



## CITY OF PALO ALTO OFFICE OF THE CITY CLERK

June 1, 2020

The Honorable City Council  
Palo Alto, California

**SECOND READING: Adoption of an Ordinance Amending Title 12 of the Palo Alto Municipal Code to Set a 120-Day Statute of Limitations for Challenges to the City's Water Service Rates, Wastewater Collection and Disposal Rates, Refuse Rates, Storm Water Management Fees, and Fiber Licensing Service Rates (FIRST READING: May 18, 2020 PASSED: 6-1 Tanaka no)**

This was first heard by the City Council on May 18, 2020 and is now before the Council for the second reading. It passed with no changes on May 18, 2020 with a 6-1 vote, Tanaka no.

**ATTACHMENTS:**

- Attachment A: Ordinance Water, Wastewater, Refuse, and Fiber Rates Statute of Limitations (PDF)

Department Head: Beth Minor, City Clerk



Ordinance No. \_\_\_\_\_

Ordinance of the Council of the City of Palo Alto Amending Section 12.20.030 (Statute of Limitations for Challenges to Gas Rates) of Chapter 12.20 (Utility Rules and Regulations) of the Palo Alto Municipal Code to Set a 120-Day Statute of Limitations for Challenges to Water Service Rates, Wastewater Collection and Disposal Rates, Refuse Rates, Storm Water Management Fees, and Fiber Licensing Service Rates

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

A. A statute of limitations for challenges to water service rates, wastewater collection and disposal rates, refuse rates, storm water management fees, and fiber licensing service rates aims to balance the interests of the City of Palo Alto (“City”) with the interests of City of Palo Alto Utilities Customers (“Customers”), by allowing Customers to bring challenges within a reasonable, but limited, period of time.

B. Without a statute of limitations, Customers may argue that they are able to request a refund years after a charge has been collected, making it difficult for the City of Palo Alto Utilities and Public Works Departments to maintain the stable budget necessary to operate effectively, while keeping rates as low as possible.

C. By establishing a reasonable period of time beyond which the City will not face exposure to challenges to the validity of water service rates, wastewater collection and disposal rates, refuse rates, storm water management fees, and fiber licensing service rates, a statute of limitations minimizes the fiscal uncertainty that results when there is no clearly established closure on such challenges, and provides clear guidance to customers considering a challenge.

D. The California State Legislature enacted a similar 120-day statute of limitations for challenges to electric rates or charges in 2000, which is codified in Public Utilities Code Section 10004.5. This rule applies to electric rate challenges in Palo Alto.

E. Because the Legislature did not enact a similar statute of limitations for challenges to gas rates or charges, on May 20, 2019, Council adopted an ordinance enacting its own statute of limitations for challenges to gas rates or charges.

F. It is incumbent upon the City of Palo Alto to similarly enact its own statute of limitations for challenges to water service rates, wastewater collection and disposal rates, refuse rates, storm water management fees, and fiber licensing service rates, which reflects the same public policy concerns underlying Public Utilities Code Section 10004.5.

SECTION 2. Section 12.20.030 (Statute of Limitations for Challenges to Gas Rates) of Chapter 12.20 (Utility Rules and Regulations) is hereby amended to read as follows (amendments underlined):

**12.20.030 Statute of Limitations for Challenges to Gas Rates, Water Service Rates, Wastewater Collection and Disposal Rates, Refuse Rates, Storm Water Management Fees and Fiber Licensing Service Rates.**

Any judicial action or proceeding against the City, to attack, review, set aside, void, or annul an ordinance, resolution, or motion fixing or changing a rate or charge for: a) a gas commodity or a gas service furnished by city and adopted on or after June 1, 2019, or b) for water services, wastewater collection and disposal, refuse, storm water management, or fiber licensing services furnished by city and adopted on or after June 1, 2020 shall be commenced within 120 days of the effective date of that ordinance, resolution, or motion.

SECTION 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the ordinance. The Council hereby declares that it should have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. The Council finds that the adoption of this ordinance setting a statute of limitations for challenges to water service rates, wastewater collection and disposal rates, refuse rates, storm water management fees, and fiber licensing service rates does not meet the definition of a project under Public Resources Code section 21065, therefore California Environmental Quality Act ("CEQA") review is not required.

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SECTION 5. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
City Manager

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Director of Utilities