



Orchard Homes Ditch Company's Attachments

OHDC By-Laws 1999 Amendment
OHDC By-Laws Copy of Original

ORCHARD HOMES DITCH COMPANY

ANNUAL MEETING

April 5, 1999

BY-LAWS CHANGE - "AMENDMENTS" -- To read- These BY-Laws may be amended by a majority vote of the STOCKHOLDERS present at any ANNUAL meeting, or any special meeting called for that purpose, providing a notice has been given to each STOCKHOLDER, by mail, at least five (5) days prior to the meeting date.

(Approved Unam. 4-5-99)

BY-LAWS AMENDMENTS

No. 1 "To allow the general maintenance of the MAIN DITCHES": No trees, shrubs or bushes shall be planted within five (5) feet of either side of the ditch water area. If any planting of trees, shrubs or bushes was done prior to the approval of this AMMENDMENT, it shall be the responsibility of the property owner to kep ditch banks clean of all grass and weeds. If this cleaning is not done, the DITCH COMPANY shall not be responsible for any damage to such vegetation during the general maintenance.

(Approved Unam. 4-5-99)

No. 2 It shall be the responsibility of the property owner to prevent livestock from damaging ditch banks by fencing (wire , electric or other means). If the property owner or owner of the livestock, elects not to do this, the DITCH COMPANY shall clean and maintain the ditch and the property owner billed for such work, or property owner can maintain the ditch upon approval of the DITCH COMPANY BOARD OF DIRECTORS.

(Approved Unam. 4-5-99)

No. 3 Any property owner or owners, of a of a fence that crosses the main ditches, or hinders cleaning, will provide access to the ditch for maintenance by a gate or a fence ladder.

(Approved Unam. 4-5-99)

No. 4 Any property within the ORCHARD DITCH COMPANY boundaries, which the owner plans on sub-dividing and developing and selling, being on any of the main ditches or private laterals, the developers shall provide a ditch easement on that property or parcels thereof, for present or future use by the new owner or owners.

Assessments will be paid by the new owner or owners or HOME OWNERS ASSOCIATION, as designated by the developer in their covenants. Assessments to be paid to the ORCHARD HOMES DITCH COMPANY at the current rates as so designated by the ORCHARD HOMES DITCH COMPANY.

ORCHARD HOMES DITCH COMPANY

ANNUAL MEETING

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No. 4 (Approved Unam. 4-5-99)

No. 5 Any lateral ditch, which is eliminated by any owner or owners, sub-dividers, or developers, which supplies water down stream from said property, shall be liable for the costs of restoration of said ditch, including, but not limited to: culverts, new ditches and other costs incurred to remedy the problem.

Property owners downstream from the closed lateral ditch, must request (In writing to the ORCHARD HOMES DITCH COMPANY) that the ditch be re-opened.

(Approved Unam. 4-5-99)

No. 6 The closure of any ditch lateral, whether approved by the BOARD OF DIRECTORS, or not, will not eliminate assessments on said property, nor delete any existing easements on said property.

(Approved Unam. 4-5-99)

Marvin D. Ross

Marvin D. Ross, Pres.

April 5, 1999

ORCHARD HOMES DITCH COMPANY
ANNUAL MEETING

April 8, 2002

BY - LAWS AMENDMENTS

No. 7 "ASSESSMENTS": To establish a uniform rate of assessment to water owners in the ORCHARD HOMES DITCH CO. area, the following rules for rates shall apply: All property of 1 (One) Acre or less, shall be assessed at the minimum current rate for 1 (One) Acre. Properties over 1 (One) Acre, will be assessed to the nearest 0.1 (One-tenth) Acres. Example: 4.25 Acres will be assessed at 4.3 Acres.

(Approved Unam. 4-08-02)

Marvin D. Ross, Pres.



April 8, 2002

ORCHARD HOMES DITCH COMPANY

ANNUAL MEETING

April 5, 2004

BY - LAWS AMENDMENTS

No. 8 "ASSESSMENTS - DELINQUENT": Assessments, including any past due penalties (if any), which are not paid by Dec. 31 of the current billing year, shall be charged interest at the rate of 1.5% per month until paid.

