

**BIG SKY COUNTY WATER & SEWER DISTRICT NO. 363  
ORDINANCE 25-02**

AN ORDINANCE OF THE BIG SKY COUNTY WATER & SEWER DISTRICT NO. 363, MONTANA, GRANTING THE PETITION OF CH COLD SMOKE, LLC TO ANNEX LANDS IN SECTION 31, T6S, R4E TO ANNEX LAND IN SECTION 31 T6S, R4E INTO THE BIG SKY COUNTY WATER AND SEWER DISTRICT NO. 363

BE IT ordained by the Board of Directors (the "Board") of the Big Sky Water & Sewer District No. 363, Montana (the "District") as follows:

**Section 1. Recitals and Findings.**

1.01. The District has received a petition from the CH Cold Smoke, LLC a Delaware limited liability company ("the Petitioner"), who owns the real property seeking annexation, requesting the addition of certain lands more particularly described in Section 1.03 below to the District, which petition has been determined and certified to meet the requirements of the Title 7, Chapter 7, Parts 22 and 23, Montana Code Annotated.

1.02. The District Board determined that the land is contiguous to the District boundary; there is adequate capacity for the existing District; the District has adequate capacity to serve the Property is granted in writing the approval to use not to exceed 400.81 SFEs as allocated in the *Second Amended and Restated Interlocal Agreement Between Big Sky County Water and Sewer District No. 363 and Big Sky Resort Area District* dated February 1, 2022; and the Petitioner executes an mutually agreed upon agreement for annexation which addresses the Petitioner constructed and District partition on construction of water infrastructure to ensure the annexation and connection is not detrimental to the existing District.

1.03. The Petitioner is the owner of certain real property ("Property"), hereinafter referred to and described as follows:

Parcel 1: Lot 5, of the Final Plat of Minor Subdivision No. 312-B, being an Amended Plat of Lot 3A, of Minor Subdivision No. 312- A, in Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana; and

Parcel 2: Tract 2A-1-A of Certificate of Survey No. 1858D, according to the official survey thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.; and

Parcel 3: A tract now described as Tract 1 of Certificate of Survey 2994 and located in the NE1/4SW1/4, Section 31, Township 6 South, Range 4 East, Gallatin County, Montana, more particularly described as follows, to wit:

Beginning at a point on the East line of the NW1/4SW1/4 of Section 31, Township 6 South, Range 4 East, M.P.M., Gallatin County, Montana, which is 468.4 feet South of the Northeast Corner of said NW1/4, this point being on the center line of the County Road; thence continuing South along the East line of said NW1/4, a distance of 217.6 feet; thence at a bearing of South 41°24' West a distance of 297.0 feet; thence at a bearing of South 69°13' East a distance of 540.8 feet; thence at a bearing of North 60°00' East, a

distance of 295.0 feet; thence at a bearing North 0°5' West and parallel to the East line of said NW1/4, a distance of 695.7 feet to a point on the center line of said County Road; thence along the center line of said County Road at a bearing of South 76°45' West a distance of 738.1 feet; thence along the center line of said Road at a bearing of South 80°00' West, a distance of 242.2 feet to the point of beginning. According to the Plat recorded in Book 122 of Deeds, Page 82, records of Gallatin County, Montana; and

Parcel 4: Tract A, of Certificate of Survey No. 1793, located in the NE 1/4 of the SW1/4 of Section 31, Township 6 South, Range 4 East, P.M.M., Gallatin County, Montana, according to the official survey thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana; and .

Parcel 5: Tract B of Certificate of Survey No. 1793, located in the NE1/4 of the SW1/4 and the NW1/4 of the SE1/4 of Section 31, Township 6 South, Range 4 East, P.M.M. Gallatin County, Montana, according to the official survey thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.

1.04. As a condition of the Annexation Ordinance, the Petitioner and its successors in interest and assigns agrees to:

1. Petitioner agrees to pay all general obligation bond ~~tax~~ levy and charges, assessment, and costs in accordance with the rules and regulations of the District. The levy will be effective the first year that the Property is annexed into the District.
2. Petitioner execute prior to the 2<sup>nd</sup> reading of this Ordinance the Annexation Agreement for the Property and abide by the terms, agreements and conditions of said Annexation Agreement.
3. Petitioner agrees that the Petition for Annexation and first reading of the annexation ordinance is null and void in the event the May 2025 election of the Big Sky Resort Area District fails to pass the funding that supports the use of the SFEs assigned to the Big Sky Resort Area which are allocated through the Housing Trust.
4. Petitioner acknowledges the District has submitted information to process a change of the District's water rights place of use and Petitioner agrees it shall not seek nor connect to water service until authorized in writing by the District.
5. Petitioner shall pay all fees levied by the District including but not limited to PICS and SICs
6. Petitioner agrees to indemnify and to hold the District harmless against any claims made against the District for lost damages concerning the development of the annexed lands.

