

2024 TischlerBise / Whitefish Impact Fee Overcharges

TischlerBise and Whitefish Unlawfully Inflate Fees

The City of Whitefish MT adopted 2024 impact fees recommended by new consultant TischlerBise Inc. City politicians ignored a professional opinion that some of the fee calculations were invalid and that Whitefish was grossly and unlawfully overcharging water and sewer impact fees. This overcharge amounts to more than \$5000 for a single family home. Whitefish implemented these fees while the City was in the middle of a Class Action lawsuit, accused of inflating prior water and sewer impact fees since 2019.

Summary of 2024 Impact Fee Overcharges

Property owners are being overcharged at least **\$5022** as shown in **red** in the chart below. The overcharges are much greater for larger dwellings. The fees shown in **green** are calculated using data originally provided by Whitefish officials to its consultant, TischlerBise Inc. But emails show TischlerBise coaching Whitefish to change this data, otherwise impact fees would be “very small”. Whitefish obliged and switched data that was neither appropriate nor consistent with impact fee calculations, according to an outside, professional engineer. Using this invalid data, TischlerBise calculated inflated and unlawful impact fees, shown in the **blue** column.

Whitefish Overcharges – 2024 Comparison of Impact Fees

Meter Size (inches)	Weighting Factor	Correct Water Fee	Correct WW Fee	Total Correct Fees	Whitefish Water Fee	Whitefish WW Fee	Total Fees	Whitefish Overcharge
3/4	1	\$2,192	\$730	\$2,922	\$3,903	\$4,041	\$7,944	\$5,022
1	1.67	\$3,661	\$1,219	\$4,880	\$6,518	\$6,748	\$13,266	\$8,387
1 1/2	3.33	\$7,299	\$2,431	\$9,730	\$12,997	\$13,457	\$26,454	\$16,723
2	5.33	\$11,683	\$3,891	\$15,574	\$20,803	\$21,539	\$42,342	\$26,767
3	10	\$21,920	\$7,300	\$29,220	\$39,030	\$40,410	\$79,440	\$50,220
4	16.67	\$36,541	\$12,169	\$48,710	\$65,063	\$67,363	\$132,426	\$83,717
6	33.33	\$73,059	\$24,331	\$97,390	\$130,087	\$134,687	\$264,774	\$167,383

The TischlerBise fees were approved by the City Council in Oct, 2023, despite the Council being warned that the fees were not calculated correctly. City politicians are accused of violating Montana law MCA 7-6-1602 (5) “*The amount of each impact fee imposed must be based upon the actual cost of public facility*”. By our estimates, the City will overcharge Whitefish property owners **\$6,277,500** in unlawful water and sewer impact fees between 2024 – 2028.

How Do We Know The City’s Impact Fees Are Invalid?

Here’s an example of just the wastewater impact fee calculations. From City emails and the 2023 TischlerBise Impact Fee report, we tracked how TischlerBise worked with Whitefish to inflate the current **\$4041** wastewater impact fee, which should be just **\$730**. Our conclusions are supported by a professional public utility engineer.

1. **Initial Fee “Very Small”**: Based on an email exchange, when TischlerBise initially calculated the Whitefish wastewater impact fee, only the \$27M wastewater treatment plant was used in its calculation. Using TischlerBise’s own report, this fee was only **\$696**. TischlerBise warned Whitefish in an email that this fee was “very small” and asked a City official to “add” other projects to increase this fee.
2. **Recalculation**: Whitefish obliged and added a small piping project that replaced an aging sewer pipe. This project cost the City **\$400K** and increased capacity by **1 MGD** (million gallons per day) per a Whitefish email. TischlerBise performed a new recalculation and the result was still small. We did the same and calculated a new impact fee of just **\$730**, representing a reasonable **\$34** added for such a small project.

3. **Whitefish Changes Data Resulting In Huge Increase:** Because the fee increase was so small, TischlerBise prodded the City into reconsidering the capacity of the piping project before presenting its final results. Whitefish changed the capacity amount and dimensions. TischlerBise recalculated the impact fee to be **\$4041** which represented a 100 fold increase of **\$3345** (from \$34) for the small piping project! TischlerBise masked this huge increase by combining the two projects (plant and piping) into one calculation.
4. **Analysis:** The original capacity provided to TischlerBise (1 MGD) was numerically and dimensionally appropriate. The revised capacity provided by Whitefish was inappropriate for calculating impact fees. A professional engineer stated that the new capacity was **dimensionally inconsistent** (gallons vs gallons per day) and should NOT have been used to calculate impact fees.
5. **Comparison:** In the prior Whitefish 2018 impact fee report, the same project fee was only **\$68 per unit**, more in line with the **\$34** calculated using the correct capacity. This is what previous property owners paid. Using prior building permit data and the new, inflated impact fee, Whitefish will collect more than **\$4 Million** in 5 years for a project that only cost the City **\$400K**. It is both illogical and unlawful for the City to demand such a huge impact fee for such a small piping project.
6. **Conclusion:** TischlerBise and the City either deliberately used invalid data to overcharge Whitefish property owners or acted incompetently when calculating new fees. Neither the City nor TischlerBise performed any form of quality review of this calculation, which would have exposed this error.

This summary highlights the extraordinary efforts by TischlerBise and Whitefish to inflate impact fees. The same error was uncovered with water impact fees.

City Politicians Ignore Warnings

The Whitefish City Manager, Mayor and City Council are complicit in this overcharge. They were warned that the TischlerBise report was flawed and that the new fees assessed property owners in Whitefish were seriously inflated. Whitefish politicians ignored warnings, refused to perform an *independent* review, and accepted the flawed TischlerBise report without questioning its validity.

Whitefish Has A History Of Inflating Impact Fees

In 2022, Whitefish property owners filed a Class Action suit against the City claiming it was charging unlawful impact fees. Approximately 450 property owners were overcharged fees between 2019 through 2023. A Federal Court in Missoula certified this Class Action against Whitefish on Constitutional grounds which was affirmed by a recent US Supreme Court ruling. The Courts upheld the rights of property owners to challenge impact fees imposed by local governments. This rulings require impact fees to be directly related and proportionate to the costs borne by a city. **Just after this ruling, Whitefish and its consultant, the FCS Group, entered into an agreement with these property owners to pay \$1.4M to settle their claims in this Class Action.**

Unfortunately, this settlement will not help property owners overcharged by TischlerBise and the City of Whitefish starting in 2024.

Contact Us For Further Information

The above analysis is detailed in a report entitled [Analysis of 2024 Whitefish Impact Fees](#) , which is available upon request. This report shows how the TischlerBise impact fee problems were calculated <https://client.schwab.com/Login/SignOn/CenterLogin.aspx>. Property owners who paid fees beginning in 2024 can contact us to discuss the options available to resolve these errors with the City.

Contact us at ImpactFeeAbuses@yahoo.com for more information. Paul Gillman, Whitefish MT