

RESOLUTION NO. 2308 (2007)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEPORT ACTING AS THE GOVERNING BOARD OF THE CITY OF LAKEPORT MUNICIPAL SEWER DISTRICT NO. 1 (CLMSD) RESCINDING RESOLUTION NO. 2268 (2006) AND AMENDING RESOLUTION NO. 2145 (2003) ESTABLISHING SEWER RATES, FEES AND CHARGES

WHEREAS, pursuant to Ordinance No. 427, the Governing Board of the City of Lakeport Municipal Sewer District No. 1 (CLMSD) may fix rates and fees for sewer service within the City of Lakeport; and

WHEREAS, pursuant to Chapter 13.20 of the *City of Lakeport Municipal Code*, the CLMSD Board of Directors must establish sewer fees by RESOLUTION; and

WHEREAS, the City Council (CLMSD Board) wishes to adopt sewer rates and charges that are equitable and fairly distribute the burden of system costs among the various classes of customers, and

WHEREAS, the City Council (CLMSD Board) wishes to adopt sewer rates and charges in conjunction with the proposed budgetary needs of the sewer collection and treatment utility; and

WHEREAS, a public hearing was held on November 6, 2007, to consider the proposed rates and charges set forth below; and

WHEREAS, the City Council (CLMSD Board) adopted Resolution No. 2268 on April 18, 2006, and amended August 15, 2006, establishing new rates, fees, and charges for sewer services; and

NOW, THEREFORE, BE IT RESOLVED THAT:

The City Council of the City of Lakeport, sitting as the governing body of the City of Lakeport Municipal Sewer District No. 1, determined that:

1. EVIDENCE

The City Council has considered all of the evidence submitted into the administrative record, which includes the following:

- a. The staff presentations at the public hearing conducted by the Board of Directors;
- b. Public comments, both written and oral, received and/or submitted at, or prior to, the public hearing(s) supporting and/or opposing the staff recommendation.

2. FINDINGS

In view of all of the evidence and based on the foregoing findings, the City Council (CLMSD Board) concludes as follows:

- a. The proposed sewer rates and charges are equitable and do fairly distribute the burden of cost among the various classes of customers;

- b. The proposed rates and charges will meet the current budgetary needs of the sewer utility.
- c. The proposed sewer rates meet the revenue requirements necessary to adequately operate the sewer utility system

3. SEWER USER RATES

Pursuant to *Municipal Code* Section 13.20.060, the City Council, acting as the CLMSD Board of Directors, hereby establishes the following sewer user rates for Sewer Service within the City Limits:

A. Schedule A – Single-Dwelling Unit Residential Customers

- 1. Applicable to Single-Dwelling Unit Residential Customers, duplexes, triplexes, and mobile homes.
- 2. Monthly Service Charge shall be effective as follows:

Effective Date:	11/06/07	07/01/08	07/01/09	07/01/10	07/01/11	07/01/12
Amount:	\$39.57	\$41.77	\$42.93	\$44.25	\$45.52	\$46.79

B. Schedule B – Apartments

- 1. Applicable to apartments
- 2. Monthly Service Charge shall be effective as follows:

Effective Date:	11/06/07	07/01/08	07/01/09	07/01/10	07/01/11	07/01/12
Amount:	\$30.50	\$32.18	\$33.08	\$34.09	\$35.07	\$36.05

C. Schedule D – Commercial Customers

- 1. Applicable to commercial, industrial, governmental, temporary construction, and any other sewer service for which no rate schedule is specified.
- 2. Monthly Service Charges shall be effective as follows:

Effective Date:	11/06/07	07/01/08	07/01/09	07/01/10	07/01/11	07/01/12
Amount:	\$39.57	\$41.77	\$42.93	\$44.25	\$45.52	\$46.79
Volume Charge:	\$4.52	\$4.79	\$4.92	\$5.07	\$5.22	\$5.36

- 3. Volume Charge
 - a. There shall be no additional charge for first 8 hundred cubic feet of water served to account per month.
 - b. When water served to account is above 8 hundred cubic feet per month, and additional volume charge per each hundred cubic feet shall be charged.

