

PUBLIC SEWER AND WATER SYSTEM RATE ORDINANCE

Originally Approved October 23, 1997

Amended June 16, 1998

Amended February 16, 1999

Amended July 20, 1999

AN ORDINANCE ESTABLISHING RATES, FEES AND CHARGES FOR THE PUBLIC SEWER AND WATER 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 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 completed in 1997; 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 (PICs) the lots that were all located adjacent to the originally installed public sewer collection system, all within RID 305 expanded jurisdiction as of April 30, 1973; and

WHEREAS, these lots are 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 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 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; and

WHEREAS, the District's Board of Directors has determined that the previously exempt lots should be treated as other lots serviced by the public sewer system and also share in the cost of new capital improvements and sewer treatment facilities required by the Long Term Compliance Work Plan beginning September 30, 1999; and

WHEREAS, the District's Board of Directors has determined that the exempt lots will therefore no longer be exempt from paying PICs after said date.

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 sewer and water system:

ARTICLE I - WASTEWATER RATES

A. Monthly Wastewater User Charge. The OM&R monthly wastewater user charge for the public system is twenty five dollars and seventy five cents (\$25.75) 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 sewer system.

a. Vacant Lots— A seven dollar and fifty cent (\$7.50) 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 sewer 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, or ten percent (10%) per annum penalty for charges that are not paid by February 15, May 15, August 15, and November 15 of each year.

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 sewer 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 wastewater connection inspection charge shall be as follows:

Type of Improvement	Wastewater Connection Inspection Charge
· Remodeling or change in use that changes SFEs	\$ 25
· Single Family Residence	\$ 500
· Two (2) through Four (4) units of improvement	\$ 700
· Five (5) through ten (10) units of improvement; and each commercial building less than or equal to 10,000 square feet	\$ 850
· Eleven (11) or more units of improvement; and each commercial building greater than 10,000 square feet	\$ 1,000

C. Plant Investment Charge (PIC). All qualifying improvements allowed to connect to the public sewer system shall pay a PIC after the District issues a written notice of approval or preliminary approval, and prior to issuing written notice of final approval and permit issuance. Beginning September 30, 1999, the exempt lots will also pay PICs. The PIC 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 PIC 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. PIC Exemptions by Agreements and Court Order.

The following properties are exempt from PICs by agreement and/or court order:

- a. Westfork Meadows (Sewer Dedication Agreement, May 17, 1982)
- b. Westland's properties in Sections 31 and 1 of the Meadow Village area (Supreme Court decision Westland v. Boyne, May 15, 1989, and amended in District Court Judgement, June 2, 1989).

2. Other Exemptions.

a. Improvement projects requesting permits to connect to the public sewer 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 sewer 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 water system is nineteen dollars (\$19.00) per 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 water system.

a. Vacant Lots— A seven dollar and 50 cent (\$7.50) 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, or ten percent (10%) per annum penalty for charges that are not paid by February 15, May 15, August 15, and November 15 of each year.

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 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. The water connection inspection charge shall be as follows:

Type of Improvement	Water Service Connection Inspection Charge
· Remodeling or change in use that changes SFEs	\$ 25
· Single Family Residence	\$ 250
· Two (2) through Four (4) units of improvement	\$ 300
· Five (5) through ten (10) units of improvement; and each commercial building less than or equal to 10,000 square feet	\$ 400
· Eleven (11) or more units of improvement; and each commercial building greater than 10,000 square feet	\$ 500

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 area water systems.

C. Water Service Reactivation Charge. Any owner violating the rules and regulations of the District which has resulted in the termination of water service shall be charged a water service reactivation fee in the amount of twenty five dollars (\$25.00). Upon payment, the District shall reinstate water service.

ARTICLE III - PENALTIES

A. Penalty Provision. If a sewer and/or water connection inspection permit has been issued, and the applicant changes the plan resulting in an increase to the number of SFE's that were originally approved on the sewer and/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.

1. Permit Issued. If a sewer and/or water 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 all fees that have been paid by the applicant.

2. Permit Pending Final Approval. If a sewer and/or water connection permit has not been issued pending conditions for final approval but has been paid for, and the applicant later decides not to build, the District shall reimburse all but one hundred dollars (\$100) of all 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 and Ordinance 99-1002.

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 20th day of July, 1999, by the following vote:

X
YES

NO

Wendell Ingraham
WENDELL INGRAHAM, President

YES

X
NO

William F. Neece
WILLIAM F. NEECE, Vice President

7
YES

NO

Dee Rothschild
DEE ROTHSCILLER, Secretary

X
YES

NO

Paul 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 Rothschild
Dee Rothschild, Secretary

July 27, 1999
Date

[S E A L]

