

## SUMMARY OF ORDINANCE NO. 98-1

AN ORDINANCE FOR THE ELLISPORT BAY SEWER DISTRICT, BONNER COUNTY, IDAHO, REGULATING AND ADMINISTERING WASTEWATER COLLECTION AND DISPOSAL; PROVIDING FOR DEFINITIONS APPLICABLE TO AND USED IN THE ORDINANCE; PROVIDING FOR MAINTENANCE RESPONSIBILITIES APPLICABLE TO THE SYSTEM; PROVIDING FOR USE OF PUBLIC SEWERS AND MONTHLY USER AND OTHER FEES; PROVIDING FOR CAPITALIZATION FEES; PROVIDING FOR ENFORCEMENT OF THE PROVISIONS OF THIS ORDINANCE AND THE RULES AND REGULATIONS OF THE DISTRICT; PROVIDING FOR ESTABLISHING AND AMENDING FEES BY LATER ADOPTED RESOLUTIONS; PROVIDING FOR SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION OF THIS ORDINANCE AND THE EFFECTIVE DATE OF THE ORDINANCE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO

### ELLISPORT BAY SEWER DISTRICT Bonner County, Idaho

#### WASTEWATER REGULATION AND ADMINISTRATION

A summary of the principal provisions of Ordinance No. 98-1 of the Ellisport Bay Sewer District, of Bonner County, Idaho, adopted on December 15, 1998, is as follows:

#### Section I:      **PURPOSE**

Determines and declares it necessary for the health, safety and welfare of District inhabitants to eliminate individual on-site and community systems, and provide new collectors and treatment facilities. The Ordinance also provides that certain charges and fees shall be collected for such purpose.

#### Section II:     **DEFINITIONS**

Provides definitions of various terms used in Ordinance No. 98-1.

#### Section III:    **CONSTRUCTION, OWNERSHIP, AND OPERATION AND MAINTENANCE RESPONSIBILITIES**

Provides that the rules, regulations, fees and charges apply to all new subdivisions and new or modified sewerage systems within the District. Sets forth specific rules and regulations

for new construction and/or service. Also provides that the District will own all sewer mains and trunk sewers located within the boundaries of the District.

**Section IV: USE OF PUBLIC SEWERS AND MONTHLY USER FEE**

Defines "Users" and provides additional regulations therefore, including user fees, charges and fees for maintenance, operation and replacement of said system, and a method of computation of fees and charges, as well as definitions of wastes. This section also provides for billing of charges and reserves the right of the District to set rates and fees by resolution or amendment of this ordinance. This section also sets forth the method of calculation of ERs for various uses.

**Section V: CAPITALIZATION FEES**

Provides for the collection of capitalization fees and collector depreciation fees from certain users under specific circumstances, as well as setting forth the basis for charging such fees and use of such funds; and creates a Reserve Fund for the deposit of such fees, designating use of said funds.

**Section VI: REPEALER CLAUSE**

Provides that any ordinance, resolution or section thereof in conflict with this Ordinance is repealed and rescinded.

**Section VII: SEVERABILITY CLAUSE**

Provides that if any portion of Ordinance No. 98-1 is found to be invalid or unenforceable, the remainder shall continue in full force and effect.

**Section VIII: CHANGE IN FEES BY RESOLUTION**

Reserves the right to establish and/or change the District's fees by resolution at a regular Board meeting.

**Section IX: ENFORCEABILITY CLAUSE**

States that the District shall enforce and seek remedies for breaches of the terms of Ordinance No. 98-1 in accordance with Idaho Code.

**Section X: EFFECTIVE DATE**

Provides that Ordinance No. 98-1 shall be in full force and effect upon publication once in the *Bonner County Daily Bee*.

CERTIFICATION

I, the undersigned Secretary of Ellisport Bay Sewer District, of Bonner County, Idaho, HEREBY CERTIFY that the foregoing Ordinance No. 98-1 is a full, true, and correct copy of an Ordinance duly adopted at a regular meeting of the Board of said District, duly held at the regular meeting place thereof held on December 15th, 1998, of which meeting all members of said Board had due notice and at which a majority thereof were present; and that at said meeting said Ordinance was adopted by the following vote:

AYES, and in favor thereof, Directors: 3


NOES, Directors: 0

ABSENT, Directors: 1

ABSTAIN, Directors: 1

I FURTHER CERTIFY that I have carefully compared the same with the original Ordinance on file and of record in my office; that said Ordinance is a full, true, and correct copy of the original Ordinance adopted at said meeting; and that said Ordinance has not been amended, modified, or rescinded since the date of its adoption, and is now in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the official seal of said District on December 15th, 1998.

