



**Item Number: 2**

**City Council / Board of Directors**

**Public Hearing(s)**

**Meeting of: October 3, 2023**

**Submitted By:**

Doug Mathews, Director of Public Works and Water

**Subject:**

Adoption of Proposed Ordinance No. 2444, entitled:

- (1) An Ordinance of the City Council of the City of Victorville Amending and Revising Portions of Title 10 of the Victorville Municipal Code relating to Rates, Fees, and Charges for City Sewer Service; and
- (2) Finding an Environmental Exemption

**Recommendation:**

Staff recommends that the Honorable City Council:

- (1) Conduct the Public Hearing on the proposed adjustments to the City's Sewer Service Rates; and
- (2) Determine if a Majority Protest exists at the close of the Public Hearing, and if no Majority Protest exists;
- (3) Find Ordinance No. 2444 exempt from Environmental Review under Sections 15061(b)(3) and 15273 of the California Environmental Quality Act ("CEQA") Guidelines; and
- (4) Introduce Ordinance No. 2444 for adoption and first reading by title only.

**Fiscal Impact:**

Proposed Ordinance No. 2444 authorizes the implementation of a 5-year Sewer Rate Plan by adopting new and increased Sewer Rates needed to address increased costs for the collection and treatment of wastewater flows from residents and businesses within the boundaries of City, utilizing the treatment facilities of the Victor Valley Wastewater Treatment Authority and the City's Industrial Wastewater Treatment Plant.

**Strategic Plan Goal:**

This item aligns with Goal A., Financial Stability; and Goal E., Invest in Infrastructure. Adjusting existing sewer rates periodically helps the City operate and maintain its sewer collection and treatment infrastructure optimally.

**Background:**

The City of Victorville ("City") owns, operates, and maintains a sanitary sewer collection system and provides for the collection and treatment of wastewater flows from residents and businesses within the boundaries of the City (the "Sewer Services"), utilizing the treatment facilities of the Victor Valley Regional Wastewater Authority ("VWRA") and the City's Industrial Wastewater Treatment Plant ("IWWTP") located at the Southern California Logistics Airport.

As authorized by Sections 7 and 9 of Article XI of the California Constitution, Health and Safety Code section 5470 et seq., and Chapter 10.01 of the Victorville Municipal Code ("VMC"), the City prescribes, revises, and collects fees, charges, and rates for its Sewer Services ("Sewer Service Rates"). The City's last sewer rate study/cost of service analysis, conducted in fiscal year 2018 by NBS, an independent consulting firm engaged by the City, resulted in the City's implementation of a modified sewer rate structure and Sewer Service Rates (after following appropriate Proposition 218 procedures) which provided for annual increases over a five-year period ending in fiscal year 2023. It is generally considered good utility practice to perform comprehensive rate studies at least every five years.

Given its familiarity with the City's existing sewer rate structure and customer classes, the City again engaged NBS to study its Sewer Service Rates and the revenues being generated to determine if such revenues are adequate to cover the City's current costs associated with providing Sewer Services. Such costs include, but are not limited to: operating and maintaining the City's sewer collection system; complying with state and federal wastewater treatment and disposal requirements; paying wastewater treatment fees charged by the VWRA; maintaining the IWWTP; and establishing a minimum cash reserve for sewer operations and capital expenses.

NBS performed a comprehensive cost of service and sewer rate study analysis ("Rate Study"), which included a review of the current Sewer Service Rates to determine if said rates continued to proportionately allocate the City's costs of providing Sewer Services amongst the property owners/customers utilizing the services.

The Rate Study determined that the current Sewer Service Rates were insufficient to fully fund the City's ongoing obligations for sewer operations and maintenance expenses. Therefore it is recommended to incrementally increase the Sewer Service Rates over the next five (5) years to ensure continued proper operation and maintenance of the City's sewer system, cover VWRA wastewater treatment costs, meet debt service requirements, rehabilitate and replace aging sewer system assets, including vehicles and equipment, and maintain appropriate operating reserves. Increased revenue requirements identified in the Rate Study were predominantly driven by capital costs necessary to rehabilitate and replace aging sewer system infrastructure and the continued escalation of costs of goods and services (inflation) projected over the five-year Rate Study period.

