
**THE VILLAGE OF BURNHAM
COOK COUNTY, ILLINOIS**

ORDINANCE NO. 2018 - O - 002

REVISED SEWER TAX

**AN ORDINANCE ADJUSTING THE VILLAGE'S SEWER TAXES
IN ORDER TO FACILITATE A LOAN WITH THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
AND**

**AN ORDINANCE AMENDING CHAPTER 86 – TAXATION,
ARTICLE XII – SEWER USE AND SERVICES TAX, SECTIONS: 86-
422 – TAX IMPOSED; 86-423 – TAX RATE; 86-424 – PAYMENT OF
SEWER TAX; 86-425 – WATER METER READINGS; 86-427 –
TERMINATION OF SERVICE FOR NON-PAYMENT; 86-428 – LIEN
FOR SEWER USE TAX; 86-431 – INSTALLATION AND
CONNECTION OF WASTELINE SERVICE TO PUBLIC SEWER; 86-
433 – PENALTY FOR VIOLATION OF ARTICLE/ADMINISTRATIVE
ADJUDICATION OF THE CODE OF ORDINANCES, VILLAGE OF
BURNHAM, ILLINOIS**

WHEREAS, the Village of Burnham, Cook County, Illinois, (the "Village") has elected by Referendum on March 11, 1980 to become a home rule unit, and accordingly, pursuant to the provisions of the *Constitution of the State of Illinois* of 1970, particularly Article VII, Section 6(a) thereof, the Village is a home rule unit; and

WHEREAS, pursuant to the powers of a home rule unit set forth in Article VII, Section 6(a) of the *Constitution of the State of Illinois* of 1970, the Village may exercise any power and

perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of public health, safety, morals, and welfare, to license, to tax, and to incur debt; and

WHEREAS, the Corporate Authorities of the Village of Burnham, deem it advisable and in the best interests of the residents of the Village of Burnham, to provide for capital improvements and maintenance of the sewer system and retire any deficits in the water account, by enacting a surtax; and

WHEREAS, the President and Board of Trustees of the Village of Burnham (the Corporate Authorities) have determined that it is advisable, necessary, and in the best interest of the public health, safety, and welfare to improve the public sewer system; and

WHEREAS, in order to maintain and make capital improvements to the sewer system, the Village has to adjust its sewer rates in order to provide a revenue stream for capital improvements and maintenance; and

WHEREAS, the current revenue of the sewer system will not support said capital improvements; and

WHEREAS, the current revenue of the combined water and sewer systems will not support a reduction in the deficit in the water fund; and

WHEREAS, the President and Board of Trustees of the Village of Burnham (the Corporate Authorities) have determined that it is advisable, necessary, and in the best interests of the public health, safety, and welfare to enact a surtax for water and sewer maintenance, capital improvements, and deficit debt reduction on every consumer or user of the water and sewer systems of the Village of Burnham; and

WHEREAS, the Corporate Authorities of the Village deem it advisable and is in the best interest of the Village to increase the amount of the sewer use and service tax imposed upon every user of the sewerage system of the Village of Burnham.

BE IT ORDAINED by the Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois, in the exercise of its home rule powers, as follows:

Section 1. INCORPORATION OF PREAMBLES

THAT, the Corporate Authorities of the Village hereby find that all of the recitals contained in the preambles of this Ordinance are true, correct, and complete and do hereby incorporate them into this Ordinance by this reference as if they were set forth verbatim in this section.

Section 2. TAX IMPOSED; SURTAX

THAT, Section 86-422 of the Code of Ordinances, Village of Burnham, Illinois, is hereby amended to read as follows:

Sec. 86-422. Tax imposed; surtax.

- (1) Sewer use and service tax. Starting with May 1st, 2018, there is hereby imposed a tax for the use and service of the sewer system of the Village. Such tax shall be based upon the amount of water supplied by the Village Waterworks System as shown by the sewer user's water readings per billing period.
- (2) Surtax imposed. There is hereby imposed an additional surtax for the use and service of the water supply and sewer systems of the Village. Such surtax shall be taxed on each individual consumer or user, whether it's for the use of the sewers or the purchase of water. Said surtax shall be in addition to any charges for water or sewer use and be in the amount of \$10.00 per month per meter.

Section 3. TAX RATE

THAT, Section 86-423 of the Code of Ordinances, Village of Burnham, Illinois, is hereby amended to read as follows:

Sec. 86-423. Tax rate. Effective May 1st, 2018.

