

ORDINANCE 91-1

AN ORDINANCE REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE WASTEWATER DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND THE DISCHARGE OF WATER AND WASTES INTO THE PUBLIC SEWER SYSTEM(S) AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

BAYVIEW WATER AND SEWER DISTRICT
KOOTENAI COUNTY, IDAHO

BE IT ORDAINED by the Board of Directors of the Bayview Water and Sewer District of Kootenai County, Idaho, as follows:

WHEREAS, the Bayview Water and Sewer District of 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; and

WHEREAS, the District has previously established L.I.D. No. 1, for the purpose of financing the construction of a public wastewater system (including collection and treatment facilities) to service its constituents, the construction of which facilities is nearing completion; and

WHEREAS, the District desires to assure that the use of the public wastewater system operated by it will conform to the best sanitary engineering practices, and

WHEREAS, the District desires to regulate the use of the public wastewater system operated by it:

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Board of Directors of the Bayview Water and Sewer District as follows:

ARTICLE I.
DEFINITIONS

Section 1. Specific Definitions. Unless the context of usage indicates otherwise, the meaning of specific terms in this Ordinance shall be as follows:

Act shall mean the Federal Clean Water Act, as amended.

ASTM shall mean the American Society for Testing and Materials.

BOD (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

Board shall mean the elected Board of the Bayview Water and Sewer District or its authorized agent.

Building Sewer shall mean the extension from a building wastewater plumbing facility to the public wastewater facility.

Combined Sewer shall mean a sewer intended to receive both wastewater and storm or surface water.

Commercial User (Class II) shall include any property occupied by a nonresidential establishment not within the definition of an "Industrial User (Class III)", and which is connected to the wastewater facilities.

Day shall mean the 24 hour period beginning at 12:01 a.m.

Easement shall mean an acquired legal right for the specific use of land owned by others.

EPA shall mean the United States Environmental Protection Agency.

Garbage shall mean the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

Groundwater shall mean water within the earth.

Industrial User (Class III) shall mean any nonresidential user identified in Division A, B, D, E, or I of the Standard Industrial Classification Manual. Class III shall also include any user which discharges wastewater containing toxic or poisonous substances, or any substance(s) which cause(s) interference in the wastewater facilities.

Initial Ordinance shall mean Ordinance No. 90-1 promulgated by the District on February 21, 1990, pertaining to the initial construction of the District's wastewater facilities and the allocation of responsibility for payment for the construction and the operation and maintenance of such facilities.

Interference shall mean inhibition or disruption of any sewer system, wastewater treatment process, sludge disposal system, or their operation, which substantially contributes to a violation of applicable discharge permits.

Natural Outlet shall mean any outlet into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.

NPDES shall mean National Pollutant Discharge Elimination System permit program, whether administered by the EPA or by the State of Idaho.

Owner shall mean the person or persons who legally own, lease, or occupy private property with wastewater facilities

which discharge, or will discharge to the District's wastewater facilities.

Person shall mean any individual, firm, company, association, society, partnership, corporation, municipality, or other similar organization, agency, or group.

pH shall mean the logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution as determined by Standard Methods.

Pretreatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to discharge into the District's wastewater facilities.

Pretreatment Standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA, which applies to Industrial Users.

Properly Shredded Garbage shall mean garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the wastewater sewers, with no particle greater than 1/2 inch in any dimension.

Residential User (Class I) shall mean all premises used only for human residency and which is connected to the wastewater facilities.

Sanitary Wastewater shall mean wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.

Standard Methods shall mean the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Pollution Control Federation and American Water Works Association.

State shall mean the State of Idaho.

Storm Sewer shall mean a sewer for conveying storm, surface, and other waters, which is not intended to be transported to a treatment facility.

Surface Water shall mean water which occurs when the rate of precipitation exceeds the rate at which water may infiltrate into the soil.

Suspended Solids shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater, as determined by Standard Methods.

Toxics shall mean any of the pollutants designated by Federal regulations pursuant to Section 307(a)(1) of the Act.

Wastewater shall mean a combination of liquid and water-carried wastes from residences, commercial buildings, industries, and institutions, together with any groundwater, surface water, or storm water that may be present.

