

# Ordinance Fact Sheet

**TO:** CITY COUNCIL

**DATE:** March 10, 2008

**FROM:** CITY ATTORNEY

**SUBJECT:** AN ORDINANCE CREATING THE SEWER FACILITY CHARGE

## TITLE OF PROPOSED ORDINANCE

**AN ORDINANCE OF THE CITY OF PASADENA TO CREATE A SEWER FACILITY CHARGE, AND TO AMEND TITLE 4 (REVENUE AND FINANCE) TO ESTABLISH CHAPTER 4.53 TITLED "SEWER FACILITY CHARGE"**

## RESPONSES TO COUNCIL QUESTIONS OF MARCH 3, 2008

This ordinance was originally presented for first reading on March 3, 2008, at which time Council posed a few questions to staff and the City Attorney.

1. The definition of "discharge credit" in proposed Section 4.53.2.B was deleted.

~~B. "Discharge credit" shall mean the highest sewer discharge existing on a lot within the City limits over the five years before the new development.~~

2. Proposed Section 4.53.3.B has been revised to make it clear that new projects or additions to existing structures only pay a fee for the sewer demand added as a result of the new construction. The following changes were made:

~~The charge shall be reduced by a discharge credit if the new development is replacing an existing structure, or increasing existing demand on the system, the charge shall only apply to the net increase in the average daily flow attributable to the new development.~~

3. The exemption section includes projects that have submitted complete applications, which is consistent with Council's past direction to exempt such projects from other recent fees (including the residential impact fee and traffic reduction and transportation improvement fees). Previously, the Council seemed concerned about fairness to applicants in view of their reasonable expectations and having consistency

03/17/2008  
MEETING OF ~~03/10/2008~~  
AGENDA ITEM NO. 9.B.1.  
~~9.A.1.~~

regarding the rules once an application was complete. If Council desires, it can change its policy in this regard so that the trigger for an exemption is not a complete application, but rather a later point in the approval process. However, certain projects whose development rights were vested, either through a vesting tentative tract map or through more traditional vesting as set forth in legal case law, would remain exempt.

4. The segregation of the charge, and accounting and expenditure limits set forth in Section 4.53.4 are specifically required by California Government Code Section 66013. To fail to include this provision would likely result in the adoption of a facially invalid charge.

### **PURPOSE OF ORDINANCE**

This ordinance implements the direction given by Council at its regular meeting on October 22, 2007. This ordinance adds a Sewer Facility Charge chapter to Title 4 (Revenue and Finance) of the Pasadena Municipal Code.

### **REASON WHY LEGISLATION IS NEEDED**

This legislation gives the City the authority to charge a Sewer Facility Charge of \$6.19 per gallon per day on new development, as a one time charge for current and future infrastructure cost. The money collected through the charge will be set aside in a sewer facility charge fund, and will be spent on sewer operational and maintenance projects identified in the Master Sewer Plan as necessary to serve new development. Projects that have submitted complete building plans and paid all plan check fees prior to the effective date of the ordinance are exempt, as are projects subject to appropriate vesting tentative tract maps. Projects outside the City limits but served by the City system will be required to negotiate a charge directly with the City, to be approved by Council.

### **PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED**

The Public Works Department will be responsible for implementing the ordinance.

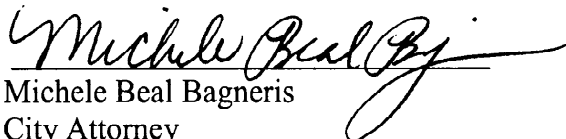
### **FISCAL IMPACT**

Based on projections for the build-out of the City, and assuming a constant rate of development growth, the charge is projected to generate \$314,000 in the first year, and increase in subsequent years.

### **ENVIRONMENTAL DETERMINATION**

Council has already found that the adoption of the charge is exempt from the California Environmental Quality Act and the State CEQA Guidelines pursuant to Section 15378(b)(4) of the State CEQA Guidelines as a funding mechanism which does not involve commitment to any specific project.