  
Secretary

(SEAL)

*Adopted December 15, 1998*

**ELLISPORT BAY SEWER DISTRICT**

**WASTEWATER SERVICES  
ORDINANCE NO. 98-1**

AN ORDINANCE FOR THE **ELLISPORT BAY SEWER DISTRICT**, BONNER COUNTY, IDAHO, REGULATING AND ADMINISTERING WASTEWATER COLLECTION AND DISPOSAL; PROVIDING FOR DEFINITIONS APPLICABLE TO AND USED IN THE ORDINANCE; PROVIDING FOR MAINTENANCE RESPONSIBILITIES APPLICABLE TO THE SYSTEM; PROVIDING FOR USE OF PUBLIC SEWERS AND MONTHLY USER AND OTHER FEES; PROVIDING FOR CAPITALIZATION FEES; PROVIDING FOR ENFORCEMENT OF THE PROVISIONS OF THIS ORDINANCE AND THE RULES AND REGULATIONS OF THE DISTRICT; PROVIDING FOR ESTABLISHING AND AMENDING FEES BY LATER ADOPTED RESOLUTIONS; PROVIDING FOR SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION OF THIS ORDINANCE AND THE EFFECTIVE DATE OF THE ORDINANCE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

BE IT ORDAINED BY THE CHAIRMAN AND BOARD MEMBERS OF THE **ELLISPORT BAY SEWER DISTRICT**, BONNER COUNTY, IDAHO.

**SECTION I: PURPOSE**

It is hereby determined and declared to be necessary for and conducive to the protection of the health, safety, and welfare of the public and the inhabitants of the **ELLISPORT BAY SEWER DISTRICT** in Bonner County, Idaho, hereinafter referred to as the "DISTRICT", for the purpose of the elimination of interim sewer systems, which includes individual on-site systems and community septic tank and drainfields, and for the purpose of the administration of new collection and treatment facilities, hereby adopts this Ordinance: (a) To charge and collect service charges or user fees upon all lots served by or benefited by the sewerage system, which system and facilities may consist generally of all land, pipe lines, conduits, manholes, cleanouts, pump stations, buildings, lagoons, and irrigation facilities of the system; (b) To collect capitalization fees to provide for a portion of the cost of replacement of aging or purchase of new collectors, interceptors, and sewage treatment facilities.

**SECTION II: DEFINITIONS**

Unless the context specifically indicates otherwise, the meaning of the terms used in this Ordinance shall be as follows:

**Backwater Valve (Device):** A backwater valve is a device installed in a drainage system to prevent reverse flow as required in the Uniform Plumbing Code, 1997, Sections "204" and "710.6".

**Board:** The Board of Directors of the District.

**Boarding House:** Any building or portion thereof which includes separate bedrooms for rent and common kitchen and/or bathroom facilities.

**BOD<sub>5</sub>:** Biochemical oxygen demand shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter (mg/L).

**Bond:** An insurance contract in which an agency guarantees payment in the event of deficiencies covered under a warranty.

**Building Drain:** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') outside the inner face of the building wall.

**Building Sewer (Service Connection) (Stub) (Service Line):** The extension from the building drain to a point of connection with the public sewer TEE or other place of disposal. The building sewer is not a public sewer and shall be maintained by the owner(s) of the building sewer.

**Cities:** Refers to the City of Hope, Bonner County, Idaho and the City of East Hope, Bonner County, Idaho and their authorized or designated agent, representative or deputy thereto.

**Collector Line (System):** A gravity sewer 8-inch or larger, owned and maintained by the Ellisport Bay Sewer District, located in the public right-of-way or easement.

**Combined Sewer:** A sewer receiving both surface runoff and sewage.

**Community Sewer System:** A sewerage system which serves more than two ERs (as defined in this Ordinance) and discharges to a common septic tank and/or drainfield.

**Contractor:** Any person, firm, or corporation licensed by the State of Idaho as a public works contractor.

**DEQ:** The State of Idaho Department of Health & Welfare, Division of Environmental Quality, or its successor in function, if any.

**Developer:** A person, firm, joint venture, partnership, or corporation which is the owner of land and is developing the land.

**District:** The Ellisport Bay Sewer District, Bonner County, Idaho.

**Dry Sewer System:** A conventional gravity sewage collection system installed in a subdivision where sewage is temporarily discharged to on-site systems instead of to the sewer collection system.

**Engineer:** The engineer(s) or engineering firm(s) (or the duly authorized employee or representative thereof) contracted or otherwise designated by the District to advise the District with respect to wastewater services.

