

RESOLUTION NO. 615

A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF BIRCH BAY WATER AND SEWER DISTRICT,  
WHATCOM COUNTY, WASHINGTON,  
REVISING DISTRICT CODE 1.12

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

Section 1: Section 1.12.010 of the Birch Bay Water and Sewer District Code is hereby amended to read as follows:

1.12.010 Fees

- A. No fee shall be charged to review an annexation petition for sufficiency.
- B. A request for a District-prepared annexation petition and/or a District-prepared environmental checklist under SEPA shall be accompanied by a deposit in advance to cover District costs to prepare the petition, exhibits and legal description, and/or environmental checklist. The District shall prepare an estimate of District costs. The portion of the fee associated with the petition may be waived at the discretion of the Board depending on size and complexity of said petition.
- C. Proponents shall also make a deposit in advance to cover costs to complete the following tasks:
  - i. Publish and distribute notice of District's SEPA threshold determination
  - ii. Prepare resolution of intent to approve all or part of annexation
  - iii. Prepare Notice of Intent ("NOI") (or staff/consultants review of draft NOI prepared by annexation proponent)
  - iv. File NOI with Boundary Review Board ("BRB"), including filing fee
  - v. Staff/consultants prepare for and attend BRB hearing (if applicable)

District staff/consultants shall prepare an estimate of District costs for the above listed tasks. Deposit may be paid one-half prior to start of work and one-half upon notice from District.

- D. If the annexed area is not part of the most recent adopted District comprehensive water and/or sewer system plans, or if circumstances associated with the annexation requires substantive changes to the comprehensive water and/or sewer system plans, proponents shall make a deposit in advance to cover costs of necessary plan amendments and/or system improvements. The District shall prepare an estimate of District costs of preparing and adopting such plan amendments and map updates. Deposit may be paid one-half prior to start of work and one-half upon notice from District.

- E. For any of the aforementioned tasks for which fee deposits are estimated and required, if it appears reasonably likely that the required deposits will be insufficient to cover the costs incurred by the District, the District may require additional deposits of funds sufficient to cover the costs necessary to complete said tasks.

Section 2: Section 1.12.020 of the Birch Bay Water and Sewer District Code and Resolution No. 321, section 2 is hereby repealed and replaced with the following:

1.12.020 Complete Petition Required

A petition for annexation shall not be processed until it is determined to be complete. A complete petition shall include timely payment of all fees required by Section 1.12.010 and all of the information required in Section 1.12.030. For purposes of determining whether an application is complete, all fees shall be considered timely paid if they are paid current under the payment schedule established pursuant to Section 1.12.010. Upon determining that a petition is complete, the petitioner shall be so notified in writing and the District shall begin processing the petition.

Section 3: Section 1.12.030 of the Birch Bay Water and Sewer District Code and Resolution No. 321, Section 3 is hereby repealed and replaced with the following:

1.12.030 Complete Petition-Contents

To be determined complete, a petition shall include all of the following information and material:

- A. A brief statement of the reasons for seeking the annexation;
- B. Whatcom County Assessor's Map(s) depicting individual tax parcels on which the property to be included in the proposed annexation area is clearly delineated;
- C. The legal description of the boundaries of the proposed annexation area. The legal description shall be legible, on a separate page capable of reproduction. In the discretion of the District, the District may require that the legal description be prepared and stamped by a registered professional land surveyor;
- D. A vicinity map designating the area of the proposed annexation, together with all significant geographic features, including bodies of water, major streets and highways, and boundaries of all units of government in the area as they presently exist. This map should show the area for at least one mile on all sides of the proposed annexation area.
- E. An environmental checklist pursuant to the State Environmental Policy Act ("SEPA").
- F. A declaration of election of one of the methods for annexation authorized in Title 57 RCW (presently RCW 57.24.010 or RCW 57.24.070), together with all petition



signatures and supporting documentation required under the statute authorizing the method of annexation chosen.

Section 4: A new Section 1.12.040 of the Birch Bay Water and Sewer District Code is hereby added:

1.12.040 Processing Petition

Following the District's determination that the petition for annexation is complete, the District will enter a threshold decision for the proposal under SEPA. After a final declaration of nonsignificance, or a final mitigated declaration of nonsignificance, or completion of an Environmental Impact Statement, the Board will publish notice and hold a public hearing on the petition as provided in RCW 57.24.080. If following a public hearing the Board does not concur with the annexation requested in the petition, it shall adopt a resolution to that effect, supported by written findings. If following the public hearing the Board concurs with all or part of the annexation requested in the petition, it shall take the following action, in addition to any other action required by law:

- A. If the petition is filed pursuant to RCW 57.24.010, the Board shall adopt a resolution authorizing the Secretary to issue and forward a certificate of concurrence to the County Auditor;
- B. If the petition is filed pursuant to RCW 57.24.070, the Board shall adopt a resolution of intent to approve all or part of the annexation, forward a notice of intent to annex to the Boundary Review Board and comply with all associated requirements for such review. Upon approval by the Boundary Review Board, the District Board may, in its discretion, approve the annexation by resolution. Upon such final approval, the District shall forward a certified copy of same to the County Council.

Section 5: A new Section 1.12.050 of the Birch Bay Water and Sewer Code is hereby added:

1.12.050 Threshold Criteria And Factors To Be Considered By Board in Determining Whether To Concur With Or Approve Petition

- A. Threshold Criteria. All territory proposed for annexation must be within a designated Urban Growth Area in the Whatcom County Comprehensive Plan. Submittal of a petition indicates agreement by petitioners for the District to provide both water and sewer service throughout the annexation area.
- B. Factors. Following a public hearing held pursuant to section 1.12.040, the Board will consider the following nonexclusive factors in determining whether to concur with or approve a petition:
  1. Contiguity of territory proposed for annexation with present District boundary and/or service area;
  2. Reasonableness of size and shape of proposed annexation;

3. Availability of present and/or future system capacity;
4. Public health and environmental impacts of proposed annexation;
5. Financial impacts of proposed annexation.


Section 6: 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 hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact than any one or more sections, subsections, sentences, clauses or phrases may be 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 7: 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 25<sup>th</sup> day of April, 2002.

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 615 of Birch Bay Water and Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on April 25<sup>th</sup>, 2002.

  
SECRETARY