

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

ORDINANCE NO. ORD-09-0027

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH APPROVING RESOLUTION NO. WD-1257, A RESOLUTION OF THE BOARD OF WATER COMMISSIONERS OF THE CITY ESTABLISHING THE RATES AND CHARGES TO BE CHARGED FOR WATER AND SEWER SERVICE AND DECLARING THE URGENCY THEREOF, AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AT 12:01 A.M. ON OCTOBER 1, 2009

The City Council of the City of Long Beach ordains as follows:

Section 1. That Resolution No. WD-1257 of the Board of Water Commissioners of the City of Long Beach, entitled "A RESOLUTION OF THE BOARD OF WATER COMMISSIONERS FIXING RATES AND CHARGES FOR WATER AND SEWER SERVICE TO ALL CUSTOMERS, SUBJECT TO THE APPROVAL OF THE CITY COUNCIL BY ORDINANCE," adopted by said Board on June 4, 2009, and the rates fixed in the Resolution to be charged for water and sewer service be and the same are hereby approved subject to a public hearing to be held on August 27, 2009 to consider any public protest of the proposed increases to the City's water and sewer rates for Fiscal Year 2010.

Section 2. This is an emergency measure and is urgently required for the reason that in order to carry on the affairs, functions and business of Long Beach Water Department during the fiscal year which begins on October 1, 2009, it is necessary to authorize the rates and charges for water and sewer service and that this ordinance be passed as an emergency measure, to take effect at 12:01 a.m. on October 1, 2009.

Section 3. If any section, subsection, subdivision, sentence, sum,

1 percentage, clause or phrase of this ordinance is for any reason held to be
2 unconstitutional, invalid or void, such decision shall not affect the validity of the remaining
3 portions of this ordinance. The City Council hereby declares that it would have passed
4 this ordinance, and every section, subsection, subdivision, sentence, sum, percentage,
5 clause and phrase thereof, irrespective of the fact that any one or more sections,
6 subsections, subdivisions, sentences, sums, percentages, clauses or phrases thereof is
7 declared unconstitutional, invalid or void.

8 Section 4. This ordinance is an emergency ordinance duly adopted by
9 the City Council by a vote of five of its members and shall take effect immediately. The
10 City Clerk shall certify to a separate roll call and vote on the question of the emergency of
11 this ordinance and to its passage by the vote of five members of the City Council of the
12 City of Long Beach, and cause the same to be posted in three conspicuous places in the
13 City of Long Beach, and it shall thereupon take effect and shall be operative on and after
14 12:01 a.m. on October 1, 2009.

15 I hereby certify that on a separate roll call and vote which was taken by the
16 City Council of the City of Long Beach upon the questions of the emergency of this
17 ordinance at its meeting of _____ September 8 _____, 2009, the ordinance was
18 declared to be an emergency by the following vote:

19 Ayes: Councilmembers: Garcia, Lowenthal, DeLong,
20 _____
21 O'Donnell, Andrews, Reyes Uranga,
22 _____
23 Gabelich, Lerch.
24 _____

25 Noes: Councilmembers: Schipske.
26 _____

27 Absent: Councilmembers: None.
28 _____

29 I further certify that thereafter, at the same meeting, upon a roll call and
30 vote on adoption of the ordinance, it was adopted by the City Council of the City of Long

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1 Beach by the following vote:

2 Ayes: Councilmembers: Garcia, Lowenthal, DeLong,
3 O'Donnell, Andrews, Reyes Uranga,
4 Gabelich, Lerch.

5 _____
6 Noes: Councilmembers: Schipske.

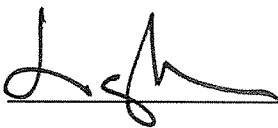
7 _____
8 Absent: Councilmembers: None.

9 _____
10 I further certify that the foregoing ordinance was thereafter adopted on final
11 reading of the City Council of the City of Long Beach at its meeting of September 15,
12 2009, by the following vote:

13 Ayes: Councilmembers: Garcia, Lowenthal, DeLong,
14 O'Donnell, Andrews, Reyes Uranga,
15 Gabelich, Lerch.

16 _____
17 Noes: Councilmembers: Schipske.

18 _____
19 Absent: Councilmembers: None.

