

ORDINANCE NO. 97-1002

ORIGINAL

PUBLIC SEWER SYSTEM RATE ORDINANCE

Originally Approved October 23, 1997

Amended June 16, 1998

Amended February 16, 1999

AN ORDINANCE ESTABLISHING RATES, FEES AND CHARGES FOR THE PUBLIC SEWER SYSTEM OF THE BIG SKY COUNTY WATER & SEWER DISTRICT NO 363.

WHEREAS, the Big Sky County Water & Sewer District No. 363 ("District") was created to operate and maintain a public sewer system ("public system") for purposes beneficial to the District; and

WHEREAS, the District may establish, by ordinance, rules and regulations for the operation, maintenance, use, and availability of the public system; and

WHEREAS, the District sets rates, fees and charges to cover the operation, maintenance and replacement ("OM&R") expenses of the public system including penalties and interest charges for delinquent accounts; and

WHEREAS, the District submitted (January 2, 1996) a Long Term Compliance Work Plan ("LTCWP") to the Department of Environmental Quality ("DEQ") for their review for capital improvements to the public system at an estimated cost of ten million six hundred thousand dollars (\$10,600,000) in addition to the costs associated with the DEQ approved Interim Action Work Plan ("IAWP") currently under construction; and

WHEREAS, the District and its predecessor, Rural Improvement District 305 (RID 305) has a long standing policy of exempting from paying Plant Investment Charges (PIC) lots platted and recorded within the three original subdivisions (the exempt lots): Meadow Village Subdivision, Sweetgrass Hills Subdivision, and Cascade Subdivision Blocks 1 & 6; and

WHEREAS, the exempt lots were all located adjacent to the originally installed public sewer collection system, all within RID 305 expanded jurisdiction (April 30, 1973); and

WHEREAS, the District completed a comprehensive due diligence review of the assets and liabilities claimed by RID 305 and on 16 February 1994 the District's Board of Directors passed a Resolution accepting the assets and liabilities from RID 305 and became the owner and operator of the District; and

WHEREAS, the District's Board of Directors recognizes the "exempt lots" commitment made by previous Boards of the District and Trustees of the RID 305;

WHEREAS, the District Board has the authority under Section 7-13-2218 and Section 7-13-2301, MCA to establish and collect rates, fees and charges for various services.

NOW, THEREFORE, be it ordained and enacted by the Board of Directors of the Big Sky County Water & Sewer District No. 363, State of Montana, pursuant to the authority granted under Section 7-13-2218(9) and Section 7-13-2301, MCA the following rates, fees and charges for the public system:

ARTICLE I - WASTEWATER RATES

A. Monthly Wastewater User Charge. The OM&R monthly wastewater user charge for the public system is thirty two dollars and seventy five cents (\$32.75) per single family equivalent (SFE) per month and billed quarterly the last day of the quarter.

1. Application of Charges. The wastewater user charge shall be applied to all properties that have any residential, commercial, industrial, condominium, recreational, apartment, or other development ("improvements") that generates wastewater that is connected to the public system.

a. Vacant Lots— A one half of one ($\frac{1}{2}$) SFE monthly charge shall be applied to all vacant lots that have sewer service available to them for the purpose for paying a portion of the ongoing operation and maintenance expense for upkeep and repair of the sewer collection and wastewater treatment system. Sewer service availability shall mean lots that have a sewer collector that is connected to the public system that runs adjacent to the lot in the public right-of-way, or in an easement.

b. Tracts, Sites and Areas— A monthly charge shall also be applied to all vacant tracts, sites, areas, or other buildable properties that have sewer service available to them as defined in Section I(A)(1) above and are developable. The monthly charge shall be five percent (5%) of the "Total SFE's Committed" less the "Total SFE's Currently Occupied" as shown on Exhibit A, Ordinance 97-1001. In the event that a tract, site, area, or other buildable property is subdivided into vacant lots, the lots shall be charged according to Section I(A)(1).

2. Penalty for Nonpayment of Charges. The District shall charge a point eight three percent (.83%) per month, (ten percent (10%) per annum) penalty for charges that go unpaid thirty (30) days from the postmark date of the quarterly wastewater user charge bills.

