

REGULAR

NUMBER: 120.45

TITLE: AN ORDINANCE OF THE CITY OF MILPITAS AMENDING CHAPTER 1 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO WATER SERVICE CHARGES AND DEPOSITS FOR WATER SERVICE AND METER TESTS

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____ upon motion by Councilmember _____ and was adopted (second reading) by the City Council at its meeting of May 5, 2009, upon motion by Councilmember _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Robert Livengood, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the provision of potable and recycled water services by the City of Milpitas (“City”) require the City to incur capital, operating, maintenance, replacement, and other costs related to the provision of such services; and

WHEREAS, the City provided written notice by mail of proposed water service charge increases to pay for such services, held a public hearing, and complied with other provisions of Article XIID of the California Constitution (commonly known as Proposition 218); and

WHEREAS, the City Council has determined that increases in water service charges are in the best interests of the City and in keeping with sound business and financial management of the water enterprise and does not exceed the cost of providing such services; and

WHEREAS, the adoption of the proposed increases to water service charges are statutorily exempt from the requirements of the California Environmental Quality Act under California Resources Code Section 21080 (b)(8).

ORDAINING CLAUSE:

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

SECTION 1. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.06-1

Section VIII-1-6.06-1 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

6.06-1 As a condition precedent to providing or restoring service for single-family residential accounts, a cash deposit of One Hundred and Fifty Dollars (\$150.00) per meter shall be required. After a continuous twelve (12) month period of satisfactory payment history, the cash deposit, without interest, may be refunded through credit to the next utility bill. Satisfactory payment history is established when a customer does not incur any one or more of the following charges within a continuous twelve month period: late payment penalties, turnoffs, or returned checks due to insufficient funds. Under no circumstances will the cash deposit be refunded if the City has any evidence of meter tampering or water diversion, regardless of payment history. Otherwise, the deposit, without interest, will be refunded through a credit to the last utility bill at the termination of service. The deposit may be waived for customers applying for residential utility service who (i) within the past five-year period terminated a former City of Milpitas utility service account with a satisfactory payment history at the time of termination or (ii) have other evidence of sufficient credit worthiness in the payment of utility services, as determined in the sole discretion of the Finance Director.

SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.08

Section VIII-1-6.08 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

VIII-1-6.08 Meter Tests

If requested by a customer as a result of an apparently excessive bill, the City will conduct a meter test. The customer will be requested to be present at such test. Customers may request up to three (3) meter accuracy tests in any twelve (12) month period at no charge. If additional tests are requested within the twelve (12) month period, the customer shall pay Fifty Dollars (\$50.00) for each subsequent test.

SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.13

Section VIII-1-6.13 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

VIII-1-6.13 Quantity Charges

The quantity charges per hundred cubic feet for metered water service shall be as follows:

Categories	Year 1 (June 4, 2009 to April 18, 2010)	Year 2 (April 19, 2010 to June 30, 2011)
Residential customers (per dwelling unit)		
1 - 20 hcf	\$1.62	\$1.77
>20+ hcf	\$3.41	\$3.72
Commercial, Industrial, Institutional and Construction Meter	\$3.71	\$4.04
Recycled Industrial Process Use	\$1.86	\$2.02
Recycled Sanitary Use (Inside Dual Plumbing)	\$1.86	\$2.02
Potable Irrigation	\$4.24	\$4.62
Recycled (Formerly Served by Wells)	\$0.75	\$0.81
Recycled (Agricultural Service)	\$0.34	\$0.37
For City Accounts (Recycled)	\$0.94	\$1.03
Recycled (All others)	\$3.39	\$3.70
Santa Clara County (Ed Levin Park)	\$1.66	\$1.94
City of Milpitas accounts (potable)	\$1.60	\$1.81

1 hcf = One Hundred Cubic Feet = 748 Gallons

No adjustments shall be granted to any water account holder due to variation in the days of service for any bimonthly billing period. Acceptable days of service range from 50 to 69 days per bimonthly billing period.