20 _____
21 
22 _____
23 City Clerk

24 _____
25 Approved: 09-24-09
26 (Date)

27 
28 _____
Mayor

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1 RESOLUTION NO. WD-1257

2
3 A RESOLUTION OF THE BOARD OF WATER
4 COMMISSIONERS AMENDING RESOLUTION NO. WD-
5 1230 FIXING RATES AND CHARGES FOR WATER AND
6 SEWER SERVICE TO ALL CUSTOMERS, SUBJECT TO
7 THE APPROVAL OF THE CITY COUNCIL BY ORDINANCE
8

9 The Board of Water Commissioners of the City of Long Beach resolves as
10 follows:

11 Section 1. That the following rates and charges for potable
12 and reclaimed water service and for sewer service are hereby
13 established, and the Long Beach Water Department ("Water Department")
14 of the City of Long Beach ("City") is hereby authorized and directed to
15 charge and collect the same in accordance with the provisions of this
16 resolution, subject to a Public Hearing on August 27, 2009.

17 Section 2. For all metered services the charge for potable
18 and reclaimed water shall consist of both a service charge based on the
19 size of the service and a quantitative charge for water delivered.

20 A. On October 1, 2009, the service charge shall be in
21 accordance with the following table:

<u>Size of Service</u>	<u>Daily Service Charge</u>
23 5/8 or 3/4 inch	\$0.418
24 1 inch	\$0.630
25 1-1/2 inch	\$1.175
26 2 inch	\$1.742
27 3 inch	\$3.608
28 4 inch	\$5.708

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<u>Size of Service</u>	<u>Daily Service Charge</u>
6 inch	\$10.519
8 inch	\$16.511
10 inch	\$27.041
12 inch	\$33.048
16 inch	\$54.696

B. On October 1, 2009, the quantitative charge for all water delivered shall be as follows, based on monthly meter readings:

1. For single family residential customers of potable water who have been granted an exemption from the City's Utility Users Tax in accordance with Chapter 3.68 of the Long Beach Municipal Code:

Tier IA	First 5 Billing Units (or fraction thereof)	\$1.220
Tier II	Next 10 Billing Units (or fraction thereof)	\$2.439
Tier III	Over 15 Billing Units (or fraction thereof)	\$3.659

2. For single family residential customers of potable water who have not been granted an exemption from the City's Utility Users Tax:

Tier IB	First 5 Billing Units (or fraction thereof)	\$2.196
Tier II	Next 10 Billing Units (or fraction thereof)	\$2.439
Tier III	Over 15 Billing Units (or fraction thereof)	\$3.659

3. For duplex residential customers of potable water who have been granted an exemption from the City's Utility Users Tax in accordance with Chapter 3.68 of the Long Beach Municipal Code:

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Tier IA	First 2.5 Billing Units (or fraction thereof per dwelling unit)	\$1.220
Tier II	Next 10.5 Billing Units (or fraction thereof per dwelling unit)	\$2.439
Tier III	Over 13 Billing Units (or fraction thereof per dwelling unit)	\$3.659

4. For duplex residential customers of potable water who have not been granted an exemption from the City's Utility Users Tax:

Tier IB	First 2.5 Billing Units (or fraction thereof per dwelling unit)	\$2.196
Tier II	Next 10.5 Billing Units (or fraction thereof per dwelling unit)	\$2.439
Tier III	Over 13 Billing Units (or fraction thereof per dwelling unit)	\$3.659

5. For multi-family residential customers of potable water who have been granted an exemption from the City's Utility Users Tax in accordance with Chapter 3.68 of the Long Beach Municipal Code:

Tier IA	First 2.5 Billing Units (or fraction thereof per dwelling unit)	\$1.220
Tier II	Next 6.5 Billing Units (or fraction thereof per dwelling unit)	\$2.439
Tier III	Over 9 Billing Units (or fraction thereof per dwelling unit)	\$3.659

6. For multi-family residential customers of potable water who have not been granted an exemption from the City's Utility Users Tax:

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Tier IB	First 2.5 Billing Units (or fraction thereof per dwelling unit)	\$2.196
Tier II	Next 6.5 Billing Units (or fraction thereof per dwelling unit)	\$2.439
Tier III	Over 9 Billing Units (or fraction thereof per dwelling unit)	\$3.659

7. For commercial customers of potable water, \$2.439 per billing unit, or fraction thereof.

8. For industrial customers of potable water, \$2.439 per billing unit, or fraction thereof.

9. For irrigation customers of potable water, \$2.439 per billing unit, or fraction thereof.

10. For City of Long Beach Departments using potable water, \$2.439 per billing unit, or fraction thereof.

11. For reclaimed water users whose use is "peaking" as defined herein, \$1.708 per billing unit, or fraction thereof.

12. For reclaimed water users whose use is "non-peaking" as defined herein, \$1.220 per billing unit, or fraction thereof.

