

Resolution No. 2023-XXX N.C.S. of the City of Petaluma, California

RESOLUTION ADOPTING A NEW RATE SCHEDULE FOR WASTEWATER SERVICE REPEALING AND REPLACING RESOLUTION 2017-075 N.C.S.

WHEREAS, the City of Petaluma operates and maintains a wastewater collection, treatment, disposal, and recycling system; and

WHEREAS, wastewater services currently provided by the City include collection, treatment, and discharge of treated wastewater, and treatment and distribution of recycled water, and use of the term “wastewater services” herein refers to all those services; and

WHEREAS, the City retained Bartle Wells Associates to develop a Water and Sewer Rate Study (“Study”), which Study is approved by the City Council, and attached to and made a part of this resolution as Exhibit A; and

WHEREAS, the Petaluma City Council conducted public meetings on the proposed rates pursuant to the Study on May 15, 2023, June 19, 2023, and August 7, 2023; and

WHEREAS, a notice of public hearing on the proposed wastewater rates and change in rate structures (“Rates”) was mailed to wastewater utility customers and record owners of properties that would be impacted by the proposed increases on June 23, 2023, 45 days or more before the requisite public hearing, in accordance with the requirements of section 6(a)(2) of Article XIID (“Proposition 218”) of the California Constitution, including notice of the requirements for submitting a written protest in accordance with Proposition 218; and

WHEREAS, the Petaluma City Council conducted a public hearing on the proposed Rates on August 7, 2023, and received testimony and considered all evidence (“the Record”) presented regarding the proposed Rates; and

WHEREAS, following the public hearing conducted on August 7, 2023, the City Clerk canvassed and reported on the number of written protests received concerning the proposed Rates in accordance with Proposition 218, totaling _____, in comparison with the number of parcels affected by the proposed Rates, totaling approximately 21,001; and

WHEREAS, in accordance with the canvass and report of the City Clerk, the number of written protests received concerning the proposed Rates, totaling _____, are less than the minimum number of parcels affected by the proposed Rates for which written protests would be required to be submitted for a majority protest to exist that would preclude the City Council from adopting the proposed Rates, thus confirming that a majority protest concerning the proposed Rates does not exist; and

WHEREAS, after due consideration, the Petaluma City Council finds based on the Study and the Record that:

1. The proposed Rates as presented herein are necessary to achieve full recovery of the costs of providing wastewater services to residents and businesses in Petaluma;
2. The proposed Rates as presented herein will not generate revenue over the cost of providing wastewater services;
3. The proposed Rates as presented herein will not be used for purposes other than providing wastewater services;

4. The Rates or charges imposed on any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel;
5. The Rates are for recovery of the cost of providing services that are actually used by and immediately available to the owners of property subject to the Rates, and are not based on potential or future uses of services;
6. The Rates are not imposed for general governmental services including, but not limited to, police, fire, ambulance, or library services;
7. Proper notice of the proposed Rates was given to record owners of properties that would be impacted by the proposed increases, as prescribed by law; and
8. A majority of record owners of properties that would be impacted by the proposed increases did not submit written protests opposing the proposed Rates; and

WHEREAS, the proposed Rates are “fees” or “charges” as defined in Section 2(e) of 218Article XIII D of the California Constitution (established by Proposition 218), and are levies other than an ad valorem tax, special tax, or assessment, imposed by an agency upon a parcel or a person as an incident of property ownership, including user fees or charges for property related services; and

WHEREAS, the proposed Rates are not a “tax” as defined in Section 1, paragraph (e) of Article XIII C of the California Constitution (“Proposition 26”) because such rates are imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable cost to the local government of providing the service or product; and/or such fees and charges are imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable cost to the local government of providing the service or product; and/or such fees and charges are imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections and audits, enforcing agricultural marketing orders and the administrative enforcement and adjudication thereof; and/or such fees and charges are imposed as a condition of property development; and

WHEREAS, the proposed action is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) as the adoption of revised rates and charges pursuant to these resolutions involves the establishment, modification, restructuring, or approval of rates and charges, as identified and analyzed in the rate study, including rates and charges to obtain funds for meeting operating expenses, purchasing or leasing supplies, equipment or materials, meeting financial reserve needs and requirements and/or obtaining funds for capital projects necessary to maintain service within existing service areas; and Additionally, adopting a new rate schedule for water and wastewater services is categorically exempt pursuant to CEQA Guidelines Section 15061(b)(3) because there is no possibility that their adoption will have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Petaluma that the Petaluma City Council hereby adopts this resolution for a new rate schedule for wastewater service repealing and replacing Resolution 2017-075 N.C.S. as follows:

ARTICLE I GENERAL

SECTION 1.1 PURPOSE.

