

**PRELIMINARY RESOLUTION BY THE BOARD OF THE LOUISVILLE AND JEFFERSON COUNTY  
METROPOLITAN SEWER DISTRICT AMENDING THE 2024 JEFFERSON COUNTY SCHEDULE OF  
RATES, RENTALS AND CHARGES FOR WASTEWATER AND DRAINAGE SERVICES PURSUANT  
TO KRS CHAPTER 76**

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WHEREAS, the Louisville and Jefferson County Metropolitan Sewer District 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, on the 10<sup>th</sup> day of May 1947, by Resolution of its Board, the Louisville and Jefferson County Metropolitan Sewer District ("MSD") adopted and established a schedule of rates, rentals and charges for its services and thereafter has amended said schedule from time to time as authorized pursuant to KRS Chapter 76; 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 costs 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, on August 12, 2005, MSD entered into a Consent Decree with the United States Environmental Protection Agency and the Commonwealth of Kentucky in the United States District Court for the Western District of Kentucky, pursuant to civil action number 3:05-cv-236-S, subsequently amended and superseded by the Amended Consent Decree entered on April 15, 2009 pursuant to civil action number 3:08-cv-00608-CRS, whereby MSD committed to rehabilitating portions of its sewer systems and to construct other capital improvements to reduce and/or eliminate combined sewer overflows and sanitary sewer overflows to comply with state and federal environmental laws with all work to be completed by the year 2024; and

WHEREAS, on February 12, 2010, an Integrated Overflow Abatement Plan ("IOAP") was incorporated into the Amended Consent Decree which includes as components the final Sanitary Sewer Discharge Plan ("SSDP") and final Long-Term Control Plan ("LTCP") as required by the Amended Consent Decree; and

WHEREAS, a non-material modification to the Amended Consent Decree occurred through adjustments set forth in a revised IOAP (the "2012 IOAP Modification") approved on June 19, 2014; and

WHEREAS, after approval of the 2012 IOAP Modification, MSD began experiencing changed circumstances including an increase in the failures of aging critical interceptor sewers, and accelerated deterioration of biosolids processing equipment due to higher solids and grit loadings, creating risks of non-compliance with its KPDES permits and potential risks to public health and safety; and

WHEREAS, also partnered with the United States Corp of Engineers to complete a Preliminary Feasibility Study for sixteen (16) Ohio River Flood Pump Stations which identifies approximately \$188.1 million in critical projects for ensuring that flood protection infrastructure will meet current standards for both the protection of public health and safety and protection of the combined sewer system, including new infrastructure constructed in compliance with MSD's final LTCP; and

WHEREAS, due to the changed circumstances and Feasibility Study, MSD, the Commonwealth of Kentucky and United States Environmental Protection Agency have negotiated an agreement to enter into a Second Amended Consent Decree which supersedes and replaces the 2009 Amended Consent Decree and updates the 2012 IOAP Modification with a 2021 IOAP Modification; and

WHEREAS, the Second Amended Consent Decree was negotiated to integrate the development of an asset management plan that provides for a long-term maintenance and funding strategy for

rehabilitation and renewal of MSD's aging biosolids systems, and failing critical interceptors and flood protection system; and

WHEREAS, since entry of the Consent Decree, MSD has spent approximately \$1.2 billion developing and completing many of the IOAP projects, and completing other projects and compliance measures mandated by the Amended Consent Decree; and

WHEREAS, to facilitate MSD's ability to reprioritize projects and capital spending, the Commonwealth of Kentucky and United States Environmental Protection Agency have agreed to extend the time for completion of remaining IOAP projects to 2035; and

WHEREAS, in exchange for the time extension, MSD has agreed to invest a minimum of \$25 million on average each fiscal year in asset management projects for a total of \$375 million by June 30, 2035, and to incorporate \$70 million in its 5-year Capital Improvement Program for critical sewer rehabilitation; and

WHEREAS, final approval of the Second Amended Consent Decree by the Commonwealth of Kentucky and United States Environmental Protection Cabinet, was granted on September 14, 2022; and

WHEREAS, in order to comply with the terms of the Second Amended Consent Decree, and to operate and maintain its wastewater and drainage system in compliance with the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500), the Clean Water Act of 1977 (Pub. L. 95-217), and United States Environmental Protection Agency rules and regulations, MSD must maintain a schedule of sewer service rates that will proportionally charge operation and maintenance costs to all users of the MSD wastewater and drainage system and that will generate sufficient revenue to offset the cost of repair and replacement of its aging biosolids system, failing interceptor sewers and flood protection system; and

WHEREAS, pursuant to KRS Chapter 76, the Board of Aldermen of the City of Louisville, by Ordinance No. 152, Series 1979, as amended by Ordinance No. 388, Series 1986, and the Fiscal Court of Jefferson County, by Ordinance No. 25, Series 1979, as amended by Ordinance No. 32, Series 1986, and Louisville Metro Ordinance No. 62, Series 2003, as amended by Ordinance No. 155, Series 2007, which ratified the aforementioned ordinances, approved a schedule of wastewater and drainage service charges for MSD which includes the following Debt Service Adjustments provision:

"Whenever MSD's net revenues are less than 1.10 times the debt service on MSD's outstanding revenue bonds for any consecutive six-month period, by order of the Board of MSD, the schedule of wastewater service charges and drainage service charges shall be amended in order to maintain a 1.10 debt service coverage required by MSD's 1971 Bond Authorizing Resolution which was approved by City of Louisville Ordinance Number 86, Series 1971; provided the aggregate of such adjustments for any 12-month period shall not generate additional revenue from wastewater service charges and drainage service charges in excess of 7%.

