

RESOLUTION NO. 24-3442

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ESTABLISHING PROPOSED SCHEDULES OF TOTAL MONTHLY RATES FOR SEWER SERVICES, SUBJECT TO THE PROPOSITION 218 NOTIFICATION, PROTEST, AND PUBLIC HEARING PROCESS AND IN COMPLIANCE WITH THAT PROCESS DIRECTING THAT NOTICE THERETO BE PROVIDED TO PROPERTY OWNERS OF RECORD UPON WHICH PROPOSED FEES WOULD BE IMPOSED AND FURTHER DIRECTING THAT A PUBLIC HEARING ON SUCH PROPOSED FEES SHALL BE SET FOR AUGUST 19, 2024, AT 7:00 P.M. IN THE MONTCLAIR CITY COUNCIL CHAMBERS

WHEREAS, Article XIID, Section 6(a) of the State Constitution (Proposition 218), passed by the voters of California on November 5, 1996, requires municipalities to give detailed written notice to the owners of parcels upon which proposed water-, refuse-, and/or sewer-related fees or charges are to be applied; and

WHEREAS, on July 24, 2006, the California Supreme Court published its decision on *Bighorn-Desert View Water Agency v. Beringson*, addressing the property-related fee provisions of Proposition 218, and concluding that in relation to water-, refuse-, and sewer-related services where the rates for such services are set by a government agency, such "property-related" fees are subject to the public hearing requirements of Proposition 218; and

WHEREAS, Proposition 218 requires that a public hearing shall be conducted not less than 45 days after the mailing of a notice of a public hearing on property-related fee adjustments to the record owners of each identified parcel upon which the fee is proposed for imposition; and

WHEREAS, the Notice of Public Hearing shall include the amount of the fee to be imposed, the basis upon which the fee was calculated, the reason for the fee, together with the date, time, and location of the public hearing, and that the City Council of the City of Montclair hereby gives its consent to provide notice thereto; and

WHEREAS, such notice is attached hereto and by its reference is incorporated into the sum and parts of this Resolution and is approved by the City Council of the City of Montclair for mailing to the property owners of record upon which the proposed fees would be imposed; and

WHEREAS, if written protests against proposed property-related fees are presented by a majority of the property owners of record upon which the proposed fees would be imposed, the fee adjustment shall not be implemented; and

WHEREAS, if a majority protest is not received from the property owners of record upon which the proposed fees would be imposed, the proposed fees shall go into effect without further action, except that schedules of such fees shall first be adopted by Resolution of the Montclair City Council; and

WHEREAS, written protests can be provided to the City in advance and up to the date and time set for a public hearing; and

WHEREAS, a fee shall not be extended, imposed, or increased unless it meets each of the following requirements:

1. Revenues derived shall not exceed the funds required to provide the property-related service.
2. Revenues derived shall not be used for any purpose other than that for which the fee is imposed.
3. The fee imposed shall not exceed the proportional cost of the service.
4. No fee may be imposed unless the service is actually used by, or immediately available to, the owner of the property.
5. No fee may be imposed for general governmental services such as police, fire, ambulance, or library services where the service is available to the public at large in substantially the same manner as it is to property owners.

WHEREAS, Title 9, Chapter 9.20 of the Montclair Municipal Code establishes a mandatory Sewer Collection Program and a process for the collection of service fees related thereto; and

WHEREAS, effective July 1, 2023, the City Council raised the *Total Monthly Sewer Rate* to \$33.47 which was below the City's maximum authorization for sewer rates under Proposition 218); and

WHEREAS, the *Total Monthly Sewer Rate* consists of **four** rate components including the Sewage Treatment component representing the cost of sewage treatment by the Inland Empire Utility Agency and passed on to the City, the Sewer Maintenance component representing the City's cost to maintain the sewer system, the Infrastructure Replacement/Rehabilitation component representing the City's cost to replace or rehabilitate deteriorating portions of the sewer system **and the Effluent/Contamination Maintenance component representing the maintenance of sewer line obstructions related to foreign substances in the sewer system;** and