3. Delinquent Accounts. If a customer user fee account balance is more than ninety (90) days past due as of June 30th each year, then the entire balance on the account is due and payable immediately. The District shall notify the Madison and Gallatin County assessor's office of all delinquent accounts of record for collection as an assessment on property tax bills in accordance with Section 7-13-2301(4), MCA.

4. Replacement Fund. It shall be the policy of the District to calculate, collect and reserve an annual replacement fund based on a depreciation allowance for capital assets. Replacement funds collected shall be accounted for as required in Section 7-13-2301, MCA, and are included in the monthly wastewater user charge.

5. Wastewater User Charge Initiation. The applicable periodic wastewater user charge shall commence at the time that a sewer lateral for new construction is connected to the public system so as to have the capability of contributing flow to the public system, or in the event that a change in SFE's occurs either through remodeling, change in use, or SFE audit. In the case of an SFE audit, charges will be retroactive for the previous twelve (12) month period from the date of the SFE audit.

B. Wastewater Connection Inspection Charges. A connection inspection charge for improvements shall be paid to the District before final approval and permit issuance. The connection inspection charge shall cover the cost of processing the application and providing sewer lateral inspection services. The connection inspection charge shall be as follows:

Type of Improvement	Connection Inspection Charge
· Remodeling or change in use that increase SFEs	\$ 50
· Single Family Residence	\$ 750
· Two (2) through Four (4) units of improvement	\$ 1,000
· Five (5) through ten (10) units of improvement; and each commercial building less than or equal to 10,000 square feet	\$ 1,250
· Eleven (11) or more units of improvement; and each commercial building greater than 10,000 square feet	\$ 1,500

C. Plant Investment Charge. All qualifying improvements permitted to connect to the public system will pay a plant investment charge after the District issues a written notice of preliminary approval, and prior to issuing written notice of final approval and permit issuance. The plant investment charge shall be reserved in a segregated and restricted sinking account for engineering and construction of capital improvements to expand the capacity of the public system. The plant investment charge shall be three thousand five hundred dollars (\$3,500) per SFE as determined by the Board after reviewing the Wastewater Service Charge Study (Kerin & Associates, August 1997) and spreadsheet analysis including the Boyne Settlement (attached as **Exhibit A**).

1. Plant Investment Charge Exemptions (Original Subdivisions).

New connections, or remodeling projects that result in an increase in SFE's that meet both criteria listed below are exempt from plant investment charges:

- a. Lots within the original platted subdivisions of Big Sky— Meadow Village (March 29, 1971 as amended) , Sweetgrass Hills (July 18, 1972 as amended), and Cascade Blocks 1 and 6 (April 27, 1973 as amended); and
- b. Lots adjacent to the originally installed public system.

2. Exemptions by Agreements and Court Order.

Properties previously exempted from plant investment charges by agreement and/or court order including:

- a. Westfork Meadows (Sewer Dedication Agreement, May 17, 1982)
- b. Westland's properties (Supreme Court decision Westland v. Boyne, May 15, 1989, and amended in District Court Judgement, June 2, 1989).

3. Other Exemptions.

a. Improvement projects requesting permits to connect to the public system that are associated with providing fire service, law enforcement, emergency life support services, and other recognized government units under the Montana statutes. Other improvements requesting permits to connect to the public system may be exempt at the discretion of the Board for good cause shown.

ARTICLE II - WATER RATES

A. Monthly Water User Charge. The OM&R monthly water user charge for the public system is twelve dollars (\$12.00) per single family equivalent (SFE) per month and billed quarterly the last day of the quarter.

1. Application of Charges. The water user charge shall be applied to all properties that have any residential, commercial, industrial, condominium, recreational, apartment, or other development ("improvements") that uses water that is connected to the public system.

a. Vacant Lots— A one half of one ($\frac{1}{2}$) SFE monthly charge shall be applied to all vacant parcels of land including lots, tracts, sites and areas that have water service available to them for the purpose for paying a portion of the ongoing operation and maintenance expense for upkeep and repair of the water distribution system. Water service availability shall mean lots that have a water main line that runs adjacent to the lot in the public right-of-way, or in an easement.

