

# BYLAWS

## SOUTHSIDE WATER AND SEWER DISTRICT

Published under authority of Section 42-3212 (m), Idaho Code.

DISCLAIMER: These BYLAWS are provided to assist Board members and staff in the performance of their responsibilities. They are intended to be consistent with the Idaho Code but they do not include every applicable Idaho Statute and they may not include recent changes to the Code. The Idaho Code remains the final authority in these matters. ([legislature.idaho.gov](http://legislature.idaho.gov)) Title 42. Chapter 32.

# CONTENTS

- 1. HISTORY
- 2. PURPOSE
- 3. SERVICE AREA
- 4. BOARD OF DIRECTORS
- 5. ELECTION OF BOARD
- 6. OFFICERS
- 7. COMPENSATION OF BOARD MEMBERS
- 8. BOARD VACANCIES
- 9. REMOVAL OF BOARD MEMBERS
- 10. POWERS OF BOARD
- 11. CONFLICT OF INTEREST
- 12. MEETINGS
- 13. MEETING NOTICE AND AGENDAS
- 14. EXECUTIVE SESSION
- 15. LIABILITY INSURANCE
- 16. FISCAL YEAR
- 17. BUDGET
- 18. FEES
- 19. DELINQUENT FEE PAYMENTS
- 20. ANNUAL AUDIT
- 21. MODIFICATION OF DISTRICT BOUNDARIES
- 22. ORDINANCES
- 23. RESOLUTIONS
- 24. BY LAWS
- 25. BOOK OF RECORDS
- 26. IDAHO'S PUBLIC RECORD LAW
- 27. LOCAL IMPROVEMENT DISTRICTS
- 28. WATER AND SEWER DISTRICT REVENUE BOND ACT
- 29. INDEBTEDNESS OF THE DISTRICT
- 30. IDEQ PERMIT

**1. HISTORY:** The District was established by court order on September 7, 1971 under Title 42, Chapter 32, Idaho code (IC) that provides the basic legal framework for the establishment and operation of water and sewer districts in Idaho. Both the water and sewer systems became operational in 1975 for the original service area. In 1977, at the request of the property owners, the District annexed the area that was formally known as Fry Creek Water and Sewer District. A Local Improvement District (LID) was formed and sewer services were provided to that area in 1995. The Sunset Bay subdivision was annexed in 1995 and the developer provided a force main hookup to the existing sewer system.

**2. PURPOSE:** The District was established for the sole purpose of providing water and sewer for domestic, commercial and/or industrial uses.

**3. SERVICE AREA:**

WATER: The water system serves the area of the Buck Run Subdivision then north to Lake Pend Oreille and from the west bank of Fry Creek west along Lake Shore Drive to the Clear Water Estates Subdivision. It also serves the Latour Subdivision south of Lake Shore Drive on Hawkins Road.

SEWER: The sewer system serves the approximate area bounded on the north by the shoreline of Lake Pend Oreille starting with the Sunset Bay Subdivision off Lake Shore Drive and proceeding east across US Highway 95 to the Burlington Northern Santa-Fe railroad tracks. The rail road track is the eastern boundary going from the Lake south to the end of Comeback Bay Lane. The east shoreline of Comeback Bay is the western boundary going north to Bottle Bay Road to U.S. Highway 95 and north to the south side of Lake Shore Drive and returning west to the Sunset Bay Subdivision. Specific information as to properties included as well as to location of collection lines and lift stations is available from the District Office.

**4. BOARD OF DIRECTORS:** (IC 42-3208) The Board consists of five members elected for six year terms. Members shall be voting residents living within the District service area. Each member shall take an oath of office and file a corporate surety bond (not to exceed \$1000) with the Bonner County Clerk of the Court. The surety bonds will be purchased by the District.

**5. ELECTION OF BOARD MEMBERS:** (IC 42-3211) Elections shall be held on the third Tuesday in May in odd numbered years. The positions of Members whose terms have expired will be open for election.