**Equivalent Residence or ER:** The basic unit of measurement utilized by the District to establish relative wastewater disposal requirements of various property uses, with one (1) Equivalent Residence or "ER" being defined as one (1) typical single-family residence. The number of ERs attributable to a particular use shall be determined according to Section IV of this Ordinance.

**Facility Plan:** The plan adopted by the DISTRICT in December, 1995, which sets forth the procedure for construction of the sewer system and its subsequent operation.

**Garbage:** Solid waste from domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

**Interceptor:** A sewer line, either gravity or lift station and force main, which primarily conveys waste from collection systems to a treatment facility, and which normally does not have service taps.

**Industrial Wastes:** Any discharge from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

**Inspector:** The City Engineer, or his duly authorized agent or representative.

**LID:** A local improvement district formed for the purpose of constructing and financing improvements to the DISTRICT's sewer system. The financing is provided by assessments against the properties benefited by the improvements.

**Motel and Hotel:** A building or group of buildings on the same premises, either detached or in connected rows, containing sleeping or dwelling units, and designed for or occupied with an ordinary rental period not exceeding two weeks.

**Multi-Unit Dwelling:** A building containing a unit or combination of units with individual bath and kitchen facilities, whether occupied or not. This definition includes apartments, condominiums, townhouses, and duplexes, triplexes, etc., and individual mobile home lots in a mobile home park (public or private).

**Natural Outlet:** Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

**O&M Charges:** Charges for the payment of the costs of operating and maintaining the DISTRICT's sewerage system.

**Person:** Any individual, firm, company, association, society, corporation, or group.

**pH:** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**Properly Shredded Garbage:** The wastes from the preparation, cooking, and dispensing of food that have 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 being greater than one-half ( $\frac{1}{2}$ "') in any dimension.

**Public Sewer:** A sewer in which all owners of abutting properties shall have equal rights and which is controlled by public authority, located in public rights-of-way or easements. This definition specifically excludes service connections and building sewers.

**Pump Station:** A basin equipped with electrical pumps to elevate wastewater to a higher elevation and including pumps, controls, panels, a wetwell, fencing, land, and other appurtenances.

**Residential Buildings:** Residential buildings shall include the following types of buildings and structures: single-family residences, duplexes, triplexes, apartment houses, motels, hotels, trailer courts, manufactured/mobile home parks, and multi-unit dwellings.

**Sanitary Sewer:** A sewer which carries sewage, and to which storm, surface, and ground waters are not intentionally admitted.

**Secretary:** The person responsible for dealing with the DISTRICT's records and correspondence.

**Septic Tank:** An individual treatment system consisting of a baffled tank in which sewage is broken down by anaerobic bacterial activity.

**Septage:** The contents removed from septic tanks, vault toilets, grease traps, and holding tanks.

**Service Connection:** See Building Sewer definition herein.

**Sewage:** A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground, surface and storm water as may be present.

**Sewage Treatment Plant:** Any arrangement of devices and structures used for treating sewage.

**Sewer:** A pipe or conduit for carrying sewage.

**Sewer User:** Any individual, firm, company, association, society, corporation, or group who has connected to or is required to connect to the public sewerage system.

**Sewerage System:** All sewerage collection systems, community septic tank and drainfield systems, pump stations, interceptors, treatment systems, and appurtenances that are utilized or will be utilized to collect, transport, treat, and dispose of sewage.

**Shall:** "Shall" is mandatory; "May" is permissive.

**Single-Family Residence:** A building or condominium unit designed and used exclusively for residential purposes by one family. This definition shall also include guest houses, manufactured/mobile homes, RVs, and trailers used for residential purposes, and other separate living quarters having private restroom(s), kitchen, and sleeping facilities.

**Slug:** Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation for any period of duration longer than fifteen (15) minutes.

**Storm Drain (Storm Sewer):** A sewer which carries storm and surface water drainage, but excludes sewage and industrial wastes, other than unpolluted water such as cooling water.

**Subdivision:** A subdivision is as defined in the Zoning Ordinances of the Cities of Hope or East Hope.

**Suspended Solids (SS):** Solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

**Trailer Court or Mobile Home Park:** A trailer court or mobile home park is an area or site of land upon which two or more trailers are placed and maintained for dwelling purposes, either on a permanent or semi-permanent basis.

**UPC - Uniform Plumbing Code:** The uniform plumbing code as adopted by the State of Idaho, Department of Labor and Industrial Services.

