal sewerage system and to each premises which abuts upon any street, alley or public place in which a sewer main is located.

Section X: 4-6-10: DETERMINING THE TOTAL ANNUAL COST OF OPERATION AND MAINTAINANCE shall remain the same as follows:

The city or its city engineer, shall determine the total annual costs of operations and maintenance of the wastewater system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include, but need not be limited to, labor, repairs, equipment, replacement, maintenance, necessary modifications, power, sampling, laboratory tests and a reasonable contingency fund. (Ord. 1508, 2-21-1984)

Section XI: 4-6-11: DETERMINING EACH USER'S WASTEWATER CONTRIBUTION PERCENTAGE: shall be repealed:

Section XII: 4-6-12: DETERMINING A SURCHARGE SYSTEM FOR USER WITH EXCESS BOD AND SS: shall be repealed:

Section XIII: 4-6-13 DETERMINING EACH USER'S WASTEWATER SERVICE CHARGE: shall be repealed:

Section XIV: 4-6-14: PAYMENT OF THE USER'S WASTEWATER SERVICE CHARGE AND PENALTIES: shall be repealed:

Section XV: 4-6-15: REVIEW OF EACH USER'S WASTEWATER SERVICE CHARGE: shall be repealed:

Section XVI: 4-6-16: NOTIFICATION: shall be repealed:

Section XVII: 4-6-17: HEARINGS ON ESTABLISHMENT OF SPECIAL CHARGES: shall be repealed:

Section XVIII: 4-6-18: SERVICE AGREEMENTS; APPLICATION FOR SERVICE: shall remain the same as follows:

The utility may require a customer or prospective customer to sign one of the utility's standard application or service agreement forms. The application or agreement shall be binding only after acceptance by a duly authorized representative of the utility. In case of acceptance of service by a customer prior to the signing of such agreement, the customer shall pay for the services so furnished in accordance with the applicable rate schedule or schedules in force and shall abide by these service regulations.

In situations where property is served, or is to be served, and such property is rented or leased, the utility may require the owner of the property to sign a service application. The utility shall consider the owner as the customer, and as such, shall be primarily responsible for timely payment of service charges as well as any other fee or assessment

authorized in this chapter. The utility shall establish billing procedures accordingly. (Ord. 1519, 10-1-1984)

Section XIX: 4-6-19: ESTABLISHMENT OF CREDIT; CUSTOMER DEPOSIT FOR GUARANTEE PAYMENT: shall be repealed:

Section XX: 4-6-20: BILLING; PAYMENT OF CHARGES; DELINQUENCIES: shall remain the same as follows:

(A) Violation Of Regulations, Nonpayment Of Sewer Charges: For violation of any of these regulations or for nonpayment of sewer charges, as provided in the utility's schedule of rates and charges currently on file with and approved by the city commission, the utility has the right to disconnect the wastewater service following ten (10) days' written notice to the customer. After service has been disconnected, the same shall not be reinstated until all delinquent charges are paid. Costs of all disconnects and/or subsequent reconnects shall be borne by the customer.

(B) Meter Service Billings, Payment Of Charges, Delinquent Charges: All meters will be read quarterly. Metered services shall be billed for sewer use according to the actual amount of water used, based on rates and charges on file with and approved by the city commission. Payment is due upon receipt of the bill and will be considered delinquent if not paid within ninety (90) days after it has been received. If the bill is not paid within the ten (10) days after it has become delinquent, the wastewater service will be disconnected after ten (10) days' written notice. Service shall not be reinstated until delinquent charges are paid, together with the cost incurred by the utility in disconnecting or subsequently reconnecting the line.

(C) Flat Rate Service; Billings; Payment Of Charges; Delinquent Charges: All flat rate services shall be billed quarterly in advance, on or about the first day of each third month, based on rates and charges on file with and approved by the city commission. Payment is due upon receipt of the bill, and will be considered delinquent if not paid within ninety (90) days after it has been received. If the bill is not paid within ten (10) days after it has become delinquent, the wastewater service will be disconnected after ten (10) days' written notice. Service will not be reinstated until delinquent charges are paid, together with the cost incurred by the utility in disconnecting and subsequently reconnecting the line.

(D) Refundability: Payments made against charges incurred or assessed under the provisions of this chapter are nonrefundable, and a written, printed, or stamped statement to such effect shall appear on all billing notices. This subsection shall not affect the refund established with regard to deposits received. (Ord. 1508, 2-21-1984):

Section XXI: 4-6-21: PENALTIES: shall remain the same as follows:

(A) Any person found to be violating any provision of this chapter, except section 4-6-6 of this chapter, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(B) Any person who shall continue any violation beyond the time limit provided for in section 4-6-20 of this chapter shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in the amount not exceeding five hundred dollars (\$500.00) for each violation. Each day in which any violation shall continue shall be deemed a separate offense.