Wastewater Facility shall mean the combination of the District's wastewater sewers and treatment facilities.

Wastewater Sewer shall mean the structures, processes, equipment and arrangements necessary to collect and transport wastewaters to the treatment facility.

Wastewater Treatment Facility shall mean the structures, processes, equipment and arrangements necessary to treat and discharge wastewaters.

WPCF shall mean the Water Pollution Control Federation.

Section 2. General Definitions. Unless the context of usage indicates otherwise, the meaning of terms in this Ordinance (where not defined in Section 1 above, or in the Initial Ordinance) shall be as defined in the Glossary: Water and Wastewater Control Engineering prepared by the Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Pollution on Control Federation.

ARTICLE II. **GENERAL PROVISIONS**

Section 1. Purpose. The purpose of this Ordinance is to provide for the maximum possible beneficial public use of the District's wastewater facilities through regulation of sewer use and wastewater discharges; and to provide procedures for complying with the requirements contained herein.

Section 2. Scope.

(a) The definitions of terms used in this Ordinance are found in Article 1. The provisions of this Ordinance shall apply to the discharge of all wastewater to facilities owned and operated by the District. This Ordinance provides for the use of the District's wastewater facilities, control of the quantity and quality of wastewater discharged, wastewater pretreatment, assurance that existing customers' capacity will not be preempted, issuance of Wastewater Discharge Permits, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation of this Ordinance.

(b) This Ordinance shall apply to the Bayview Water and Sewer District and to persons outside the District who are, by contract or agreement with the District, users of the District's wastewater sewers or wastewater treatment facilities.

Section 3. Administration. Except as otherwise provided herein, the Board shall administer, implement, and enforce the provisions of this Ordinance.

Section 4. Notice of Violation. Any person found in violation of this Ordinance or of any requirement of a permit issued hereunder, may be served with a written notice stating the nature of the violation and providing a reasonable time limit for compliance. Any such notice given shall be in writing and served in person or by registered or certified mail. The notice shall be sent to the last address of the violator known to the Board. Where the address is unknown, service may be made upon the owner of record of the property involved. If satisfactory action is not taken in the time allotted by the notice, Section 5 of this article shall be implemented.

Section 5. Violations.

(a) Any person who continues to violate the discharge provisions of this Ordinance beyond the time limit provided for in Section 4 above, may be charged with commission of a misdemeanor and upon conviction thereof, shall be fined not more than One Hundred Dollars (\$100.00), for each day the violation continues, or may be subject to disconnection from the District's wastewater facilities.

(b) Each day or portion thereof a violation continues shall constitute a separate violation.

Section 6. Fees and Charges.

(a) All fees and charges payable under the provisions of this Ordinance of the Initial Ordinance shall be paid to the District. Such fees and charges shall be as set forth herein or in the Initial Ordinance or as established by resolution of the Board at a regular or properly noticed special meeting of the Board.

(b) All fees, penalties and charges collected by the Board under this Ordinance or the Initial Ordinance or otherwise by resolution of the Board, shall be used for the purpose of operating and maintaining the wastewater facilities of the District, the retirement of debt incurred for construction of the facilities, or for such other purpose as may be contemplated by law as a legal use of District funds.

(c) All fees and charges payable under the provisions of this Ordinance or the Initial Ordinance or pursuant to resolution are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges as may be provided for by ordinance or resolution of the Board or by law.

Section 7. Inspections.

(a) A representative or representatives of the Board, bearing proper credentials and identification, shall be permitted to enter properties at any reasonable time for the purposes of inspection, observation, measurement, and sampling of the wastewater discharge to ensure that discharge to the District's wastewater facilities is in accordance with the provisions of this Ordinance.

(b) A representative or representatives of the Board, bearing proper credentials and identification, shall be permitted to enter all private property through which the District holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the District's wastewater facilities lying within the easement. All entry and any subsequent work on the easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

(c) While performing the necessary work on private properties referred to in Sections 7(a) and (b) above, the Board's representative or representatives shall observe all reasonable safety rules established by the owner or occupant of the property and applicable to the premises.