D. Legacy School

1. Applicable to the Legacy School only.
2. Monthly Service Charge shall be effective as follows:

Effective Date:	11/06/07	07/01/08	07/01/09	07/01/10	07/01/11	07/01/12
Amount:	\$16.92	\$17.80	\$18.30	\$18.86	\$19.40	\$19.95

E. LACOSAN North Area Charge

All general sewer users not located within Assessment District 91-1 boundary with sewer flows transmitted to the Lake County Sanitation District (LACOSAN) for treatment shall pay a monthly assessment of \$9.50 to cover capital project reimbursement and replacement costs for the LACOSAN Basin 2000 Project.

Schools, convalescent hospitals and Laundromats shall pay this monthly assessment as follows:

- a. Schools shall pay \$9.50 for each 33 enrolled students.
- b. Convalescent care and skilled nursing facilities shall pay \$3.80 for each licensed bed space.
- c. Laundromats shall pay \$6.65 per washing machine.

4. OCCUPANCY AND CHARGES

Sewer monthly service charge shall be paid for all connections to the sewage collection system whether the premises are occupied or not. Sewer user charges shall not be billed if the sewer connection is physically removed in a manner acceptable to City and CLMSD. No property having an active City water service shall be exempted from sewer monthly service charges or commodity charges unless the water is used exclusively for landscaping or unless the property is exclusively served by a properly permitted and operating septic tank.

5. RETURNED CHECK FEE

The cost for returned checks is as set forth in City Council fee resolution and this amount is established as an additional charge to each account for which a check is returned by City’s bank.

6. DELINQUENT PAYMENT FEE

A delinquent payment fee shall become due and payable on the 30th calendar day following the sewer billing date. For those users having sewer service and not having city water service, the fee shall be \$25.00. All delinquent accounts will be assessed a delinquent charge and are subject to additional charges if the account remains in a delinquent condition.

7. DEPOSIT AND SERVICE FEE

A \$50.00 deposit and a \$15.00 service fee shall be required when an application is made for sewer service only.

8. INTERPRETATION AND ADMINISTRATION

The application, interpretation and administration of the provisions herein shall be subject to such rules as may from time to time be promulgated by the Board of Directors of City of Lakeport Municipal Sewer District.

9. DEFINITIONS

For purposes of application of the provisions of this resolution, the following definitions shall apply:

Accessory Residential Units Associated with Commercial Uses – Shall be considered as single dwelling units if they are detached; if they are attached, they will be considered as a multi-dwelling unit.

Accessory Residential Units Associated with Residential Uses – Shall be considered as (1) single dwelling units if the unit is detached, (2) as an apartment if it is attached and it has a kitchen or cooking facilities, and (3) as a motel unit if it is attached and it does not have a kitchen or cooking facilities.

Apartment – means a room or suite of rooms within a building but comprising an independent self-contained dwelling unit, with kitchen or cooking facilities, occupied or suitable for occupation as a residence for eating, living, and sleeping purposes.

Bed and Breakfast Units – Each room available for rent as a guest room shall be considered as a motel unit if it doesn't have a kitchen or cooking facilities. Owners/managers quarters shall be considered as a single dwelling unit.

Commercial – Activities devoted primarily to business, property management or professional purposes.

Community Care Facilities and Schools – Shall be considered to be commercial.

Date of Presentation – the date on which a bill or notice is mailed or delivered by the City to the customer.

Duplex – A single detached building designed for and occupied by two families living independently of each other as separate housekeeping units, and having but two kitchens.

Governmental – The United States and its departments, agencies and bureaus, the State or any local government or any agency thereof or public districts.

Mobile Home – A structure, transportable in one or more sections, which is at least 8 feet in width (excluding eaves) and less than 560 square feet in size which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation. Mobile home includes a “manufactured home” as defined in Section 18007 of the Health and Safety Code. Mobile home does not include a recreational vehicle (Section 18010.5), commercial coach (Section 18012), or factory-built housing (Section 19971).