(C) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation. (Ord. 1508, 2-21-1984):

Section XXII: 4-6-22: Validity: shall remain the same as follows:

(A) All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(B) The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts. (Ord. 1508, 2-21-1984):

Section XXIII: 4-6-23: WATEWATER TREATMENT PLANT REPLACEMENT ACCOUNT: shall be amended as follows:

Contributions shall be made to the wastewater treatment plant replacement account after an annual review of the sewer system revenues and expenditures, with adequate consideration for adjustment of the rates paid by customers.

Section XXIV: 4-6-24: POLICY STATEMENT: shall remain the same as follows:

It is the policy of the city to ensure that new developments or projects are adequately served by the public sewer system, and further, that the costs of upgrading or renovating the system to accommodate such developments or projects be equitably and fairly apportioned between existing and anticipated users of the system.

(A) Applicability: The terms of this section apply to any single development or project whereby it is estimated that the wastewater discharge from such development or project would exceed the existing

capacity or unduly burden the existing wastewater system, making it necessary or advisable to upgrade or renovate any portion of the system.

This section does not apply to situations whereby a project or development causes an extension of service, except in situations where any portion of the existing system requires upgrading or renovation, notwithstanding the fact that an extension of service occurs. (Ord. 1514, 6-18-1984)

(B) Assessment: The developer, or other person or entity which builds or constructs any applicable development or project, shall pay a fee to the city based upon the projected twenty (20) year design flow of wastewater discharge through the renovated or upgraded system. The amount of the fee shall be a percentage of the total cost of upgrading or renovating the system equal to the percentage of the twenty (20) year design flow discharged through the upgraded or renovated system by the development or project. (Ord. 1555, 12-15-1986)

(C) Projections And Estimates: The utility is solely responsible for making projections or estimates of flow rates. Such projections and estimates shall be based upon recognized generally accepted practices or methods.

(D) Payment, Connection Fees: Payment of the fee assessed herein shall be made prior to the commencement of construction of the required upgrading or renovation. Upon payment of the assessed fee, any connection charges, which would otherwise be owing to the utility, shall be waived. (Ord. 1514, 6-18-1984)

Passed and approved on the first reading, such date being November 14, 2022.

Passed and approved on the second reading, such date being December 5, 2022 and effective January 1, 2023.

GAYLE DONEY
Chairman of the Commission

Attest:

City Clerk

RESOLUTION 4107

A RESOLUTION OF THE LEWISTOWN CITY COMMISSION TO SET THE SEWER RATES AND SCHEDULE OF FEES

WHEREAS, in accordance with § 69-7-101 Montana Code Annotated, a municipality 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 municipal utility systems and such rates, charges, and classifications must be reasonable and just; and,

WHEREAS, The City Commission passed Ordinance 1769 amending the sewer ordinance and authorizing the City Commission to set sewer rates and fees by resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Commission proposes that the city's sewer rates should be increased, effective February 1, 2023, as hereby established as set forth in Appendix A, attached here to and made part hereof.

PASSED AND ADOPTED this ____ day of _____, 2022.

Gayle Doney
Chairman of the Commission

ATTEST:

City Clerk

Appendix A
City of Lewistown Sewer rates and schedule of fees

For all premises the charge for service rendered and made available by the sewerage system shall be as follows:

1. Base Rate Charge

(a) The sewer base charge shall be collected for each sewer EDU regardless of any connection, active or inactive.

(b) **Residential Base Rate Charge:** as follows,

Effective January 2023 shall be \$19.25 per EDU

Effective January 2024 shall be \$19.50 per EDU

Effective January 2025 shall be \$19.75 per EDU

Effective January 2026 shall be \$20.00 per EDU

Effective January 2027 shall be \$20.25 per EDU

(c) **Commercial Base Rate Charge:** as follows,

Effective January 2023 shall be \$21.25 per EDU

Effective January 2024 shall be \$21.50 per EDU

Effective January 2025 shall be \$21.75 per EDU

Effective January 2026 shall be \$22.00 per EDU

Effective January 2027 shall be \$22.25 per EDU

2. **Charges On Metered Use:** Each user, residential, commercial or industrial, which is connected to the Lewistown municipal sewerage system and is metered for water use, shall be assessed a sewer use per one thousand (1,000) gallons of water used. The rate per 1,000 gallons of water used is as follows;