Notice of Filing Date (IC34-1405): The County Clerk shall cause to be published in the Bonner Daily Bee, a notice that nominations are being accepted for the expiring term or terms. The notice shall be published no sooner than 14, nor later than 7 days, before nominations are due to be filed. Nominations must be filed with the Secretary by 5 p.m. on the sixth Friday prior to the election.

Notice of Election (IC 34-1406): The County Clerk shall cause to be published, two notices of the election in the Bonner Daily Bee. The first notice shall appear at least 12 days prior to the election and the other not less than 5 days prior to the election.

If, after the expiration of the filing date for nominations, or the declaration of intent by write in candidates, the number of qualified candidates is equal to the number of directors to be elected, it is not necessary to hold an election. The Board shall declare the candidates to be elected.

**6. OFFICERS:** A Chairman and Vice Chairman shall be elected every other year at the regular Board meeting following the County canvassing and certification of the biennial election for Board Members. A Secretary-Treasurer, who is not a Board Member, shall also be elected every other year at the regular Board meeting following the County canvassing and certification of the biennial election for Board Members.

**7. COMPENSATION:** (IC 42-3209) Each Board member shall be compensated monthly for services rendered at a sum not to exceed \$50\* per meeting (Chairman receives \$75 per meeting). No member shall be a paid employee of the District, and no member shall have a personal or financial stake in any contract or transaction with the District, except in his/her official capacity. (\*Note, current law allows up to \$100/meeting) (Amended October 19 2012)

**8. BOARD VACANCIES:** (IC 42-3210) Any vacancy on the Board shall be filled by an appointment of the remaining members or member of the Board, the appointee to act until the next biennial election when the vacancy shall be filled by election. If the board shall fail, to fill any vacancy within thirty (30) days, the District Court shall fill the vacancy.

**9. REMOVAL OF BOARD MEMBERS:** Directors may be removed by The District Court for cause (42-309) or they may be recalled (34-1702(5)).

**10. POWERS OF THE BOARD:** (IC 42-3212)

10.01. Enter into contracts and agreements affecting the affairs of the District. Except in cases in which the District will receive aid from a governmental agency, procurement of goods or services shall be in accordance with the provisions of Chapter 28, Title 67, Idaho Code;

10.02. Borrow money and incur indebtedness and to issue bonds, in accordance with the provisions of 42-3222 -3225;

10.03. Acquire, dispose of and encumber real and personal property, water, water rights, water and sewage systems and plants, and any interest therein, including leases and easements within or without of the District;

10.04. Manage, control and supervise all the business and affairs of the District, and the construction, installation, operation and maintenance of District improvements;

10.05. Hire and retain agents, employees, engineers and attorneys;

10.06. Exercise the power of eminent domain in the manner provided by law for the condemnation of private property for public use, both within and without the District;

10.07. Establish water and sewer rates.

10.08. For health and sanitary purposes the Board may compel the owners of inhabited property within the District to connect their property with the sewer system and, upon failure to connect

within sixty (60) days after written notice by the Board the Board may cause such connection to be made and a lien to be filed against the property for the expense incurred. However, no owner shall be compelled to connect unless a service line is brought, to a point within two hundred (200) feet of the dwelling place;

**11. CONFLICTS OF INTEREST:** Directors are bound by the provisions of Title 18, section 1359, Idaho Code.

**12. MEETINGS:** (IC 42-3210) The Board shall meet on the second Wednesday of each month at 2p.m. in the WaterLife Discovery Centre building at 2100 Lakeshore Drive Sagle. Special meeting may be held as needed upon notice to each Board member. Three (3) Board members shall constitute a quorum at any meeting. All meetings shall be open to the public (67-2342). Written minutes shall be taken and shall, at a minimum, include names of Directors present, all motions and their disposition, the results of all votes and, upon request of a Director, the vote of each Director by name. (67-2344)

**13. MEETING NOTICE AND AGENDAS:** The time, date and location of all regularly scheduled meetings for the year shall be posted and maintained on the bulletin board on the gate to the entrance to the maintenance building at 1670 Lakeshore Drive, on the District web site, on the outside door of the administrative office 2<sup>nd</sup> Ave, Sandpoint and published in the Bonner County Daily Bee. An agenda shall be posted at least 48 hours before each regular meeting and at least 24 hours before each special meeting. An agenda may be amended, provided that a good faith effort is made to include, in the original agenda notice, all items known to be probable items of discussion. If an amendment is proposed after an agenda has been posted and less than 48 hours prior to a regular meeting or less than 24 hours prior to a special meeting, the proposed amendment shall be posted but shall not become effective until a motion is made, and passed, at the meeting to amend the agenda. An agenda may be amended after the start of a meeting upon a motion that states the reason for the amendment and states the good faith reason why the agenda item was not included in the original agenda posting.

