

# BURBANK SANITARY DISTRICT

## ORDINANCE NO. 66

### ORDINANCE PROVIDING FOR IMPOSITION AND COLLECTION OF DISTRICT SEWER SERVICE CHARGES FOR FISCAL YEAR 2020-21

It is ordained by the Board of Directors of Burbank Sanitary District as follows:

1. Purpose of Sewer Service Charge. The purpose of the sewer service charge is to raise revenues to pay the costs of maintenance, operation, construction, and reconstruction of the District's wastewater facilities used for the collection, conveyance, treatment, and disposal of wastewater, and for other expenditures deemed necessary by the District to conduct its business except to the extent prohibited by Sections 5471 and 6520.5 of the Health and Safety Code. The Board of Directors has reviewed the current sewer service charge rate schedule and has determined the annual sewer service charge rates should be increased to address the anticipated cost increases associated with providing sewer service.

2. Customers Subject to Charge. All premises connected to the District's wastewater system are subject to the sewer service charge. Those premises which are unable to make the connection are exempt from the sewer service charge. It is the sole responsibility of the premises' owner to notify the District of the grounds for any claimed exemption.

3. Findings. Written notices of the proposed increase in sewer service charge rates were sent by first class U.S. mail to every property owner connected with the District at least forty-five (45) days prior to the Public Hearing on the proposed increase conducted on May 19, 2020 and informed the property owner of his or her opportunity to submit a written protest against rate adjustments prior to the Public Hearing. All written protests against the proposed increase in the sewer service charge, including those provided in person, by facsimile, email and U.S. mail, were considered and tallied at the Public Hearing conducted on May 19, 2020, and the District was not presented with protests by a majority of the owners of the identified parcels affected by this change. The amount of the charge imposed does not exceed the proportional cost of the service attributable to the properties receiving service or for those which service is immediately available.

4. Definition of Accessory Dwelling Unit (ADU). This ordinance adds a definition for Accessory Dwelling Unit (ADU) for the purpose of setting annual sewer service charge. ADU shall mean an attached or a detached residential dwelling unit which provides for a complete independent living facility for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family detached dwelling is situated. If the ADU is attached to the main single-family unit, it shall be separated by a solid wall with a separate entrance. ADU may also include an efficiency unit as defined in Section 17958.1 of the Health and Safety Code and/or a manufactured home as defined in Section 18007 of the Health and Safety Code.

5. Rate Schedule.

(A) Residential Customer Sewer Service Charge. The annual sewer service charges for residential users are specified below:

Fiscal Year	Detached Single Family Dwelling	Each Dwelling Unit of a Multiple Family Residential Structure	Accessory Dwelling Unit (ADU)
2020-2021	\$908.28	\$744.84	\$635.76

In each case the flat rate charge shall apply regardless of the size, number of occupants or other use or occupancy characteristics of the dwelling unit.

(B) Nonresidential Customer Sewer Service Charge. The annual sewer service charge for nonresidential users shall be computed at the rate per unit of annual water consumption applicable to the classification of use and fiscal year specified below:

Fiscal Year	Rate in Dollars Per One Hundred Cubic Feet of Water Consumption		
	Garages, Service Stations	Restaurants and Bars	Retail Commercial, Office, School, Other
2020-2021	\$7.96	\$18.24	\$6.83

Regardless of the quantity of water consumed by any nonresidential user, there shall be a minimum annual sewer service charge for each of the following classifications connected to the District's wastewater collection system:

Fiscal Year	Garages, Service Stations	Restaurants and Bars	Retail Commercial, Office, School, Other
2020-2021	\$2,820.96	\$2,972.28	\$711.12

(C) Subject to the provisions of Section 5, annual water consumption shall be determined as follows: Water consumption for nonresidential premises shall be based upon actual metered water consumption for the first two (2) 1-month water billing periods of the current calendar year, and then annualized to reflect a period equivalent to twelve (12) months. As used in this Section, a unit of water consumption is defined as the equivalent of a volume of water measuring one hundred cubic feet.

