

ORDINANCE #08-01

AN ORDINANCE OF SOUTHSIDE WATER AND SEWER DISTRICT, OF BONNER COUNTY, IDAHO, AMENDING AND RESTATING PRIOR ORDINANCE; AND PROVIDING FOR AND REGULATING A DOMESTIC WATER SERVICE IN ORDER TO PROVIDE POTABLE WATER TO DISTRICT PATRONS; AND PROVIDING FOR AND REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE SEWAGE DISPOSAL, INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND THE DISCHARGE OF WATERS AND WASTE INTO THE PUBLIC SEWER SYSTEM; AND REGULATING AND GOVERNING THE USE OF OWNERSHIP, OPERATION AND MAINTENANCE OF A SEWER COLLECTION SYSTEM AND TREATMENT SITE DISPOSAL FACILITY SERVICING THE SOUTHSIDE WATER AND SEWER DISTRICT; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF SOUTHSIDE WATER AND SEWER DISTRICT, BONNER COUNTY, IDAHO, AS FOLLOWS:

WHEREAS, SOUTHSIDE WATER AND SEWER DISTRICT (the District), of Bonner County, Idaho, is a water and sewer district operating and existing under and pursuant to the laws of the State of Idaho, codified at Idaho Code §42-3201 et seq., and as such is authorized and empowered to create local improvement districts and to construct improvements pursuant to Idaho Code §50-1701 et seq., and is also authorized to issue revenue bonds to finance the cost of acquisition, construction or extension of any works pursuant to Idaho Code §42-4101 et seq.; and

WHEREAS, the Board of Directors has heretofore duly created Local Improvement District No. 1 and has financed water and sewer systems by general obligation bonds; and

WHEREAS, the Board of Directors has previously adopted ordinances regulating and governing sewer and water services to users within the District; and

WHEREAS, the Board of Directors of the District desires to amend and restate Ordinance #02-01 dated February 14, 2002, for regulating and governing sewer and water services to users within the District.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

**SECTION 1
PURPOSE AND APPLICABILITY**

The District hereby determines and declares that a fair regulatory scheme should be implemented to deal with waste water and domestic water services to be provided to users in the District and those to be added in the future who shall benefit from construction and operation of the Southside Water and Sewer District, as defined herein. This Ordinance shall be applicable to all real property located within the boundaries of the District, as currently configured or as amended from time to time. A map of the District boundaries is maintained at the District office.

SECTION 2 DEFINITIONS

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

Accessory Dwelling Unit (ADU): A habitable living unit in accordance with the Bonner County Title 12 Regulations, located on the same lot, within, added to or detached from a single-family dwelling that provides basic requirements for the living, sleeping, eating, cooking and sanitation, and has a separate entrance.

Annual Debt Service: The amount required in a calendar year for the payment of the principal and interest on the General Obligation Bonds, Revenue Bonds and the Local Improvement District (LID) obligations.

Appointed Secretary/Treasurer: An individual employed by the District who attends to administrative and financial affairs of the District at the direction of the Board of Directors.

Board of Directors: (Hereinafter referred to as the Board) Five officers elected or appointed in accordance with the laws of the State of Idaho.

Building Drain: That part of the piping of a drainage system which receives the discharge from waste and other drainage, pipes originating inside the walls of a building; pipes conveying the discharge to the Building Sewer.

Building Sewer: The extension from the building to the District's collector system.

Commercial: Any User that sells goods or services or any User that uses water and/or sewer to a greater degree than a single-family dwelling.

Collector System: The system of pipes, pumps, reservoirs, and other sewage collection and conveyance equipment owned by the District, whether by initial construction or by acquisition, operated for the purpose of collecting sewage from parcels and transporting such sewage to the Treatment Facility as defined herein.

Delinquent Accounts: User fees are due and payable by the 20th of each month and are considered delinquent if not paid within sixty (60) days. Accounts delinquent as of August 1st of each year may be so certified by the Board and assigned to the Bonner County Treasurer's Office for collection in the same manner as other taxes.