If the property owner or owners who have unpaid assessments and do not pay, the Assessment Bill will be turned over to a collection agency or the County Small Claims Court, to recover money due to the Orchard Homes Ditch Company.

(Approved Unam. 4-05-00)

No. 9 "ASSESSMENTS - RATES": Assessment rate increases shall be effective for the year that they are approved of at the Annual Meeting of the Orchard Homes Ditch Company, and will be in effect until changed. The property owner or owners shall be notified of any proposed rate change. *(see amendment in 4/5/04 minutes)*

(Approved Unam. 4-05-00)

"Assessment changes to be stated on Annual Meeting notices."

Marvin D. Ross, Pres.

Marvin D. Ross

April 5, 2000

BY-LAWS OF THE
ORCHARD HOMES DITCH COMPANY.

Article 1.

The Board of Directors of this company shall consist of five members, who shall be bona fide stockholders of the company, and shall be elected by the stockholders of the company at the regular annual meeting.

In the election of directors, each stockholder shall have as many votes as the number of shares held by him multiplied by the number of directors to be selected; the stockholders at the election of directors may cast all his votes for one candidate or may distribute them as he may wish. The candidates receiving the highest number of votes for the vacancy to be filled shall be declared elected.

No person may be elected a director unless at the time of his election he is a bona fide stockholder of the corporation, and if during the term for which he is elected he ceases to be a stockholder, the office to which he was elected becomes vacant, and the Board must declare such vacancy.

Term of office.

The directors shall enter upon their duties at the next meeting of the board after election, and shall hold their office until their successors are elected or appointed, or they become disqualified as above provided.

The regular term of office for directors shall be for 2 years after their election; but at this election the full number of five directors shall be elected; and in voting the stockholders shall designate which candidates they wish to hold for the long and short terms. And at each subsequent annual election directors shall be elected to fill the expiring terms, so that after the election of 1940, the board members will hold office for terms of 2 years and only part of the board will be elected at each annual meeting thereafter. This is intended to provide the company with a continuing board with some hold-over members.

Vacancies and compensation.

Vacancies occurring on the board shall be filled by the other members of the board, and such appointed director shall hold office only until the next regular election of directors, at which time the vacancy shall be filled by the stockholders.

Members of the Board shall receive \$1.00 as compensation for each meeting they actually attend.

Meetings.

The annual meeting of the stockholders of the Orchard Homes Ditch Company shall be held in the Orchard Homes (Missoula, Mont. P.O.) on the first Monday in April, of each year. Other special meetings of the stockholders may be held upon ten days' written notice.

Special meetings of the directors may be called at any time by the President; or such meetings may be called by two directors by giving personal notice of the meeting, for at least ten hours, specifying the time and the place of the meeting.

Quorum.

A majority of the issued capital stock of the corporation shall

constitute a quorum for a stockholders' meeting, but a lesser representation may continue a stockholders meeting to a day certain or from time to time until a quorum is present.

A quorum of the Board of Directors shall consist of a majority of the Board, but a less number may adjourn the meeting from time to time or to a day certain when a majority or more is present.

Article II

Powers and duties of the Directors.

The Board of directors have the power and it shall be their duty as members thereof to manage and conduct the affairs and business of the company; adopt a corporate seal; make and execute all necessary contracts, employ and appoint such agents, officers and employees as may be required and prescribe their duties.

The board and its agents and employees shall have the right to enter upon the lands of stockholders to make surveys and to locate irrigation works, turnouts, and regulating gates as may be appropriate or necessary for the most advantageous and proper distribution of irrigation water, in the sound discretion of the board of directors, and most beneficial for the needs and requirements of the stockholders served by the system.

