

RESOLUTION NO. 617

A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF BIRCH BAY WATER AND SEWER DISTRICT,
WHATCOM COUNTY, WASHINGTON,
REPEALING PORTIONS OF RESOLUTIONS NO. 149, 516, 139,
AMENDING PORTIONS OF RESOLUTIONS NO. 149, AND ADDING ADDITIONAL
PROVISIONS TO THE WATER & SEWER CODE
REGARDING EQUIVALENT LIVING UNITS FOR SEWER

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. 149 and Section 8.04.010 of the Birch Bay Water and Sewer District Code is hereby amended to read as follows:

8.04.10 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this title shall be as set forth in this section.

The terms below shall have the following meanings when used in Title 8.

- (a) "Agency" means any city, town, county, state, or department or division thereof.
- (b) "A.S.T.M." means the American Society for Testing Materials.
- (c) "Board" means the board of commissioners, the governing body of Birch Bay Water and Sewer District, state of Washington.
- (d) "B.O.D." (denoting "biochemical oxygen demand") means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days in twenty degree centigrade, expressed in milligrams per liter.
- (e) "Capping permit" means a permit required for the disconnection of sewer service.
- (f) "Cluster living units" means living units, such as trailers, cabins or houses which have utilities operated and maintained by an association or by a common owner.
- (g) "Commission" means the Board of Commissioners of the District.
- (h) "Commercial Customer" means a customer of the District utilizing the premises connected to the District system for nonresidential or 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.

- (i) "County" means Whatcom County, Washington.
- (j) "Cover" means the depth of material lying between the top of the sewer or drain and the finish grade immediately above it.
- (k) "Customer" means a property owner that has a connection to the District's sewer system.
- (l) "District" means the Birch Bay Water and Sewer District, a municipal corporation of Whatcom County, state of Washington.
- (m) "District sewerage system" means the system of conduits, pumps, treatment plants and structures used for the purpose of conveying from their source, treating in any manner, and conveying to final points of disposal all wastes of any nature permitted by this chapter to enter such system.
- (n) "Downspout" means a pipe which conducts water from a roof of a building or structure.
- (o) "Engineer" means any consulting engineer or any District employee performing engineering work for the District.
- (p) "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.
- (q) "Fixture Units" as used in this title means that measure of the quantity of liquid waste that a sewer or drain plumbing fixture is capable of discharging 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 sewer 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.
- (r) "Garbage" means putrescible waste from the preparation, cooking and dispensing of food, from the handling, storage and sale of produce.
- (s) "General Manager" means the General Manager of the District or any authorized employee of the District performing work on behalf of the General Manager.

- (t) "Inside" means the side sewer constructed on private property from the plumbing outlet to the stub sewer.
- (u) "Mains" means sewer lines designed or used to serve more than one premises.
- (v) "Multiple dwelling" means a multiple-family dwelling, namely, a building designed and/or used to house two or more families living independently of each other and including all necessary household functions of each such family; such as: motels, hotels and apartments.
- (w) "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, bay or other body of surface or ground water.
- (x) "Other structure" means any building other than a single-family or multiple-family dwelling.
- (y) "Outside connections" means any sewer constructed in a public right-of-way and where the public agency who has jurisdiction of such right-of-way requires a permit fee or any other charge.
- (z) "Person" means any individual, company, partnership, corporation, association, society or group; and the singular term shall include the plural.
- (aa) "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- (bb) "Plumbing outlet" means, in plumbing, the part of the lowest horizontal piping of a drainage system that received the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the side sewer (house connection). The latter begins thirty inches outside the inner face of the building wall.
- (cc) "Premises" means a continuous tract of land, building or group of adjacent buildings under a single control with respect to the use of sewer and responsibility for payment therefor. Subdivisions of such use or responsibility shall constitute a division into separate premises as defined in this section.
- (dd) "Properly shredded garbage" means garbage which has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- (ee) "Public sewer" means any sanitary sewers, including but not limited to trunks, laterals, stubs and force mains and being constructed by the district or any person within the public right-of-way or easement obtained by the district.