**User:** See Sewer User definition herein.

**Watercourse:** A channel in which a flow of water occurs either continuously or intermittently.

**Wet Sewer System:** A conventional gravity sewage collection system which receives raw sewage.

### **SECTION III: CONSTRUCTION, OWNERSHIP, & OPERATION & MAINTENANCE RESPONSIBILITIES**

#### **A. Applicability**

All new subdivisions and construction of new or modified sewerage systems within the DISTRICT.

#### **B. Sewer Construction and Administration Policies**

It shall be unlawful for any person to construct a sanitary sewer main within the jurisdiction of the DISTRICT without first having made formal application to the DISTRICT for approval and having complied with all regulations of the DISTRICT and regulatory agencies. The right to hook into the system shall be granted only by written agreement with the DISTRICT, which shall have the discretion to accept or deny applications based upon the existing and anticipated availability of capacity at the treatment facility and in the collector system. Sewer construction and administration policies are described in more detail as follows:

1. All new subdivisions shall install collection systems and connect to an existing sewer line whether the development is adjacent to a public sewer or not. As a minimum, a dry sewer system shall be installed in new subdivisions that are located within the boundaries of the DISTRICT. The DISTRICT may allow a payback program for developers on a case-by-case basis for sewer system extensions and oversizing in excess of a 10-inch sewer.
2. All developments requiring a septic tank and drainfield permit from the Panhandle Health District, or other appropriate agency, for the modification of, or installation of, a new on-site sewer system shall install a dry sewer line (stub) from the building sewer between the building and septic tank to the public right-of-way and shall install a magnetic locator at the end of the line. Locators are available for purchase from the DISTRICT. An as-built drawing of the dry sewer shall be provided to the DISTRICT.
3. Plans for development extensions of sewer systems shall be submitted to the DISTRICT and DEQ, along with the application for services. Said plans shall be reviewed for compliance with the DISTRICT's standards by the DISTRICT's Engineer at the developer's expense and shall be approved if in compliance with the DISTRICT's standards. Developers or land owners are required to furnish, free of charge to the DISTRICT, suitable rights-of-way and/or easements for the construction, operation, and maintenance of new, existing or future sewer systems. The DISTRICT reserves the right to require full or part-time inspection of any related construction and/or to require the developer to expose any section of sewer to check for compliance with applicable standards. The cost of such inspection and/or excavation shall be at the expense of the developer. No sewer lines shall be constructed within the DISTRICT's jurisdiction until final construction drawings and specifications have been approved by the DISTRICT and DEQ and written authorization has been obtained from the DISTRICT and DEQ. No excavation shall be started until the required DISTRICT fees have been paid and County or City and State permits have been obtained.
4. No building permits will be issued for new or existing developments connecting to new sewerage systems in public rights-of-way or easements until the ownership of the sewer lines and appurtenances are or can be dedicated to the DISTRICT free and clear of all liens and encumbrances.



5. The developer shall provide a bond or other guarantee approved by the DISTRICT to cover all repair of new public sewer systems for a period of one year after written acceptance by the DISTRICT.
6. The DISTRICT may adopt connection fees and permit requirements for new service connections or extensions of the public sewer.
7. Without specific authorization from the Board, no property owner may sell, assign, or otherwise convey an ER or right to hook-up to the system to another property or property owner. This restriction shall not apply to a property owner who sells a piece of property with ERs attached to that property.

**C. Ownership and Operation of Facilities**

Policy: It shall be the basic policy of the DISTRICT that all sewer mains and trunk sewers located in public rights-of-way or dedicated easements to the DISTRICT for such purposes shall be public sewerage facilities. These sewerage facilities shall, if the same are accepted in writing by the DISTRICT, be owned, operated, and maintained by the DISTRICT. Building sewers, service lines, service stubs, and individual pump stations and collection system(s) located in developments with private roadways shall be installed, owned, and maintained by individual Users, except at the option of the DISTRICT. The DISTRICT shall be granted an easement for the repair, replacement, and operation of the individual pump stations if the same are accepted in writing by the DISTRICT. The treatment facility shall be constructed, owned, operated, and maintained by the DISTRICT. The DISTRICT may, at its option, delegate such maintenance and operation responsibilities as it deems proper to such third parties as it may choose and these third parties shall be entitled to payment from the Users of the public sewers within the DISTRICT to the same extent as the DISTRICT would have been had it performed the services. The existing treatment system capacity of 69,500 gpd is to be utilized by and reserved for the properties within LID #1.

**SECTION IV: USE OF PUBLIC SEWERS AND MONTHLY USER FEE**

**A. Applicability**

All "Users", which are served or are benefited by the sewer, or have service available including but not limited to all subdivisions, single-family residences, condominiums, industrial, commercial, residential, recreational vehicle, and townhouse developments.

