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**ORDINANCE NO. 21-2**

AN ORDINANCE OF THE BAYVIEW WATER AND SEWER DISTRICT, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, PROVIDING FOR REPEAL AND REPLACEMENT OF ORDINANCE 90-1, ORDINANCE 92-1, ORDINANCE 93-1, ORDINANCE 21-1 AND RESOLUTION 05-1; PROVIDING FOR THE CONSTRUCTION, OWNERSHIP, OPERATION, AND MAINTENANCE OF AN EFFLUENT SEWER COLLECTION SYSTEM AND TREATMENT SITE DISPOSAL FACILITY SERVICING LOCAL IMPROVEMENT DISTRICT NO. 1 OF THE BAYVIEW WATER AND SEWER DISTRICT; PROVIDING FOR DETERMINATION OF EQUIVALENT RESIDENCE FACTORS FOR SPECIFIC USES; CONSTRUCTION, OWNERSHIP, OPERATION, AND MAINTENANCE RESPONSIBILITIES; COSTS OF CONSTRUCTION AND/OR ALLOCATION; LID ASSESSMENTS AND CAPITALIZATION FEES; USE OF SEWER SYSTEM; PRIVATE WASTEWATER DISPOSAL; OPERATION AND MAINTENANCE CHARGES; FEES AND CHARGES; CONNECTION REQUIREMENTS; ELIMINATION OF UNUSED CAPACITY; NOTICE OF VIOLATION; LIMITATION OF DISTRICT'S LIABILITY; ADMINISTRATION; AMENDMENTS OF THE ORDINANCE; ENFORCEABILITY CLAUSE; REPEALER CLAUSE; SEVERABILITY CLAUSE; AND EFFECTIVE DATE.

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 Board of Directors for the District ("Board") has previously created Local Improvement District No. 1, pursuant to Ordinance No. 88-1, adopted on June 8, 1988, for the purpose of acquiring, construction, and installing the Bayview Sewer System, being an effluent sewer collection system and treatment site disposal facility to service properties located within or utilizing the facilities of the LID; and

WHEREAS, the Board of Directors for the District (“Board”) find that repealing and replacing Ordinance 90-1, Ordinance 92-1, Ordinance 93-1, Ordinance 21-1, and Resolution 05-1 is in the best interest of the Users of the District; and

WHEREAS, the District desires to provide a comprehensive regulatory scheme relating to waste water services to be provided to Owners within Local Improvement District No. 1 or otherwise utilizing the services of the Bayview Sewer System.

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

Section 1: That Ordinance No. 90-1, Ordinance No. 92-1, Ordinance No. 93-1, Ordinance 21-1 and Resolution 05-1 of the Bayview Water Sewer District is hereby repealed and replaced by the following Sections.

### **PURPOSE AND APPLICABILITY**

Section 2: The District hereby determines and declares that a fair regulatory scheme should be implemented to deal with waste water services through regulation of sewer use and wastewater discharges; and to provide procedures for complying with the requirements contained herein be provided by the District to those Owners and Parcels in or near the District who shall be benefitted by the construction and operation of the Bayview Sewer System, as defined herein.

This Ordinance provides for the use of the System, operation and maintenance charges, control of the quantity and quality of wastewater discharged, wastewater pretreatment and treatment, assurance that existing customers’ capacity will not be preempted, issuance of wastewater discharge permits, minimum sewer connection standards and conditions, right of access, and penalties, and other remedies, actions, and procedures for violation of this Ordinance, and other matters properly relating thereto.

(a) 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 Bayview Sewer System.

## **DEFINITIONS**

Section 3: Unless the context specifically indicates otherwise, the meaning of the terms used in this Ordinance shall be as follows:

ASTM: shall mean the American Society for testing and Materials.

Bayview Sewer System (or “System”): The entire sewage collection, treatment, and disposal system being constructed pursuant to the LID No. 1, as expanded and/or modified from time to time, comprising all Building Sewers, the Collector System, and the Treatment Facility, as defined herein. The system includes all real and personal property and equipment and related rights necessary to the collection, transportation, treatment and disposal of raw sewage/effluent from areas within the jurisdiction of the LID.

Board or Board of Directors: The Board of Directors of the District, as it may be constituted from time to time.

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

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

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 or a float house and conveys the discharge to the Building Sewer.

Building Sewer: The septic tank to which a building drain is attached, and all downstream piping, pumps, and other equipment located between the building drain and the service connection of the Collector System.

Capacity: The ability to convey and adequately treat the quantity of wastewater legally committed to serve existing connections and those vacant or reserved and included within the LID confirmation ordinance, in accordance with the current IDEQ requirements.

Capitalization Fee: The fee calculated and collected according to this Ordinance, with respect to Parcels created or otherwise brought under this Ordinance after closure of the LID (and which are therefore not included within the LID confirmation ordinance and not subject to an LID Assessment), representing a fair share of the net replacement value of the Bayview Sewer System, as expanded and modified from time to time, as allocated to an individual Parcel of land.

Closure of LID: With respect to LID No. 1, the date following completion of initial construction of the Bayview Sewer System, on which the District mails the notice of proposed assessment liens for the LID, as required by the applicable LID statute, which notices shall be used as a basis for confirmation of the final allocation of LID Assessments to Parcels.

Collector System: The system of pipes, pumps, reservoirs, and other sewage collection and conveyance equipment owned by the District (now or in the future), whether by initial construction or by acquisition, operated for the purpose of collecting sewage effluent from individual Parcels and transporting such effluent to the Treatment Facility. The Collector System shall include all such equipment between the Building Sewers and the Treatment Facility as defined herein.

Connection: The connection of a service line to the District's Collector System

Connection Fee: A charge to be paid to the District to connect a Parcel or Improved Parcel to the Sewer System and/or to increase present usage as measured by ER. The charge is based on one ER.

Day: The 24-hour period beginning at 12:01 a.m.

District: The Bayview Water and Sewer District, as its boundaries may be modified from time to time.

District Rate Schedule: The current schedule of rates, fees, charges, and costs, including fines, fees, costs, and penalties, that are payable in accordance with District Ordinance(s) and/or determined by resolution, or action, of the Board, and made available on the District website and by request from the District office.

Easement: The acquired legal right for the specific use of land owned by others.

Engineer: The Engineer(s) or engineering firm(s) (or the duly authorized employee or representative thereof) contracted or otherwise designated by the District from time to time to advise the Board with respect to waste water services provided through the Bayview Sewer System.

EPA: The United States Environmental Protection Agency.

Equivalent Residence or “ER”: The basic unit of measurement utilized by the District to establish relative waste water disposal requirements of various property uses, with one (1) Equivalent Residence or “ER” being currently defined by IDAPA 58.01.16.24 as a measure where one (1) unit is equivalent to wastewater generated from one typical single-family detached housing unit. The number of ERs attributable to a particular use shall be determined according to Section 4 of this Ordinance

Federal Categorical Pretreatment Standards: Pollutant discharge limits which apply to all industrial users of a publicly owned treatment works (POTW) promulgated and enforced by the EPA.

Float House: A floating residential structure which is designed or intended to accommodate overnight human occupancy, at a substantially fixed location, and which, in exchange for rent or other consideration, receives Water Service and/or sewer Service(s) from or is otherwise connected

with or appurtenant to a Marina or other Parcel within the LID. The term “float house” shall include, without limitation, all floating structures classified as float houses for purposes of registration, licensing or relocation, according to Idaho state law or any regulatory scheme administered by any state agency having jurisdiction; however, the term is not intended to cover those unplumbed, permanent storage structures commonly known as boat sheds or boat houses, or those motorized and easily movable watercraft commonly known as house boats.

Garbage: The solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of food.

Groundwater: The water within the earth.

Guest House: A secondary improvement (including a mobile home or trailer) which is designed or intended to accommodate overnight human occupancy, and which is located on a residential Parcel which is also improved with a primary Single-Family Residence or a multi-family dwelling. A recreational vehicle (“R.V.”) may also be classified as a guest house in cases where it is fully plumbed, requiring sewage or wastewater disposal, and otherwise independently habitable, and where either: (i) the R.V. is occupied substantially full-time; or (ii) the R.V. is rented out to a third party.

For purposes of this definition, an R.V. will be deemed to be occupied substantially full-time, if it is occupied for thirty (30) or more days out of any forty-five (45) day period.

Idaho Administrative Procedures Act: (IDAPA) Containing Rules and Regulations governing Wastewater Treatment and Collection Systems in the State of Idaho.

Improved Parcel: (i) any Parcel on which a building or other improvement exists, which is designated to accommodate human occupancy, and which generates sewage requiring disposal; and (ii) any Parcel providing water, power, or other utilities or services to a float house or to which a float house may otherwise be appurtenant.

