

ORDINANCE NO. 2444

**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**

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

WHEREAS, the Victorville City Council ("**City Council**") is 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 City's Municipal Code to prescribe, revise, and collect fees, charges, and rates ("**Sewer Service Rates**") for the Sewer Services it so provides, which rates were last revised in 2018 when the City implemented a modified sewer rate structure and Sewer Service Rates which provided for annual increases and certain passthrough fees over a five-year period which ended in fiscal year 2023; and

WHEREAS, the City engaged an independent consulting firm ("**Consultant**"), to study the revenues generated by the City's current Sewer Service Rates to determine if they were adequate to cover the City's expenses associated with providing Sewer Services, such as: operating and maintaining its sewer collection system; complying with state and federal wastewater treatment and disposal requirements; paying wastewater treatment fees charged by the VVWRA; maintaining the IWWTP; and establishing a minimum cash reserve for sewer operations; and

WHEREAS, the Consultant also reviewed the City's current Sewer Service Rates to determine if said rates were proportionately allocating the City's costs of providing Sewer Services amongst the property owners/customers utilizing such services; and

WHEREAS, Consultant's analysis was contained in a comprehensive cost of service and sewer rate study ("**Rate Study**"), which showed that current Sewer Service Rates are insufficient to fund the City's ongoing obligations for sewer operations and maintenance expenses; and

WHEREAS, the Rate Study demonstrated a need for the City to incrementally increase its Sewer Service Rates over the next five (5) years to ensure continued proper operation and maintenance of the City's sewer system, cover VVWRA wastewater treatment costs, meet debt service requirements, rehabilitate and replace aging sewer system assets, and maintain appropriate operating reserves; and

WHEREAS, the Rate Study also recommended the City modify the way it calculates some of its Sewer Service Rates to enhance proportional spreading of applicable costs amongst users of the City's sewer system according to the cost of providing Sewer Services to each user; and

WHEREAS it is the intention of the City Council to increase the City's current Sewer Service Rates and modify the way some of those rates are calculated to ensure proportionality and appropriate cost recovery for providing reliable Sewer Services to City residences and businesses; and

WHEREAS, at its August 8, 2023, special meeting, the City adopted Resolution No. 23-063, which accepted the final Rate Study; set the date, time, and location for a Public Hearing on the proposed adjustments to the City's Sewer Service Rates; and authorized preparation and mailing of a Notice of Public Hearing on the proposed Sewer Service Rates in accordance with the applicable provisions of Proposition 218 (Article XIII D, sec. 6 of the California Constitution) in order to consider adoption of the proposed revised Sewer Service Rates; and

WHEREAS, pursuant to the provisions of Proposition 218, on August 18, 2023, City staff mailed **30,587** Notices of Public Hearing to the affected property owners notifying them of this Public Hearing and their rights to protest the proposed Sewer Service Rates, as well as the amount of the proposed rates to be imposed, the basis upon which the amount of the proposed rates were calculated, and the reason for the proposed rate modifications; and

WHEREAS, in accordance with the City's standard practice for noticing adoption of proposed ordinances imposing rate increases, a notice relating to the public hearing and proposed adoption of this Ordinance was published in a newspaper of general circulation on September 22, 2023, and September 29, 2023, and a copy of said notice was also posted on the City's website; and

WHEREAS, on October 3, 2023, the City conducted a Public Hearing in the manner required by law and considered all protests to the proposed Sewer Service Rates and at the close of the Public Hearing 36 protests were received; and

WHEREAS, the number of protests submitted in opposition were not greater than 15,295 (which number represents a majority [50% +1] of the parcels subject to the proposed rates) and therefore a majority protest does not exist; and

WHEREAS, the City has complied with the notice, protest, and hearing requirements of Proposition 218 with respect to the proposed Sewer Service Rates; and

WHEREAS, the City Council has received, reviewed, and given due consideration to the evidence presented in connection with the Sewer Service Rates and rate methodology to be fixed by this Ordinance, including the Rate Study and other reports and information received by the City Council in the course of its business; and

WHEREAS, the City Council has evaluated and considered the Sewer Services the City provides to its residential, commercial, institutional, and public agency customers; the rates charged to the various customer discharger types for Sewer Services; the costs reasonably borne by the City in providing such services; the beneficiaries of such services; and the revenues produced by customers paying the City's Sewer Service Rates; and

WHEREAS, the Sewer Service Rates being imposed and collected by the City have been established to yield revenues in amounts sufficient to: pay the operating expenses of the sewer system; adequately fund and cover the costs of sewage treatment and disposal facilities so they may be operated safely and reliably; provide for the construction, ownership, operation, repair, maintenance, and replacement of sewer system infrastructure; pay the interest and principal on any bonded debt of the sewer system and maintain the financial stability of the operation thereof; comply with state and federal regulatory sewage treatment and disposal requirements; and provide adequate reserves in the City's sewer fund for emergencies and unforeseen costs.

