

RESOLUTION NO. 05-1

A RESOLUTION OF THE BAYVIEW WATER AND SEWER DISTRICT, KOOTENAI COUNTY, IDAHO, ADOPTING A POLICY FOR ELIMINATING UNUSABLE CAPACITY; PROVIDING AN EFFECTIVE DATE HEREOF; PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

Whereas, the Bayview Water and Sewer District, Kootenai County, Idaho, (the "District") is a water and sewer district organized and existing under and pursuant to the laws of the State of Idaho;

Whereas, the District is authorized under Idaho Code Section 42-3212 to set fees, tolls and charges for services of facilities furnished by the District and to provide a comprehensive regulatory scheme relating to waste water services to be provided to users within the District, and;

Whereas, the Board desires to define a policy addressing the sale of unusable capacity back to the District.

NOW, THEREFORE, BE IT RESOLVED BY THE CHAIRMAN AND BOARD OF DIRECTORS OF THE BAYVIEW WATER AND SEWER DISTRICT, KOOTENAI COUNTY, IDAHO, as follows:

Section 1: Where existing parcels have been allocated multiple Equivalent Residential Units (ERs") for hook-up to the system by advance reservations, and such ERs can no longer be used due to zoning or other governmental restrictions, such capacity may be eliminated under the following circumstances:

a. The applicant must demonstrate to the District that the ER is made unusable due to governmental restrictions;

b. The ER has never been used and was issued at LID formation;

c. No parcel shall be left with less than one equivalent residence;

d. Ownership (together with encumbrances) shall be demonstrated to the District by presentation of a title commitment or policy, or by other reasonably reliable evidence of title.

1. The applicant shall execute such documentation as may be reasonably required by the Board, evidencing the commitment of the applicant to eliminate un-usable capacity, and acknowledging that new capacity will not be available in the future;

e. Any unpaid assessment pertaining to the hook-up to be eliminated must be paid in full (including all prepayment penalties) prior to or in connection with the elimination of the unused capacity, following which the District shall "purchase" back the hook-up, for an amount originally paid for that ER (\$686.95), less and administrative fee of \$200.00 for each ER eliminated.

CW Corrected 8/19/2005

Section 2: If the applicant requesting that the District purchase an ER from one parcel, makes a simultaneous request to the District to buy an equivalent capacity from the District for the benefit of an additional parcel that the applicant owns within the District, such purchase of said capacity may be permitted under the following circumstances;

a. The parcel requiring the additional capacity shall be located within the boundaries of the District;

b. Both parcels shall be in the same ownership and ownership (together with encumbrances) shall be demonstrated to the District by presentation of a title commitment or policy, or by other reasonable reliable evidence of title; and

c. The applicant shall buy the additional capacity at the current price per ER set by the District and the District shall keep the difference between the purchase price and price paid by the applicant (if any) for the use and benefit of the system.

Section 3: The Chairman is hereby authorized to sign any additional contract or document reasonably necessary to carry out the intent of this Resolution.

Section 4: This Resolution shall take effect and be in full force and effect after its passage and approval.

DATED this 22 day of July, 2005

**BAYVIEW WATER AND SEWER DISTRICT
KOOTENAI AND BONNER COUNTY, IDAHO**

C E Waller

CHAIRMAN; BOARD OF DIRECTORS

ATTEST:

[Signature]
Secretary

(SEAL)