7. Petitioner agrees to execute any further documentation of the Annexation Agreement terms, conditions and obligations.

1.05. Section 7-13-2341, Montana Code Annotated, District may grant the petition by adoption of an ordinance upon the finding that the District will have sufficient capacity to serve the Property as set forth herein.

At the meeting held on March 18, 2025, the Board for the District made the following decision regarding process for annexation: The Property is contiguous; The District will have sufficient capacity to meet the needs of the current District and serve the Property, the District has an capacity to provide service pursuant to *Second Amended and Restated Inter-local Agreement Between Big Sky County Water and Sewer District No. 363 and Big Sky Resort Area District* dated February 1, 2022; and the Petitioner is willing to enter into an agreement for annexation which shall include but not be limited to addressing the necessary infrastructure, including well drilling, to ensure the connection of the annexed Property is not detrimental to the existing District system and users; the development complies with the provision of the *Second Amended and Restated Inter-local Agreement Between Big Sky County Water and Sewer District No. 363 and Big Sky Resort Area District* dated February 1, 2022; the use of the SFEs is authorized in writing and the annexation shall only proceed with the satisfaction of the above as well as the passage of support for the financial component which is subject to the Big Sky Resort District election in May of 2025.

**Section 2. Agreements, Commitments, Obligations Incorporated.** The findings and recitals, including the Petitioner's agreement to the conditions of Annexation are incorporated into the Annexation Ordinance.

**Section 3. Effect of the Addition of Property to the District.** Upon the second reading and filing of the certificate of approval of the Ordinance, the Property described above shall be a part of the District and shall be included in the both the Water System Jurisdictional Area and the Sewer System Jurisdictional Area and shall be subject to all the rules, regulations, ordinance fees, charges, taxes levied or imposed against other property of the District, and posses the rights, privileges and powers set forth in Title 7, Chapter 13, Part 22 and 23, Montana Code Annotated.


**Section 5. Instructions to Secretary; Filing.** If the Ordinance is approved, the President and Secretary of the Board are hereby directed to certify that fact to the Secretary of State and the County Clerk and Recorder and request that the Secretary of State issue a certificate that the Ordinance has been approved and the territory has been added to the District. The Secretary of State shall transmit the certificate to the County Clerk and Recorder for filing, upon which the territory is deemed added to the District.

First reading of this Ordinance passed at a duly notice meeting with a vote of 7 in favor and 0 against.

ORIGINAL

0. Second reading of this Ordinance passed at a duly noticed meeting with a vote of 5 to

Passed and approved this 20<sup>th</sup> day of August, 2025

  
\_\_\_\_\_  
President, Board of Directors

ATTEST:

  
\_\_\_\_\_  
Secretary

(SEAL)

ORIGINAL

CERTIFICATE AS TO ORDINANCE AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of Big Sky County Water & Sewer District No. 363, Montana (the "District"), hereby certify that the attached ordinance is a true copy of an Ordinance entitled: "AN ORDINANCE OF THE BIG SKY COUNTY WATER & SEWER DISTRICT NO. 363, MONTANA, GRANTING THE PETITION OF CH COLD SMOKE, LLC TO ANNEX LANDS IN SECTIONS 31 and 32, T6S, R4E as described in the ordinance INTO THE BIG SKY COUNTY WATER AND SEWER DISTRICT NO. 363" (the "Ordinance"), on file in the original records of the District in my legal custody; that the Ordinance was duly adopted with the first reading passing on March 18, 2025 by the Board of Directors of the District and the second reading at a regular meeting on August 20, 2025, and that the meeting was duly held by the Board of Directors and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Annexation Ordinance on the First Reading passed with Directors voted in favor thereof being Aye (7) and Directors voting against the same being Nay (0) with AB (0) abstained from voting thereon and on the Second Reading with Directors voted in favor thereof being Aye (5) and Directors voting against the same being 0 (0) with 2 (2) abstained from voting thereon.

WITNESS my hand and seal officially this 20<sup>th</sup> day of August, 2025.



Dick Fast, Secretary