

APPENDIX D

**MODESTO CITY COUNCIL
RESOLUTION NO. 2001-433**

**A RESOLUTION REVISING SEWER SERVICE CHARGES AND RESCINDING
RESOLUTION NO. 2000-581**

WHEREAS, Sections 11-6.10 and 11-6.11 of the Modesto Municipal Code authorize the Council to establish sewer service charges and storm drainage surcharges from time to time by resolution, and

WHEREAS, the Council has previously established storm drainage surcharges and sewer service charges, and

WHEREAS, Proposition 218 was passed in November of 1996 and became effective with respect to sewer rates on July 1, 1997, and

WHEREAS, on August 14, 2001, the Council held a public hearing pursuant to Proposition 218 with respect to adjustment of sewer rates, and

WHEREAS, notices of a sewer rate adjustment and public hearing were mailed out to sewer customers set forth in Exhibit "A" attached hereto and incorporated herein by reference, and

WHEREAS, insufficient protests were made to defeat imposition of the sewer rate adjustments resulting in increases in some cases, therefore the rates in the notice are hereby imposed as set forth more specifically below,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DEFINITIONS. Unless the context requires a different meaning, for the purposes of this resolution the definitions set forth in Section 5-6.103 of Chapter 6 of Title 5 of the Modesto Municipal Code entitled "DEFINITIONS" shall apply. The following definitions shall apply to the Storm Drainage Sewer Surcharge:

1. "Agricultural" shall include all parcels which have been developed to some extent but whose primary purpose is agricultural or for storm drainage.
2. "Commercial" shall include all developed parcels used for offices, wholesale or retail sales establishments, or provision of personal, professional, contracting recreational or business services.

3. "Developed Parcel" shall mean any lot or parcel of land altered from its natural state by the construction, creation or addition of impervious area, except public streets or highways.
4. "Duplex" shall mean a developed parcel with two dwelling units on a single parcel.
5. "Government" shall include all developed parcels used by the federal government, city, county, state or agencies of the state for the local performance of governmental or proprietary functions.
6. "Hospital" shall include all developed parcels used by facilities for the chronically ill and impaired, public health centers, community mental health centers, facilities for the mentally retarded, general and other types of hospitals and central service facilities operated in connection with hospitals, but shall not include any institutional use furnishing primarily domiciliary care.
7. "Industrial" shall include all developed parcels which are used to manufacture, fabricate, process, or package products, or to process and store food or chemical products.
8. "Multi-family Residential" shall include all developed parcels or other than single-family residential or duplex units, including hotels, boarding houses and twenty-four hour care for less than six persons. Multi-family Residential will be broken down into four density categories, depending on the amount of property square foot per dwelling unit. The following shall be the four density categories:

<u>Density Category</u>	<u>Property Sq. Ft. Per Dwelling Unit</u>
High	0-1000
Medium	1001-3500
Low	3501-7000
Very Low	Over 7000

9. "Multi-family Senior Mobile Home" shall include all developed parcels in which two or more mobile home lots are rented or leased or held for rent or lease to accommodate manufactured homes or mobile homes for senior citizen housing as defined in Civil Code Sections 51.2 and 51.3.
10. "NPDES Industrial Stormwater Permit" shall mean the stormwater discharge permit issued to operators of certain industrial activities by the State Water Regional Control Board pursuant to CWA and 40 CFR parts 122, 123, and 124.

11. "Non-profit Organizations" shall include all developed parcels used by organizations organized and operated for nonprofit purposes which are exempt corporations under Revenue and Taxation Code 23701.
12. "Parcel" shall mean the smallest separately segregated lot, unit or plot of land having an identified owner, boundaries, and surface area which is documented for property tax purposes and given a tax lot number by the Stanislaus County Tax Assessor.
13. "Parks" shall include all developed parcels operated as a park by a public agency.
14. "Parks/Cemeteries" shall include developed parcels used primarily for cemetery purposes or for publicly-owned places of recreation and enjoyment for general public use.
15. "Schools" shall include all developed parcels used by institutions for instruction or education operated by the state, an agency of the state, a church or a non-profit organization.
16. "Single-Family Residential" shall include all developed parcels with one single-family detached housing unit, or it shall include two single-family dwellings or a duplex located on a corner lot.
17. "Transportation/Utilities" shall include all developed parcels which are used for transportation, communications and utilities services, including trucking, aviation, railroads, suburban transit, power, water and other utilities.
18. "Undeveloped" shall mean any lot or parcel which remains in its natural state and is not used for any purpose.

