

## CHAPTER 32

### SEWER DISTRICT FINANCING

#### SCOPE

3200. Sewer District Financing, Scope.

This chapter establishes procedures and methods of financing for sewer districts in the unincorporated area of Jackson County, Missouri. (Ord. 512, Title, Eff. 9-14-77)

C/R: Ord. 812 establishes Blue Summit Sewer District.

3201. Title.

This chapter shall be known as "The Jackson County Sewer District Finance Ordinance." (Ord. 512, Recital, Eff. 9-14-77)

#### DEFINITIONS

3210. Definitions.

The following words, when used in this ordinance, unless the context clearly requires otherwise shall mean as follows. (Ord. 512, Sec. 1, Eff. 9-14-77)

3211. Developer.

Developer means any person, association, corporation, firm, partnership, joint venture or other entity or group which intends to or has begun construction in a single contiguous area of more than five (5) dwelling units for sale, lease or rent in the unincorporated territory of the County. (Ord. 512, Sec. 1.1, Eff. 9-14-77)

3212. Sewer District.

Sewer District shall not include a common sewer district as provided for by Chapter 204 of the Revised Statutes of Missouri. (Ord. 512, Sec. 1.3, Eff. 9-14-77)

3213. Watershed.

Watershed means a region or area bounded peripherally by a water parting and draining ultimately to a particular watercourse or body of water. (Ord. 512, Sec. 1.2, Eff. 9-14-77)

#### CREATION OF DISTRICTS

3220. Sewer District Financing, Methods of Financing.

Whenever the County Legislature considers the establishment of a sewer district, in accordance with the Charter of Jackson County and the Laws of Missouri, the County Legislature shall, at the time of creation of the district, establish a method of financing permanent disposal facilities. (Ord. 512, Sec. 2, Eff. 9-14-77)

3220.1 When Consider.

The County Legislature may consider the creation of sewer districts in response to a petition or application of residents or property owners of the proposed district, or in response to a motion by the County Legislature, or by initiation of proceedings by any other means. (Ord. 512, Sec. 2, Eff. 9-14-77)

3220.2 Exception.

The County Legislature need not establish a method of financing permanent disposal facilities in the developer of the properties within the district shall propose to install permanent sewage disposal facilities at the time the properties are developed. (Ord. 512, Sec. 3, Eff. 9-14-77)

3221. Legislative Considerations.

The County Legislature shall consider the recommendation of the Director of Public Works and the Director of Planning and Zoning in determining the appropriate method of combination of methods for financing, and may determine that financing shall be done either by escrow agreement, user fees, or special benefit assessments. (Ord. 512, Sec. 3, Eff. 9-14-77)

3222. Criteria.

The Director of Public Works, the Director of Planning and Zoning and the County Legislature shall consider the criteria established in the following sections. (Ord. 512, Sec. 3, Eff. 9-14-77)

3223. Escrow Agreements, Sewer District Financing.

Escrow agreements should be used where the proposed district is a small portion of the land susceptible of being developed within a given watershed and the greater portion of the remainder is not expected to be developed in the near future or where portions of the remainder have previously been developed under escrow agreements. (Ord. 512, Sec. 4, Eff. 9-14-77)

3223.1 Supplemented by Benefit Assessments.

Financing by escrow agreements may be supplemented by benefit assessments if necessary. (Ord. 512, Sec. 4, Eff. 9-14-77)

3223.2 Form of Escrow Agreement.

Whenever any district is to be financed by the escrow agreement method, the agreement shall be in form and substance substantially similar to the following:

AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, by and between the County Legislature of Jackson

County, Missouri, as Sewer District No.\_\_\_\_ of Jackson County, Missouri, (hereinafter called the "County") and \_\_\_\_\_ (hereinafter called the "Contractor") and the \_\_\_\_\_ (hereinafter called the "Trustee").

WITNESSETH

WHEREAS, the Contractor is desirous of securing sanitary sewage disposal for a tract of land lying and being situated in the County of Jackson, State of Missouri, said tract having been incorporated as Sewer District No. \_\_\_\_ and more particularly described as follows:

(Insert Appropriate Legal Description.)

WHEREAS, the County is desirous of furnishing sanitary sewage disposal to Contractor;

NOW, THEREFORE, in consideration of the premises, and of the performance of the covenants hereinafter set out, it is mutually agreed:

I.

