



# AGENDA REPORT


**TO:** Jestin Johnson  
City Administrator

**FROM:** Emily Weinstein  
Director  
Department of Housing and  
Community Development

**SUBJECT:** Rent Adjustment Ordinance  
Amendment

**DATE:** May 30, 2025

City Administrator Approval

  
Jestin Johnson (Jun 12, 2025 22:51 PDT)

Date:

Jun 12, 2025

## **RECOMMENDATION**

Staff Recommends For The City Council's Consideration: An Ordinance Amending The Rent Adjustment Ordinance To Allow Owners To Petition For Rent Increases Based On Increased Costs Of Waste Service Rates

## **EXECUTIVE SUMMARY**

On December 3, 2024, Council approved a settlement agreement in the case *Zolly v. City of Oakland*. The agreement requires staff to recommend, for Council's consideration, an ordinance to amend the Rent Adjustment Ordinance to allow rental property owners to petition for rent increases based on increased costs caused by rate increases to regular solid waste collections service and recycling service ("Waste Services"). Presenting this proposed ordinance to Council is part of a good faith settlement and compromise between the parties. The terms of the proposed ordinance are lawful. The City made no guarantees regarding whether Council will adopt the proposed ordinance. Whether Council adopts or does not adopt the proposed ordinance is a decision entirely within Council's discretion. Regardless of how Council votes on this proposed ordinance, the City will have satisfied this part of the settlement agreement.

## **BACKGROUND/ LEGISLATIVE HISTORY**

On August 13, 2014, the City Council approved Ordinance No. 13254 C.M.S., granting a Residential Recycling Collection Services franchise to California Waste Solutions, Inc. (CWS). On September 29, 2014, Council approved Ordinance No. 13258 C.M.S., granting a franchise for Mixed Materials and Organics Collection Services to Waste Management of Alameda County ("WMAC"). Each Ordinance authorized the City to negotiate and enter into contracts for those services.

CED Committee  
June 24, 2025

On June 29, 2016, Plaintiffs Zolly, McFadden, and Clayton filed a complaint against the City for injunctive and declaratory relief, asserting claims pursuant to Article XIII of the California Constitution, challenging the franchise fees in the WMAC and CWS contracts and the rates charged to WMAC and CWS customers. *Zolly v. City of Oakland (Zolly)*, Alameda County Superior Court Case No. RG16821376.

The City and the Plaintiffs reached a settlement that includes the following: (1) establish an advisory committee that will advise with respect to the City's waste and recycling collection franchise agreements and services, and maintain the committee for seven years or one year after the conclusion of the next request for proposals or renewal process for the contracts, (2) the City will recommend to the Council for its consideration in an open and public meeting, a report and proposal to amend chapter 8.22 of the Oakland Municipal Code to add a provision to allow landlords to petition for rent increases based on increased costs of Waste Service rates; (3) pay the Plaintiffs the amount of \$720,000.

On December 3, 2024, Council approved the settlement agreement which included the specific terms of this proposed ordinance. Thus, presenting this proposed ordinance is part of a good faith settlement and compromise between the parties to the *Zolly* litigation. The settlement agreement makes no guarantees regarding whether the Council will adopt the proposal as written, and whether the Council adopts or does not adopt the proposed ordinance is a decision entirely within Council's discretion. The City will have satisfied this part of the settlement agreement whether the Council adopts or does not adopt the proposed ordinance. The settlement agreement also requires staff to include in its report a statement of support drafted by the Plaintiffs and the East Bay Rental Housing Association. Said statement is attached as **Exhibit A**.

### **ANALYSIS AND POLICY ALTERNATIVES**

Under current law, owners may not directly pass on the expense of Waste Services to tenants, unless a rental unit has its own meter. Regulation 8.22.070.D.3 of the implementing regulations of the Oakland's Rent Adjustment Ordinance provides that:

When more than one rental unit shares any type of utility bill with another unit, it is illegal to divide up the bill between units. The best way to remedy the bill is to install individual meters. If this is too expensive, then the property owner should pay the utility bill and build the cost into the initial rent.

