

INTRODUCED BY COUNCILMEMBER _____

Bruce M. Kelly
CITY ATTORNEY

ORDINANCE No. 12540 C.M.S.

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2003 SEP -4 AM 11:26

**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 ELEVEN PERCENT
THROUGH JANUARY 1, 2009 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 to eliminate wet weather overflows from public sanitary sewers; and

WHEREAS, the City has prepared a Compliance Plan consisting of an infiltration/inflow (I/I) correction program to eliminate those overflows; and

WHEREAS, such Compliance Plan involves a large expenditure of public funds to operate and maintain the system; and

WHEREAS, the Council of the City of Oakland on June 23, 1987, previously approved in Ordinance No. 10876 C.M.S. a Negative Declaration for the sanitary sewer infiltration/inflow (I/I) correction program; 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 costs required under the Compliance Plan and to provide for annual increases thereto for the operation and maintenance of the system; 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 a property-related fee (1) shall not exceed the funds required to provide the property related service; (2) revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed, and (3) that the amount of the

fee or 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 amended sewer service charge is based on the cost of providing 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 fees may be increased within limits previously approved, since increases in the costs of providing these services are likely, a rate increase structure is included herein, and a maximum rate of increase is provided herein; and

WHEREAS, in order to comply with Article XIII-D of the California Constitution, the City provided written notice to the record owner of each parcel subject to the proposed fee (a) the amount of the fee or charge proposed to be imposed upon each, (b) the basis upon which the amount of the proposed fee or charge was calculated, (c) the reason for the fee or charge, and (d) the date, time and location of a public hearing on the proposed fee or charge; 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 City Council of the City of Oakland does ordain and find as follows:

SECTION I

Section 13.04.020 of Chapter 13 of the Oakland Municipal Code is amended to add subsections I and J thereto, so that the entirety of Section 13.04.020, with the added subsections I and J, shall 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, 2004:

- A. A monthly charge of thirteen dollars and twenty cents (\$13.20) 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: fourteen dollars and eighty-one cents (\$14.81) per month;
 - b. Triplexes: twenty-two dollars and twenty-two cents (\$22.22) per month;
 - c. Fourplexes: twenty-nine dollars and sixty-three cents (\$29.63) 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. Ninety cents (\$0.90) per one hundred (100) cubic feet per month.

In no case shall the total monthly charge be less than thirteen dollars and twenty cents (\$13.20).

- 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: eighty-two cents (\$0.82) per one hundred (100) cubic feet per month;
 - b. Commercial accounts: ninety cents (\$0.90) per one hundred cubic feet per month;
 - c. Restaurants/hotels: ninety-four cents (\$0.94) per one hundred cubic feet per month;
 - d. Hospitals: one dollar (\$1.00) per one hundred (100) cubic feet per month;
 - e. Laundromats/car washes: one dollar and five cents (\$1.05) per one hundred (100) cubic feet per month.

In no case shall the total monthly charge be less than thirteen dollars and twenty cents (\$13.20).

- 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, 2004, will be made for the use of sewer facilities, which charge shall be computed and levied as follows:
- a. One dollar and ten cents (\$1.10) per one hundred cubic feet of sewage flow per month.

In no case shall the total monthly charge be less than thirteen dollars and twenty cents (\$13.20).

- 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. (Ordinance 11801 § 1 Attachment A, 1995: prior code § 6-7.02)
- I. Beginning with annual billing period that begins on or after January 1, 2005, the sewer service charge rates established above shall be increased by eleven percent (11%) annually through the annual billing period that begins on or after January 1, 2009.
- J. For the annual billing period that begins on or after January 1, 2010, 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 II

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 September 16, 2003 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 III

This Ordinance shall take effect January 1, 2004.