Industrial Wastewater: Wastewater from manufacturing facilities producing and discharging industrial wastes.

Interference: Inhibition, disruption, extension, or modification of any sewer system, wastewater treatment process, sludge disposal system, or their operation, which substantially contributes to a violation of this Ordinance, any applicable discharge permits, or other applicable law.

IPDES: Idaho Pollution Discharge Elimination System permit program, whether administered by the State of Idaho or the EPA.

LID: Local Improvement District No. 1, established by the District's Ordinance No. 88-1, adopted June 8, 1988.

LID Assessment: The final Assessment levied against each Parcel in existence as of the date of 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 Bayview Sewer System.

Marina: A commercial establishment located on any Parcel or Parcels that provides boat moorage, fueling and/or other services to watercraft, and which is designed to accommodate five (5) or more watercraft.

Mobile Home/Trailer Park: A Parcel on which three (3) or more mobile homes or trailers are situated, where services are provided to the residents thereof in exchange for rent or other consideration, paid to the owner of the Parcel. Whys or Tees of any kind on a stub-out, which could accommodate more than one R.V. or trailer to one stub-out, are prohibited.

Motel and Hotel: A building or group of buildings on the same premises, either detached or connected, containing sleeping or dwelling units, and designed for or occupied with an ordinary rental period not exceeding two (2) weeks.

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

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

Operation and Maintenance (O&M) Charge: The share of operation and maintenance expense for the Bayview Sewer System which is attributable to and charged to a particular Parcel in accordance with Section 9 of this Ordinance.

Owner: The person or persons vested with record title of any Parcel, Legal Parcel, or improved Parcel, or real property which is connected to or is required to be connected to, or otherwise using the services of the Bayview Sewer System.

Parcel or Legal Parcel: Any legal lot now existing or here-after 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 benefitted by the availability of sewer service provided by the District. (However, the Board shall have the right to allow consolidation of two or more adjoining Parcels into a single Parcel for purposes of this Ordinance, pursuant to a recorded instrument or other legal process restricting the resulting Parcel to a use consistent with a single Parcel.)

Additionally, the term “Parcel” shall include a unit in a condominium project for which a condominium plan shall have been recorded, and any unit having final approval as part of a planned unit development, but only where no further platting or other governmental approvals are required as a prerequisite to the issuance of a building permit.

An “improved: Parcel shall include: (i) any Parcel on which a building or other improvement exists, which is designed to accommodate human occupancy, and which generates sewage requiring disposal; and (ii) any Parcel providing water, power, or other utilities or services to a float house or to which a float house may otherwise be appurtenant.

However, for purposes of this Ordinance, the term “Parcel” shall only include property which is now or hereafter physically located within the boundaries of the District (or which is outside the District but which is provided with waste water services by connection to the Bayview Sewer System) and which has frontage on the Collector System, or legal access thereto by fee or easement. The term “pre-existing” Parcel shall refer to a Parcel in existence as of Closure of the LID, and “new” Parcel shall refer to a Parcel created or otherwise brought under this Ordinance after Closure of the LID.

Permit: The written agreement for sewer connection and inspection provided by the District, to be signed and submitted to the District prior to connection to the Sewer System by (1) an Owner which is required to be connected to the Bayview Sewer System; (2) an Owner seeking to expand or increase an existing use; or (3) an Owner previously receiving Service from the District, desiring reconnection to the System.

Person: Any individual, firm, company, association, partnership, society, corporation, group, or other legal entity.

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

Pretreatment: 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: Any regulation containing pollutant discharge limit promulgated by the EPA, which applies to users of the Bayview Sewer System.

Properly Shredded Garbage: 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 ½ inch in any dimension.

Recreational Vehicles (R.V.'s): A vehicular-type unit primarily designed as a temporary living quarters, with a bathroom, for recreational, camping, vacationing, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

Sanitary Wastewater: The combination of liquid and water-carried wastes from residences, office buildings, and institutions.

Service: Acceptance of Sewage, effluent, from an Owner via a connection to the System and the District's treatment and disposition of same.

Single-Family Residence: A building or condominium 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 ("R.V.") may also be classified as a single-family residence, in cases where it is fully plumbed, requiring sewage or wastewater disposal, and otherwise independently habitable, and where either (i) the R.V. is occupied substantially full-time; or (ii) the R.V. is rented out to a third party. For purposes of this definition, an R.V. will be deemed to be occupied substantially full-time, if it is occupied for thirty (30) or more days out of any forty-five (45) day period.

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

Standard Methods: 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: The State of Idaho

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

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

Toxics: Any of the pollutants designated by Federal regulations pursuant to Section 307(a) (1) of the Federal Clean Water Act, as amended.

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

Vacant or Reserved Un-serviced Monthly Fee: A fee charged to maintain a reservation of Capacity in the System, obtained by payment of an LID assessment or a Capitalization Fee for an ER, that is vacant or reserved and un-serviced.

Water Service: Any Improved Parcel which is connected to or is required to be connected to the Bayview Water and Sewer District and receives water service from the District Water System.

Water System: The water collection and distribution system of the Bayview Water and Sewer District, as it now exists and as it may later be added to, extended and improved.

Wastewater: The combination of liquid, dissolved or suspended water-carried waste material.

Any other term not herein defined, unless the context of usage indicates otherwise, shall be given its ordinary meaning or defined according to the “Glossary WATER AND SEWAGE CONTROL ENGINEERING,” A.P.H.A., A.S.C.E., A.W.W.A., AND W.P.C.F., latest Edition.

**Section 4.0**

**DETERMINATION OF EQUIVALENT  
RESIDENCE FACTORS FOR SPECIFIC USES**

4.1 Assignment of Equivalent Residence Factors: The Board shall assign to each Parcel and Equivalent Residence, or “ER”, factor for purposes of determining that Parcel’s LID Assessment (for pre-existing Parcels), Capitalization Fee (for new Parcels), and OM Charge (for Improved Parcels) with one (1) ER corresponding to a single-family residence. The allocation of ERs to a particular Parcel shall be independent of the number of septic tanks located on or servicing such Parcel or seasonal use of an improved parcel or float house. The number of ER’s attributable to a particular use shall be determined as follows:

(a) For LID Assessment and Capitalization Fee purposes, an unimproved Parcel shall be one (1) ER;

(b) A single-family residence shall be one (1) ER;

(c) A multi-unit dwelling shall be one (1) ER per residential unit;

(d) A guest house, as defined herein, shall be treated as follows:

(i). If the guest house has a toilet/bath and/or kitchen facilities requiring sewage or waste water disposal, or is otherwise deemed by the Board to be independently habitable, it shall be deemed a separate residence and shall be assigned .7 ER; any guest house requiring sewage or wastewater disposal shall be required to connect to the System and pay all fees and charges due according to Section 11 and this Ordinance.

(ii). If the guest house has no facilities requiring sewage or wastewater disposal, or if it is otherwise deemed by the Board not to be independently habitable, it shall not be assigned any ER’s.

The determination of the number of ER's attributable to a guest house shall be made by reference to the Assessor's records for that Parcel or, at the District's option, by specific on-site inspection by the Board or its authorized representative. The ER factor assigned to a guest house shall be in addition to the ER factor assigned to the remaining primary improvements on the subject Parcel.

(e). A float house, as defined herein, shall be .7 ER, with the assessment being attributable to the Marina or other Parcel to which the float house is appurtenant. The ER factor assigned to a float house shall be in addition to the ER factor assigned to the balance of such Marina or other Parcel.

