

## ORDINANCE NO. 2017-2

### AN ORDINANCE OF THE BUENA SANITATION DISTRICT, CALIFORNIA, AMENDING CHAPTERS 1 AND 6 OF THE BUENA SANITATION DISTRICT CODE OF REGULATIONS REGARDING SEWER REGULATIONS AND CHARGES

The Board of Directors of the Buena Sanitation District does ordain as follows:

1. **Findings.** The Board of Directors hereby finds and declares the following:

A. Through this ordinance, the Board of Directors intends to promote the effective operation of the District and to advance the public health, safety and welfare.

2. **Code Amendment.**

A. Section 1.050 of the Buena Sanitation Code of Regulations is amended to read as follows:

#### **Section 1.070 Sewer Revenue Fund and Reserve Accounts**

C. The Sewer Revenue Fund shall include a treatment and discharge Rate Stabilization Reserve. The purpose of the Treatment and Discharge Rate Stabilization Reserve is to provide for unexpected treatment and discharge costs imposed upon the sewer system by the Encina Wastewater Authority (EWA). The District is a member of EWA and all of the wastewater entering the sewer system is treated and discharged through the EWA treatment and discharge facilities under permit. The costs of such treatment and discharge are not known or fixed until after the District's budget is approved. Therefore, a reserve is needed to meet the unexpected costs. For this reason, the District Board intends that the Treatment and Discharge Rate Stabilization Reserve be maintained at a funding level equivalent to 15 percent of the running average annual cost to the sewer system for treatment and discharge services by EWA over the preceding five-year period.

B. Section 1.060 of the Buena Sanitation Code of Regulations is amended to read as follows:

#### **Section 1.030 Capital Repairs and Replacement Fund and Emergency Capital Reserve Account**

B. Within the Capital Repairs and Replacement Fund there shall be maintained the Emergency Capital Replacement Reserve Account. The purpose of the Emergency Capital Replacement Reserve Account is to provide funding to finance the cost of repairs and replacements to the existing capital facilities, equipment, and appurtenances of the sewer system required in any given year in the event of a shortfall or lag in revenues of the system, or unexpected requirements for repairs or replacements. The District Board intends that the initial level of this reserve shall be set at \$1-million. The District Board may adjust this

level from time to time, as it deems necessary by approval of the annual budget of the sewer system.

C. Section 6.040 of the Buena Sanitation District Code of Regulations is amended to read as follows:

**Section 6.040 Capacity Rental Charge**

A. In addition to the sewer capacity charge, an a capacity rental may be charged to any user whose water use records show that the user is discharging in excess of purchased sewer capacity. A capacity rental charge will be based on the number of EDUs of capacity being used in excess of paid sewer capacity charge and are intended to cover the cost of capital facilities for excess usage.

B. Users with outdoor irrigation meters. For any user who has an outdoor irrigation meter, the highest bi-monthly water use period on the interior building meter will be converted to a daily water use and divided by 200 gallons per day. This number will serve as the number of EDUs used during the fiscal year and will be compared to the purchased sewer capacity in terms of EDUs to determine if the capacity rental charge will be applied.

C. Users without outdoor irrigation meters. For any user who does not have an outdoor irrigation meter, the lowest bi-monthly water use period, excluding zeros, will be converted to a daily water use and be divided by 200 gallons per day. This number will serve as the number of EDUs used during the fiscal year and will be compared to the purchased sewer capacity in terms of EDUs to determine if the capacity rental charge will be applied.

D. Section 6.050 of the Buena Sanitation District Code of Regulations is amended to read as follows:

**Section 6.050 Adjustment of Capacity Rental Charge**

A. Any person who believes in good faith and on reasonable grounds based upon available facts and information that the capacity rental charge imposed upon his or her property is unfair, incorrect, or improperly charged may file a request for review and adjustment of the capacity rental charge. All requests for review and adjustment shall be filed in writing and presented to the District Engineer or designee within 35 days from the date of mailing of the initial sewer service charge notice. Alternatively, a request may be made within 35 days from the date of mailing of the property tax bill due in December. The written request shall include all of the following information.

B. Within 30 days of receiving a complete written request for adjustment, the District Engineer or designee, after conducting such investigations and inquires as he or she deems necessary, shall make written findings and determine whether or not the capacity rental charge imposed results in an unfair or unreasonable charge.

E. Section 6.060 of the Buena Sanitation District Code of Regulations is amended to read as follows:

**Section 6.060 Amount of Capacity Rental Charge and Purchase of Additional Sewer Capacity**

A. The amount of the capacity rental charge shall be established by the Board of Directors with the Sewer Service Charges. This amount will be collected yearly along with the Sewer Service Charges. The capacity rental charge shall be based on the previous calendar year's water use as an estimate of sewage generation and shall be calculated each year. Payment of the excess usage charge will not change the number of EDUs assigned to a parcel. Payment of the capacity rental charge will not change the number of EDUs assigned to a parcel.