13. These quantitative charges shall be subject to adjustment as provided in Subsection C of this Section.

14. There shall be no charge for water used through fire hydrants for extinguishing fires.

C. The quantitative charges for Tier IB were adjusted on October 1, 1999 to reflect the action of the Board approving incremental increases to Tier IB.

Section 3. A. Unmetered water service may be rendered to unoccupied or occupied property where it is not practical to meter the

1 water, and on October 1, 2009, the rate for unmetered water service shall
2 be:

3 <u>Size of Service</u>	<u>Daily Rate</u>
4 5/8 or 3/4 inch	\$2.039
5 1 inch	\$3.450
6 1-1/2 inch	\$8.498
7 2 inch	\$13.369

8
9 B. The rates for unmetered water service shall begin on the date
10 of use of water by the customer, as determined by the General Manager of
11 the Water Department ("General Manager").

12 Section 4. By Resolution WD-1232 the Board of Water
13 Commissioners established a Water Conservation and Water Supply
14 Shortage Plan (the Plan). As stipulated in the Plan, the Board may
15 declare that a Stage 1, Stage 2 or Stage 3 Water Supply Shortage exists,
16 in its sole discretion. Upon such declaration, the Board may increase
17 water rates, other than Tier 1 or life-line rates and reclaimed water rates,
18 by an amount necessary, as determined by the Board but not to exceed
19 the following percentages:

20 Stage 1 Water Supply Shortage Rate. Water rates may be increased by an amount not
21 to exceed 10% above the pre-shortage rate.

22 Stage 2 Water Supply Shortage Rate. Water rates may be increased by an amount not
23 to exceed 25% above the pre-shortage rate.

24 Stage 3 Water Supply Shortage Rate. Water rates may be increased by an amount not
25 to exceed 50% above the pre-shortage rate.

26 Section 5. Charges for water service through meters at
27 temporary service connections from fire hydrants or otherwise shall be at
28 the applicable quantitative charge plus the service charge, together with a

1 charge for installing, changing, and removing the meter and fittings in
2 accordance with the "Rules, Regulations and Charges Governing Potable
3 Water, Reclaimed Water, Sewer Service and the Emergency Water
4 Conservation Plan" of the Water Department.

5 Section 6. A. On October 1, 2009, the service charge for
6 private fire protection service shall be in accordance with the following table:

7 <u>Size of Service</u>	8 <u>Daily Rate</u>
9 2 inch	\$0.872
10 3 inch	\$1.491
11 4 inch	\$2.203
12 6 inch	\$3.754
13 8 inch	\$5.503
14 10 inch	\$7.444
15 12 inch	\$9.383
16 16 inch	\$13.758

17 The service charges in this Section shall only include water used for
18 fire extinguishing purposes and a reasonable amount of water used for
19 testing the fire line.

20 B. Whenever the Water Department finds that water through a
21 private fire protection service is being used for purposes other than fire
22 extinguishing or testing the fire line, the General Manager may make a
23 determination of the quantity of water used, the quantitative charges for that
24 water, and the service charges to be applied. His determination shall be
25 final. In addition, if water through a private fire protection service is used for
26 purposes other than fire extinguishing or testing the fire line, the Water
27 Department may discontinue the private fire protection service or may install
28 a domestic or fire flow meter, at either the customer's or its expense as the
General Manager may determine, and thereafter the service shall be

1 classified as regular service and billed at the rates applicable thereto.

2 Section 7. The primary purpose of fire hydrants is
3 extinguishing fires and they shall be opened and used only by the Water
4 Department or the Long Beach Fire Department, or such other persons as
5 may be authorized to do so by the General Manager or the Chief of the
6 Fire Department. Where fire hydrants are installed and maintained by the
7 Water Department, there shall be no standby charge made to the Fire
8 Department.

9 Section 8. A. For all sewer service where the sewer
10 lateral connects to a main line maintained by the Water Department, or the
11 sewer lateral is located in the public right-of-way, the charge for sewer
12 service shall consist of both a daily sewer rate and a volumetric sewer rate.

13 B. The daily sewer rate shall be in accordance with the following
14 table:

<u>Size of Service</u>	<u>Daily Sewer Rate</u>
15 5/8 or 3/4 inch	\$0.218
16 1 inch	\$0.346
17 1-1/2 inch	\$0.630
18 2 inch	\$0.914
19 3 inch	\$1.891
20 4 inch	\$2.995
21 6 inch	\$5.517
22 8 inch	\$8.668
23 10 inch	\$14.180
24 12 inch	\$17.333
25 16 inch	\$28.363

26
27 C. The volumetric sewer rate shall be \$0.303 per 100 cubic feet
28 of water furnished where water service size is 5/8 inches or larger. The

1 volumetric sewer rate shall not be applicable to fire services.

