

RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
MOUNT CARBON METROPOLITAN DISTRICT

WATER AND SEWER TAP FEE
AND EQR CALCULATION METHOD

RECITALS

WHEREAS, the Mount Carbon Metropolitan District ("District") is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, pursuant to Section 32-1-1001(1)(j) and (k), C.R.S., the District may fix and from time to time increase or decrease fees, rates, and charges for functions, services, or facilities furnished by the District; and

WHEREAS, pursuant to Section 32-1-1001(1)(m), C.R.S., the District has the power to adopt rules and regulations respecting the exercise of its powers and the carrying out of its purpose; and

WHEREAS, the District has been informed of the decision of the Court in Krupp v. Breckenridge Sanitation District, 19 P.3d 687 (Colo. 2001) and desires to conform its fees, rates, and charges by analogy to the ruling in that case; and

WHEREAS, the District believes that it is vital to construct and/or participate in the construction of water resource and sewer infrastructure that will allow efficient use of renewable water and collection and treatment of sewage; and

WHEREAS, the costs related to constructing the necessary infrastructure ("Costs") are significant; and

WHEREAS, the District measures water demand and sewer service demand for users in Equivalent Residential Units ("EQRs") and the method to determine the number of EQRs needed for a particular land use or development is established herein as part of the District's Rules and Regulations, as they may be amended from time to time; and

WHEREAS, the District found that Martin and Martin is qualified and engaged Martin and Martin to help determine the Costs and the allocation of the Costs among District customers and compare District rates to the rates of nearby communities as required by the intergovernmental agreements of the District with the Town of Morrison; and

WHEREAS, the District has been informed of Martin and Martin's findings and conclusions; and

WHEREAS, the District has been informed of the decision in Bennett Bear Creek Farm Water & Sanitation District v. City and County of Denver, 928 P.2d 1254 (Colo. 1996), in which the Court determined that ratemaking is a legislative function based on costs attributable to water treatment, delivery infrastructure and by analogy wastewater infrastructure, and that rates, fees, and charges may change notwithstanding contract terms; and

WHEREAS, the District has heretofore established its Water and Sewer Tap Fees, and the method for determining the number of EQRs required for a given land use or development, but based on the information from Martin and Martin, has determined that increases in the Water Tap Fees and changes to the EQR calculation method are necessary to exercise its powers and carry out its purpose; and

WHEREAS, the Board of Directors has found it to be in the best interests of the District to update the existing Water and Sewer Tap Fee to fund the costs of constructing and acquiring the infrastructure and rights necessary to better utilize renewable water and treat sewage and that the updated fee will serve a public purpose by promoting the health, safety, welfare, and prosperity of the inhabitants and landowners of the District.

THE BOARD OF DIRECTORS FINDS THAT:

- A. The District has the power to establish and impose the Water and Sewer Tap Fees and to select the method by which EQRs are determined.
- B. It is fair and equitable to impose the Costs on future customers of the District's water and sewer services.
- C. The reports and recommendations prepared and furnished by Martin and Martin provide a fair and equitable method for determining the Costs and how to allocate the Costs to future customers of the District's water and wastewater services.
- D. It is imperative for the District to act now in seeking to secure water and sewer infrastructure.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS THAT:

1. Incorporation. The Recitals and Findings are incorporated herein by reference.
2. Tap Fees Adopted. The Water and Sewer Tap Fees set forth in Exhibit A are hereby adopted.
3. EQR Method Adopted. The method to determine the number of EQRs for a particular land use or development as set forth in Exhibit B are hereby adopted.
4. Accounting, C.R.S. §29-1-1101 and 1102. The Water and Sewer Tap Fees shall be accounted for separately, and used to pay the Costs. The Water and Sewer Tap Fees shall not be used for general fund purposes.

