

**CITY OF OAKLAND**  
**AGENDA REPORT**

2010 JUL -8 PM 2: 57

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Public Works Agency  
DATE: July 20, 2010

RE: **Report And Public Hearing On The Proposed Service Charge Increase And Introduction Of An Ordinance Amending Chapter 13 of The Oakland Municipal Code Increasing Sewer Service Charge**

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**SUMMARY**

On May 4, 2010 the City Council passed a resolution of intention to increase the sewer service charge. The increase is required to fund new, aggressive maintenance programs mandated by the U.S. Environmental Protection Agency (EPA), the U.S. Department of Justice, and the Regional Water Quality Control Board (RWQCB). The resolution also initiated the majority protest proceeding necessary to implement the proposed increase as required by Article XIII-D of the California Constitution.

The actions requested of the Council include:

- ❖ Open the Public Hearing on the proposed rate increase and accept public comments;
- ❖ Close the Public Hearing and request tabulation of the protests; and
- ❖ If a majority of property owners have not protested the proposed rate increase, introduce the ordinance enacting the sewer service charge increase.

**FISCAL IMPACT**

The proposed sewer service charge increase is necessary to fund mandated increase in sewer maintenance activities. Adoption of the ordinance increasing the charge will assure the sewer fund has sufficient money for those mandates. If the proposed fee is not increased, the sewer fund will not have sufficient revenues to support these mandated activities, which may need to be funded through other resources, such as the general fund.

**BACKGROUND**

At the May 4, 2010 Council meeting, staff provided a detailed report on the new sewer regulations mandated by the U.S. EPA, the Department of Justice, and the Regional Water Quality Control Board. Staff reported that Oakland is now required to develop, fund, and

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implement aggressive maintenance and long-term capital improvement programs with the goal of minimizing the risk of sanitary sewer overflows and wet-weather discharges.

Following that report, Council passed a resolution of intention to increase the sewer service charge and initiated a majority protest proceeding as required by Article XIII-D of the California Constitution.

Following that action and in compliance with the requirements of Article XIII-D to provide 45-day notice prior to the public hearing, a notice of the public hearing were mailed to each property owner in Oakland. After that mailing, staff determined that the public comment period had to be extended in order to meet the 45-day period requirements. A second notice was sent to all property owners on June 3, 2010 notifying them of the extension and changing the public hearing date to July 20, 2010. The notice included details of the proposed sewer service charge increase.

### **KEY ISSUES AND IMPACTS**

There are 95,125 parcel owners in Oakland. 47,563 property owners must protest to constitute a majority protest against the proposed charge increase. If a majority of the property owners do not protest the proposed increase, the Council may close the public hearing and may introduce an ordinance to increase the sewer service charge.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** Increases in sewer operations and maintenance will help minimize the risk of sanitary sewer overflow, which impact the business environment and community. Capital improvements also create jobs and stimulate the local economy. Capital projects utilize the City's Local, Small Local Business, and Local Employment Programs.

***Environmental:*** Since its inception, the City's I/I program has resulted in significantly reduced overflows of sanitary sewage during wet-weather. Construction of the capital improvements will continue to reduce the probability of such overflows. This program has already resulted in a significantly cleaner and healthier environment for Oakland's residents. The level of increased inspection and maintenance will significantly reduce the potential for sanitary sewer overflows.

***Social Equity:*** The increased maintenance and long-term improvements to the sanitary sewer system impacts the entire community as it improves the environment for all. The program implementation is a city-wide effort and is not specific to any geographical location. Construction projects will utilize the Local Employment Programs, providing needed jobs to Oakland residents.

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**DISABILITY AND SENIOR CITIZEN ACCESS**

There is no direct impact or benefit to persons with disabilities or seniors under this action. Capital improvements to the sanitary sewer system, when constructed in sidewalk areas, will include construction of curb ramps.