SECTION 4. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.14

Section VIII-1-6.14 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

VIII-1-6.14 Bimonthly Water Meter Charges

The bimonthly charges for water meters shall be as follows:

(a) For Residential Customers:

Water Meter Size	Year 1 (June 4, 2009 to April 18, 2010)	Year 2 (April 19, 2010 to June 30, 2011)
5/8"	\$20.56	\$22.41
3/4"	\$21.85	\$23.82
1"	\$31.04	\$33.83
1-1/2"	\$39.15	\$42.67
2"	\$51.09	\$55.69
3"	\$136.78	\$149.09
4"	\$173.33	\$188.93
6"	\$264.51	\$288.32
8"	\$346.55	\$377.74
10"	\$501.65	\$546.80

(b) For Non-Residential Customers (excluding Recycled Water Customers who formerly used well water) :

Water Meter Size	Year 1 (June 4, 2009 to April 18, 2010)	Year 2 (April 19, 2010 to June 30, 2011)
5/8"	\$21.69	\$23.64
3/4"	\$23.06	\$25.14
1"	\$32.82	\$35.77
1-1/2"	\$41.38	\$45.10
2"	\$53.96	\$58.82
3"	\$144.45	\$157.45
4"	\$183.01	\$199.48
6"	\$279.35	\$304.49
8"	\$366.00	\$398.94
10"	\$529.79	\$577.47

(c) For Recycled Water Customers Who Formerly Used Well Water:

\$60.00 bimonthly

(d) For Temporary Construction Meter Customers:

\$150.00 bimonthly

SECTION 5. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.15

Section VIII-1-6.15 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

VIII-1-6.15 Fire Service Charges

The bimonthly charges for “ready to serve” detector check valve fire suppression systems shall be made on the basis of the size of the detector check valve, and shall be as follows:

(a) For Residential Customers:

Detector Check Valve Size	Year 1 (June 4, 2009 to April 18, 2010)	Year 2 (April 19, 2010 to June 30, 2011)
2”	\$32.87	\$35.83
3”	\$49.38	\$53.82
4”	\$54.87	\$59.81
6”	\$71.36	\$77.78
8”	\$87.79	\$95.69
10”	\$104.26	\$113.64

(b) For All Other Customers:

Detector Check Valve Size	Year 1 (June 4, 2009 to April 18, 2010)	Year 2 (April 19, 2010 to June 30, 2011)
2”	\$34.77	\$37.90
3”	\$52.16	\$56.85
4”	\$57.96	\$63.18
6”	\$75.37	\$82.15
8”	\$92.69	\$101.03
10”	\$110.06	\$119.97

Water flowing through detector check valves shall be used solely for the purpose of fire protection and testing of such fire protection systems. In the event that water service provided through detector check valve fire suppression systems is used for purposes other than for fire protection or the testing of such fire protection systems, a quantity charge of \$14.75 per hundred cubic feet shall be imposed for water use that exceeds one hundred cubic feet per billing period.

SECTION 6. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.16

Section VIII-1-6.16 of the Milpitas Municipal code is hereby repealed in its entirety and replaced with the text below to read as follows:

VIII-1-6.16 Billing and Effective Dates of Water Rates and Charges

(a) Billing. After the Ordinance adopting the charges set forth in this Section goes into effect, customers shall be subject to the water charges, set forth in Section 6.06 (Deposits for Service), 6.08 (Meter Tests), 6.13 (Quantity Charges), 6.14 (Bimonthly Water Meter Charges), and 6.15 (Fire Service Charges), in effect as of the beginning date of the bimonthly billing period or deposit period for which a customer is charged.

(b) Rate Program. The water service charges for the time period between June 4, 2009 and June 30, 2011 are as set forth in this Section. In the absence of an amendment of the rates set forth herein or adoption of a new rate ordinance, the rates for Service Year 2 (April 19, 2010 to June 30, 2011) shall also remain in effect for subsequent billing periods and service years.

