

RESOLUTION NO. 616

A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF BIRCH BAY WATER AND SEWER DISTRICT,
WHATCOM COUNTY, WASHINGTON,
REPEALING PORTIONS OF RESOLUTIONS NO. 75 AND 433 AND AMENDING
RESOLUTIONS NO. 491, 516, AND 564, AND ADDING NEW PROVISIONS TO THE
WATER & SEWER CODE REGARDING EQUIVALENT LIVING UNITS FOR WATER

BE IT RESOLVED by the Board of Commissioners of Birch Bay Water and Sewer District, Whatcom County, Washington as follows:

Section 1: Section 1 of Resolution No. 75 and Section 7.04.010 of the Birch Bay Water and Sewer District Code is hereby repealed and replaced in its entirety with the following:

7.04.010 Definitions

The terms below shall have the following meanings when used in this chapter.

- (a) "Commission" means the Board of Commissioners of the District.
- (b) "Commercial Customer" means a customer of the District utilizing the premises connected to the District system for commercial purposes, including without limitation, retail uses, grocery and/or convenience stores, restaurants or other eating establishments, bars or lounges, clubhouses, public or private community buildings, gas stations, auto repair or service stations, professional offices, banks or lending institutions, barber or beauty shops, warehouses, theaters or auditoriums, laundromats, schools, medical facilities, hospitals, rest homes, convalescent centers, or treatment facilities.
- (c) "Customer" means a property owner that has a connection to the District's water system.
- (d) "District" means the Birch Bay Water and Sewer District.
- (e) "Engineer" means any consulting engineer or any District employee performing engineering work for the District.
- (f) "Equivalent Living Unit" ("ELU") and "Residential Customer Equivalent" ("RCE") shall mean a unit estimated to have approximately the same water use and/or to produce the same sewer waste as one single-family residence, to be determined in accordance with this chapter.
- (g) "Extended Service Unit" means a water outlet or standpipe installed for the use of persons other than the owner or occupant of the premises. Extended Service Units

shall be separately metered, and shall include washrooms, laundry rooms, bathhouses, standpipes in transient camping and/or picnic areas, and all other similar installations.

- (h) "Fixture Units" as used in this title means that measure of the quantity of water a water plumbing fixture is capable of supplying as specified in the Uniform Plumbing Code, as adopted and amended in the most current Whatcom County ordinances. In situations where the plumbing fixtures for water supply are not listed in the Uniform Plumbing Code as specified above, fixture units shall be determined by the District Code and other applicable policies and procedures approved by the Board of Commissioners.
- (i) "General Manager" means the General Manager of the District or any authorized employee of the District performing work on behalf of the General Manager.
- (j) "Mains" means water lines designed or used to serve more than one premises.
- (k) "Premises" means a continuous tract of land, building or group of adjacent buildings under a single control with respect to the use of water and responsibility for payment therefor. Subdivisions of such use or responsibility shall constitute a division into separate premises as defined in this section.
- (l) "Residential Customer" means a customer of the District utilizing the premises connected to the District system for residential purposes.
- (m) "Service connection" means that portion of the District water supply system connecting the private service line on a premises to the District distribution main, including the tap into the water main, the water meter and appurtenances, the service line from the main to the meter and from the meter to the property line
- (n) "Standard mains" or "permanent mains" means mains conforming to the standard specifications or the District with respect to methods, materials and/or minimum diameter.
- (o) "Standard specifications" means those standard specifications for water works construction which have been adopted by the Board of Commissioners of the District.
- (p) "Substandard mains" means mains not conforming to the standard specifications of the District with respect to methods, materials and/or minimum diameter.

Section 2: Section D of Resolution No. 516 and Section 7.04.011 of the Birch Bay Water and Sewer District Code is hereby repealed in its entirety.