District: The Southside water and Sewer District as legally defined by its boundaries which may be modified from time to time as allowed by the laws of the State of Idaho.

District Sewer System: All property owned by the District to include sewer collector system, pump stations, treatment ponds, storage ponds, and aeration, chlorination, sprinkling facilities, plus any and all other systems and equipment used by the District for collection, treatment and disposal of sewage.

District Water System: All property owned by the District including the water mainline, pumping and chlorination facilities, water tank, and spring site, plus any and all other equipment used to provide potable water to District patrons.

Engineer: The engineer or engineering firm (or duly authorized employee or representative thereof) contracted or otherwise designated by the District from time to time to advise the Board with respect to sewer and water services provided through the District systems.

Equivalent Residence (ER): The basic unit of measurement utilized by the District to establish water and sewer rates, with one (1) ER being defined as one (1) typical single-family dwelling. (See Appendix A)

General Obligation Bonds: Bonds issued to finance either original construction or future development of the water and sewer systems.

General Obligation Bond Payback: Monetary amount assigned to each user of the water or sewer services in order to retire the General Obligation Bond.

Grandfathered: Any multiple users prior to 1990 will be entitled to remain as a multiple user until such time as the property ownership, zoning and/or use changes. The property will then be designated to that use approved by Bonner County Planning and Zoning and assigned the appropriate ER as determined by the Board.

Guest House: An accessory building located on the same lot as a single family dwelling and consists of sleeping quarters with no kitchen facilities and a floor area of six hundred (600) square feet or less, for the use by temporary guests or family members of the occupants of the main structure, not rented or occupied on a permanent basis.

Hook-Up Fee: A fee paid to the District for permission to connect to the water or sewer system or to increase usage beyond that previously approved.

Legal Parcel: Any legal lot now existing or hereafter created through a division or subdivision process and any other parcel of real property recognized by the appropriate governmental planning and zoning department or other agency or department as a separate legal parcel having dimensions which would legally allow such parcel to be improved with a residence or other structure for human use and/or occupancy, or which otherwise could reasonably be deemed benefited by the availability of sewer/water service provided by the District. An “improved parcel” shall include any legal parcel on which a building or other improvement exists which is designed to accommodate human occupancy and which generates sewage requiring disposal.

LID: Local Improvement District. When established by District ordinance to provide water and/or sewer service to a specific area.

LID Assessment: The assessment levied against each legal parcel in existence as of the date of the closure of the LID in such amount as may be determined by the final LID confirmation ordinance representing a fair share of the District's cost of construction of the water and /or sewer system servicing the area defined in the LID.

Maintenance Engineer: Person(s) employed by the District to operate and maintain the District water and sewer systems. An alternate must be designated to perform these duties in the absence of the Maintenance Engineer.

Multi-Unit Dwelling: A building containing a combination of units with individual sleeping, bath and kitchen facilities, each unit being designated for individual or single-family occupancy. This includes apartments, townhouses condominiums, duplexes, triplexes, guest quarters, and the like.

Non-User: A person who has paid for a water or sewer connection but is not connected to that system. The District will no longer make non-user commitments for sewer or water except as provided in an LID.

On line: (By customer type)

- Water Only: At the point in time when District water is available to be used. In cases when for the convenience of the District or the customer the line is connected in advance of actual need or usage, District staff will shut the water off at the meter. In this case, "On Line" is defined as when District staff makes water available to the customer.
- Sewer Only: When the customer's sewer line is attached to the District line. In cases when for the convenience of the District or the customer, the line is connected in advance of actual need, the customer and the District will agree in writing upon a date when billing is to commence prior to the physical hookup.
- Water and Sewer Combined: When water is made available per Water Only above. In cases when for the convenience of the District or the customer, the line is connected in advance of actual need, the customer and the District will agree in writing upon a date when billing is to commence prior to the physical hookup.

Operation and Maintenance (O&M) Charge: The share of operation and maintenance expense for the water and sewer system that is attributable to and charged to a particular User.