On August 8, 2023, the City Council adopted Resolution No. 23-063, which accepted the Rate Study and proposed adoption of new Sewer Service Rates. The Rate Study proposed adjustments to the current Sewer Service Rates and suggested redistributing projected costs to appropriate customer classes to ensure proportionality and appropriate cost recovery for providing reliable Sewer Services to City residences and businesses. The Sewer Service Rates resulting from the Rate Study were developed in a manner consistent with industry standard cost-of-service principles.

## **Discussion:**

### **Current and Proposed Sewer Service Rates**

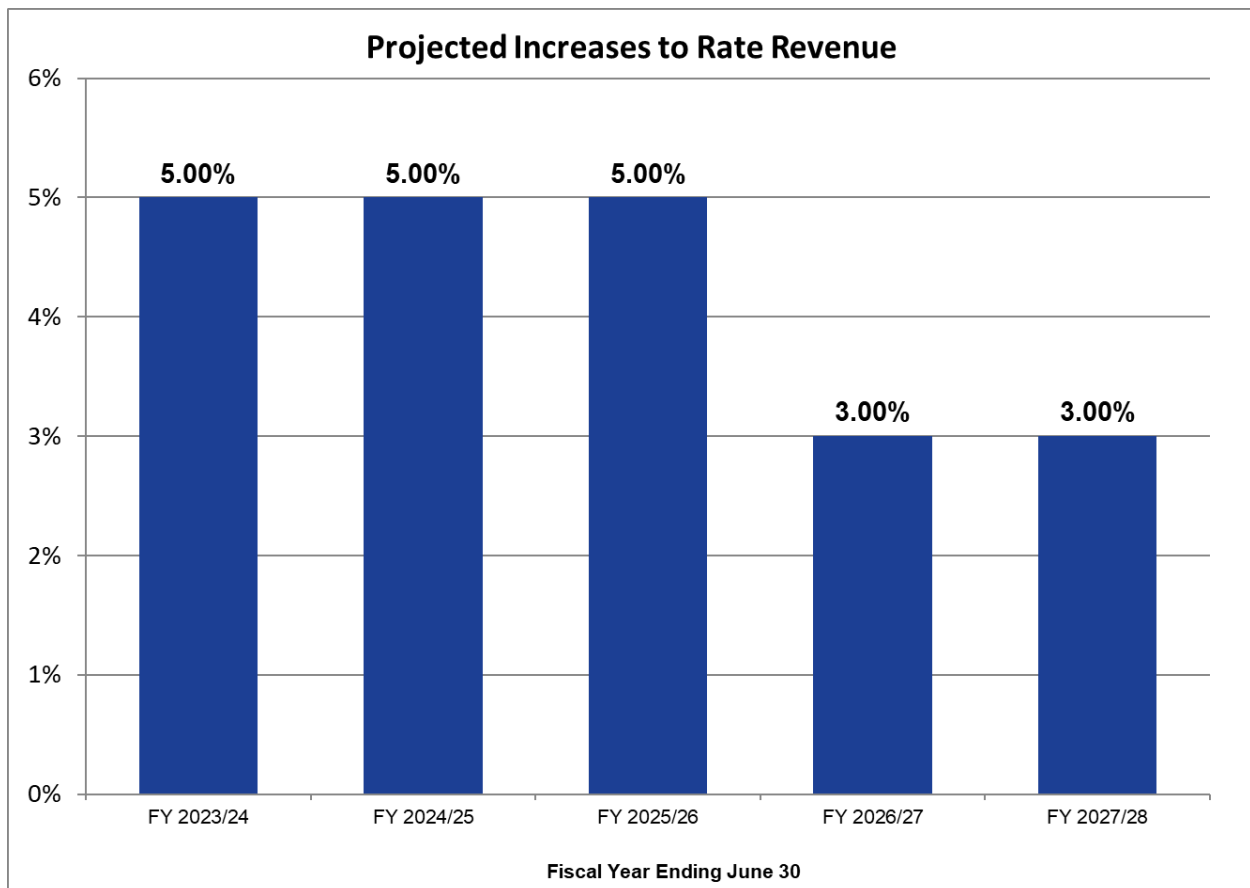
All properties to which Sewer Services are made available are subject to sewer charges. Wastewater is not metered for specific flows. Instead, domestic water usage (not including water used for irrigation) is used to estimate wastewater flows. The methodology the City currently uses to calculate its Sewer Service Rates is based on customer classes and computed as follows:

