

CERTIFICATION OF CITY CLERK

ORDINANCE NO. 208.50

I, Mary Lavelle, City Clerk of the City of Milpitas, do hereby certify that the attached Ordinance is a true and correct copy of Ordinance No. 208.50 of the City of Milpitas, that this Ordinance was duly enacted and adopted by the City Council of the City of Milpitas at a meeting of the City Council held on the 4th of August, 2015, and that the Ordinance was published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of Milpitas, California, this 13th day of August, 2015.



Mary Lavelle
Milpitas City Clerk

REGULAR

NUMBER: 208.50

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 May 19, 2015, upon motion by Councilmember Giordano and was adopted (second reading) by the City Council at its meeting of August 4, 2015, upon motion by Councilmember Giordano. This Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES: (5) Mayor Esteves, Vice Mayor Montano, Councilmembers Barbadillo, Giordano, and Grilli

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST:



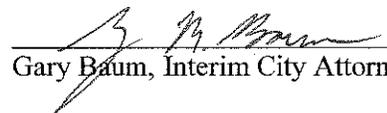
Mary Lavelle, City Clerk

APPROVED:



Jose S. Esteves, Mayor

APPROVED AS TO FORM:



Gary Baum, Interim 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 enterprises and do not exceed the cost of providing such services; and

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

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

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. 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 charges for sewer service shall be as set forth below and are limited to the actual cost of providing sewer service. The rates for Fiscal Year 2015-16 shall be those set forth below.

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	FY15-16 Charge
Single Family	\$90.27
Multi-Family	\$69.32
Mobile Home Parks	\$56.97

(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 \$14.97 per bimonthly period to defray billing and sewer system administration costs.

(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	FY15-16 Rate
Motels, hotels & senior citizen housing developments	\$4.36
General offices, banks, government offices, general merchandise, retail, and shopping centers; building, hardware, and gardening material facilities; amusement centers, and theaters	\$4.67
City of Milpitas	\$4.18
Service stations, repair shops, and car washes	\$4.34
Eating and drinking establishments	\$7.49
Personal services – laundry, barber/beauty shops, cleaners	\$3.95
Jefferson Smurfit Corporation*	\$7.66
T. Marzetti Co.*	\$8.34
Prudential Overall Supply	\$6.70
Loral-Fairchild-Lockheed*	\$4.59
Siemens Water (previously US Filter)	\$4.91
Lucky Pure Water*	\$3.94
DS Water	\$4.59
Milpitas Materials*	\$3.94
Union Pacific Railroad	\$5.11
Headway Technology Corporation	\$4.53
Electrical and electronics design, fabrication, assembly and storage facilities	\$4.59
Metal fabrication, machinery, and tool fabrication facilities	\$6.08
Linear Technology Corporation	\$4.59
Recycled water cooling towers	\$4.59
Cisco*	\$4.59
Schools, colleges and churches	\$6.34
Convalescent hospitals, day care centers and health service facilities	\$4.23
Elmwood Rehabilitation center	\$5.49

*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: \$555 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 set forth in 6.01, in effect as of the beginning date of the bimonthly billing period for which a customer is charged. In the absence of amendment of the rates set forth herein or adoption of a new rate ordinance, the rates herein shall remain in effect for billing periods and service years subsequent to Fiscal Year 2015-16 until amended or repealed.

SECTION 3. SEVERABILITY

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

SECTION 4. 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 August 4, 2015, the City Council determines that a majority protest exists pursuant to Section 6 of Article XIII(D) 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.