Revenue Bond: Bonds issued by the District pursuant to the Water and Sewer District Revenue Bond Act to finance, in whole or in part, the cost of acquisition, construction, reconstruction, improvements, betterment or extension of any works.

Revenue Bond Payback: Monetary amount assigned to each User for water and sewer services in order to retire the Revenue Bond.

Sewage: A combination of water-carried wastes from residences, business buildings, institutions, commercial and industrial establishments.

Shall/May: “Shall” is mandatory, “May” is permissive.

Single-Family Dwelling: A building or unit designed and used exclusively for residential purposes by one family. This definition shall also include mobile homes and trailers used for residential purposes. A recreational vehicle (RV) may also be classified as a single family residence when it is fully plumbed and otherwise independently habitable and the RV is occupied substantially full time.

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

Treatment Facility: The land and all improvements, equipment and other personal property located thereon, which is owned, operated and maintained by the District for the purpose of receiving, treating and disposing of sewage effluent from the collector system.

User: Any person owning, controlling, occupying or otherwise using an improved parcel which is connected to or is required to be connected to the sewer system. Those receiving potable water from the District are also termed User.

Works: The term “works” shall include both the water system and the sewer system of the District, together with their components.

SECTION 3 MANDATORY SEWER CONNECTION

No person or entity shall dispose of sewage within the District except by discharge into the District Sewer System or another system installed and operated under the authority of the Panhandle Health District or the Idaho Department of Environmental Quality. Each building within the District shall be connected to the District sewer system if:

1. The building is located within 200 feet of the collector system and
2. The building is inhabited; and
3. The building is plumbed for use of water and sewer and water is reasonably available.

No person shall occupy a dwelling of any type that is not connected to an approved sewage disposal system unless the dwelling has a self contained holding tank that is discharged into an approved sewage dump station.

SECTION 4 LIMITED WATER SERVICE AVAILABLE

Water connection may be available to Users within the District boundaries. It is not mandatory that buildings within the District be connected to the District water system. No User shall have any other source of unmonitored water cross-connected to the District water system. The District shall not provide water service outside the District boundaries, except those that were approved and connected prior to 1990. Fire hydrants are for the use of an official fire department only and testing by authorized personnel.

SECTION 5 APPLICATION FOR SERVICES

Any property owner desiring to connect to the District's water or sewer system, or any present user wishing to expand service beyond that previously approved, must make application to the District identifying the type of service desired. Application shall contain all pertinent information including the name and address of the applicant, a description of the real property, the type of service being requested and such other information as the District requests. There shall be no connection to the District's sewer or water system or any expansion thereof without the expressed written approval of the District.

Any person or entity outside the District's boundaries who desires water or sewer service must also make application to the Board in writing. The District will, within a reasonable time, inform the applicant of its decision and, if approved, and as a condition thereof, the property must be annexed into the District. All expenses associated with the annexation including, but not limited to, legal, easements, engineering, construction and connecting to the District system, shall be the responsibility of the applicant.

The District Maintenance Engineer shall, during the installation of any new use or expansion of an existing use, inspect and approve any extensions or hook-ups to the water and sewer system to assure conformance with all requirements of the District and to comply with the "as built" drawings. Any new sewer or water lines serving more than one dwelling or serving a commercial property shall be an engineered line and the engineered plans associated therewith shall be provided to and approved by the District in advance of construction.

SECTION 6 REQUIREMENTS OF SERVICE

All expenses associated with any extension of the sewer collector system in order to connect a User (residence, housing tract, trailer park motel, condominium, or other dwelling) shall be the responsibility of the applicant seeking the extension. Such extensions shall be engineered by a Board approved, licensed engineer, which plans shall also be approved by the appropriate health department. Approval of the Board and the appropriate health department must be obtained prior to commencement of the project.