- Single-Family Residential Customers are billed a fixed monthly service charge for each dwelling unit.
- Multi-Family Residential Customers (such as apartment buildings) are billed a fixed monthly service charge for each dwelling unit. This fixed monthly charge is lower than that charged to Single-Family Customers to account for lower standard usage.
  - A dwelling unit is an individual living unit; for single-family residential customers, this is a single-family home and for multi-family customers, this is an individual unit (for example, an apartment unit, or one of the living units in a duplex or triplex building).
- Commercial Customers are billed a fixed monthly service charge for each account, plus a volumetric charge based on the amount of domestic water used at the property.
- Industrial Customers (user-specific) are billed fixed monthly charges (and in some cases monthly minimum charges), as well as surcharges, which are dependent on the wastewater strength characteristics, including biochemical oxygen demand ("BOD"), chemical oxygen demand ("COD"), suspended solids ("SS"), fixed dissolved solids ("FDS"), and total suspended solids ("TSS").

The proposed changes to the current Sewer Service Rates methodology are as follows:

- The Industrial Customers (User-Specific) class has been divided into two separate rate classes: Industrial Customers and User-Specific Rate Customers.
  - Industrial Customers will be billed a fixed monthly service charge, a volumetric charge based on the amount of domestic water consumed, plus surcharges for wastewater strength characteristics, including biochemical oxygen demand ("BOD") and total suspended solids ("TSS").
  - User-Specific Rate Customers will each be billed fixed and/or minimum monthly charges and various applicable surcharges based on their wastewater strength characteristics and other relevant factors.

The following table shows the projected increases to rate revenue over the five-year Rate Study period. The actual increases in rates for the various rate components and customer classes will vary from the percentages shown below, especially in the first year when projected costs are redistributed to appropriate customer classes to ensure proportionality and appropriate cost recovery for providing reliable Sewer Services to City residences and businesses. After the first year, the proposed rate increases should more closely match the percentages in the table below.



The following table compares the current and recommended (proposed) Sewer Rates:

Sewer Rate Schedule	Current Rates	Recommended Sewer Rates				
		FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28
Residential Customers <sup>1</sup>						
Monthly Fixed Service Charge, per Dwelling Unit:						
Single-Family Residential	\$ 51.89	\$ 59.62	\$ 62.60	\$ 65.73	\$ 69.01	\$ 72.46
Multi-Family Residential	\$ 38.09	\$ 31.32	\$ 32.89	\$ 34.53	\$ 36.26	\$ 38.07
Commercial Customers						
Monthly Fixed Service Charge, per Account:						
Volumetric Charge, per hcf <sup>2</sup>	\$ 51.89	\$ 59.62	\$ 62.60	\$ 65.73	\$ 69.01	\$ 72.46
	4.41	\$ 4.54	\$ 4.77	\$ 5.01	\$ 5.26	\$ 5.52
Industrial Customers <sup>3</sup>						
Monthly Fixed Service Charge, per Account:						
Volumetric Charge, per hcf <sup>2</sup>	\$ 51.89	\$ 59.62	\$ 62.60	\$ 65.73	\$ 69.01	\$ 72.46
	4.41	4.54	4.77	5.01	5.26	5.52
BOD Charge, per lb	-	\$ 2.10	\$ 2.21	\$ 2.32	\$ 2.43	\$ 2.55
TSS Charge, per lb	-	\$ 2.03	\$ 2.14	\$ 2.24	\$ 2.35	\$ 2.47
User-Specific Rates						
Federal Corrections Complex (FCC)						
Monthly Fixed Charge Per EDU <sup>4</sup>	\$ 52.22	\$ 64.32	\$ 67.54	\$ 70.92	\$ 74.46	\$ 78.18
BOD Charge, per lb <sup>5</sup>	\$ 2.19	\$ 2.10	\$ 2.21	\$ 2.32	\$ 2.43	\$ 2.55
TSS Charge, per lb <sup>5</sup>	\$ 2.20	\$ 2.03	\$ 2.14	\$ 2.24	\$ 2.35	\$ 2.47
Kuerig Dr. Pepper (KDP) <sup>6</sup>						
Monthly Min Charge (excluding capital recovery) <sup>7</sup>	\$ 162,500	\$ 162,500	\$ 162,500	\$ 162,500	\$ 162,500	\$ 162,500
Monthly Fixed Charge (Ion Exchange Service) <sup>8</sup>	\$ 10,200	\$ 10,200	\$ 10,200	\$ 10,200	\$ 10,200	\$ 10,200
Volumetric Charge, per 1,000 gal <sup>6</sup>	\$ 0.37	\$ 0.37	\$ 0.37	\$ 0.37	\$ 0.37	\$ 0.37
COD Charge, per lb <sup>6</sup>	\$ 0.13	\$ 0.13	\$ 0.13	\$ 0.13	\$ 0.13	\$ 0.13
FDS Charge, per lb <sup>9</sup>	\$ 2.91	\$ 2.99	\$ 3.07	\$ 3.15	\$ 3.24	\$ 3.32
BOD Charge, per lb <sup>10</sup>	N/A	-	-	-	-	-
TSS Charge, per lb <sup>10</sup>	N/A	-	-	-	-	-

1. Residential customers are assessed on the basis of their number of dwelling units.

2. Volumetric charge will apply to monthly water consumption.

3. All industrial dischargers that discharge wastewater of unusual strength or character are required to obtain a wastewater discharge permit from IWWTP or VVWRA, respectively. Additional surcharges may apply based on wastewater characteristics.

Plastipak and Hydration Source included in this customer category.

4. FCC will be billed based on a flow estimate of 200 gallons per day, per EDU.

5. FCC surcharges for BOD and TSS apply to concentrations above 200 mg/l for BOD and 250 mg/l for TSS.

6. Volumetric charges (per 1,000 gal or lbs) for KDP shall apply accordingly if discharge exceeds 585,000 gpd, 28,100 lbs/day of COD or 1,400 lbs/day of SS in accordance with Wastewater Capacity and Treatment Agreement.

Volumetric charges for KDP listed in rate table are in accordance with the Wastewater Capacity and Treatment Agreement.

7. Monthly minimum charge for KDP in accordance with Wastewater Capacity and Treatment Agreement.

8. Monthly fixed charge per Woodard and Curran operational expenses.

9. The FDS surcharge was calculated by Woodard & Curran and is subject to a 2.7% general cost inflation factor in FY 2019/20 and beyond.

This will apply to all pound of FDS treated. Source:2018.03.21 FDS Surcharge Limit Table.xlsx

10. BOD and TSS charges not applicable to KDP due to wastewater strength characteristics.

A slightly revised version of the above rate table, which does not include the "Current Rates" column and certain inapplicable charges, will replace the rate table currently found in VMC Section 10.01.030.d (see Section 5 of attached proposed Ordinance No. 2444). The rate table footnotes have also been combined and simplified in the proposed Ordinance to eliminate certain redundancies and provide additional clarity for codification purposes.

## Pass Through of VVWRA Rates Increases

Currently, the first year of the proposed sewer rate increases also includes the final year of an 8% VVWRA sewer treatment charge pass-through increase, which accounts for approximately three-fifths (3/5) of the 5% projected increase to rate revenue in the FY 23/24. Although the City has been advised that the VVWRA is currently studying its rates for the five years following FY 23/24, the future VVWRA rates beyond FY 23/24 are not

known. Pursuant to Government Code Section 53756, future rate increases imposed by VVWRA may be passed through to customers as additional adjustments to the rates and fees shown above. Industrial and User-Specific Customers whose flows are being conveyed to VVWRA are also subject to surcharges based on wastewater characteristics as determined by VVWRA.