SECTION 7. SEVERABILITY

The provisions of this Ordinance are severable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 8. EFFECTIVE DATE AND POSTING

This Ordinance shall be ineffective if, at the conclusion of the public hearing to hear protests to the proposed increase in sewer service charges held on May 5, 2009, the City Council determines that a majority protest exists pursuant to Section 6 of Article XIID of the California Constitution. In the absence of a majority protest, in accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

REGULAR

NUMBER: 208.44

TITLE: AN ORDINANCE OF THE CITY OF MILPITAS AMENDING CHAPTER 2 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO SEWER SERVICE CHARGES

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____ upon motion by Councilmember_____ and was adopted (second reading) by the City Council at its meeting of May 5, 2009, upon motion by Councilmember_____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Robert Livengood, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the sewage collection and treatment services of the City of Milpitas (“City”) require the City to incur capital, operating, maintenance, replacement, treatment, and other costs related to providing such services; and

WHEREAS, the City provided written notice by mail of proposed sewer fee or charge increases to pay for such services, held a public hearing, and complied with other provisions of Article XIID of the California Constitution (commonly known as Proposition 218); and

WHEREAS, the City Council has determined that increases in sewer service charges are in the best interests of the City and in keeping with sound business and financial management of the sewer enterprise and does not exceed the cost of providing such services; and

WHEREAS, the adoption of the proposed increase to sewer service charges is statutorily exempt from the requirements of the California Environmental Quality Act under California Resources Code Section 21080 (b)(8).

ORDAINING CLAUSE:

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

SECTION 1. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-2-6.01

Section VIII-2-6.01 of the Milpitas Municipal code is hereby repealed in its entirety and replaced with the text below to read as follows:

VIII-2-6.01 Sewer Service Charges

The following amounts shall be assessed upon each premise maintaining a sewer connection with the City’s sewage system.

- (a) Residential- Bimonthly for each dwelling unit

Category	Year 1 (June 4, 2009 to April 18, 2010)	Year 2 (April 19, 2010 to June 30, 2011)
Single Family Per Dwelling Unit	\$65.08	\$70.94
Multi-Family Per Dwelling Unit	\$46.49	\$50.68
Mobile Home Parks Per Dwelling Unit	\$28.73	\$31.18

- (b) Commercial, Industrial and Miscellaneous Premises.

(1) Flat Rate: For non-residential accounts, there shall be a flat rate assessed every billing cycle during which normal billing takes place, regardless of the amount of sewage discharged, in the amount of \$10.99 per bimonthly period to defray billing and sewer system administration costs, effective June 4, 2009. This amount will increase to \$11.98 per bimonthly billing period, effective April 19, 2010.

(2) Quantity and Strength Charges: For each commercial, industrial, or miscellaneous premises, a charge for each one hundred cubic feet of water used per billing cycle shall be charged as follows:

Category	Year 1 (June 4, 2009 to April 18, 2010)	Year 2 (April 19, 2010 to June 30, 2011)
Motels, hotels & senior citizen housing developments	\$2.53	\$2.72
General offices; banks; government offices; general merchandise, retail, and shopping centers; building, hardware, and gardening material facilities; amusement centers; and theaters	\$2.54	\$2.74
City of Milpitas	\$2.54	\$2.74
Service stations, repair shops, and car washes	\$2.67	\$2.89
Eating and drinking establishments	\$4.11	\$4.52
Personal services – laundry, barber/beauty shops, cleaners	\$2.35	\$2.52
Jefferson Smurfit Corporation*	\$2.65	\$3.40
T. Marzetti Co.*	\$6.52	\$7.61
Prudential Overall Supply	\$3.08	\$3.35
Loral-Fairchild-Lockheed*	\$2.18	\$2.15
Siemens Water (previously US Filter)	\$2.36	\$2.39
Lucky Pure Water*	\$1.93	\$2.51
DS Water	\$0.97	\$0.72
Milpitas Materials*	\$2.75	\$3.00
Union Pacific Railroad	\$3.16	\$3.24
Headway Technology Corporation	\$2.65	\$2.68
Electrical and electronics design, fabrication, assembly and storage facilities	\$2.50	\$2.64
Metal fabrication, machinery, and tool fabrication facilities	\$3.31	\$3.52
Linear Technology Corporation	\$2.15	\$2.32
Seagate Technology*	\$2.44	\$2.29
Peripheral Storage	\$3.37	\$4.39
Schools, colleges and churches	\$2.94	\$3.20
Convalescent hospitals, day care centers and health service facilities	\$2.49	\$2.68
Elmwood Rehabilitation center	\$2.65	\$2.86

*These industrial customers are subject to sewer charge adjustments based on their sewer volumes, as indicated in their Sewer Flow Adjustment Agreements.