6. Nonresidential Added Provisions. The following are additional provisions applicable to the computation of the sewer service charge for nonresidential customers:

(A) Upon application to the District by customers maintaining extensive irrigated landscaping or in other situations where it can be conclusively established that water consumption determined as provided in Section 5.(C) above is not a valid measure of the quantity of wastewater discharged, the quantity of wastewater to be used in determining the yearly rate shall be determined by the District Board taking into account information it deems pertinent.

(B) The District or the customer may require the installation of District-approved

recording and sampling devices or flow meters on the premises for use by the District at the customer's expense. Such devices or meters shall be available for inspection at any reasonable time. Recording devices shall be capable of recording instantaneous and accumulated flows, and sampling devices shall be automatic and capable of twenty-four-hour storage and maintenance of temperature between 35 degrees and 40 degrees Fahrenheit and have a 5-gallon capacity as approved by the District. The customer shall be responsible for the maintenance, repair, and replacement of all sampling or recording devices and equipment.

7. Vacancy. No credit, adjustment or refund shall be made to any customer because the premises or any part thereof are vacant, unless said premises are disconnected from the sewer system and capped in compliance with the District's rules and regulations.

8. Effective Date of Charges. Charges and rates established by this Section shall be effective upon the date specified by the District and shall apply to all premises connected at that time to the District's wastewater system. Premises that are connected to the system after the effective date shall be subject to the sewer service charge effective as of and pro-rated from the date of connection; such charge shall be billed directly in accordance with Section 10 below.

9. Person Responsible. The owner of any premises is and shall be responsible for payment of all sewer service charges applicable to the premises. It is the duty of each owner to ascertain from the District the amount due and due date of any charge applicable to the owner's premises and to pay the charge when due and payable. It is the duty of all owners of all premises to inform the District immediately of all circumstances, and of any change or changes in any circumstances, which will in any way affect the applicability of any charge to the premises or amount of any such charge.

10. Adjustments Pursuant to Special Studies.

(A) The intent of this ordinance, in establishing different sewer service charges for different classifications of properties, is to reflect the benefit from such service to each property. If a customer believes that the applicable sewer service charge is unreasonably high, that customer may request that a special study be conducted by District staff to determine the appropriate sewer service charge. Such study will be undertaken upon payment by the customer of the cost for such study. If the District independently believes that an applicable sewer service charge is inaccurate, it may conduct a special study. Studies voluntarily undertaken by the District shall be at the District's expense.

(B) If the special study is completed sufficiently in advance of when payment is due, or when the sewer service charge is submitted to the County of Santa Clara, the amount of the charge may be adjusted based on the results of the special study and the District may in its discretion provide a separate bill for the charges. However, if the special study cannot be completed prior to the time such charges are due or must be submitted to the County of Santa Clara, the customer shall pay sewer service charges specified in Section 5. If the subsequently completed special study results in a sewer service charge that exceeds the charge actually paid or billed on the tax roll by more than ten percent (10%), the customer shall be responsible, and will be billed separately for the difference. If the subsequently completed special study results in a sewer service charge that is more than ten percent (10%) less than the charge actually paid or billed on the tax roll the District will refund the difference to the parcel owner by separate payment.

11. Use of Revenues. Revenues derived under this Ordinance shall be used for the acquisition, construction or reconstruction, maintenance and operation of sanitation or sewage facilities of the District, to repay the principal and interest on bonds issued for the construction of such facilities, and to repay any federal or state loans or advances made to the District for the construction or reconstruction of such facilities; provided, however, that revenues shall not be used for the acquisition or construction of new local street sewers or laterals, as distinguished from main trunk, interceptor, and outfall sewers. Generally, these revenues are to pay the costs of maintenance, operation, construction, conveyance, treatment, and disposal of wastewater, and for other expenditures deemed necessary by the District to conduct its business except to the extent prohibited by Sections 5471 and the Sanitary District Act (Health and Safety Code sections 6400 *et seq.*).

12. Billing. The District elects, as the primary procedure for the collection of sewer service charges prescribed or imposed by the provisions of this Ordinance, to have sewer service charges for each fiscal year collected on the tax roll of the County of Santa Clara in the same manner, by the same persons and at the same time as property taxes, assessments and other charges collected in that manner.

