

ORDINANCE NO. 182

AN ORDINANCE ESTABLISHING RATES AND
CHARGES FOR SANITARY SEWER SERVICES AND
FACILITIES, AND PROVIDING PROCEDURES AND
PENALTIES FOR ITS ENFORCEMENT AND RESCINDING
ORDINANCE NO. 169

WHEREAS, the Bodega Bay Public Utility District (the “District”) retained Bartle Wells Associates to conduct a Water and Wastewater Rate Study (“Rate Study”) to examine the District’s current and projected costs and the District’s existing rate structure, a copy of which Rate Study is on file with the District Clerk; and

WHEREAS, the Rate Study recommends that the District update its rates and charges to more accurately recover the costs of providing service to the District’s sanitary sewer customers; and

WHEREAS, the District also retained Bartle Wells Associates to conduct a Wastewater Capacity Fee Study (“Fee Study”) regarding future development of sanitary sewer facilities and financial projections for providing sanitary sewer service to properties within the District; and

WHEREAS, the Fee Study, a copy of which is on file with the District Clerk, recommends changes to the District’s wastewater capacity fees and charges; and

WHEREAS, the Rate Study and Fee Study have been considered by the District Board of Directors;

WHEREAS, the District Board of Directors desires to adjust the District’s sanitary sewer connection charges (the “Connection Charges”) and sanitary sewer user charges (the “User Charges”) as recommended by the Rate Study and Fee Study; and

WHEREAS, Ordinance No. 169 establishes current rates, rules and regulations for sanitary sewer services and facilities; and

WHEREAS, the cost of operating and maintaining the District sanitary sewer facilities has consistently increased due in part to increased regulatory requirements, and the cost now exceeds the amounts of any ad valorem and other tax revenues received from such properties; and

WHEREAS, as required by Government Code Sections 66013 and 66016, the adjusted Connection Charges do not exceed the estimated amount required to provide the service for which those charges are levied; and

WHEREAS, the revenues to be derived from the adjusted charges will not exceed the funds required to provide the service for which the charges are levied; the revenues derived from the User Charges will not be used for any purpose other than that for which the charges have

been imposed, and the amount of the Connection Charge on each parcel does not exceed the proportional cost of the service attributable to that parcel; and

WHEREAS, the District scheduled and held a duly noticed public hearing on May 16, 2018, to consider the proposed Connection Charges and User Charges for sanitary sewer service; and

WHEREAS, in accordance with Proposition 218, notice of the hearing was mailed at least 45 days prior to the hearing date to the record owners of every parcel within the District, using the latest available tax records from the Sonoma County Assessor's Office; and

WHEREAS, data regarding the proposed Connection Charges and User Charges was made available to the public prior to the public hearing in the manner required by law; and

WHEREAS, at the public hearing all interested parties had the opportunity to be heard, and the District Board of Directors considered all oral and written presentations on the proposal to adjusted the Connection Charges and User Charges for sanitary sewer service; and

WHEREAS, at the conclusion of the public hearing held on May 16, 2018, the District Board of Directors determined that written protest of the proposed User Charges for sanitary sewer service was not received from property owners representing a majority of the parcels subject to the charges; and

WHEREAS, the adoption of these adjusted Connection Charges and User Charges will not result in a direct physical change in the environment; and

WHEREAS, the District Board of Directors desires to adjust the District Connection Charges and Users Charges for sanitary sewer service in order to promote financial stability and sustainability for the District.

THEREFORE, BE IT ENACTED by the Board of Directors of the Bodega Bay Public Utility District, Sonoma County, California, as follows:

Ordinance No. 169, adopted by the District Board of Directors on November 16, 2011, is hereby rescinded, and replaced with the following language, effective as of June 15, 2018; provided, however, that the new Use Charges and Connection Charges shall be imposed on July 1, 2018.

ARTICLE I

General Provisions

Section 100. Short Title. This ordinance may be cited as "Bodega Bay Public Utility District Sewer Service Charge Ordinance."

Section 101. Ordinance 169. This Ordinance shall supersede Ordinance No. 169. To the extent there is any conflict between this Ordinance and Ordinance No. 169, this ordinance shall prevail.