Respectfully submitted,

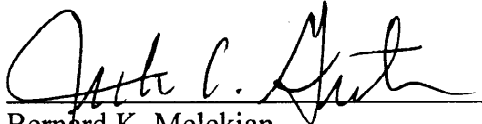
  
Michele Beal Bagneris  
City Attorney

Prepared by:



Theresa E. Fuentes  
Assistant City Attorney

Concurred by:



for Bernard K. Melekian  
City Manager

0000059170C031

Introduced by: \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PASADENA TO CREATE A SEWER FACILITY CHARGE, AND TO AMEND TITLE 4 (REVENUE AND FINANCE) TO ESTABLISH CHAPTER 4.53 TITLED "SEWER FACILITY CHARGE"**

**WHEREAS**, in January of 2007, the City of Pasadena adopted a Master Sewer Plan ("MSP"), which evaluated the City sewer system and made recommendations for operational and maintenance practices, and recommended the adoption of a Sewer Facility Charge ("charge") to ensure financial solvency as the City implemented its operational and maintenance practices; and

**WHEREAS**, the MSP included a cost study, which separated the cost of repairs to serve current capacity from the cost to serve future demand, and estimated the cost for capacity upgrades to serve future demand at \$14 million; and

**WHEREAS**, to promote the general health, safety and welfare of the residents of the City of Pasadena, it is necessary to assure an adequate level of service on the City's sewer system through the implementation of the operational and maintenance items identified in the MSP; and

**WHEREAS**, to implement the charge, the Municipal Code, at Title 4, must be amended to include a new Chapter 4.53 that imposes the new charge to address the impacts of new development only; and

**WHEREAS**, the charge is based on the added discharge demands on the sewer system from new development, and will only apply to properties located within the boundaries of the City, the charge accurately charges new development for the current and future infrastructure and operational costs required to accommodate the new development, and in summary is calculated by developing a value for the City's sewer system, adding in new cash improvements necessary to meet future demand, and unitizing this value by dividing by the City's ultimate system demand; and

**WHEREAS**, pursuant to the requirements of Government Code Section 66016, the results of the MSP cost study were presented to the City Council at a duly noticed public hearing on October 22, 2007; and

**WHEREAS**, the City Council finds: (1) the cost study complies with California Government Code Section 66013 by establishing the basis for imposition of the charge on new development; (2) the charges collected shall be used to finance the improvements described in the MSP; (3) the cost study's estimate of the cost of the improvements is reasonable as a basis for calculating and imposing the charge; (4) assessment of the charge on new development will insure that the improvements identified in the MSP necessary to address the impact of new development on the City's sewer system are equitably shared by new development ; and (5) the cost study is hereby adopted by the City Council.

**NOW, THEREFORE**, the people of the City of Pasadena ordain as follows:

**SECTION 1.** This ordinance, due to its length and corresponding cost of publication will be published by title and summary as permitted in Section 508 of the Charter of the City of Pasadena. The approved summary of this ordinance is as follows:

**“SUMMARY**

Ordinance No. \_\_\_\_\_ creates Title 4, Chapter 4.53, of the Pasadena Municipal Code, titled “Sewer Facility Charge.” The Ordinance establishes a new sewer charge of \$6.19 per gallon per day for new development as a one time charge, to insure that the sewer operational and maintenance needs identified in the Master Sewer Plan necessary to address the impact of new development on the City’s sewer system are equitably shared by all new development.

Ordinance No. \_\_\_\_\_ shall take effect upon publication.”

**SECTION 2.** Title 4, Chapter 4.53 is created as follows:

**Chapter 4.53**

**SEWER FACILITY CHARGE**

**4.53.1 Purpose**

The sewer facility charge is created to ensure that new development within the City limits pays its estimated cost for capacity upgrades to the City sewer system, and to ensure financial solvency as the City implements the operational and maintenance practices set forth in the City’s Master Sewer Plan generated by additional demand on the system.