(a) Contractor, at Contractor's expense, shall have prepared and filed with Jackson County, Missouri, plans and specifications for the sewage disposal system within the boundaries of the subdivision, in accordance with the requirements of the County Director of Public Works and the Division of Environmental Quality of the Missouri Department of Natural Resources, which system shall include all trunk lines and lateral lines and sewage lift stations with provisions for their extension and connection to discharge into an existing sanitary sewer system served by an existing treatment plant or a new sewage treatment plant or a new sewage treatment plant or device, either complete or temporary.

Said plans are to be approved by the Director of Public Works and by the Division of Environmental Quality of the Missouri Department of Natural Resources.

(b) When the plans and specifications as outlined in Paragraph (a) have been approved, Contractor at Contractor's own expense will construct the necessary trunk lines, lateral lines and lift stations according to said plans and specifications within the subdivision.

(c) As the subdivision is platted and the construction of the trunk lines and lift stations have been completed, according to the plans and specifications, and the same have been inspected and approved by the County Director of Public Works and the Division of Environmental Quality, and upon a proper transfer to the County,

the same will be accepted for operation, maintenance and repair by the County's Department of Public Works. Except that for one year following acceptance for operation and maintenance, the contractor shall have the duty of providing for all repairs, other than (1) routine maintenance, or (2) casualty damages caused by persons or forces not subject to contractor's control.

II.

It is mutually agreed by all the parties hereto that \_\_\_\_\_ (hereinafter called "Trustee"), will be designated as Trustee in this Agreement and that the said Trustee shall use their facilities as depository under this Agreement, and that said Trustee will hold all deposits subject to and to be governed by the terms and conditions of this Agreement. No fee of the Trustee for its services hereunder shall be payable by, or charged to, the County.

III.

IT IS UNDERSTOOD AND AGREED between the County and the Contractor that prior to the initial issuance of any permits for the construction of any buildings within the parcel or subdivision on the property herein before described that the Contractor shall pay over to the County for deposit with the Trustee the sum of \$\_\_\_\_\_ which shall be the minimum deposit under this Agreement and constitute full deposit upon the first \_\_\_\_\_ permits issued for said number of buildings and that thereafter the Contractor will pay over the County for deposit with the Trustee simultaneous with the issue of each building permit, over and above such permits, the sum of \$\_\_\_\_\_. The sum of \$\_\_\_\_\_ shall constitute full escrow deposit under this Agreement for each building unit within the subdivision, such sum to be deposited by the County in the depository of the Trustee and held in said depository and disbursed therefrom only on recommendation of the Director of Public Works and by the direction of the County Legislature, and in such amounts and to such persons or firms as shall be approved by the County Legislature, under one of the following conditions:

(a) When sufficient monies have been deposited into the fund, the County will immediately proceed to acquire a tract of land, obtain the necessary right-of-ways, have the necessary engineering prepared, advertise and let contracts for the construction of the trunk line and a sewage disposal plant which will connect with the Contractor's property. The trunk line to be constructed will be a part of the overall trunk line for the drainage area. The type and size of disposal plant to be built shall be as promulgated by the Division of Environmental Quality of the Missouri Department of Natural Resources, the plans for the same to be approved by the Division. This trunk line and sewage disposal plant shall be the property of Jackson

County, Missouri. The County agrees to maintain same so that the plant will provide sewage treatment according to the Division of Environmental Quality of the Missouri Department of Natural Resources requirements for all property connected to it and County agrees to maintain the same until such time as the trunk line has been connected with the final permanently located disposal plant.

(b) When sufficient monies have been escrowed the County agrees to proceed with the construction of the remaining trunk line and the construction of final permanently located facilities which will connect with each and all of the lots within the subdivision as well as each and all of the lots within the rainage area; and said deposit shall be disbursed as the subdivision age area; and said deposit shall be disbursed as the subdivision proportion of cost of such trunk line and final permanently located facilities. Any excess funds remaining after full payment for such improvements together with other costs expended for sewer facilities shall be refunded pro rata to the persons owning said lots at the time of the completion of such trunk line and final permanently located facilities.

(c) In the event the County finds it impracticable to finance the construction of the balance of the trunk line and the final permanently located facilities from the escrowed funds and the district in which the subdivision is located shall vote for the construction of a trunk line and final permanently located facilities to be financed by a form of obligations of the sub-district to be approved by the County Legislature, then the remaining amounts held on deposit for the benefit of each lot shall be refunded to the persons owning such lots on a pro rata basis at the time the indebtedness is authorized by such vote.

