

ORDINANCE NO. 975 N.S.

**AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING SECTIONS 14.06.020 AND 14.10.260 OF THE MUNICIPAL CODE
REGARDING WASTEWATER SERVICE CHARGES**

WHEREAS, the City of Paso Robles operates a wastewater collection, treatment, and disposal system to serve residents and businesses; and

WHEREAS, \$32 million in improvements to the wastewater collection system were identified in the 2007 *Sewer Collection System Master Plan* as necessary to operate the system in compliance with current health and safety codes; and

WHEREAS, the City's wastewater treatment plant does not meet the discharge requirements stipulated by the California Regional Water Quality Control Board; and

WHEREAS, the City pays fines of approximately \$9,000 per month as a result of discharge violations; and

WHEREAS, the California Regional Water Quality Control Board issued Time Schedule Order No. R3-2011-0213, which established deadlines for the City to upgrade the wastewater treatment plant; and

WHEREAS, the cost to upgrade the City's wastewater treatment plant is estimated at \$49.6 million; and

WHEREAS, an estimated \$12 million is needed annually to fund wastewater operations and maintenance costs, debt service, planned capital projects and depreciation; and

WHEREAS, current wastewater rates and wastewater facility charges generate approximately \$4.7 million annually; and

WHEREAS, the City retained the firm of Kennedy/Jenks Consultants to undertake a comprehensive review of the City's wastewater rate revenues, which was presented to the City Council on September 6, 2011; and

WHEREAS, the City Council adopted Resolution No. 11-115 on September 6, 2011 regarding proposed wastewater rates and authorizing initiation of the procedures required by Article XIID of the California Constitution for adoption of the proposed wastewater rates structure; and

WHEREAS, the City identified the parcels upon which the rates would be imposed, calculated the amount of the rates, and mailed notices on September 21, 2011 to all record owners and tenants of properties responsible for wastewater charges. The notices provided information on the proposed rates, the basis for the calculation, the reason for the proposed rates, information on filing written protests, and the date, time, and location for a public protest hearing, which date was not less than 45 days after the date of mailing; and

WHEREAS, the City Council held the duly noticed public hearing on November 15, 2011, and considered any and all property owner and tenant protests; and

WHEREAS, at the public hearing on November 15, 2011, the City Clerk attested that, out of 9,972 affected properties, written protests had been filed for twenty (20) properties, which did not constitute a majority protest;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. In accordance with Article XIII D, Section 6(b), of the California Constitution, the City Council makes the following findings:

A. The revenues derived from the wastewater rates do not exceed the funds required to provide wastewater service because the rates are calculated to allow the City to recover its costs associated with (i) projected costs to upgrade the wastewater treatment plant and to make improvements to the collection system; (ii) repayment of existing and proposed debt; (iii) funding depreciation for repair and replacement of system components; and (iv) the other necessary and essential ongoing costs of operation and maintenance of the City's wastewater system. This finding is based upon the information contained in the notice, the August 2011 Kennedy/Jenks Consultants study, the staff report to the City Council at the public hearing and the testimony presented at the public hearing.

B. The revenues derived from the wastewater rates will not be used for any purpose other than that for which the rates are imposed. This finding is based on the fact that all revenues collected from wastewater customers are deposited into a designated fund for such wastewater operations purpose.

C. The rates do not exceed the proportional cost of the wastewater service attributable to each parcel. This finding is based on the fact that the proposed rates are based upon the City's actual total cost of providing wastewater service to its customers, divided by the estimated amount of sewage discharged from each parcel.

D. The wastewater facility charges (i.e., connection fees) adopted by City Council on November 1, 2011 were determined using the Capacity Buy-in, or Reimbursement Approach. As such, the facility charges reimburse existing ratepayers for any investment in wastewater system capacity that is available for growth. Therefore, existing ratepayers only pay for infrastructure that benefits them. This finding is based on the action taken by the City Council on November 1, 2011 and related studies, and the August 2011 Kennedy/Jenks Consultants Wastewater Rate and Revenue Analysis draft Report, as incorporated into the Kennedy/Jenks Consultants Wastewater Rate and Revenue Analysis Final Report dated November 7, 2011. .

E. The proposed changes to the rates are intended to balance the anticipated increases in the costs of providing wastewater service and the possible reductions in the amount of wastewater discharged.

SECTION 2. Paragraph C. of Section 14.16.020 of the Paso Robles Municipal Code is hereby revised in its entirety to read as follows:

"14.04.020 Fees

Every person whose premises are served by a connection with the system of sewerage of the city, whereby the sewage or industrial wastes, or either or both, are disposed of by the city through the

sewage treatment plant, or otherwise, shall pay a sewer service charge established by ordinance of the city council.

Effective July 1, 2012, the following sewer service charges shall be in effect:

Effective Date	July 1, 2012	July 1, 2013	July 1, 2014	July 1, 2015	July 1, 2016
Usage Charge (\$/HCF), all customer classes	\$4.50	\$5.40	\$6.30	\$7.35	\$7.80

HCF = hundred cubic feet, or 748 gallons.

