

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE DECLARING THE CITY'S INTENTION TO INCREASE THE SEWER USER FEE AND ESTABLISH PROCEDURES FOR ACCEPTING PROTESTS PURSUANT TO ARTICLE XIID, SECTION 6(A) OF THE CALIFORNIA CONSTITUTION REGARDING PROPERTY-RELATED FEES AND CHARGES.

WHEREAS, the United States Environmental Protection Agency (EPA) has mandated, pursuant to Final Consent Decree for Case Nos. C09-00186-RS and 09-05684, that the City undertake a capital improvement program to rehabilitate its sewer facilities, and to implement ongoing inspection and cleaning programs; and

WHEREAS, the City desires to protect public and environmental health and safety by minimizing sewer asset failures; and

WHEREAS, the City's Sewer Enterprise Fund includes a Sewer User Fee as established by the Waste Water Collection System Ordinance in Section 7-8.502 of the Emeryville Municipal Code; and

WHEREAS, the City last conducted a detailed review of the Sewer Enterprise Fund in the early 1990's and has not increased the Sewer User Fee rates since January 1995; and

WHEREAS, given the new requirements of maintaining the collection system as required by the Consent Decree, the City contracted with Bartle Wells Associates (BWA) in December 2015 to analyze and update the City's sewer collection rates to reflect the City's up-to-date operating and capital costs; and

WHEREAS, the Sewer User Fee should be adequate to fund sewer pipeline replacements and other capital improvements, maintain reasonable and adequate reserves for operations, capital project delivery, catastrophic emergency, and major projects, and mitigate impacts on the ratepayers; and

WHEREAS, the City Council desires to adjust the Sewer User Fee to fund necessary sewer expenses; now, therefore, be it

RESOLVED, by the City Council of the City of Emeryville that:

Section 1. The foregoing recitals are all true and correct.

Section 2. The City Council proposes a revision to the Sewer User Fee at the annual rate increase of nine percent per year for the next five years as set forth in Table ES-1 from the Sewer Rate Study, attached hereto as Exhibit A.

Section 3. On November 15, 2016, at 7:16 PM or as soon thereafter as may be practicable in the City of Emeryville City Council Chambers located at 1333 Park Avenue, Emeryville, California, the City Council will hold a public hearing pursuant to Article XIID of the California Constitution and the rules adopted pursuant to Resolution with respect to the proposed revised charge. At this hearing, all interested persons will be permitted to present oral and written testimony with respect to the proposed revised charge.

Section 4. The City Council further directs staff to give notice of the hearing in the manner required by law.

Section 5. The City will accept and tabulate protests against the proposed charge pursuant to the procedures set forth in Exhibit B to this Resolution, which is incorporated herein by reference.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held September 20, 2016, by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

MAYOR

ATTEST:

APPROVED AS TO FORM:



CITY CLERK

CITY ATTORNEY

EXHIBIT A

Table ES-1: Executive Summary of Proposed Rates
City of Emeryville
Bartle Wells Associates Sewer Rate Study, August 2016

	Current	Proposed				
		<u>Jan 1</u> <u>2017</u>	<u>Jan 1</u> <u>2018</u>	<u>Jan 1</u> <u>2019</u>	<u>Jan 1</u> <u>2020</u>	<u>Jan 1</u> <u>2021</u>
Single Family Residential [1]						
Monthly (\$\$ / Month)	\$8.00	\$8.72	\$9.50	\$10.36	\$11.29	\$12.31
Bimonthly (\$\$ / Bimonthly)	\$16.00	\$17.44	\$19.01	\$20.72	\$22.59	\$24.62
Triplex/Duplex/Fourplex (\$\$ / ccf) [2]	\$1.25	\$1.36	\$1.49	\$1.62	\$1.76	\$1.92
All other Classes [3]	\$1.25	\$1.36	\$1.49	\$1.62	\$1.76	\$1.92
Minimum Charges						
Daily (\$\$ / day)	\$0.2667	\$0.2907	\$0.3168	\$0.3453	\$0.3764	\$0.4103
Monthly (\$\$ / month)	\$8.00	\$8.72	\$9.50	\$10.36	\$11.29	\$12.31
Bi-monthly (\$\$ / bimonthly)	\$16.00	\$17.44	\$19.01	\$20.72	\$22.59	\$24.62

[1] Accounts charged a flat rate monthly or bimonthly.

[2] Accounts charged a volumetric rate. Accounts are NOT charged a minimum daily rate.

[3] Accounts charged a volumetric rate. Accounts ARE charged a minimum daily rate.

EXHIBIT B

GUIDELINES FOR THE SUBMISSION AND TABULATION OF PROTESTS

Submission of Protests

1. Any property owner or tenant may submit a written protest to the City Clerk, at 1333 Park Avenue, Emeryville, CA, either by personal or mail delivery to the office of the City Clerk or by submitting the protest at the public hearing. Protests must be received prior to the close of the public hearing.
2. Each protest must identify the affected property (by assessor's parcel number or street address) and include the original signature of the record property owner and/or tenant. **Email protests cannot be accepted.** Although oral comments at the public hearing will not qualify as a formal protest unless accompanied by a written protest, the City Council welcomes input from the community during the public hearing on the proposed fees.
3. If the City receives more than one written protest per parcel that satisfies the requirements herein, only one protest will be counted per parcel. Any one protest submitted in accordance with these rules will be sufficient to count as a protest for that parcel.
4. In order to be a valid written protest from a property owner, the protest must bear the original signature of the property owner identified on the last equalized assessment roll with respect to the property identified on the protest. Protests **not** bearing the original signature of a record owner shall not be counted.
5. In order to be a valid written protest from a tenant, the protest must bear the original signature of the tenant who is listed as the account holder, responsible for payment of the fee/charge at issue. Protests **not** bearing the original signature of the account holder shall not be counted.
6. Any person who submits a protest may withdraw it by submitting to the City Clerk a written request that the protest be withdrawn. The withdrawal of a protest shall contain sufficient information to identify the affected parcel and the name of the record owner or record customer who submitted both the protest and the request that it be withdrawn.
7. A fee protest proceeding is not an election.
8. To ensure transparency and accountability in the fee protest tabulation, protests shall constitute disclosable public records from and after the time they are received.

Tabulation of Protests

1. The City Clerk shall determine the validity of all protests. The City Clerk shall not accept as valid any protest if the City Clerk determines that any of the following conditions exist:
 - a. The protest does not identify a property served by the City.
 - b. The protest does not bear an original signature of a record owner or tenant as set forth above of the parcel identified on the protest.
 - c. The protest does not state its opposition to the proposed fees.
 - d. The protest was not received by the City Clerk before the close of the public hearing on the proposed fees.
 - e. A valid request to withdraw the protest is received prior to the close of the public hearing on the proposed fees.
2. The City Clerk's decision that a protest is not valid or does not apply to a specific fee shall constitute a final action of the City and shall not be subject to any internal appeal.
3. A majority protest exists if written protests are timely submitted and not withdrawn by the record owners or tenants of a majority of the parcels subject to the proposed fee.
4. At the conclusion of the public hearing, the City Clerk shall complete the tabulation of all protests received, including those received during the public hearing and shall report the results of the tabulation to the City Council upon completion. If review of the protests received demonstrates that the number received is manifestly less than one-half of the parcels served by the City with respect to the fee which is the subject of the protest, then the City Clerk may advise the City Council of the absence of a majority protest without determining the validity of all protests.