



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Erin Roseman
Finance Director

SUBJECT: Mandatory Delinquent Trash Fees
2021 and 2022

DATE: May 27, 2022

City Administrator Approval

Date: Jun 10, 2022

RECOMMENDATION

Staff Recommends That City Council Conduct a Public Hearing and Upon Conclusion Adopt One Of The Following Pieces Of Legislation:

1. **A Resolution Accepting And Confirming Reports Of The City Administrator For Delinquent Trash Service Fees With Administrative And Special Assessment Charges As Necessary Pursuant To Chapter 8.28 Of The Oakland Municipal Code, And Directing The Notice Of Special Assessment Charges Be Turned Over To The County Tax Collector For Collection For The Monthly Periods Of April, May, June 2021, January, February, March 2022, Quarterly Periods Of July-September 2021, and April-June 2022 (Option 1); Or**
2. **A Resolution Overruling Protests And Objections And Accepting And Confirming Reports Of The City Administrator For Delinquent Trash Service Fees With Administrative And Special Assessment Charges As Necessary Pursuant To Chapter 8.28 Of The Oakland Municipal Code, And Directing The Notice Of Special Assessment Charges Be Turned Over To The County Tax Collector For Collection For The Monthly Periods April, May, June 2021, January, February, March 2022, Quarterly Periods Of July-September 2021, and April-June 2022 (Option 2)**

EXECUTIVE SUMMARY

Staff recommends the adoption of the proposed resolution (**Option 1**), which authorizes the levy of special assessments for delinquent trash fees, charges, and recording of said special assessments to the Alameda County Tax Collector and Auditor Controller **for inclusion on the next property tax roll, August 10, 2022**. The special assessments are made pursuant to the Mixed Materials & Organics Collection Services Contract (the Contract) executed on July 15, 2015 between the City of Oakland (the City) and Waste Management. All fees, charges, and due dates are detailed on customer invoices and delinquency notices. The action before the City Council pertains only to delinquent Waste Management accounts and does not include California Waste Solutions, Inc. (CWS) Push Rate charges. CWS Push Rate charges are billed on a separate account as an ancillary charge and are not part of the normal Waste Management billing that is subject to the special assessment. Delinquent account holders have

City Council
June 21, 2022

until July 31, 2022, to pay an outstanding bill prior to the assessment being rolled to the County for inclusion on the property tax roll.

BACKGROUND / LEGISLATIVE HISTORY

Prior to July 1, 2015, the City purchased delinquent accounts receivable from Waste Management for trash collection services provided to residential properties. The City, as owner of the delinquent accounts, collected the delinquent trash fees and charges by placing liens against subject properties. The lien process is a mechanism to secure the debt owed to the City and avoid interruption of trash collection services to residential properties.

The process was changed under the new Waste Management contract; per the contract, the City no longer purchases delinquent accounts from Waste Management, nor does it place liens on subject properties. Instead, the City now places a special assessment levy on the annual property tax bill of the subject property, as a method to secure the City's mandatory refuse administrative fee as allowed under the Oakland Municipal Code (O.M.C.) Section 8.28.250 and Waste Management's delinquent trash collection service invoices.

Significant noticing dates of the Waste Management agreement are provided in **Table 1**, below.

Table 1: Waste Management Agreement – Significant Noticing Dates

Dates	Noticing Action
Day 1	Waste Management sends initial invoice to customer.
Day 45	Waste Management sends delinquency notice to customer and may apply late fees.
Day 61	Waste Management sends final delinquency notice to customer with a past due balance notifying them of the termination of service on 90 th day if account is not paid in full.
Day 91	The City subscribes on customer's behalf for the abatement of the trash nuisance and imposes a cost recovery administrative fee.
Day 100	The City sends a Special Assessment Notice to the subject property owner informing them of the City's subscription for garbage service on their behalf and notice of administrative and Council hearings. A list of subject properties is provided to the City Clerk for public viewing.

From the date of the initial Waste Management Invoice to the public hearing, property owners have approximately 190-195 days to resolve their delinquency.

In accordance with the contract, Waste Management provides the City with a list of accounts for which it will terminate service for non-payment. The list includes assessor's parcel number, service address, and the delinquent amount. Pursuant to O.M.C. Section 8.28.220, following an administrative hearing, a report of the proposed special assessments is submitted to the City Council. Both a paper and an electronic copy of the delinquent accounts are furnished to the City Clerk for public viewing following each administrative hearing.

ANALYSIS AND POLICY ALTERNATIVES

Waste Management notified the City of delinquent accounts for eight (8) periods: April 2021, May 2021, June 2021, January 2022, February 2022, and March 2022 (monthly), and July through September 2021 and April through June 2022 (quarterly).