**RECOMMENDATION AND RATIONALE**

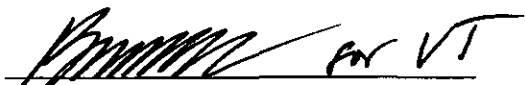
Should a majority of parcel owners not protest the proposed increases, staff recommends that the Council enact the ordinance to amend Chapter 13 of the Oakland Municipal Code and initiate increases in the sewer service charge beginning January 2011.

**ACTION REQUESTED OF THE CITY COUNCIL**

The actions requested of the Council include:

- ❖ Open the Public Hearing on the majority protest proceeding and take public comments;
- ❖ Close the Public Hearing and request tabulation of the protests; and
- ❖ Introduce the ordinance enacting the sewer service charge increase.

Respectfully submitted,



Vitaly B. Troyan, P.E., Interim Director  
Public Works Agency

Reviewed by:  
Michael Neary, P.E., Assistant Director,  
Department of Engineering and Construction

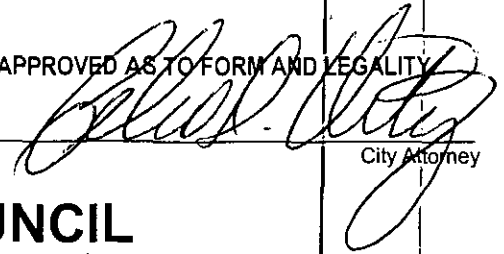
Prepared by:  
Gus Amirzehni, P.E., Division Manager,  
Engineering Design & R.O.W. Management Division

APPROVED AND FORWARDED  
TO THE CITY COUNCIL

  
Office of the City Administrator

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APPROVED AS TO FORM AND LEGALITY



City Attorney

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

**OAKLAND CITY COUNCIL**  
**ORDINANCE NO. \_\_\_\_\_ C.M.S.**

**A ORDINANCE AMENDING CHAPTER 13 OF THE OAKLAND MUNICIPAL CODE (Section 13.04.020) INCREASING THE SEWER SERVICE CHARGE AND PROVIDING FOR ANNUAL INCREASES OF SIXTEEN PERCENT THROUGH JANUARY 1, 2013 AND INCREASES BASED ON THE CONSUMER PRICE INDEX THEREAFTER**

**WHEREAS**, the City was ordered by the United States Environmental Protection Agency and the Bay Area Regional Water Quality Control Board in 2009 to reduce overflows and wet-weather flows from public sanitary sewers; and

**WHEREAS**, the new requirements require the City to significantly increase its maintenance and Infiltration and inflow correction programs; and

**WHEREAS**, such programs involve expenditure of public funds to operate and maintain the system; and

**WHEREAS**, the sewer service charge rates fund the City's sanitary sewer maintenance and capital improvement programs; and

**WHEREAS**, the City Council of the City of Oakland finds and determines that the current sewer service charge rates are not adequate to fund the needed programs mandated under the new requirements; and

**WHEREAS**, the City Council of the City of Oakland finds it necessary and prudent to increase the sewer service charge rates to adequately fund the capital improvements and maintenance and operations required under the new requirements; and

**WHEREAS**, the City Council of the City of Oakland finds and determines that the requirements of the California Environmental Quality Act (CEQA) of 1970, the Guidelines as prescribed by the Secretary for Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act: City of Oakland, have been satisfied, and this action on the part of the City Council does not constitute a project under CEQA pursuant to California Public Resources Code Section 21080 (b)(8); or in the alternative, that this Ordinance is a project subject to CEQA that the Council has determined with certainty that no possibility exists that this Ordinance may produce significant environmental effects; and

**WHEREAS**, Article XIII-D of the California Constitution requires that (1) revenues derived from the sewer service charge shall not exceed the funds required to provide the property related service; (2) revenues derived from the sewer service charge shall not be used for any purpose other than that for which the charge was imposed, and (3) that the amount of the sewer service charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel; and

**WHEREAS**, the proposed sewer service charge increase is based on the cost of providing the capital improvements required and for the maintenance and operation of the sanitary sewer system; and