- 5. Delayed Connection. In the event that a water tap or sewer tap is not connected to the District or Town of Morrison system within one (1) year from the payment of the water/sewer tap fee, then before such connection will be permitted, the party requesting such tap shall pay the District and the Town if applicable, the difference between the then current water and sewer tap fees and the amount previously actually paid for each.
- 6. Review of Tap Fees. The Water and Sewer Tap Fees established herein should be reviewed and adjusted at least annually to ensure that the Costs are properly calculated.
- 7. Effective Date. This Resolution, the Water and Sewer Tap Fees, and calculation method shall be effective July 15, 2013 and may be amended from time to time by the Board.
- 8. Additional Findings. Based on the information from Martin and Martin and other information available to the Board, the Water and Sewer Tap Fees established herein are found by the Board of Directors to be rational, reasonable, based on the cost of providing water and sewer facilities and services, fair, equitable, and nondiscriminatory.
- 9. Agreements. The adoption of this Resolution shall not limit the authority of the Board to enter into any agreement with terms that differ from this Resolution if the Board finds that such agreement is in the best interests of the District.
- 10. Severability. If any clause, sentence, paragraph, or part of this Resolution or the application thereof to any person or circumstance shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

This Resolution is adopted and effective as of the 15th day of July, 2013.

MOUNT CARBON METROPOLITAN DISTRICT

By: 
Tom Clark, President

ATTEST:

By: , Secretary

**MOUNT CARBON METROPOLITAN DISTRICT
WATER DISTRIBUTION AND SANITARY SEWER CHARGE SYSTEM**

1.1 GENERAL

- A. Mount Carbon Metro District (MCMD) has established a Water Distribution and Sanitary Sewer Connection Charge System for the purpose of distributing a portion of the capital costs of new facilities to those requiring the new facilities. Except as provided in Section 1.4C, for each new or altered domestic water or sanitary sewer connection served directly or indirectly by MCMD's Water Distribution or Sanitary Sewer System, a connection charge shall be paid to the MCMD. The amount due shall be based upon the number of Equivalent Residential units (EQR) attributable to each connection and the connection and inspection charges at the rates set forth in the attached Rate Summary in Appendix 'A' unless otherwise noted. From time to time, this charge may be adjusted by the Board.

1.2 GEOGRAPHICAL AREA OF APPLICATION AND RESPONSIBILITY

- A. Area of Application: The water distribution and sanitary sewer connection charge is applicable for all new or altered connections in the entire area which is served by the MCMD Water Distribution and Sanitary Sewer Systems.

1.3 RESIDENTIAL PROPERTY

- A. Equivalent Residential Unit (EQR): An Equivalent Residential Unit (EQR) is equal to one (1) Single Family Unit which means a building or structure used or designed to be used as only one residential unit (including a detached dwelling [single family house] and a mobile home); each residential unit in a duplex; and each residential unit having water service separately connected to the water main or private water distribution system in a building or structure with three or more residential units.
- B. Residential Unit means a room or group of rooms which includes or is designed to include kitchen and bathroom facilities and in which one or more persons could reasonably reside on a permanent and non-transient basis. (Kitchen facilities include any or all of the following: sink, range, stove, conventional oven, microwave oven. Bathroom facilities include any or all of the following: toilet, bath, and shower.) Notwithstanding the above, a room or group of rooms shall not be classified as a residential unit if it contains wastewater-generating fixtures other than or in addition to those used or intended to be used in normal residential activities. For example, a group of rooms that includes a residence and a doctor's office, or a residence and a restaurant, in which separate fixtures serve the nonresidential uses, will be considered a use "other" than as a single family residential property.
- C. Multi-Family Residential Units (3 or more units in a building) will be assigned **0.83** EQR for each residential unit being served by one service connection. Each residential unit will be defined as each separate room or group of rooms which includes or is designed to include kitchen and bathroom facilities and in which one or more person could reasonably reside on a permanent and non-transient basis. (Kitchen facilities include any or all of the following: sink, range, stove, conventional oven, microwave oven. Bathroom facilities include any or all of the following: toilet, bath, and shower.)

1.4 NON-RESIDENTIAL PROPERTY

- A. Water and Sanitary Service Equivalent Residential Unit (EQR): All connections which are not Single or Multi- Family Units as defined in Section 1.3 shall have the number of Equivalent Residential units (EQR's) based on the table below.

