



# TOWN OF APPLE VALLEY

## TOWN COUNCIL STAFF REPORT

---

**To:** Honorable Mayor and Town Council                      **Date:** May 8, 2018

**From:** Kofi Antobam, Director of Finance                      **Item No:** 11  
Finance Department

**Subject:** ADOPT RESOLUTION NO. 2018-15, A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ESTABLISHING SEWER USER CHARGES AND ESTABLISHING AN OPERATIVE DATE FOR APPLICATION OF THE PROPOSED INCREASE

**T.M. Approval:** \_\_\_\_\_ **Budgeted Item:**  Yes  No  N/A

---

### RECOMMENDED ACTION:

- A. Open the public hearing for Resolution 2018-15; then
- B. Determine whether a majority protest exists; and
- C. If no majority protest exists, adopt Resolution 2018-15, revising the sewer user fees for the use of Town sewers.

### SUMMARY:

The Town currently charges sewer users thirty-one dollars and forty-three cents (\$31.43) per equivalent dwelling unit (EDU) per month. This fee was temporarily reduced from the FY16-17 rate of \$35.04 as part of a Proposition 218 settlement agreement while the Town completed a new nexus study. The study has been completed and the fee proposed to be implemented effective July 1, 2018 based upon the study is \$32.92 per EDU, or 4.74% increase over the current rate. The nexus study also proposes rates of \$34.26 for FY 19-20, \$35.67 for FY20-21 and \$37.14 for FY21-22. The proposed increases do not include any potential rate increase by the Victor Valley Waste Water Reclamation Authority (VWRA) in the future.

Further, for any proposed fee increase the Town must comply with the Proposition 218 notice requirements. This requirement provides that notices of the proposed fee increase must be sent to the owner of record of each identified parcel upon which any new or increase sewer rates or charges are being proposed for adoption at least forty-five (45) days in advance of the Public Hearing. This notice procedure will cost the Town approximately \$15,000.

At the Town Council meeting on November 14, 2017, Council adopted Resolution 2017-34, setting the time and place of the public hearing as January 9, 2018 in the Town Council Chambers and authorizing the mailing of the required Proposition 218 notices to the property owners of record. At the January 9, 2018 meeting, Council voted to continue the public hearing to May 8, 2018 to allow for the completion of a cost allocation plan and analysis of the proposed rates. Each property owner has the right to submit a written or oral protest against the proposed fee increase and may do so by mail or in person to the Town Clerk no later than the conclusion of the Public Hearing on May 8, 2018. At the Public Hearing, the Town will consider all protests against the proposed fee increase. If written protests against the proposed fee increase are presented by a majority of owners of identified parcels, the Town would not impose the fee. If there is no majority protest, the Town Council would then consider a resolution to adopt the proposed fee increase. If adopted, the increase would become effective on July 1, 2018.

Pursuant to Section 6 of Article XIII(D), known more commonly as Proposition 218, on November 22, 2017 and March 20, 2018, a total of 8,651 written notices were mailed to property owners notifying them of this hearing and their right to protest the proposed fee increase. The Town has complied with the notice, protest, and hearing requirements as specified by Proposition 218 with respect to the proposed fee increase.

If the protests submitted in opposition to the Proposed Fee Increase **are not** greater than the majority of the parcels subject to the Proposed Fee Increase, a majority protest does not exist and the Town Council may adopt Resolution 2018-15.

If the protests submitted in opposition to the Proposed Fee Increase **are** greater than the majority of the parcels subject to the Proposed Fee Increase, a majority protest does exist and the Town Council must deny Resolution 2018-15.

As of this writing, 16 protest letters (.12%) were received in opposition to the increase. In addition, 753 notices (8.7%) were returned undeliverable. All notices returned undeliverable are considered as a protest and added to the count of protest letters received. Combined together, the protest letters received of 16 and letters returned undeliverable of 753 totaled 769 (8.9%). A majority protest would require 4,327 property owners to protest the proposed fee increase. At this time, a majority protest does not exist and absent a majority protest, Council may adopt Resolution 2018-15.

If Council adopts Resolution 2018-15, the proposed sewer user fee increase will become effective on July 1, 2018.