The term 'net revenues' is defined as gross revenue from wastewater service charges and drainage service charges, less operating expenses and debt payments other than debt service payments on MSD's outstanding revenue bonds [;]" and

WHEREAS, the Board of MSD has been advised by MSD's Chief Financial Officer that net revenues, as defined by Louisville Metro Ordinance No. 155, Series 2007, for the six-month period ended March 31, 2024, are less than 1.10 times the debt service on MSD's outstanding revenue bonds for the same six-month period; and

WHEREAS, MSD's current Jefferson County Schedule of Rates, Rentals and Charges (wastewater and drainage service charges) will not continue to generate sufficient revenue for the proper operation and maintenance of the existing sewerage, drainage, and flood protection system and for the retirement of MSD's outstanding debt and, therefore, will not be in compliance with the Kentucky Revised Statutes, MSD's Bond Authorizing Resolutions and relevant ordinances; and

Adopted May 28, 2024

WHEREAS, in order to generate sufficient revenue to maintain the required debt service coverage, continue the proper operation and maintenance of MSD's existing sewerage, drainage, and flood protection system, and meet the obligations of MSD's Second Amended Consent Decree, the Board is proposing that the Jefferson County Schedule Rates, Rentals and Charges be amended; and

WHEREAS, pursuant to KRS Chapter 76 and 424, the proposed amended Jefferson County Schedule 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 this Resolution as if set forth fully within, and MSD's Jefferson County Schedule 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 used for billings rendered on and after August 1, 2024:

I. Section 1.0 **Wastewater Service Charges** is hereby amended, and shall read as follows:

**1.0 Wastewater Service Charge**

The Wastewater Service Charge is a fixed service charge based on the size of the water meter and applies to all wastewater service connections. The Wastewater Service Charge shall be calculated using the table below and may be prorated based on the number of actual days in a billing cycle:

**1.1. Commercial/Industrial Service Charges:**

<u>Meter Size</u>	<u>Monthly Billing</u>	<u>Daily Proration</u>	<u>Bi-Monthly Billing</u>	<u>Daily Proration</u>
5/8-3/4	22.68	0.74578	45.36	0.74578
1	45.54	1.49719	91.08	1.49719
1 1/2	75.76	2.49074	151.52	2.49074
2	103.91	3.41611	207.82	3.41611
3	231.63	7.61526	463.25	7.61526
4	374.51	12.31277	749.03	12.31277
6	735.90	24.19396	1,471.79	24.19396
8	1,103.86	36.29129	2,207.72	36.29129
10	1,450.22	47.67834	2,900.44	47.67834
12	2,136.81	70.2514	4,273.62	70.2514
16	2,590.02	85.15121	5,180.03	85.15121

**1.2. Residential Service Charges:**

<u>Meter Size</u>	<u>Monthly Billing</u>	<u>Daily Proration</u>	<u>Bi-Monthly Billing</u>	<u>Daily Proration</u>
5/8-3/4	22.68	0.74578	45.36	0.74578
1	45.54	1.49719	91.08	1.49719
1 1/2	75.76	2.49074	151.52	2.49074
2	103.91	3.41611	207.82	3.41611
3	231.63	7.61526	463.25	7.61526
4	374.51	12.31277	749.03	12.31277

- II. Sections **2.1 Regular Volume Rate** is hereby renumbered as Section 2.3, amended, and shall read as follows:

**2.3. Regular Volume Rate**

The Regular Volume Rate shall be applicable to all water used and not meeting the requirements of Optional Volume Rate as described in Section 2.1 or 2.3. The Regular Volume Rate is calculated to provide a year-round discount for lawn watering and other uses of water which do not enter the public sewer. The Residential Rate is discounted 15% off the Metered Residential Volume Rate, the Commercial Rate is discounted 10% off the Metered Commercial Volume Rate and the Industrial Rate is discounted 5% off the Metered Industrial Volume Rate.

**Residential Volume Rate** - \$6.07 per 1,000 gallons of volume billed  
**Commercial Volume Rate** - \$7.20 per 1,000 gallons of volume billed  
**Industrial Volume Rate** - \$7.66 per 1,000 gallons of volume billed

Commercial and Industrial facilities on the Regular Volume Rate that are subject to a Quality Charge Rate shall pay Excess Quality Charges as described in Section 4.1 below.

- III. Section **2.2 Optional (Clean) Volume Rate** is hereby amended, and shall read as follows:

**2.2. Optional (Clean) Volume Rate**

The Optional Volume Rate shall be available to customers whose average water use or wastewater discharged to the public sewer during any consecutive twelve-month period exceeds 1,000,000 gallons per month per service address. Commercial and Industrial customers on the Optional Volume Rate that are subject to a Quality Charge Rate shall pay Total Quality Charges as described in Section 3.2 below.