(d) During the performance on private properties of inspections, wastewater sampling, or other similar operations referred to in Sections 7(a) and (b) above, the owner and occupant shall be: (1) held harmless for personal injury or death of the Board's representative or representatives and the loss of or damage to District supplies or equipment; (2) indemnified against loss of or damage to property of the owner or occupant by the Board; and (3) indemnified against liability claims asserted against the owner or occupant for personal injury or death of such individuals or for loss of or damage to property of the District, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

Section 8. Vandalism. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the District's wastewater facilities. Any person who violates this section shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine in an amount not to exceed Two Hundred Fifty Dollars (\$250.00); such fine to be without prejudice to the right of the district to recover actual damages, costs, and attorneys fees incurred on account of the violation.

Section 9. Severability. A finding by any court or other jurisdiction that any part or provision of this Ordinance is invalid shall not affect the validity of any other part or

provision of this Ordinance which can be given effect without the invalid parts or provisions.

Section 10. Amendments of the Ordinance. Public notice shall be given in accordance with applicable provisions of District ordinances and the law, prior to adoption of any amendments of this Ordinance.

ARTICLE III. **USE OF DISTRICT'S WASTEWATER FACILITIES**

Section 1. Waste Disposal. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the District, or in any area under the jurisdiction of said District, any human or animal excrement, garbage, or other objectionable waste.

Section 2. Wastewater Discharges. It shall be unlawful to discharge without an NPDES permit to any natural outlet within the District, or in any area under the jurisdiction of the District. Wastewater discharges to the District's wastewater facilities are not authorized unless approved by the Board in accordance with provisions of this Ordinance.

Section 3. Wastewater Disposal. Except as provided in this Ordinance, it shall be unlawful to construct or maintain, within the District or any area under the jurisdiction of the District, any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

Section 4. Connection to Wastewater Sewer Required. The owner of any house, building, or property which is used for human occupancy, employment, recreation, or other purposes, under the jurisdiction of this Ordinance, and abutting on any street, alley, or rights-of-way in which there is or may be located a wastewater sewer connected to the treatment facility of the District, is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly to the proper sewer in accordance with the provisions of this Ordinance, within sixty (60) days (or such other period as may be prescribed by law) after the date of official notice to do so; provided that the proper wastewater sewer is within three hundred (300) feet of the property line and within two hundred (200) feet of such house or building.

ARTICLE IV. **PRIVATE WASTEWATER DISPOSAL**

Section 1. Private System Required. All houses, buildings, or properties which are required by other authority to have sanitary or industrial wastewater facilities, which are subject to the jurisdiction of this Ordinance and which are located where a proper wastewater sewer is not available as specified by the provisions of Article III, Section 4, of this Ordinance, shall be

equipped at the owner's expense, with suitable wastewater facilities connected to a private wastewater disposal system which complies with the provisions of this article.

Section 2. Construction Permit. Before commencement of construction of a private wastewater disposal system required under Section 2 above, the owner shall first obtain a written construction permit signed by the Board and by the Panhandle Health District. The application for such permit shall be made on a form furnished by the District, which the applicant shall supplement by any plans, specifications, and other information relevant to wastewater discharges as are deemed necessary by the Board. A permit and inspection fee of One Hundred Dollars (\$100.00) shall be paid to the District at the time the application is filed.

Section 3. Design Requirements. The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of the Panhandle Health District. No permit shall be issued for any private wastewater disposal system employing subsurface soil disposal facilities where the area of the lot is less than _____ (_____) square feet. Septic tank or cesspool discharges require the use of subsurface disposal.

Section 4. Operating Permit. Before commencement of operation of a private wastewater disposal system, the owner shall first obtain a written operating permit signed by the Board and the Panhandle Health District. The operating permit shall not become effective until the installation is completed to the satisfaction of the Board. The Board shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the operating permit shall notify the Board when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within seventy-two (72) hours (exclusive of Saturdays, Sundays, and legal holidays) after receipt of notice by the Board.

Section 5. Connection to District's System When Available. At such time as a wastewater sewer becomes available as defined in Article III, Section 4, to a property served by a private wastewater disposal system, a direct connection shall be made to the wastewater sewer within sixty (60) days, and any septic tanks, cesspools, and similar wastewater disposal facilities shall be emptied and filled with suitable material.

