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Approved as to Form and Legality

Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. 82729 C.M.S.

Introduced by Councilmember _____

A RESOLUTION OF INTENTION TO AMEND CHAPTER 13 OF THE OAKLAND MUNICIPAL CODE INCREASING THE SEWER SERVICE CHARGE, INITIATING A MAJORITY PROTEST PROCEEDING UNDER ARTICLE XIII-D OF THE CALIFORNIA CONSTITUTION, AND SETTING THE DATE FOR A PUBLIC HEARING TO CONSIDER THE SEWER SERVICE CHARGE INCREASE

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/inflow (I/I) correction programs; 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 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 maintenance and I/I correction 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, 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, the State of California constitution, Article XIII-D, requires that all new property related charges 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, be it

RESOLVED: That the City Council of the City of Oakland does hereby submit to the property owners of the City of Oakland, in compliance with the majority protest proceeding requirements of Article XIII-D of the California Constitution, the text of the proposed amendments, which shall be as follows:

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:
 - 1. Duplexes: twenty-eight dollars and ninety-five cents (\$28.95) per month;
 - 2. Triplexes: forty-three dollars and forty-three cents (\$43.43) per month;
 - 3. 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:

1. 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:

1. Industrial accounts: one dollar and sixty cents (\$1.60) per one hundred (100) cubic feet per month;
2. Commercial accounts: one dollar and seventy-six cents (\$1.76) per one hundred cubic feet per month;
3. Restaurants/hotels: one dollar and eighty-two cents (\$1.82) per one hundred cubic feet per month;
4. Hospitals: one dollar and ninety-six cents (\$1.96) per one hundred (100) cubic feet per month;
5. Laundromats/car washes: two dollars and six cents (\$2.06) 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).

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:

1. 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.

Exhibit A details the rate charged for each of the East Bay Municipal Utilities District 88 Business Classification Codes (BCC); and be it

FURTHER RESOLVED: That the City Administrator or his designee is hereby directed to obtain printing, supplies and services as required; and be it

FURTHER RESOLVED: That the City Administrator or his designee is hereby authorized to provide such other services and supplies in connection with said majority protest proceeding as may be required by the Statues of the State of California and the Charter of the City of Oakland; and be it

FURTHER RESOLVED: That the City Administrator or his designee is directed to conduct a mailing of the Notice of Public Hearing to all affected property owners, in compliance with Article XIII-D of the California Constitution; and be it

FURTHER RESOLVED: That a public hearing is set for July 6, 2010, to hear all public comments as to the proposed amendments to Chapter 13 of the Oakland Municipal Code.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 4 2010

PASSED BY THE FOLLOWING VOTE:

AYES - ~~BRUNNER, BRUNNER~~, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT BRUNNER - 6

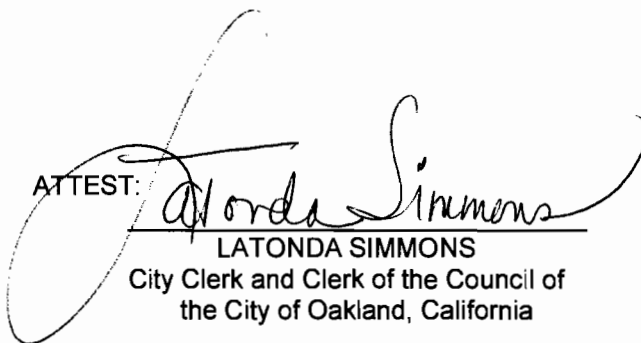
NOES - Brooks - 1

ABSENT - 0

ABSTENTION - 0

Excused - De la Fuente - 1

ATTEST:



LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California

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

BCC	Description	Metered Rate Per ccf	BCC	Description	Metered Rate Per ccf
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	Industiral 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			