2. Penalty for Nonpayment of Charges. The District shall charge a point eight three percent (.83%) per month (ten percent (10%) per annum) penalty for charges that go unpaid thirty (30) days from the postmark date of the quarterly water user charge bills.

3. Delinquent Accounts. If a customer user fee account balance is more than ninety (90) days past due as of June 30th each year, then the entire balance on the account is due and payable immediately. The District shall notify the Madison and Gallatin County assessor's office of all delinquent accounts of record for collection as an assessment on property tax bills in accordance with Section 7-13-2301(4), MCA.

4. Replacement Fund. It shall be the policy of the District to calculate, collect and reserve an annual replacement fund based on a depreciation allowance for capital assets. Replacement funds collected shall be accounted for as required in Section 7-13-2301, MCA, and are included in the monthly water user charge.

5. Water User Charge Initiation. The applicable periodic water user charge shall commence at the time that a water service for new construction is connected to the public water system so as to have the capability of providing water, or in the event that a change in SFE's occurs either through remodeling, change in use, or SFE audit. In the case of an SFE audit, charges will be retroactive for the previous twelve (12) month period from the date of the SFE audit.

6. Water Service Connection Charge. A water service connection inspection permit charge in the amount of \$-0- for new water service connections shall be paid to the District before final approval and permit issuance. The connection inspection charge shall cover the cost of processing the application and providing water service inspection services.

B. Water System Investment Charge. The Board may establish an additional charge to be assessed against new water service connections for future capital improvements for the Mountain and Meadow Village water systems.

ARTICLE III - PENALTIES

A. Penalty Provision. If a sewer connection inspection permit and/or water service connection permit have been issued and the applicant changes the plan to increase the number of SFE's that were originally approved on the sewer or water connection permit, and does not notify the District of the change, the District shall charge the applicant a minimum five hundred dollar (\$500) penalty. The penalty for an unapproved increase that exceeds one (1) SFE shall be calculated by prorate.

ARTICLE IV - REFUNDS

B. Wastewater and Water User Charge Refunds. If the District determines that the actual number of SFEs attributable to a particular parcel of real property are less than the total number of SFEs previously assigned to the parcel, or if a change in SFEs occurs which causes the total number of SFEs assigned to the parcel to decrease, wastewater and water user overcharges caused by the change in SFEs will be refunded by the District for the twelve (12) month period prior to the date the decrease in SFEs is verified by the District. If the parcel has been overcharged for less than twelve (12) months, then the District's refund to the property owner shall be limited to a refund of those overcharges actually paid. The form of the refund shall be either as a check, or as a credit against the affected account at the owner's discretion.

C. Reimbursement of Permit Charges. If a sewer connection permit has been issued and paid for, and the applicant later decides not to build, the District shall reimburse all but one hundred dollars (\$100) of the fees that have been paid by the applicant.

ARTICLE IV - VALIDITY

A. Superseding Previous Ordinances. This Ordinance governing rates, fees and charges for the public system shall supersede all previous ordinances of the District pertaining to rates, fees and charges, but shall in no way be deemed to supersede any provision of Ordinance 97-1001.

B. Invalidation Clause. Invalidity of any section, clause, sentence or provision in the Ordinance shall not affect the validity of any other section, clause, sentence or provision of this Ordinance which can be given effect without such invalid part or parts.

C. Amendment. Pursuant to Section 7-13-2275, MCA, the District, through its duly authorized officers, reserves the right to amend this Ordinance in part or in whole whenever it deems necessary.