B. The following table determines the EQRs for other than residential property:

Non-Residential:		Units	EQR/Unit
Office		per 1,000 SF	0.50
Regional Retail		per 1,000 SF	0.35
Neighborhood Retail		per 1,000 SF	0.35
Specialty:	Hospital	per bed space ³	0.40
	Hotel	per unit ⁴	0.30
	Dormitory	per bed space ⁵	0.15
Commercial:			
	Banquet Rooms	per seat	0.03
	Car Wash	per bay/rack	1.50
	Drive-through restaurants	per car stall	0.20
	Laundry Facilities	per washing machine hookup	1.33
	Offices and Office Buildings	per 1,000 SF of occupied area	0.50
	Restaurants and bars	per seat	0.06
	Retail Sales Area	per 1,000 SF of sales area	0.35
	Service stations (not including car wash facilities)	per nozzle	0.40
	Other commercial (garages, fire stations, warehouses, etc.)	per 1,000 SF	0.35
Institutional:			
	Churches	per 100 seats	0.02
	Public Restrooms	per toilet	0.50
		per urinal	0.20
Schools and day care centers			
	Without a gym or cafeteria	per student	0.03
	Without a gym but with a cafeteria or vice versa	per student	0.06
	With a gym and a cafeteria	per student	0.08
Recreational:			
Recreational vehicle parks			
	Camping or vehicle spaces without water hookup	per space	0.25
	Camping or vehicle spaces with water hookup	per space	0.40
Recreational vehicle waste disposal stations (sewer only)		each	5.00
Swimming Pools, Hot Tubs (Commercial)		per 20,000 gal of pool volume	1.00
Commercial High Water Use			
Data Centers / Recreation Centers/ Water Parks / Commercial Aquarium	**High water usage will be calculated as shown below in Paragraph E		
Irrigation Taps:	Water tap fee based on Paragraph D below. For Sewer Exemption see below Paragraph C.		
* For establishments of any kind falling into more than one of the above categories, each separate category will be computed individually and then all the categories totaled for that establishment's total connection charge.			

Multiple Water and/or Sewer Taps: When a building, structure, or premise is served by more than one water service tap, the Equivalent Residential Unit (EQR) shall be the sum of equivalents of each tap. Where a building, premise, or structure has more than one physical sewer connection, the sewer connection charge shall be determined by the sum of the equivalents of each connection.

- C. **Sewer Connection Fee Exemptions.** Water service taps installed solely for fire protection purposes (such as fire hydrant branches, fire sprinkler systems, standpipes, etc.), irrigation purposes, redundant systems for public safety, or other purposes which do not discharge to the sewer system are excluded from the assignment of EQRs for sewer purposes and payment of a sewer connection charge. Plans and specifications for all redundant systems must be approved by MCMD prior to installation and any change whereby both systems can operate simultaneously will void the exemption. This exemption shall only apply to these excluded functions. Any use of any water through an exempted tap which will result in discharges to the sewer will void the exemption and shall require payment of a sewer connection charge for the tap at the then current charge. The District Manager shall reasonably determine whether a water tap qualifies for this exemption, based upon such documentation as may be provided in requesting such exemption. A letter, with supporting information as deemed necessary by the District, requesting exemption or reduction shall be submitted by each applicant.
- D. **Irrigation Fees:** Irrigation Fees will be based on the square footage of landscape area and type of landscaping being watered to determine tap fees required. Applicant shall submit a certified letter stamped by a Colorado licensed landscape architect showing calculations for the area and type of landscape to be irrigated. The District will review and define allowable sizing and required EQR's for connection charges. The District reserves the right to adjust the tap fees after a two year period according to the amount of water used after records of use are reviewed. No refund will be made for flows found to be less than those estimated by calculation and paid for at the time of initial tap purchase. EQR's and Meter Sizing (tap size) will be based on criteria outlined in Paragraph E.
- E. **Non-Residential High Water Usage – Special Circumstances** (e.g. - Water Parks, Recreation Centers and Commercial Aquariums, High water use Commercial Buildings, Data Centers)

The Board of Directors and the District Engineer reserve the right to review the usage of each property to determine if high water usage will be required for special circumstances such as Data Centers, Recreational Centers and Water Parks. The Engineer will evaluate Fill Rates/Evaporation/and Spills in addition to the domestic use for said development types.