\$4.25 per 1,000 gallons of volume billed

- IV. Section **2.3 Sewer Only Volume Rate** is hereby renamed Metered Volume Rate, renumbered as Section 2.1, amended, and shall read as follows:

**2.1. Metered Volume Rate**

2.1.1. The Sewer Only Volume Rate shall be applicable to 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. All effluent flow meters,

addition and subtraction meters shall be inspected and certified by the MSD Finance Division prior to being used for billing purposes.

**Residential** - \$7.14 regular rate

**Commercial** - \$8.00 regular rate or \$4.53 optional rate/1,000 gallons

**Industrial** - \$8.06 regular rate or \$4.53 optional rate/1,000 gallons

2.1.2. An additional charge of \$100.00 shall be applicable for each reading of the first regular meter per location owned by a customer for the purpose of determining billable consumption. Each additional meter per location will be charged at \$10.00 per reading.

Customers on AMI meters shall pay a fee of \$50 for the first regular meter per location owned by the customer for the purpose of determining billable consumption. Each additional meter per location will be charged at \$5.00 per reading.

- V. Section **2.4 Consent Decree Surcharge** is hereby renumbered as Section 3.0, amended, and shall read as follows:

### 3.0 Consent Decree Surcharge

The Consent Decree Surcharge became effective August 1, 2007, to provide funding capacity to comply with the requirements of MSD's Consent Decree to reduce sewer overflows. Today the surcharge funds both infrastructure reinvestment as well as debt service on funds borrowed to finance new infrastructure. The following Consent Decree Surcharge rates shall be applicable based on service type:

**Residential** - \$18.54 per month or \$37.08 bi-monthly

**Condominium complexes without water meters for each condominium** - greater of \$18.54 per month or \$3.11 per thousand gallons of water billed

**Commercial Regular Volume Rate** - greater of \$18.54 per month or \$2.21 per thousand gallons of water billed

**Commercial Sewer Only Volume Rate** - greater of \$18.54 per month or \$2.46 per thousand gallons of wastewater discharged

**Industrial Regular Volume Rate** - greater of \$18.54 per month or \$2.31 per thousand gallons of water billed

**Industrial Sewer Only Volume Rate** - greater of \$18.54 per month or \$2.46 per thousand gallons of wastewater discharged

**Optional (clean) Volume Rate** - greater of \$18.54 per month or \$1.33 per thousand gallons of water billed

**Optional (sewer only) Volume Rate** - greater of \$18.54 per month or \$1.42 per thousand gallons of wastewater discharged

- VI. A new Section **2.4 Private Property Illicit Discharge Surcharge** is hereby incorporated, and shall read as follows:

#### 2.4. Private Property Illicit Discharge Surcharge:

Groundwater, rainwater, surface drainage, subsurface drainage or yard drainage shall not be discharged through direct or indirect connections (e.g., downspouts and sump pumps) to a sanitary

sewer because these connections increase the volume of wastewater MSD treats at its wastewater treatment centers and increases capacity related strains on the wastewater system during rain events.

MSD monitors the collection system flows to its wastewater treatment centers during rain events. Through this monitoring, MSD has determined there are certain areas within its service area that contribute higher effluent flows that exceed the amount anticipated during a rain event; this indicates customers in that area have connections other than sewage to the sanitary system. Wastewater collection systems are not designed to accommodate stormwater flows, and MSD's drainage service fee is based upon the cost of flood protection and stormwater entering an impervious surface and not the costs associated with treating non-wastewater flows to the sanitary system. MSD has calculated that the average cost per month to treat the additional non-effluent flows during an average rain event of 0.10" to be \$188.00 per source.

Areas within the MSD service area will be identified based upon MSD's analysis of hydraulic modeling and flow monitoring data during rain events and as further prescribed in MSD's Private Property Illicit Discharge Program Procedures. Once identified, MSD customers will receive communications from MSD to schedule an inspection of their property for any additional connections to the MSD sanitary sewer system. If an additional connection(s) is found, MSD will pay a licensed plumber to remove the connection as detailed in the Private Property Illicit Discharge Program Procedures, and subject to MSD's available funding. If the customer does not schedule the inspection or otherwise fails to remove the connection(s), MSD will assess a Private Property Illicit Discharge Surcharge of \$75.00 per month to the customer's bill. The Private Property Illicit Discharge Surcharge is not eligible for the EWRAP or Senior Citizen discount.

**VII.** Section **3.0 Water Quality Charges** is hereby renumbered as Section 4.0, amended, and shall read as follows:

#### **4.0 Water Quality Surcharge**

A Water Quality Surcharge (also called Quality Charge) is applicable to Commercial and Industrial customers that discharge wastewater to the public sewer characterized by strengths in excess of 250 mg/l of biochemical oxygen demand (BOD) and/or 270 mg/l of total suspended solids (TSS).

Customers placed on a Quality Charge rate by MSD shall have their wastewater tested for the purpose of accessing a Quality Charge billing rate in addition to the volume rate applied.

MSD shall, at all times, have access to the premises of a customer for the purpose of determining an appropriate Quality Charge rate. Quality Charge rates shall be based on sampling and analyses conducted by MSD personnel using MSD protocols and methods, unless otherwise approved by the MSD Board.