(f). Parcels improved for special uses (other than single-family residences, multi-unit dwellings, guest houses, float houses, and industrial uses as described in subparagraph (g) below) shall be assigned ER's according to the classification of such Parcels under the following schedule (representing generally accepted national averages, established according to relative waste produced, as compared to a single-family residence):

EQUIVALENT RESIDENCE (ER) SCHEDULE

Churches	ER = 1
Taverns	ER = 1 + .18 x No. of indoor tables (4 seats)
Restaurants	ER = 1 + .18 x No. of indoor tables (4 seats)
Businesses and Offices	ER = 1 + .10 x No. of Equivalent Full-Time Employees in excess of 10
Service Stations	ER = 1 + .50 x No. of Pump Hoses in excess of 2
Hospitals	ER = 1 + .70 x No. of Beds in excess of 1; plus .17 x No. of Employees in excess of 6
Bowling Alleys	ER = 1 + .70 x No. of Lanes in excess of 2

Medical & Dental Offices	$ER = 1 + .01 \times \text{No. of Hours/Week} \times \text{No. of Employees in excess of 2}$
Auto Dealerships	$ER = 2$
Boarding Houses	$ER = 1 + .25 \times \text{No. of Occupants in excess of 4}$
Laundromats	$ER = 1 + .56 \times \text{No. of Washing Machines in excess of 2}$
Theaters	$ER = 1 + .007 \times \text{No. of Seats in excess of 150}$
Nursing Homes	$ER = 1 + .70 \times \text{No. of Beds in excess of 2}$
Mobile Home/Trailer Parks	$ER = 1 + .70 \times \text{No. of Stub-outs}$
Marinas	$ER = 1 + .02 \times \text{No. of boat slips in excess of 50 (excluding assessable float houses and other improvements)}$
Marine Gas Station/with 1 Public Bathroom	$ER = 1 ER$
Marine Pump-Out Facility	$ER = 0.5 ER$
Public Bathroom	$ER = 0.5 ER$
Public Shower Facility	$ER = 1$
Motels and Hotels	
w/Kitchen	$ER = 1 + .50 \times \text{No. of Units in excess of 2}$
w/o Kitchen	$ER = 1 + .25 \times \text{No. of Units in excess of 4}$
High Schools	
w/o Kitchen or Shower	$ER = 1 + .13 \times \text{No. of Students in excess of 7}$
w/ Kitchen or Shower	$ER = 1 + .25 \times \text{No. of Students in excess of 4}$
Elementary Schools	
w/o Kitchen	$ER = 1 + .065 \times \text{No. of Students in excess of 16}$
w/ Kitchen	$ER = 1 + .125 \times \text{No. of Students in excess of 8}$

Notwithstanding the foregoing schedule, the Board shall have the right, where required by considerations of fairness and consistency, to assess ER's based on actual or potential water use on an annualized basis, with 250 gallons per day being deemed equivalent to one (1) ER.

(g) Parcels having improvements discharging Industrial Wastewater; the District Engineer will designate the ER allocation. No quantity discount shall be allowed and the District shall require Pretreatment of such Industrial Wastewater in accordance with Pretreatment Standards set forth in this Ordinance and the applicable Federal Categorical Pretreatment Standards, and may assess reasonable surcharges on such Industrial Wastewater flows as determined by the District Engineer. In addition, the Board at its discretion, may enter into separate agreements for all or certain parts and elements of the system and facilities of any improvements discharging Industrial Wastewater to establish ownership, operation and maintenance and any other requirement the District may desire to implement and manage such discharge of Industrial Wastewater into the System.

4.2 Special Circumstances/Contract Service: Any use not covered by the above classifications shall have its ER factor determined by the Board on an individual basis, in such a manner as to approximate potential sewage or wastewater service requirements. Further, the Board shall have the authority, but not the obligation, to adjust ER factors according to particular special circumstances; provided, however, that ER factors will not be reduced based upon claims of seasonal use of a particular Parcel or float house, upon physical size of a Parcel or any building thereon or float house appurtenant thereto, or solely upon the number of toilet facilities with or persons using a particular building or float house.

With respect to land located outside or otherwise not subject to the jurisdiction of the District, the Board shall have the right to negotiate contracts for sewage or wastewater disposal, under terms that approximate the terms applicable to Parcels within the jurisdiction of the District.

4.3 Adjustments: The Board shall have the right to adjust a particular ER factor from time to time (both with respect to collection of additional Capitalization Fees and with respect to assessment of greater or lesser O&M charges) in the case of a substantial change in use of a particular Parcel, as reflected in a substantial change in the sewage or wastewater service requirements.

**CONSTRUCTION, OWNERSHIP, OPERATION,  
AND MAINTENANCE RESPONSIBILITIES**

Section 5: Subject to the terms of this Ordinance, the entire Bayview Sewer System (Building Sewers, Collection System, and Treatment Facility) shall be constructed, acquired, owned, operated and maintained by the District, even though the elements of the Building Sewers shall be located on private property; provided however, that the District shall have the discretion to exclude all or parts of elements of manufacturing or industrial facilities and any facility requiring pretreatment. Any such exclusions shall be made by separate written and properly executed agreement between the District and the parties to the agreement; setting forth the terms and conditions of the excluded parts and elements and providing for the operation and maintenance responsibilities of such excluded System parts and elements. All power costs to operate a pump or other equipment on private property (which pump services only that property owner's property) shall be paid by the Owner of the Parcel on which the pump or equipment is located or to which the pump or equipment may be appurtenant.

Following closure of the LID, construction of a Building Sewer to service a new Parcel (or new improvements on a pre-existing Parcel) and extensions of the Collector System to reach a new Parcel, shall be the responsibility of the Owner, including the cost of any necessary road repair, landscaping, or the like. Once installed and accepted by the District, the new Building Sewer and the extension of the Collector System shall be owned, operated, and maintained by the District, in accordance with the provisions contained in Section 5 above and this Ordinance.

To the extent located on private property, Building Sewers shall be installed and operated according to Easement rights granted to the District. Any Parcel for which an appropriate Easement for a Building Sewer is not granted prior to the date scheduled for construction of such Building Sewer, shall be treated in all respects as a new Parcel, and shall be subject to all requirements applicable to new Parcels, including without limitation, the Capitalization Fee requirements of Section 6 of this Ordinance.

Building Drains shall be installed, owned, operated and maintained by individual Owners.

Section 6.0

**COSTS OF CONSTRUCTION AND/OR  
ACQUISITION; LID ASSESSMENTS AND  
CAPITALIZATION FEES**

Section 6.1 Creation of Obligation: The District hereby determines and declares that all Parcels (and all float houses), by definition under this Ordinance, are deemed benefitted by the existence and availability of the Bayview Sewer System, which shall initially be constructed and paid for, in whole or in part, by owners of Parcels in existence as of the Closure of the LID (pre-existing Parcels). There is hereby imposed upon all Parcels (both pre-existing and new), the obligation to pay to the District a fair share of the cost of the Bayview Sewer System, to be paid in such amounts and at such times are required in this Section 6.

6.2 LID Assessments (Pre-Existing Parcels): The entire cost to the District for constructing and/or acquiring the various elements of the Bayview Sewer System shall be borne initially by all pre-existing Parcels by LID Assessment. At Closure of the LID, each pre-existing Parcel shall be assigned an ER factor depending upon existing improvements, uses, and platting status, according to Section 4 of this Ordinance. Payment of the share of the total costs attributable to each pre-existing Parcel shall be made in accordance with the appropriate LID confirmation ordinances and as Permitted by Idaho law.

6.3 Capitalization Fees (New Parcels): While the District's share of all construction and acquisition costs shall be paid by Assessment against Parcels in existence as of the Closure of the LID (pre-existing Parcels), the District recognizes and declares that new Parcels created or otherwise brought under this Ordinance after Closure of the LID will similarly be benefitted by the availability of the Bayview Sewer System, and that expanded uses of pre-existing Parcels will realize increased benefits from the availability of such System. Accordingly, a Capitalization Fee is hereby established and shall be charged against such new Parcels and expanded uses as follow:

(a) Allocation of Original Assessment: Recognizing that new Parcels may be created from pre-existing Parcels through a division, subdivision, or special planning process (e.g., by approval of a condominium project or a planned unit development), one (1) of the new Parcels shall be

deemed a successor to the pre-existing Parcel (and therefore subject to the original LID Assessment rather than the Capitalization Fee imposed by this Subparagraph), and the remaining new Parcel(s) shall be subject to the Capitalization Fee. The LID Assessment for the pre-existing Parcel, as determined at the confirmation of the LID, shall be accelerated and paid at the same time the Capitalization Fee(s) for the new Parcel(s) come due; provided, however, that if, in the opinion of counsel for the District, the LID Assessment (and the lien securing payment thereof) may be allocated to one (1) of the new Parcels (as a successor to the original Parcel), then the LID Assessment may continue to be amortized under its original schedule.

(b) Calculation of Capitalization Fee: The Capitalization Fee for a single ER, as defined in this Ordinance, shall be the sum of the following amounts:

(i). An amount equal to the Gross present day replacement value of the Bayview Sewer System (without deduction for governmental grants);

less: bond principal

less: unfunded depreciation = Net present day replacement value

divided by number of ER's the current system can support =

Total capitalization fee per ER

(ii). Any credit to which the Parcel may be entitled under this Ordinance, as amended from time to time, or as may be negotiated by the Board under separate agreement.