B. The property owner may elect to purchase additional sewage capacity to avoid all or part of the capacity rental charge. Purchase of additional capacity must be made no later than May 1 of the subsequent year, otherwise capacity rental charges will be placed upon the property tax roll.

F. Section 6.070 of the Buena Sanitation District Code of Regulations is amended to read as follows:

**Section 6.070 Waiver of Capacity Rental Charge**

Upon application of a property owner, the District Engineer may waive all or part of a capacity rental charge if he finds that the excessive usage was the result of a temporary condition that has been eliminated or reduced. The property owner must apply for a waiver no later than May 1 following the calendar year in which the excessive usage occurred. The application shall include pertinent information such as water bills, repair receipts and a description of the condition that caused the excessive sewer usage.

G. Section 6.090 of the Buena Sanitation District Code of Regulations is amended to read as follows:

**Section 6.090 Election to Have Capacity Rental Charge Collected with Taxes**

The District Board, pursuant to Section 5473 of the California Health and Safety Code, hereby elects to have the capacity rental charges that are imposed by this Chapter and become due on July 1 of each year, collected on the tax roll in the same manner, by the same persons, and at the same time as, and together with and not separately from the general taxes of the District. The District Engineer shall prepare the report required by California Health and Safety Code Section 5473, et seq.

H. Section 6.100 of the Buena Sanitation District Code of Regulations is amended to read as follows:

**Section 6.100 Collection of Capacity Rental Charges with Taxes**

Any sewer capacity rental charges assessed pursuant to this Chapter and not paid as provided in this Chapter shall be made a lien against the property, as provided in California Health and Safety Code Section 5470 et seq.

- I. Section 6.110 of the Buena Sanitation District Code of Regulations is amended to read as follows:

**Section 6.110 Residential Equivalent Dwelling Units Sewer Capacity**

Residential EDUs are assigned for the purpose of both sewer capacity charges and yearly sewer service charges. For all other classes of users, separate methods are described for determination of EDUs for the purpose of capacity fees and determination of EDUs for the purpose of sewer service and capacity rental charges.

- J. A new subparagraph 11 is paragraph A of Section 6.120 of the Buena Sanitation District Code of Regulations is amended to read as follows, and the old subparagraph 11 shall be renumbered as paragraph 12:

**Section 6.120 Residential Equivalent Dwelling Units Sewer Capacity**

A. Types of Sewer Users Minimum EDUs

11. Hotels and Motels

a. Each Unit 0.4

12. All other commercial and industrial businesses sewer capacity charge shall be established by District Board policy and as may be amended from time to time.

- K. Section 6.130 of the Buena Sanitation District Code of Regulations is amended to read as follows:

A. New users (parcels without existing Sewer Discharge Permits). For all new users, not listed in Section 14.06.140 sewer capacity charges will be assessed at the rate of four EDUs for each gross acre. The user may elect to purchase more EDUs in order to reduce capacity rental charges. The following exceptions to the four EDUs per gross acre rule apply and may be used to reduce the number of EDUs required for a parcel. All parcels must maintain a minimum capacity of one EDU.

4. **Effective Date.** This ordinance shall be in full force and effect on the 61<sup>st</sup> day following the date of adoption.

[continued on following page]

**5. Adoption.** INTRODUCED AND ADOPTED at a meeting of the Board of Directors held November 14, 2017, by the following vote:

AYES: Mayor Ritter, Aguilera, Rigby, Franklin, Green

NOES: None

ABSTAIN: None

  
\_\_\_\_\_  
JUDY RITTER, CHAIRPERSON

APPROVED AS TO FORM:  
DAROLD PIEPER, DISTRICT COUNSEL

By:   
\_\_\_\_\_

ATTEST:  
KATHY VALDEZ, CLERK OF THE BOARD

By:   
\_\_\_\_\_

APPROVED  
Jonathan B. Stone  
1532.102417

**CERTIFICATION**

I, Kathy Valdez, Clerk of the Board of Buena Sanitation District, California, certify that I caused the foregoing Ordinance No. 2017-2 to be posted on November 16, 2017, at the following locations within the City of Vista: 1) the Reference Desk of the Vista Branch of the San Diego County Public Library, 700 Eucalyptus Avenue; 2) the Lobby Counter at the Gloria E. McClellan Senior Center, 1400 Vale Terrace Drive; and 3) the City Clerk's Office, 200 Civic Center Drive.

A handwritten signature in blue ink that reads "Kathy Valdez". The signature is written in a cursive style with a large, looping "y" at the end.

Kathy Valdez, City Clerk