

ORDINANCE NO. 2023-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS FOR ESTABLISHING THE RATES OF THE SEWER SERVICE CHARGE FOR FISCAL YEARS 2023/24 THROUGH 2027/28

WHEREAS, pursuant to Article 3 of Chapter 10.12 of the Los Altos Municipal Code, the City of Los Altos imposes a Sewer Service Charge upon parcels connected to the sewer system; and

WHEREAS, the purpose of the Sewer Service Charge is to fund costs associated with providing sewer service; and

WHEREAS, the City engaged NBS (the “rate consultant”) to prepare a rate study recommending a revision to the Sewer Service Charge that would fairly and equitably spread the costs of sewer system operation across parcels using sewer service and would meet the requirements of California law; and

WHEREAS, the Rate Consultant has prepared a rate study entitled “Sewer Rate Study” dated March 6, 2023 (the “Study”), which is on file in the Office of the City Clerk; and

WHEREAS, the Study proposed new rates for the Sewer Service Charges, to become effective over a five-year period (collectively, the “Rate Structure”); and

WHEREAS, on February 28, 2023, the City Council approved the Sewer Rate Study Report prepared by NBS. The report recommended continuing to use the existing sewer rate calculation methodology for the five-year period from fiscal year (FY) 2023/24 through FY 2027/28; and

WHEREAS, the City caused notice of the proposed rates for the Sewer Service Charges and a Public Hearing at which the rates would be considered to be mailed to the record owner of each parcel upon which the Sewer Service Charges were proposed to be imposed; and

WHEREAS, such notice was given pursuant to section 6 of article XIII D of the California Constitution (“Proposition 218”), the Proposition 218 Omnibus Implementation Act (Section 53750 et seq. of the California Government Code) (the “Act”), and applicable law; and

WHEREAS, on June 13, 2023, at 7 PM, in the City Council Chambers located at One North San Antonio Road, Los Altos, CA 94022, the City Council held the Public Hearing at which the City Council heard all oral testimony and received all written comments with respect to the proposed rates for the Sewer Service Charges and considered all written protests against the proposed rates for the Sewer Service Charges; and

WHEREAS, the City Council has determined that written protests against the proposed rates for the Sewer Service Charges have not been presented by a majority of the record owners of the parcels upon which the Sewer Service Charges are proposed to be imposed; and

WHEREAS, the City Council desires to implement the rates for the Sewer Service Charges consistent with the recommendation of the Study and as set forth in Section 3 of this Ordinance; and

WHEREAS, this Ordinance is exempt from environmental review under the California Environmental Quality Act for reasons stated in the staff report.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AFFIRMATION OF RECITALS: Each of the recitals set forth above is true and correct in all respects and are incorporated herein as findings and determinations of the City Council.

SECTION 2. APPROVAL OF RATE STUDY: The Study is hereby approved by the City Council in the form on file in the Office of the City Clerk and available for public inspection.

SECTION 3. RATES: The maximum rates of the Sewer Service Charges imposed pursuant to Section 10.12.120 of the Municipal Code and the effective dates as set forth in the table below are hereby adopted.

Sewer Rate Schedule	Proposed Yearly Sewer Rates				
	Year 1	Year 2	Year 3	Year 4	Year 5
	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28
Annual Charge per EDU	\$340.49	\$391.56	\$450.29	\$517.83	\$595.50
Volumetric Rate (\$/hcf)	\$3.30	\$3.80	\$4.37	\$5.03	\$5.78

No further action needs to be taken by the City Council to cause the rates established by this Section to become effective. However, the City Council may, pursuant to Section 10.12.130 of the Municipal Code, adopt a resolution that delays the effective date of a scheduled rate adjustment, eliminates such adjustment, or implements increases in the rates of the Sewer Service Charges that are less than the authorized maximum rates set forth above.

SECTION 4. RATE ADJUSTMENTS: The Sewer Service Charge rate adjustment schedule set forth in Section 3 of this Ordinance was approved by the City Council following a public hearing that was noticed and conducted pursuant to Proposition 218 and the Act. Consequently, so long as revised rates established in the future by the City Council do not exceed the maximum rates set forth in Section 3, such revision shall not constitute an “increase” of the applicable Sewer Service Charge rates for purposes of the Proposition 218 or the Act. Such rate revisions shall not, therefore, require additional compliance with the procedural requirements of Proposition 218 or of the Act. The City Council hereby authorizes and directs the City Manager to implement and take all actions necessary to effectuate the rates for the Sewer Service Charges set forth herein.

SECTION 5. PRIOR SEWER SERVICE CHARGES: Notwithstanding the provisions of this Ordinance, Sewer Service Charges levied for fiscal years prior to Fiscal Year 2023/24 shall remain governed by the provisions of Chapter 10.12 of the Municipal Code as they existed prior

to the effective date of this Ordinance and remain in effect until otherwise modified in accordance with this Ordinance.

SECTION 6. FINDINGS: The City Council, based upon the Study and upon such other testimony provided to it at the Hearing finds as follows:

- (a) Revenues derived from the Sewer Service Charges, as imposed pursuant to this Ordinance, will not exceed the funds required to provide sewer service to the parcels subject to the Sewer Service Charges.
- (b) Revenues derived from the Sewer Service Charges cannot, pursuant to Section 10.12.220 of the Municipal Code, be used for any purpose other than that for which the Sewer Service Charges are imposed.
- (c) The amount of the Sewer Service Charges imposed upon each parcel do not exceed the proportional cost of sewer service attributable to that parcel.
- (d) The Sewer Service Charges are only imposed upon parcels that are actually connected to the sewer system, and which, therefore, either use, or have immediate ability to use, the sewer services.
- (e) Sewer services are not a general governmental services as that term is used in California Constitution article XIII D, section 6(b)(5).

SECTION 7. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 8. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 9. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on June 13, 2023 and was thereafter, at a regular meeting held on June 27, 2023 passed and adopted by the following vote:

AYES:
NOES:
ABSENT:

ABSTAIN:

Sally Meadows, MAYOR

Attest:

Melissa Thurman, CITY CLERK