ADU Sewer Capacity Charges: Connection Authority, Proportionality, and OVSD

Updated November 6, 2026 | ADURights.org | Public legal-policy analysis, not a judicial determination

Scope. This analysis sets out ADURights.org's contested interpretation of California Government Code section 66311.5(e), summarizes HCD's contrary November 2, 2026 correspondence, and identifies additional questions concerning OVSD's fee methodology. It does not conclude that any particular charge has been adjudicated unlawful.

1. Core statutory question

Government Code section 66311.5(e) addresses when an agency may require a new or separate connection directly between certain ADUs and a utility, and states that the connection may be subject to a connection fee or capacity charge, consistent with Government Code section 66013 and proportionality and reasonable-cost limits.

ADURights.org's interpretation: The statute links the capacity-charge authorization to the new or separate direct-connection framework. When an ADU uses an existing private lateral and the district requires no new direct connection, ADURights.org questions whether subdivision (e) authorizes a separate capacity charge. This is a disputed statutory reading, not an established court holding.

2. Earlier HCD guidance and the November 2026 change

HCD's November 23, 2020 Technical Assistance Letter discussed the relationship between direct connections and fees. The original analysis highlighted HCD's statement, “If such a connection is mandated, then a fee or charges may be imposed.” HCD's June 6, 2026 correspondence also supported a distinction between a new connection directly to the utility and a connection through an existing private sewer lateral.

On November 2, 2026, however, HCD sent a document titled “Letter of Technical Assistance” to Dennis McNulty, OVSD's General Counsel. Its analysis expressly states:

> “Previously, there was some confusion about the fees OVSD charges and the requirements of the statute. This letter supersedes HCD’s prior informal guidance on this topic.”

The letter distinguishes **connection fees** (for creating a direct physical connection) from **capacity charges** (for additional system demand). HCD states that a connection fee is not appropriate for an indirect private-lateral connection, but that a capacity charge can be appropriate whether the ADU connection is direct or indirect, provided statutory limits are met.

HCD does not expressly identify every earlier communication superseded by its statement, nor does that sentence expressly identify the November 23, 2020 formal letter as withdrawn. The relationship among these documents merits a clear explanation.

3. HCD's conclusion is conditional

The November 2 letter concludes:

> “So long as OVSD’s fees and charges conform to the requirements in Government Code section 66311.5, subdivision (e), they are not inconsistent with State ADU Law.”

This supports HCD's interpretation that an indirect connection does not categorically bar a capacity charge. It does **not**, on its face, provide a parcel-by-parcel audit of OVSD's fee assessments or a detailed evaluation of its original

residential fee allocations and supplemental ADU calculations.

4. Application to individual ADUs

Whether a property uses an existing private lateral, and whether that lateral is physically adequate, are material facts to document. They do not by themselves resolve whether the ADU imposes additional demand on the public collection, conveyance, or treatment system. The hydraulic carrying capacity of a private pipe and the capacity accounted for by a district-wide fee are different concepts.

For a particular property, relevant records include the connection arrangement, applicable ADU classification, original capacity assessment, any assigned-capacity determination, the ADU's DFU or size calculation, and the cost-of-service basis used for the new charge.

5. OVSD's two capacity-charge methodologies

ADURights.org identifies a potential inconsistency in OVSD's method: a newly connected primary dwelling generally receives a standard residential capacity-unit charge rather than an individualized assessment based on its precise square footage or DFUs, while a qualifying ADU may receive a supplemental charge calculated according to DFUs.

For illustration, if a very large home and a 400-square-foot home each pay the same approximately $16,000 initial charge, then the smaller home adds a 200-square-foot ADU, the latter parcel may incur another capacity charge even though its combined size and fixture count remain much smaller. These sizes and amounts are illustrative, not verified assessments of particular properties.

Central question: What demand or system-capacity allocation is represented by the original standard residential charge, and how does the district account for that prior payment when calculating a supplemental ADU charge? A standard-unit methodology may be defensible, but OVSD should document how its different charge calculations satisfy the governing proportionality and reasonable-cost requirements.

6. Recurring sewer-service charges are a separate issue

Under the dwelling-unit-based service-factor approach described in OVSD-82, an additional qualifying ADU generally receives another residential sewer-service unit. This means a small primary home with a small ADU may pay two basic service-unit charges while a much larger single residence pays one. These ongoing charges are distinct from one-time capacity fees and must be assessed under their own applicable rate and cost-allocation rules.

The combined financial burden is relevant to homeowner impacts, but paying two service charges does not, by itself, prove that a capacity charge violates section 66311.5(e).

7. Competing interpretations and remaining evidence

HCD/OVSD position: An ADU adds plumbing fixtures and may increase demand on the sewer system regardless of whether it connects through an existing private lateral. A capacity charge may be lawful without a new physical connection, if proportionate and within reasonable cost.

ADURights.org position: The wording and sequencing of section 66311.5(e), together with earlier HCD guidance, support a direct-connection limitation on this ADU-specific charging authority. Even if HCD's newer interpretation governs, the district must substantiate the amount and methodology of its charges.

Needed evidence: OVSD's adopted schedule, cost and demand studies, capacity-unit definitions, assigned-capacity accounting, methodology for primary residences versus ADUs, and fee calculations for individual parcels.

8. Conclusion and requested clarification

ADURights.org requests that HCD identify the earlier informal guidance superseded on November 2, explain how its interpretation follows the statutory text, and clarify how proportionality is evaluated where standard primary-residence charges and DFU-based ADU charges operate together. OVSD should make the calculations and supporting cost allocations publicly reviewable.

Neither the original 2020 correspondence nor the newer November 2026 letter is a court judgment resolving every individual assessment. This analysis is advocacy concerning a disputed statutory and cost-allocation issue.

Primary documents

HCD November 2, 2026 correspondence

HCD June 6, 2026 correspondence

HCD November 23, 2020 Technical Assistance Letter

Editorial note: Replaces the May 2026 version to incorporate HCD's November 2 correspondence. Sources should be read in full; linked documents are presented as the underlying record.