**B. Use of Public Sewers**

The use of the treatment facility, public sewers, and collector systems of the DISTRICT shall be in accordance with the following regulations.

1. No person shall discharge or cause to be discharged any stormwater, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
2. Stormwater and all other unpolluted drainage shall be discharged in accordance with City of Hope, City of East Hope and/or Bonner County Stormwater Ordinances.
3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
  - a. Septic tank effluent and/or septage (solids pumped from septic tanks).
  - b. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

- c. Any waters or wastes containing toxic or poisonous solids, liquids, organic chemicals, or gases in sufficient quantity (either singly or by interaction with other wastes) to injure or interfere with any sewage disposal process, constitute any hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.
  - d. Any waters or wastes having a pH below 5.5 or above 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewage works.
  - e. Solid or viscous substances in such quantities or of such size that they are capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, animal wastes, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
4. Wastes, in particular fats, oils, and grease (FOG), shall not be discharged by non-residential sewer Users at concentrations in excess of 150 mg/L. Restaurants, delicatessens, schools, and other non-residential sewer Users that produce FOG shall reduce their grease FOG output to 150 mg/L, through use of grease traps or similar equipment. The DISTRICT shall have the authority to inspect grease traps and require that they be maintained and remain functioning. Any line plugging caused by discharge of FOG shall result in the owner being charged for the repairs. The DISTRICT may sample the effluent from non-residential Users to check for compliance at the expense of the DISTRICT. If the User fails to meet the 150 mg/L requirement, the User will be re-tested no sooner than two weeks, but within one month of the violation at the expense of the sewer User on a continuing monthly basis until compliance with the standard is achieved.
  5. No person shall discharge or cause to be discharged the following described substances, materials, and wastes if it appears likely in the opinion of the DISTRICT that such wastes can harm either the sewers, treatment facility or equipment, have an adverse effect on the receiving stream or groundwater or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming its opinion as to the acceptability of these wastes, the DISTRICT will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage disposal process, capacity of the sewage disposal system, and other pertinent factors. The substances prohibited are those listed as hazardous wastes by the Environmental Protection Agency ("EPA"), or its successor in functions, if any, in the EPA priority pollutant list, or other substances deemed unacceptable by the DISTRICT, the Panhandle Health District, or the DEQ.
  6. Penalties for discharging unacceptable substances shall be assessed at a rate of \$250.00/day per occurrence. Water service to violator may be shut off if the violation continues.

**C. Sewer User Charges for Operation, Maintenance, and Replacement of the Sewerage System**

1. Purpose: There is hereby established a system of periodic service charges and fees in order to equitably impose upon all Users of public sewerage systems, the costs and expenses of maintenance, operation, replacement and other expenditures of the sewerage system. Said service charges and fees for purposes of computation shall be based upon:
  - a. the volume and content of the effluent discharged into the sewerage system of the DISTRICT, and
  - b. the actual and expected costs and expenses of maintenance, operation, replacement and repair of the sewerage system, such charges and fees being determined to be the benefit derived by each building, structure or User of the collector system and treatment facility.