All new water hook-ups approved by the District shall require the installation of an approved water meter to be installed on the landowner's side of the shut-off valve. A water shut-off box shall be installed as specified by the District engineer. All valves, meters, and other items necessary for water service must be of a type and size specified by the District. All

extensions of the main line and all shut-offs and meters shall be at the expense of the User. With the exception of multiple connections made prior to 1990, each individual residential building shall be a separate service and shall require a separate water meter and shut-off.

The Users within the District shall, at their own expense bring their individual service to the main waterline and sewer collector system. Any new lines including replacement lines, whether for water or sewer service, must have a tracer installed with the line for detection purposes. Any new service line to a single family dwelling requiring a pump shall be installed and maintained by the owner at their expense.

The property owner is responsible for repair/replacement of sewer line breaks/leaks that occur between the collector system and the building drain. The property owner is responsible for repair/replacement of water line breaks/leaks that occur on the owner's side of the water meter. Overage charges resulting from damaged waterlines may be waived if the damaged waterlines are repaired as soon as reasonably feasible, but any such waiver shall be at the discretion of the Board of Directors.

SECTION 7 SEWER USE RESTRICTIONS

It shall be unlawful for any person or entity to discharge or cause to be discharged any of the following into the District sewer system.

1. Ground or surface water.
2. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
3. Any waters or wastes containing toxic or poisonous solids, liquids or gases which either singly or by interaction with other wastes, injure or interfere with any sewage treatment process or constitute a hazard to humans.
4. Any water or waste having a corrosive property capable of causing damage or hazard to structures, equipment or personnel.
5. Solid or viscous substances in quantities or of such size as to be capable of causing obstruction to the flow in sewers, or other interferences with the proper operation of the sewage works such as but not limited to, coffee grounds, ashes, cinders, sand, gravel, mud, straw, shavings, metal, glass, rags, feathers, tar, entrails, paper dishes, cups, plastic containers, tampons, disposable diapers, either whole or ground by garbage grinders.
6. Any water or waste containing fats, greases or oils, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32° F and 150°F (0° C and 64° C).
7. Any garbage that has not been properly shredded.
8. The District may prohibit or deny any sewer connection application if, in the opinion of the Board, the proposed use would discharge excessive flowage or detrimental substances into the sewer system.
9. The Board may require any pretreatment systems deemed necessary to protect the integrity and normal operation of the district's collection and treatment systems. Such systems, if required, shall be constructed, owned and operated

by the entity discharging into the district system. The District shall be allowed to inspect all such systems at any reasonable time and schedule maintenance as necessary. The entity shall be responsible for all costs and charges incurred for this maintenance.

SECTION 8 OPERATING BUDGET FOR WATER AND SEWER DISTRICT

In accordance with Idaho law, the District shall estimate all costs associated with maintaining and operating the District and a written budget shall be prepared annually and shall be presented at the annual budget meeting of the District. The District's fiscal year begins on October 1st and ends on September 30th of each year. Total operating and maintenance charges shall be assessed amongst the Users of the systems on equitable basis and in conformance with the rate schedules published by the District in the attached Appendix A.

SECTION 9 RATES, FEES AND CHARGES

The Board of Directors shall, at least on an annual basis, fix the rates, fees and charges to be assessed against Users within the District in order to pay the indebtedness incurred by the District for:

1. Construction costs of the District water and sewer systems
2. Expenses of operating and maintaining the District water and sewer system
3. Expenses of administering the District's affairs
4. Establishing a reserve fund for replacement and improvements to the water and sewer systems.

Attached hereto as Appendix A is the current rate schedule which includes hook-up fees and monthly service charges and other miscellaneous financial items, which may be amended from time to time by the Board of Directors.

SECTION 10 HOOK-UPS

The District recognizes and declares that new parcels of real property which are created within the District or are otherwise brought into the District by annexation will be benefited by the services the District provides; and expanded uses of pre-existing parcels will also benefit from the availability of service. The District shall be entitled to assess a hook-up fee against new parcels which are created and those which are annexed.