(c). Time of Payment; Reservation of Capacity: The Capitalization Fee determined according to this Subparagraph shall become due at the time of creation of the new Parcel to which it pertains, whether by: (i) recordation of an approved subdivision plat; (ii) final approval of a planned unit development creating multiple Parcels, where no further platting or governmental approval is required as a prerequisite to the issuance of a building permit; (iii) recordation of a record of survey establishing the new Parcel, where no formal subdivision compliance is required; (iv) division of ownership by conveyance of fee or equitable title to a portion of a pre-existing Parcel; (v) agreement by the District to allow property outside the District to connect to the Bayview Sewer System; or (vi) other process resulting in the creation of a new legal Parcel or

Parcels recognized by the appropriate governmental Planning and Zoning Department or other agency or department. The amount paid at that time shall be based upon a single ER for each unimproved new Parcel, or upon the appropriate total number of ER's for each new Parcel which may be improved at the time of its creation. Any adjustment required for multiple ER's shall be paid in connection with the application for, and issuance of, a building permit for the appropriate Parcel(s). At the time a building permit is issued, indicating construction of improvements requiring multiple ER's, the full Capitalization Fee shall be calculated and paid, and credit applied for any amount actually paid when the new Parcel was created. Payment at the time of creation of a new Parcel or at the time of issuance of the building permit shall entitle the landowner to reserve capacity for the number of ER's actually paid for in the Bayview Sewer System.

6.4 Change in Use: The District hereby reserves the right to assess additional Capitalization Fees on any Parcel (whether pre-existing or new), in the case of a substantial change in use of the Parcel (including, for example, expansion of the number of float houses attributable or otherwise appurtenant to a Marina or other Parcel), as provided in Section 4.3 of this Ordinance. In such case, Capitalization Fees shall be calculated in the manner described for new Parcels, but with credit given for the LID Assessment(s) and for Capitalization Fees previously charged and paid based on prior use.

6.5 Existing Community Systems: Certain portions of the Collector System shall be constructed by the District, and certain other portions consisting of existing community systems may be acquired by the District by negotiated purchase, condemnation, or other acquisition. The Board shall negotiate the price and terms of any such acquisition, and any agreed consideration may be paid in cash to the owner(s) thereof, or provided in the form of credits against LID Assessments and/or Capitalization Fees, or Operation and Maintenance charges, according to agreement of the parties.

6.6 New Construction Extending System: Owners of land within the District which will not have frontage or legal access to the Collector System at the time of Closure of the LID, may nevertheless be permitted or required to connect to the system, subject to the following terms and conditions:

(a) The right to connect to the system shall be granted only by written agreement with the Board, which shall have the discretion to accept or deny applications based upon the existing and anticipated availability of capacity at the Treatment Facility and in the Collector System;

(b) All costs of extending the Collector System to the subject property shall be borne by the applicant, with no right to reimbursement or credit for costs except as provided herein;

(c) All construction shall be completed according to detailed plans and specifications submitted to and approved by the Board or the District Engineer, with the terms of construction specifically contemplating periodic inspection and final certification by the Engineer at the applicant's expense;

(d) The applicant shall, prior to commencement of construction, pay the full Capitalization Fee calculated according to this Ordinance, based upon the total number of Parcels and ERs to be serviced by the extension of the System.

(e) Following completion and certification of construction, the extension of the Collector System and the Building Sewer(s) shall be conveyed to the District according to Section 5 and this Ordinance, along with any necessary Easements, and shall thereafter be considered part of the Bayview Sewer System for all purposes. In addition to the necessary Easement documents, full size as-built drawings in both hard copy and electronic copy shall be submitted to the District.

6.7 Special Circumstances: Upon a showing of special circumstances respecting a particular Parcel or Parcels, the Board shall have the power to negotiate a special arrangement for calculation and payment of Capitalization Fees; provided that the special arrangement shall result in a Capitalization Fee calculation and payment structure which is substantially equivalent to the calculation and payment structure required of other similar Parcels.

6.8 Advance Reservations: At any time prior to or following Closure of the LID, the owner of any Parcel may purchase additional sewer capacity, attributable to such Parcel, by agreeing to

have the Parcel assessed for the desired number or ER's prior to Closure of the LID, or by payment of the appropriate Capitalization Fee following Closure of the LID (without reference to whether the Parcel was included within the LID); provided, however, that : (i) the total amount of any such LID Assessment shall not exceed fifty-percent (50%) of the assessed value of the Parcel; and (ii) the capacity so purchased shall be specifically allocated within such Parcel. Additionally, the Board may impose reasonable conditions and restrictions on the purchase of advance reservations, taking into consideration the availability of capacity within the System, the demand for reservations of capacity, the undesirability of speculation with respect to sewer capacity, and the requirements of financing expansion of the System. (Excess capacity so purchased may not be transferred for the benefit of other property.)

6.9 Use of Capitalization Fees: Capitalization Fees shall be retained by the District, in a reserve account, to pay LID bond indebtedness, to cover operation and maintenance expenses of the District, to reduce O&M charges otherwise assessed to all Owner(s) to the extent allowed by law.

### **USE OF SEWER SYSTEM**

Section 7.0 The use of the Bayview Sewer System shall be in accordance with the ordinances, rules, regulations, and policies promulgated by the District from time to time,

7.1 Interruption of Service: In case of emergency or for unavoidable cause, the District may interrupt Service to make necessary repairs, connections or in the performance of its duties and responsibilities. The District shall not be responsible or liable for any inconvenience caused by the interruption of Service, by circumstances beyond its control or in the normal performance of its duties and responsibilities and the District shall not be responsible for any consequential damages.

7.2 Wastewater Discharges: All discharges of storm water, surface water, groundwater, roof runoff, curtain drain 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. Any connection, drain, or arrangement which will permit any such waters to enter the

System or any other wastewater sewer shall be deemed to be a violation of this Section and this Ordinance. It shall be unlawful to discharge wastewater without an IPDES and/or land application permit to any natural outlet or any body of water within the District, or in any body of water in any area under the jurisdiction of the District. Only Sanitary Wastewater shall be discharged into the Bayview Sewer System. Wastewater discharges to the System are not authorized unless approved by a Permit issued by the District in accordance with provisions of this Ordinance.

7.3 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. This prohibition shall not apply to septic tanks and other installations that are incorporated into the System according to the engineering design.

7.4 Connection to Collector System Required: The Owner of any property within the jurisdiction of this Ordinance shall be required to connect to the Collector System according to the terms of this Ordinance, or as otherwise directed by the Board for the District according to authority granted by Idaho Code.

7.5 Right of Access: The District shall be afforded all access necessary to carry out inspection, surveillance and monitoring required to determine compliance with all applicable ordinances, resolutions, rules and regulations, and applicable laws; for inspection, repair and maintenance of all equipment that is part of the System and control panels essential to pumps, meters or other System equipment; for emergency events; and to ensure that discharge to the Collector System is in accordance with this Ordinance. While performing the necessary work on private property, District representatives shall observe all security and safety rules applicable to the premises, as established by the Owner.

(a) Authority: Persons or occupants of premises where wastewater is created or discharged shall allow District personnel, or their designated representative(s) bearing proper identification, ready access to the premises for the purposes set forth in Section 7.5 above and this Ordinance. To include monitoring, sampling, observation, measurement, records examination and copying,

response to emergency events, and performance of their duties. The District shall have the right to set upon the owner's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations of the wastewater discharge to ensure that discharge to the Collector System is in accordance with the provisions of this Ordinance.

(b) Obstruction to Right of Access: No person shall construct or place upon or about any structure, appurtenance, equipment, piping, pumps, control panels essential to pumps, meters or other System equipment; and other equipment being a part of the System as described in Section 3 of this Ordinance; or any other District facility:

Any barrier, building, vehicle, planting, fencing or other objects so as to conceal, obscure or cover, or in any other manner prevent free access, or in any way to hinder, delay or obstruct, District personnel or their representative(s), from servicing said facilities, including failure to provide a key or access code.

Where an Owner has security measures in force which would require proper identification and clearance before entry into its premises, the Owner shall make the necessary arrangements with the security so that, upon presentation of suitable identification, department personnel will be permitted to enter without delay for the purposes of performing their specific responsibilities. In the event a key or access code is required to gain access, it is the responsibility of the Owner to make the key or access code available to District representatives.

(i) Failure to Remove Obstruction: Failure of the Owner to remove any such obstruction after time specified in District written notice, constitutes authorization for the District to enter upon the private property to remove such obstruction and to charge the cost of that removal to the Owner of the property, to be paid along with other sewer fees and charges due. In the event the obstruction prevents District authorized representatives from access to a District determined Emergency Event, it will be subject to all provisions of Section 7.16 and this Ordinance. The District shall enact any cure available to them by the law, including termination of service to the premises including Water Service, and may levy fines and fees at the sole discretion of the District.

(c) Refusal to Admit: If a duly authorized representative of the District is refused admission to an Owner's premises, the District shall enact any cure available to them by law, including discontinuing Water Service to the premises and may levy fines and penalties until the department

has been afforded reasonable access to the premises, so as to accomplish the performance of their duties in accordance with Section 7.5 and this Ordinance. In the instance of an Emergency Event, all requirements of Section 7.16 and this Ordinance will apply.