- A. Findings. The above recitals are hereby declared to be true and correct and to be findings of the City Council of the City of Petaluma and are made a part of this resolution.
- B. Revenue. The purpose of the wastewater service charge is to raise revenue for the cost of operation and maintenance of the City of Petaluma’s wastewater utility used for the collection, treatment, disposal, and

recycling of domestic wastewater, industrial wastewater, commercial wastewater, and payment of principal and interest on debt and capital recovery costs, and for collection and disposal of stormwater.

- C. Resolution. The purpose of this resolution is to establish a method of equitably apportioning the cost of the operation and maintenance of the City's wastewater utility among the users of wastewater service.
- D. Study. This resolution and the wastewater charges established in this resolution are based on the City of Petaluma Water and Wastewater Utility Rate Study prepared by Bartle Wells Associates. The Study is attached to and made a part of this resolution as Exhibit A.

ARTICLE II DEFINITIONS

SECTION 2.1 DEFINITIONS.

- “Accessory Dwelling” means as specified in Chapter 28 of the Petaluma Implementing Zoning Ordinance.
- “BOD” means biochemical oxygen demand.
- “Director” means the Director of Public Works and Utilities or his/her designee.
- “Dwelling Unit” means:
 - a. Any single-family residential dwelling or mobile home designed for occupancy by one family, each of which shall be deemed equivalent to one dwelling unit, and
 - b. Any duplex, triplex, fourplex, townhouse or condominium, apartment house, loft, mobile home park, or other multi-residential establishment, designed for occupancy for living purposes by more than one family, which is divided into separate residential units, each of which is designed for occupancy by one family only, each resident unit shall be deemed equivalent to one dwelling unit. For example, an apartment complex with 10 apartments shall be considered to have 10 dwelling units.
- “hcf” means hundred cubic feet. One hcf is equivalent to approximately 748 gallons.
- “Low Strength” means Non-residential User wastewater with a BOD concentration of less than or equal to 300 mg/L and a TSS concentration of less than 300 mg/L.
- “High Strength” means Non-residential User wastewater with a BOD concentration greater than 700 mg/L and a TSS concentration of greater than 500 mg/L.
- “Medium Strength” means Non-residential User wastewater that is not Low Strength or High Strength.
- “Metered Industrial Users” means a Non-residential User whose wastewater discharge is metered and whose wastewater service charge is based on laboratory analysis of the user's wastewater. Users placed in this category shall be as determined by the Director.
- “Non-residential User” includes, but is not limited to, any commercial, industrial, or institutional customer.
- “Residential User” means any single-family residential dwelling or mobile home designed for occupancy by one family, and any duplex, triplex, fourplex, townhouse or condominium, apartment house, mobile home park, or other multi-residential establishment, designed for occupancy for living purposes by more than one family, which is divided into separate residential units, each of which is designed for occupancy by one family only.
- “TSS” means total suspended solids.
- “Unmetered Residential” means Residential Users whose potable water is provided in part or in whole by a water source other than the City of Petaluma.

ARTICLE III RATES

SECTION 3.1 WASTEWATER SERVICE CHARGES.

- A. Residential Users. The fixed monthly charge for Residential Users, per dwelling unit, shall be as set forth in Table 1, as adjusted in accordance with this ARTICLE.
- B. Non-residential Users. The fixed monthly charge for Non-residential Users shall be as set forth in Table 1, as adjusted in accordance with this ARTICLE.
- C. Fixed Monthly and Wastewater Commodity (Usage) Charge Annual Increases Due to Inflation. Beginning July 1, 2024, and each July 1 thereafter, the Base Sewer fixed and consumption charges shown in Table 1 will be adjusted by the percentage change in the Consumer Price Index (CPI) for the San Francisco Bay Area from the base reference index of 331.222 for December 2022 to the index for December of the year preceding each annual rate adjustment. A negative percentage change in CPI any year shall result in no inflationary adjustment for that year.