2. Equivalent Residence: The DISTRICT shall assign to each User an Equivalent Residence (ER) factor for the purpose of determining that User's LID Assessment, Capitalization Fee, and O&M Charge. One Equivalent Residence, hereinafter referred to as "ER", shall be defined as the sewage flow from one typical single family residence. The average sewage flow from one typical single family residence is set at 200 gallons of sewage per day, 0.37 pounds of biochemical oxygen demand (BOD<sub>5</sub>) per day, and 0.37 pounds of suspended solids (SS) per day for the purpose of making the calculations described in this Ordinance.
3. Charges: Charges for operation, maintenance, repair, replacement, insurance, and administration of the treatment facility and collection system, and a reasonable reserve therefor (O&M charges), shall be estimated by the DISTRICT, and a budget shall be adopted on a yearly basis. The total O&M charges shall be allocated on an equal basis (adjusted for multiple ERs) to all parcels within the DISTRICT which are connected to, or which are required to be connected to, the collector system and/or treatment facility. All Users shall be charged an appropriate User charge at such time as sewerage service by main, interceptor, or collector becomes available to the User, notwithstanding that the User has not yet been hooked-up to the system. All residential, commercial, public, or industrial Users that have a public sewer service line installed in public rights-of-way or easements directly adjacent to the development property line, shall connect to the sewer within one (1) year after the sewer service line becomes available. This includes all units in a multi-unit dwelling, all units in a P.U.D., and all trailers or manufactured/mobile homes in a trailer or mobile home park. Failure to connect to the sewer within the one-year period shall subject said development to a penalty equal to one hundred dollars (\$100.00) per month per ER unless there is an approved extension of time by the DISTRICT Board.
4. Billing and Payment: O&M charges shall be billed on a quarterly or more frequent basis as determined by the DISTRICT, and payments shall be due within fifteen (15) days of billing. The owner and/or occupant of any such premises using the sanitary sewer system shall be jointly and severally liable for all fees and charges assessed by the DISTRICT. Such charges shall become a lien upon and against the property against which the charge or fee is levied to the extent permitted by law in the State of Idaho. In the case of non-payment or delinquency in the payment of the sewer charges or fees imposed, the DISTRICT is authorized upon ten (10) days notice to the owner, occupant, or person-in-charge of the premises, to disconnect and plug the sewer system from the sewer system of the DISTRICT and such sewer shall remain disconnected until such fees, including a re-connecting fee of two hundred fifty dollars (\$250.00) has been paid to the DISTRICT. All fees herein shall be at the discretion of the DISTRICT. Said fees shall be set by Resolution or Amendment of this Ordinance.
5. Delegation: The DISTRICT hereby reserves the right to delegate administration, performance of operation and maintenance, and User charge collections to such other third party as may be deemed appropriate in the discretion of the DISTRICT.
6. Equivalent Residence (ER) determination and charges: The number of ERs attributable to the particular User shall be determined as follows:
  - a. A single family residence, each unit in a multi-unit dwelling, and each mobile home in a public or private mobile home park shall be assessed the cost for one (1) ER.
  - b. Each unit in a commercial building which includes at least one (1) restroom shall be assessed one (1) ER.
  - c. Businesses that employ more than fifteen (15) employees shall be assessed one (1) ER per fifteen (15) employees.

- d. The charges for special Users, other than single family residences (Item 6a, above), shall be directly proportional to the waste produced from the special User to that from a single family residence, except that no charge shall be less than that for one ER. The charge for special Users shall be calculated using the table on the following page and rounded to the nearest 0.5 ERs. The table values are to be used for assessment purposes. If a special user cannot be reasonably characterized by the table, a sewage flow rate based on water use of 200 gallons per day per ER shall be used as the base figure for the purposes of calculating the assessment.

| <u>RESIDENTIAL</u>                        | <u>ERs</u>                     |
|---|--------------------------------|
| Single Family Dwelling-----               | 1 per unit                     |
| Duplex-----                               | 1 per unit                     |
| Apartments-----                           | 1 per unit                     |
| Mobile Home-----                          | 1 per unit                     |
|   |                                |
| <u>COMMERCIAL</u>                         | <u>ERs</u>                     |
| Office Space-----                         | 0.04 per 100 sq. ft.           |
| Retail Sales-----                         | 0.02 per 100 sq. ft.           |
| Factories (no showers)-----               | 0.04 per 100 sq. ft.           |
| Factories (w/showers)-----                | 0.12 per employee              |
| Warehouse-----                            | 0.16 per 1000 sq. ft.          |
| Laundromats (self service)-----           | 0.75 per washing machine       |
| Bar or Tavern-----                        | 0.08 per seat                  |
| Hotel or Motel (no kitchen)-----          | 0.51 per unit                  |
| Hotel or Motel (w/kitchen)-----           | 0.63 per unit                  |
| Theaters-----                             | 0.01 per seat                  |
| Bowling Alley-----                        | 0.39 per lane                  |
| Hospital-----                             | 0.98 per bed                   |
| Institution (other than hospital)-----    | 0.49 per bed                   |
| School (w/meal preparation)-----          | 0.07 per student and staff     |
| School (no meal preparation)-----         | 0.05 per student and staff     |
| Restaurant (full service dining)-----     | 0.08 per seat                  |
| Restaurant (take-out, fast-food)-----     | 0.08 per seat or parking space |
| Bakeries (retail)-----                    | 0.08 per seat or parking space |
| Laundry (dry-cleaning and pro)-----       | 0.75 per washing machine       |
| Funeral Homes-----                        | 0.02 per sq. ft.               |
| Grocery Markets (w/garbage disposal)----- | 0.02 per sq. ft.               |
| Churches-----                             | 1 ER                           |
| Car Wash-----                             | 3 Bays = 1.7 ERs               |

**NOTE:** Rounded to Nearest 0.5 ER

- e. Miscellaneous: Any use not covered by the above classifications shall have its ER factor determined by the DISTRICT on an individual basis, in such a manner as to approximate potential wastewater service requirements. Further, the DISTRICT shall have the authority, but not the obligation, to adjust ER factors according to particular special circumstances; provided, however, that ER factors will not be reduced based upon claims of seasonal use or vacancy of a particular User, upon physical size of the building thereon, or solely upon the number of toilet facilities within or persons using a particular building.