7.6 Injury to Sewer System Unlawful: The following Injury to Sewer System is Unlawful:

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with, commit an act of Interference, or prevent access to any structure, appurtenance or equipment, or other part of the Sewer System as defined in Section 3 of this Ordinance. No person shall willfully or negligently deposit into the Sewer System any substance which will likely obstruct the flow of wastewater in the Sewer System.

(a) The willful damage will be reported to the appropriate governmental agency for prosecution and restitution in accordance with Idaho Code Section 18-7001 and 18-2403. The Owner shall be liable for any damage to equipment owned by the District that is caused by an act of the Owner, his tenants, agents, employees, contractors, licensees, or permit holders. The District shall collect any and all costs and damages sustained to repair and restore the damage to the System from the Owner. The District may enact any cure available to them by law, including termination of Water Service until all amounts due are paid in full. In the event it is determined that an Emergency Event exists, all requirements of Section 7.16 and this Ordinance will apply. The District, at their sole discretion, may levy fines and penalties, in addition to those fines punishable under violation(s) of Idaho Law, if convicted, either of a misdemeanor or a felony; such fine(s) and/or penalties to be without prejudice to the right of the District to recover actual damages, costs, and attorney's fees incurred on account of the violation.

7.7 Unauthorized Discharges into the Sewer System: Only Sanitary Wastewater shall be discharged into the Building Drain or the Sewer System.

(a) All discharges of waters not intended to be treated in the Treatment Facility shall be made to storm sewers or natural outlets designed for such discharges and in accordance with the required IPDES and/or land application permit(s). Any connection, drain, or arrangement which will permit any such waters to enter the System shall be deemed to be a violation of this section, section 7.2, and section 11.2 (b) and this Ordinance.

(b) Except pursuant to a special signed, written agreement, by the Board, only Sanitary Wastewater, as defined herein, may be discharged to the Bayview Sewer System. Without limiting the generality of the Sanitary Wastewater restriction, no person shall discharge or cause to be discharged to the Bayview Sewer System 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 or which either singly or by interaction with other wastes, injure, interfere with any sewage treatment process or damage or hazard to structures, equipment, or personnel of the System, 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 the Collector System, or other interference with the operation of the System due to accumulation of solid or viscous materials;

(a) Those items that do not easily decompose, specifically including, but not limited to, the following: coffee grounds, fat, oils, and grease, cat litter, plastic, cigarette butts, disinfecting-surface wipes, baby wipes, jewelry wipes, cosmetic wipes, disposable diapers or diaper liners, cotton swabs, toilet cleaning pads, mops or “swifter” type refills, paper towels, pet care wipes, first aid wipes, bio pads (nursing home, home health care pads), sanitary napkins, or other feminine hygiene products.

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 System;

5. Cause heat in amounts which will accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the System or inhibit biological activity in the System, but in no case shall the discharge of heat cause the temperature in the Collector System to exceed 58<sup>0</sup>C (150<sup>0</sup> F) or the temperature of the influent to the Treatment Facility to exceed 40<sup>0</sup> C (104<sup>0</sup> F), unless the District determines that the facilities can accommodate such heat;

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

7. Contain floatable oils, fat, or grease, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32<sup>0</sup> F and 150<sup>0</sup> F (0<sup>0</sup> C and 64<sup>0</sup> C)

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

9. Contain paints, varnishes, thinners, waste oils, photographic solutions, poisons, pesticides and herbicides;

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

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

12. Contain any odor or color producing substances exceeding concentration limits which may be established by the District for purposes of meeting any applicable IPDES and/or land application permit.

(c) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to this Section, the District establishes concentration limits to be met by an industrial user, the District, in lieu of concentration limits, may, at their sole discretion, establish mass limits of comparable stringency for an individual industrial user at the request of such user.

(d) The District shall prohibit or deny any sewer connection permit request if, at the sole discretion of the District, it deems the proposed use would discharge excessive flowage or detrimental substances into the sewer system.

(e) State Requirements: State standards and limitations, according to the applicable IDAPA rules and regulations, as changed from time to time, on discharges to the Building Drain and Sewer System shall be met by all Owners where such standards are more stringent than the standards in this or any other applicable section of this Ordinance.

Section 7.8: Grease trap Requirements: The District shall require grease trap(s) whenever, at its sole discretion, it deems necessary to protect the integrity and normal operation of the District's Sewer System. A grease trap that meets the requirements of the latest edition of the Uniform Plumbing Code shall be required on the wastewater lines leading from all sinks, drains, or other fixtures or equipment in establishments such as restaurants, cafes, lunch counters, cafeterias, bars and clubs, commercial or school kitchens, or other establishments, such as multi-family units or others commercial or residential structures, which in the opinion of the District, could introduce fat, oils, or grease into the Bayview Sewer System at a rate or in a quantity which hinder, clog, or otherwise interfere with the operation of the System. Upon application for connection to the System by the owner of such a facility, or at any time the District at its sole discretion, deems an existing facility or structure connected to the System is discharging excessive flowage or detrimental substances into the sewer system, an authorized representative of the District shall inspect and determine whether the facility is properly equipped with an acceptable grease trap(s). The facility shall not be connected to the System until the required grease trap(s) have been installed and approved according to this Section. In the instance of an existing connection that is deemed by the District to require a grease trap(s) due to the discharging of excessive flowage or detrimental substances into the System, the District shall give written notice to the Owner in accordance with the Notice of Violation Section 13 of this Ordinance. The District shall inspect and determine that the facility is properly equipped with the acceptable system(s) prior to the determination of compliance with the Notice of Violation Section. Non-compliance is subject to all remedies provided by this Ordinance, by ordinance or by resolution of the Board, or by law, including termination of service, including Water Service.

Grease trap (s), if required, shall be pre-approved by the District and shall be constructed, owned and operated by the Owner entity discharging into the District System. The District shall be allowed to inspect all such systems at any reasonable time and schedule maintenance or repairs as necessary.

(a) Inspection, Cleaning and Maintenance, and Repairs of Grease Traps:

The Owner shall be solely responsible for the cost of grease trap installation, inspection, cleaning, and maintenance in order to prevent the introduction of fat, oils, or grease into the System. Cleaning and maintenance must be performed when the volume of captured grease and solid material displaces more than the percentage (%) volume of the total volume, prescribed by the manufacturer of the unit or those prescribed by the EPA. Each User shall determine the frequency at which their grease trap shall be cleaned in order to provide the prescribed percentage (%) threshold of grease and solid material to total volume of the unit. The District reserves the right to require a more frequent servicing schedule based on its periodic evaluation of the cleaning and maintenance record for each individual grease trap. District representatives, at the discretion of the District, may be present and observe the cleaning procedures and required documentation of the cleaning and maintenance record (s), and may at the discretion of the District, prescribe the frequency of all cleaning schedules.

(i) In the event the owner does not comply with District prescribed cleaning procedures and the frequency of these procedures, the District, at its sole discretion, shall hire contractors to perform the required cleaning procedures, to include pumping, if necessary, and charge all cost incurred for these procedures to the Owner. Such costs shall be subject to all remedies provided by ordinance or resolution of the Board or by law, including termination of service, including Water Service, until amounts are paid in full. These charges shall be in addition to those costs and charges for unscheduled maintenance in accordance with Section 7.12 and this Ordinance.

1. Repairs: The Owner shall be responsible for the cost and scheduling of all repairs to its grease trap(s). Repairs required by the District shall be completed

within the time specified in the written notice of required repairs received by the Owner, unless the District approves, in writing, a different schedule. In the event the District deems the repairs to require immediate attention; they shall advise the Owner it is considered to be an emergency event and subject to all requirements of Section 7.16 and this Ordinance.

2. Disposal: Grease and solid materials removed from a grease trap shall be disposed of in the solid waste disposal system (garbage can) if cleaned by the user or employees. No grease or solids removed from a grease trap shall be returned to any grease interceptor, private wastewater system, storm water collection system, or to any portion of the District's Sewer System. Any such disposal shall be deemed an unauthorized discharge, according to Section 7.7 and this Ordinance and shall be subject to all remedies provided by ordinance or by resolution of the Board or by law, including termination of service, including water service.

7.9 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;

(b) Upon application by a particular Owner, the District may revise any limitations on substances specified in the applicable pretreatment standards to reflect removal of the substances by the Treatment Facility. The revised discharge limit for specified substances shall be derived in accordance with Federal law.

(c) Upon application by a particular Owner, the District may adjust any limitation on substances specified in the applicable pretreatment standards to consider factors relating to such Owner which are fundamentally different from the factors considered by EPA during the development of the pretreatment standard. Request for and

determinations of a fundamentally different adjustment shall be in accordance with Federal law.

(d) The District shall notify any Owner, affected by the provisions of this Section and establish an enforceable compliance schedule for each.