Section 6. Sanitary Operation Required. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times in accordance with the conditions of the operating permit, and at no expense to the District. Such facilities shall be subject to inspection by the Board at reasonable times.

Section 7. Further Requirements. No statement contained in this article shall be construed to interfere with any additional

requirements that may be imposed by the Panhandle Health District or other applicable authority.

ARTICLE V.
BUILDING SEWERS AND CONNECTIONS

Section 1. Connection Permit.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any wastewater sewer or a storm sewer without first obtaining a written permit from the Board.

(b) There shall be three (3) classes of permits for connections to the District's wastewater facilities: Class I-residential, Class II-commercial, and Class III-industrial. In all cases, the owner shall make application for a permit to connect to the District's wastewater facilities on a special form furnished by the District. The permit application shall be supplemented by wastewater information required to administer this Ordinance. A permit and inspection fee of One Hundred Dollars (\$100.00) for a Class I, Two Hundred Dollars (\$200.00) for a Class II, or Three Hundred Dollars (\$300.00) for a Class III connection permit shall be paid to the District at the time the application is filed.

(c) Connections to a storm sewer shall be subject to a permit and inspection fee of One Hundred Dollars (\$100.00). Such connections shall be subject to the provisions of this Ordinance and the approval of the Board.

Section 2. Connection Costs. The costs and expenses incidental to the building sewer installation and connection to the District's wastewater facilities shall be borne by the owner. The owner shall indemnify the District from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Section 3. Separate Connections Required. A separate and independent building sewer shall be provided for every building; provided that, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The District assumes no obligation or responsibility for damage caused by or resulting from any single building sewer which serves two buildings.

Section 4. Existing Building Sewers. Existing building sewers may be used for connection of new buildings only when they are found, on examination and test by the Board to meet the requirements of this Ordinance.

Section 5. Building Sewer Design. The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other applicable requirements of the District. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF shall apply.

Section 6. Building Sewer Elevation. Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the District's wastewater sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the District sewer.

Section 7. Surface Runoff and Groundwater Drains.

(a) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer which is connected to a wastewater treatment facility unless such connection is authorized in writing by the Board.

(b) Except as provided in Section 7(a) above, roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

Section 8. Conformance to Applicable Codes.

(a) The connection of a building sewer into a wastewater sewer shall conform to the requirements of the building and plumbing code or other applicable requirements of the District, or the procedures set forth in appropriate specifications of the ASTM or the WPCF. The connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the Board before installation.

(b) The connection of a surface runoff or groundwater drain to a storm sewer or natural outlet designed to transport surface runoff or groundwater drainage shall conform to the requirements of the applicable building code or other applicable requirements of the District. The connection of any such drain to a wastewater sewer under special permit as provided under Section 7(a) of this Article V shall conform to the requirements specified by the Board as a condition of approval of such permit.

Section 9. Connection Inspection. The applicant for a building sewer or other drainage connection permit shall notify the Board when such sewer or drainage connection is ready for

inspection prior to its connection to the District's facilities, and prior to the backfilling of any trench in which the line may be installed. Such connection and testing as deemed necessary by the Board shall be made under the supervision of the Board.

Section 10. Excavation Guards and Property Restoration. Excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the District.

Section 11. Protection of Capacity for Existing Users. The Board shall not issue a permit for any class of connection to the District's wastewater sewers or wastewater treatment facilities unless there is sufficient capacity, not legally committed to other users, in the wastewater sewers and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the system. The Board may permit such a connection if there are legally binding commitments to provide the needed capacity.

ARTICLE VI.
CONDITIONS TO USE OF THE DISTRICT'S
WASTEWATER SEWERS

Section 1. Special Uses of Wastewater Sewers. All discharges of stormwater, surface water, groundwater, roof runoff, subsurface drainage, or other waters not intended to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for such discharges, except as authorized under Article V, Section 7. Any connection, drain, or arrangement which will permit any such waters to enter any other wastewater sewer shall be deemed to be a violation of this section and this Ordinance.

