

Whitefish vs MT Adopted Building Codes

At the Whitefish City Council meeting on Oct 16th, 2023, an Open Letter was presented requesting the City adopt the Uniform Plumbing Code (UPC) as its standard method for sizing water meters. Meter size affects the water pressure in a home and if not properly sized, can lead to serious problems. Too small of a meter leads to lower water pressure for sinks and showers and poor performance of other fixtures. Too large a meter can cause serious damage to fixtures and more importantly to the piping in a home. Too large a meter also results in **wasted water** and is the reason many cities encourage the use of smaller meters. The UPC establishes a method for sizing water meters that was adopted by Montana as its statewide standard. All cities in Montana appear to use the UPC to determine the proper meter size required in a home or small business. But not Whitefish.

Whitefish Claims State Lacks Authority To Regulate Meter Sizing

The Montana Dept of Labor and Industry (L&I) has regulatory authority over state adopted building standards and codes including the UPC. However, Whitefish officials argue that as a public utility, the City's Public Works department cannot be regulated by this state agency, even when it comes to certain building codes. Whitefish uniquely claims L&I cannot require the City to use the state adopted UPC standard when sizing meters. Apparently no state agency can regulate a municipal utility.

It's All About Money

Why is Whitefish so reluctant to use the same standards adopted by the rest of Montana? It appears to boil down to \$\$\$. City officials use the size of a water meter when they impose fees on property owners. The larger the water meter a resident is forced to install, the more fees the City collects. By not adhering to the UPC, Whitefish officials appear to be forcing some property owners to install larger meters than necessary, to the detriment of the home and homeowner.

Documented Abuses By Whitefish

At the Oct. 16th City Council meeting, City officials were asked about letting homebuilders and plumbers determine the water meter size of a home using the UPC. City Manager Dana Smith and the Public Works Supervisor Rose Elliott were opposed and both indicated they didn't trust builders and licensed plumbers.

But whose interests are Elliott and Smith really looking out for? Apparently not the homeowners of Whitefish. It was Elliott whose department was tasked with counting fixture units using the UPC when assessing fees. From 2019 to 2021, her department violated the UPC standard by double counting certain fixture units (shower heads) to the benefit of the City. This was reported by NBC MT as well as the local media. If residents had not found and reported this to a state agency and the media, the City would still be overcharging property owners. It was Smith who created the 2018 impact fee collection charts that were inconsistent with the UPC standard. This resulted in significant overcharges to property owners and is an issue in the Class Action lawsuit against the City. These actions raised significant fees for the City by overcharging certain Whitefish property owners. **City officials used their claimed exemption from state standards to accomplish this.**

In addition, City officials force some owners of older homes, when applying for a building permit, to install water meters larger than necessary. This forces these homeowners to relocate water meters from inside their homes to out near the street, at significant expense to the homeowner. This benefits Whitefish but provides no benefit whatsoever to the homeowner.

From City documents dating back to 2019, at least 45 homes in Whitefish were forced to install a larger 1" meter, when a 3/4" meter was likely sufficient based on the UPC. Besides higher impact fees, these homeowners were charged higher base water fees. There is a clear financial motivation for Whitefish to ignore the UPC and keep its own non-standard method of meter sizing.

Lack Of Transparency

Whitefish lacks transparency and needs to adopt the UPC to allow homeowners and builders to determine what meter sizes are needed. Whitefish residents are entitled to the same equal treatment under the law as other Montana residents. Whitefish officials keep their water meter sizing method in the dark, allowing them to make changes without any public scrutiny.

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