The Board shall have the power to appropriate irrigation water in the name of the corporation, and to acquire by purchase, lease or contract, water and water-rights; and shall also have the right to contract for the leasing of irrigation water to land owners for irrigation purposes, upon such terms and conditions as they may deem most advantageous for the corporation. The Board may acquire and construct dams and reservoirs for the storage of water, and also facilities and drainage sites for the use of the company.

After notice to the water-owner-stockholder to repair or protect canals or regulating gates to prevent waste or to safeguard the corporation from loss or damage, the board may enter upon the lands of the stockholder and make such repairs or improvements as may be necessary and charge the same to the stockholder who has failed or refused to co-operate with the corporation, and to collect such costs in the same manner as any other assessment for maintenance and water service. But no purchase of right-of-way or water-right in excess of \$500.00 shall be made by the Board until after submitting the question to the action of a general stockholders' meeting called for such purpose.

Acquisition of dams, reservoirs, or water rights shall only be acquired or obtained for the general benefit of all the water owners under the system served by the Orchard Homes Ditch Company.

The Board is authorized to take conveyances of property or contracts for property in the name of the company and for the use and benefit of the stockholders.

The Board is authorized to institute any and all actions and proceedings at law or in equity, or necessary or proper to enforce, maintain, protect or preserve any and all rights, privileges and/or immunities acquired or possessed for the benefit of the stockholders and water-right owners under the irrigation system of this company, and in all courts, suits or proceedings the said board may sue, defend, or appear in person or by counsel and in the name of the Orchard Homes Ditch Company.

Except as may be prohibited by law, the Board may adopt rules and regulations for the apportionment and distribution of water, and for the preservation of the property and works belonging to the company; and among these may require the prompt payment of all assessments, delinquent for two years, as a pre-requisite to -

water service. All order^s and regulations shall be passed or adopted by a majority of the directors by a yea and nay vote, which shall be entered upon the minutes of the board.

Authority
The Board shall have authority generally to do and to perform all other acts as shall be necessary or appropriate to fully carry out the proper and effective functioning of this irrigation company. Other special provisions subsequently incorporated in these by-laws are not to be construed as restricting the foregoing, but only as amplifying the items specially mentioned.

Stockholders' meetings.

Special meetings of the stockholders may be called by the Board of Directors; and at any time there is a request presented, from 15% of the stockholders (stock) or more, a special meeting may be called to consider and act upon the questions for which the meeting is asked. At least five days' written notice shall be given of general or special stockholders' meetings.

Other duties of Directors.

The Board of directors shall cause to be kept a full and true record of all of their meetings and of all meetings of the stockholders and no act, transaction or order of the directors or of the stockholders shall be valid unless duly entered in the minutes of the company.

At each annual meeting of the stockholders and at any special meeting when requested, the directors shall make a full and true report of the affairs, business assets, liabilities and financial condition of the company and of any rules, regulations or orders adopted for the government of the system and of the company.

The directors shall exercise general supervision over the affairs of the company and of its agents, officers and employees; and that all reports, and statements that may be required by law or these by-laws, are made or files as required or prescribed.

The Board shall see to it that all moneys and property of the company are safely deposited and kept in such place as they may direct.

The Board shall cause to be issued proper stock certificates to all persons properly entitled thereto.

Purchases and sales of real estate, water, water-rights, ditches, flumes, canals and rights of way shall only be made by the Board of Directors upon resolution for such purpose and duly entered of record in the minutes. All contracts shall be executed in the name of the corporation, signed by the President or Vice-President and attested by the Secretary with the corporate seal.

ARTICLE III.

Duties and powers of officers.

The President shall be the chief executive of the company and have general management of the company but subject to the supervision of the directors; and shall call meetings of the board of directors

and of the stockholders, whenever he deems it necessary. He shall preside at all meetings. The President shall sign all stock certificates and all contracts or as may be required by the Board or stockholders in the transactions of the corporation.

The Vice-President.

In the absence of the President or his disability the Vice-President shall perform the duties of the President.

The Manager.