(d) In the event it is found impractical for the County to construct all of the trunk lines within the drainage area and the final permanently located facilities for the area within the time limit specified, the County will cause plans for a lesser size disposal plant to be prepared, which plant will serve only the Contractor's subdivision and any other subdivisions which have contributed thereto and the County will let the contract for the same. Any remaining of the escrow funds deposited after the expenditures for trunk lines, sewer facilities, cost of right-of-way and engineering, and cost for preparing of the plans and construction of the lesser size disposal plant will be refunded on a pro rata basis to persons owning the lots for which an escrow deposit has been made at the time the lesser size disposal plant is completed.

(e) In the event the County Legislature, upon recommendation of the Director of Public Works, finds that the cost of construction of the facilities set out in Paragraphs III(c) and (d) will be in excess of the total deposits held, and that the excess of such costs will not be great enough to warrant the issuance of bonds as a supplement to the deposits in order to completely finance such construction, in lieu of other provisions herein set out the County Legislature may elect to build such facilities, or any of them, and pay therefore with special assessments levied against the lots, tracts or parcels of ground in said sewer district, payable over a five-year

period, and to issue special tax bills evidencing such assessments as set out in Sections 249.430 and 249.665 inclusive, V.A.M.S. The special tax bills issued against each lot shall be credited with the amount of the deposit made for each lot, and the lot owner and the property shall be liable for the amount in excess of the deposit held for such lot.

IV.

Contractor will cause to be formed a Home Owner's Association in standard form, said Association will have in its charter a provision for the levy of sufficient additional sewer maintenance fund to offset any cost of maintenance of the Sewage Treatment plants, or lateral lines, trunk lines and lift stations within the subdivision.

V.

When the County, by resolution of the County Legislature, takes over maintenance and operation of the aforesaid sewer facilities within the subdivision, the Contractor shall file with the County a Deed of Dedication conveying and transferring to the County all rights, titles and interests in the aforesaid sewer facilities within such subdivision.

3223.3 Provisions Inconsistent With Section 3223.02 Form Agreement.

Any provision of any escrow agreement purportedly entered into by the county subsequent to the effective date of this chapter which purports to excuse the contractor from any responsibilities provided for in the form agreement set forth in Section 3223.02, or which purports obligate the county to any duties not contemplated in that agreement, shall be void and unenforceable against the county. (Ord. 512, Sec. 11, Eff. 9-14-77)

3223.4 Size of Escrow Deposit Established.

The size of the escrow deposit, for each units for which the initial deposit shall be made, will be determined by the County Legislature, at the time of the establishment of the district, or of election by the County Legislature to use the escrow method to finance in whole or in part, the construction of sewers for the district. (Ord. 512, Sec. 8, Eff. 9-14-77)

3223.5 Amount of Escrow Deposit.

The amount shall be fixed at an amount which reasonably assure that the facilities necessary for the sanitary drainage of the watershed of which the proposed district will be a part will be adequately financed by escrow deposits in like amounts for each dwelling unit reasonably expected to be constructed in the ordinary course of the development of the watershed. (Ord. 512, Sec. 8, Eff. 9-14-77)

3223.6 Selection of Trustee.

The trustee shall be selected in accordance with the requirements of County

ordinances for the selection of County depository banks. The availability and amount of interest to be paid by the trustee on the account, shall be considered in the selection of the trustee. (Ord. 512, Sec. 9, Eff. 9-14-77)

3223.7 Allowance for Connection to Final Treatment Facilities.

On the recommendation of the Director of Public Works, the agreement may allow for installation of facilities connecting the sewers of the watershed, directly on through interceptors, to final treatment facilities operated or owned by any municipal unit in lieu of construction of a treatment plat for the watershed. (Ord. 512, Sec. 10, Eff. 9-14-77)

3224. Benefit Assessment, Proposed Sewer District.

The benefit assessment method may be used where a proposed district in need of sanitary sewage is already nearly fully developed and contains few large tracts of land which are devoted to agricultural use or are otherwise undeveloped, if a major portion of the undeveloped territory is expected to be subdivided or otherwise developed for commercial, industrial or residential purposes in the near future. (Ord. 512, Sec. 5, Eff. 9-14-77)

3225. User Fees, Sewer Districts.

The sewer district may be financed by revenue bonds to be retired by user fees where an entire watershed, presently developed in the greater portion of its area within the near future, or a major portion of such a watershed, is the proposed sewer district so that service of a great number of users in the near future is probable. Choice of this method shall not preclude the collection of any user fee now or hereafter established by the County as necessary to provide for maintenance of installed facilities. (Ord. 512, Sec. 6, Eff. 9-14-77)