(3) City of San Jose for properties known as North McCarthy Properties: \$492 bimonthly for any discharge up to 75,000 gallons per day (Maximum Flow). Excess flow charge of \$100 for each 1,000 gallons per day in excess of the Maximum Flow or part thereof.

(c) Purpose of Charge. The purpose of the sewer service charges stated herein is to defray the City's cost for operation and maintenance of the City's facilities, capital improvement costs, the City's proportionate share of costs at the San Jose-Santa Clara Water Pollution Control Plant and the debt service related thereto, and other costs related to the provision of sewage collection and treatment.

(d) Billing. After the ordinance adopting the charges set forth herein goes into effect, customers shall be subject to the sewer service charges Section in effect as of the beginning date of the bimonthly billing period for which a customer is charged.

(e) Rate Program. The sewer service charges for the time period between June 4, 2009 and June 30, 2011 are as set forth in this Section. In the absence of an amendment of the rates set forth herein or adoption of a new rate ordinance, the rates for Service Year 2 (April 19, 2010 to June 30, 2011) shall also remain in effect for subsequent billing periods and service years.

SECTION 2. SEVERABILITY

The provisions of this Ordinance are severable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

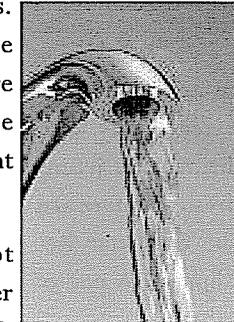
SECTION 3. EFFECTIVE DATE AND POSTING

This Ordinance shall be ineffective if, at the conclusion of the public hearing to hear protests to the proposed increase in sewer service charges held on May 5, 2009, the City Council determines that a majority protest exists pursuant to Section 6 of Article XIID of the California Constitution. In the absence of a majority protest, in accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

WHY ARE RATE INCREASES NEEDED?

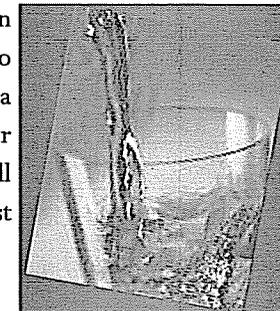
WHOLESALE COSTS ARE INCREASING

Milpitas customers enjoy high quality, safe, and reliable water and sewer services provided by the City of Milpitas. However, costs to purchase water and treat sewage are going up and cannot be supported by the current rates.



The City has not increased its water or sewer rates since August 2006, while its costs for wholesale water has increased 32% and sewer treatment has increased nearly 100% in this same period.

The City purchases wholesale water from San Francisco's Hetch Hetchy supply and Santa Clara Valley Water District and purchases sewer treatment capacity at the San Jose/Santa Clara Water Pollution Control Plant. These agencies are embarking on multi-billion dollar upgrades to improve their system reliability. As a wholesale water and sewer treatment customer, Milpitas will benefit from this work, but must also pay its share of these costs.



CITY SERVICES ARE NEEDED

As a Milpitas property owner, you share ownership of the City's water and sewer infrastructure, a tremendous public asset including 200 miles of water distribution pipe, storage reservoirs, water pumping stations, fire hydrants, 170 miles of sewer collection pipe, and sewer pump stations. All this infrastructure must operate continuously to serve your daily needs.



To keep the infrastructure in good condition, City crews constantly test, clean, and repair the pipe and valve systems. The City also replaces aging components as they reach the end of their lives and to



strengthen them to withstand earthquake damage. This work is costly, but necessary to ensure that your water and sewer services will continue operating reliably to protect your health and safety and to enhance your quality of life.



PROPOSED WATER AND SEWER RATE INCREASES

JUNE 4, 2009 & APRIL 19, 2010

PUBLIC HEARING NOTICE

On May 5, 2009, the Milpitas City Council will hold a public hearing to consider public comment on proposed water and sewer rates effective after June 4, 2009 and April 19, 2010. This hearing will be in the City Council Chambers at City Hall, 455 E. Calaveras Blvd, Milpitas at 7:00 p.m. or as soon thereafter as this item can be heard.