BIG SKY COUNTY & WATER DISTRICT NO. 363

ANALYSIS OF BOYNE SETTLEMENT

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

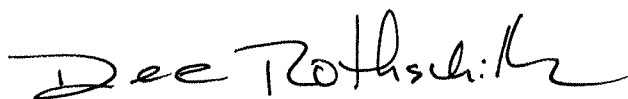
TOTAL	SFE's	SFE's	PIF	BOYNE	BOYNE	BOYNE	PROJECTED	BOYNE MOU	PIF FUND	INTEREST	PROJECTED	ACCUMULATED										
SFE's	PAYING	REVENUE @	PIF's	SFE's @	SURCHARGE	ANNUAL	ANNUAL	FUND	BALANCE	EARNINGS @	ANNUAL LTCWP	PIF FUND										
YEAR	PROJECTED	PIF's	\$	40%	REVENUE	PAYMENT	PIF REVENUE	AS OF 6/30/97	AS OF 6/30/97	5.0%	DEBT SERVICE	BALANCE										
1997	2167.1	122.7	\$	429,450	49.1	\$	171,850	--	\$	601,300	\$	418,274	\$	139,000	\$	57,929	--	\$	1,216,503			
1998	2332.1	165.0	\$	577,500	66.0	\$	231,000	\$	250,000	\$	1,058,500	--	--	\$	113,750	--	\$	2,388,753				
1999	2902.1	70.0	\$	245,000	28.0	\$	98,000	\$	250,000	\$	593,000	--	--	\$	149,088	--	\$	3,130,841				
2000	2989.1	42.0	\$	147,000	16.8	\$	58,800	\$	250,000	\$	455,800	--	--	\$	179,332	--	\$	3,765,973				
2001	3084.3	50.2	\$	175,700	20.1	\$	70,350	\$	250,000	\$	496,050	--	--	\$	174,078	\$	(780,469)	\$	3,655,631			
2002	3179.5	50.2	\$	175,700	20.1	\$	70,350	\$	250,000	\$	496,050	--	--	\$	168,561	\$	(780,469)	\$	3,539,772			
2003	3274.7	50.2	\$	175,700	20.1	\$	70,350	\$	250,000	\$	496,050	--	--	\$	162,768	\$	(780,469)	\$	3,418,121			
2004	3369.9	50.2	\$	175,700	20.1	\$	70,350	\$	250,000	\$	496,050	--	--	\$	156,685	\$	(780,469)	\$	3,290,387			
2005	3465.1	50.2	\$	175,700	20.1	\$	70,350	\$	250,000	\$	496,050	--	--	\$	150,298	\$	(780,469)	\$	3,156,266			
2006	3575.5	65.4	\$	228,900	26.2	\$	91,700	\$	250,000	\$	570,600	--	--	\$	147,320	\$	(780,469)	\$	3,093,717			
2007	3685.9	65.4	\$	228,900	26.2	\$	91,700	\$	250,000	\$	570,600	--	--	\$	144,192	\$	(780,469)	\$	3,028,040			
2008	3796.2	65.4	\$	228,900	26.2	\$	91,700	\$	250,000	\$	570,600	--	--	\$	140,909	\$	(780,469)	\$	2,959,079			
2009	3906.6	65.4	\$	228,900	26.2	\$	91,700	\$	250,000	\$	570,600	--	--	\$	137,460	\$	(780,469)	\$	2,886,670			
2010	4017.0	65.4	\$	228,900	26.2	\$	91,700	\$	250,000	\$	570,600	--	--	\$	133,840	\$	(780,469)	\$	2,810,641			
2011	4145.0	83.0	\$	290,500	33.2	\$	116,200	--	\$	406,700	--	--	\$	121,844	\$	(780,469)	\$	2,558,715				
2012	4273.0	83.0	\$	290,500	33.2	\$	116,200	--	\$	406,700	--	--	\$	109,247	\$	(780,469)	\$	2,294,194				
2013	4400.9	83.0	\$	290,500	33.2	\$	116,200	--	\$	406,700	--	--	\$	96,021	\$	(780,469)	\$	2,016,446				
2014	4528.9	83.0	\$	290,500	33.2	\$	116,200	--	\$	406,700	--	--	\$	82,134	\$	(780,469)	\$	1,724,810				
2015	4656.9	83.0	\$	290,500	33.2	\$	116,200	--	\$	406,700	--	--	\$	67,552	\$	(780,469)	\$	1,418,593				
2016	4805.2	105.2	\$	368,200	42.1	\$	147,350	--	\$	515,550	--	--	\$	57,684	\$	(780,469)	\$	1,211,357				
2017	4953.4	105.2	\$	368,200	42.1	\$	147,350	--	\$	515,550	--	--	\$	47,322	\$	(780,469)	\$	993,760				
2018	5101.7	105.2	\$	368,200	42.1	\$	147,350	--	\$	515,550	--	--	\$	36,442	\$	(780,469)	\$	765,283				
2019	5249.9	105.2	\$	368,200	42.1	\$	147,350	--	\$	515,550	--	--	\$	25,018	\$	(780,469)	\$	525,382				
2020	5398.2	105.2	\$	368,200	42.1	\$	147,350	--	\$	515,550	--	--	\$	13,023	\$	(780,469)	\$	273,486				
TOTALS			1918.7	\$	6,715,450	767.9	\$	2,687,650	\$	3,250,000	\$	12,653,100	\$	418,274	\$	139,000	\$	2,672,496	\$	(15,609,384)	\$	273,486
NET PRESENT VALUE				\$3,293,474			1,748,043	2,496,412	8,612,173	418,274	139,000	1,906,738										
TOTAL PROJECTED REVENUE			\$ 15,882,870																			
Percent Funded			101.75%																			
Surplus/(Deficit) Balance			\$ 273,486																			
ASSUMPTIONS:																						
1- SFE projections from Long Term Compliance Work Plan, MSE-HKM, 1995.																						
2- Boyne developments include all Boyne owned properties per 1997 Settlement Agreement																						
3- Boyne developments account for 40% of projected development																						
4- Boyne's share of MOU Suspense Account fund balance as of 6/30/97																						

SFE PERMITTING SUMMARY

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 July 20, 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, Skip Radick, Packy Cronin, Stewart Peacock, and Jack Crowther; voted against the same: William Neece; abstained from voting thereon: _____; or were absent: Dee Rothschiller. I further certify that I signed the Ordinance as amended after the July 20, 1999 meeting as evidence of my support for the ordinance amendment.

Witness my hand and seal officially this 27th day of July, 1999.

A handwritten signature in cursive script that reads "Dee Rothschiller". The signature is written in dark ink and is positioned above a horizontal line.

Dee Rothschiller, Secretary