The tax rate for the use and service of the sewer system of the Village shall be paid as follows:

That commencing with May 1st, 2018, the tax rate will be:

- (1) Rate. \$1.00 per 1000 gallons for all consumers or meters. All such consumers shall pay for a minimum of 3000 gallons per month.
- (2) Estimated read. If no one is present in the premises at the time the water meter reader makes his regular call, the Village Clerk shall issue a monthly bill that is two (2) times the minimum bill of the three thousand (3000) gallons (i.e. six thousand gallons - 6000 gallons - per billing period) until such time there is an accurate meter reading or a remote water meter is installed and working properly on the premises.
If the estimated bill remains unpaid for thirty (30) days after its issuance, it shall become final and not adjusted by an actual reading of the water meter by Village employees. Any estimated bill may be adjusted by an actual reading of the water meter within thirty (30) days of the estimated bill issuance.
- (3) Automatic sewer rate increase. This subsection is deleted and repealed.
- (4) The tax rate described in subsection (1) of this section is to be for sewer usage and service for each period of one month or fraction thereof for each individual meter used.
- (5) Those users furnished with sewer service only and not connected with or supplied with water from the Village water supply system shall pay a monthly sewer use and service tax based upon a calculated estimate of the volume of use made by the

Waterworks Operator or Village Engineer or by such officer as may be designated by the President and Board of Trustees.

- (6) Where a single sewer services a number of individuals, dwelling units, multi-unit apartment buildings, stores, businesses, or other separate occupancies in one building, the minimum tax for each such unit or occupancy in one building for any period of one month or fraction thereof shall be 3000 gallons times the number of units. (i.e. 5 units x 3000 gallons = 15,000 gallons minimum usage)
- (7) The President and Board of Trustees are hereby authorized to establish the sewer use and service tax for manufacturing plants and other large commercial users of the Village sewer system within the corporate limits of the Village and such users shall be billed monthly for their sewer usage.
- (8) Where a single sewer services a number of individuals, dwelling units, multi-unit apartment buildings, stores, businesses, or other separate occupancies in one building, each owner, occupant and/or manager of such building, structure, or premises upon request of the Village shall provide and advise the Village of the number of individuals, dwelling units, apartment units, stores, businesses or other separate occupancies in each building, structure, or premises in the Village.

Section 4. PAYMENT OF SEWER TAX

THAT, Section 86-424 of the Code of Ordinances, Village of Burnham, Illinois, is hereby amended to read as follows:

Sec. 86-424 – Payment of sewer tax.

It shall be the duty of the Village Clerk to cause such bill or statement for sewer tax to be mailed to the consumer on a monthly basis. Subsections (d) - (1), (2), (3) are deleted and repealed.

- (1) Due date. All sewer charges shall be due and payable on or before the tenth day after the date when the statements of such charges are mailed and shall become delinquent if remaining unpaid thereafter.
- (2) Late penalty. All bills for metered or estimated sewer usage unpaid for the ten-day period provided for shall become delinquent and a penalty of ten percent (10%) of the total unpaid balance of such bill for sewer shall be added to the unpaid balance and collected in addition thereto for each billing period such total unpaid balance remains unpaid. The Village Clerk's office from time to time shall determine the time of the month, category, geographic locations, and sequence of the monthly billing cycles and the issuance of the monthly water, sewer, and garbage bills to consumers.
- (3) Repealed sections. Subsections (d) – (1), (2), (3) designating areas or geographical billing areas are hereby revoked and deleted.
- (4) Adjustment of bill. Until such time as a remote read water meter is installed on the premises, any outstanding water and sewer bill may be adjusted (by a reduction or increase) by a current actual reading of the water meter. If the meter is read within 30 days from an estimated read then the current actual reading of the water meter shall control the calculation of the bill. If there is no actual meter reading within 30 days of the issuance of the bill, then the estimated read and bill will control.
- (5) Final meter reading. All prior or existing accounts and consumers whose bill is based on part or wholly on estimated water meter readings shall be readjusted based upon current actual final water meter reading prior to the installation of a new remote water meter or in all cases where a transfer of any kind of ownership of the premises occurs.

Section 5. WATER METER READINGS

THAT, Section 86-425 of the Code of Ordinances, Village of Burnham, Illinois, is hereby amended to read as follows:

Sec. 86-425 – Water meter readings.

Charges at the rates set forth in Section 86-423 shall be made on the readings of water meters made by persons employed by the Village for such purpose. Meter readings or estimates of consumption shall be made every month. If there is no one present on the premises at the time the water meter reader makes his regular call, the Clerk shall render a minimum estimated bill for sewer consumption, which estimated bill shall be in an amount equal to two (2) times the minimum bill of 3000 gallons rendered to such consumer or to the premises serviced. (i.e. 2 x 3000 gallons minimum = 6000 gallons estimated bill)

Every water meter of every sewer user in the Village must be actually read by persons employed by the Village for such purpose each month or a minimum estimated bill will be issued to the consumer.

The sewer tax set forth in Section 86-423 shall be based on the readings of the water meters made by persons employed by the Village for such purpose. Meter readings or estimates of consumption shall be made every month. Subsections (1), (2), (3), designating areas or geographical meter readings, are deleted, revoked, and repealed.