Monthly Service Charge – An amount charged to accounts representing the cost of having sewer service available.

Motel – Any building, portion thereof or group of buildings, providing transient residential accommodations, used, designed, or intended to be used, let or hired out for transient occupancy. Motel rooms with a kitchen or cooking facilities shall be considered as apartments.

Premises – An integrated land area, including improvements thereon, undivided by public thoroughfares or water distribution mains and where all parts of the area are operated under the same management for the same purpose.

Recreational Vehicle – A space with available water service where a motor home, travel trailer, camper or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy may legally be parked and occupied.

Residential – Activities devoted primarily to residential or household purposes in single-dwelling units and multi-dwelling units.

Single Dwelling Unit – A single separately owned unit that is designed for and occupied exclusively by one family alone, and having but one kitchen. Usually, single dwelling units are detached. Single dwelling units include factory built housing as defined by Section 19971 of the Health and Safety Code.

Triplex – A single detached building designed for and occupied by three families living independently of each other as separate housekeeping units, and having but three kitchens.

Sewer Service – Includes availability of sewer connection through CLMSD facilities.

Volume Charge – A charge based upon the amount of water used by the customer.

10. **EFFECTIVE DATES**

The rates and charges set forth in this Resolution shall be effective on November 6, 2007, unless otherwise specified herein. In the event that the imposition of the rates provided for in this Resolution is enjoined, temporarily or permanently, by a court of competent jurisdiction which order materially affects the implementation of this Resolution, then upon such determination by the City Council, the rate schedules, conditions, and provisions provided in the City's existing rate resolution shall remain in full force and effect from the effective date of such injunction until said injunction is dissolved or a new rate Resolution is approved by this Council.

11. **REASONABLE COST**

The City Council does hereby declare and find that the rates and charges fixed by this Resolution do not exceed the reasonable cost of providing the services, facilities or regulatory activity for which the fee is charged. The fees and charges fixed herein do not constitute a general tax or any new or increased assessment.

12. **CEQA EXEMPTION**

The approval of said sewer rates by this Council is exempt from the requirements of the *California Environmental Quality Act* under the provisions of the *Public Resources Code*, Section 21080 (b)(8), and this Council makes this claim of exemption pursuant to said section and authorizes claim of exemption to be filed with the appropriate agencies.

13. **VALIDITY**

That if any section, subsection, sentence, clause, or phrase in this Resolution or the application thereof to any person or circumstance is for any reason held invalid, the validity of the remainder of the Resolution or the application of such provision to other persons or circumstances shall not be affected

thereby. The City Council hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or the application thereof to any person or circumstance be held invalid.

14. INFLATION ADJUSTMENT

The Council finds that the rates described above are subject to inflation and other cost increases and that the rates should be adjusted each year to reflect such increases. Each year on July 1, all service and commodity rates described herein shall be adjusted to reflect the change in the consumer price index for the previous 12-month period for which such data is available. The consumer price index to be used shall be the San Francisco-Oakland-San Jose percentage change as indicated on the annual April consumer price index for Pacific Cities and the U. S. City average. In the event of a negative index no change will be made.

15. PUBLISHING

That the City Clerk shall certify to the passage of this resolution and cause the same to be published in some daily newspaper printed and published in the City of Lakeport.

16. CONSISTENCY

All resolutions or parts of resolutions inconsistent with this resolution are hereby repealed to the extent of such inconsistency.

This resolution was considered at a public hearing held on November 6, 2007, and was adopted by the CLMSD Board of Directors at a meeting held on November 6, 2007, by the following vote:

AYES: Council Members Bruns, Rumfelt, Irwin, and Bertsch, and Mayor Parmentier
NOES: None
ABSTAINING: None
ABSENT: None

ROY PARMENTIER, Mayor/Chairman

ATTEST:

APPROVED AS TO FORM:

JANEL M. CHAPMAN, City Clerk/Secretary

STEVEN J. BROOKES, City Attorney