Table 1. Wastewater Rates

	Base Wastewater Rates Effective on or After				
	Sept 1 2023	July 1 2024	July 1 2025	July 1 2026	July 1 2027
FIXED MONTHLY CHARGES					
<i>Fixed monthly charges billed per residential dwelling unit or based on non-residential meter size.</i>					
RESIDENTIAL					
<i>Fixed monthly charge per dwelling unit</i>					
Single Family Residential	\$39.85	\$40.64	\$41.46	\$42.29	\$43.14
Multi-Unit Residential	33.88	34.55	35.24	35.95	36.67
Unmetered Residential	105.99	108.11	110.27	112.48	114.72
NON-RESIDENTIAL					
<i>Fixed monthly charge based on meter size</i>					
Up to 3/4-inch meter	\$39.85	\$40.64	\$41.46	\$42.29	\$43.14
1-inch meter	65.59	66.90	68.24	69.61	71.00
1-1/2 inch meter	129.91	132.51	135.16	137.86	140.62
2-inch meter	207.12	211.26	215.49	219.79	224.19
3-inch meter	387.28	395.03	402.93	410.98	419.20
4-inch meter	644.34	657.22	670.37	683.78	697.45
6-inch meter	1,288.04	1,313.80	1,340.07	1,366.87	1,394.21
METERED INDUSTRIAL					
<i>Fixed monthly charge based on meter size</i>					
2-inch ultrasonic meter	\$580.31	\$591.92	\$603.76	\$615.83	\$628.15
10-inch ultrasonic meter	1,288.04	1,313.80	1,340.07	1,366.87	1,394.21
2-inch magnetic meter	387.28	395.03	402.93	410.98	419.20
3-inch magnetic meter	850.53	867.55	884.90	902.60	920.66
4-inch magnetic meter	1,352.37	1,379.42	1,407.00	1,435.14	1,463.85
6-inch magnetic meter	2,703.52	2,757.60	2,812.75	2,869.01	2,926.39
WASTEWATER COMMODITY CHARGES					
<i>Volumetric charges billed per hundred cubic feet (hcf) of estimated wastewater discharge.</i>					
RESIDENTIAL					
<i>Based on a) average of two lowest of four low use months of metered winter water use or b) actual water use</i>					
Single Family Residential	\$9.45	\$9.63	\$9.83	\$10.02	\$10.22
Multi-Unit Residential	9.45	9.63	9.83	10.02	10.22
COMMERCIAL					
<i>Billed based on metered water use</i>					
Low Strength	\$9.09	\$9.28	\$9.47	\$9.65	\$9.85
Medium Strength	12.38	12.63	12.89	13.14	13.41
High Strength	16.82	17.16	17.50	17.85	18.21
METERED INDUSTRIAL					
<i>Based on metered use & estimated wastewater loadings</i>					
Flow (\$/hcf)	\$7.82	\$7.97	\$8.13	\$8.29	\$8.46
BOD (\$/lb)	1.33	1.36	1.39	1.42	1.45
SS (\$/lb)	1.50	1.53	1.57	1.60	1.63

SECTION 3.2

WASTEWATER COMMODITY CHARGES.

- A. Residential Users. In addition to the fixed monthly fee set forth in Section 3.1, there shall be a user charge for Residential Users as set forth in Table 1, based on the estimated amount of wastewater discharged. The amount of wastewater discharged shall be established based on the average amount of water used for the two lowest-use billing months during the winter months. The billing months used to establish the “winter average” shall generally fall within December, January, February, March, and April, but actual winter months used for this determination may vary depending on individual billing cycles or patterns of use, as determined by the Director. The “winter” average becomes effective each July based on the most recent winter water usage. If the customer does not have sufficient history to make such a determination, then the amount of water used shall be set at a default of 5.0 hcf for Single Family Residential Users per Dwelling Unit, and a default of 4.25 hcf for Multi-Family Residential Users per Dwelling Unit. If water use during any billing month during the year is lower than the established winter average, then the actual water use will be used to calculate the bill
- B. Non-residential Users. In addition to the fixed monthly fee set forth in Section 3.1, there shall be a user charge for Non-residential Users, based on the amount of water used or discharged, as set forth in Table 1.
 - 1. Wastewater Commodity Charges for Non-Residential Users with Shared Water Meters. If a water meter is used by Non-residential Users in different customer classes, the user charge shall be based on the Non-residential User with the higher wastewater strength. For example, if a Low Strength user and a High Strength user use the same water meter, the wastewater user charge shall be based on the High Strength user rate.
 - 2. Commercial Customers. Commercial customers shall be assessed a wastewater commodity charge based on wastewater strength. Assignment to Low, Medium, or High strength shall be as determined by the Director or based on laboratory analyses of the Non-residential User’s wastewater. A State of California Certified laboratory must conduct the laboratory analysis.

SECTION 3.3

SPECIAL CHARGES AND FEES.