If the full amount of the applicable sewer service charges for premises connected to or discharging wastewater into the District's system are, for any reason, not collected on the tax roll, the sewer service charges, or the portion not appearing on the tax roll, shall be collected by direct billing to the property owner. The provisions of this Section shall also apply to sewer service charges accruing after a new connection to the District's wastewater facilities, in which case the annual charge shall be prorated over the period of time from the date of the new connection to the end of the fiscal year.

(A) Direct Billing. The District shall ascertain the amount of each sewer service charge applicable to each premises and within sixty (60) days after the date charges become due and payable, a bill for the charges which are then due and payable shall be mailed to the owner. The bill shall be mailed to the person or persons listed as the owners on the last equalized assessment role of the County of Santa Clara at the address shown on the assessment role, or to the successor in interest and/or the lessee of such owner if known. Each bill shall contain a statement that a delinquency in payment for sixty (60) days shall constitute a lien against the lot or parcel against which the charge is imposed and that when recorded it shall have the force, effect and priority of a judgment lien for three (3) years unless sooner released or otherwise discharged. Failure of the District to mail or failure of the owner to receive any bill does not excuse the owner of any premises from the obligation of timely paying any sewer service charge for any premises owned by him or her.

(B) How Payable. Each sewer service charge is due and payable in full at the time of billing; provided, however, if in any fiscal year, a sewer service charge is payable for a period covering eight (8) months, or more, of the fiscal year, the sewer service charge shall be billed in two installments with the first installment covering the period for which a sewer serviced charge is owed during the first six (6) months of the fiscal year, and the second installment covering the remaining six months of the fiscal year.

(C) Delinquency Date of Sewer Service Charges. Each sewer service charge shall be delinquent if not paid on or before thirty (30) days following the date upon which the charge became due and payable.

(D) Where Payable. Sewer service charges collected by direct billing shall be payable at the administrative office of the District, as noted in the billing.

(E) Penalties for Non-Payment of Sewer Services Charges-Lien. Whenever a delinquency shall occur for non-payment of sewer service charges, a penalty of ten (10) percent shall attach to such charges, and for each month that such charges remain delinquent a further penalty of one and one-half percent (1-1/2 %) of the basic charge shall be added.

13. CEQA Exemption. Adoption of this Ordinance is statutorily exempt from the requirements of the California Environmental Quality Act and the State Guidelines promulgated by the Act in that the purpose of the Ordinance, as specified above, is to provide for the generation of revenues from rates and charges to meet the District's operating expenses and other financial needs of the kind referred to in Public Resources Code § 21080(a)(8) and California Code of Regulations §15273(a).

14. Severability. In the event any section or portion of this Ordinance is determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

15. Effective Date. This Ordinance shall be adopted by the District's Board of Directors, entered into the minutes of the Board meeting at which adoption is approved and published one time in a newspaper of general circulation in the territory of the District. This Ordinance shall be effective at the end of the week in which publication occurs.

16. Superseding Effect. This Ordinance supersedes and repeals all ordinances, resolutions or other orders and actions of the Board which may have been adopted previously and which are contrary to or inconsistent with the provisions of this ordinance. To the extent this Ordinance No. 66, or the sewer service charges adopted herein, is challenged and set aside for any reason, Ordinance No. 63 and the preexisting sewer service charges adopted therein shall be immediately restored and will be effective until further action of the Board of Directors.

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STATE OF CALIFORNIA)  
COUNTY OF SANTA CLARA)

I HEREBY CERTIFY that the foregoing Ordinance was duly and regularly adopted by the Board of Directors of the Burbank Sanitary District, at a regular meeting thereof, held on the 19th day of May, 2020 by the following vote.

AYES: DIRECTORS: Colson, Yoder, Kaelker-Boor, Prupes, Sclafani

NOES: DIRECTORS: None

ABSENT: DIRECTORS: None

ABSTAIN: DIRECTORS: None



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President  
Burbank Sanitary District

ATTEST:



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Secretary, Burbank Sanitary District