WHEREAS, the fiscal viability of the City's Sewer Fund would be required to continue sharing a significant and growing responsibility for operating the Sewer Program; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby establishes the following justification(s), rate calculation methodologies, and proposed schedule of rates for sewer services for the period July 1, 2024, through July 1, 2028, and that such rates shall be imposed on all record owners/rate payers of each identified parcel in the City of Montclair, subject to the Proposition 218 notification, protest, and hearing process:

Justification(s) and Rate Calculation Methodologies: The proposed justification(s) and rate calculation methodologies for each property owner's bimonthly bill for Sewer services are as follows: Based on historic patterns, the City can project that when applied over the next five years (July 1, 2024, through July 1, 2028), the average for rate adjustments would not likely exceed 10 percent per year. Accordingly, and except for the July 1, 2024, proposed rate adjustment, an annual CPI of 10 percent is the methodology used to project annual rate increases for the *Total Monthly Sewer Rate*.

Based on this analysis and justifications contained in other relevant sections of this Resolution, the City Council proposes an initial adjustment for July 1, 2024 that increases to residential Sewer so that the *Total Monthly Sewer Rate* is \$33.47—the actual cost to the City to provide residential Sewer services. The July 1, 2024, rate adjustment would be followed by annual rate increases over a 5-year period not to exceed 10 percent annually. State law (Section 53753.5 of the Government Code) provides that, under Proposition 218, property-related fees can be adjusted on an annual basis provided the formula for adjusting rates does not change or does not change in a way that would otherwise impose future increases that are higher than the fee formula contained herein would allow; accordingly, annual rate adjustments may continue indefinitely under the methodology contained herein.

Table 1 below indicates the City of Montclair's current and proposed rates as well as the *Maximum Total Monthly Sewer Rate* for the period from July 1, 2024, through July 1, 2028.

Table 1
Current & Proposed Sewer Rates

<u>Effective Date</u>	<u>Part 1 Fee</u>	<u>Part 2 Fee</u>	<u>Part 3 Fee</u>	<u>Part 4 Fee</u>	<u>Total</u>
Current	\$ 23.39	\$ 8.58	\$ 1.50	\$ -	\$ 33.47
Proposed:					
07/01/24	\$ 24.79	\$ 9.44	\$ 1.75	\$ 0.50	\$ 36.48
07/01/25	\$ 27.27	\$ 10.38	\$ 1.75	\$ 0.50	\$ 39.90
07/01/26	\$ 30.00	\$ 11.42	\$ 1.75	\$ 0.50	\$ 43.67
07/01/27	\$ 33.00	\$ 12.56	\$ 1.75	\$ 0.50	\$ 47.81
07/01/28	\$ 36.30	\$ 13.82	\$ 1.75	\$ 0.50	\$ 52.37

BE IT FURTHER RESOLVED that all proposed *Total Monthly Sewer Rates* are approximate. Actual *Total Monthly Sewer Rate* charges for each year will not be higher than the proposed rates, as indicated. In the event that rates higher than those proposed are required to meet program needs, the City is required to reconduct the Proposition 218 notification, protest, and hearing process. Fees imposed do not exceed the proportional cost of the service attributable to each affected parcel, and revenues derived are not expected to exceed the cost of service.

BE IT FURTHER RESOLVED that in the event a majority protest of property owners against the proposed schedule of rates for Sewer services fail(s), such rate schedule(s) shall be effective immediately after the Proposition 218 public hearing and upon approval by the Montclair City Council, by Resolution, prior to implementation.

BE IT FINALLY RESOLVED that the City Council of the City of Montclair hereby sets a public hearing for Monday, August 19, 2024, at 7:00 p.m., in the Montclair City Council Chambers to provide interested parties, including property owners, an opportunity to provide oral or written protests to the schedule of Sewer Program rates and that only those protests submitted in writing shall be counted.

APPROVED AND ADOPTED this 17th day of June, 2024.

Mayor

ATTEST:

City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 24-3442 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the 17th day of June, 2024, and that it was adopted by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Andrea M. Myrick
City Clerk