

ORDINANCE NO. 97-1002

ORIGINAL

PUBLIC SEWER AND WATER SYSTEM RATE ORDINANCE

Originally Approved October 23, 1997

Amended June 16, 1998; Amended February 16, 1999;

Amended July 20, 1999; Amended June 20, 2000

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.

6. Wastewater User Charge Exemptions by Agreements and Court Order.

The following properties are exempt from wastewater user charges by agreement and/or court order:

- a. Westland's properties in Sections 31 and 1 of the Meadow Village area pursuant to Supreme Court decision *Westland v. Boyne*, May 15, 1989, and amended in District Court Judgement, June 2, 1989. The Supreme Court ruled that Westland is entitled to treatment of its first one million gallons of sewage per year without charge through June 30, 2001. After June 30, 2001 all applicable wastewater user charges shall be paid by Westland and its successors in interest.

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

1. Wastewater Connection Inspection Charges on Westland/TM Projects. A connection inspection charge in the amount of fifty percent (50%) of the applicable charge according to Article I(B) for improvements constructed on land located in either Section 31, Township 6 South, Range 4 East; or Section 1, Township 7 South, Range 3 East, Gallatin County, Montana owned by Westland or its successors in interest.

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 and Capital Improvement Debt Service Exemptions by Agreements and Court Order.

By agreement and/or court order the following properties are exempt from paying PICs or paying debt service costs related to new capital improvements for the wastewater treatment facility:

- 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.

b. Property Outside of the District— All property allowed by agreement to connect to the District's water system shall be charged at a rate which is one hundred and twenty five

percent (125%) of the rate paid by users within the District.

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 at any point in the permitting process, a sewer and/or water connection permit 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.

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 V - TEMPORARY ADJUSTMENT OF USER CHARGES

A. Wastewater and/or Water User Charge Adjustments. A person may request a temporary adjustment to the application of wastewater and/or water user charges limiting the charges to actual SFEs which are occupied if the permitted improvement(s) under construction becomes partially occupied during the project construction. The request must be submitted to the General Manager in writing and must explain the following:

1. Equitable grounds supporting the applicant's request that applicant not be charged for all permitted SFEs on a temporary basis;

2. Copy of an occupancy certificate for that portion of the building being occupied; and
3. The applicant's planned schedule for full occupancy and use of the permitted SFEs.

B. User Charge Adjustment Procedure. The General Manager must present the request for a temporary user charge adjustment and the General Manager's recommendation to the Board at its next regularly scheduled meeting after receiving the written request for a temporary adjustment. The Board shall have the discretion to either approve or deny the request for adjustment. The Board shall make its decision within sixty (60) days of receiving the recommendation of the General Manager.

ARTICLE VI - 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 and Sewer District No. 363, State of Montana, on this 20th day of June, 2000 by the following vote: 5 Ayes 0 Nays 0 Abstains.

X
YES

NO

Jack Crowther
JACK CROWTHER, President

YES

NO

ABSENT
WENDELL INGRAHAM, Vice President

X
YES

NO

Dee Rothschild
DEE ROTHSCILLER, Secretary

X
YES

NO

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

<u>YES</u>	<u>NO</u>	<u>ABSENT</u> STEWART PEACOCK, Director
<u>X</u> YES	<u>NO</u>	<u>John Skip Radick</u> JOHN 'SKIP' RADICK, Director
<u>X</u> YES	<u>NO</u>	<u>Dick Wiggins</u> DICK WIGGINS, Director

ATTEST:

Dee Rothschild 20 June 2000
Dee Rothschilder, Secretary Date

[S E A L]

ANALYSIS OF BOYNE SETTLEMENT

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 YEAR PROJECTED		SFE's PAYING PIF's	PIF REVENUE @ \$ 3,500	BOYNE SFE's @ 40%	BOYNE SURCHARGE REVENUE	BOYNE ANNUAL PAYMENT	PROJECTED ANNUAL PIF REVENUE	BOYNE MOU FUND AS OF 6/30/97	PIF FUND BALANCE AS OF 6/30/97	INTEREST EARNINGS @ 5.0%	PROJECTED ANNUAL LTCWP DEBT SERVICE	ACCUMULATED PIF FUND 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 June 20, 2000. I further certify that, upon a vote being taken on Ordinance 97-1002 at said meeting, the following Directors voted in favor thereof: Jack Crowther, Packy Cronin, Skip Radick, Dee Rothschiller and Dick Wiggins; voted against the same: _____; abstained from voting thereon: _____; or were absent: Wendell Ingraham and Stewart Peacock.

Witness my hand and seal officially this 18th day of July, 2000.



Dee Rothschiller, Secretary