WHEREAS, the City Council has reviewed the adoption of this Ordinance pursuant to the requirements of the California Environmental Quality Act of 1970, as amended ("CEQA"), and has determined that the adoption of the Sewer Service Rates has no foreseeable potential to result in a significant impact upon the environment and is exempt from CEQA review pursuant to State CEQA Guidelines Section 15061(b)(3). Further, the City Council has determined that the adoption of revised Sewer Service Rates is exempt from substantive environmental review under Section 15273 of the State CEQA Guidelines, because the adoption of the revised Sewer Service Rates involves charges by a public agency for the purpose of meeting operating expenses, purchasing supplies, equipment and materials, and meeting financial reserve requirements; and

WHEREAS, to provide cost-efficient and reliable Sewer Services to its customers, the City Council finds it in the best interest of the City and its sewer customers to enact this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VICTORVILLE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals.

The recitals set forth above are true and correct, and together with the findings and definitions set forth therein, are hereby made part of this Ordinance by this reference.

Section 2. Findings.

The City Council makes all of the following findings:

- a. The revenues derived from the proposed Sewer Service Rates shall not exceed the funds required to provide the property related service;
- b. The revenues derived from the proposed Sewer Service Rates shall not be used for any purpose other than that for which the proposed Sewer Service Rates are imposed;
- c. The proposed Sewer Service Rates will be used to provide Sewer Services actually used or immediately available for use to the owners of the properties so charged;
- d. The Sewer Service Rates charged shall not exceed the proportional cost of the service attributable to the parcel; and
- e. The proposed Sewer Service Rates will not be used for general governmental services, including police, fire, ambulance, or library services.

Section 3. Adoption and Effective Dates of Sewer Service Rates.

The Sewer Service Rates set forth in Section 5 of this Ordinance are hereby adopted. The Sewer Service Rates designated to be effective on December 1, 2023, shall be fixed for all billings made on or after December 1, 2023, and thereafter shall be annually adjusted and fixed for all billings made on or after July 1 of each subsequent year, as indicated in Section 5 hereof.

Section 4. Revision of Section 10.01.020 of Chapter 10.01 (SEWER RATE ORDINANCE).

SECTION 10.01.020 (SEWER SERVICE CUSTOMER DISCHARGER TYPES) OF THE VICTORVILLE MUNICIPAL CODE IS HEREBY REVISED IN ITS ENTIRETY TO READ AS FOLLOWS:

10.01.020 – Sewer service customer discharger types.

a. The following sewer service customer discharger types shall be used for sewer service billing purposes:

1. Single-family residential dischargers are those customers whose premises consist of any single-family dwelling, including homes, houses, residences, mobile homes, and other structures intended for and primarily used as single-family dwellings, and are not included in any other customer discharger type.

2. Multi-family residential dischargers are those customers whose premises consist of multi-family dwellings, including apartment complexes, duplexes, triplexes, condominiums, townhomes, and other similar structures intended for and primarily used as multi-family dwellings, and are not included in any other customer discharger type.

3. Commercial dischargers are those customers whose premises consist of commercial, institutional, or industrial establishments which are not included in any other customer discharger type. Commercial discharger type customers include hotels, motels, camping facilities, schools, churches, restaurants, office buildings, factories, service stations, hospitals, and other structures, buildings, or facilities primarily used for commercial, institutional, industrial, or manufacturing purposes, whether or not operated for a profit. Ordinances and regulations of the VVWRA require certain commercial customer discharger types to obtain wastewater discharge permits from the VVWRA ("industrial users"), and pay additional charges and surcharges directly to the VVWRA for the treatment or pretreatment of high strength wastewater.