Section 2. Restricted Discharges.

(a) No person shall discharge or cause to be discharged to any of the District's wastewater facilities any substances, materials, waters, or wastes in such quantities or concentrations which will:

1. Create a fire or explosion hazard including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;

2. Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, but in no case discharges with the following properties:

(i) having a pH lower than 5.0 or greater than 10.0 for more than 10% of the time in a 24-hour period;

(ii) having a pH lower than 3.5 or greater than 12.0 for any period exceeding 15 minutes.

These requirements may be modified for facilities designed to accommodate greater ranges;

3. Cause obstruction to the flow in sewers, or other interference with the operation of wastewater facilities due to accumulation of solid or viscous materials;

4. Constitute a rate of discharge or substantial deviation from normal rates of discharge ("slug discharge"), sufficient to cause interference in the operation and performance of the wastewater facilities;

5. Contain heat in amounts which will accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the wastewater sewer or inhibit biological activity in the wastewater treatment facilities, but in no case shall the discharge of heat cause the temperature in the District wastewater sewer to exceed 58°C (150°F) or the temperature of the influent to the treatment facilities to exceed 40°C (104°F) unless the Board determines that the facilities can accommodate such heat;

6. Contain more than 100 milligrams per liter of nonbiodegradable oils of mineral or petroleum origin;

7. Contain floatable oils, fat, or grease;

8. Contain noxious, malodorous gas or substance which is present in quantities that create a public nuisance or a hazard to life;

9. Contain radioactive wastes in harmful quantities as defined by applicable state and federal regulations;

10. Contain any garbage that has not been properly shredded;

11. Contain any odor or color producing substances exceeding concentration limits which may be established by the Board for purposes of meeting any applicable NPDES permit.

(b) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to this Article, the Board establishes concentration limits to be

met by an industrial user, the Board in lieu of concentration limits, may establish mass limits of comparable stringency for an individual industrial user at the request of such user.

Section 3. Federal Categorical Pretreatment Standards.

(a) No person shall discharge or cause to be discharged to any wastewater facilities, wastewaters containing substances subject to an applicable Federal Categorical Pretreatment Standard promulgated by EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this section. Compliance with such applicable pretreatment standards shall be within 2 years of the date the standard is promulgated; provided, however, compliance with a categorical pretreatment standard for new sources shall be required upon promulgation.

(b) Upon application by a Class III user, the Board may revise any limitations on substances specified in the applicable pretreatment standards to reflect removal of the substances by the wastewater treatment facility. The revised discharge limit for specified substances shall be derived in accordance with Federal law.

(c) Upon application by a Class III user, the Board may adjust any limitation on substances specified in the applicable pretreatment standards to consider factors relating to such person which are fundamentally different from the factors considered by EPA during the development of the pretreatment standard. Requests for and determinations of a fundamentally different adjustment shall be in accordance with Federal law.

(d) The Board shall notify any Class III user affected by the provisions of this Section and establish an enforceable compliance schedule for each.

Section 4. Special Agreements. Nothing in this article shall be construed as preventing any special agreement or arrangement between the District and any user of the wastewater facilities whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable.

Section 5. Water and Energy Conservation. The conservation of water and energy shall be encouraged by the Board. In establishing discharge restrictions upon industrial users, the Board shall take into account already implemented or planned conservation steps revealed by the Class III user. Upon request of the Board, each industrial user will provide the Board with pertinent information showing that the quantities of substances or pollutants have not been nor will be increased as a result of the conservation steps. Upon such a showing to the satisfaction

of the Board, the Board shall make adjustments to discharge restrictions, which have been based on concentrations, to reflect the conservation steps.

ARTICLE VII.
CLASS III-INDUSTRIAL DISCHARGERS

Section 1. Information Requirements.

(a) All Class III dischargers shall file with the District wastewater information deemed necessary by the Board for determination of compliance with this Ordinance, any applicable NPDES permit conditions, and state and Federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the Board and by supplements thereto as may be necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set out in Section 1(c) of this article.

(b) Where a person owns, operates or occupies properties designated as a Class III discharger at more than one location, separate information submittals shall be made for each location as may be required by the Board.