Under current law, owners also may not directly pass on an *increase* in the expense of Waste Services costs to tenants. However, current law permits an owner to pass through an increase in overall housing service costs (IHSC), which may include Waste Service costs, if the increase in the total of such costs exceed the CPI adjustment. Though, an increase of overall housing service costs in excess of CPI is a high threshold. About one IHSC petition is filed every year for various housing service costs.

This proposal would apply to about 43,000 residential dwelling units covered under the Rent Adjustment Ordinance. This proposal would change the law to allow owners to petition for rent increases based solely on the increased costs of Waste Services, without having to prove that

overall housing service costs increased in excess of CPI. Unlike an IHSC petition, this proposal would also allow owners to receive a rent increase *in addition* to the CPI increase, rather than instead of the CPI increase.

The petition process would require owners to identify the waste services rate category of the building and the increase in the annual published rates for that rate category.

The following table provides Waste Services rates and rate increases over the past five years. Staff does not have the data to predict the full impact this proposed change would have on tenants, property owners and the operations of the Rent Adjustment Program (RAP). Given that the change would permit owners to pass on increased costs of Waste Services both (a) in addition to CPI increases and (b) without consideration of whether overall housing service costs increase more than CPI, more petitions would likely be filed with RAP and more rent increases would be granted by RAP.

**Table 1: 2020-2025 Annual Trash & Compost (20-Gallon) and Recycling Annual Rate Increases for Multi-Family Residential (5+ Units)<sup>1</sup>**

Year	20-21	21-22	22-23	23-24	24-25
<b>Trash &amp; Compost (% and amount increases)</b>	2.61%	1.9% (\$0.54)	4.3% (\$1.24)	7.8% (\$2.33)	2.8% (\$0.90)
<b>Recycling (% and amount increases)</b>	3.17%	2.5% (\$0.39)	4.6% (\$0.75)	6.6% (\$1.12)	3.7% (\$0.66)
<b>20-Gallon Rate</b>	\$28.07	\$28.61	\$29.85	\$32.18	\$33.08
<b>Recycling Rate</b>	\$15.75	\$16.14	\$16.89	\$18.01	\$18.67

Source: <https://www.oaklandca.gov/topics/rates-for-collection-service> - For the City of Oakland's Monthly Collection Services Rates prior to 2024, please directly contact City's Recycling Hotline at [recycling@oaklandca.gov](mailto:recycling@oaklandca.gov) or call 510-238-SAVE(7283).

As demonstrated in this table, Waste Services rate increases can vary greatly from year to year, for instance, from 1.9% on average in 2021-22 to 7.8% in 2023-24 for trash & compost services for the basic 20-gallon services. Furthermore, rates also vary depending on the trash & compost cart size, backyard versus curbside collection, service frequency, building size, number of occupants in a building, or additional services such as bin cleaning and replacement. Low-

<sup>1</sup> The 20-gallon service is the minimum capacity service that customers can request. Also, no matter what the existing level of service is, property owners are required to increase it when necessary to adequately capture the trash regularly generated by the residential units to address any overflowing trash bin issues. For both compost and recycling, owners are required to subscribe to enough service to capture what is generated by the residents. Owners are required to pay the per-unit-recycle fee regardless of how much recycle collection service is used. Owners are also required to make access to the compost and recycle service accessible to residents.

income and senior/disability discount/accommodations are also offered. These are all factors that can be better considered through the already existing increase of housing services rent adjustment petition under which a comprehensive analysis of the increase of all housing costs in relation to all rents being collected is done.

### **FISCAL IMPACT**

We expect this proposal will increase the number of petitions filed with the Rent Adjustment Program (RAP), thereby increasing the demand for RAP services (counseling, petition intake, hearings, Rent Board staffing for appeals, etc.). Because the number of petitions and inquiries that a new waste service cost increase petition, if approved, would cause is unknown, the impact that the proposed Ordinance amendment would have on the RAP fund (2413) is also unknown.

### **PUBLIC OUTREACH/INTEREST**

The settlement agreement requires staff to include in its report a statement of support drafted by the Plaintiffs and the East Bay Rental Housing Association (attached as Exhibit A). Staff notified tenant organizations of this report.