On May 15, 2021 and February 15, 2022, Waste Management sent quarterly customers a delinquency notice advising of their unpaid invoices and potential late fees for the quarterly period of April through June 2021 and January through March 2022. For monthly customers, the delinquency notice was sent on the last day of the monthly billing cycle. On June 1, 2021 and on March 1, 2022, Waste Management sent a final delinquency notice to subject property owners advising them of termination of service on the 90th day if no payment was received, and subsequent subscription for garbage service by the City of their delinquent accounts. On July 20, 2021 and on April 28, 2022, the City sent a Special Assessment Notice to subject property owners advising them of the City's subscription for garbage service to their delinquent accounts.

On December 7, 2021, a postcard was mailed to delinquent property owners for the periods of July through September 2021 quarterly, April 2021, May 2021, and June 2021 (monthly) that the public hearing scheduled for December 7, 2021, had been postponed. A subsequent postcard was mailed on May 13, 2022, to delinquent property owners reminding them of the upcoming public hearing on June 21, 2022. Due to a technical glitch at the City's printing services, reminder postcards were mailed with incorrect mailing addresses. On May 31, 2022, corrected reminder postcards were mailed to the affected property owners regarding the upcoming June 21, 2022 public hearing.

Pursuant to O.M.C. Chapter 8.28.210 and the contract, the City held an administrative hearing, and each affected property owner was notified of the administrative hearing. The administrative hearings were held on August 3, 2021, May 10, 2022, and on May 24, 2022, to hear protests and resolve any inconsistencies or inequities regarding the delinquent mandatory trash fees prior to the public hearing before the City Council.

Due to the Alameda County Shelter in Place Order issued on March 16, 2020, the City of Oakland mailed to the affected property owners an Administrative Hearing Questionnaire that allowed for written protest of and to resolve any inconsistencies and inequities regarding the delinquent mandatory trash fees prior to the public hearing before the City Council. Administrative hearings were conducted via Zoom on August 3, 2021, May 10, 2022 and on May 24, 2022, for all affected property owners who submitted a questionnaire or requested a hearing via telephone. **Attachment A** provides a listing of all properties subject to the special assessment levy by the County Assessor.

Of the original list of 8,713 delinquencies, 394 cases were resolved and removed. A resolution has been prepared confirming and authorizing the special assessment levy for all fees and charges should they remain unpaid at the time of submission or transfer of recording to or by the County Assessor. These delinquent accounts do not include the CWS Push Rate charges. The list of delinquent accounts subject to the special assessment levy has been filed with the City Clerk in both paper and electronic format.

The special assessment process ensures that residential and commercial garbage is picked up, whether the garbage bill is paid to Waste Management or not and ensures that the City of Oakland is in alignment with the Citywide Priority of **holistic community safety**.

Table 2 below reflects the Waste Management billing periods, service fees and City Administrative Charges.

Table 2: Total Charges by Billing Period

Billing	Total Count	Delinquent Charges	City Admin Charges	Total Delinquent Charges
<u>Monthly</u>				
April 2021	90	\$70,676.618	\$11,383.44	\$82,060.05
May 2021	90	\$71,289.30	\$11,348.01	\$82,637.31
June 2021	105	\$100,321.52	\$14,840.25	\$115,161.77
January 2022	76	\$64,836.54	\$10,297.14	\$75,133.68
February 2022	75	\$82,187.32	\$8,700.00	\$90,887.32
March 2022	59	\$73,680.51	\$10,205.23	\$83,885.74
Monthly Total	495	\$462,991.80	\$66,774.07	\$529,765.87
<u>Quarterly</u>				
July – September 2021 ^{1 2}	3,453	\$958,101.42	\$401,351.87	\$1,359,453.29
April – June 2022	4,371	\$1,130,451.88	\$508,155.30	\$1,638,607.18
Quarterly Total	7,824	\$2,088,553.30	\$90,507.17	\$2,998,060.47
Grand Total	8,319³	\$2,551,545.10	\$976,281.24	\$3,527,826.34

Property owners owe Waste Management delinquent trash collections services totaling \$2,551,545.10 and owe City Administration Fees totaling \$976,281.24 for these service periods. In accordance with O.M.C. Chapter 8.28, the City will levy all unpaid charges and fees on the Alameda County Property Tax Roll, and deposit all payments received through the property tax roll in the City’s Mandatory Trash Fund (1700).

¹ Quarterly Waste Management billings comprise three (3) months of service for residential customers.