- (ff) "Residential Customer" means a customer of the District utilizing the premises connected to the District system for residential purposes.
- (gg) "Sanitary sewage" means wastewater derived from domestic, commercial and industrial wastes and to which storm, surface, and ground water are not intentionally admitted.
- (hh) "Sanitary sewer" means a sewer which carries sanitary sewage.
- (ii) "Service connection" means that portion of the District sewer system connecting the private service line on a premises to the District distribution main, including the connection into the sewer main, the sewer related appurtenances, the service line from the main to the property line
- (jj) "Sewage" is a comprehensive term including industrial waste, storm drainage and wastewater.
- (kk) Shall – May. "Shall" is mandatory; "may" is permissive.
- (ll) "Side sewer" means a sanitary sewer pipe leading from a plumbing outlet, drain or other facility to the stub sewer of the public sewer system.
- (mm) "Single-family dwelling" means a structure designed and/or used to house a single family.
- (nn) "Standard mains" or "permanent mains" means mains conforming to the standard specifications or the District with respect to methods, materials and/or minimum diameter.
- (oo) "Standard specifications" means those standard specifications for sewer system construction which have been adopted by the Board of Commissioners of the District. Standard specifications are contained in the District's Developer Project Manual, latest edition.
- (pp) "Substandard mains" means mains not conforming to the standard specifications of the District with respect to methods, materials and/or minimum diameter.
- (qq) "Storm drain" means a public or private drain which carries storm and surface water or drainage effluent from storm plumbing outlets, and other unpolluted water.
- (rr) "Structure" means anything constructed or erected, the use of which requires location or attachment to something having location on the ground, and shall in addition include but not be limited to trailers, mobile homes and house trailers, but shall not include fences and walls.

- (ss) "Stub sewer" means a sewer constructed from the lateral or trunk sewer to the property line, or edge of perpetual easement of the property being served.
- (tt) "Suspended solids" means solids that either float on the surface of or are in suspension in water, wastewater or other liquids, and which are largely removable by laboratory filtering.
- (uu) "Unpolluted water" means water in its natural state, or water which after use for any purpose, is not substantially changed as to chemical or biochemical qualities.
- (vv) "Wastewater" means the spent water of a community. From the source, it may be a combination of the liquid and water carried wastes from residence and commercial buildings, industrial plants and institutions, together with any groundwater, surface water, and stormwater that may be present.

Section 2: That portion of Section E of Resolution No. 516 codified in Section 8.04.011 of the Birch Bay Water and Sewer District Code is hereby repealed.

Section 3: A new Section 8.08.045 of the Birch Bay Water and Sewer District Code is hereby added, to read as follows:

8.08.045 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 subsection, 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 in accordance with chapter 8.12 of the Birch Bay Water And Sewer District Code, 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 in accordance with chapter 8.12 Birch Bay Water And Sewer District Code, 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 sewer through any fixtures mentioned in the original application, he shall first cause the fixture to be removed and the plumbing connection and/or side sewer as appropriate, to be capped in accordance with section 8.04.160, 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 and capping in accordance with section 8.04.160, 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 be 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 8.08.055 of the Birch Bay Water and Sewer Code to read as follows:

8.08.055 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: A new section is added as Section 8.08.065 of the Birch Bay Water and Sewer District Code to read as follows:

8.08.065 Equivalent living unit calculations.

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

1. Single Family Residence: For each Single Family Residence, one ELU or the number of ELUs established pursuant to the calculation method for Commercial uses, whichever is greater.
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 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 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, 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. 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 shall be determined by dividing the number of Fixture Units for "public-general use" serving the Commercial Use by 21.0; provided that, in no event shall the number of ELUs for any Commercial Use be less than one (1). Partial ELUs resulting from the division of Fixture Units by 21.0 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 or the number of ELUs established pursuant to the calculation method for Commercial uses, whichever is greater.
10. Combined Facilities: For each premises 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 Fixture Units which are applicable to the entire premises.

11. When a customer is not specifically listed above, the General Manager or his designee may determine which category the customer most closely resembles the 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 8.08.065(1).
12. The minimum number of ELUs for any facility shall be one ELU.

Section 6: Section 2 of Resolution No. 139, and Section 8.12.010 of the Birch Bay Water and Sewer District Code is HEREBY REPEALED.

Section 7: 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 8: 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 9: 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. 617 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