



Office of the Los Angeles City Attorney
Hydee Feldstein Soto

REPORT NO. R 23 - 0 4 7 9
DEC 15 2023

REPORT RE:

**DRAFT ORDINANCE AMENDING PORT OF LOS ANGELES
TARIFF NO. 4, MODIFYING RATES IN SECTION 7 "FREE TIME,
WHARF DEMURRAGE, AND WHARF STORAGE"**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. Pursuant to Charter Section 653(a), this draft ordinance would approve Board of Harbor Commissioners Order No. 23-7352 amending the Port of Los Angeles Tariff No. 4, by modifying rates and regulations in Section Seven "Free Time, Wharf Demurrage, and Wharf Storage," Items 720 and 780. Section Seven, Item 720 would be modified to include Saturdays, Sundays or both as part of the allowable free time on inbound containerized merchandise, provided the marine terminal (terminal) operator's truck gates are announced or published as being open for container delivery on those days. Additionally, to deter Port terminal property from being used as a cargo storage facility, Section Seven, Item 780 would be modified to add a third demurrage tier for merchandise remaining on-terminal more than ten days after the expiration of free time.

Charter Findings

On September 7, 2023, pursuant to Los Angeles City Charter Sections 652(a), 652(c) and 653(a), the Los Angeles Board of Harbor Commissioners (Board) adopted Order No. 23-7352, approved the enclosed draft ordinance, and recommended that the

City Council adopt it. Under Charter Section 653(a), Board Order No. 23-7352 must be approved by the City Council, by ordinance, in order to become effective.

Background

Port Tariff No. 4, Section Seven “Free Time, Wharf Demurrage, and Wharf Storage,” includes provisions relating to the duration merchandise can remain on-terminal without being assessed wharf demurrage upon discharge from a vessel or prior to loading to a vessel, and relating to fees charged after the expiration of such free time when cargo is not picked up by the receiver or is delivered to a terminal too early before a vessel’s commencement of loading operations and departure. The draft ordinance would amend Item 720 to include Saturdays, Sundays or both as part of the allowable free time on inbound containerized merchandise, provided the terminal operator’s truck gates are announced or published as being open for container delivery on those days. Counting Saturdays and/or Sundays as part of the wharf free time will encourage the import community to take delivery of their cargo on weekend days, freeing up space on terminal and adding the benefit that container equipment and truck chassis utilization would increase as well.

Additionally, Item 780 would be modified to add a third demurrage tier for merchandise remaining on-terminal more than ten days after the expiration of free time, in an effort to deter Port terminal property from being used as a cargo storage facility. Currently, there are only two demurrage tiers: one for the first five days after expiration of free time, and a second for each day after the fifth day. The daily charge for the third demurrage tier would be double that of the prior tier, for cargo remaining on-terminal for six to ten days after the expiration of free time.

The objective of the Tariff amendment is to reduce the on-terminal dwell time for merchandise and thereby provide more space on Port terminals to accept empty containers, export merchandise, and improve fluidity for the wide range of supply-chain stakeholders that utilize the Port.

Summary of Ordinance Provisions

The draft ordinance amends Port Tariff No. 4 by:

- Modifying Section Seven “Free Time, Wharf Demurrage, and Wharf Storage,” Item 720, to include Saturdays, Sundays or both as part of the allowable free time on inbound containerized merchandise, provided the terminal operator’s truck gates are announced or published as being open for container delivery on those days.
- Modifying Section Seven “Free Time, Wharf Demurrage, and Wharf Storage,” Item 780, to add a third demurrage tier for merchandise remaining on-terminal more than 10 days after the expiration of free time.

CEQA Findings

The draft ordinance approves an Order of the Los Angeles Board of Harbor Commissioners amending the Port of Los Angeles Tariff No. 4 by modifying rates and regulations in Section Seven "Free Time, Wharf Demurrage, and Wharf Storage," Items 720 and 780. As an administrative activity and an activity involving the modification of a fee for the use of existing municipal facilities involving negligible or no expansion of use, the Harbor Department has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) and Article III, Class 1(31) of the Los Angeles City CEQA Guidelines.

Council Rule 38 Referral

The Harbor Department is the proposing department, and the Tariff amendments were discussed and considered with Harbor Department management and staff present in a full public hearing of the Board of Harbor Commissioners on September 7, 2023.

Increase in Existing Fees

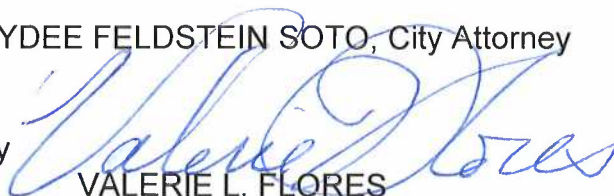
We note that, because this ordinance would effectuate increases in existing fees, notice of its proposed adoption should be given in accordance with the provisions of California Government Code sections 66018 and 6062a. Those sections of State law require that prior to adoption of a new or increased fee a public hearing be held and notice of that hearing be published in a newspaper with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

If you have any questions regarding this matter, please contact Deputy City Attorney Neill Tseng at (310) 732-3750. A member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

HYDEE FELDSTEIN SOTO, City Attorney

By



VALERIE L. FLORES
Chief Assistant City Attorney