Passed and adopted by the Board of Directors of the Big Sky County Water & Sewer District No. 363, State of Montana on the 16 day of February, 1999, by the following vote:

X
YES NO

Wendell Ingraham
WENDELL INGRAHAM, President

X
YES NO

William F. Neece
WILLIAM F. NEECE, Vice President

X
YES NO

Dee Rothschilder
DEE ROTHSCILLER, Secretary

X PA X
YES NO

Paul 'Packy' Cronin
PAUL 'PACKY' CRONIN, Director

X
YES NO

Jack Crowther
JACK CROWTHER, Director

X
YES NO

Stewart Peacock
STEWART PEACOCK, Director

X
YES NO

John 'Skip' Radick
JOHN 'SKIP' RADICK, Director

ATTEST:

Dee Rothschilder
Dee Rothschilder, Secretary

Feb. 16, 1999
Date

[S E A L]

BIG SKY CITY WATER & SEWER DISTRICT NO. 363
PLANT INVESTMENT CHARGE & BOYNE SETTLEMENT REVENUE PROJECTIONS

Settlement Analysis

EXHIBIT A

Assumptions:			
Discount Rate:	4.0%	Interest Earning Rate:	5.0%
250 K Payment Term:	13	Boyne Development:	40%
Annual Payment: \$	250,000	Other Development:	60%
Boyne Surcharge: \$	3,500	LTCWP Capital Cost: \$	10,600,000
Plant Investment Charge: \$	3,500	LTCWP Financing Cost: \$	15,609,384

YEAR	TOTAL SFE's PROJECTED	SFE's PAYING PIC's	PIC REVENUE @ \$ 3,500	BOYNE SFE's @ 40%	BOYNE SURCHARGE REVENUE	BOYNE ANNUAL PAYMENT	PROJECTED ANNUAL PIC REVENUE	BOYNE MOU FUND AS OF 6/30/97	PIC FUND BALANCE AS OF 6/30/97	INTEREST EARNINGS @ 5.0%	PROJECTED ANNUAL LTCWP DEBT SERVICE	ACCUMULATED PIC FUND BALANCE
1997	2167.1	115.1	\$ 402,850	46.0	\$ 161,000	-- \$	563,850	\$ 418,274	\$ 139,000	\$ 56,056	-- \$	1,177,180
1998	2332.1	157.0	\$ 549,500	62.8	\$ 219,800	\$ 250,000	\$ 1,019,300	--	-- \$	109,824	-- \$	2,306,304
1999	2902.1	62.0	\$ 217,000	24.8	\$ 86,800	\$ 250,000	\$ 553,800	--	-- \$	143,005	-- \$	3,003,109
2000	2989.1	34.0	\$ 119,000	13.6	\$ 47,600	\$ 250,000	\$ 416,600	--	-- \$	170,985	-- \$	3,590,695
2001	3084.3	42.2	\$ 147,700	16.9	\$ 59,150	\$ 250,000	\$ 456,850	--	-- \$	163,354	\$ (780,469)	\$ 3,430,430
2002	3179.5	42.2	\$ 147,700	16.9	\$ 59,150	\$ 250,000	\$ 456,850	--	-- \$	155,341	\$ (780,469)	\$ 3,262,151
2003	3274.7	42.2	\$ 147,700	16.9	\$ 59,150	\$ 250,000	\$ 456,850	--	-- \$	146,927	\$ (780,469)	\$ 3,085,458
2004	3369.9	42.2	\$ 147,700	16.9	\$ 59,150	\$ 250,000	\$ 456,850	--	-- \$	138,092	\$ (780,469)	\$ 2,899,931
2005	3465.1	42.2	\$ 147,700	16.9	\$ 59,150	\$ 250,000	\$ 456,850	--	-- \$	128,816	\$ (780,469)	\$ 2,705,127
2006	3575.5	57.4	\$ 200,900	23.0	\$ 80,500	\$ 250,000	\$ 531,400	--	-- \$	122,803	\$ (780,469)	\$ 2,578,861
2007	3685.9	57.4	\$ 200,900	23.0	\$ 80,500	\$ 250,000	\$ 531,400	--	-- \$	116,490	\$ (780,469)	\$ 2,446,281
2008	3796.2	57.4	\$ 200,900	23.0	\$ 80,500	\$ 250,000	\$ 531,400	--	-- \$	109,861	\$ (780,469)	\$ 2,307,073
2009	3906.6	57.4	\$ 200,900	23.0	\$ 80,500	\$ 250,000	\$ 531,400	--	-- \$	102,900	\$ (780,469)	\$ 2,160,904
2010	4017.0	57.4	\$ 200,900	23.0	\$ 80,500	\$ 250,000	\$ 531,400	--	-- \$	95,592	\$ (780,469)	\$ 2,007,426
2011	4145.0	75.0	\$ 262,500	30.0	\$ 105,000	-- \$	367,500	--	-- \$	79,723	\$ (780,469)	\$ 1,674,180
2012	4273.0	75.0	\$ 262,500	30.0	\$ 105,000	-- \$	367,500	--	-- \$	63,061	\$ (780,469)	\$ 1,324,271
2013	4400.9	75.0	\$ 262,500	30.0	\$ 105,000	-- \$	367,500	--	-- \$	45,565	\$ (780,469)	\$ 956,867
2014	4528.9	75.0	\$ 262,500	30.0	\$ 105,000	-- \$	367,500	--	-- \$	27,195	\$ (780,469)	\$ 571,093
2015	4656.9	75.0	\$ 262,500	30.0	\$ 105,000	-- \$	367,500	--	-- \$	7,906	\$ (780,469)	\$ 166,030
2016	4805.2	97.3	\$ 340,550	38.9	\$ 136,150	-- \$	476,700	--	-- \$	(6,887)	\$ (780,469)	\$ (144,626)
2017	4953.4	97.3	\$ 340,550	38.9	\$ 136,150	-- \$	476,700	--	-- \$	(22,420)	\$ (780,469)	\$ (470,815)
2018	5101.7	97.3	\$ 340,550	38.9	\$ 136,150	-- \$	476,700	--	-- \$	(38,729)	\$ (780,469)	\$ (813,314)
2019	5249.9	97.3	\$ 340,550	38.9	\$ 136,150	-- \$	476,700	--	-- \$	(55,854)	\$ (780,469)	\$ (1,172,937)
2020	5398.2	97.3	\$ 340,550	38.9	\$ 136,150	-- \$	476,700	--	-- \$	(73,835)	\$ (780,469)	\$ (1,550,542)
TOTALS												
		1727.6	\$ 6,046,600	691.2	\$ 2,419,200	\$ 3,250,000	\$ 11,715,800	\$ 418,274	\$ 139,000	\$ 1,785,768	\$ (15,609,384)	\$ (1,550,542)
TOTAL PROJECTED REVENUE			\$ 14,058,842									
Percent Funded			90.07%									
Surplus/(Deficit) Balance			\$ (1,550,542)									