MSD shall set the frequency and duration for Quality Charge Rate sampling events. MSD will take business cycle fluctuations that may affect loadings into consideration when determining sampling frequency and duration.

MSD may establish standard BOD and TSS loadings for a specific customer class which shall be used to assess applicable Quality Charge rates.

MSD may use other methods such as contractual agreements to determine a Quality Charge rate for individual customers for which standard sampling and analyses do not represent the actual BOD and/or TSS concentrations being discharged to the public sewer.

##### **4.1. Excess Quality Charges**

**4.1.1.** Excess Quality Charges shall apply to Commercial and Industrial customers paying the Regular Volume rate as follows:

**4.1.1.1.** BOD Concentration: \$0.005905 per mg/liter in excess of 250 mg/liter billed per 1,000 gallons of water recorded by a Louisville Water Company meter or wastewater discharged to the public sewer as directly measured by an effluent flow meter; and/or

**4.1.1.2.** TSS Concentration: \$0.00238588 per mg/liter in excess of 270 mg/liter billed per 1,000 gallons of water recorded by a Louisville Water Company meter or wastewater discharged to the public sewer as directly measured by an effluent flow meter.

**4.2. Total Quality Charges**

**4.2.1.** Total Quality Charges shall apply to Commercial and Industrial customers paying the Optional Volume rate as follows:

**4.2.1.1.** BOD Concentration: \$0.005504 per mg/liter billed per 1,000 gallons of water recorded by a Louisville Water Company meter or wastewater discharged to the public sewer as directly measured by an effluent flow meter; and/or

**4.2.1.2.** TSS Concentration: \$0.00243220 per mg/liter billed per 1,000 gallons of water recorded by a Louisville Water Company meter or wastewater discharged to the public sewer as directly measured by an effluent flow meter.

**4.3. Hospital Water Quality Rate Class**

**4.3.1.** MSD has established a hospital rate class for purposes of assessing the Water Quality Surcharge. Hospitals that meet requirements and are currently permitted under a Pretreatment General Discharge Permit will not require a permit after August 1, 2024. Hospitals will be required to meet MSD Local Limits and Wastewater/Stormwater Discharge Regulations (WDRs) but will not have to sample or submit semi-annual sampling results. Hospitals are subject to periodic inspections for administration of the Hazardous Materials Ordinance or WDRs for applicable purposes. MSD reserves the right to re-establish permit requirements at any time in the future based on regulatory requirements, the need to protect MSD wastewater treatment and collection assets, to prevent potential pollutants from entering discharge waters, or for other identified purposes. Excess Quality Charges shall apply to hospital customers paying the Optional Volume rate as follows:

**4.3.1.1.** BOD Concentration: 250 mg/L billed at \$0.005504 per 1,000 gallons of water recorded by a Louisville Water Company meter or wastewater discharged to the public sewer as directly measured by an effluent flow meter; and/or

**4.3.1.2.** TSS Concentration: 300 mg/L billed at \$0.00243220 per 1,000 gallons of water recorded by a Louisville Water Company meter or wastewater discharged to the public sewer as directly measured by an effluent flow meter.

**VIII.** Section 4.0 Flat Rate Wastewater Charges for Residential Customers is hereby renumbered as Section 5.0, amended, and shall read as follows:

## 5.0 Flat Rate Wastewater Charges for Residential Customers

- 5.1. The following flat rate wastewater service charges shall be applicable to any single-family residential customer without metered public water service:

\$53.64 monthly plus \$18.54 Consent Decree Surcharge or \$107.27 bi-monthly plus \$37.08 Consent Decree Surcharge

- 5.2. The following flat rate wastewater service charges shall be applicable to any single-family residential customer connected to a master-metered public water service:

\$22.68 monthly plus \$18.54 Consent Decree Surcharge or \$45.36 bi-monthly plus \$37.08 Consent Decree Surcharge

- IX. Section **5.0 Penalty Charges** is hereby renumbered as Section 6.0, amended, and shall read as follows:

### 6.0 Wastewater Penalty Charge

Whenever any sewer rates, rentals, or charges for services remains unpaid for a period of thirty days (30) days after the same becomes due and payable, the property, the owner thereof, and the user of the service shall be deemed delinquent until such time as all service rates, rentals and charges are fully paid and shall be subject to cut off of sewer connection and service, and the discontinuation of water service.

A Delinquent Bill Penalty shall be added to all wastewater service bills not paid by their due dates in accordance with the penalty policy in use by MSD's billing and collection agent, the Louisville Water Company, or as otherwise determined by MSD.

Pursuant to KRS 76.090, it is unlawful for any delinquent to use water from any public water service or system and discharge same into an MSD sewer.

- X. Section **6.0 Unusual Discharge Fee** is hereby renumbered as Section 7.0.
- XI. Section **7.0 Debt Service Adjustment** is hereby removed.
- XII. Section **10.0 Drainage Service Charges** is hereby amended and shall read as follows:

## 10.0 Drainage Service Charge

### 10.1. Definitions

10.1.1. **"Connected Downspout"** shall mean the conveyance of roof drainage on private property, by pipe or other means, directly to an MSD collection system that conveys flow to a WQTC.