IN COUNCIL, OAKLAND, CALIFORNIA SEP 30 2003
PASSED BY THE FOLLOWING VOTE:
AYES: BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND
PRESIDENT DE LA FUENTE

NOES: 0
ABSENT: 0
ABSTAIN: 0

~~I certify that the foregoing is a full, true and correct copy of an Ordinance passed by the Council of the City of Oakland, California.~~

ATTEST

Sherrill Koubel

SHERRILL FLOYD

City Clerk and Clerk of the Council

~~Per _____ Deputy~~

ATTACHMENT A
SEWER SERVICE CHARGE VOLUME RATES BASED ON WATER CONSUMPTION
EFFECTIVE JANUARY 01, 2004

BCC ⁽¹⁾	Description	Metered Rate Per ccf ⁽²⁾	BCC ⁽¹⁾	Description	Metered Rate Per ccf ⁽²⁾
0100	Agriculture	0.82	3900	Miscellaneous Mfg.	0.82
0700	Veterinarian Services	0.90	4000	Railroad Transportation	0.82
1200	Mining and Quarrying	0.82	4100	Local/Suburb Transportation	0.82
1500	Construction	0.82	4200	Warehousing	0.82
2010	Meat Products/Process/Packaging	0.82	4400	Water Transportation	0.82
2011	Slaughterhouse	0.82	4500	Air Transportation	0.82
2020	Dairy Product Processing	0.82	4700	Transportation Services	0.82
2030	Fruit & Vegetable Canning	0.82	4800	Elect Communications	0.82
2040	Grain Mills	0.82	4900	Elec., Steam, Nat Gas	0.82
2050	Bakeries (including pastries)	0.82	4950	Sanitary Collection & Disposal	0.82
2051	Bakeries-Bread Only	0.82	5000	Wholesale Trade	0.90
2060	Sugar Processing	0.82	5300	Retail Trade	0.90
2070	Fats and Oils	0.82	5400	Food Sales	0.90
2077	Rendering Tallow	0.82	5540	Gas/Oil Dealers	0.90
2080	Beverage Mfg.	0.82	5811	Restaurant-Fast Food	0.94
2090	Specialty Food Mfg.	0.82	5812	Restaurant	0.94
2091	Seafood Processing	0.82	5813	Drinking Bar/Club	0.94
2300	Textile Goods Mfg.	0.82	6500	Cemeteries	0.90
2400	Lumber & Wood Mfg.	0.82	6513	Apt Bldg - 5 or More	0.90
2500	Furniture	0.82	6800	Offices	0.90
2600	Pulp & Paper Prod Mfg.	0.82	7000	Hotels with Food	0.94
2700	Printing Publishing	0.82	7001	Hotels without Food	0.94
2810	Inorganic Chemical Mfg.	0.82	7020	Boarding Houses	0.94
2820	Synthetic Material Mfg.	0.82	7200	Personal Services	0.90
2830	Drugs Mfg.	0.82	7210	Commercial Laundries	1.05
2840	Clean & Sanitary Prod Mfg.	0.82	7215	Coin Laundromats	1.05
2850	Paint Mfg.	0.82	7216	Clean & Dye Fabrics	1.05
2860	Organic Chemicals Mfg.	0.82	7218	Industrial Laundries	1.05
2870	Agriculture & Chemical Mfg.	0.82	7260	Crematory, Funeral Home	0.90
2891	Adhesive & Gelatin Mfg.	0.82	7300	Laboratories	0.90
2893	Ink & Pigment Mfg.	0.82	7342	Fumigating	0.90
2900	Petroleum Prod Mfg.	0.82	7500	Automobile Repair Services	0.90
3000	Rubber Products	0.82	7539	Battery Services	0.90
3110	Leather Tanning	0.82	7542	Auto Laundries	1.05
3200	Earthenware Mfg.	0.82	7600	Misc. Repair Services	0.90
3300	Primary Metals Mfg.	0.82	7699	Septic Tank Cleaning	0.90
3400	Metal Prod Fabrication	0.82	7900	Amusement Services	0.90
3410	Drums & Barrels Mfg.	0.82	7940	Equestrian Activities	0.90
3470	Metal Finishing	0.82	7950	Irrigation Use Only	EXEMPT
3500	Machinery Mfg.	0.82	7990	Parks and Gardens	0.90
3590	Machine Shop Repair	0.82	8000	Health Services	0.90
3600	Electric Machine Mfg.	0.82	8060	Hospitals	1.00
3700	Trans Equip Mfg.	0.82	8200	Schools	0.90
3730	Shipbuilding	0.82	8600	Non-Profit Services	0.90
3800	Precision Equip Mfg.	0.82			

(1) EBMUD's Business Classification Cost Number

(2) Hundred cubic feet