Tap Fee Sizing for Special Circumstances

- Each meter for special circumstances will be sized in accordance with AWWA M22 sizing requirements
- Max Velocity allowed at tap will be 15 feet per second
- Max Velocity allowed after the meter will be 8 feet per second
- Max increase of service piping allowed is one single size above the water meter size
- In no circumstances shall the demand on the downstream side of the meter be greater than the maximum continuous flow limitations as outlined in AWWA M22 Standard.
- Tap Sizing: After determining volume by gallons per day (gpd) for the special circumstance, the volume calculated will then be divided by **300 gpd** to determine the EQR value associated with the parcel.

Applicant shall submit a certified letter stamped by a Colorado licensed Professional Engineer showing calculations associated for special circumstance water use. The District will review the certified letter and determine estimated use on the above criteria including an estimated peak demand. After a two year period, the District reserves the right to review the water usage and determine if tap and service fee adjustments is appropriate. No refund will be made for flows found to be less than those estimated by calculation and paid for at the time of initial tap purchase.

1.5 REPORTING AND PAYMENT

- A. Water and Sewer Connection Permits. The amount of payment and the obligation for payment of water distribution system and sanitary sewer system connection charges to the MCMD shall be based on the date a connection permit is issued.
- B. Expiration of Authorization to Connect: The use of the connection permit date as the date of determining the connection charge is based on the timely construction and physical connection of the project. If construction is not initiated within one year of the date that MCMD issued the connection permit, the permit expires and the connection charge due to MCMD shall be revised. The revised amount due shall be that amount which would be due on the day a replacement permit is issued or, if no replacement permit is issued, on the date construction is initiated. Credit shall be allowed for amounts previously paid.
- C. Credit or Refund for Canceled Connection Permits: When a connection permit is canceled by the permittee because a connection is no longer desired by the permittee or because the time limit for use of the permit has expired, a credit for the connection charges paid to MCMD will be allowed on the next quarterly report. No credit shall be allowed for a canceled permit more than five years after the date of issuance of the permit. MCMD will not pay interest on credits. Under special circumstances, the Board, if funds are budgeted and appropriated for the payment, at its discretion, may authorize a cash refund without interest. Such a credit or refund may only be authorized when a new or altered physical connection has not been made and will not be made as determined by the permittee. When a credit or refund has been requested and granted, any and all rights related to the canceled permit are terminated. At the discretion of the Board of Directors, fees associated with the administration of the refund can be deducted from the payment.
- D. Permit and Connection Charges Revisions: If the scope of a project changes after the original connection permit is issued, MCMD may revise the permit. Where there is a decrease in the total number of Equivalent Residential Units (EQRs), the credit, if any, shall be calculated based on the original rate paid. Where there is an increase in the total number of EQRs, the amount due shall be calculated by multiplying the rate per EQR in effect on the date of the permit revision by the increased number of EQRs. Discrepancies between the permit and the number of EQRs actually connected shall be revised in accordance with this subsection; the date of connection shall be considered the date of permit revision.

APPENDIX A
TABLE 1

Mount Carbon Metropolitan District Rates

Water and Sanitary Sewer Connection Permit Fees	
Water Service Tap Fee Per EQR	\$14,000
Sanitary Sewer Tap Fee Per EQR	\$6,225
Gallons Per Day (GPD) Per EQR	300 GPD

Summary of Fees and Service Charges. (Effective July 15, 2013)

- .01 Administrative and Inspection Fees (Per Tap – Water – Sanitary) To be billed based on actual time spent. A remaining balance following completion of the tap will be refunded within 60-days of project completion or notification by the Developer that the project has ended. **\$500**

 Town of Morrison Inspection: Developer will be responsible for contacting the Town of Morrison and the Mount Carbon District a minimum 48 – hours in advance to schedule inspections for water and/or sanitary tap connections. All fees associated with the Town inspections are the Developer’s responsibility.

- .02 Engineering Review and/or Legal Fees: An agreement and Deposit for engineering and legal fees for the agreement, review of development plans and associated tap fee charges will be at the Engineer’s and/or Attorney’s standard rates, estimated at the time of the agreement and initial review of plans. If the estimated fee appears to be insufficient as the review progresses, the Developer will be responsible for additional fees upon notification. Review will not continue until such time sufficient funds have been deposited. A remaining balance following completion of review will be refunded to the Developer within 60-days of project completion or notification by Developer that the project has ended.

- .03 Service Charges
 By Town of Morrison