**WHEREAS**, at the general election of November 5, 1996, the voters of the State of California amended the state constitution, adding Article XIII-D, which requires that all new property related fees for water, sewer or refuse service are subject to a majority protest proceeding; and

**WHEREAS**, Article XIII-D provides that charges may be increased within limits previously approved, since increases in the costs of providing these services are likely, a rate increase structure should be included, and provide a maximum rate of increase; and

**WHEREAS**, in order to comply with Article XIII-D of the California Constitution, the City must provide written notice to the record owner of each parcel subject to the proposed sewer service charge increase (a) the amount of the sewer service charge proposed to be imposed upon each, (b) the basis upon which the amount of the proposed sewer service charge was calculated, (c) the reason for the sewer service charge increase, and (d) the date, time and location of a public hearing on the proposed sewer service charge increase; and

**WHEREAS**, following a public hearing and if there is no majority protest, the City Council may, by ordinance, adopt the proposed amendments to Chapter 13 of the Oakland Municipal Code; now, therefore,

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.**

Section 13.04.020 of Chapter 13 of the Oakland Municipal Code is amended to now read:

**13.04.020 Imposition of sewer service charge.** Every party in whose name sewage disposal service of the East Bay Municipal Utility District (District) is granted shall pay a sewer service charge according to the rates as follows, beginning with the first billing period following January 1, 2011:

- A. A monthly charge of twenty-five dollars and eighty cents (\$25.80) is established and assessed for the use of sewer facilities for every single-family residence as defined by the District's Business Classification Code 8800, Private Residence.

B. For multiple-family dwellings, as defined by the District's Business Classification Code 6513, Multiple Dwelling, the following monthly charges are established and assessed for the use of sewer facilities:

- a) Duplexes: twenty-eight dollars and ninety-five cents (\$28.95) per month;
- b) Triplexes: forty-three dollars and forty-three cents (\$43.43) per month;
- c) Fourplexes: fifty-seven dollars and ninety-two cents (\$57.92) per month.

C. For residential premises not included in subsection A or B of this section, a charge based upon the cubic feet of water used on the premises will be made for the use of sewer facilities, which charge shall be computed and levied as follows:

- a) One dollar and seventy-six cents (\$1.76) per one hundred (100) cubic feet per month.

In no case shall the total monthly charge be less than twenty-five dollars and eighty cents (\$25.80).

D. For premises in the district's "commercial," "industrial," and "public authority" business certifications, a charge based on cubic feet of water used upon the premises will be made for the use of sewer facilities, which charge shall be computed and levied as specified below:

- a) Industrial accounts: one dollar and sixty cents (\$1.60) per one hundred (100) cubic feet per month;
- b) Commercial accounts: one dollar and seventy-six cents (\$1.76) per one hundred cubic feet per month;
- c) Restaurants/hotels: one dollar and eighty-two cents (\$1.82) per one hundred cubic feet per month;
- d) Hospitals: one dollar and ninety-six cents (\$1.96) per one hundred (100) cubic feet per month;
- e) Laundromats/car washes: two dollars and six cents (\$2.06) per one hundred (100)
- f) cubic feet per month.

In no case shall the total monthly charge be less than twenty-five dollars and eighty cents (\$25.80).

E. For premises with a sewage meter for measuring actual sewage flow from such premises, a charge based on cubic feet of measured sewage flow from the premises, and applicable to all buildings for water consumption cycles commencing on and after January 1, 2011, will be made for the use of sewer facilities, which charge shall be computed and levied as follows:

- a) Two dollars and thirteen cents (\$2.13) per one hundred cubic feet of sewage flow per month.

In no case shall the total monthly charge be less than twenty-five dollars and eighty cents (\$25.80).