2 D. For volumetric sewer rates, there are the following customer
3 classifications: single family residential; duplex residential; multi-family
4 residential; City Departments; commercial; and industrial.

5 Volumetric sewer rates for single family residential, duplex residential
6 and multi-family residential shall be computed based on the average of
7 actual potable water use for two winter billing periods. The winter billing
8 periods used will be determined by the meter reading schedule for the
9 account. The actual winter usage is divided by the number of winter days to
10 obtain an average volume. The average volume will be the base volume on
11 which the volumetric sewer rate is charged for the next twelve month period
12 beginning with May's billing periods. Each year, the average volume will be
13 recalculated for the succeeding twelve-month period. Exceptions to the
14 above calculation methodology will use the average volume for the
15 classification in which the customer falls as the average volume or a
16 calculation using available usage information for the account. For those
17 residential customers with no previous history of use for two winter billing
18 periods, the average volume for the classification in which the customer falls
19 will be used.

20 E. For all users of the sewer system that do not receive a water
21 bill from the City but where the user's sewer lateral connects to a main line
22 maintained by the Water Department, or where the sewer lateral is located
23 in the public right-of-way, the charge for sewer service shall consist of both
24 a daily sewer rate and a volumetric sewer rate. The daily sewer rate shall
25 be as provided in Subsection 8(B) of this Resolution. For these customers,
26 the volumetric sewer rate shall be based on the average volume for the
27 customer's classification.

28 F. The City shall collect from all developments and all

1 developments shall be required to pay a capacity charge of Eighty Four
2 Dollars and Seventy-One Cents (\$84.71) per equivalent fixture unit at the
3 time application for sewer service is made, but in no event later than the
4 time that the City issues a sewer permit for connection to the City sewerage
5 system, as set forth in the Long Beach Municipal Code and the "Rules,
6 Regulations and Charges Governing Potable Water, Reclaimed Water,
7 Sewer Service and the Emergency Water Conservation Plan" of the Water
8 Department.

9 G. Upon receipt of an application for sewer service, the City's
10 Department of Planning and Building (through the Plan Checker for
11 Plumbing) shall calculate the amount of the capacity charge by: 1)
12 determining if this resolution applies to the development; and 2) if this
13 resolution does not apply, indicating same on the application for sewer
14 service and the reason this resolution does not apply, and processing the
15 application in accordance with ordinances, resolutions, and regulations; or
16 3) if this resolution does apply, determining the number of equivalent fixture
17 units in the development and multiplying that number by the capacity charge
18 per equivalent fixture unit.

19 H. The sewer capacity charge shall be subject to annual
20 adjustment, effective October 1 of each year, to reflect the increase of the
21 Construction Cost Index ("CCI") for Los Angeles as published in the
22 "Engineering News-Record". The increase shall be calculated each
23 September by dividing the CCI published in August of the current calendar
24 year by the CCI published in August of the preceding calendar year; that
25 figure multiplied by the sewer capacity charge in effect in October shall be
26 the new sewer capacity charge. No adjustment shall be made to reflect a
27 decrease in the CCI.

28 I. Funds derived from capacity charges shall be placed in the

1 Sewer Fund and shall be used only for the operation, construction,
2 reconstruction, acquisition, or maintenance of the City sewerage system.

3 J. Anyone who has paid a capacity charge may apply for a full or
4 partial refund if within one year after payment: 1) the applicant has not been
5 permitted to connect to the City sewerage system; or 2) the development on
6 which the capacity charge was calculated has been modified pursuant to
7 applicable City ordinances, resolutions, or regulations, resulting from a
8 reduction in the number of equivalent fixture units. Refund applications
9 shall be made on forms provided by the City and shall contain a declaration
10 under oath of those facts, along with relevant documentary evidence, which
11 qualify the applicant for the refund. In no event shall a refund exceed ninety
12 percent (90%) of the amount of the capacity charge actually paid.

13 K. Anyone subject to a capacity charge who constructs, deposits
14 money into escrow with the City for the construction of, participates in an
15 assessment district for the construction of, or otherwise contributes money
16 or improvements to the City for the operation, construction, reconstruction,
17 acquisition, or maintenance of the City sewerage system shall be eligible for
18 a credit for such contribution against the capacity charge otherwise due.
19 The amount of the credit shall be the value of the contribution as determined
20 by the City provided, however, that the credit shall not exceed ninety
21 percent (90%) of the amount of the capacity charge. Applications for said
22 credit shall be made on forms provided by the City and shall be submitted at
23 or before the time of application for sewer service. The application shall
24 contain a declaration under oath of those facts, along with relevant
25 documentary evidence, which qualify the applicant for the credit.