(c) The Board shall implement measures to ensure the confidentiality of information provided by a Class III discharger pursuant to this Ordinance. In no event shall the Board delegate this responsibility or disclose any claimed confidential information to any person without prior notice in writing to the owner and without providing the owner with the opportunity to protect such confidential information, including the right to seek judicial relief.

Section 2. Provision for Monitoring.

(a) When required by the Board, the owner of any property serviced by a building sewer carrying Class III wastewater discharges shall provide suitable access and such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such access shall be in a readily and safely accessible location and shall be provided in accordance with plans approved by the Board. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

(b) The Board shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, wastewater treatment facility removal capabilities, and cost effectiveness in determining whether or not access and equipment for monitoring Class III wastewater discharges shall be required.

(c) Where the Board determines access and equipment for monitoring or measuring Class III wastewater discharges is not practicable, reliable, or cost effective, the Board may specify alternative methods of determining the characteristics of the wastewaters discharge which will, in the Board's judgment, provide an equitable measurement of such characteristics.

Section 3. Determination of Wastewater Characteristics.

(a) Measurements, tests, and analyses of the characteristics of wastewater to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association or such alternate methods approved by the Board and which comply with state and Federal law. Sampling methods, locations, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Board. The discharger shall have the option to use, at his own expense, more complete sampling methods, locations, times, durations, and frequencies than specified by the Board.

(b) Measurements, tests, and analyses of the characteristics of wastewater required by this Ordinance shall be performed by a qualified laboratory. When such analyses are required of a discharger, the discharger may, in lieu of using the District's laboratory, and with the Board's consent, make arrangement with any qualified laboratory, including that of the discharger, to perform such analyses.

(c) Monitoring of wastewater characteristics necessary for determination of compliance with applicable pretreatment standards shall be conducted on the basis of the following schedule, unless more frequent monitoring is required by authority other than this Ordinance, or if the Board, in its judgment, determines that the characteristics of the specific discharge warrant a different frequency monitoring:

<u>Average Actual</u> <u>Daily User Discharge</u>	<u>Monitoring Frequency</u>
less than 100,000 gpd	semi-annually
100,000-999,999 gpd	quarterly
more than 999,999 gpd	monthly

(d) Monitoring of wastewater characteristics for any purpose other than the determination of compliance with pretreatment standards shall be conducted on a frequency deemed necessary by the Board.

(e) Upon demonstration by any person that the characteristics of the wastewater discharged by that person are consistent, the Board may reduce the frequency as may be

required by authority other than this Ordinance, except in no case shall the frequency of monitoring be less than semi-annual for the determination of compliance with pre-treatment standards.

(f) In determining the discharge characteristics, factors such as continuous or batch operation, seasonal operation, and the information requirements of other provisions of this Ordinance shall be considered by the Board. The Board may obtain wastewater samples as required to verify the consistency of discharge characteristics.

(g) Fees for any given measurement, test, or analysis of wastewater required by this Ordinance and performed by the District shall be the same for all classes of dischargers, regardless of the quantity or quality of the discharge and shall reflect only direct cost. Costs of analyses performed by an independent laboratory at the option of discharger shall be borne directly by the discharger.

Section 4. Costs of Damage. If the drainage or discharge from any establishment causes a deposit, obstruction, or damage to any of the District's wastewater facilities, the Board shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for such work, including materials, labor, and supervision shall be borne by the person causing such deposit, obstruction, or damage.

ARTICLE VIII. PRETREATMENT

Section 1. Wastewaters with Special Characteristics.

(a) While the Board should initially rely upon the Federal Categorical Pretreatment Standards of Section 3 of Article VI to protect wastewater facilities or receiving waters, if any wastewater which contains substances or possesses characteristics shown to have deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or constitutes a public nuisance or hazard, is discharged or is proposed for discharge to the wastewater sewers, the Board may:

1. Require pretreatment to a condition acceptable for discharge to the wastewater sewers,
2. Require control over the quantities and rates of discharge,
3. Require payment to cover added cost of handling and treating the wastewaters not covered by existing fees or charges,

4. Require the development of compliance schedules to meet any applicable pretreatment requirements,

5. Require the submission of reports necessary to assure compliance with applicable pretreatment requirements,

6. Carry out all inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements,

7. Obtain remedies for noncompliance by any user. Such remedies may include injunctive relief, the civil penalties specified in Article II of this Ordinance, or appropriate criminal penalties, or

8. Reject the wastewater--if scientific evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the wastewater facilities.