- F. The sewer service charges established and assessed in subsections C and D of this section shall be applicable to premises where no meter is installed or available in said premises for measuring the volume of sewage from such premises into sewers. The sewer service charge for these premises shall be based upon the total amount of water used from all sources, as ascertained by the district, for sewage disposal service charges imposed by such district within the City.
- G. The sewer service charge established and assessed in subsection E of this section shall be applicable to premises where a portion of the water received from any source does not flow into sewers because of manufacturing or removal by other means and a meter is installed or available in said premises for measuring the volume of sewage from such premises into sewers. The sewer service charge for these premises shall be based upon the volume of sewage discharging from such premises into the sewers, as ascertained by the district for sewage disposal service charges imposed by the district within the City.
- H. The charges established and assessed in subsections A through E of this section shall become due and payable on receipt of bill therefore. Such charges shall be paid directly to the City or to the district, as directed upon the bill. (Ord. 11801 § 1 *Exhibit A*, 1995: prior code § 6-7.02)
- I. Beginning with annual billing period that begins on or after January 1, 2012, the sewer service charge rates established above shall be increased by sixteen percent (16%) annually through the annual billing period that begins on or after January 1, 2013.
- J. For the annual billing period that begins on or after January 1, 2014, the sewer service charge rates shall be increased at an annual rate equal to but not to exceed the prior years percentage change in the Consumer Price Index for the San Francisco Bay Area, compiled by the United States Department of Labor, Bureau of Labor Statistics, or successor thereto, between such Index as of June in the year prior to the year in which rates are being increased and June twelve (12) months earlier, as provided for the use of sewer facilities owned and operated by the City.

## Section 2.

The City Council makes the following findings and determinations in support of adopting this Ordinance, in compliance with Article XIII-D of the California Constitution:

- a) Revenues derived from the sewer service charge do not exceed the funds required to provide the property related service, and
- b) Revenues derived from the sewer service charge will not be used for any purpose other than that for which the charge was imposed, and
- c) The amount of the sewer service charge imposed upon any parcel or person as an incident of property ownership does not exceed the proportional cost of the service attributable to the parcel, and

- d) The proposed sewer service charge increase is based on the cost of providing the service of the sanitary sewer system, and
- e) The City of Oakland submitted written notice to the record owner of each parcel subject to the proposed sewer service charge increase, in compliance with the majority protest proceeding requirements, notifying (1) the amount of the sewer service charge proposed to be imposed upon each, (2) the basis upon which the amount of the proposed sewer service charge was calculated, (3) the reason for the sewer service charge increase, and (4) the date, time and location of a public hearing on the proposed sewer service charge increase, and
- f) The City Council held a public hearing on July 20, 2010 to hear public comments and protests, and finds that there was no majority protest, and
- g) All other requirements for the imposition of the increased fee have been met.

**Section 3.**

This Ordinance shall take effect January 1, 2011.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
 LaTonda Simmons  
 City Clerk and Clerk of the Council  
 of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_