- f. Any User that discharges industrial wastes or produces a flow, biochemical oxygen demand, or suspended solids loading in excess of 5% of the average dry weather sewage flow measured at the main interceptor shall have its ER allocation calculated by the DISTRICT. No quantity discounts shall be allowed and the DISTRICT may assess a surcharge on waste flows with biochemical oxygen demand or suspended solids concentrations above 250 milligrams per liter.
7. Revisions to User Charge and Appeals to User Charge: Revisions to User charges shall be based upon projected operation, maintenance, capital reserve, replacement, and other sewer related expenses and/or a change in the total number of equivalent Users, total daily biochemical oxygen demand, total daily suspended solids, and/or total daily flow to the public sewerage system. Any User may appeal the ER factor or User charge to the DISTRICT. A notice of appeal shall be submitted to the DISTRICT at least fifteen (15) days prior to a regular Board meeting. The Board shall have the power to approve, amend, or deny the appeal and the decision of the Board shall be final. The User charge may be reviewed annually and updated to reflect actual costs.
8. The DISTRICT reserves the right to adjust a particular ER factor from time to time (both with respect to collection of additional capitalization fees and with respect to an assessment of greater or lesser O&M charges) in the case of a change in use or discharge of a particular User. The DISTRICT may negotiate the ER calculation for a new connection and adjust the value after a reasonable period to verify actual use (typically one year).

## **SECTION V. CAPITALIZATION FEES**

### **A. Applicability**

All new development within the DISTRICT that requires sewage disposal and those previously unconnected Users that are required to connect to the DISTRICT collectors and/or the treatment facility. The DISTRICT may, at its discretion, waive applicability for certain developments that are not planned for sewer collectors.

### **B. Basis for Determining Capitalization Fees**

1. The DISTRICT shall collect from all new Users applicable under this section, the appropriate capitalization fee for existing platted lots at the time the application for service is approved, and for existing developed parcels prior to connecting to the sewer system; this money shall be placed in a special fund for utilization by the DISTRICT for sewer, interceptor, collection, and treatment system construction.
2. For new plats in subdivisions and modifications and extensions of previously approved plats, the capitalization fees shall be paid or a financial guarantee acceptable by the DISTRICT shall be provided.
3. The capitalization fee shall be equal to the number of ERs calculated in Section IV of this Ordinance times the capitalization fee for a single family residence. In no case shall the capitalization fee be less than that for one single family residence (one ER).
4. The capitalization fees may be adjusted annually by the DISTRICT. The Board may consider the various factors set forth in this Ordinance and in State law in making their review of the capitalization fee and possible decision to adjust it.

5. The DISTRICT reserves the right to adjust a particular ER factor (both with respect to collection of additional capitalization fees and with respect to assessment of greater or lesser O&M charges) in the case of a change in use or in discharge of a particular User. The DISTRICT may negotiate the ER calculation for a new connection and adjust the value after a reasonable period to verify actual use (typically one year).
6. The DISTRICT shall use a figure of 69,500 gallons per day for the treatment capacity of the system constructed by LID #1 in discussing and determining capitalization fees..

**C. Method for Collecting Capitalization Fee (Fee)**

The DISTRICT shall collect from new Users an applicable capitalization connection fee. The fee shall be based on an equitable buy-in to collectors installed by previous LIDs, the DISTRICT, or others. Policies for establishing the basis for the fee shall be adopted by the DISTRICT's Board.

1. The value of the system is determined each year by taking the original construction cost of each major capital improvement to the system and determining the cost to replace that improvement in that particular year. This is accomplished by determining the Engineering News Record Construction Cost Index (ENR-CCI) in the year that the improvements were made and the year that the Fee is being determined. The ENR-CCI for the year that the Fee is being calculated is divided by the ENR-CCI for the year in which the improvements were made. This value is then multiplied by the original cost for the improvements. The value obtained is the estimated cost to replace the improvements at the time the Fee is calculated. The gross value to replace the system shall be adjusted by subtracting the remaining bond principal to be retired and the unfunded depreciation to obtain the net value. The remaining bond principal to be paid for bond retirement is determined from the bond retirement schedule each year. The remaining bond interest is not subtracted from the gross system value.
2. The unfunded depreciation is figured from the date of implementation of the New User Charge Ordinance. The basis for determining the yearly depreciation is to distribute the original cost of the improvement uniformly over the life of the improvement. The life of each improvement to the collector system is assigned as follows:

|  |          |
|--|----------|
| Collection, Treatment and Interceptor System . . . . . | 50 years |
| Pump Stations, Irrigation System . . . . .             | 20 years |

