

RESOLUTION NO. 692

A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF BIRCH BAY WATER & SEWER DISTRICT, WHATCOM COUNTY,
WASHINGTON, AMENDING DISTRICT CODE ON ANNEXATION

WHEREAS, the District has determined that portions of the current code regarding annexation fees and threshold criteria require amendment to maintain consistency with the intent of the Board of Commissioners ("Board"); and

WHEREAS, the District finds that it is in its best interest to amend certain language concerning annexation fees and threshold criteria, to ensure petitioners for annexation are aware of all applicable District requirements; and

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

NOW, THEREFORE, be it resolved by the Board of Commissioners of Birch Bay Water and Sewer District, Whatcom County, Washington as follows:

Section 1: District Code Section 1.12.010 (A), (B) and (C) are hereby repealed in their entirety and replaced with new Sections 1.12.010 (A), (B) and (C), which shall read as follows:

A. No fee shall be charged for initial review of an annexation petition for sufficiency, nor shall any costs associated with initially reviewing an annexation petition for sufficiency be considered a "District Cost" as defined herein.

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 estimated District Costs to prepare the petition, exhibits and legal description, and/or environmental checklist. The term "District Costs" as used in this chapter means all costs incurred by the District in processing, advocating and defending any annexation petition internally or to any other board, agency, governmental entity, or court, including without limitation, all legal, engineering, consultant, and administrative costs. All costs associated with tasks identified in subsection C below are District Costs. The district shall prepare an estimate of District Costs. Proponents shall be fully responsible to pay for all District Costs; provided that, a portion of the District Costs 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 District Costs to complete the following tasks:

1. Publish and distribute notice of district's SEPA threshold determination;
2. Prepare resolution of intent to approve all or part of annexation;
3. Prepare Notice of Intent ("NOI") (or staff/consultants' review of draft NOI prepared by annexation proponent);
4. File NOI with boundary review board ("BRB"), including filing fee;

5. Staff/consultants/attorneys prepare for, attend, and fully participate in BRB hearing or judicial proceedings (if applicable).

District staff/consultants/attorneys 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. In the event the initial deposit is insufficient to cover all District Costs, the district will require an additional deposit(s) from proponents.

Section 2: District Code Section 1.12.020 is hereby repealed in its entirety and replaced with new Section 1.12.020, which shall read as follows:

A petition for annexation shall not be processed until it is determined to be complete. A complete petition shall include timely payment of all District Costs 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 District Costs shall be considered timely paid if they are paid current under a 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: District Code Section 1.12.050(A) is hereby repealed in its entirety and replaced with new Section 1.12.050(A), which shall read as follows:

A. Threshold Criteria. Territory proposed for annexation must be within a designated urban growth area in the Whatcom County Comprehensive Plan or in an existing development at urban density and currently served by the District with water and sewer. Submittal of a petition indicates agreement by petitioners for the district to provide both water and sewer service throughout the annexation area.

Section 3: 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.

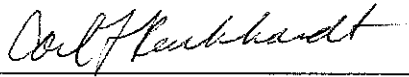
Section 4: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Board of Commissioners hereby declare that it would have passed 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 5: This Resolution shall be effective immediately.


ADOPTED by the Board of Commissioners of Birch Bay Water & Sewer District, Whatcom County, Washington, at a regular meeting held the 27th day of May, 2010.


COMMISSIONER


COMMISSIONER


COMMISSIONER

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 692 of Birch Bay Water & Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on May 27th, 2010.


SECRETARY