### **Proposition 218 – Adoption of Proposed Sewer Service Rates**

Proposition 218, a voted-adopted ballot initiative, added Articles XIII C and XIII D to the California Constitution to create rules and limitations on the imposition of assessments, taxes, and fees. Section 6 of Article XIII D, which applies to property-related fees such as sewer, requires a public hearing be scheduled to consider adoption of any new rates or fees and notification to be sent to the record owner of each identified parcel upon which any new (or increased) fees, rates or charges are proposed to be imposed. The required notification is a public hearing notice, which must be mailed at least forty-five (45) days in advance of the public hearing, and must describe the amount of the fee or charge proposed to be imposed upon each parcel; the basis upon which the amount of the proposed fee or charge was calculated; the reason for the fee or charge; together with the date, time, and location of the public hearing.

Resolution No. 23-063 further set October 3, 2023 as the date for a Public Hearing on the proposed Sewer Service Rates, and authorized staff to prepare and mail notices thereof (“Notices”) to the record owners of all parcels subject to the new rates.

On August 18, 2023, 30,587 Notices were mailed to the property owners of parcels upon which the Proposed Rates were to be imposed. The Notices included information on the date, time, and location of the Public Hearing; the basis for the Proposed Rates; the reason for the proposed increases; the amount of the Proposed Rates, and protest procedures. A Copy of the Notice is attached to this Staff Report.

At this time, the City Council will hear testimony and consider all valid written protests against the proposed Sewer Service Rates received by the City Clerk prior to the close of the Public Hearing. If valid written protests are presented by a majority of owners of the identified parcels (50% plus one, a “Majority Protest”), the City Council will not impose the proposed Sewer Service Rates. If there is no Majority Protest, the City Council may consider for introduction and first reading a Sewer Rate Ordinance No. 2444 (attached) to impose the proposed Sewer Service Rates up to the maximum amounts proposed.

### **Sewer Rate Ordinance Requirement**

A Sewer Rate Ordinance is needed because Section 10.01.010 of the Victorville Municipal Code requires that Sewer Service Rates be set by ordinance passed by a two-thirds (2/3) vote of the entire membership of the City Council. If introduced for first reading on October 3, 2023, proposed Sewer Rate Ordinance No. 2444 will be brought back to the City Council for second reading and final adoption/passage at its regularly scheduled meeting to be held on October 17, 2023. If passed on October 17, 2023 by the requisite two-thirds vote, the new Sewer Service Rates will become effective for all billings made

on or after December 1, 2023, and on each July 1 thereafter, for fiscal years 2025, 2026, 2027, and 2028.

Proposed Ordinance No. 2444 also revises and updates Section 10.01.040 of the VMC to be consistent with the Development Impact Fee and Sewer Capacity charge studies, master fee schedules, and associated Council Policy adopted by the City Council last year. Outdated fee amounts and terminology relating to connection fees have been removed and the calculation of Sewer Capacity Charges has been streamlined and clarified (see Section 6 of attached proposed Ordinance No. 2444). Additionally, a minor update was made to Section 10.02.300 to correct similar inconsistencies, as shown in the blackline version highlighting changes made to current sections of the VMC (see Attachment C).

### **Environmental (CEQA) Exemption**

As set forth in the Recitals of the Ordinance No. 2444, the City Council finds that the Ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Sections 15061(b)(3) (No Possibility that the Activity may have Significant Effect on the Environment) and 15273 (Adoption of Rates, Tolls, Fares, and Charges).

Staff remains available for any questions the City Council may have.

**Attachments:**    A. Ordinance No. 2444  
                              B. Notice of Public Hearing  
                              C. Blackline showing changes to VMC Chapters 10.01 and 10.02