(b) When considering the above alternatives, the Board shall assure that conditions of any applicable NPDES permit are met. The Board shall also take into consideration cost effectiveness and the economic impact of the alternatives on the discharger. If the Board allows the pretreatment or equalization of wastewater flows, the installation of the necessary facilities shall be subject to review. The Board shall review and recommend any appropriate changes to the program, within sixty (60) days of submittal.

(c) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.

Section 2. Compliance with Pretreatment Requirements. Persons required to pretreat wastewater in accordance with Section 1 above, shall provide a statement, reviewed by an authorized representative of the user and certified to by a qualified person indicating whether applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the pretreatment requirements. If additional pretreatment or operation and maintenance will be required to meet the pretreatment requirements the user shall submit a plan (including schedules) to the Board. The plan (including schedules) shall be consistent with applicable conditions of any applicable NPDES Permit or other local, state or Federal laws.

Section 3. Monitoring Requirements. Discharges of wastewater to the District's wastewater facilities from the facilities of any user shall be monitored in accordance with the provisions of Article VII, Sections 2 and 3 of this Ordinance.

Section 4. Effect of Federal Law. In the event that the Federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that such a user is exempt from pretreatment standards, such Federal regulations shall immediately supersede Section 1(a) of this article.

Section 5. Revision of Pretreatment Standards. The Board shall promptly apply for and obtain authorization from the EPA to revise discharge limitations for those substances listed in the Federal Categorical Pretreatment Standards for which consistent removal occurs in the wastewater treatment facilities of the District. The Board shall not adopt or enforce discharge limitations more stringent than the requested limitations until the state or EPA acts on the application.

ARTICLE IX.
WASTEWATER SERVICE CHARGES AND
INDUSTRIAL COST RECOVERY

Section 1. Wastewater Service Charges. Charges and fees for the use of the public wastewater facilities shall be determined according to the Initial Ordinance or by resolution of the board.

Section 2. Industrial Cost Recovery. Users of the District's wastewater facilities will also be assessed industrial cost recovery charges as required by Federal law.

Section 3. Determination of System Use.

(a) The use of the District's wastewater facilities, to the extent relevant to the establishment of charges and fees, and where deemed feasible to the Board, shall be based upon actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of Article VII, Sections 2 and 3.

(b) Where measurement and analysis is considered not feasible, determination of each user's use of the facilities shall be based upon the quantity of water used whether purchased from a public water utility or obtained from a private source, or an alternative means as provided by Section (c) below.

(c) The Board, when determining actual use of the District's wastewater facilities based on water use, shall consider consumptive, evaporative, or other use of water which results in a significant difference between a discharger's water use and wastewater discharge. Where appropriate, such consumptive water use may be metered to aid in determining actual use of the wastewater facilities. The meters used to measure such water uses shall be of a type and installed in a manner approved by the Board.

ARTICLE X.
MISCELLANEOUS

Section 1. 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 2. 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 3. Severability Clause. If any article, 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 4. Effective Date. This Ordinance shall be in full force and effect upon its publication according to law in the Coeur d'Alene Press, a newspaper of general distribution in the District, and hereby designated as the official newspaper for the publication of this Ordinance.

PASSED AND ADOPTED the ____ day of _____, 1991.

ATTEST:

District Secretary

Board Chairman

CERTIFICATE OF ADOPTION OF ORDINANCE

I, the undersigned, as Secretary of the Bayview Water and Sewer District of Kootenai County, Idaho, hereby certify that the foregoing Ordinance is a full, true, and correct copy of an Ordinance duly adopted at a meeting of the Board of Directors of said District, duly and regularly held at the regular meeting place thereof on _____, 1991, 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:

NOES, Directors:

ABSENT, Directors:

ABSTAINED, Directors:

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 _____, 1991.

District Secretary