10.1.2. **"Developed"** shall mean the condition of real property altered from its natural state by the addition to or construction on such property of impervious ground cover or other man-made physical improvements such that the hydrology of the property or a portion thereof is affected.

10.1.3. **"Drainage Master Plan"** shall mean the plan for managing storm drainage and surface water runoff facilities and features within MSD's drainage service area and the drainage basins therein "Drainage Service Charge" means the fee levied by MSD upon all developed real property within the boundaries of MSD's drainage service area.



- 10.1.4. **“Drainage Service Area”** shall mean all areas within Jefferson County not including Anchorage, Jeffersontown, St. Matthews and Shively, except as those areas or portions thereof are included in the district area by agreement with MSD. The term "district area" as used in this definition shall mean the service area of MSD as defined in KRS 76.005(3).
- 10.1.5. **“Drainage Service Charge”** means the fee levied by MSD upon all developed real property within the boundaries of MSD’s drainage service area.
- 10.1.6. **“Equivalent Service Unit”** (ESU) is the measure of impervious ground cover for a typical single-family residential property and is used by MSD in assessing the drainage service charges for each parcel of property. The ESU is the billing unit used in the formula for generating charges for properties. One ESU is equal to 2,500 square feet of impervious surface. The ESU for all one- and two-family residential properties shall be one. The ESU for each Class B property is calculated by dividing the impervious area of a property by the average residential impervious area and rounding to the next highest integer.
- 10.1.7. **“Impervious Surface”** shall mean those hard surface areas either which prevent or retard the entry of water into the soil in the manner that such water entered the soil under natural conditions pre-existent to development, or which cause water to run off the surface in greater quantities or at an increase rate of flow than that present under natural conditions pre-existent to development, including, without limitations, such surfaces as roof tops, compacted gravel, asphalt or concrete paving, driveways and parking lots, walkways, patio areas, storage areas, or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.
- 10.1.8. **“MSD”** shall mean Louisville and Jefferson County Metropolitan Sewer District.
- 10.1.9. **“Multiple Unit Condominium”** shall mean ownership of a residential unit within a structure containing five or more residential units with common elements.
- 10.1.10. **“Non-Single Family Residential Property or Parcel”** shall mean properties or parcels which contain more than one residential structure or one residential structure with more than two residential dwelling units and institutional, commercial or industrial properties. This definition shall include a residential property or parcel containing two or more water meters.
- 10.1.11. **“Post-Construction BMPs”** shall mean pervious pavers, rain gardens, green roofs, infiltration drains, wetlands, bioswales, etc. consistent with Chapter 18 of the MSD Design Manual.
- 10.1.12. **“Post-Construction BMP Signage”** shall mean static Post-Construction BMP Signage educational signage that is installed at a credited site, and that is designed and placed in accordance with MSD standards and guidance.
- 10.1.13. **“Residence”** shall mean a building or structure or portion thereof, designed for and used to provide a place of abode for human beings. The term residence includes the term “residential” and “residential unit” as referring to the type of or intended use of a building or structure.
- 10.1.14. **“Service Charge”** shall mean a monthly charge for flood control and storm and surface water drainage services.

- 10.1.15. “Single-Family Residential Property or Parcel”** shall mean any property or parcel which contains one structure with one or two residential dwelling units. Any such property or parcel containing more than one water meter, however, shall be deemed a Non-Single Family Residential Property or Parcel.
- 10.1.16. “Single Unit Condominium”** shall mean ownership of a single residential unit where the residential unit is the sole unit in a structure with common elements or there are no more than four residential units in a structure with common elements.
- 10.1.17. “Stormwater Flow Rate”** shall mean the stormwater discharge rate from a site based on the 100-year, 24-hour storm event as calculated using methods described in Chapter 10 of the MSD Design Manual.
- 10.1.18. “Stormwater Infiltrated”** shall mean the depth, in inches, of rainfall applied to the impervious surface that is captured and infiltrated by a Post-Construction BMP.
- 10.1.19. “Stormwater Infiltration”** shall be based on the rainfall and runoff from surfaces that flow into and through Post-Construction BMPS into the subsurface soil.
- 10.1.20. “Stormwater Retention or Detention Facilities”** shall mean stormwater drainage structures such as a basin, best management practice or facility that detains or retains (infiltrates) surface drainage / rainwater runoff.
- 10.1.21. “System”** shall mean the entire system of flood protection and stormwater drainage and surface water runoff facilities owned or leased by MSD or over which MSD has right of use for the movement and control of storm drainage and surface water runoff, including both naturally occurring and man-made facilities.
- 10.1.22. “Undeveloped”** shall mean that condition of real property unaltered by the construction or addition to such property by man of impervious ground cover or physical man-made improvements of any kind which change the hydrology of the property from its natural state.
- 10.1.23. “Water Quality Benefits”** shall be based on the threshold rain event the Post-Construction BMPs are able to treat through infiltration and/or pollutant removal. The Post-Construction BMPs, or series of Post-Construction BMPs, must at a minimum, treat the threshold/minimum water quality rain event, as defined in the MSD Design Manual, imposed upon new development.