The manager of the Company, if one is appointed by the Board of Directors or stockholders, shall have such powers and perform such duties as may be delegated to him by the Board or Stockholders, but his term of office shall not extend beyond one year, and the performance of his functions shall always be subject to and under the supervision of the Directors and if in the judgment of the Directors he may be under the supervision of and responsible to the stockholders also.

The Secretary.

The Secretary shall receive, receipt for and safely keep all moneys of the company, and deposit all moneys in such depository as the Directors shall designate. Disbursements shall be made upon order of the directors duly entered in the minutes, or upon orders duly approved and certified by the President or manager, as may be from time to time found to be advisable in emergency work or necessary for a proper administration of the company's affairs.

Whenever the Directors may so determine by resolution the Secretary shall furnish fidelity bond in such amount as the Board may require, conditioned for the faithful performance of the duties of the office and the protection of the company.

The Secretary shall keep true and accurate record and minutes of the meetings of the stockholders and of the directors, which shall be open to the inspection of the directors and of the stockholders any reasonable time. The secretary shall report to the Board at least annually and at such other times as may be required by the Board; and shall furnish vouchers for all disbursements made and show receipts for all moneys or other property received for the company. The Secretary shall conduct the correspondence of the company and perform such other duties as usually pertain to the office.

The Secretary shall sign all certificates of stock and attest the same with the corporate seal; all certificates shall be numbered, and show the number of shares, and to whom issued, and upon the stub of each certificate the stockholder shall receipt to the Secretary for the certificate issued. In case of transfer, the stub shall show from whom the certificate was transferred.

ARTICLE IV.

Miscellaneous.

Proxies.

At all meetings representation and vote by proxy shall be permitted, but all proxies shall be in writing and filed and kept by the Secretary.

Adjourned meetings.

ADJOURNED MEETINGS.

If at any stockholders' meeting, a majority is not present to constitute a quorum, the members present may adjourn the meeting to a day certain either finally or until a day when a quorum is present.

If by reason of failure to give the necessary notice, or from any other cause, the regular annual meeting is not held on the date stated, the Board of directors may call the stockholders, upon five days' written notice, mailed to the addresses given in the certificate or as appears from the Secretary's records, for the purpose of transacting the business which should be transacted at the regular annual meeting as heretofore provided to be held, and the proceedings held at such specially convened meeting shall be in all respects as valid as though the annual meeting had been held at the date specified.

In event that the annual meeting falls upon a Holiday or upon a day proclaimed by lawful authority as a non-business day then the meeting shall be held upon the next legal business day.

SHARES of Stock REPRESENT WATER.

Each and every share of stock in this company shall represent one inch, miner's measure, of irrigation water and ditch right, belonging to the Orchard Homes Ditch Company, and the owner or owners of each and every share shall be entitled to the use of his portion of water, in proportion to the flow of water in the ditch, and used upon the lands owned or occupied by the owner of such share of stock, whether the flow is greater or less than the actual number of inches represented by the shares held. All water rights of this ditch system shall be proportional to the shares or interest owned in the ditch system and water-right.

No water owner shall waste water, nor have any right to demand delivery of his water at a point or turn out which may jeopardize the ditch system, nor subject the company to danger or damage, nor deprive any other owner of a fair delivery of the water possessed by him. The Board has the right and it is the duty of the Board, among other things, to prescribe the places of delivery where it will be most economical and advantageous to all the stockholders and others interested in water service..

Wilful refusal to co-operate with the other owners, and willful waste will not be permitted.

Transfer fees.

The Company shall collect thru the Secretary the sum of 50cents (\$.50) for the transfer of each certificate of stock.

Certificates of stock may be transferred at any time by endorsement on the back thereof by the owner or his agent for such purpose. No transfer shall be effective as to the Company until same has been entered upon the records of the Company. Upon transfer of a certificate, it shall be surrendered to the Secretary and attached to the stub from which it was originally detached, and cancelled.

