

PRELIMINARY RESOLUTION BY THE BOARD OF THE LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT AMENDING THE 2023 OLDHAM COUNTY SCHEDULE OF RATES, RENTALS AND CHARGES FOR WASTEWATER SERVICES PURSUANT TO KRS CHAPTER 76

WHEREAS, the Louisville and Jefferson County Metropolitan Sewer District (“MSD”) was created and established pursuant to Chapter 76 of the Kentucky Revised Statutes (“KRS”) in the interest of public health for the purpose of providing adequate sewer and drainage facilities in the City of Louisville and Jefferson County, Kentucky; and

WHEREAS, pursuant to KRS Chapter 76, the schedule of rates, rentals and charges shall be established and revised from time to time so as to produce aggregate revenues to MSD sufficient for the payment of interest on and principal of all revenue bonds and other obligations of MSD, all cost and expenses of operating and maintaining MSD’s sewer and drainage system, and for the payment of all costs of renewals and replacements of such system; and

WHEREAS, pursuant to the Kentucky Interlocal Cooperation Act, (KRS 65.210 *et. seq.*), any public agency may enter into agreements with another public agency, or agencies, to acquire by purchase or lease, any real or person property, or any interest, right, easement, or privilege therein, outside of its municipal or jurisdictional boundaries; and

WHEREAS, MSD entered into an Interlocal Cooperation Agreement (“ILA”) with the County of Oldham, Kentucky and the Oldham County Environmental Authority (“OCEA”) which vested in MSD all powers and authority of OCEA and Oldham County necessary and appropriate for the acquisition, ownership, management and operation of the OCEA Wastewater System; and

WHEREAS, on July 1, 2020, MSD acquired the OCEA Wastewater System; and

WHEREAS, per Section 11.2.1 of the ILA, MSD adjusted rates on August 1, 2022, for the former OCEA customers residing in the Glen Oaks, Moser Farms and The Woods of Glen Oaks subdivision, to \$76.92/month based on an average usage of 5,000 gallons of water per month; and

WHEREAS, per Section 11.2.2 of the ILA, MSD adjusted rates on August 1, 2022, for all other former customers of OCEA residing in the former OCEA services areas, to \$76.92/month based on an average usage of 5,000 gallons of water per month; and

WHEREAS, Section 11.3 of the ILA states that for fiscal year 2023 and years thereafter, MSD will raise existing OCEA customer rates no more than 5% per year until the rates equalize with the rates of MSD’s other customers; and

WHEREAS, in order to generate sufficient revenue to maintain debt service coverage and to continue the proper operation and maintenance of MSD’s existing sewerage system in Oldham County, the Board of MSD is proposing that the schedule of wastewater rates, rentals and charges be amended; and

WHEREAS, pursuant to KRS Chapter 76 and 424, the proposed amended schedule of wastewater rates, rentals and charges will be published, giving notice that objections and/or comments on the schedule may be filed within a period of thirty (30) days from the date of said publication.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MSD that,

The above recitals are hereby incorporated into the Resolution as if set forth fully within, and MSD’s Oldham County Schedule of Rates, Rentals, and Charges be, and they are hereby amended to include the following new rates in addition to current rates and said new rates shall be sued for billings rendered on and after August 1, 2023:

- I. Sections 1.1, 1.2, and 2.1, which establish Wastewater Services Charges and Wastewater Volume Charges, are hereby amended, and shall read as follows:

1.0 WASTEWATER SERVICE CHARGES

1.1 Commercial and Industrial Charges:

<u>Meter Size</u>	<u>Monthly Billing</u>	<u>Daily Proration</u>
Inches	\$/Bill	\$/Bill
5/8	94.70	3.11341
3/4	94.70	3.11341
1	123.80	4.06997
1 1/2	203.34	6.68525
2	250.59	8.23867
3	322.85	10.61438
4	389.10	12.79228

1.2 Residential Charges:

<u>Monthly Billing</u>	<u>Daily Proration</u>
\$/Bill	\$/Bill
\$50.32	\$1.65422

2.0 WASTEWATER VOLUME CHARGES

The Wastewater Volume Charge is based on either water used as measured by a meter(s) or wastewater discharged to the public sewer that is directly measured by either a private effluent flow meter(s) or calculated using a combination of addition meters and subtraction meters that have been certified by the MSD Finance Division for billing purposes. Wastewater Volume Charges may be modified from time to time by contractual agreement with individual customers. Wastewater Volume Charges are calculated based on the following rates:

2.1 Regular Volume Rate

- 2.1.1 Commercial - \$6.09 per 1,000 gallons of volume billed
- 2.1.2 Industrial - \$6.09 per 1,000 gallons of volume billed
- 2.1.3 Residential - \$6.09 per 1,000 gallons of volume billed

II. Sections 8.0, which establishes a System Development Surcharge, is hereby amended, and shall read as follows:

8.0 SYSTEM DEVELOPMENT SURCHARGE

A System Development Surcharge Area is a means through which MSD can recoup funds used to extend, upsize, or in other ways increase system capacity within a specific area. The area may be identified by MSD when (i) sewer facilities are constructed or acquired and such facilities are consistent with MSD’s approved Master Plan or Action Plan, (ii) regional sewers are constructed,

or (iii) facilities are upgraded or extended pursuant to Section 14 (Excess Cost Payments for Sewer Extension). To defray the cost of providing sanitary sewer facilities, including applicable design costs, a System Development Surcharge Fee shall be imposed on the development of all properties within the System Development Surcharge Area. A System Development Surcharge Fee shall be paid when a development proposes to provide sewer services by extension of, or connection to, MSD's sewer system. A System Development Surcharge Fee shall also be paid when a property not located within a System Development Surcharge Area connects to the sewer facilities located within a System Development Surcharge Area via pumping or other means. Payment of a System Development Surcharge Fee shall not exempt a development from payment of other applicable fees and charges, including but not limited to, Inflow and Infiltration Charges and Capacity Charges.

The guidelines below provide for the development of a System Development Surcharge Fee based on a consideration of the size of the System Development Surcharge Area. However, MSD may apply one, or a combination of, the methodologies in Sections 13.1 and 13.2 for the development of a System Development Surcharge Fee if MSD determines that doing so is fair and reasonable based upon the facts related to the specific System Development Surcharge.

- 8.1. For a System Development Surcharge Area in excess of 1,000 single family residential equivalent lots or cost greater than \$2,000,000, the System Development Surcharge Fee will be determined based upon an evaluation for the relevant System Development Surcharge Area. The evaluation shall consider the cost of constructing the facilities, the capacity for the relevant System Development Surcharge Area, estimated residential, commercial and industrial development based on current zoning information, and estimated water use associated with potential developments.
- 8.2. For a System Development Surcharge Area less than 1,000 single family residential equivalent lots or \$2,000,000, MSD will establish a methodology for calculating the System Development Surcharge Fee. The methodology shall consider the cost of constructing the facilities, the estimated developable lots within the surcharge area, the additional capacity provided, and estimated water use, in order to establish a price per gallon.

III. Sections 9.0, which establishes the Emergency Wastewater Rate Assistance Program, is hereby amended, and shall read as follows:

9.0 EMERGENCY WASTEWATER RATE ASSISTANCE PROGRAM

9.1 Definitions

For purposes of this Section only, the words or phrases below shall have the following meanings:

- 9.1.1 **Household** means an individual or group of individuals who are living together in the principal residence sharing common living arrangements.
- 9.1.2 **Gross Household income** means all earned and unearned income, including lump sum payments received by a household during the calendar month preceding the month of application.
- 9.1.3 **Low-income residential customer** means a direct residential customer of MSD having a gross total household income at or below one hundred fifty percent (150%) of the official poverty income guidelines updated annually in the Federal

Register by the U.S. Department of Health and Human Services under authority of 42 U.S.C. 9902(2), or who is eligible for the Low Income Home Energy Assistance Program state plan prepared by the Kentucky Cabinet for Health and Family Services, Department for Community Based Services at the time of application.

9.1.4 **“Principal residence”** means the place where the customer is living voluntarily and not on a temporary basis; the place the customer considers home; the place to which, when absent, the customer intends to return; and is identifiable from another residence, commercial establishment or institution.

9.2 **Wastewater Discount**

All eligible low-income residential customers may receive a thirty percent (30%) discount on the wastewater charges on their sewer bill beginning October 1, 2023. The discount, known as the Emergency Wastewater Rate Assistance Program discount, shall apply to wastewater service charges and wastewater volume charges. Program participation is limited to 3,000 customers and/or will only be offered until available funding is expended.