**4.53.2 Definitions**

- A. “New development” shall mean new construction on a lot within the City limits, including additions or modifications to existing structures.

**4.53.3 Sewer facility charge**

- A. New development within the City limits shall pay a sewer facility charge of \$6.19 per gallon per day as a one time charge to cover current and future infrastructure cost. The daily sewer discharge rate shall be determined as follows:

<b>Occupancy</b>	<b>Average Daily Flow</b>
Apartment Building: Bachelor or Single dwelling units	100 gal/dwelling unit
1 bedroom dwelling units	150 gal/DU
2 bedroom dwelling units	200 gal/DU
3 or more bedroom dwelling units	250 gal/DU
Auditoriums, churches, etc	5 gal/seat
Automobile parking	25 gal/1000 sq ft gross floor area
Bars, cocktail lounges, etc	20 gal/ seat
Commercial Shops & Stores	100 gal/1000 sq ft gross floor area
Hospitals (surgical)	500 gal/bed
Hospitals (convalescent)	85 gal/bed
Hotels	150 gal/room
Medical Buildings	300 gal/1000 sq ft gross floor area
Motels	150 gal/unit
Office Buildings	200 gal/1000 sq ft gross floor area
Restaurants, cafeterias, etc	50 gal/seat
Financial Institutions (banks)	1000 gal/1000 sq ft gross floor area
Service Shop, Service Stations	100 gal/1000 sq ft gross floor area
Laundromat	4600 gal/1000 sq ft gross floor area
Animal Kennel (shelter)	100 gal/1000 sq ft gross floor area
Nurseries/Greeneries	25 gal/1000 sq ft gross floor area

Warehousing, Open Storage (storage pace)	25 gal/1000 sq ft gross floor area
Indoor Theatre (movies)	500 gal/1000 sq ft gross floor area
Bowling, Skating Facilities	1000 gal/1000 sq ft gross floor area
Golf Courses	100 gal/1000 sq ft gross floor area
Mortuaries/Cemeteries	100 gal/1000 sq ft gross floor area
Schools:	
Elementary or Jr. High	10 gal/student
High Schools	15 gal/student
Universities or Colleges	20 gal/student
College Dormitories	85 gal/student

- B. If the new development is replacing an existing structure, or increasing existing demand on the system, the charge shall only apply to the net increase in the average daily flow attributable to the new development.
- C. The charge will be indexed to increase on an annual basis in accordance with the Consumer Price Index.

**4.53.4 Fund created**

There is created a special fund of the City to be known as the “sewer facility charge fund” to account for charges paid pursuant to this chapter. The director of finance shall maintain records specifically sufficient to ensure that the charges are expended solely for the purpose for which they were collected, and to enable the director to comply with all requirements of Government Code section 66013. Any interest accruing on account of the time deposit of the fund, or otherwise, shall be deposited to the credit of the fund.



**4.53.5 Exempt projects**

- A. Projects within the City limits that have submitted a complete set of plans for building permits and paid for all plan check fees prior to the effective date of the charge, or which are exempt pursuant to the Subdivision Map Act's vesting tentative tract map provisions, are exempt from payment of the charge.
- B. Projects outside the City limits which are to be served by the City's sewer system are not subject to the charge set forth herein, but must negotiate a sewer capacity charge on a case-by-case basis, as approved by the Council.

**SECTION 3.** This ordinance shall take effect upon publication.

Signed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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Bill Bogaard  
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by the following vote:

AYES:

NOES:

ABSENT:

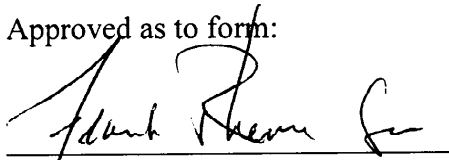
ABSTAIN:

Date Published:

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Jane L. Rodriguez, CMC  
City Clerk

Approved as to form:



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Theresa E. Fuentes  
Assistant City Attorney