Section 102. Definitions. Unless the context otherwise indicates, terms used herein have the following meanings:

- (a) Board means the Board of Directors of the District.
- (b) Commercial means any premises used for commercial or business purposes that discharges domestic wastewater.
- (c) County means the County of Sonoma.
- (d) District means the Bodega Bay Public Utility District.
- (e) Domestic wastewater means wastewater of a character that is discharged from a residential dwelling.
- (f) Industrial means any premises discharging other than domestic wastewater.
- (g) Industrial wastewater means wastewater that is other than domestic wastewater.
- (h) Institutional means any premises used for schools, churches, hospitals, convalescent homes, or other types of facilities available for public use.
- (i) Manager means the person or persons appointed by the Board to administer and enforce the rules and regulations of the District.
- (j) Person means any individual, firm, company, partnership, association, private or public corporation, or governmental entity, authority, or agency.
- (k) Premises means any house, habitation, or other structure requiring public or private sewage disposal services.
- (l) Residential means any premises used for residential dwelling purposes.
- (m) Single Family Residential means any premises designed for use exclusively by one family unit.
- (n) Sewer Service Charges means fees, tolls, rates, rentals or other charges for services or facilities, or both, furnished by the District in connection with its wastewater system.
- (o) Wastewater or sewage means any combination of water-carried wastes from a premises.

(p) Wastewater System means the District’s facilities for collecting, transmitting, treating and disposing of wastewater.

Section 103. Additional Definitions. Additional terms used herein shall have the meanings set forth in District Ordinance No. 50, adopted by the Board on October 20, 1976, as amended.

ARTICLE II

Sewer Service Charges

Section 201. Use Charges.

a. General. Service use charges are prescribed for all premises connected to the District’s wastewater system and all premises which are able to connect to the system but at present are connected to a private sewage disposal system. Determination of whether a premises is able to connect to the wastewater system is governed by Ordinance No. 50, Section 305 thereof.

i) Fixed Charges. Fixed Sanitary Sewer Service Charge for a bimonthly billing period are as follows:

Single Family Residential	\$122.20
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All Other Users		
Meter Size	AWWA Ratio	Bimonthly Charge
5/8” or 3/4”	1.00	\$122.20
1”	1.67	\$204.07
1.5”	3.33	\$406.92
2”	5.33	\$651.32
3”	10.67	\$1,303.87

ii) Volumetric Charges. Uses other than single family residential shall be subject to a bimonthly volumetric charge for each unit in excess of the number of units included with the fixed charge as follows:

Volumetric Charge – Cost Per Unit (HCF)	\$14.72
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Units (HCF) Included with Fixed Charge	
Meter Size	
5/8" or 3/4"	8
1"	14
1.5"	28
2"	44
3"	89

Section 202. Use Charges for other than Domestic Wastewater. For any industrial or other non-domestic premises with respect to which the character of its wastewater requires wastewater treatment or operations, or both, greater than that for normal domestic wastewater, the sewer service charges provided in Section 201 shall be adjusted upward on an equitable basis as determined by the Board from time to time. Any such charges shall comply with all State and Federal regulations relevant thereto and may be revised, by ordinance, from time to time to assure compliance with such regulations.

Section 203. Relief From Unjust Rates. The owner or occupant of any premises who by reason of special circumstances is of the opinion that the charges, either as set forth in Section 201 or as determined pursuant to Section 202, are unjust or inequitable as applied to the premises, may make written application to the Board, stating the circumstances and requesting a different basis of charges for sewer service to the premises. If such application be approved, the Board may, by resolution, fix and establish fair and equitable charges for such premises to be effective as of the date of such application and continuing during the period of such special circumstances.

The Board may on its own motion find that, by reason of special circumstances, the sewer service charges are unjust and inequitable as applied to a particular premises, and may, by resolution, fix and establish fair and equitable sewer service charges for such premises during the period of such special circumstances, or any part thereof.

Section 204. Vacancy. No credit, adjustment or refund will be made to any owner or occupant of any premises because the premises or any part thereof are vacant, unless the premises is disconnected from the wastewater system.

Section 205. Refunds. When any refund becomes due and owing by virtue of action of the Board or by virtue of any error made in ascertaining the sewer service charge applicable to any premises, the Manager is authorized to make payable such monies from the specific fund established for the deposit of sewer service charges.

Section 206. Governmental Premises. The provisions of this ordinance shall apply to governmental premises. As used herein the term "governmental premises" means and includes institutional premises which are owned, controlled or used by (1) the United States Government or any department or agency thereof, (2) the State of California or any department or agency

thereof, (3) any city, county, town, or city and county, or any of their departments or agencies, (4) any school district, (5) any other governmental or public entity.