4. Industrial and/or user-specific dischargers are those customers whose premises consist of buildings, structures, factories, plants, or other manufacturing or institutional facilities that discharge wastewater of unusual strength or character, as determined by the city's evaluation of the concentration, strength factors, and/or control parameters of such user's specific wastewater discharge, including, but not limited to, biochemical oxygen demand ("BOD"), chemical oxygen demand ("COD"), suspended solids ("SS" or "TSS"), ammonia ("NH3"), and fixed dissolved solids ("FDS"). These dischargers are required to obtain a wastewater discharge permit from the IWWTP or the VVWRA, as applicable.

b. The customer or property owner of record for any premises in the city served by the city sewer system shall report to the city any change in usage of the premises or characteristics of sewage discharge therefrom that could affect its customer discharge type classification within sixty (60) days of the date of such change.

c. The city shall, upon notification or discovery of a change in classification of customer discharger type or usage, execute such change for billing and operational purposes and make reasonable allowance for the timing and/or retroactive adjustments of such billings based upon the facts available to and known by the city.

Section 5. Revision of Section 10.01.030 of Chapter 10.01 (SEWER RATE ORDINANCE).

SECTION 10.01.030 (SEWER SERVICE CHARGES) OF THE VICTORVILLE MUNICIPAL CODE IS HEREBY REVISED IN ITS ENTIRETY TO READ AS FOLLOWS:

10.01.030 – Sewer service charges.

a. Monthly sewer service charges for single-family residential and multi-family residential customer discharger types shall be calculated and billed based solely on the number of dwelling units of each customer, as set forth in the sewer rate schedule in subdivision d of this section.

b. Monthly sewer service charges for commercial customer discharger types shall be calculated and billed based on a fixed amount per customer account, plus a volumetric charge per hundred cubic feet ("hcf") of water used, received, or taken by the customer (as recorded or otherwise estimated by the Victorville Water District, excluding that water used, received or taken exclusively for irrigation purposes), as set forth in the sewer rate schedule in subdivision d of this section.

c. Monthly sewer service charges for existing industrial and/or user-specific customer discharger types shall be calculated and billed based on the fixed and/or minimum monthly amounts, plus the applicable volumetric charges, and surcharges based upon each customer's individual wastewater constituents (*i.e.*, BOD, COD, SS, TSS, NH₃, and/or FDS), as set forth in the sewer rate schedule in subdivision d of this section (additional surcharges may apply should wastewater characteristics change). Monthly sewer service charges for future industrial and/or user-specific customer discharger types shall be determined and calculated by the city based on costs of service, following the evaluation described in section 10.01.020.a.4 of this chapter.

d. The sewer service rates/charges in the following sewer rate schedule shall be the maximum rates in effect for all sewer service billings made on or after December 1, 2023, and on July 1 of each year thereafter, subject to automatic adjustments that pass through to the city adopted increases or decreases in sewage treatment charges established by the VVWRA. Such automatic adjustments will be made following notice, and as otherwise provided for in Government Code Section 53756:

Sewer Rate Schedule	Maximum Sewer Rates				
	12/1/2023	7/1/2024	7/1/2025	7/1/2026	7/1/2027
Residential Customers					
Monthly fixed service charge, per dwelling unit					
Single-family residential	\$59.62	\$62.60	\$65.73	\$69.01	\$72.46
Multi-family residential	\$31.32	\$32.89	\$34.53	\$36.26	\$38.07
Commercial Customers					

Monthly fixed service charge, per account	\$59.62	\$62.60	\$65.73	\$69.01	\$72.46
Volumetric charge, per hcf	\$4.54	\$4.77	\$5.01	\$5.26	\$5.52
Industrial Customers					
Monthly fixed service charge, per account	\$59.62	\$62.60	\$65.73	\$69.01	\$72.46
Volumetric charge, per hcf	\$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 Industrial Customers					
Federal Corrections Complex (FCC)					
Monthly fixed charge per CEDU (see Note 1)	\$64.32	\$67.54	\$70.92	\$74.46	\$78.18
BOD charge, per lb. (see Note 1)	\$2.10	\$2.21	\$2.32	\$2.43	\$2.55
SS charge, per lb. (see Note 1)	\$2.03	\$2.14	\$2.24	\$2.35	\$2.47
Keurig Dr. Pepper (formerly Dr. Pepper/Snapple (DPSG))					
Monthly min. charge (excluding capital recovery)	\$162,500	\$162,500	\$162,500	\$162,500	\$162,500
Monthly Fixed Charge Ion Exchange (see Note 2)	\$10,200	\$10,200	\$10,200	\$10,200	\$10,200
Volumetric charge, per 1,000 gal. (see Note 3)	\$0.37	\$0.37	\$0.37	\$0.37	\$0.37
COD Charge, per lb. (see Note 3)	\$0.13	\$0.13	\$0.13	\$0.13	\$0.13
FDS charge, per lb. (see Note 4)	\$2.99	\$3.07	\$3.15	\$3.24	\$3.32

Note 1 - Monthly fixed charge is based on the number of Calculated Equivalent Dwelling Units (CEDUs) on a monthly basis. One CEDU is estimated to be equal to 200 gallons per day of volume contributed to the sewer system. BOD and TSS surcharges apply to concentrations above 200 mg/l for BOD and 250 mg/l for TSS.