Section 6. TERMINATION OF SERVICE FOR NON-PAYMENT

THAT, Section 86-427 of the Code of Ordinances, Village of Burnham, Illinois, is hereby amended to read as follows:

Sec. 86-427. Termination of service for non-payment.

- (1) Whenever any bill or part thereof for sewer service shall remain unpaid for a period of more than fourteen (14) days from the date of the statement or invoice provided for

in this section, a five-day sewer “**shut off notice**” shall be posted on the property on a conspicuous location and a copy mailed to the owner of record and/or the tenant, or occupant, or management agent, stating that the water shall be turned off unless the outstanding bill is paid in full. After the aforesaid fourteen (14) day period and five (5) day shut off notice, **THE WATER SHALL BE TURNED OFF FROM SERVICING THE PREMISES OF SUCH DELINQUENT CONSUMER.** Such bill for sewer service shall include any and all services rendered by the Village in performance of necessary repairs and maintenance of service pipes, meters, or other equipment related to the sewer or water supply servicing the subject premises, together with all filing fees, court costs and other charges incurred by the Village in the collection of such bill. After payment of the bill in arrears on terms satisfactory to the Village, the water supply shall be turned on only upon payment of the turn-on fee of **one hundred fifty dollars (\$150.00)** for the services of the Village in turning off and/or turning on the water, before 5:00 p.m. during the week days; the sum of **two hundred dollars (\$200.00)** for the services of the Village in turning off and/or turning on the water after 5:00 p.m. during the weekdays or Saturdays, Sundays, and holidays.

- (2) No person, firm, association or corporation owing water or sewer charges and moving to other premises where there are water connections or where connections shall afterwards be made, shall be supplied with sewer or water until such charges in arrears are paid in full.

Section 7. LIEN FOR SEWER USE TAX

THAT, Section 86-428 of the Code of Ordinances, Village of Burnham, Illinois, is hereby amended to read as follows:

Sec. 86-428. Lien for sewer use tax.

- (1) Generally. The Village shall have a continuing lien upon and against the premises and real estate for which a sewer system is used or supplied for all sewer taxes, charges or benefits for sewer usage. Every such lien shall, upon compliance with the conditions set forth in this section, become and be prior and superior to the rights and interests of creditors, judgment creditors, mortgagers' encumbrances, purchasers, tax sale purchasers and any other parties in interest in such premises and real estate.
- (2) Notice of Lien. Whenever a bill for sewer usage, which service shall include any and all services rendered by the Village in the performance of necessary repair and maintenance of the service pipes, meters or other equipment related to the sewer use servicing the subject premises, remains unpaid thirty (30) days after it has been rendered, the Village Clerk may file with the County Recorder of Deeds or with the county official for recording documents, a statement of lien claim. This statement shall contain the following:
 - a. A legal description of the subject premises sufficient for identification thereof;
 - b. The amount of money due for such services.
 - c. The date when such amount became delinquent; and
 - d. A notice that the Village claims a lien for such amount, as well as for all charges for sewer taxes for sewer use supplied subsequent to the period covered by the amount due.
 - e. Any and all costs and fees associated with the drafting, preparation, recording,

and collection of the lien amount and release of said lien including attorney's fees, filing fees, recording fees, and an additional processing fee of no less than fifty dollars (\$50.00).

- (3) Priority of lien. Such lien shall not be defeated in the proper amount thereof because of any error or overcharge, nor shall any such lien be defeated by proof that such sewer was used or contracted for by a tenant or occupant of the premises other than the owner. If the sewer user whose bill is unpaid is not the owner of the premises, and the Village Clerk has notice of this, notice shall be mailed to the owner of the premises, if his address is known to the Clerk, whenever such bill remains unpaid for a period of thirty (30) days after it has been rendered. The failure to mail such notice or the failure of the owner of the premises to receive such notice shall not affect or impair the right to foreclose the lien for unpaid sewer usage bills as provided in this section.

**Section 8. INSTALLATION AND CONNECTION OF WASTELINE SERVICE
TO PUBLIC SEWER**

THAT, Section 86-431 of the Code of Ordinances, Village of Burnham, Illinois, is hereby amended to read as follows:

Sec. 86-431. Installation and connection of wasteline service to public sewer.

- (1) Installation. Every person desiring to connect a building wasteline to the public sewer shall, at his own cost and expense, install such waste drain from the point of such tap into the public sewer to the end of the building wasteline.
- (2) Repairs and maintenance. It shall be the responsibility of the person utilizing the public sewer to maintain the building wasteline from the property line to the point of

the building drain. Such maintenance shall include keeping such wasteline clean and free flowing, and the repair or replacement thereof in the event of broken or defective tie-ups. Repair or replacement of the wasteline shall be to the specifications established by Article X of Chapter 18 and shall be inspected by the plumbing inspector, Waterworks Operator, or Village Engineer prior to backfilling.