Section 207. Power to Inspect Premises. In order to effect the powers of this ordinance, the Manager and his or her authorized representatives are given the power and authority to enter upon any premises for the purpose of inspecting and maintaining sanitary and waste disposal facilities, including, but not limited to, ascertaining the nature of such premises, the type of activities carried out thereon, and any other facts or information reasonably necessary to ascertain the applicability of any sewer service charges to such premises, or the amount of such charges. In particular, readings of water meters may be taken where the sewer service charge is based upon the amount of water consumed or used on the premises.

ARTICLE III

Connection Charge

Section 301. Connection Charges. This Article is intended to adopt new sewer connection charges for the District. Section 907(a) – (c) of Ordinance No. 50 are hereby amended to read as follows:

“Sec. 907. Basic Connection Charges (Facilities Use Charges).

(a) “Single Family Residential” Defined. “Single Family Residential” means any premises designed for use exclusively by one family unit.

(b) Connection Charge.

(i) General. Payment of the connection charge shall be made prior to the issuance of a connection permit and shall be in addition to all other fees and charges required to be paid under the District rules and regulation.

(ii) Effective Date. The connection charges set for in this section are effective on July 1, 2018.

(iii) Amount. A connection charge for connection of a premises presently within the boundaries of the District is hereby established as follows:

Single Family Residential	\$14,872	
All other uses		
Meter Size	Meter Ratio ¹	
¾" and smaller	1.00	\$14,872
1"	1.67	\$24,787
1.5	3.33	\$49,573
2"	5.33	\$79,317
3"	10.67	\$158,684

(c) Reserved.

Section 302. Ordinance No. 50.

Except as specifically amended by Section 301 herein, all other provisions of Ordinance No. 50 shall remain in full force and effect.

ARTICLE IV

Billing

Section 401. Billing. The regular billing period for sewer service charges set forth in Article II will be for each calendar month, or bi-monthly, as determined by the Board.

Section 402. Opening and Closing Bills. Opening and closing bills for less than the normal billing period shall be for not less than one month.

Section 403. Billing Time. Bills for sewer service charges shall be rendered at the beginning of each billing period and are payable upon presentation, except as otherwise provided.

Section 404. Penalties and Penalty Interest; Bad Check Charge. All bills (other than those for which provision is made, prior to delinquency, for their collection on the County tax roll) not paid within 20 days after the date the bill was rendered shall be delinquent, and a basic penalty of 10% of the bill, or amount due, shall be collected along with the principal amount thereof. In addition, penalty interest not exceeding one and one-half percent (1.5%) per month may be added for nonpayment of the charges and basic penalty.

In the event payment of a bill is by check and, upon the District's deposit thereof, it is returned for non-payment, a "bad check" charge in the amount of \$20.00 shall be added to the amount due on the bill for which the check was submitted in payment.

¹ Based on American Water Works Association Standard Meter Capacities.

Section 405. Future Connections. With respect to premises connected, or able to be connected, to the wastewater system of District subsequent to the effective date of this ordinance, the sewer service charges established herein shall be effective immediately upon such connection or ability so to do.

ARTICLE V

Collection

Section 501. General. All remedies herein provided for the collection of sewer service charges, and the enforcement of the collection thereof, are cumulative and may be pursued alternatively or collectively as the Board determines.

Section 502. Collection with Other Utility Charges. Sewer service charges may be collected with the rates for services or facilities, or both, furnished by the District in connection with its sewer system. The sewer service charges shall, in such event, be itemized, billed upon the same bill, and collected as one item, together with and not separately from the sewer service charges.

Section 503. Discontinuing Service. If all or any part of the bill on which any sewer service charge is collected is not paid, the District may discontinue its utility service to the premises for which the bill was rendered until such bill is paid.

Section 504. Billing and Collecting on Tax Roll. As provided in Article V hereof, the District may provide for the collection of sewer service charges, or sewer service charges that have become delinquent, on the County tax roll.

Section 505. Collection by Suit. The District may collect unpaid sewer service charges by suit, in which event it shall have judgment for the cost of suit and reasonable attorney's fees.

Section 506. Other Remedies. The District may provide otherwise for the collection of unpaid sewer service charges.

Section 507. Compensation. Provision may be made for the payment of a reasonable collection charge as an administration expense of operating the wastewater system.

Section 508. Advance Payment. As to any premises on which any sewer service charge remains unpaid, the Board may require that subsequent sewer service charges for the premises be paid in advance for periods not to exceed 12 months, or deposits of or guarantees for the payment of such amounts be furnished the District.