Monthly sewer service charges shall be determined as follows:

- (a) Single-Family Residences: Monthly wastewater bills for single-family residential customers shall be based on the average monthly metered water use from the previous December-January-February billing period ("Winter Water Use") multiplied by the usage charge then in effect. The "Winter Water Use" shall establish the maximum usage for the remainder of the year's wastewater billing; if actual water usage in any one month is less than a customer's Winter Water Use, that month's bill shall be based on the actual usage multiplied by the usage charge then in effect. Notwithstanding the foregoing, if a customer's Winter Water Use averages 2 HCF per month or less, the monthly wastewater bill shall be based on the average of two (2) consecutive Winter Water Use periods.

For new service accounts, the initial year's billing will be based on the then-current median single family residential Winter Water Use, as determined by City Department of Administrative Services, multiplied by the usage charge then in effect. The 2011 median single-family residential Winter Water Use is 7 HCF/month.

Condominiums are residential units held under separate ownership with the underlying parcel held under common ownership. Condominium units served by individual water meters shall be billed as single-family residences.

- (b) Multi-Family Dwellings: Multi-family dwellings are buildings comprised of two or more dwelling units under common ownership, such as apartment complexes. Monthly wastewater bills for multi-family dwellings shall be based on metered monthly water use multiplied by the usage charge then in effect.
- (c) Non-Residential Customers: Wastewater bills for businesses, hotels, schools and other non-residential uses (i.e. Industrial Users as defined Section 14.08.040) shall be based on metered monthly water use multiplied by the usage charge then in effect.

Non-residential customers may petition the City to have monthly sewer service charges based on something other than metered water use, provided that they meet all of the following conditions:

1. Are served by 3-inch water meter or larger or can demonstrate that average daily discharge to the sewer system exceeds 10,000 gallons per day for at least 6 months out of the year;
2. Can quantify monthly discharges to the sewer system by a means acceptable to the City Public Works Department, such as wastewater flow metering per:
 - *Water Measurement Manual*, Third Edition, United States Department of the Interior, Bureau of Reclamation, 2001, or most current edition,

- *Sewer Flow Measurement*, Municipal Environmental Research Laboratory, U.S. Environmental Protection Agency,
 - *A Guide to Methods and Standards for the Measurement of Water Flow*, United States Department of Commerce, National Bureau of Standards,
 - *American Society of Testing Materials Annual Book of ASTM Standards*, Vol. II – Water, American Society of Testing Materials,
 - *NPDES Compliance Inspection Manual*, United States Environmental Protection Agency, or
 - Mass-balance calculations quantifying water supplied, adjusted for water exported in manufacture of a product;
3. Agree to periodic audits, no more frequently than annually and at customer's expense, to verify sewer discharge measurements;
 4. Submit evidence of flow calibration of physical measurement devices annually or more frequently if judged necessary by the City Public Works Director;
 5. Provide discharge flow data monthly to the City Department of Administrative Services for the purposes of levying sewer service charges. Failure to timely provide such information will result in sewer service charges being based on metered monthly water use multiplied by the usage charge then in effect; and
 6. Obtain a Wastewater Discharge Permit per Section 14.10.210.

In the event that estimated average daily discharge to the sewer is less than 10,000 gallons per day for 24 consecutive months or more, sewer billing will revert to metered monthly water use multiplied by the usage charge then in effect.

- (d) Landscape and Fire Service Meters: These accounts will not be billed for wastewater service.
- (e) Septic Systems: Customers with City water service who are not connected to the community wastewater system will not be billed for wastewater service.
- (f) Residences with Sewer Service Only: Single-family residential customers who are connected to the community wastewater system but are not connected to the City water system will be billed based on the then-current median single-family residential Winter Water Use, as determined by City Department of Administrative Services, multiplied by the usage charge then in effect.
- (g) Industrial Users with Sewer Service Only: Non-residential customers (i.e., Industrial Users) that are connected to the community wastewater system but are not connected to the City water system must obtain an Industrial Wastewater Discharge Permit per Section 14.10.210. Monthly sewer service charges shall be based on 1) monthly water usage, as metered from non-City water source, multiplied by the usage charge then in effect, or 2) wastewater flow metering per the Industrial User criteria listed in paragraph (c), above, including requirements for audit by the City, meter calibration, and the timely submittal of flow measurement to the City Department of Administrative Services. Terms of such flow metering will be documented in the Wastewater Discharge Permit.

The sewer service charges shall further be reviewed no less than every two years in conjunction with the update of the city's budget to ensure that the sewer service fees then in existence do not exceed the costs of providing sewer service within the city."

SECTION 3. Effective no sooner than July 1, 2012, Section 14.10.260 of the Paso Robles Municipal Code is hereby amended to add the following paragraph 16:

"14.10.260 Permit Conditions

.....
16. For Industrial Users eligible to petition the City for an alternate basis of monthly sewer billing per Section 14.04.020, a description of the means of quantifying sewer discharges."

SECTION 4. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

SECTION 6. Publication. The City Clerk will certify to the passage of this Ordinance by the City Council of the City of El Paso de Robles, California and cause the same to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code section 36933.

Introduced at a regular meeting of the City Council held on November 15, 2011, and passed and adopted by the City Council of the City of El Paso de Robles on the 6th day of December 2011 by the following roll call vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk