

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

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELMONT ADDING SECTIONS 21-94, 21-95 AND 21-96, RELATING TO THE SEWER TREATMENT FACILITY CHARGE, TO ARTICLE 4 OF CHAPTER 21 OF THE BELMONT MUNICIPAL CODE AND ADOPTING A SCHEDULE FOR THE SEWER TREATMENT FACILITY CHARGE

WHEREAS, the South Bayside System Authority (SBSA) has informed the City that an extensive capital program is required to extend the operating life of the sewer treatment facilities used by the City and other members of SBSA; and,

WHEREAS, the City's share of the cost of the capital program is estimated to be \$45.2 million; and,

WHEREAS, it is not possible to absorb this cost into the City's existing sewer budget; and,

WHEREAS, the City Council desires to impose a new Sewer Treatment Facility Charge to fund necessary sewer treatment expenses; and,

WHEREAS, Section 5471 of the California Health & Safety Code permits the City Council of the City of Belmont to set charges for sewer service by ordinance; and

WHEREAS, on April 14, 2009, the City Council held a full and fair public hearing, properly noticed as required by law, at which all persons interested, were given an opportunity to provide oral and written testimony with respect to the Sewer Treatment Facility Charge; and

WHEREAS, the City Council desires to impose and adopt a schedule for the Sewer Treatment Facility Charge; and,

NOW, THEREFORE, the City Council of the City of Belmont does ordain as follows:

**SECTION 1:** Section 21-94 is added to Article 4 of Chapter 21 of the Belmont Municipal Code to read as follows:

“SECTION 21-94. SEWER TREATMENT FACILITY CHARGE

In addition to any other charge imposed pursuant to this Article, the City Council may, by ordinance adopted pursuant to Section 5471 of the California Health & Safety Code, adopt a Sewer Treatment Facility Charge. Proceeds of the Sewer Treatment Facility Charge shall be expended by the

City only to fund the rehabilitation, replacement, and other associated costs (including financing and operating costs) of wastewater treatment plants, pump stations, outfall pipelines, plant influent force main pipelines, and other treatment facilities that serve the City of Belmont. Proceeds of the Sewer Treatment Facility Charge shall be separately accounted for from proceeds of any other sewer service charge imposed pursuant to this Article. The Sewer Treatment Facility Charge shall be collected in the same manner as a sewer service charge imposed pursuant to this Article, and nonpayment or late payment of the Sewer Treatment Facility Charge shall be subject to the same penalties as apply to such sewer service charges.”

**SECTION 2:** Pursuant to Section 21-94 of the Belmont Municipal Code, the City Council hereby imposes an annual Sewer Treatment Facility Charge at the rate set forth in Exhibit A to this Ordinance, which is incorporated herein by reference. The initial charge shall be collected on the 2011-12 property tax roll.

**SECTION 3:** The City will collect the charge established by section two of this Ordinance until the City Council determines that all capital charges, debt service requirements and operating expenses associated with the City’s 2009 Capital Improvement Plan for sewer service have been retired. However, in no event shall such charge be imposed after tax year 2047-48.

**SECTION 4:** As the primary purpose of this Ordinance is to impose a service charge to fund the replacement or reconstruction of existing sewer treatment facilities that will be located on the same site as the facilities replaced and will have substantially the same purpose and capacity as the facilities replaced, adoption of this Ordinance (and the imposition of the service charge) is exempt from environmental review under the California Environmental Quality Act pursuant to Section 15302 of the California Code of Regulations. The South Bayside System Authority has determined that the adoption of its Capital Improvement Program, which will be partially funded by the service charge imposed by this ordinance, is categorically exempt from environmental review. Each capitol project funded, in whole or in part, by the

service charge will undergo additional separate review under CEQA, if applicable, at such time as the Authority (or other applicable agency) considers those capital projects for approval.

**SECTION 5:** The City Council hereby finds and determines that:

- A. The City has complied with each of the requirements of Section 6 of Article XIID of the California Constitution, including the notice requirement set forth in Section 6(a)(1), with respect to the actions taken by this Ordinance.
- B. The Sewer Treatment Facility Charge is a property-related charge for sewer service that is established at a rate that does not exceed the amount permissible under Article XIID for such a charge. The Sewer Treatment Facility Charge is not a tax.
- C. Revenues derived from the Sewer Treatment Facility Charge will be used only for the purpose set forth in section one of this ordinance and will not exceed the amount that required for that purpose. The purpose set forth in section one of this ordinance is not a general governmental service, as that term is used in section 6(b)(5) of Article XIID of the California Constitution.
- D. The amount of the Sewer Treatment Facility Charge imposed upon any parcel or person as an incident of property ownership does not exceed the proportional cost of the service attributable to the parcel.
- E. No Sewer Treatment Facility Charge is imposed upon any parcel unless sewer treatment services is actually used by or immediately available to the parcel.
- F. A majority protest, as defined by Section 6(a) of Article XIID of the California Constitution does not exist with respect to the Sewer Treatment Facility Charge.

**SECTION 6 :** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent

jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

**SECTION 7:** Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

**SECTION 8:** The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

Introduced this 14th day of April, 2009.