SECTION 2. SEWER SERVICE CHARGES FOR RESIDENTIAL SERVICE. Each person owning property within the sewer district and receiving residential sewer service shall pay a sewer service charge to the City in accordance with the following rates:

- (a) The monthly sewer service charges for dwelling units, mobile homes and mobile home spaces in mobile home parks connected or required to be connected to the sewage system shall be as follows:

Residential Monthly Charge	Effective Date			
	October 2001	October 2002	October 2003	October 2004
Each single family dwelling or mobil home on a lot	\$12.80	\$13.31	\$13.84	\$14.26
Each dwelling unit in a duplex	\$10.01	\$10.41	\$10.83	\$11.15
One additional dwelling unit or mobile home on a lot	\$10.01	\$10.41	\$10.83	\$11.15
Each dwelling unit in an apartment building or dwelling group or mobile home space in a mobile home park	\$8.23	\$8.56	\$8.90	\$9.17

- (b) In areas outside the Sewer District, the monthly sewer service charges for dwelling units or mobile homes or mobile home spaces in a mobile home park shall be at the rate set forth in subsection (a) above.
- (c) For dwelling units or mobile homes required to be connected to the sewage system, but which have not been connected to said system, in addition to the sewer service charges set forth in subsection (a) above, there shall be an additional charge as follows per month per premises to cover the cost of inspections to insure that the continued use of septic tanks does not cause a health hazard or nuisance.

Residential Monthly Charge	Effective Date			
	October 2001	October 2002	October 2003	October 2004
Residential users not connected - Additional monthly charge for health hazard inspections	\$1.05	\$1.09	\$1.13	\$1.16

SECTION 3. SEWER SERVICE CHARGES FOR COMMERCIAL SERVICE. Each person owning property within the sewer district and receiving commercial sewer service shall pay a sewer service charge to the City in accordance with the following rates:

- (a) Commercial users (including churches) shall be grouped according to Biochemical Oxygen Demand (hereinafter referred to as B.O.D.) and Suspended Solids (hereinafter referred to as S.S.) strength characteristics and shall pay sewer service charges based on the quantity of water used, measured in gallons, which exceeds the minimum as defined in subsection (c) below, and the waste strength characteristics measured in milligrams per liter (hereinafter referred to as mg/l). The Engineering and Transportation Director shall determine the waste strength characteristics of commercial users and assign them to one of the following commercial users groups:

Sewer Service Charges Per 1000 Gals. Of Water Used	Effective Date			
	October 2001	October 2002	October 2003	October 2004
Group 1 - Combined B.O.D. and S.S. measured in mg/l is 400 mg/l or less	\$1.56	\$1.62	\$1.68	\$1.73
Group 2 - Combined B.O.D. and S.S. measured in mg/l is in the range of 401 mg/l to 900 mg/l	\$1.83	\$1.90	\$1.98	\$2.04
Group 3 - Combined B.O.D. and S.S. measured in mg/l is in the range of 901 mg/l to 1400 mg/l	\$2.22	\$2.31	\$2.40	\$2.47
Group 4 - Combined B.O.D. and S.S. measured in mg/l is in over 1400 mg/l	\$2.67	\$2.78	\$2.89	\$2.98

- (b) Sewer service charges for commercial users outside the Sewer District shall be at the rate set forth in subsection (a) above.
- (c) Notwithstanding the charges set forth in subsections (a) and (b) above, there shall be a minimum per month sewer charge, for the first 1,680 cubic feet of water used, for commercial users in the above defined groups, as follows:

Minimum Commercial Charge for the first 1680 cubic feet of water need	Effective Date			
	October 2001	October 2002	October 2003	October 2004
Group 1	\$19.70	\$20.49	\$21.31	\$21.95
Group 2	\$22.70	\$23.61	\$24.55	\$25.29
Group 3	\$27.83	\$28.94	\$30.10	\$31.00
Group 4	\$33.38	\$34.72	\$36.11	\$37.19

- (d) For commercial users required to be connected to the sewage system, but which have not been connected to said system, in addition to the sewage service charges set forth in subsection (a) above, there shall be an additional charge per month to cover the costs of inspections to insure that the continued use of septic tanks does not cause a health hazard or nuisance, as follows:

Additional Charges	Effective Date			
	October 2001	October 2002	October 2003	October 2004
Commercial users not connected-Additional charge for health inspections	\$1.68	\$1.75	\$1.82	\$1.87

- (e) Commercial users shall have all water used on the premises metered in order to determine the users' sewer service charges.