## **10.2. Drainage Service Charge**

A drainage service charge is imposed on every parcel of land within the drainage service area except for the following exempted properties: The following charges are hereby established and imposed for all non-exempt parcels of real property within the drainage service area and may be prorated based on the number of actual days in a billing cycle:

- 10.2.1.** A drainage service charge is imposed on every parcel of land within the drainage service area except for the following exempted properties:
- 10.2.1.1.** City-owned property where that incorporated city has entered into an interlocal drainage service agreement with MSD providing for detention basin sites, easements, drainage rights-of-way, or other assets of value comparable to applicable drainage service charges;
  - 10.2.1.2.** Properties owned by Metro Government, or their budgeted agencies, who have offset their drainage service charges by the dedication of

drainage facilities and future considerations through concomitant cooperative agreements;

**10.2.1.3.** MSD-owned property;

**10.2.1.4.** Public roads;

**10.2.1.5.** All undeveloped parcels of land; and

**10.2.1.6.** Properties owned by a fire district organized pursuant to KRS Chapter 75.

**10.2.2.** The following charges are hereby established and imposed for all parcels of real property within the drainage service area, excluding exempted properties, and may be prorated based on the actual number of days in the billing cycle.

**10.2.2.1. Class A Properties or Single-Family Residential**

The single-family residential charge rate shall be \$14.25 per month for each parcel having one or two residential dwelling unit(s) and single unit condominiums. This flat rate fee is based on each single-family residential parcel being equal to one equivalent service unit (ESU).

**10.2.2.2. Class B or other Parcels**

The charge for all other parcels within the drainage service area shall be based upon the number of square feet of measured impervious surface, as determined by MSD through aerial photography and surface feature evaluation processes, expressed in whole ESUs and rounded to the next highest integer. The monthly charge for Class B property may be computed by multiplying the number of ESUs for a given parcel by the unit rate established by MSD of \$14.25.

Any owner of Class B property may request a drainage charge credit adjustment for approved on-site stormwater retention or detention facilities provided:

**10.2.2.2.1.** The property owner remains responsible for all costs of operation and maintenance of the facility;

**10.2.2.2.2.** The facility has been constructed in accordance with all approved plans;

**10.2.2.2.3.** The owner has obtained the MSD required permits for the facility; and

**10.2.2.2.4.** MSD has access to the facility for purposes of inspecting for compliance with design, maintenance, and operating standards.

**10.3. Monthly Drainage Service Credit**

If MSD approves a drainage charge credit for on-site stormwater retention or detention facilities, the credit will be applied by reducing the number of billable ESUs by the percent of reduction in stormwater runoff due to such on-site facilities, as determined by MSD. The net billable ESUs after such credit is applied shall be expressed in whole ESUs by rounding to the next highest ESU. The adjusted drainage service charge shall not be less than 50% of the drainage service charge before the credit adjustment and in no case may be less than 1 ESU.

Applications for credits and stipends utilizing Post-Construction BMPs that exceed minimum requirements established by local ordinance and the MSD Design Manual will be reviewed to consider potential credit for peak flow reduction, total site runoff reduction, water quality benefit and outreach/education. The credit shall be calculated differently depending on the system to which the project drains, either the combined sewer area or MS4 area. The basis of the credit computation is as follows:

<b>MSD Drainage Credit Program</b>					
	Category	Max Credit	Design Condition	Credit Allocation	
MS4 Area	Flow Rate Reduction	30%	2yr Post Developed Flow = (1/2) 2yr Pre Developed Flow	10%	
			10yr Post Developed Flow = (1/2) 10yr Pre Developed Flow	10%	
			100yr Post Developed Flow = ( 1/2) 100yr Pre Developed Flow	10%	
	Stormwater Infiltration	15%	Stormwater Infiltration Credit = [(Stormwater Infiltrated) X 10%] with a maximum credit of 15%	Maximum Stormwater Infiltration Credit	15%
	Post-Construction BMP Signage	5%	<u>Signage</u>	5%	
	Maximum Credit Available				50%
Combined Sewer Area	Stormwater Flow Rate Reduction	15%	Post Developed 100 yr. Flow = Pre Developed 2 yr. Flow	15%	
	Stormwater Infiltration	30%	Stormwater Infiltration Credit = [((Stormwater Infiltrated) X 20%) - 30%] with a maximum credit of 30%	Maximum Stormwater Infiltration Credit	30%
	Post-Construction BMP Signage	5%	Signage	5%	
	Maximum Credit Available				50%

Credit and stipend applications must include proposed operation, maintenance, and inspection plans. Applicants will be required to provide annual certifications documenting that required inspections and maintenance were performed to maintain the credit. In

addition, access must be granted to MSD to perform inspections for the life of the credit. Applications for a credit or stipend must also include construction plans prepared in accordance with standards defined in the MSD Design Manual. This requirement includes preparation of plans by a qualified professional.