7.10 Pretreatment- Wastewater with Special Characteristics:

(a) While the District should initially rely upon the Federal Categorical Pretreatment Standards to protect the System and the environment, if any wastewater which contains substances or possesses characteristics shown to have deleterious effect upon the System or the environment, or constitutes a public nuisance or hazard, is discharged or is proposed for discharge to the System, the District, by resolution of the Board may:

- (1.) Require pretreatment to a condition acceptable for discharge to the System;
- (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 Section 13 (a) 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 System.

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

(d) Compliance with Pretreatment Requirements: Persons required to pretreat wastewater in accordance with Section 7.10, above, shall provide a statement, reviewed by an authorized representative of the Owner 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 Owner to meet the pretreatment requirements. If additional pretreatment or operation and maintenance will be required to meet the pretreatment requirements, the Owner shall submit a plan (including schedules) to the Board. The plan (including schedules) shall be consistent with applicable conditions of any applicable IPDES and/or land application permit or other local, state or federal laws.

(e) Monitoring Requirements: Discharges of wastewater to the Bayview Sewer System from the facilities of any Owner requiring Pretreatment shall be monitored in accordance with the provisions of sections (a) (b), (c), and (d) of Section 7:10 of the Ordinance.

(f) Effects of Federal Law: In the event that the Federal government promulgates a regulation for a given new or existing user in a specific industrial category that establishes pretreatment standards or establishes that such a use is exempt from

pretreatment standards, such Federal regulations shall immediately supersede 7.10 of this Ordinance.

(g) Revision of Pretreatment Standards: The District 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 of Idaho or EPA acts on the application.

7.11 Entry and Inspection: All Owners shall allow the District representatives, bearing proper credentials, and identification, to all parts of the premises during reasonable business hours, for the purpose of inspection, observations, and sampling in accordance with the provisions of the grease trap or pretreatment systems Section(s) of this Ordinance. The Owner shall pay all fees and charges for inspections determined by resolution of the District Board of Directors and set forth in the District Rate Schedule. The District may levy fines and fees and terminate service, including water service, for non-compliance. All such charges will be billed to the Owner.

7.12 Assessment of Damages to Owners for Discharge Violations: In addition to all remedies and cures for violations of this Ordinance, as set forth herein, if the drainage or discharge from any structure or facility connected to the System, causes a deposit, obstruction, or damage or any other impairment to the facilities or the System, or any expense of whatever nature to the District, the District shall charge the owner(s) of the property from which the obstruction, drainage, or discharge originated, for the cost to remove any obstruction and repair any damage caused to the System, and any other expense or damage of any kind suffered by the District. This includes charging pumping charges and fees, to include all costs for additional man hours, cleaning products and procedures, repetitive cleaning procedures, removing obstructions, repairs or other maintenance, resulting from the discharge of detrimental substances, excessive flowage, or discharges prohibited by this Ordinance. The District may levy fines and fees to the Owner when the District, at its sole discretion, determines that pumping is excessive and is caused by the Owner's failure to comply with the requirements contained in this Ordinance.

In addition, the costs for unscheduled maintenance of septic tanks, screens and other elements of the Building Sewer resulting from the discharge or excessive flowage, or detrimental substances into the System, or removing obstructions, shall be charged to the Owner. Unscheduled maintenance shall be defined as cleaning screens, pumping septic tanks and/or flushing lines serving a commercial facility, or a multi-unit dwelling, or any structure or facility required to install a grease trap(s) or a Pretreatment System, more frequently than **ONCE PER YEAR** and cleaning screens, pumping and/or flushing lines serving a single-family residential unit more frequently than once every **\*FIVE YEARS**. The cost to restore and repair damage to any equipment owned by the District or to the System that is caused by unauthorized discharges will be charged to the Owner(s). All charges, fees, fines, penalties and costs due from Owners as provided in this Section 7:12 and this Ordinance are to be paid, along with other sewer fees and charges due, and shall be subject to all remedies provided by ordinance or resolution of the Board or by law, including termination of service, including Water Service, until all amounts are paid in full. The District may levy fines and fees in addition to the costs to restore and repair and the unscheduled maintenance charges.

7.13 Special Agreements: Nothing in this article shall be construed as preventing any special agreement or arrangement between the District and any Owner using the System, whereby, wastewater of unusual strength or character is accepted into the System and specially treated subject to any payments or Owner charges as may be applicable.

7.14 Water and Energy Conservation: The conservation of water and energy shall be encouraged by the District. In establishing discharge restrictions upon particular Owners, the District shall take into account already implemented or planned conservation steps revealed by the Owner. Upon request of the District, each such Owner will provide the District 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 may make adjustments to discharge restrictions, which have been based on concentrations, to reflect the conservation steps.

7.15 Unauthorized Use Unlawful: No person shall create a connection, make any connections with or opening into, increase usage, alter, uncover, disturb, modify, construct, repair or extend any part of the Bayview Sewer System as defined in Section 3 of this Ordinance, without a Permit issued by the District or expressed written approval of the District.

(a) Unauthorized Use Violations: Pursuant to Idaho Code Section 18-2403, unauthorized use of the District's Sewer System is a criminal violation punishable under Idaho Code Section 18-2408. The District will report all violations to the appropriate governmental agency for prosecution and restitution and may levy fines and penalties for such unauthorized use violations. The District may enact any cure available to them by law, including termination of Water Service. The fines and penalties levied by the District shall be in addition to those fines punishable under violations of Idaho Law, if convicted; such fines and/or penalties to be without prejudice to the right of the District to recover actual damages, costs, and attorney's fees. Every day an unauthorized use violation exists, shall be a separate violation.

(i) In the event that any unpermitted connection is determined to be a public health or safety concern, or damaging to the operation or physical condition of the District Sewer System, the District shall immediately notify the Idaho Department of Environmental Quality and seek to cause immediate disconnection of the unpermitted connection; the District shall declare all provisions of Section 7.16, District Determined Emergency Events, to be immediately in effect and proceed with all remedies provided the District therein, and this Ordinance, and in the Source Water Protection Plan (SWPP) and the Emergency Management provisions provided therein; and all remedies available under law, including termination of Water Service.

(ii) An unauthorized use connection, seeking to permit the connection, shall apply for a permit according to Section 11 of this Ordinance and pay a Capitalization Fee and all other applicable fees and charges, including a connection fee, costs and penalties, and all monthly fees and charges as set forth in the District Rate Schedule in effect at the time the application for permit is

approved by the District in writing; not the fees and charges applicable when the unpermitted connection was made. When any application is made for a permit for an unpermitted connection, all costs, fees, charges and any applicable penalties for the service received, shall be paid in full prior to the approval of such connection. Any unpaid amounts shall become delinquent and shall be subject to penalty and interest charges and other remedies as may be provided for by ordinance or resolution of the Board or by law, including termination of service, including Water Service, until unpaid amounts are paid in full.

(iii) In addition to any other remedy, including those in this Section 7.15, Section 10, Section 13 (a) and this Ordinance, the District may cause the disconnection of any unpermitted connections, and may repair facilities, treat contaminants, conduct environmental remediation, or any other damage caused by or related to the unpermitted connection, at the cost of the Owner and recover from the Owner all costs incurred by the District in relation thereto. Such costs shall also become subject to all remedies provided by ordinance or resolution of the Board or by law, including termination of service, including Water Service, until unpaid amounts are paid in full.

(b) Performing Public Works Construction without a License:

Any instance of Unauthorized Use as described in section 7.15 above, that is found to have taken place without the District's authorization, shall be deemed as performance of public works construction without a license.

(c) Public Works Construction without a License Violations:

Pursuant to Idaho Code Section 54-1920(1) it is a civil and criminal law violation to act as a public works contractor without a public works license. The District will report all instances of performance of public works construction without a license to the appropriate governmental agency for prosecution and restitution.

(d) Use of service by motor homes or R.V.'s from an existing connection: Additional use of sewer Service by motor homes or R.V.'s from an existing connection-for a period of time, in excess of one (1) 30-day billing cycle, shall be prohibited and upon notice, the Owner shall discontinue such Service or, if authorized by the District, shall apply for a permit according to Section 11 of this Ordinance and pay all applicable fees and charges, and all monthly service fees and charges. Moving the motor home or R.V. and returning, in an attempt to circumvent the (1) 30-day billing cycle limit, will be deemed a violation of this section and this Ordinance. Continued violations will be subject to the Unauthorized Use Violations set forth in item 7.15 (a) above and all provisions for violations of this Ordinance.