The cumulative unfunded depreciation from the date of implementation of the User Charge Ordinance to the year that the Fee is being determined for is subtracted from the gross system value, along with the remaining revenue bond principal to obtain the net system value. Following is the equation for determining the net system value of any system component or combination of system components:

$$\text{Net system value} = \text{gross system value} \div \text{number of Ers of capacity}$$

The connection Fee is then determined by dividing the net system value by the design capacity of the system component expressed in equivalent residential Users (ERs). The design capacity of the system component is determined by the DISTRICT's Engineer based upon the DISTRICT's policy and sound engineering practices.

The owner or agent of all properties connecting to the public sewer system shall pay a depreciation Fee per equivalent residence (ER) or fraction thereof as may be assigned to the property by the District for the value of sewer collector service. A copy of the Fee and calculations for the period from January 1, 1999 through November 30, 1999 is attached as Exhibit A.

In determining the net system value, the principal amount of outstanding bonds for an LID or any assessment bonds shall not be subtracted from the gross system value.

3. It is hereby required that beginning one year following passage of this Ordinance and every year thereafter, the Board Members of the DISTRICT shall meet and shall calculate the collector Fees to be charged by the DISTRICT pursuant to the foregoing formula for that particular year. The calculation of Fees shall be made pursuant to the formula specified in this Ordinance, and shall not be based upon any budgetary needs except for the mandate that the sewer system shall be self-supporting.
4. A portion of the Fee collected from new users will go toward debt reduction of the original bond. Initially, the Board determines that an amount equal to twenty-five percent (25%) of the capitalization fee collected shall be deposited into an account for the payment of principal and interest on the LID bond. This figure may change by order of the Board.

#### **D. Depreciation Fund**

Depreciation Fund for Sewer Collector and Treatment Facility Depreciation: There is hereby created a depreciation fund dedicated to the preliminary engineering, design, and construction of collectors, interceptors, pump stations, sewer treatment facilities, and obligations for the treatment facility. Funds derived from the charge of the capitalization fee and the collection and treatment system depreciation fee shall be placed in this dedicated depreciation fund. The money so reserved may only be utilized for preliminary engineering, design and construction of collectors, interceptors, pump stations, sewer treatment facilities, and obligations for the treatment facility and money from said reserve fund is not to be utilized for regular operation and maintenance of the sewerage system, except that up to five percent (5%) of the annual receipts can be utilized to administer the capitalization fee and collector depreciation program.

#### **SECTION VI: REPEALER CLAUSE**

Other ordinances or resolutions of the DISTRICT, or parts thereof, in so far as they are in conflict with this Ordinance, are repealed and rescinded.

#### **SECTION VII: SEVERABILITY CLAUSE**

If any section, paragraph, sentence, or provision hereof or the application thereof to any particular circumstance shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and shall be applicable to all circumstances in which it may validly apply.

#### **SECTION VIII: CHANGE IN FEES BY RESOLUTION**

The DISTRICT reserves the right to establish and/or change fees by Resolution at a regular Board meeting.

#### **SECTION IX: ENFORCEABILITY CLAUSE**

The DISTRICT shall enforce and seek remedies for breaches of the terms of this Ordinance, as provided by the Laws of the State of Idaho.

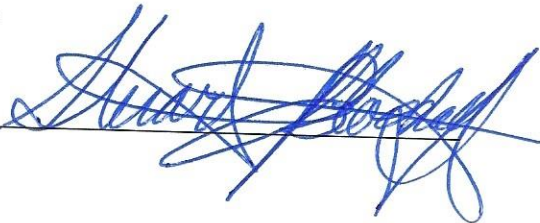
#### **SECTION X: EFFECTIVE DATE**

This Ordinance shall be in full force and effect upon its publication according to law in the Bonner County Daily Bee, a newspaper of general distribution in the region of Idaho in which the DISTRICT is located, and it is hereby designated as the Official Newspaper for publication of this Ordinance.

The first reading of this Ordinance was on December 1st, 1998, and it was passed and adopted as an Ordinance of the Ellisport Bay Sewer District, Idaho, on the 23rd day of December, 1998.

  
\_\_\_\_\_  
Chairman

ATTEST:

  
\_\_\_\_\_  
Secretary

Roll Call