Any land owner requesting sewer and/or water service from the District must comply with the Bonner County Planning and Zoning restrictions for that parcel at the time service is

requested. Compliance with county planning and zoning laws must be verified with a valid building site permit issued by the appropriate county officer. Should the site permit be for other than a single family residence, the ER rating and the associated fees, charges and rates shall be determined by the District pursuant to the ER calculation formula listed in Appendix B. Should any existing residential user add an accessory dwelling unit (as defined herein) to his property, another hook-up fee and monthly User charge shall apply. If the User can not be classified using the approved ER formula, the ER rating will be determined by an approved, licensed engineer and shall be approved by the Board of Directors.

SECTION 11 LIMITATIONS AND RESTRICTIONS FOR HOOK-UPS

The hook-up fees for sewer and water connections must be paid in full before the connection is completed, except as provided in an approved LID. At such time that a water and/or sewer hook-up has been completed and is connected to the main, the hook-up shall be deemed appurtenant to the real property served and can be transferred only with the sale of the real property benefited. An owner who has paid for a hook-up which has not been connected to the collector system may be permitted to transfer some portion of the value of the hook-up to another parcel within the District with the Board's approval. The amount of value transferable shall be based upon the amount paid for said hook-up.

Non-User hook-ups can only be transferred with the sale/transfer of real estate and cannot be sold separately by individuals. A user may voluntarily relinquish a hook-up to the District and upon acceptance by the District the User fees associated with that hook-up shall cease and the hook-up will become the property of the District. Any refunding of hook-up fees shall be at the discretion of the Board.

Additional usage of water or sewer service by motor homes or RVs from an existing hook-up for an extended period of time shall be prohibited and upon notice, the User shall discontinue such service or, if authorized by the District, shall pay a hook-up fee and monthly User fee for continued service.

SECTION 12 PROTECTION FROM DAMAGE

No unauthorized person shall intentionally or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is part of the water or sewer system. Any person violating this provision shall be liable for repair costs, consequential damages and enforcement costs.

SECTION 13 CONSTRUCTION OF IMPROVEMENTS AND ACQUISITION OF PROPERTY BY DISTRICT

The District declares that all legal parcels of real property within the boundaries of the District are benefited by the District improvements and by the future expansion of the system. Any necessary expansion of the system shall be constructed and paid for, in whole or in part, by the legal owners of real property within the District. There is hereby imposed upon all parcels within the District as well as any legal parcels created in the future, the obligation to pay to the District a fair share of the cost of the expansion, to be paid in such amounts and at such time as required so long as said assessments are imposed pursuant to the laws of the State of Idaho.

The cost to the District for constructing improvements and/or acquiring the necessary elements to expand the District's sewer and water systems shall be borne by the owners of real property within the District. Each legal parcel within the District shall be assigned an ER factor depending upon existing improvements, uses and platting status. Payment of the share of the total cost attributable to each legal parcel shall be in accordance with the appropriate ordinances and as permitted by Idaho law.

SECTION 14 CONSTRUCTION WITHIN COUNTY RIGHT OF WAY

All construction by Users within the Bonner County right of way easement shall be in compliance with the terms and conditions of the easement agreement entered into between Bonner County and the District.

SECTION 15 MITIGATION OF ENVIRONMENTAL CONCERNS

The District shall not extend water or sewer services to, or for the benefit of any dwelling, structure or subdivision that does not meet governmental requirements for the preservation and protection of designated wetlands and wildlife habitat. The District reserves the right to require a landowner to obtain written approval from an appropriate governmental agency.

SECTION 16 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. Idaho State laws take precedence over this ordinance.

SECTION 17 REPEALER CLAUSE

All ordinances or resolutions of this District or parts thereof, insofar as they are in conflict with this Ordinance, are hereby repealed and rescinded.

**SECTION 18
SEVERABILITY CLAUSE**

If any section, subsection, 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 applicable to all circumstances to which it may validly apply.

**SECTION 19
EFFECTIVE DATE**

This Ordinance shall be in full force and effect upon its publication in summary form according to law in the Bonner County Daily Bee, a newspaper of general distribution in the District and hereby designated as the official newspaper for the publication of the Ordinance.