7.16 District Determined Emergency Events: If a failure or damage occurs to any part of the System as defined in Section 3 of this Ordinance, the cause being any of those set forth in Section 7.6 of this ordinance, or any other cause that is found to require immediate attention due to an imminent risk to the health and safety of the public, risk to property, risk to the lake or tributaries, the environment, or risk to the District's System, the Owner of the particular Parcel where the damage occurred is required to take immediate action to mitigate the problem and to notify the District of such failure and/or damage. No extension of time to complete the work is allowed under an emergency situation, as determined by the District. If the Owner does not take immediate action, the District has authority to enter the Owner's property to repair and restore any failure and/or damage to the System at the Owner's expense, to be paid along with other sewer fees and charges. The Owner is responsible for any loss/damage caused to the District or third parties. The District has the authority to hire a Public Works Licensed Contractor to complete the repairs at the Owner's expense, such costs, to be paid to the District along with other sewer fees and charges, and to levy fines and penalties.

### **PRIVATE WASTEWATER DISPOSAL**

Section 8. Any private wastewater disposal systems, existing after the Closure of the LID that have not adhered to the required connection to the Collector System provided in Section 7.4

and Section 11 and this Ordinance, shall be required to connect to the System, upon failure of the existing private system provided service is available.

(a) The right to connect to the system shall be granted only by written agreement with the District, which shall have the discretion to accept or deny applications for a Permit, based upon the existing and anticipated availability of capacity at the Treatment Facility and in the Collector System.

(b) In the event that the District does not have capacity or the willingness to serve, the applicant shall contact Panhandle Health District.

Further Requirements: No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by the Panhandle Health District, IDEQ, or other applicable authority.

### **OPERATION AND MAINTENANCE CHARGES**

Section 9: Charges for operation, maintenance, repair, replacement, insurance, and administration of the Bayview Sewer System, and a reasonable reserve therefor (O&M charges), shall be estimated by the Board, and a budget shall be adopted on a yearly basis, at the same time and in the same manner as adoption of the General District Budget. The total O&M charges shall be assessed on an equal basis (adjusted for multiple ER's) and shall be billed on a monthly basis as a base monthly Service rate to all Parcels within the District which are connected to, or which are required to be connected to, the Bayview Sewer System. The base monthly Service rate shall be billed, as determined by the Board, and payments shall be due within thirty (30) days of billing. If payments are not timely made, the District shall assess penalties in the maximum amount allowed by law, or if no such maximum amount is specified by law, then at the rate set by resolution of the Board and set forth in the District Rate Schedule.

The Board shall have the right to delegate administration and collection procedures for O&M charges to a management company or to such other third party as may be deemed appropriate in the discretion of the Board.

The first billings for O&M charges attributable to a particular Parcel shall be delivered as follows:

(a) With respect to all improved pre-existing Parcels, immediately following certification by the Board that the Bayview Sewer System is in operations; and

(b) With respect to all other Parcels, the date the actual connection is made to the District System, or the date connection is required, whichever is earlier; unless otherwise agreed upon written conditions exist between the Owner and the District.

The obligation to pay O&M charges shall be enforced by the District according to the relevant provisions of Idaho Code, as amended or modified from time to time, or as may otherwise be allowed by law.

Section 10.

**FEES AND CHARGES:**

(a) Miscellaneous fees and charges -The District shall set all rates, fees, charges and assessments to recover all, or a portion of its administrative and operational expenses related to the services set forth herein, or by resolution or action of the Board and they shall be set forth in the District Rate Schedule. A per trip fee for service calls to the owner's premises shall be charged, as required by this Ordinance, or pursuant to resolution or action of the Board, and shall be set forth in the District Rate Schedule.

(b) All fees, charges, costs, fines and penalties payable under the provisions of this Ordinance shall be paid to the District. Such fees, charges, costs, fines and penalties shall be set forth herein, or pursuant to resolution or action of the Board or by law and set forth in the District Rate Schedule.

(c) All fees, charges, costs, fines, and penalties, collected by the District under this Ordinance, or otherwise by resolution or action of the Board, shall be used for the purpose of recovering all or a portion of its administrative and operational expenses related to certain services, operating and maintaining the Bayview Sewer System, 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.

(d) All fees, charges, costs, fines, and penalties, payable under the provisions of this Ordinance, or pursuant to resolution or action of the Board or by law, are due and payable upon the receipt of notice thereof. This includes all charges and costs reimbursable to the District under the provisions of this Ordinance or pursuant to resolution or action by the Board or by law. Owners having both sewer Service and Water Service, the District shall apply payments first to amounts owing for sewer services and then to water services. Unpaid amounts shall become delinquent and shall be subject to penalty and interest charges and other remedies as may be provided for by ordinance, resolution or action of the Board or by law, including termination of service, including Water Service, until unpaid amounts are paid in full. No later than July 31<sup>st</sup> of each year, the Secretary shall present and certify the delinquent charges, penalties and interest charges to Kootenai County and/or Bonner County Tax Collector for collection (42-3212(l) and inclusion in the property tax bill.

(e) All accounts shall be set up in the name of the Owner(s) of the property to which the fees, costs, charges, fines and penalties pertain, and such Owner(s) shall be responsible for arranging payment. The Owner(s) is responsible for payment of all fees, costs, and charges, including fines and penalties, provided for by this Ordinance or by resolution or action of the Board or by Idaho law.

### **CONNECTION REQUIREMENTS**

Section 11. Mandatory Connection: All improved pre-existing Parcels shall, to the extent allowed by law, be required to connect to the Bayview Sewer System within one (1) year following

certification by the Board that the System is operational. All other Improved Parcels shall, to the extent allowed by law, be required to connect to the System on the earlier of:

(a) The date connection is required by Panhandle Health District under its regulatory authority; or

(b) Sixty (60) days from written notification from the District. The obligation to connect shall be enforced by the District according to the relevant provisions of Idaho Code, as amended or modified from time to time, or by such other method as may be allowed by law.

11.1 Permit: There shall be no connection to the District's System or any expansion thereof, or any change or addition to an existing service that results in increased usage of the System, without a Permit issued by the District or the expressed written approval of the District. A Permit for connection must be obtained from the District, prior to construction of the physical connection or the change or addition to an existing service. The Permit will be issued by the District or its Engineer or other authorized representative upon completion of an application for connection and payment of all Connection Fees and all other applicable fees due, plus any fees required by Subparagraph 11.4(c), which may accrue after issuance of the Permit, shall be paid as a condition to final approval following inspection. Construction of the sewer connection shall be made according to specifications recommended and maintained by the Engineer and shall be performed by a journeyman plumber licensed by the Idaho State Plumbing Board, or by a licensed public works contractor, and shall be made at the Owner's expense.

(a) Protection of Capacity for Existing Owners: The District shall not issue a Permit for any connection to the System, unless there is sufficient capacity in the System, not legally committed to other Owners, to convey and adequately treat the quantity of wastewater which the requested connection will add to the system. The District may permit such a connection if there are legally binding commitments to provide the needed capacity.

(b) Where any part of the Building Sewer is to be taken over by the District, the Permit shall be issued only when the District shall have received a recordable Easement, on a form provided by the District, describing the right of District personnel to enter onto any private property involved, for purposes of monitoring the use, maintaining, repairing, or replacing the District's facilities.

(c) Separate Connections Required: A separate and independent Building Sewer shall be provided for every building. 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, provided both buildings have the same ownership and are on the same parcel; the parcel has an ER available for the rear building and pays all applicable fees due to the District for the increased usage, and the Base Monthly Service Rate, as provided for in this Ordinance and set forth on the District Rate Schedule. The District assumes no obligation or responsibility for damage caused by or resulting from any single Building Sewer which serves two buildings.

(d) 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 District to meet the requirements of Section 11.1 (c) above, and this Ordinance and the District is in receipt of a recordable Easement on a form provided by the District.

(e) Changes to Existing Service: No connection shall be made to an existing Service, such as the addition of a guest house, an R.V. requiring sewage or wastewater disposal in excess of the 30-day period provided for in Section 7:15 (d) and this Ordinance, or any change or addition whatsoever to an existing service that results in increased usage of the System, unless a permit is issued by the District or written approval has first been obtained from the District. Any such connection or increased usage, not permitted or approved in writing, shall be deemed a violation of Section 7:15 and this Ordinance and is subject to all provisions contained herein for violation of this Ordinance, including termination of service, including water service.

(f) Building Drain and 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 Drain and/or 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.

11.2 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 the Bayview Sewer System in accordance with Section 7.2 and this Ordinance.

(b) Roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlet or storm sewers per the required IPDES or land application permit in accordance with Section 7.2 and this Ordinance.

11.3 Conformance to Applicable Codes:

The connection of a Building Sewer into the Collector System shall conform to the requirements of the building and plumbing code, or other applicable requirements and procedures set forth in the appropriate specifications of the District; or ASTM or the WPCF. The connections shall be made gastight and watertight and verified by authorized representatives of BWS. Any deviation from the prescribed procedures and materials must be approved in writing by the District before installation.