### **COORDINATION**

The City Attorney's Office contributed to this report.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The proposed changes would shift the economic impact of increased Waste Services costs from property owners to existing tenants on an ongoing basis. Currently, for new tenancies, property owners can build Waste Services costs into the initial rent. The high cost of Oakland rental housing is a driver of displacement, homelessness, and housing instability. Displacement, homelessness, and housing instability diminish Oakland's economic vitality.

***Environmental:*** Staff has not identified environmental impacts likely to result from the proposed changes.

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***Race & Equity:*** The proposed changes would shift the economic impact of increased Waste Services costs from property owners to existing tenants on an ongoing basis. While the issue of high housing costs is felt across all Oakland racial groups, Black tenant households are most impacted: 62% of Black households are paying more than 30% of their income on rent, higher than any other racial or ethnic group, according to Census-derived data from the National Equity Atlas; as compared with 37% of White households who pay more than 30% of their income on rent. Additionally, over 17,000 extremely low-income households – most of whom are people of color – are severely rent burdened, meaning they pay 50% or more of their monthly income on rent, according to Comprehensive Housing Affordability Strategy, Oakland-level data, 2016-2020 American Community Survey. This can create significant instability as households can easily fall behind on rent if they experience difficulties such as health crisis or job loss. Severe rent burden forces low-income households to make impossible choices between paying rent

and paying for food, healthcare, or other necessities. The household incomes and rent burdens of tenants who live in units covered by the Rent Adjustment Ordinance is not known. It is unclear whether shifting to tenants the costs of increased Waste Services might disproportionately impact low-income people of color as data on household income, rent burden, and race/ethnicity of tenants who live in rental units covered by the Rent Adjustment Ordinance is not collected by the Rent Adjustment Program.

**ACTION REQUESTED BY THE CITY COUNCIL**

Staff Recommends That The City Council Approve: An Ordinance Amending The Rent Adjustment Ordinance To Allow Owners To Petition For Rent Increases Based On Increased Costs Of Waste Service Rates.

For questions regarding this report, please contact the Rent Adjustment Program Manager, Victor Ramirez, at 510.238.3220.

Respectfully submitted,

Emily Weinstein

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Emily Weinstein

Director, Housing & Community Development

Reviewed by:  
Hugo Ramirez  
Deputy Director, Housing & Community  
Development


Prepared by:  
Victor Ramirez, Program Manager Rent  
Adjustment Program  
Housing & Community Development

Attachments (1):

Exhibit A.: Plaintiffs and East Bay Rental Housing Association's Statement of Support

## **Exhibit A: Plaintiffs and East Bay Rental Housing Association's Statement of Support**

### **ATTACHMENT A**

Signature:   
Emily Weinstein (Jun 12, 2025 09:16 PDT)  
Email: EWeinstein@oaklandca.gov

**Statement in Support of Proposed Amendments to Legislation by East Bay Rental Housing Association and Plaintiffs Robert Zolly, Ray McFadden, and Stephen Clayton (Zolly, et al. v. City of Oakland)**

In 2014, the City of Oakland entered into new solid waste and recycling contracts with WMAC and CWS. At that time, monthly bills for solid waste and recycling services in the City went up dramatically. The City contended that the services benefitted all residents of the City, but the owners of multi-family homes were forced to bear a disproportionate percentage of the costs.

After many years of litigation among the City, WMAC, CWS and housing providers, the proposed amendments to the Oakland Municipal Code are the result of a compromised settlement to try to fairly distribute these increased costs among all their beneficiaries, while safeguarding against unnecessary future increases. It is the hope of the housing providers and the East Bay Rental Housing Association that the City will find other ways to bring these costs back down in the future, and they have therefore separately negotiated for the formation of an advisory committee to work with the City on future waste service contracts.

However, to ensure that future costs are fairly distributed, the proposed amendments to the Oakland Municipal Code provide a streamlined process, where renters and housing providers each have a fair opportunity to participate and voice their position. Consistent with existing law, this process will be administered by the Oakland Rent Adjustment Program and subject to its petition and approval procedure.

Plaintiffs Robert Zolly, Stephen Clayton, and Ray McFadden, and the East Bay Rental Housing Association appreciate the opportunity to resolve this issue with the City of Oakland and urge the City Council to approve these amendments.

Sincerely,

East Bay Rental Housing Association and Plaintiffs Robert Zolly, Ray McFadden, and Stephen Clayton