**10.4. Monthly Drainage Service Credit Duration**

Existing drainage service charge credits granted as of July 31, 2018, will remain in effect until July 31, 2028, subject however to a reduction in rates as set forth below. New applications for drainage service charge credits may be granted for a maximum period of up to 10 years provided that all credit program requirements are met at the time of application and continue to be met for the life of the credit. Prior to the expiration of a credit, a new application may be submitted but the new application must meet the most current drainage service charge credit program requirements and conditions and all other applicable terms and conditions. Failure to submit a new application prior to the expiration of a credit will result in the loss of the credit. In fiscal year 2028, customers must reapply for the drainage service charge credit. If approved, 50% will be the maximum credit allowed.

Existing drainage service charge credits will be subject to reduction beginning January 1, 2021, to reduce credits to the maximum of 50% by January 1, 2028, and shall be reduced annually according to the following schedule, provided the credit is above the maximum credit allowed:

January 1	Max Credit %
2023	70%
2024	66%
2025	62%
2026	58%
2027	54%
2028	50%

In addition, the following conditions apply to obtaining and maintaining the credit:

**10.4.1.** The existing facility must be maintained to acceptable condition or repairs must be made within the time prescribed by MSD.

**10.4.2.** MSD must be given access to enter the properties to perform inspections.

Loss of credit due to non-performance shall be permanent and irreversible after 60 days of failure to comply with notices of violations (NOVs).

**10.5. Capital Recovery Stipend**

Capital Recovery Stipends are payments from MSD offered to defray the cost of implementing Post-Construction BMP components that exceed minimum requirements established by local ordinance and the MSD Design Manual. Acceptance of the Capital Recovery Stipend will reduce the monthly stormwater drainage service charge credit for which the Applicant is eligible. If a Capital Recovery Stipend is accepted, the drainage service charge shall not be less than 75% (i.e., monthly drainage service charge credit shall be no more than 25%). MSD will not incur costs associated with an Applicant’s engineering, design, or analysis required for completion of the application.

Stipend values will be determined by MSD utilizing hydraulic modeling of the incorporation of the green project into the Combined Sewer System. The project value will include the

treatment savings cost, as well as any size reduction savings to downstream gray infrastructure as outlined in the Integrated Overflow Abatement Plan (IOAP).

Should a customer already enrolled in the program request to participate in the Capital Recovery Stipend program for either a new property or an improved property, the customer must enter into a new agreement for the new or improved property which sets forth the stipend amount that adheres to the current credit policy and must terminate any preexisting agreement pertaining to that specific property.

Capital Recovery Stipends are available on a priority basis and as MSD budgets allow. Priority will be given to potential projects based on performance indicators, location in relation to priority sewersheds and watersheds, potential for sustainable partnerships, constructability, and public exposure potential.

Applications for Capital Recovery Stipend must be prepared by qualified professionals and must also include operation and maintenance plans, and designs prepared in accordance with standards defined in the MSD Design Manual. Annual certifications must also be submitted by the property owner who will be required to document that inspections and maintenance needs have been performed.

Applications are required one year prior to the agreement expiration to ensure no lapse in credit. Applications will be reviewed to consider potential credit for peak flow rate reduction, total site runoff reduction, water quality benefit and water quality outreach/education. The sites will be subject to access by MSD for inspection and maintenance certifications.

Capital Recovery Stipend agreements will reflect MSD's value recovery if Post-Construction BMPs are removed or altered beyond the original intent. Recovery will be required, if within 10 years of stipend agreement approval date, a property owner chooses to remove the Post-Construction BMP or make modifications that negate the intended purpose associated with a capital recovery stipend. In that case, the property owner shall be responsible for reimbursing MSD the greater of: 25% of the stipend amount; or, a straight line 10-year depreciation of the stipend amount.

As an alternative to the Capital Recovery Stipend, credit applications will be accepted to allow for reduction in impervious area by the amount controlled by Post Construction BMPs. This credit, based on alternative impervious area calculation, will be available for a maximum of 10 years. The Post Construction BMP must control drainage to a level acceptable to MSD (i.e., capacity to manage the first 0.75-inches of precipitation of a storm event). These sites will also be subject to access by MSD for inspection and maintenance certifications.

For single family residential customers, incentives for disconnection of downspouts may be available at a rate of \$100/downspout if the homeowner disconnects. Disconnection incentives are subject to MSD inspection and approval. Details on the program are outlined at [www.msdstormwaterquality.org](http://www.msdstormwaterquality.org).

#### **10.6. Drainage Design Review and Inspection Fees**

The MSD Board may establish fees for the review and approval of plans and erosion prevention and sediment control measures, and for the inspection of the construction of drainage facilities and erosion prevention and sediment control measures, all in accordance with KRS 76.085, and may establish policies for the sharing of the costs of developing regional drainage systems serving multiple developments/properties. For additional information, please see:

<https://louisvillemsd.org/what-we-do/stormwaterdrainage/permitting>

#### **10.7. Billing and Collection**

Drainage service charges shall be billed and made payable using the same frequencies and billing cycles used by the Louisville Water Company for its billing system. The amounts to be billed shall be included as additions to the billings of the Louisville Water Company for water and/or sewer service, or by separate billings and billing cycles for accounts not maintained by the Louisville Water Company. Drainage Charges may be pro-rated based on the number of actual days in a billing cycle.