**ATTACHMENT:**

Resolution Number 2018-15

**RESOLUTION NO. 2018-15**

**A RESOLUTION ESTABLISHING SEWER USER CHARGES OVER THE NEXT FOUR FISCAL YEARS AND ESTABLISHING AN OPERATIVE DATE FOR APPLICATION OF THE PROPOSED INCREASE**

**WHEREAS**, the Town Council of the Town of Apple Valley is a member entity of the Victor Valley Wastewater Reclamation Authority (VWVRA), a Joint Powers Authority, duly formed under the laws of the State of California; and

**WHEREAS**, the Town as a member entity of the VWVRA, is charged the costs for sewage treatment; and

**WHEREAS**, the Town currently charges sewer user fees of Thirty-One Dollars and Forty-Three Cents (\$31.43) per equivalent dwelling unit (EDU) per month, representing a temporary reduction in the FY16-17 then in effect fee of \$35.04 as part of a settlement agreement; and

**WHEREAS**, the Town of Apple Valley's Municipal Code requires all fees and charges to be adopted by Resolution of the Town Council of the Town of Apple Valley; and

**WHEREAS**, the Town is requesting to increase the current sewer user fee by an amount of Five Dollars and Seventy-One Cents (\$5.71) or 17.05% in total over the next four years (\$32.92 in FY18-19, \$34.26 for FY19-20, \$35.67 for FY20-21 and \$37.14 for FY21-22) to be effective July 1 of each subsequent fiscal year in order to cover the operational and capital improvement costs of the sewer enterprise as supported by the Town's nexus study; and

**WHEREAS**, the current Sewer User Fee will be increased by One Dollar and Forty-Nine Cents (\$1.49) to Thirty-Two Dollars and Ninety-Two Cents (\$32.92) per EDU per month; and

**WHEREAS**, the Town has duly proposed and made available to the public data including the costs of providing said services; and

**WHEREAS**, the Town Council of the Town of Apple Valley has held a public hearing to consider an amendment to the fees and charges for such services; and the Town Council has duly considered all oral and written presentations which were made in respect to said fees and charges; and

**WHEREAS**, the amount of the fees and charges imposed on any person as an incident of ownership do not exceed the proportional cost of the service attributable to the property, which service is used by or immediately available to the owner of the property; and

**WHEREAS**, the revenues derived from the fees and charges, as amended, will not exceed the cost reasonably borne in providing the services, and will not be used for any purposes other than that for which the fees and charges are imposed, and the fees and charges are not being imposed for general governmental services; and

**WHEREAS**, the Town desires to comply with Section 6 of Article XIII(D) of the California Constitution regarding the notice, hearing and protest procedures.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Apple Valley as follows:

**Section 1: Sewer User Fees**

- (a) Each unit designed for single family occupancy, each residential unit within a multiple family development, and each mobile home unit will be assessed at the rate of \$32.92 per unit per month effective at such time as necessary to cover related costs.
- (b) Each commercial shop or office with individual restroom facilities will be assessed at the rate of \$32.92 per unit per month plus \$1.572 per fixture unit in excess of twenty (20) fixture units effective at such time as necessary to cover related costs.
- (c) Commercial or industrial shops or office with public and/or centralized sewer use facilities will be assessed a minimum of \$32.92 per month plus \$1.572 per fixture unit in excess of twenty (20) fixture units effective at such time as necessary to cover related costs.
- (d) Schools' monthly user fees will be calculated on the basis of total annual enrollment (including faculty) whereby twenty-three (23) students and/or faculty equals one (1) EDU, which is defined as twenty (20) fixture units which will be assessed at the rate of \$32.92 per EDU per month effective at such time as necessary to cover related costs.
- (e) The Sewer User Charge will be collected by the Town on a bimonthly basis for residential service and all others will be collected on a monthly basis.

**Section 2: Effective Date**

The fees and charges established herein shall become effective on July 1, 2018. Section 1 of this Resolution shall become operative on the same date.

**APPROVED** and **ADOPTED** by the Town Council of the Town of Apple Valley this 8<sup>th</sup> day of May 2018.

---

Art Bishop, Mayor

**ATTEST:**

---

LaVonda Pearson, Town Clerk