

**BIRCH BAY WATER AND SEWER DISTRICT
RESOLUTION NO. 761**

A Resolution of the Board of Commissioners
Temporarily Suspending Certain District Policies to Provide Customer Relief from Economic
Conditions Created by the COVID-19 Coronavirus Pandemic

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services declared a public emergency for the novel coronavirus (“COVID-19”) beginning on January 27, 2020; and

WHEREAS, on February 29, 2020, the Governor of the State of Washington proclaimed that a State of Emergency exists in all counties in the State of Washington due to the outbreak of COVID-19; and

WHEREAS, on March 10, 2020, the Whatcom County Executive, in coordination with the Whatcom County Health Board, declared a Whatcom County public health emergency to reduce the spread of COVID-19 in our community; and

WHEREAS, on March 13, 2020, the President of the United States of America proclaimed that National Emergency exists due to the outbreak of COVID-19; and

WHEREAS, during a press conference on March 18, 2020, the Governor of the State of Washington made a request to all Washington utilities to consider additional measures of relief to their customers affected by the economic impact of the COVID-19 pandemic; and

WHEREAS, on March 23, 2020, the Governor of the State of Washington issued a stay-at-home order applicable to the general public except employees deemed essential, which will impact the ability of District customers to earn an income; and

WHEREAS, in Resolution 760, adopted March 26, 2020, Birch Bay Water and Sewer District (“District”) Board of Commissioners declared that the COVID-19 pandemic constitutes an emergency within the District; and

WHEREAS, the District is a special purpose district authorized under Title 57 Revised Code of Washington (“RCW”); and

WHEREAS, the District owns and operates water and sewer utilities within its service area, and provides water and/or sewer service for a fee to customers connected to its systems; and

WHEREAS, RCW 57.08.081 provides authority to the District to apply and administer rates and fees associated with the utility services it provides; and

WHEREAS, the District's rates, charges and fees are set in the Fee Schedule codified at District Administrative Code Section 13.01.010; and

WHEREAS, District Administrative Code Section 3.24.010 requires a late charge to be added to every account which is not paid in full by the date printed on the bill; and

WHEREAS, District Administrative Code Section 7.04.200 authorizes the District to shut off water to any account holder who is delinquent in payment of water charges; and

WHEREAS, District Administrative Code Section 8.12.090 authorizes the District to shut off sewer service to any account holder who is delinquent in payment of sewer charges; and

WHEREAS, due to the COVID-19 pandemic emergency, and in response to the directive from the Governor, the Board wishes to provide means for temporary relief to its customers beyond what is currently allowed in the District Administrative Code; and

WHEREAS, the foregoing recitals are a material part of this Resolution;

NOW, THEREFORE, the Board of Commissioners ("Board") of the Birch Bay Water and Sewer District do hereby resolve:

Section 1. Temporary Suspension of Late Fees. The District shall not apply or collect late fees or charges associated with delinquent utility accounts. Unpaid utility charges shall continue to accrue to the account and constitute a lien on the property, though the District shall not commence foreclosure proceedings and shall stay pending foreclosure proceedings during the effective period of this Resolution.

Section 2. Temporary Suspension of Service Terminations. The District shall not terminate service to any accounts solely due to unpaid utility charges. The District shall restore service to accounts that are currently not receiving service due solely to unpaid utility charges which were shut off on or after February 29, 2020, the date of the Governor's state of emergency declaration. Further, the District shall restore service to accounts that are currently not receiving service due solely to unpaid utility charges which were shut off before February 29, 2020, upon request. Restoration of service will be done during normal business hours, unless specifically requested by the account holder, in which case the District shall charge the full amount for turning on water outside normal business hours. Within sixty (60) days after the expiration of this Resolution per Section 6 below, the holders of delinquent accounts to which service was restored or not terminated pursuant to this section shall enter into payment plans with the District approved by the Finance Manager.

Section 3. Temporary Suspension of Returned Check Fee. The District shall not charge its standard \$25 returned check fee for checks for utility payments which are returned unpayable.

The District may continue to charge the account holder for any bank charges incurred due to the returned check.

Section 4. Temporary Suspension of Shut-off and Turn-on Charges. The District shall not apply or collect fees or charges for shut-off or turn-on of service authorized under District Administrative Code Section 7.04.110 and set forth in the rate schedule at Chapter 13.01 of said Code.

Section 5. Supersede the District Administrative Code and Master Fees and Charges Schedule. So long as this Resolution is effective, it shall supersede any inconsistent provision of the District Administrative Code including without limitation Sections 3.20.010, 3.24.010, 7.04.200, 7.04.110, 8.12.090, and 13.01.010 of said Code.

Section 6. Timing and Effect. This resolution shall be effective immediately and remain in full force and effect until terminated by a subsequent resolution of the Board. Upon termination of this Resolution, all provisions of the District Administrative Code superseded hereby shall be in full force and effect without further action of the Board.

ADOPTED by the Board of Commissioners of Birch Bay Water and Sewer District, Whatcom County, Washington, at a regular meeting thereof, on the 26th day of March, 2020.

Don Montfort
Don Montfort, Commissioner
(Approved Telephonically)

Jeff Benner
Jeff Benner, Commissioner
(Approved Telephonically)

Fred Reid
Fred Reid, Commissioner
(Approved Telephonically)

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 761 of Birch Bay Water and Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on March 26, 2020.

I, Sandi McMillan, as authorized by District resolution and in my capacity as Finance Director of the Birch Bay Water & Sewer District, do hereby attest that the foregoing resolution was approved by the Board of Commissioners telephonically on this 26th date of March, 2020.

Sandi McMillan 3/26/2020
Sandi McMillan, Finance Director

BIRCH BAY WATER AND SEWER DISTRICT
RESOLUTION NO. 761 Amendment # 1

First Amendment of Resolution of the Board of Commissioners No.761
Temporarily Suspending Certain District Policies to Provide Customer Relief from Economic
Conditions Created by the COVID-19 Coronavirus Pandemic

WHEREAS, the recitals set forth in Resolution 761 are incorporated herein; and

WHEREAS, the Board adopted Resolution 761 to allow for temporary relief of fees, charges for past due bills, and water shut off to delinquent account holders; and

WHEREAS, the Board has now decided to amend Resolution 761 to rescind suspension of service termination for accounts which are two (2) or more billing periods delinquent; and

NOW, THEREFORE, the Board of Commissioners ("Board") of the Birch Bay Water and Sewer District do hereby resolve:

1. **Section 2 and Section 4 of Resolution 761 is hereby amended to read as follows:**

Section 2. Temporary Suspension of Service Terminations. The District shall not terminate service to any accounts solely due to unpaid utility charges which are delinquent by less than two (2) billing periods as of March 2, 2022. Accounts delinquent by two (2) billing periods or more on March 2, 2022, or at any time thereafter, shall be subject to termination of service per District Code sections 7.04.200 and 8.12.090, unless the account holder has entered into a payment plan with the District. The holders of delinquent accounts to which service was restored or not terminated pursuant to this section shall enter into payment plans with the District approved by the Finance Manager.

Section 4. Temporary Suspension of Shut-off and Turn-on Charges. The District shall apply and collect fees or charges for shut-off or turn-on of service authorized under District Administrative Code Section 7.04.110 and set forth in the rate schedule at Chapter 13.01 of said Code for any termination of service authorized in Section 2.

2. **Status of Resolution No. 761.** All other provisions in Resolution No. 761 shall remain in full force and effect.
3. **Timing and Effect of Amendment.** This resolution shall be effective immediately and remain in full force and effect until terminated by a subsequent resolution of the Board.

ADOPTED by the Board of Commissioners of Birch Bay Water and Sewer District, Whatcom County, Washington, at a regular meeting thereof, on the 24 day of February, 2022.

Don Montfort

Don Montfort, Commissioner
(Approved Telephonically)

Jeff Benner

Jeff Benner, Commissioner
(Approved Telephonically)

Fred Reid

Fred Reid, Commissioner
(Approved Telephonically)

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. ___ of Birch Bay Water and Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on February 24, 2022.

I, Sandi McMillan, as authorized by District resolution and in my capacity as Finance Director of the Birch Bay Water & Sewer District, do hereby attest that the foregoing resolution was approved by the Board of Commissioners telephonically on this 24th day of February, 2022.

Sandi McMillan

Sandi McMillan, Finance Director