No stock may be transferred until all indebtedness of the owner to the company has been paid or satisfactory arrangements made for the payment of such indebtedness with the directors. The company has at all times, a lien against the certificates of its stock, for all debts which the certificate holder may owe to the company, and such delinquent stock may be sold as provided by law and the resolution of the Directors, to satisfy such indebtedness,

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but no stock certificate may be sold, until the Secretary shall have given the holder of such certificate at least ten days' notice by registered mail, addressed to such stockholder at his last known address as shown by the corporation records, of the amount of the delinquent charges against such stock, and such other pertinent particulars as will apprise the stockholder of the amount and nature of such assessment.

In case a stockholder loses his certificate or the same is destroyed, the directors will, upon satisfactory proof of such loss or destruction, and upon the furnishing of indemnity by the stockholder, as the board may determine, direct that a duplicate certificate be issued to the person entitled thereto. In which event the secretary shall make appropriate record thereof upon the stub of the original lost certificate.

CORPORATE SEAL.

The company adopts as its corporate seal a circular device, with the name of the company, Missoula County, Montana and the words, "Corporate seal", and with this seal the secretary shall attest all official instruments of the corporation.

ASSESSMENTS.

Costs for operation of the company's system, maintenance, official salaries and expenses incidental to administration, and emergency and other proper purposes as determined by the Board of Directors and/or the stockholders shall be pro-rated amongst the water owners on the basis of the area provided with irrigation services, such costs of conducting the company's affairs are designated "assessments", but may be further distributed in the bills or statements furnished the water owners, for their information in the discretion of the directors.

Assessments or charges that are not paid within 30 days after mailing notice thereof shall bear interest at 1% per month until paid.

Unless good and satisfactory reason is furnished the Board, for non-payment, the Board is not authorized to deliver water to any user who is delinquent for more than two seasons.

In the discretion of the Board, action may be brought in court to enforce payment of unpaid assessments, whenever the same are delinquent. The Board is not obligated to carry delinquent stockholders or water users on their assessments later than Dec. 31, of the year in which the charges were incurred.

Cleaning, upkeep and repairs on private laterals,

Stockholders and owners of ~~private~~ water-rights from the Company's system will renew, clean and repair at their own expense, all private laterals, headgates, boxes and flumes thru which they receive their water supply. Upon written request from any owner, the directors will order such repairs made, headgates installed and private laterals cleaned, and assess the cost pro-rata among those benefitted thereby, and the expenses so pro-rated shall be a lien against the stock or water-right of the person so benefitted, and will be collected by the Board in the same manner as other general

assessments, against such stockholder.

WHEELS, GATES AND TURNOUTS.

No gates, wheels, boxes, checks or openings shall be put into the company ditches, except with the consent of the board of the directors, or under their supervision and written approval. The Board of Directors may change the location of any turn-out or gate, when by experience, or the manner of use thereof by the water-owner, the same appears to be dangerous to the ditch system, or a hazard to other owners, or is so operated by the owner of such wheel, check or turnout as to show it to be unfair or detrimental to the owner or owners of other water-rights and ditch rights; or causing waste, or is an impractical method of receiving delivery of water from the main lateral or ditch canal.

The Board may from time to time make and establish necessary rules and regulations for and respecting the use and delivery of water, including the right to rotate use thereof among owners of the same lateral or even of laterals in order to provide advantageous emergency service.

Water-wheels are recognised as necessary in some instances and wherever waterwheels are used or are necessary the same shall be so used and so installed as not to hinder the flow of water in the canal unreasonably, nor so as to endanger the safety of the lateral itself, nor other owners of land along the system.

AMENDMENTS.

These by-laws may be amended by a majority vote of the entire issued stock at any annual meeting or at any special meeting of stockholders called for that purpose, providing notice has been given to each stockholder, by mail for at least five (5) days.

Approved April 1st, 1940.

John A. Stahl President

Attest

Ellen R. Stahl Secretary.

These by-laws shall be the responsibility of the property owner to maintain the same in good order and condition, and to provide for the same in the event of a fire or other disaster, and to provide for the same in the event of a fire or other disaster, and to provide for the same in the event of a fire or other disaster.

(Approved March 4-5-99)

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