- (1) Commercial users on a public water system other than the City's shall obtain a metered water service from the water purveyor and shall pay the sewer service charge which would be made were such water from the City's water system.
 - (2) Commercial users not connected to a public water system shall allow the City to furnish, install and maintain a water meter with the user to pay for the cost of the meter and installation plus ten (10) percent. The user shall pay the sewer service charge which would be made were such water from the City's water system. Authorization shall be granted to City from user to install, read and maintain said meter by user executing an agreement on a form furnished by the Engineering and Transportation Director.
- (f) In the case of existing meters which are under the ownership of users, the City will assume responsibility for maintenance of such meters upon:
- (1) Receipt of transfer of title from the owner in a form satisfactory to the Engineering and Transportation Director, and
 - (2) Authorization being granted to City for reading and maintaining the meter as set forth in paragraph (e) above.

SECTION 4. SEWER SERVICE CHARGES FOR INDUSTRIAL SERVICE. Each person owning property within the sewer district and receiving industrial sewer service shall pay a sewer service charge to the City in accordance with the following rates:

- (a) The monthly sewer service charges for industrial users shall be at the following rate of per million gallons of total flow.

Industrial	Effective Date			
	October 2001	October 2002	October 2003	October 2004
Flow - per million gallons of total flow	\$800.88	\$832.92	\$866.24	\$892.23

- (1) If Industry has an effluent meter for industrial flow measurement, the total flow shall be the sum of the metered flow and a sanitary flow.

Sanitary Sewage Flow: If Industry has an unmetered connection for disposal of sanitary sewage, the estimated volume may be established by the Engineering and Transportation Director as follows:

The estimated volume shall be based on the number and type of plumbing fixture units contributing to the system along with any other flow information available which indicates the total volume of sanitary sewage.

- (2) If the Industry has an effluent meter for industrial flow measurement and a sanitary sewage meter, the total flow shall be the sum of the metered flows.
 - (3) In the absence of an effluent meter, an influent meter shall be used, and total flow shall be based upon the influent meter reading.
- (b) If the Biochemical Oxygen Demand (B.O.D.) of the industrial waste is over two hundred (200) mg/l, then an additional charge as follows per one thousand (1000) pounds of B.O.D. will be made for the B.O.D. in excess of two hundred (200) mg/l based on industrial flow only.

BOD Charges	Effective Date			
	October 2001	October 2002	October 2003	October 2004
Additional BOD Charge	\$94.72	\$98.51	\$102.45	\$105.52

- (c) If the Suspended Solids (S.S.) of the industrial waste is over two hundred (200) mg/l, then an additional charge as follows per one thousand (1000) pounds of S.S. will be made for the S.S. in excess of two hundred (200) mg/l based on industrial flow only.

SS Charges	Effective Date			
	October 2001	October 2002	October 2003	October 2004
Additional SS Charge	\$87.19	\$90.68	\$94.31	\$97.14

Industrial Charge shall be the sum of items (a), (b), and (c).

- (d) Notwithstanding the charges set forth in subsection (a), (b) and (c) above, there shall be a minimum \$10.00 per month sewer service charge.
- (e) Sewer service charges for industrial users outside the sewer district shall be at the rate set forth in subsections (a), (b), (c), and (d) above.

SECTION 5. SEWER SERVICE CHARGES FOR SCHOOL SERVICE.

- (a) The flat-rate sewer service charges for schools shall be established according to the following formula and table:

Domestic Use - ADA (Average daily attendance) x

c.f./pupil/month x 12 months x \$ Charge

133.69 c.f.

Charge	October 2001	October 2002	October 2003	October 2004
Domestic use per 133.69 cf (1000 gal.)	\$0.61	\$0.63	\$0.66	\$0.68

Where:

K-6 Schools..... .. 10 cu.ft./pupil/month
 K-8 Schools..... .. 13 cu.ft./pupil/month
 7-8 Schools..... .. 24 cu.ft./pupil/month
 High Schools..... .. 36 cu.ft./pupil/month
 College 36 cu.ft./pupil/month

The formula set forth above shall be based on the number of pupils enrolled in each of the following schools:

Empire Union School District

Grade Range

Capistrano Elementary K-5
 Christine Sipherd Elementary K-5
 Bernard Hughes Elementary K-5