26 L. The capacity charge and requirements pertaining thereto shall
27 not affect in any way the permissible use of property, density of
28 development, design and improvement standards, public improvement

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requirements, or any other aspect of the development of land or construction of buildings which may be imposed by the City pursuant to the Long Beach Municipal Code, Subdivision Regulations, or other state or local laws, ordinances or regulations which shall be in effect with respect to all developments.

M. The capacity charge is a charge on development that reflects a development's proportionate share of the present depreciated value of the existing City sewerage system. As such the capacity charge is additional to and not in substitution of the following: 1) on-site sewer facility requirements imposed by the City pursuant to the Long Beach Municipal Code, Subdivision Regulations, and other state or local laws, ordinances or regulations; 2) sewer permit fees; 3) connection charges; 4) sewer rates; and 5) other fees, rates, and charges including but not limited to sewer standby or immediate availability charges and capital facilities charges for services or facilities other than as a proportionate share of the present depreciated value of the existing City sewer system. In no event shall an applicant for sewer service be obligated to pay fees, rates, or charges in excess of those calculated pursuant to applicable City ordinances, which shall not individually or collectively exceed the reasonable cost of providing sewer service to the development.

Section 9. Any term not defined herein which is defined in the Long Beach Municipal Code or in the "Rules, Regulations and Charges Governing Potable Water, Reclaimed Water, Sewer Service, and the Emergency Water Conservation Plan" of the Water Department shall have the meaning stated therein.

Section 10. A. Regular bills for water service and sewer service shall be issued at intervals of approximately one month (commonly called "monthly") except in those cases where the General Manager or the

1 Board of Water Commissioners shall prescribe another billing interval.
2 Insofar as practical, meters shall be read at regular intervals for the
3 preparation of regular bills, and meters shall be read as required for the
4 preparation of opening, closing, and special bills.

5 B. Every water customer and every sewer customer shall be
6 liable for payment of bills for water service and sewer service. Charges for
7 water service and sewer service shall be included in municipal utility bills.

8 C. Anyone who has been granted an exemption under Chapter
9 3.68 of the Long Beach Municipal Code as of the date of this resolution
10 does not need to file a separate application for exemption hereunder.

11 Section 11. Whenever the correctness of any bill for water or
12 sewer service is questioned by a customer, the procedures established in
13 the "Rules, Regulations and Charges Governing Potable Water,
14 Reclaimed Water, Sewer Service, and the Emergency Water
15 Conservation Plan" of the Water Department shall be followed.

16 Section 12. The following words shall have the meanings
17 defined as follows:

18 A. "Billing unit" means one hundred (100) cubic feet of water and
19 equals 748 gallons;

20 B. "Commercial" refers to activities devoted primarily to business,
21 property management, or a profession;

22 C. "Industrial" refers to activities devoted primarily to
23 manufacturing or processing;

24 D. "Non-peaking" means total average daily demand occurring at
25 a continuous, constant level over a twenty-four (24) hour period;

26 E. "Peaking" means total average daily demand occurring
27 between the hours of 9:00 p.m. and 6:00 a.m.

28 F. "Winter billing period" means the time period used for sewer

1 volumetric calculation purposes, which includes bills with a bill prepared
2 date in December, January, and/or February.

3 Section 13. All other resolutions of the Board of Water
4 Commissioners, or provisions thereof, which conflict with this resolution
5 are hereby rescinded. The charges, conditions, and provisions
6 established in this Resolution shall supersede all others previously
7 established.

8 Section 14. The Secretary of the Board of Water
9 Commissioners shall certify to the passage of this resolution and it shall
10 take effect by operation of law following its approval by the City Council by
11 ordinance.

12 I hereby certify that the foregoing resolution was adopted by the Board of
13 Water Commissioners of the City of Long Beach at its meeting held on June 4, 2009, by
14 the following vote:

15
16 Ayes: Commissioners: BLANCO; CLARKE; TOWNSEND;
17 DALLMAN; ALLEN
18 _____
19 Noes: Commissioners: NONE
20 Absent: Commissioners: NONE
21 _____
22 _____

23 Frank Clarke
24 Secretary
25 Board of Water Commissioners

26 SECRETARY TO THE BOARD OF WATER COMMISSIONERS
CITY OF LONG BEACH, CALIFORNIA

27 BY: [Signature]
DATE: 6/4/2009

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