9.3 **Eligibility Criteria**

The Emergency Wastewater Rate Assistance Program (“EWRAP” / “Program”) discount shall be available to low-income residential customers who:

9.3.1 Apply for and are approved for the discount. Customers shall provide required information upon forms and in the manner required by Program rules to certify their eligibility.

9.3.2 Are receiving water by separate metered water service for a property or dwelling used solely for residential purposes owned or leased by the customer as his or her principal residence.

9.3.3 Are named customers with MSD and are responsible for paying the sewer bill received from the Louisville Water Company for the customer’s principal residence.

9.3.4 Verify and certify gross household income and ownership or leasehold of their principal residence in the manner required by the Program.

9.3.5 Have total gross household income, when computed annually, including the income of all occupants, and regardless of age, that does not exceed 150% of the official poverty income guidelines referenced in section 17.1.3 computed annually.

9.3.6 Are not receiving and have not been approved to receive MSD’s Senior Citizen’s discount as of the date of application for the Program.

9.3.7 Satisfy all other terms and conditions established by the Program for eligibility.

9.4 **Exclusions**

MSD customers, age 65 years of age or older, receiving or who have been approved to receive MSD’s Senior Citizen’s discount, shall not be eligible for the Emergency Wastewater Rate Assistance Program.

9.5 **Effective Date of EWRAP Discount**

Except as set forth in Section 17.8, the emergency wastewater rate assistance discount shall commence on the next subsequent billing date following approval of the customer's application and shall continue until September 30, 2024, conditioned upon the customer's continued eligibility. If the program is continued after September 30, 2024, customers will be required to re-apply to continue to receive the discount.

9.6 Program Administration

The Executive Director or his designee may prescribe such policies, regulations, and procedures, consistent with the provisions of this Section, as deemed necessary and appropriate to administer and enforce the Emergency Wastewater Rate Assistance Program.

9.7 Program Modification / Termination

The Emergency Wastewater Rate Assistance Program shall continue through September 30, 2024, unless earlier termination at the discretion of MSD, and may be modified by MSD at any time.

- IV.** Sections 10.0, which establishes the Senior Citizens Discount, is hereby amended, and shall read as follows:

10.0 SENIOR CITIZENS DISCOUNT

Senior Citizens are eligible for a 30% discount off wastewater service charges, wastewater volume charges and the Consent Decree Surcharge. This discount will be made available to customers of MSD that are 65 years or older, have a gross household income of \$35,000 or less, and are the primary titleholder or leaseholder on the property subject to the bill. An application will be sent to those customers that request one and the discount shall begin on the billing period following the date that the application is approved by MSD. In order to qualify for this discount, proof of age such as a birth certificate or driver's license must be provided. In addition, proof of all income received during the previous month by any member of the household. Customers that qualify for this discount may be asked to complete a renewal application on an annual basis or as otherwise determined by MSD.

- V.** Sections 11.0, which establishes Adjustment of Charges and Appeals, is hereby amended, and shall read as follows:

11.0 ADJUSTMENT OF CHARGES AND APPEALS

Any owner who considers that wastewater charges applied to the owner's parcel are inaccurate or otherwise disagrees with the determination may apply to MSD's Financial Director for a rate review, stating in writing the grounds for the adjustment. The Financial Director will review the case and report findings to the Executive Director. The Executive Director shall consider the complaint and staff recommendations and determine whether an adjustment is necessary to provide for reasonable and equitable application of the charge(s).

Appeal of decisions made by the Executive Director may be brought before the MSD Board in writing with notice and substance of the appeal sent to the Board's secretary within fifteen (15) days after the owner receives the Executive Director's decision. Upon reviewing the documentation, the Board shall render a final decision.

In the event of a billing error, MSD may back bill the customer for a period of two years from the date the error was discovered and MSD will grant refunds for overbillings for a period of two years from the date it was notified of the overbilling.

VI. Sections 12.0, which establishes Severability, is hereby amended, and shall read as follows:

12.0 SEVERABILITY

If any section, clause, or provision of this amendment be declared by the courts to be invalid, the same shall not affect the validity of the amendment as a whole or any part thereof, other than the part so declared to be invalid.

VII. Additional provisions affecting schedule:

All remaining provisions of MSD's current Oldham County Schedule of Rates, Rentals and Charges are not amended herein shall continue in full force and effect. MSD's Oldham County Schedule of Rates, Rentals and Charges as amended herein shall become effective August 1, 2023.

Adopted this 22nd day of May 2023.