**14. EXECUTIVE SESSION:** An executive session at which members of the public are excluded may be held for specific purposes outlined in the Idaho Open Meeting Law (IC 67-2340 through 67-2347). The motion to go into executive session shall identify the specific subsection of the Code that authorizes the executive session. There shall be a roll call vote on the motion, requiring a 2/3 vote, and the vote shall be recorded in the minutes. The exceptions to the general policy in favor of open meetings shall be narrowly construed. It shall be a violation of this act to change the subject within the executive session to one not identified within the motion to enter executive session. Any Board member who participates in a meeting which violates the Open Meeting Law shall be subject to civil penalty. The Board may meet in executive session:

14.01. To consider personnel matters such as hiring, evaluation, dismissal, disciplining or hearing complaints brought against an employee;

14.02. To conduct deliberations concerning labor negotiations or acquisition of real property;

14.03 To consider and advise legal representatives pending litigation.

Executive sessions are prohibited from taking final action or making final decision (67-2345). Minutes of executive sessions may be limited to prevent disclosure of protected material but must contain sufficient detail to convey the general tenor of the meeting (67-2344).

**15. LIABILITY INSURANCE:** Under the ‘Idaho Tort Claims Against Government Entities Act’ (6-901-929) the District may be held liable for negligent or wrongful acts or omissions. Consequently, the District shall maintain liability insurance coverage of at least \$500,000 for any one occurrence or accident.

**16. FISCAL YEAR:** The District’s fiscal year begins on October 1 and ends on September 30. (Note: IC 42-3209 states that the fiscal year shall end November 30).

**17. BUDGET:** An annual budget shall be adopted by the Board at the regular August meeting and presented at a public budget hearing to be held in conjunction with the September Board meeting (42-3228)

No later than April 30<sup>th</sup>, the Secretary shall notify the Bonner Clerk of the Court of the date and location of the public budget hearing (the regularly scheduled September meeting). At least 10 days before the public budget hearing the Secretary shall post a notice with the location, time and date and a complete copy of the budget, and cause the notice and copy of the budget to be published in the Bonner Daily Bee (42-3229 -3231).

**18. FEES:** The Board shall determine the fees to be charged for water and sewer services. Fees shall not exceed the actual cost of services being provided. For any increase in excess of five percent (5%) of the fee last collected or a decision to impose a new fee the District will hold a public hearing at a regular or special meeting and notices and agendas will be posed and published as required for public hearings of the annual budget (63-1311A)

**19. DELINQUENT FEES:** All sewer and water charges or other fees or assessments not paid within 30 days of date due are delinquent. Late charges for delinquent payments 30 days past due are set forth in Appendix A. Within 60 days of the due date the Board may cause services to be disconnected after attempted notification by mail, telephone or in person. Charges for disconnections and reconnections are set forth in Appendix A. No later than July 31<sup>st</sup> of each year the Secretary shall present and certify the delinquent charges, penalties and interest to the Bonner County Tax Collector for collection (42-3212(l) and inclusion in the property tax bill.

**20. ANNUAL AUDIT:** The District’s financial affairs shall be audited following the end of each fiscal year. The audit will be performed by an independent certified public accountant chosen by the Board. (42-3209 and 67-450B).

**21. MODIFICATION OF DISTRICT BOUNDARIES:** The Board may change the boundaries of the District upon petition from owners of property to be annexed, or a petition signed by no less than 60% of the owners in the area to be annexed; or a petition signed by 20% of the property owners in the area to be annexed, calling for a vote; or by the Board calling for a

vote. Voters must reside in the territory to be annexed and annexation requires a majority vote. (42-3218). See 42-3219 for de-annexation procedures.