Note 2 – Monthly minimum charge for operations and maintenance of an Ion Exchange Treatment System to reduce Keurig Dr. Pepper process flow TDS levels to meet local limits regulated by the State Water Resources Control Board.

Note 3 - Volumetric charges (per 1,000 gal. or lbs.) 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 the DPSG Wastewater Capacity and Treatment Agreement.

Note 4 - The SS charge was replaced with an FDS surcharge as calculated in the Sewer Rate Study and is subject to a 2.7% general cost inflation factor in FY 2019/20 and beyond. This surcharge applies to all pounds of FDS treated.

e. Certain commercial, industrial, and/or user-specific discharger type customers of the city who also discharge high strength flows to the city sewer system and/or qualify as "industrial users" under the ordinances and regulations of the VVWRA, may currently pay or become subject to payment of additional charges directly to the VVWRA for sewage treatment or pretreatment, for which additional charges may increase based on updated control parameters and surcharge rates duly established by the VVWRA.

Section 6. Revision of Section 10.01.040 of Chapter 10.01 (SEWER RATE ORDINANCE).

SECTION 10.01.040 (CONNECTION FEES) OF THE VICTORVILLE MUNICIPAL CODE IS HEREBY REVISED IN ITS ENTIRETY TO READ AS FOLLOWS:

10.01.040 – Sewer capacity charges.

a. Definitions. Sewer capacity charges (as defined in Government Code Section 66013) have been established for residential and non-residential development on a per equivalent dwelling unit ("EDU") basis as part of the City's Development Impact Fee program as set forth in section 16-5-01.080 of Title 16 of this Code. An EDU represents the estimated daily sewer flow of a typical single-family dwelling unit, which is approximately one hundred forty-nine (149) gallons per day (gpd) or twenty (20) plumbing fixture units as defined in the latest version of the California Plumbing Code as adopted by the City in Title 16 of this Code. An EDU analogue may also be determined using the projected daily average sewer flow as provided by the prospective development and dividing that flow by 149 gpd.

b. Calculation. The total sewer capacity charge per house, habitation, structure, or other development is calculated by multiplying the currently applicable per EDU sewer capacity dollar amount (as set forth in the City's most recently adopted Development Impact Fee master fee schedule) by the applicable number of EDUs. The following table provides the generally-applicable minimum number of EDUs for various types of development. However, to ensure that the City's sewer system provides adequate capacity to serve new development and to account for potential classification anomalies, the City retains the discretion to use the minimum EDUs set forth in the table below or a flow-based EDU analogue as described in subdivision a of this section to calculate the appropriate total sewer capacity charge:

TYPE OF DEVELOPMENT	DESCRIPTION	MINIMUM EDU
Residential:		
Single family dwellings	Twenty (20) plumbing fixture units (PFU) or less; incremental charges added proportionally for connections in excess of twenty (20) PFUs.	1.000
Multi-family dwellings	Per dwelling unit	0.916
Trailer or mobile home park	Per space	1.000

Commercial:		
Motels	Per dwelling unit; One-quarter (0.25) additional EDU for each dwelling unit with kitchen.	0.500
Hotels	Per bedroom; One-quarter (0.25) additional EDU for each dwelling unit with kitchen.	0.500
Animal clinics		3.000
Barber shops		1.300
Beauty shops		1.300
Bottling works (soft drink)		4.000
Churches	Without kitchen	1.000
Churches	With kitchen	2.000
Churches with Schools	See Elementary Schools, High Schools, and Junior High Schools.	1.000
Factory	One (1) additional EDU for each ten (10) or fewer employees after the first ten (10). The City reserves the right to determine that a particular class of industrial customer shall be subject to these provisions or any modification thereof. In such event, the affected customers shall be given at least fourteen (14) days' written notice prior to a hearing by the City Council thereon.	4.000
Food market	One (1) additional EDU per month for commercial garbage grinder.	1.000
Hospital	One (1) additional EDU for up to each two (2) beds after the first two (2).	1.000
Industrial	The greater of: One additional EDU for each ten or fewer employees after the first ten; or number of EDUs to be determined based on plumbing fixture counts. The city reserves the right to determine that a particular class of industrial customer shall be subject to these provisions or any modification thereof. In such event, the affected customers shall be given at least fourteen days' written notice prior to a hearing by the city council thereon.	4.000
Laundries and laundromats	One (1) additional EDU for each three (3) or fewer machines after the first three (3).	1.000
Libraries		1.000
Mortuary		2.000
Professional building	Per suite	1.000
Public buildings	The greater of: One (1) additional EDU for up to each additional ten (10) employees after the first ten (10); or Number of EDUs to be determined based on plumbing fixture counts.	1.000

Restaurants with bar	One (1) additional EDU for up to each fifteen (15) seats after first thirty (30). Drive ins—Each one (1) service space equals four (4) seats.	4.000
Restaurants without bar	One (1) additional EDU for up to each fifteen (15) seats after first thirty (30). Drive ins—Each one (1) service space equals four (4) seats.	2.000
Rest homes	One (1) additional EDU for up to each three (3) beds after the first three (3).	1.000
Elementary schools	One (1) additional EDU for up to each twenty-three (23) average daily attendance after the first twenty-three (23).	1.000
High Schools and Junior High Schools	One (1) additional EDU for up to each fourteen (14) average attendance after the first fourteen (14).	1.000
Service stations with rack		4.000
Service stations without rack		2.000
Service stations with rv dumping station		3.000
Taverns	One (1) additional EDU for up to each fifteen (15) seats after first thirty (30). Drive ins—Each one (1) service space equals four (4) seats.	2.000
Theaters	Each sewer connection	2.000
General Commercial—Establishments not listed above or separately classified by future action of the council	Number of equivalent EDUs to be determined based on plumbing fixture counts.	1.000

c. The city further collects a regional VVWRA connection fee for capacity in the regional interceptor sewer and treatment facilities. This regional connection fee is set by and subject to inflationary adjustment as determined and approved by the VVWRA commission.

Section 7. **Revision of Section 10.02.300 of Chapter 10.02 (SANITARY SEWER USE ORDINANCE).**

SECTION 10.02.300 OF THE VICTORVILLE MUNICIPAL CODE, IS HEREBY REVISED IN ITS ENTIRETY TO READ AS FOLLOWS:

10.02.300 - Additional charges for substantial increases in discharges to the public sewer.

Any property currently connected to a public sewer, the discharge from which is later found to have been increased substantially beyond the proportionate share of public sewer capacity allotted to the property by the sewer permit, may be subject to an additional sewer capacity fee and/or a change of customer discharger type classification for the property in accordance with the provisions of chapter 10.01, to cover the costs of providing for adequate public sewer capacity.

Section 8. **California Environmental Quality Act.**

For the reasons and on the bases set forth in the Recitals of this Ordinance, the City Council has determined that amending and revising the Rates for Sewer Services is exempt from CEQA review.

Section 9. **Repeal of Conflicting Provisions.**

All ordinances, resolutions, or administrative actions by the City Council, or parts thereof that are inconsistent or otherwise conflict with any provision of this Ordinance are hereby repealed, but only to the extent of such inconsistency or conflict.

Section 10. **Severability.**

Should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 11. **Effective Date.**

This Ordinance shall take effect thirty (30) days after its final passage.

Section 12. **Certification.**

The City Clerk of the City of Victorville is hereby directed to certify to the passage and adoption of this Ordinance and to cause it to be published as required by law.

ORDINANCE NO. 2444

THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT ON NOVEMBER 17, 2023.

PASSED, APPROVED AND ADOPTED THIS 17TH DAY OF OCTOBER 2023.


MAYOR OF THE CITY OF VICTORVILLE

ATTEST:


CITY CLERK

10/18/2023
DATE

APPROVED AS TO FORM:


CITY ATTORNEY

I, JENNIFER THOMPSON, City Clerk of the City of Victorville and ex-officio Clerk to the City Council of said City, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2444 which was introduced at a meeting held on the 3rd day of October 2023 and duly adopted at a meeting held on the 17th day of October 2023 by the following roll call vote, to wit:

AYES: Mayor Jones, Councilmembers Becerra, Councilmember Harriman, and Councilmember Irving

NOES: Councilmember Gomez

ABSENT: None

ABSTAIN: None


CITY CLERK OF THE CITY OF VICTORVILLE