- (3) Ownership of wasteline. After installation by the consumer, the Village will own and maintain the service wasteline from the point of the tap in to the public sewer to the property line of the consumer.

Section 9. PENALTY FOR VIOLATION – ADMINISTRATIVE HEARING

THAT, Section 86-433 of the Code of Ordinances, Village of Burnham, Illinois, is hereby amended to read as follows:

Sec. 86-433. Penalty for violation – Administrative Hearing.

- (1) Any owner, or person, firm, corporation, association, agent or legal representative violating the provisions of this Chapter 86 – Sewer Use and Services Tax, its Articles, Sections, Divisions or Subsections, shall be subject to a penalty of not less than \$100.00 and not more than \$1000.00 for each offense. Each day that the violation continues shall subject such person to an additional penalty of not less than \$100.00 and not more than \$1000.00. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. A determination by an Administrative Hearing Officer that a violation of this article has taken place and the assessment of a penalty thereof shall not preclude the Village from seeking a recovery of any unpaid charges, fees, or other sums due the Village under this or other ordinances because of the furnishing by the Village of its utility services.

- (2) In addition to the penalty set forth above, the Village shall have the authority to discontinue or shut off the supply of water to any owner, person, firm, corporation, association, agent, or legal representative who violates or disobeys, or who omits, neglects, or refuses to comply with, or who resists the enforcement of or implementation of, any of the provisions of this Article.
- (3) However, any refusal or failure to install new remote read water meters shall carry a minimum mandatory fine of five hundred dollars (\$500.00) against any owner, person, firm, corporation, association, agent, or legal representative.
- (4) All proceedings for violations of this Chapter 86- Sewer Use and Service Tax shall be processed and proceed under the administrative adjudication procedures of Chapter 2 – Administration – Article VII – Administrative adjudication of non-vehicular code violations.

Section 10. RECORDING WITH RECORDER OF DEEDS

A copy of this Ordinance, properly certified by the Village Clerk, shall be filed in the Office of the Recorder of Deeds of Cook County, and shall be deemed notice to all owners of real estate of their liability for service supplied to any user of the service of the sewer system of said Village on their properties, and it shall be the duty of the Village Clerk and such other officers of the Village to take all action necessary or required by the laws of the State of Illinois thereunto enabling to file all claims and liens for money due to the Village and to prosecute and enforce such claims in the manner, form and time as permitted by the laws of the State of Illinois.

Section 11. REPEALER OF CONFLICTING ORDINANCES

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 12. SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or the application thereto any person or circumstance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such decision shall not affect the validity of the remaining sections, subsections, paragraphs, sentences, clauses or phrases of this Ordinance or the application of such portion to other persons or circumstances, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any portion.

Section 13. EFFECTIVE UPON PASSAGE

This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

Section 14. LEGISLATIVE ACT OF HOME RULE MUNICIPALITY

This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such Ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or, (b) legislate in a manner or regarding a manner not delegated to municipalities by state law. It is the intent of the Corporate Authorities of the Village of Burnham, Cook County, Illinois, that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, that this Ordinance should supersede state law in that regard within its jurisdiction.

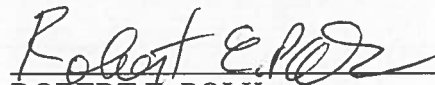
Section 15. PUBLISHED IN PAMPHLET FORM

This Ordinance shall be published in pamphlet form by the authority of the Village President (Mayor) and the Board of Trustees of the Village of Burnham, Cook County, Illinois.

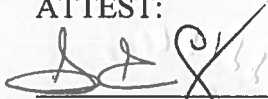
PASSED By the Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois, this 13th day of February, 2018.

PRESIDENT AND VILLAGE BOARD MEMBERS

	AYES:	NAYS:	ABSENT:	ABSTAIN:
Trustee John Cap Jr.	<u>X</u>	_____	_____	_____
Trustee Denise Bonner	<u>X</u>	_____	_____	_____
Trustee Graciela Garcia	<u>X</u>	_____	_____	_____
Trustee Brenda Greer	<u>X</u>	_____	_____	_____
Trustee Carmella Richardson	<u>X</u>	_____	_____	_____
Trustee Travis Claybrooks	<u>X</u>	_____	_____	_____


ROBERT E. POLK
Village President (Mayor)

ATTEST:




LUS E. CHAVEZ
Village Clerk (SEAL)

Recorded in Village Records:

Published in pamphlet form by authority of the Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois, on this 13th day of February, 2018.

ATTEST:



LUS E. CHAVEZ, VILLAGE CLERK
(SEAL)