Modesto City School District

Harriet Kirschen Elementary K-6
 Elihu Beard Elementary K-6
 Fred C. Beyer High 9-12
 Grace Davis High 9-12
 Downey High 9-12
 Enslin Elementary K-6
 Catherine Everett Elementary K-6
 Franklin Elementary 2-6
 John C. Fremont Elementary K-6
 William H. Garrison Elementary and
 Joseph M. Kelly Center K-6
 Lakewood Elementary K-6
 La Loma Junior High 7-8
 Alberta Marton Elementary K-6
 Modesto High 9-12
 John Muir Elementary K-6
 Robertson Road Elementary K-6
 Roosevelt Junior High 7-8
 Rose Avenue Elementary K-6
 Sonoma Elementary K-6

Elliot Alternative Education Center.....	9-12
Mark Twain Junior High.....	7-8
Wilson Elementary.....	K-6
Burbank Elementary.....	K-6

Salida Union School District

Mildred Perkins Elementary	K-5
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Stanislaus Union School District

Chrysler Elementary.....	K-6
Eisenhut Elementary	K-6
Muncy Elementary	K-6
Prescott Junior High.....	7-8
Agnes Baptist Elementary.....	K-6

Sylvan Union School District

Coleman F. Brown Elementary.....	K-5
Orchard Elementary	K-5
Sherwood Elementary	K-5
Somerset Junior High.....	6-8
Standiford Elementary	K-5
Stockard Coffee Elementary	K-5
Sylvan Elementary	K-5
Woodrow Elementary	K-5
Elizabeth Ustach Junior High	6-8

Yosemite Community College District

Modesto Junior College - East Campus.....	College
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<u>Central Catholic High</u>	9-12
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<u>St. Stanislaus Elementary</u>	K-8
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<u>Our Lady of Fatima Elementary</u>	K-8
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- (b) The flat-rate sewer service charges shall be due and payable to the City of Modesto November 1st of each year.
- (c) The determination of the number of pupils enrolled in each school shall be as of the 15th day of April of each year.
- (d) All other property owned or controlled by the schools and connected to the City sewer system shall be charged for the City sewer service on a regular flat-rate basis.

SECTION 6. SEWER SERVICE CHARGES FOR DUMPING OF SEPTIC WASTE AT THE SEWAGE TREATMENT PLANT. The sewage dumping charge will be calculated at the current rates using the industrial rates and the following formula:

Biological Oxygen Demand (BOD); 3,680 MG/L
 Suspended Solids (SS): 20,430 MG/L
 Loads of Septic Waste to Plant: 4,211
 Approximate Gallons of Septage 1992-93: 12,767,375

Charge	Effective Date			
	October 2001	October 2002	October 2003	October 2004
Flow charge at current rate for industrial users per 1,000 gallons	\$0.78	\$0.81	\$0.84	\$0.87
BOD Surcharge	\$2.67	\$2.78	\$2.89	\$2.98
SS Surcharge	\$14.28	\$14.85	\$15.44	\$15.91
Clean Septic Pit Twice per week				
Operator	\$1.50	\$1.56	\$1.62	\$1.67
Vactor truck	\$0.72	\$0.75	\$0.78	\$0.81
Total Dump Charges per 1,000 gallons of sewage	\$19.95	\$20.75	\$21.57	\$22.24

SECTION 7. SULFIDE CORROSION CHARGES. Any wastewater discharge which exceeds 0.5 parts per million of sulfides shall pay a sulfide corrosion charge, an impact fee, determined on a case-by-case basis as follows:

- (a) The projected accelerated corrosion of collection system pipes and pump stations will be calculated based on the EPA Pomeroy Model for Sulfide Corrosion (EPA Design Manual, EPA/625/1-85-018, Section 2.5.2.1 - Corrosion Predictive Model).
- (b) The sulfide corrosion charge will then be calculated based on the actual pipes and pump stations, up to the Water Quality Control Plant Headworks, impacted by the discharge, and on the current estimates of replacement costs and the time value of money.
- (c) Discharges of sulfide above 0.5 ppm shall also not have a pH lower than 7.

- (d) The discharger may request that the sulfide charge be recalculated each year, if the amount of sulfide discharged is documented as having changed significantly from the previous year. The discharger may elect to receive the billing for this service charge on an annual or monthly basis. No prepayment discount will apply.
- (e) This service charge is an impact fee based on sulfide crown corrosion of collection system pipes and pumping facilities. It is not intended to compensate the City for increased corrosion or odor generation in the Water Quality Control Plant. It is not intended to liquidate the responsibility of a party whose wastewater discharge escapes from the collection system causing soil or groundwater contamination. Discharge of concentrated sulfides under the provisions of this section constitutes acceptance of these terms.