Section 3: Section 2(C) of Resolution No. 75 and Section 7.04.040 of the Birch Bay Water and Sewer District Code is hereby repealed in its entirety and replaced with the following:

7.04.040 Change of Use.

(A). Increase or Decrease in ELUs. Changes made to a premises connected to the District's system may change the number of ELUs for said premises. As a result of any changes in premises, the number of ELUs shall increase, decrease, or remain the same, all in accordance with the standards set forth in this chapter. Within thirty (30) days of making any change in the premises resulting in a higher number of ELUs, the Customer shall pay additional general facilities charges for the increased amount of ELUs. Upon making any change in the premises resulting in a lower number of ELUs, subject to compliance with other requirements of this section, the Customer shall be eligible for a credit in general facilities charges for the decreased amount of ELUs, which credit shall remain with the premises until used. The obligation for additional general facilities payments for increased ELUs and the potential credit toward future general facilities charges for decreased ELUs shall be calculated based on the general facilities charge in effect at the time the change in premises is made. Upon completion of any change in premises resulting in an increase or decrease in ELUs, the Customer shall pay new monthly rates commensurate with the new number of ELUs for the premises.

(B). Charges and Collection for ELU Increase - Implementation. The Customer shall have an obligation to notify the District in writing of any changes to his/her premises that increase the number of ELUs for said premises within thirty (30) days of making the change. The District may learn of a change in Customer's premises resulting in an increase in ELUs for said premises - from the Customer directly, through building permits, report of third parties, through its own investigation, or other means. Upon learning of an increase in ELUs, the District shall bill the Customer for any additional general facilities charges owed and begin charging and collecting from the Customer a monthly service charge based on the actual number of ELUs for the premises. In the event a Customer fails to notify the District within thirty (30) days of a change in the use of his premises as required herein, the District will charge said Customer for interest on any additional general facilities charges owed as a result of increased ELUs at a rate of twelve percent (12%) per annum beginning from the date the changes in premises resulting in increased ELUs were completed; and the District shall also charge the Customer the difference between the monthly rates actually paid and the monthly rates that should have been paid based on the actual number of ELUs, relating back to date said Customer changed the premises; provided that, said back charges for monthly rates more than six (6) years delinquent shall not be collectible.

(C) Reduction in Rate/General Facilities Charge Credit for ELU Decrease - Implementation. Whenever the Customer desires to discontinue the use of water for any special purpose or through any fixtures mentioned in the original application, he shall first cause the fixture to be removed and the branch pipe or service supplying the same to be capped or plugged and shall notify the District in writing before any credit for general facilities charges or reduction in rate will be made. Upon receipt of such written notice from the Customer and verification by the District of fixture removal or capping or plugging of facilities, the District shall recalculate the number of ELUs for said premises. Any reduction in ELUs shall result in a credit for general facilities charges and a commensurate reduction in monthly rates as provided in subsection (A) above. In no

event shall there by any reimbursement or refund for general facilities charges collected, other than a credit for such future charges for the premises.

Section 4: A new section is added as Section 7.04.045 of the Birch Bay Water and Sewer Code to read as follows:

7.04.045 Status of District customers.

Customers of the District shall not experience any change in their previously assigned number of ELUs until such time as said customers change the nature of their use (e.g. from residential to commercial), add additional uses or fixtures, or otherwise experience an increase or decrease in ELUs as described in this chapter; except that, existing or future customers of the District vested with a complete building permit application for a particular premises, filed with the appropriate local permitting authority on or before the date of this resolution, shall be assigned a number of ELUs for the new building or addition on said premises in accordance with the assignment of ELUs in effect prior to adoption of this resolution.