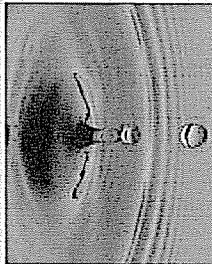
PROTESTING RATE INCREASES

Property owners who want to protest the proposed rate increases may submit a written protest to the City Clerk at 455 E. Calaveras Blvd, Milpitas, CA 95035 on or before 5:00 p.m. on Tuesday, May 5, 2009. Email will not be accepted. If more than 50% of property owners submit a written protest, the City will not raise water and sewer rates. A written protest must contain your name, date, mailing address, signature, and a description of the parcel or parcels which you own, i.e., the street address or assessor's parcel number.



City of Milpitas
455 Calaveras Blvd
Milpitas, CA 95035

World Water Day



March 22, 2009

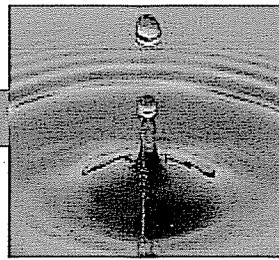
Mailing Address Line 1

Mailing Address Line 2

Mailing Address Line 3

Mailing Address Line 4

Notice of proposed water and sewer rate increases



THE VALUE OF WATER AND SEWER SERVICES A PUBLIC HEALTH SUCCESS STORY

Before modern water and sewage treatment and handling, water-borne disease was a serious threat. Recognizing the causes of disease and introducing disinfection and monitoring in the last century has greatly improved public health. City of Milpitas buys high quality treated water from wholesalers and tests over 2,000 water samples from the distribution system each year. For water quality results, see the 2008 Consumer Confidence Report at www.ci.milpitas.ca.gov/citydept/publicworks/waterquality.htm or call 408/586-2605 for a copy.

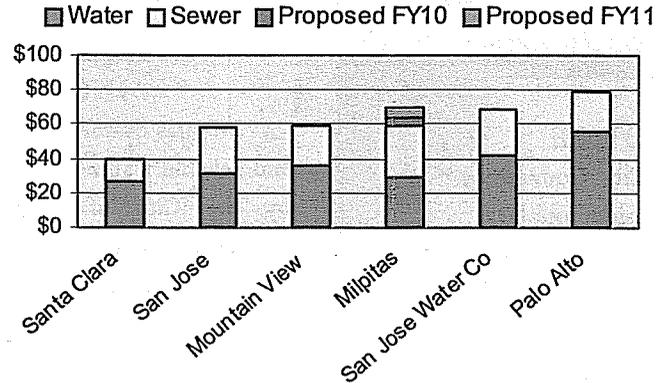
City crews operate and maintain the municipal water distribution and sewer collection systems to ensure optimum water quality. You may have seen crews flushing sediments from water hydrants or jetting sewer lines. These actions keep your drinking water fresh and pure and also protect the environment from sewer spills. The California Regional Water Quality Control Board reports that Milpitas has one of the lowest rates of sewer overflows in the Bay Area.

WATER RATES PER HUNDRED CUBIC FOOT (HCF)

Customer	Current	6/4/09	4/19/10	
Residential	1st Tier (0-20)	\$1.49	\$1.62	\$1.77
	2nd Tier (>20 hcf)	\$3.13	\$3.41	\$3.72
Commercial, Industrial, and Institutional	\$3.40	\$3.71	\$4.04	
Recycled Industrial Process & Sanitary Use	\$1.70	\$1.86	\$2.02	
Potable Irrigation	\$3.89	\$4.24	\$4.62	
Recycled (formerly served by wells)	\$0.68	\$0.75	\$0.81	
Recycled (agricultural service)	\$0.32	\$0.34	\$0.37	
Recycled (all others)	\$3.11	\$3.39	\$3.70	
Santa Clara County (Ed Levin Park)	\$1.02	\$1.66	\$1.94	
Bimonthly	5/8" Residential	\$18.86	\$20.56	\$22.41
	2" Residential	\$46.87	\$51.09	\$55.69
Meter	5/8" Nonresidential	\$19.90	\$21.69	\$23.64
	2" Nonresidential	\$49.50	\$53.96	\$58.82
Charges*	2" Residential Detector Check	\$30.16	\$32.87	\$35.83
	2" Nonresid, Detector Check	\$31.90	\$34.77	\$37.90

* Other meter sizes will have similar 9% rate increases

HOW DO MILPITAS RATES COMPARE?