² July-September 2021 was continued in the September 2021 public hearing, due to the actions of City Council, the item was required to be re-noticed to the affected property owners. The number affected property owners is as of May 24, 2022.

³ The invoice totals is not a static amount, payments and account reviews can reduce the totals on a daily basis. This invoice total is as of May 28, 2022.

Table 3 reflects the number of delinquent parcels per Council District.

Table 3: Delinquent Parcels by Council District

Council District	Total Invoices	Single Family	Multi-Family
CD1	927	564	363
CD2	575	317	258
CD3	663	246	417
CD4	882	644	238
CD5	810	483	327
CD6	2,078	1,643	435
CD7	2,344	1,928	416
Unspecified ⁴	40		
Total	8,319	5,825	2,454

FISCAL IMPACT

If the City fails to collect or recover its cost covering administration fees, the City's Mandatory Trash Fund (1700) may lose a total of \$976,281.24, and the Fund will become negative. As a result, the General Purpose Fund will need to cover the costs associated with this program until such time as the City Council authorizes the special assessments and the cost covering administrative fee is recovered from the delinquent property owners.

PUBLIC OUTREACH / INTEREST

Property owners were notified and an administrative hearing for delinquent mandatory trash bills was held on August 3, 2021, May 10, 2022 and on May 24, 2022,, to hear protests and resolve any inconsistencies or inequities raised by property owners regarding the non-payment of delinquent trash charges. Property owners were afforded the opportunity to complete an Administrative Hearing Questionnaire to protest and resolve any inconsistencies or inequities before the respective administrative hearing dates, however submission of the questionnaire was not mandatory. As a result of the administrative hearing process, 394 invoices were removed from the list.

The public hearing is considered the time at which the City Council formally opens the hearing and ends when the City Council formally closes the hearing during a City Council meeting. At the public hearing, the Council will hear the City Administrator's report on delinquent trash service fees and proposed assessments, along with any objections or protests which may be raised by any of the property owners or other interested persons regarding the delinquent charges for trash services rendered.

⁴Unspecified are parcels that could not be categorized into specific council districts or property use codes.

COORDINATION

In coordination with the Revenue Management Bureau and the Budget Bureau, this agenda report, resolutions, and supporting documents have been reviewed and/or approved for fiscal implications.

SUSTAINABLE OPPORTUNITIES

Economic: The collection of delinquent trash charges has no economic impact.

Environmental: There are no environmental opportunities resulting from the recordation of special assessments.

Race & Equity: An abbreviated race and equity analysis was performed for this item. The race and equity indications are as follows: The mandatory nature of trash collection applied to all homeowners is inherently regressive. A regressive fee will have a disproportionate effect on the lower social economic groups. Council Districts 6 and 7 have higher delinquency rates and these districts have more disparate social economic indicators. However, a direct correlation cannot be made that the mandatory trash fee and collection process exacerbates the disparity. Several additional factors can influence the final determination. Those factors are the number of repeat delinquent accounts, the ratio of owner-occupied accounts versus landlord-tenant accounts, a homeowner or tenant's ability to stop service or initiate service, the economic incentives and disincentives to allow an account to become delinquent and matriculate through the collections process.

Even without a full determination of the impact, the current processes for handling delinquent trash collections have several mitigating factors. The delinquent account holder is provided with continuous trash service and there is no threat of service stoppage. There is a 5 to 12-month window to resolve the delinquency prior and up to the assessment being placed on the tax bill. The Public Hearing functions as a "final appeal" option for delinquent account holders to have individual consideration from the City Council. Finally, the assessment is not a tax lien, the City cannot take possession of the property for non-payment.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Accepting And Confirming Reports Of The City Administrator For Delinquent Trash Service Fees With Administrative And Special Assessment Charges As Necessary Pursuant To Chapter 8.28 Of The Oakland Municipal Code, And Directing The Notice Of Special Assessment Charges Be Turned Over To The County Tax Collector For Collection For The Monthly Periods Of April, May, June 2021, January, February, March 2022, Quarterly Periods Of July-September 2021, and April-June 2022 (Option 1);

For questions regarding this report, please contact Rogers Agaba, Acting Revenue and Tax Administrator, at (510) 238-7009.

Respectfully submitted,



ERIN ROSEMAN
Director of Finance
Finance Department

Reviewed by:
Rogers Agaba
Acting Revenue and Tax Administrator

Prepared by:
Nicole Welch, Revenue Operations Supervisor
Revenue Management Bureau

Attachments (4):

A: Delinquent Trash Special Assessments Periods

- April 2021
- May 2021
- June 2021
- January 2022
- February 2022
- March 2022
- July - September 2021
- April – June 2022