

# Whitefish 2024 Impact Fee Overcharges

## City Calculated Fees Using Invalid Data

The City of Whitefish is overcharging new impact fees imposed on all property owners who construct new homes, build additions, or develop commercial or residential properties. New fees go into effect Jan, 2024 as City politicians ignore an expert’s opinion that the fee calculations were invalid. Whitefish is already a defendant in a Class Action lawsuit, accused of previous impact fee overcharges dating back to 2019.

New 2024 homeowners and builders are being overcharged **\$5022 - \$8387** as shown in **red** in the chart below. The overcharge is much greater for larger homes and businesses. These overcharges are just for water and wastewater impact fees. Based on the previous 5 years of building permits, the estimated City overcharges will exceed **\$6 million**. The **green** fees are calculated using valid data originally provided by Whitefish officials to its consultant, TischlerBise Inc. But emails show TischlerBise telling Whitefish that impact fees would be “very small”. Whitefish then switched data that was neither appropriate nor consistent. This is according to an independent engineering consultant. Using this invalid data, TischlerBise calculated much higher 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 report was approved by the City Council in Oct, 2023. Officials 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”.

#### City Imposing Fees 20 Times More Than Cost Of Project In Just 5 Years

Just one example demonstrates the extent of this problem. Whitefish is charging each new homeowner at least **\$3344** for a small project that 5 years ago the City charged only **\$68**. The project cost is only **\$178K**, yet the City will collect over **\$4 Million** in the next 5 years. The max amount the City can collect by state law is what a project costs.

An engineering consultant produced a report that showed the reason for this significant overcharge. Data provided by the City was inappropriate and “dimensionally inconsistent” with data used to compute impact fees. His report was delivered to Whitefish attorneys, yet was ignored by Whitefish officials and politicians.

#### City Politicians Ignore Several Warnings

The Whitefish Mayor and City Council are complicit in this gross overcharge. They were warned that the TischlerBise report was flawed and that the fees assessed property owners in Whitefish were seriously overstated in an Open Letter sent by residents. Whitefish politicians ignored warnings, performed no independent review, and accepted the flawed TischlerBise report without questioning its validity. They simply asked TischlerBise to concur with its own report. Instead, the Mayor and Council wrote an OP-ED in the local media in a clear attempt to undermine the credibility of the Open Letter and its author.

Meanwhile, the Class Action against the City continues. The Federal Court in Missoula issued a ruling certifying the Class Action against Whitefish. Whitefish officials strenuously opposed certification, but the Federal Court denied the City's objections. The City filed an appeal to the Ninth Circuit Court of Appeals which the Court summarily rejected. Trial is scheduled for July 2024, with nearly **\$4 million** in claims against the City at stake. Letters will be sent through the Court to homeowners and builders who paid impact fees between 2019 and 2023 refunds.

Builders and homeowners who paid impact fees beginning in 2024 are also asked to contact us.

For further information including a detailed report entitled [Analysis of 2024 Whitefish Impact Fees](#), contact Paul Gillman, pgaz@yahoo.com or Bill Burg, burgs.ski@bresnan.net