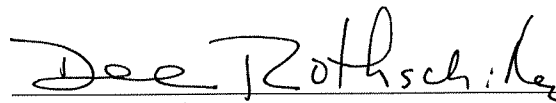
ASSUMPTIONS:

- 1- SFE projections from Long Term Compliance Work Plan, MSE-HKM, 1995.
- 2- SFE projections per Option 1 of Kerin Rate Study, August 1997. Assumes Westfork Meadows and Original Subdivisions develop at 8 SFE's per year.
- 3- Boyne developments include all Boyne owned properties per 1997 Settlement Agreement
- 4- Boyne developments account for 40% of projected development
- 5- Boyne's share of MOU Suspense Account fund balance as of 6/30/97

CERTIFICATION

The undersigned, Dee Rothschiller, hereby certify that I am the Secretary of the Big Sky County Water & Sewer District No. 363, and that the foregoing amended Ordinance 97-1002 was duly adopted on the third reading by the Board of Directors of the District at a regular meeting on February 16, 1999. I further certify that, upon a vote being taken on the Ordinance Amendment at said meeting, the following Directors voted in favor thereof: Wendell Ingraham, William Neece, Stewart Peacock, Skip Radick, Dee Rothschiller, and Jack Crowther; voted against the same: Packy Cronin; abstained from voting thereon: _____; or were absent: _____.

Witness my hand and seal officially this 16th day of February, 1999.


Dee Rothschiller, Secretary