\* \* \* \* \*

PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

AYES, COUNCILMEMBERS: \_\_\_\_\_

NOES, COUNCILMEMBERS: \_\_\_\_\_

ABSENT, COUNCILMEMBERS: \_\_\_\_\_

ABSTAIN, COUNCILMEMBERS: \_\_\_\_\_

\_\_\_\_\_  
Mayor of the City of Belmont

ATTEST:

\_\_\_\_\_  
Clerk of the City of Belmont

EXHIBIT "A"  
**SCHEDULE OF SEWER TREATMENT FACILITY CHARGE**

**Figure 1. Treatment Facility Charges Per Billing Unit**

<b>Customer Class</b>	<b>Billing Units</b>	<b>Annual Rate per Billing Unit</b>	<b>Customer Class</b>	<b>Billing Units</b>	<b>Annual Rate per Billing Unit</b>
<b>Residential</b>			<b>Commercial (continued)</b>		
Single Family Home	Dwelling Unit	<b>\$249.58</b>	Light Manufacturing	1000 ft <sup>2</sup>	<b>\$95.02</b>
Multi-Unit Residential	Dwelling Unit	<b>\$174.92</b>	Lumber Yard	1000 ft <sup>2</sup>	<b>\$50.66</b>
Condominiums	Dwelling Unit	<b>\$200.96</b>	Warehousing	1000 ft <sup>2</sup>	<b>\$71.95</b>
Mobile Home Parks	Spaces	<b>\$224.47</b>	Open Storage	1000 ft <sup>2</sup>	<b>\$471.17</b>
<b>Commercial</b>			Drive-in Theatre	1000 ft <sup>2</sup>	<b>\$33.65</b>
Hotel/Motel/Rooming House	Rooms	<b>\$143.24</b>	Night Club	1000 ft <sup>2</sup>	<b>\$562.51</b>
Store	1000 ft <sup>2</sup>	<b>\$137.53</b>	Bowling/Skating	1000 ft <sup>2</sup>	<b>\$447.41</b>
Supermarket	1000 ft <sup>2</sup>	<b>\$571.01</b>	Club & Lodge Halls	1000 ft <sup>2</sup>	<b>\$50.96</b>
Shopping Center	1000 ft <sup>2</sup>	<b>\$553.33</b>	Auditorium, Amusement	1000 ft <sup>2</sup>	<b>\$562.51</b>
Regional Mall	1000 ft <sup>2</sup>	<b>\$537.59</b>	Golf Course and Park	1000 ft <sup>2</sup>	<b>\$360.94</b>
Office Building	1000 ft <sup>2</sup>	<b>\$89.23</b>	Campground, Marina, RV Park	Sites, Slips, or Spaces	<b>\$106.97</b>
Medical, Dental, Veterinary	1000 ft <sup>2</sup>	<b>\$276.30</b>	Convalescent Home	Beds	<b>\$152.24</b>
Restaurant	1000 ft <sup>2</sup>	<b>\$1,435.29</b>	Horse Stables	Stalls	<b>\$64.69</b>
Indoor Theatre	1000 ft <sup>2</sup>	<b>\$201.17</b>	Laundromat	1000 ft <sup>2</sup>	<b>\$6,144.35</b>
Car Wash			Mortuary, Funeral Home	1000 ft <sup>2</sup>	<b>\$131.67</b>
Tunnel - No Recycling	1000 ft <sup>2</sup>	<b>\$5,943.18</b>	Health Spa, Gym with Showers	1000 ft <sup>2</sup>	<b>\$964.84</b>
Tunnel - Recycling	1000 ft <sup>2</sup>	<b>\$4,376.43</b>	Health Spa, Gym without Showers	1000 ft <sup>2</sup>	<b>\$299.01</b>
Wand	1000 ft <sup>2</sup>	<b>\$1,125.02</b>	Convention Center, Fairground, Racetrack, Sports Stadium/Arena	Avg. Daily Attendance	<b>\$15.19</b>
Bank, Credit Union	1000 ft <sup>2</sup>	<b>\$161.69</b>	<b>Institutional</b>		
Service Shop, Vehicle Maint. & Repair	1000 ft <sup>2</sup>	<b>\$172.25</b>	College/University	Students	<b>\$28.35</b>
Animal Kennels	1000 ft <sup>2</sup>	<b>\$161.69</b>	School	1000 ft <sup>2</sup>	<b>\$163.69</b>
Gas Station	1000 ft <sup>2</sup>	<b>\$284.52</b>	Library, Museum	1000 ft <sup>2</sup>	<b>\$105.57</b>
Auto Sales	1000 ft <sup>2</sup>	<b>\$97.27</b>	Post Office (Local)	1000 ft <sup>2</sup>	<b>\$161.69</b>
Wholesale Outlet	1000 ft <sup>2</sup>	<b>\$161.69</b>	Post Office (Regional)	1000 ft <sup>2</sup>	<b>\$64.69</b>
Nursery/Greenhouse	1000 ft <sup>2</sup>	<b>\$41.24</b>	Church	1000 ft <sup>2</sup>	<b>\$65.59</b>
Manufacturing	1000 ft <sup>2</sup>	<b>\$517.00</b>			