**CITY OF OAKLAND  
SEWER SERVICE CHARGES AND RATES  
EFFECTIVE JANUARY 01, 2011**

<b>BCC</b>	<b>Description</b>	<b>Metered Rate Per ccf</b>	<b>BCC</b>	<b>Description</b>	<b>Metered Rate Per ccf</b>
0100	Agriculture	1.60	3900	Miscellaneous Mfg.	1.60
0700	Veterinarian Services	1.76	4000	Railroad Transt	1.60
1200	Mining and Wuarrying	1.60	4100	Local/Suburb Transt	1.60
1500	Construction	1.60	4200	Warehousing	1.60
2010	Meat Prod-Proc/Pkg	1.60	4400	Water Transportation	1.60
2011	Slaughterhouse	1.60	4500	Air Transportaion	1.60
2020	Dairy Prod Processing	1.60	4700	Tranportation Sevcs	1.60
2030	Fruit/Vegetable Canning	1.60	4800	Elect Communications	1.60
2040	Grain Mills	1.60	4900	Elec., Steam, Nat Gas	1.60
2050	Bakeries	1.60	4950	Sanitary Coll/Disposal	1.60
2051	Bakeries-Bread Only	1.60	5000	Wholesale Trade	1.76
2060	Sugar Processing	1.60	5300	Retail Trade	1.76
2070	Fats and Oils	1.60	5400	Food Sales	1.76
2077	Rendering Tallow	1.60	5540	Gas/Oil Dealers	1.76
2080	Beverage Mfg.	1.60	5811	Restaurant-Fast Food	1.82
2090	Specialty Food Mfg.	1.60	5812	Restaurant	1.82
2091	Seafood Processing	1.60	5813	Drinking Bar/Club	1.82
2300	Textile Goods Mfg.	1.60	6500	Cemeteries	1.76
2400	Lumber & Wood Mfg.	1.60	6513	Apt Bldg - 5 or More	1.76
2500	Furniture	1.60	6800	Ofices	1.76
2600	Pulp & Paper Prod Mfg.	1.60	7000	Hotels with Food	1.82
2700	Printing Publishing	1.60	7001	Hotels without Food	1.82
2810	Inorganic Chem Mfg.	1.60	7020	Boarding Houses	1.82
2820	Synthetic Material Mfg.	1.60	7200	Personal Services	1.76
2830	Drugs Mfg.	1.60	7210	Commercial Laundries	2.06
2840	Clean & Sanitary Prod Mfg.	1.60	7215	Coin Laundromats	2.06
2850	Paint Mfg.	1.60	7216	Clean & Dye Fabrics	2.06
2860	Organic Chemicals Mfg.	1.60	7218	Industrial Laundries	2.06
2870	Agriculture & Chem Mfg.	1.60	7260	Crematory, Funeral Home	1.76
2891	Adhesive & Gelatin Mfg.	1.60	7300	Laboratories	1.76
2893	Ink & Pigment Mfg.	1.60	7342	Fumigating	1.76
2900	Petroleum Prod Mfg.	1.60	7500	Automobile Repair Sves	1.76
3000	Rubber Products	1.60	7539	Battery Services	1.76
3110	Leather Tanning	1.60	7542	Auto Laundries	2.06
3200	Earthenware Mfg.	1.60	7600	Misc Repair Services	1.76
3300	Primary Metals Mfg.	1.60	7699	Septic Tank Cleaning	1.76
3400	Metal Prod Fabrication	1.60	7900	Amusement Services	1.76
3410	Drums & Barrels Mfg.	1.60	7940	Equestrian Activities	1.76
3470	Metal Finishing	1.60	7950	Irrigation Use Only	Exempt
3500	Machinery Mfg.	1.60	7990	Parks and Gardens	1.76
3590	Machine Shop Repair	1.60	8000	Health Services	1.76
3600	Electric Machine Mfg.	1.60	8060	Hospitals	1.96
3700	Trans Equip Mfg.	1.60	8200	Schools	1.76
3730	Shipbuilding	1.60	8600	Non-Profit Services	1.76
3800	Precision Equip Mfg.	1.60			

NOTICE AND DIGEST

**AN ORDINANCE AMENDING  
CHAPTER 13 OF THE OAKLAND MUNICIPAL CODE  
(Section 13.04.020) INCREASING THE SEWER SERVICE CHARGE  
AND PROVIDING FOR ANNUAL INCREASES OF SIXTEEN PERCENT  
THROUGH JANUARY 1, 2013 AND INCREASES BASED ON THE CONSUMER  
PRICE INDEX THEREAFTER**

This Ordinance will amend chapter 13 of the Oakland Municipal Code (Section 13.04.020) to increase the sewer service charge by annual increases of sixteen percent for each year through January 1, 2013. Beginning with the annual billing period that begins on or after January 1, 2014 the ordinance would increase the sewer service charge at a rate equal to but not to exceed the prior years percentage change in the Consumer Price Index for the San Francisco Bay Area, as compiled by the United States Department of Labor, between such index as of June in the prior year and the June twelve months earlier.