SECTION 8. PREPAID SEWER SERVICE CHARGES. Any person who has prepaid sewer service charges for residential sewer service and the period for which said sewer service charges were prepaid includes the period covered by Section 2 of this resolution shall be entitled to receive sewer service for said period for the prepaid rates.

SECTION 9. NORTH CERES SEWER SERVICE AREA. Pursuant to an agreement entered into between the City of Modesto and the City of Ceres, dated December 18, 1979, the City of Ceres will operate and the City of Modesto will accept and treat sewage collected from a sewerage system in the area bounded by South 9th Street on the west, and Tuolumne River on the north, Mitchell Road on the east and Hatch Road on the south, which area is referred to as the North Ceres Sewer Service Area. Said agreement further provides that the City of Ceres shall pay bi-monthly sewer service charges to the City of Modesto as authorized by the Modesto Municipal Code and established from time to time by Modesto City Council resolution for industrial service outside the Modesto Municipal Sewer District No. 1.

Any future sewer rate increase, as a percentage, shall apply to all customers within the Sewer Service District, including areas served within the North Ceres Sewer Service Area.

SECTION 10. STORM DRAINAGE SEWER SURCHARGE. The storm drainage sewer surcharges shall be paid as set forth below:

- (a) All developed parcels are classified according to their Intensity of Development Factor (IDF). This is a numeric value for each land use based upon generally accepted engineering standards and directly related to the land use of the particular property. The following land uses are identified and recognized, each of which has an assigned IDF, as follows:

<u>Land Use</u>	<u>Intensity of Development Factor (IDF)</u>
Single-Family Residential.....	0.25
Duplex.....	0.50
Multi-Family High.....	0.95
Multi-Family Medium.....	0.80
Multi-Family Low.....	0.40
Multi-Family Very Low.....	0.25
Multi-Family Senior Mobile Home	0.31
Commercial.....	0.95
Industrial	0.75
Transportation/Utilities.....	0.40
Schools.....	0.25
Non-Profit Organizations.....	0.40
Government.....	0.70
Hospitals	0.50
Parks/Cemeteries.....	0.10
Agriculture	0.08
Undeveloped	0.00

- (b) An Area Range Number (ARN) is assigned to each property based on its square footage, according to the following table:

<u>ARN</u>	<u>Square Footage of Property</u>
1	0-3,500 SF
2	3,501-7,000
3	7,001-10,500
4	10,501-14,000
5	14,001-17,500
6	17,501-21,000
7	Increments of 3500 SF
etc.	

- (c) Single-Family Residential charges shall be as follows:

<u>Square Footage of Property</u>	<u>Monthly Charge</u>
0-3500 SF.....	\$1.65
3501-7000 SF.....	3.23
7000 + SF.....	4.85

- (d) Residential users may participate in the Senior Citizens and Disabled Persons Water Discount Program for storm drainage sewer surcharge discounts if they qualify under the program guidelines.
- (e) The IDF is multiplied by the ARN to obtain the Equivalent Runoff Unit (ERU) for a property. The ERU represents a unit of stormwater runoff.
- (f) The property's ERU is charged at a monthly rate of \$6.58. Therefore, the monthly property charge for all non Single-Family Residential is: $ERU \times \$6.58$.

- (g) Mixed Use Property is nonresidential property, more than five acres in size, which contains more than one acre of undeveloped or agricultural property. Upon application to and approval by the Engineering and Transportation Director, Mixed Use Property shall pay a split surcharge, the developed portion paying the IDF appropriate to the developed land use, and the undeveloped or agricultural portion paying the Undeveloped or Agricultural IDF, as appropriate.
- (h) That the portion of the storm drainage surcharge related to street sweeping and storm water collection shall not apply to a parcel if more than a majority of all of the parcels which front on the city street do not have curbs and gutters. That portion currently constitutes seventy percent (70%) of the surcharge.

SECTION 11. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after October 1, 2001.

SECTION 12. RESCINDING PRIOR RESOLUTIONS. Resolution No. 2000-581 is hereby rescinded effective September 30, 2001.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2001 by Mayor Sabatino, who moved its adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Frohman, Smith, Smith
 NOES: Councilmembers: Conrad, Serpa
 ABSENT: Councilmembers: None

ATTEST: Jean Zahr
 JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
 MICHAEL D. MILICH, City Attorney