Milpitas monthly water and sewer costs are comparable with those of surrounding cities. The average Milpitas single family residence using 1,150 cubic feet of water per month currently pays about \$59 a month for water and sewer. The proposed rates increase this to about \$64 after June 4, 2009 and about \$70 after April 19, 2010.

WATER IS A BARGAIN

Drinking water delivered to your home costs about ¼¢ per gallon. No other household purchase comes close to being this economical. Bottled water can cost \$5 or more per gallon, and you must carry it home from the store. And yet, municipal water is as safe to drink as bottled water. By law, it must be treated and tested to ensure it meets all Federal and State standards for consumption.

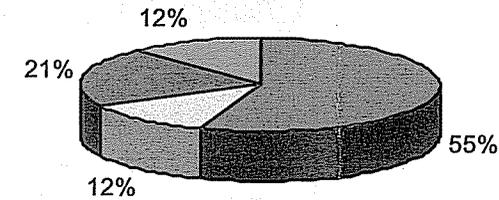


Benjamin Franklin (1706-1790)

When the well's dry, we know the worth of water
Benjamin Franklin, Poor Richard's Almanac

HOW ARE RATE PAYMENTS USED?

- Wholesale water purchase & sewer treatment ~ \$17.9 million
- Overhead ~ \$3.9 million
- Operations ~ \$ 6.7 million
- Infrastructure capital improvement ~ \$3.8 million



Water and sewer rates pay for the City's annual direct and indirect costs for water and sewer services as shown.

SEWER RATES

Customer	Current	6/4/09	4/19/10	
Residential	Single Family Dwelling	\$59.70	\$65.08	\$70.94
	Multifamily Dwelling	\$43.14	\$46.49	\$50.68
	Mobile Home Dwelling	\$26.88	\$28.73	\$31.18
Nonresidential Flat Fee (bimonthly)				
	\$10.08	\$10.99	\$11.98	
Commercial, Industrial, and Miscellaneous (per hcf)	Motels, Hotels & Office	\$2.39	\$2.54	\$2.74
	Service Stations	\$2.41	\$2.67	\$2.89
	Eat/Drink Establishments	\$3.93	\$4.11	\$4.52
	Personal Services	\$2.20	\$2.35	\$2.52
	Jefferson Smurfit	\$1.89	\$2.65	\$3.40
	T. Marzetti Co.	\$5.43	\$6.52	\$7.61
	Prudential Overall Supply	\$2.81	\$3.08	\$3.35
	Lockheed Martin	\$2.22	\$2.18	\$2.15
	Siemens Water Tech	\$2.33	\$2.36	\$2.39
	Lucky Pure Water	\$1.34	\$1.93	\$2.51
	DS Waters	\$1.22	\$0.97	\$0.72
	Milpitas Materials	\$2.50	\$2.75	\$3.00
Institutional (per hcf)	Union Pacific Railroad	\$3.08	\$3.16	\$3.24
	Headway Technology	\$2.61	\$2.65	\$2.68
	Electrical/Electronic (E52)	\$2.35	\$2.50	\$2.64
	Machinery/Manufacture (L63)	\$3.09	\$3.31	\$3.52
	Linear Tech (E3)(55)	\$1.97	\$2.15	\$2.32
	Seagate Tech (E8) (82)	\$2.60	\$2.44	\$2.29
	Peripheral Storage	\$2.35	\$3.37	\$4.39
	Schools	\$2.91	\$2.94	\$3.20
	Conval. Hospital/Day Care	\$2.34	\$2.49	\$2.68
	Elmwood	\$2.29	\$2.65	\$2.86