**22. ORDINANCES:** The Board may enact statutes or regulations in order to exercise management control and supervision of the business and affairs of the District. The Ordinances shall be numbered sequentially by year (i.e. Ordinance 08-01 is the first Ordinance passed in 2008).

**23. RESOLUTIONS:** Formal statements of the Board's intent may be adopted by the Board. Like Ordinances, Resolutions are numbered sequentially by year.

**24. BY LAWS:** These bylaws are rules governing the internal affairs of the Board and may be amended by a majority vote of the Board. Any amendments shall be duly recorded in the minutes and the Secretary shall maintain a current version of the bylaws and permanent file of all amendments.

**25. BOOK OF RECORDS:** (IC 42-3209) The Secretary shall keep, in a well-bound book, a record of all proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts which shall be open to inspection of all owners of real property in the District, as well as to all other interested parties.

**26. IDAHO'S PUBLIC RECORDS LAW:** (IC 9-337 through 9-350), All of the District's records containing information relating to the conduct or administration of the District's business including, but not limited to, handwritten, typed, printed, copied, e-mail, computer files and all other records and documents are public unless specifically exempted from disclosure under IC 9-340. Any person has a right to examine and copy any public record. Requests to examine public records shall be granted or denied within 3 working days and a notice of denial shall state that the attorney for the District has reviewed the request and the notice shall indicate the statutory authority for the denial and the person's right to appeal.

**27. LOCAL IMPROVEMENT DISTRICTS:** The District is authorized to create Local Improvements Districts under Title 50, Chapter 17, Idaho Code. A local improvement is a public improvement that specially benefits property in a particular location within the District. Local improvements can be financed by creating an LID and issuing LID Bonds which are repaid by levying assessments on property that is specially benefited.

**28. WATER AND SEWER DISTRICT REVENUE BOND ACT:** Title 42, Chapter 41, Idaho Code, grants the District authority to acquire, construct and improve facilities and to finance such by issuing Revenue Bonds and to pledge an amount of revenue from such facilities to pay bonds and interest. Before issuing bonds, however, the District shall obtain the approval of a majority of the qualified electors voting in an election held for such purpose.

**29. INDEBTEDNESS OF THE DISTRICT:** The District may incur debt and issue General Obligation Bonds for the purpose of acquiring, or improving the existing water or sewer system and constructing new water or sewer facilities. General Obligation Bonds are repaid by tax levies on property in the District. Before incurring debt that will exceed the income and revenue

provided for the year, Article VIII, Section 3 of the Idaho Constitution and IC 42-3221 through 42-3225, Idaho Code, require the assent of 2/3 of the voting qualified electors.

**30. IDEQ PERMIT:** The District’s water and sewer system is operated under permits issued by the Idaho Department of Environment Quality. The permits establish operating standards and require routine testing and reporting. The District is required to keep an Operations and Maintenance Manual which describes in detail the operation, maintenance and management of the water and sewer systems. The IDEQ Permits and Idaho Administration Procedures Act (IDAPA) 58.01 require an on site Responsible Charge Operator (RCO) with the following licenses issued by the Idaho Bureau of Occupational Licenses (IBOL): (a) Drinking Water Distribution – Class I, (b) Waste Water Treatment – Class I, and (c) Waste Water Collection – Class I.

These BYLAWS, superseding and replacing all prior Bylaws, shall be in full force and effect upon this 9 day of June, 2009 pursuant to the following vote:

Yea	nay		
_____	_____	_____	James Haynes, Chairman
_____	_____	_____	Emmett W. Jones III, Vice Chairman
_____	_____	_____	Chuck Samson
_____	_____	_____	Gary Wescott (SEAL)
_____	_____	_____	Brent Sleep

Updated Paragraph 19 5/12/2010  
Updated Paragraph 5 9/8/2010  
Updated Paragraph 12 & 13 9/8/2010  
Updated Paragraph 7 10/19/2012  
Updated Paragraph 6 5/15/2019