11.4 Connection Fees: Connection Fees shall be paid to the District in connection with the issuance of a connection Permit. Such fees shall be set by resolution or action of the Board and set forth in the District Rate Schedule. All costs and expenses of the installation of the Building Drain and the Building Sewer, and the connection to the Collector System shall be borne by the Owner. All costs and expenses incidental to the installation of the Building Sewer and the Connection to the Collector System shall be borne by the Owner and shall be all inclusive, including but not limited to, locating sewer stubs, road boring and street repairs, length of service line and any other expense whatsoever related to installation of the Building Sewer and the Connection to the Collector System. The Owner shall indemnify and hold harmless the District from any loss or damage that may directly or indirectly be occasioned by such installation and connection.

(a) Inspection Fees: An inspection fee, to compensate the District for the cost of inspecting the connection (with additional fees for each subsequent inspection required to assure compliance with the connection requirements) in the amount set by resolution or action of the Board and set forth in the District Rate Schedule plus;

(b) Any unpaid Capitalization Fee based upon the ER factor allocated to the proposed use of the connection, including any applicable surcharge, credit being given for LID assessments imposed and/or Capitalization Fees previously paid for such Parcel; provided, that nothing in this subparagraph shall be construed as accelerating any LID Assessment which is being paid according to an approved amortization schedule; plus

(c) In the case of a Permit which is not obtained or a connection which is not completed within the time required under this Ordinance for a particular Parcel, the District may levy fines, penalties and late charges in an amount set by resolution of the Board and set forth in the District Rate Schedule and other fines and penalties that may be applicable under Idaho Law.

(d) In the case of an ER that has been vacant or reserved and is transferred to occupied status when a connection fee is not applicable, the District may charge an administration fee, set by resolution or action of the Board and set forth in the District Rate Schedule.

11.5 Inspection: The physical connection must be inspected by the State plumbing inspector, the Engineer, or by such other authorized representative as may be designated by the District, prior to backfill of the excavation. At least forty-eight (48) hours' notice of the time requested for the connection must be provided to the inspector. Deviation from the District's design standards must be corrected at the permittee's expense. Connection made without District inspection and approval shall be re-excavated at the permittee's expense to allow inspection by the District's authorized representative.

(a) Excavation Guards and Property Restoration. Excavations for the Building Sewer Installation and connection to the Collector System shall be adequately guarded with barricades, lights, and flags, 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 at the Owner's expense. Any encroachment onto the public right-of-way shall also require a valid permit issued by the Lakes Highway District.

### **ELIMINATION OF UNUSED CAPACITY**

Section 12.1: Where existing parcels have been allocated multiple Equivalent Residential Units (ER's) for connection to the system by advance reservations, and such ER's can no longer be used due to zoning or other governmental or regulatory 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 or regulatory 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 unusable capacity, and acknowledging that new capacity will not be available in the future;

- (e) Any unpaid assessment pertaining to the capacity 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 ER capacity, for an amount originally paid for that ER less an administrative fee as set forth in the District Rate Schedule for each ER eliminated.

Section 12.2: Elimination of Unusable ER and Simultaneous Purchase of an Equivalent Capacity: If the applicant requesting that the District purchase an ER from one parcel, per Section 12, above, 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) No parcel shall be left with less than one ER;

(d) Any future requests for purchase of an equivalent capacity on the subject parcel will only be considered if no parcel is left with less than one ER;

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

Section 12.3: Buy-Back and Sale of ER's - ER's are associated with and run with real property.

(a) The District, with Board of Directors approval, may buy-back vacant or reserved un-serviced ER's from Owners under certain conditions:

Minimum Conditions: No property that had an ER is left unbuildable per IDEQ/ Panhandle Health District regulations.

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

(c) No parcel shall be left with less than one ER

(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 that the property meets IDEQ/Panhandle Health District regulations that no parcel is left un-buildable due to the buy-back by the District of the ER.

(e) Any unpaid assessment pertaining to the capacity to be bought back must be paid in full (including all prepayment penalties) prior to or in connection with the purchase. The District

shall purchase back the ER capacity for an amount originally paid for that ER less an administrative fee as set forth in the District Rate Schedule for each ER purchased.

The District shall have the sole right to determine if and when to purchase vacant or reserved un-serviced ER's. The District may require that a willing buyer is in place before the District enters into an agreement to purchase any vacant or reserved un-serviced ER. The District may maintain a waiting list for Owners requesting ER capacity.

Any purchase or sale of an ER must be accomplished by the District. Any purchase or sale of an ER directly between Owners of parcels within the District is strictly prohibited and a violation of this Ordinance and subject to all remedies as may be provided by ordinance or resolution of the Board or by law.

(f) The District, with Board of Directors approval, may sell ER's to Owners under certain conditions:

Minimum Conditions: Sufficient sewage treatment capacity exists within the sewage collection and treatment system.

(g) The parcel requiring the additional capacity shall be located within the boundaries of the District;

(h) 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.

(i) No parcel shall be left with less than one ER

(j) Any future requests to purchase additional capacity for the subject parcel, will only be considered if no parcel is left with less than one ER.

(k) The applicant shall execute such documentation as may be reasonably required by the Board, to complete the transaction.

The applicant shall buy the additional capacity at the then current price per ER set by the District (current Capitalization Fee).

Capitalization Fee is listed in the District Rate Schedule.

Section 12.4: A wastewater Vacant or Reserved Un-serviced Monthly Fee, may be assessed by resolution or action of the Board, to preserve a reservation of Capacity in the system,

obtained by payment of an LID assessment or a Capitalization Fee. The minimum monthly service fee charge, per vacant or reserved un-serviced ER, is to support the costs of operating and maintaining the wastewater system which has been designed to accommodate their active use. This Monthly Vacant or Reserved Un-serviced fee, per ER, shall be as published in the District Rate Schedule. In the event the Board takes action to assess said Vacant or Reserved Un-serviced Monthly Fee, the amount of such fee shall be determined by the District's Engineer and any action to assess such a fee must be approved by the District's legal counsel.

### **NOTICE OF VIOLATION**

Section 13: Any Owner, or person, found in violation of this Ordinance or of any requirement of a permit issued hereunder, or required herein, may be served with a written notice stating the nature of the violation and providing a 10-day time limit for compliance. Any such notice given shall be in writing and served in person or by standard mail, priority mail, registered or certified mail. The notice shall be sent to the last address of the violator known to the District. 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, the District shall pursue all remedies as may be provided by ordinance or resolution of the Board or by law and Section 13 (a) of this Ordinance shall be implemented.

(a) Any Owner, or person, who continues to violate any provision of this Ordinance beyond the 10-day time limit provided for in Section 13 above, when applicable by law, may be charged with commission of a misdemeanor or a felony, as defined by the said applicable law, and upon conviction thereof, shall be fined the maximum amount allowed by Idaho law, for each day the violation continues, and will be subject to termination of Service, including termination of Water Service. The District, at their sole discretion, may levy fines and penalties, in addition to those fines punishable under violation(s) of Idaho law, if convicted; such fines and penalties to be without prejudice to the right of the District to recover actual damages, costs and attorney's fees.

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

## **LIMITATION OF DISTRICT'S LIABILITY**

Section 14: To the fullest extent of the law, and notwithstanding any other provisions of this Ordinance, the District and/or any of its officers, directors, employees, agents, independent contractors, subcontractors, and any of them, are not liable to property Owner(s) for any and all claims, losses, costs or damages, including attorney's fees and costs of any nature whatsoever or claims of expenses resulting from or in any way related to the connection, disconnection, inspection, repair, maintenance, or operation of the Building Drain, Building Sewer, the Collector System, Treatment Facility or any incidental part of the System. It is intended that this limitation apply to any and all liability or cause of action, however alleged or arising, unless otherwise prohibited by law.

## **ADMINISTRATION**

Section 15: Except as otherwise provided herein, the Board shall administer, implement, and enforce the provisions of this Ordinance.

## **AMENDMENTS OF THE ORDINANCE**

Section 16: 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.

## **ENFORCEABILITY CLAUSE**

Section 17: 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.

**REPEALER CLAUSE**

Section 18: All ordinances or resolutions of this District or parts thereof, insofar as they are in conflict with this Ordinance, are hereby repealed and rescinded.

**SEVERABILITY CLAUSE**

Section 19: In 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 an applicable to all circumstances to which it may validly apply.

**EFFECTIVE DATE**

Section 20: 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 16<sup>th</sup> day of September, 2021.



Ted Bare, Board Vice-Chair

ATTEST:



District Secretary

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 on 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 Sept. 16, 2021, 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: Bare, Dahlseid, Luoma

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 September 16, 2021.

  
\_\_\_\_\_  
District Secretary