

## RESOLUTION NO. R-25-09

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARINO ESTABLISHING SEWER SERVICE CHARGE RATE SETTING PROCEDURES UNDER PROPOSITION 218, AND GOVERNMENT CODE SECTIONS 53750 THROUGH 53759.2

**SECTION 1:** The City Council of the City of San Marino finds and declares as follows:

A. The City of San Marino (“City”) provides sewer service to property owners (who may also be referred to as “owners”) within the City’s service area, and establishes the amount of sewer service charges to be paid by customers in accordance with San Marino Municipal Code (“Municipal Code”) and applicable law.

B. California law authorizes the City to charge a fee to the property owners or property owners’ “tenants” (who may be collectively referred to as “ratepayers” or “customers”) for the proportionate cost of providing sewer services to each customer in accordance with the procedural and substantive requirements of the voter-approved ballot measure known as “**Proposition 218**” (California Constitution Article XIII D; as it is implemented by the Legislature at Government Code sections 53750 – 53759.2; and as it has been interpreted by judicial decisions). As used in this resolution:

- 1) The phrase “sewer service charges” may be used interchangeably with “sewer service rates” or “rates.”
- 2) The phrase “property owner” shall include any tenant who is directly liable to pay the sewer service charges.

C. Under Proposition 218, the City’s sewer service charges are considered to be a “fee” for a “property-related service” (also referred to as a “property-related fee”), subject to the particular requirements of Constitution Article XIII D, Section 6. A property-related fee is one imposed upon any parcel or person as an incident of property ownership. In general, the City may only establish or increase its existing sewer service charges if the City (1) calculates the sewer service charges in accordance with Proposition 218, (2) conducts a noticed public hearing before the City Council (“**City Council**”), as described in this resolution, and (3) a “**timely written protest**” is not submitted by property owners representing a majority of the parcels served by the City.

D. Under Government Code sections 53759.1 and 53759.2 (known as “**AB 2257**”), the City may establish a supplemental process for objecting property owners to exhaust administrative remedies, also described in this resolution, by which the City will take specified actions in response to any “**timely written objection**.” Under this process, only an owner who submits a timely written objection will have a right to challenge a proposed increase in sewer service charges through a legal proceeding. (These supplemental processes were authorized by Assembly Bill No. 2257, Chapter 561, Statutes of 2024, effective January 1, 2025.)

E. The purpose of this resolution is to document the processes the City will follow in considering proposed new or increased sewer service charges, including compliance with Proposition 218 as well as the exhaustion of administrative procedures under AB 2257. The processes described in this resolution provide a meaningful opportunity for a property owner to submit a written objection to proposed new or increased sewer service charges early in the rate consideration process, and to provide an opportunity for the City to address or resolve any objections before the City Council makes a final decision on whether to adopt a proposed sewer service charge pursuant to Proposition 218.

F. This resolution will identify the process the City will follow in order to implement the administrative remedies to be exhausted by property owners under Government Code sections 53759.1 prior to an owner initiating litigation to challenge the sewer service charges. In general, at least 45 days before a public hearing to consider a proposed new or increased sewer service charge, the City will make available the proposed sewer service charge, and post the written basis for the proposed sewer service charge on its internet website. The City will provide at least 45 days for any property owner to review the proposed sewer service charge and timely submit to the City a written objection to the sewer service charge that specifies the grounds for alleging noncompliance with Proposition 218. The City will consider and provide a substantive written response to each timely written objection submitted prior to the close of the public hearing described in Section 1(C).

G. For any sewer service charge approved by the City implementing the procedures described in this resolution, a person or entity shall be prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for those sewer service charge, unless that person or entity has timely submitted to the City a written objection to those rates that specifies the grounds for alleging noncompliance with Proposition 218.

H. The City Council hereby intends to adopt the exhaustion of administrative remedies procedure as outlined in Government Code section 53759.1, and the administrative record principles contained in Government Code section 53759.2.

**SECTION 2:** NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of San Marino, as follows:

A. The City Council hereby adopts the sewer service charge rate setting procedures attached hereto as Exhibit "A," and incorporated herein by reference ("**Sewer Service Charge Rate Setting Procedures**"). The Sewer Service Charge Rate Setting Procedures explicitly incorporate and implement the requirements contained in Proposition 218 and the procedures by which property owners are required to exhaust administrative remedies as set forth in Government Code section 53759.1, subdivision (c).

B. For any sewer service charge adopted or approved by the City implementing the procedures described in this resolution, a person or entity shall be prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for those sewer service charge, unless that person or entity has timely submitted to

the City a written objection to those sewer service charges in accordance with this resolution that specifies the grounds for alleging noncompliance with Proposition 218.

C. The City Council hereby adopts the administrative record principles contained in Government Code section 53759.2.

D. This resolution will take effect on March 28, 2025, after initial City Council adoption, and will apply to any proposed new or increased sewer service charge of which notice is provided in accordance with this resolution.

E. The City Council authorizes the City Manager to take such other and additional actions as may be reasonably necessary to implement the purpose of this resolution and implement the exhaustion of administrative remedies procedure adopted herein.

**PASSED, APPROVED, AND ADOPTED** this 28th day of March, 2025.

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GRETCHEN SHEPHERD ROMNEY  
MAYOR

ATTEST:

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ALISON WALKER  
CITY CLERK

STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            ) ss.  
CITY OF SAN MARINO                    )

I, Alison Walker, City Clerk of the City of San Marino, California, hereby certify that Resolution No R-25-08 was adopted by the City Council of the City of San Marino at a Regular Adjourned Meeting held on the 28th day of March, 2025, and that the same was adopted by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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ALISON WALKER  
CITY CLERK