- A. Sample Collection and Laboratory Analysis. The City shall charge for samples collected by the City and analyzed by the City or an outside laboratory for the purpose of determining wastewater charges. Charges shall be assessed for collecting the sample and for laboratory analysis of the sample.
 - 1. Collection Charges.
 - a. For the Purpose of Determining Wastewater Charges. The charge for collecting a “grab” sample shall be \$75. The charge for collecting a “composite” sample shall be \$250.
 - b. For Violation Follow-Up Sampling. The charge for collecting a “grab” sample shall be \$100. The charge for collecting a composite sample shall be \$350.
 - 2. Laboratory Analysis Charges.
 - a. Outside Laboratories. Samples analyzed by outside laboratories shall be charged at cost per sample.
 - b. City Laboratory. Samples analyzed by the City’s laboratory for conventional pollutants shall be \$125 per sample.
- B. Septic Waste. Discharge of septic waste shall be charged at \$0.25 per gallon of discharge. Discharge may not occur without a permit.

- C. **Short-Term Discharge.** A short-term discharge fee is hereby established at the Commercial Sewer Commodity rate in Table 1 for low, medium, or high strength as appropriate, plus a permit fee of \$200.00. These fees shall apply to direct temporary discharges from a point of discharge for which a City connection charge is inapplicable or for which connection charges sufficient to address the temporary discharge have not been paid, including, but not limited to, temporary discharges of groundwater. Discharge may not occur without a permit and may not continue for more than one year from the effective date of the permit. If the discharge period continues beyond one year, the discharger will be assessed applicable and then-current wastewater service fees and may be assessed connection fees. The decision to accept any such temporary discharge and all requirements pertaining to the acceptance of such temporary discharge shall be based on an evaluation of the effect on capacity, compliance with regulations, and any other factors that could affect the overall operations of the wastewater treatment facility. Such discharges shall fully comply with all applicable federal, state, and local laws, regulations, and orders, including, but not limited to, the City's sewer use regulations as described in Chapters 15.48 through 15.76 of the Petaluma Municipal Code.
- D. **Hauled Waste.** Discharge of liquid waste not exceeding local limits for BOD and TSS (as established in Petaluma Municipal Code Chapter 15.48) may be accepted at the wastewater treatment facility. The Hauled Waste discharge fee is hereby established at the Commercial Sewer Commodity rate in Table 1 for low, medium, or high strength as appropriate, with a \$500.00 minimum fee, plus a permit fee of \$200.00. These fees shall apply to liquid wastes hauled to and discharged at the wastewater treatment facility. Discharge may not occur without a permit and may not continue for more than one year from the effective date of the permit. If the discharge period continues beyond one year, the discharger will be assessed applicable and then-current wastewater service fees and may be assessed connection fees. The decision to accept any such wastes and all requirements pertaining to the acceptance of such wastes shall be based on an evaluation of the effect on capacity, compliance with regulations, and any other factors that could affect the overall operations of the wastewater treatment facility. Such discharges shall fully comply with all applicable federal, state, and local laws, regulations, and orders, including, but not limited to, the City's sewer use regulations as described in Chapters 15.48 through 15.76 of the Petaluma Municipal Code.
- E. **High Strength Waste (HSW).** Discharge of liquid waste exceeding local limits for BOD and TSS (as established in Petaluma Municipal Code Chapter 15.48) shall only be accepted at the Ellis Creek Water Recycling Facility HSW facility. The HSW fee shall be established based on a cost-of-service analysis as approved and amended from time to time by the Public Works and Utilities Director. The HSW permit fee shall be \$200.00. Discharge may not occur without a permit and may not continue for more than five years from the effective date of the permit. If the discharge period continues beyond five years, the discharger must reapply for a permit. The decision to accept any such HSW discharge and all requirements pertaining to the acceptance of such HSW discharge shall be based on an evaluation of the effect on capacity, compliance with regulations, and any other factors that could affect the overall operations of the wastewater treatment facility and shall be made solely by the Public Works and Utilities Director. Such discharges shall fully comply with all applicable federal, state, and local laws, regulations, and orders, including, but not limited to, the City's sewer use regulations as described in Chapters 15.48 through 15.76 of the Petaluma Municipal Code.

SECTION 3.4 RATES FOR WASTEWATER USERS OUTSIDE OF THE CITY LIMITS.

- A. **Residential Users.** Residential users outside of the City limits shall be charged \$0.80 per month for each dwelling unit in addition to the charge set forth in Section 3.1.
- B. **Non-Residential Users.** Non-residential users outside of the City limits shall be charged \$0.80 per month for each account in addition to the charge set forth in Section 3.1.

**ARTICLE IV
SEVERABILITY**

SECTION 7.1 Severability.

If any provision of this resolution or the application thereof to any person or circumstance is held invalid, the remainder of the resolution, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this resolution are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 7th day of August 2023, by the following vote:

Approved as to
form:

City Attorney

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

City Clerk

Mayor