Effective January 2023 shall be \$7.50 per 1000 gallons of water used

Effective January 2024 shall be \$8.00 per 1000 gallons of water used

Effective January 2025 shall be \$8.50 per 1000 gallons of water used

Effective January 2026 shall be \$8.75 per 1000 gallons of water used

Effective January 2027 shall be \$9.00 per 1000 gallons of water used

(a) Residential: The sewer use charge is computed by taking the average amount of water as billed for the months of January, February and March of each year, multiplied by the current sewer use rate. Months showing no usage shall not be included in the calculation. For those utility customers that show no water use for the billing periods of January, February or March as a result of the property being vacant, the sewer use charge shall be computed using an average of two thousand (2,000) gallons per month.

(b) Commercial: Each user in this classification will be assessed a sewer use charge based on actual water use throughout the year. However, those users utilizing water

for irrigation and which have a separate meter for this water, will be assessed a sewer use charge based only on total water used, less the water used for irrigation.

3. Charges On Unmetered Services Or Properties Not Connected To The Water System:

All residential dwelling units and commercial units, connected to the Lewistown municipal sewerage system and is not metered for water use shall be assessed a unmetered monthly sewer use charge of eighty five dollars (\$85.00) per EDU.

4. Nonresidential Users: Any nonresidential user with BOD and SS strengths greater than the average residential user's strength of two hundred milligrams per liter (200 mg/l) BOD and two hundred fifty milligrams per liter (250 mg/l) SS will pay a surcharge in accordance with the rates shown in the surcharge rate structure.
5. Roof Drains: Each premises with a roof drain which discharges stormwater or any other clear waters directly into the sanitary sewer shall be assessed a sewer user charge of two dollars twenty four cents (\$2.24) per one thousand (1,000) square feet of roof area per month effective August 1, 2003, three dollars thirty six cents (\$3.36) per one thousand (1,000) square feet of roof area per month effective July 1, 2004, and three dollars forty four cents (\$3.44) per one thousand (1,000) square feet of roof area per month effective July 1, 2009.
6. Availability Of Sewerage Service: Sewerage service shall be deemed available to each premises connected to the municipal sewerage system and to each premises which abuts upon any street, alley or public place in which a sewer main is located.
7. Surcharge Rate Structure For Above Normal Strength Wastes: The city, or its engineer, will determine the average total suspended solids (SS) and five (5) day biochemical oxygen demand (BOD) daily loadings for the average residential user or in lieu of such a determination will consider the average residential strength wastes to be two hundred milligrams per liter (200 mg/l) BOD and two hundred fifty milligrams per liter (250 mg/l) SS.
8. The city, or its engineer, will assess a surcharge rate for all nonresidential users discharging wastes with BOD and SS strengths greater than the average residential user. The surcharge will be sufficient to cover the costs of treating such users' above normal strength wastes. Such users will pay an additional service charge of nineteen and seven-tenths cents (\$0.197) per one thousand (1,000) gallons for each twenty five milligrams per liter (25 mg/l) over two hundred milligrams per liter (200 mg/l) of BOD and ten cents (\$0.10) per one thousand (1,000) gallons for each twenty five milligrams per liter (25 mg/l) over two hundred fifty milligrams per liter (250 mg/l) SS effective

August 1, 2003. Such users will pay an additional service charge of thirty cents (\$0.30) per one thousand (1,000) gallons for each twenty five milligrams per liter (25 mg/l) of BOD and fifteen cents (\$0.15) per one thousand (1,000) gallons for each twenty five milligrams per liter (25 mg/l) over two hundred fifty milligrams per liter (250 mg/l) SS effective July 1, 2004.

9. Connection Fee Schedule: Upon connection to the sewerage system, the owner of property to be serviced, shall be assessed a connection fee in accordance with the following schedule:

RESIDENTIAL

4 inch service	\$300.00 for a single-family residence. For a two-, three-, or four-family residence, \$300.00 plus \$200.00 for each residence beyond 1.
6 inch service	\$400.00 for a single-family residence, plus \$200.00 for each additional residential unit.

COMMERCIAL

Fee based upon size of water service line.	
3/4 inch service	\$ 200.00
1 inch service	\$ 300.00
1 1/4 inch service	\$ 400.00
1 1/2 inch service	\$ 500.00
2 inch service	\$ 1,000.00

For service lines over 2 inches in diameter, \$1,000.00 will be assessed, plus \$1,000.00 for each additional inch over 2 inches.