

ORDINANCE NO. 05-1

AN ORDINANCE OF ELLISPORT BAY SEWER DISTRICT, OF BONNER COUNTY, IDAHO, AMENDING ORDINANCE 98-1 TO PROVIDE A METHOD OF EQUITABLE NUMBER OF ER'S ATTRIBUTABLE TO FOOD SERVICE AND PREPARATION COMMERCIAL ESTABLISHMENTS; PROVIDING FOR THE PUBLICATION OF A SUMMARY HEREOF; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING HERETO

**ELLISPORT BAY SEWER DISTRICT
Bonner County, Idaho**

LOCAL IMPROVEMENT DISTRICT NO. 1

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF ELLISPORT BAY SEWER DISTRICT, of Boner County, Idaho as follows:

WHEREAS, Ellisport Bay sewer District (the "District"), of Bonner County, Idaho, is a sewer district operating and existing under and pursuant to the laws of the State of Idaho, and as such is authorized and empowered to create its Local Improvement District No. 1 for the purpose of constructing improvements to its sewer system and facilities pursuant to Idaho Code, Title 50, Chapter 17, and to issue bonds to pay the costs of said improvements;

WHEREAS, on December 15, 1998, the District adopted Ordinance No. 98-1, regulating and administering wastewater collection and disposal; and

WHEREAS, the District wishes to modify and clarify certain provisions of Ordinance No. 98-1, as it relates to the payment of certain fees charged by the District;

NOW, THEREFORE, BE IT FURTHER ORDAINED as follows:

Section 1: AMENDMENT OF SECTION IV OF ORDINANCE NO. 98-1

Section IV. USE OF PUBLIC SEWERS AND MONTHLY USER FEES is amended to add the following fees where water meters are installed:

g. Restaurant (full service dining) O&M charges may be based on the metered water consumption for the period of January 1 through December 31 of each year. If the restaurant wishes to use this approach O&M charges will be based upon quarterly water consumption of 16,875 gallons per ER to be submitted to the District at the end of each fiscal quarter. The calculations for the highest quarter of use are the ones that will be used to determine charges. If these calculations show the number of ERs to be less than what the Restaurant has been paying the O&M fees shall be reduced accordingly for future use. Conversely, if these calculations show the number of ER's to be more than

what the Restaurant had been paying, the O&M fees shall be increased accordingly for future use. . ER factors will not be reduced based upon claims of seasonal use.

Restaurant (take-out) O&M charges may be based on the metered water consumption for the period of January 1 through December 31 of each year. If the restaurant wishes to use this approach O&M charges will be based upon quarterly water consumption of 16,875 gallons per ER to be submitted to the District at the end of each fiscal quarter. The calculations for the highest quarter of use are the ones that will be used to determine charges. If these calculations show the number of ERs to be less than what the Restaurant has been paying the O&M fees shall be reduced accordingly for future use. Conversely, if these calculations show the number of ER's to be more than what the Restaurant had been paying, the O&M fees shall be increased accordingly for future use.. ER factors will not be reduced based upon claims of seasonal use.

Bakeries (retail) O&M charges may be based on the metered water consumption for the period of January 1 through December 31 of each year. If the bakery wishes to use this approach O&M charges will be based upon quarterly water consumption of 16,875 gallons per ER to be submitted to the District at the end of each fiscal quarter. The calculations for the highest quarter of use are the ones that will be used to determine charges. If these calculations show the number of ERs to be less than what the Bakery has been paying the O&M fees shall be reduced accordingly for future use. Conversely, if these calculations show the number of ER's to be more than what the Bakery had been paying, the O&M fees shall be increased accordingly for future use.. ER factors will not be reduced based upon claims of seasonal use.

Section 2: REMAINDER OF ORDINANCE NO 98-1 TO REMAIN

Aside from the specific amendment stated herein, no other changes or amendments whatsoever are made to Ordinance no. 98-1 of the District.

Section 3: SEVERABILITY

If any one or more of the covenants or agreements provided in this Ordinance to be performed on the part of the District shall be declared by any court of competent jurisdiction to be contrary to law, then such covenants or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this Ordinance and shall in no way affect the validity of the other provisions of the Ordinance.

Section 4: REPEALER

All prior resolutions or ordinances inconsistent herewith are hereby repealed and shall, to the extent of such inconsistency, have no further force or effect.

Section 5: PUBLICATION

Pursuant to Section 50-1727, Idaho Code, this Ordinance, or a summary thereof in compliance with Section 31-715A, Idaho code, shall be published once in the official newspaper of the District. Any contest or proceeding to question the validity or legality of this Ordinance, or of any ordinance, resolution, or proceedings heretofore taken with respect to LID No. 1 shall be brought in court by any person for any cause whatsoever after expiration of thirty (30) days from the publication of this Ordinance, and after such time the validity, legality and regularity of this Ordinance and any ordinance, resolution, or proceedings with respect to LID No. 1, shall be conclusively presumed.

Section 6: EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its passage, approval and publication as provided herein.

Passed at a regular meeting, after proper notice on August 15, 2005.

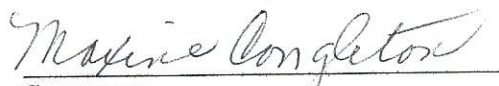
ADOPTED this 15th day of August, 2005.

ELLISPORT BAY SEWER DISTRICT



Chairman, Board of Directors

ATTEST:



Secretary

(SEAL)