Section 509. Lien.

a. General. All sewer service charges prescribed herein for service, facilities, or both, shall, when delinquent for a period of 60 days, together with interest and penalties thereon, constitute, when recorded, a lien upon the premises served (except that no such lien shall be created against any publicly owned property), and such lien shall continue until the sewer service charges and all penalties thereon are paid.

b. Recordation. The Manager shall cause to be recorded with the County Recorder of Sonoma County a list of the delinquent charges and penalties thereon, stating the amount of each, and a description of the premises upon which the same is a lien.

c. Effect. The recorded list shall have the force, effect, priority and duration of an abstract of a judgment and may be enforced in like manner.

d. Enforcement of Lien. The District may bring an action in any court of competent jurisdiction to enforce any lien on real property for delinquent service charges, together with all fees and costs.

Section 510. Errors. If, through error or otherwise, the amount of any unpaid sewer service charge plus penalties thereon as stated in the list shall be incorrect, the error shall be disregarded and shall not affect or invalidate the filing if the error is \$1.00 or less.

ARTICLE VI

Collection by Use of County Tax Roll

Section 601. Procedure. When the District elects to use the County tax roll for the collection of its service charges, or service charges that have become delinquent, proceedings therefore shall be had as now or hereafter provided therefore in Article 4, Chapter 6, Part 3, Division 5 of the California Health and Safety Code (commencing with Section 5470) or Articles 3 and 8, Chapter 4, Division 7 of the Public Utilities Code (commencing with Sections 16461 and 16641, respectively), or any successor provisions.

Section 602. Alternative. The powers authorized by this Article shall be alternative to all other powers of the District and alternative to any other procedures that may be adopted by this Board for the collection of its sewer service charges.

ARTICLE VII

Disconnection

Section 701. Disconnection. As an alternative method of collecting sewer service charges, the District may disconnect any premises from the District's wastewater system if the user fails to pay the charges for the premises after the charges have become delinquent. The Manager shall estimate the cost of disconnection of the premises from the wastewater system and the cost of reconnecting the premises thereto, and the user shall deposit the cost as estimated of disconnection and reconnection before the premises are re-connected to the wastewater system. In the event the arrearages are paid and the premises are reconnected to the wastewater system, the Manager shall refund any part of the deposit remaining after payment of all costs of disconnection and reconnection.

Section 702. Abatement. During the period of non-connection or disconnection, habitation of such premises by human beings shall constitute a public nuisance, whereupon the Board shall cause proceedings to be brought for the abatement of the occupancy of the premises

by the human beings. In such event, and as a condition of connection or reconnection, there shall be paid to the District reasonable attorney's fees and costs of suit arising in such action.

ARTICLE VIII

Miscellaneous

Section 801. Separability & Effective Date. If any section of this Ordinance is determined to be unenforceable, invalid, or unlawful, such determination shall not affect the enforceability of the remaining provisions of this Ordinance. This Ordinance shall take effect thirty (30) days from the date of its adoption. At least one (1) week before the expiration of such thirty (30) days, copies of this Ordinance shall be posted by the Clerk at three public places in the District. There is no newspaper of general circulation printed and published in the District.

Section 802. Remedies. The remedies for collecting and enforcing the sewer service charges set forth herein, as well as all other remedies available at law or in equity, are cumulative and may be pursued alternatively or in any combination. If any one of the remedies is or may be invalid, all valid remedies shall remain effectual.

Section 803. Intrinsic Distinctions. The sewer service charges herein prescribed may be different for different classes of uses or for different portions of the District, and may vary depending on the financing or installation method or the installation costs to the District of the various components of its wastewater system. If any premises served by the District's wastewater system receives additional benefits from the construction of particular components thereof, sewer service charges may be imposed to cover the value of the additional benefits.

President of the Board of Directors
Bodega Bay Public Utility District

ATTEST:

Clerk the Bodega Bay Public Utility District
and ex officio Secretary of the Board of
Directors of the District

I hereby certify that the foregoing Ordinance was duly passed and adopted by the Board of Directors of the Bodega Bay Public Utility District, Sonoma County, California, at a meeting thereof held on May 16, 2018, by the following vote of the members thereof:

AYES: Directors: Mantua, Gerber, Moore, Ogg, Rooney

NOES: None

ABSTAIN: None

ABSENT: None

Clerk the Bodega Bay Public Utility District
and ex officio Secretary of the
Board of Directors of the District

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