Section 5: Section C of Resolution No. 516, and Section 7.04.083 of the Birch Bay Water and Sewer District Code is hereby repealed in its entirety and replaced with the following:

7.04.083 Equivalent living unit calculations.

The number of equivalent living units ("ELUs") for water per service or project, as applicable, shall be as follows:

1. Single Family Residence: For each Single Family Residence, one ELU; except that, Single Family Residence served by a meter greater than 5/8th inch in size shall be the greater of one ELU, or the number of ELUs established pursuant to the calculation method for Commercial uses.
2. Multiple family residence, Non-Time Share Condominium: For each residential unit, one ELU.
3. Mobile Home Park or Trailer Court: For each space in a mobile home park or trailer court or other premises where water and sewer service is available to a space which is used or may be used for living purposes, on a full or part-time basis, one ELU.
4. Camping Mobile Home Park or Camping Trailer park (not intended for general year around use, i.e. camping type): For each space in a mobile home park or trailer court or other premises where water and sewer service is available to a space which is used or may be used for living purposes, on a part-time basis, one-half ELU.
5. Campgrounds (with water service only to individual sites): For each space in a campground used for camping on a full or part-time basis, one-third ELU.

6. Campgrounds (without sewer or water service to individual sites): For each space in a campground used for camping on a full or part-time basis, one-quarter ELU.
7. Motel or Hotel, Time Share Condominium: For each two rooms/units or fraction thereof, one ELU.
8. Commercial Uses: For each Commercial Use and/or Extended Service Unit, the number of ELUs shall be the greater of one (1), or the number established based on the number of Fixture Units serving the Commercial Use and/or Extended Service Unit. The number of Fixture Units shall be determined in accordance with the District Code and other applicable policies and procedures approved by the Board of Commissioners. The number of ELUs for a Commercial Use and/or Extended Service Unit shall be determined by dividing the number of Fixture Units for "public-general use" serving the Commercial Use and/or Extended Service Unit by 25.0; provided that, in no event shall the number of ELUs for any Commercial Use or Extended Service Unit be less than one (1). Partial ELUs resulting from the division of Fixture Units by 25.0 shall be rounded to the nearest one-half (1/2) ELU, except for Campgrounds described in subparagraph 5 and 6 herein.
9. Churches: For each church, one ELU; except that, churches served by a meter greater than 5/8th inch in size shall be the greater of one ELU, or the number of ELUs established pursuant to the calculation method for Commercial uses.
10. Combined Facilities: For each property which has more than one business or function on one sewer or waterconnection, the number of ELUs will be based on the combined sum of the individual units which are applicable to each business or function involved.
11. When a customer is not specifically listed above, the General Manager or his designee may determine which category the customer most closely resembles in quantity of water used and quantity and quality of sewage output, and classify each customer accordingly; provided that, any residential unit added to a commercial use shall be charged for a minimum of one additional ELU, and the total number of additional ELUs for such residential unit shall be determined in accordance with 7.04.083(1).
12. The minimum number of ELU for any facility shall be one ELU.

Any property, which has previously paid for water service, and has continually received water service from the District, but has paid either no general facilities charge or less than the current general facilities charge, shall receive a credit of four hundred twelve dollars against the charge levied in Section 7.04.081. Any property which has previously paid a general facilities charge, but is not currently paying for water service, shall receive a credit against the charge levied in Section 7.04.081. The credit will be the amount originally paid multiplied by 1.373.

Section 6: Section 2 of Resolution No. 433, and Section 7.04.130 of the Birch Bay Water and Sewer District Code is HEREBY REPEALED.

Section 7: Section 3 of Resolution No. 433, and Section 7.04.140 of the Birch Bay Water and Sewer District Code is HEREBY REPEALED.

Section 8: Section 2 of Resolution No. 564 and Section 5 of Resolution No. 491 and Section 7.04.145 of the Birch Bay Water and Sewer District Code is hereby amended to read as follows:

Separate meters installed for fire protection purposes shall be treated as Extended Service Units as provided herein; except that, this provision shall not apply to detection meters and meters measuring flow to single family residences.

Section 9: BE IT FURTHER RESOLVED that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

Section 10: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Board of Commissioners hereby declare that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this Resolution should be declared invalid or unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

Section 11: This Resolution shall be effective immediately.

PASSED by the Board of Commissioners of Birch Bay Water and Sewer District, Whatcom County, Washington, at a regular meeting held the 10th day of October, 2002.


COMMISSIONER


COMMISSIONER


COMMISSIONER

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 616 of Birch Bay Water and Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on October 10, 2002.


SECRETARY