The owner(s), tenant(s) or person(s) responsible for the payment of water service charges and/or sewer service charges shall also be responsible for the payment of drainage service charges for the same parcel(s), except for multiple occupancy such as shopping centers, apartment, condominiums, etc., in which cases MSD may either allocate the drainage service charges among the occupants of the parcel or may deem that a single billing to the parcel's owner(s), agent or association is appropriate. In either case, the billed party shall be responsible for payment of drainage service charges. For properties not billed by the Louisville Water Company for water service charges and/or sewer service charges, the owners of such properties shall be billed drainage service charges and shall be responsible for payment of same. In all situations, the owners of properties subject to drainage service charges shall be fully responsible for payment of said charges regardless of any other parties herein above identified as also being responsible for payment of drainage service charges.

When any drainage service charge remains unpaid for a period of thirty (30) days after the amount becomes due and payable, the property, tenant and the owner thereof shall be deemed delinquent until such time as the charges are fully paid. MSD may terminate or cause to be terminated public sewer, water, and/or drainage services against the tenant or owner to obtain payment, all in accordance with KRS 76.090(4). A penalty shall be applied to delinquent drainage charges in the same manner that penalties are applied to delinquent sewer and water charges by the Louisville Water Company or as otherwise determined by MSD.

#### **10.8. Annexations**

If property within the existing MSD Drainage Service area is annexed by a City into the incorporated boundaries of said city, the annexed property shall not be removed from the MSD drainage area until the applicable Bond Authorization Resolution that the properties are subject to has been satisfied. MSD shall remain responsible for providing drainage service to these customers and properties and shall be entitled to charge and receive drainage fees and the rates specified herein.

#### **10.9. Initial Drainage Program Participation Fees**

Cities and/or other governmental entities located in Jefferson County, Kentucky exempted from participating in MSD's Drainage Service Program may pay an initial participation fee to become a participant. The Executive Director shall be authorized to recommend initial fees and other terms and conditions for acceptance into MSD's Drainage Service Program, subject to approval by the MSD Board.

**XIII.** Section **15.0 Payment Programs** is hereby renumbered as Section 16.0.

**XIV.** Section **16.0 Recapture Agreements** is hereby renumbered as Section 15.0.

**XV.** Section **17.0 Emergency Wastewater Rate Assistance Program (EWRAP)** is hereby amended and shall read as follows:

## 17.0 Emergency Wastewater Rate Assistance Program (EWRAP)

### 17.1. Definitions

- 17.1.1. **“Household”** means an individual or group of individuals who are living together in the principal residence sharing common living arrangements.
- 17.1.2. **“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.
- 17.1.3. **“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.
- 17.1.4. **“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.

### 17.2. Wastewater Discount

Eligible low-income residential customers may receive a thirty percent (30%) discount on the wastewater charges on their sewer bill beginning November 1, 2024. The discount, known as the Emergency Wastewater Rate Assistance Program (EWRAP) discount, shall apply to MSD wastewater charges. Program participation is limited to 3,000 customers and/or will only be offered until available funding is expended.

### 17.3. Eligibility Criteria

The EWRAP discount shall be available to low-income residential customers who:

- 17.3.1. 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.
- 17.3.2. 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.
- 17.3.3. Are named customers with MSD and are responsible for paying the sewer bill received from MSD’s billing service provider for the customer’s principal residence.
- 17.3.4. Verify and certify gross household income and ownership or leasehold of their principal residence in the manner required by the Program.
- 17.3.5. 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.
- 17.3.6. Are not receiving and have not been approved to receive MSD’s Senior Citizen discount as of the date of application for the Program.



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

**17.4. Exclusions**

MSD customers, age 65 years of age or older, receiving or who have been approved to receive MSD's Senior Citizen discount, shall not be eligible for the EWRAP discount.

**17.5. Effective Date of EWRAP Discount**

Except as set forth in Section 17.7, the EWRAP discount shall commence on the next subsequent billing date following approval of the customer's application and shall continue until October 31, 2025, conditioned upon the customer's continued eligibility. If the program is continued after October 31, 2025, customers will be required to re-apply. Customers receiving the EWRAP discount on August 1, 2024, will continue to receive the discount through October 31, 2024. They must reapply for the EWRAP discount that begins November 1, 2024.

**17.6. 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 EWRAP.

**17.7. Program Modification / Termination**

The EWRAP shall continue through October 31, 2025, unless earlier termination at the discretion of MSD, and may be modified by MSD at any time.

**XVI. Section 18.0 Senior Citizens Discount** is hereby amended and shall read as follows:

**18.0 Senior Citizen Discount**

Senior Citizens are eligible for a 30% discount off MSD's wastewater charges. The Senior Citizen Discount is 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, applicants must provide proof of all income received during the previous month by all members of the household. Customers that qualify for this discount will be asked to recertify eligibility every three years or as otherwise determined by MSD.

**XVII. Section 19.0 Adjustments of Charges and Appeals** is hereby amended and shall read as follows:

**19.0 Adjustment of Charges and Appeals**

Any owner who considers that wastewater or drainage charges applied to the owner's parcel are inaccurate or otherwise disagrees with the determination may apply to MSD's Chief Financial Officer for a rate review, stating in writing the grounds for the adjustment. The Chief Financial Officer 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.

**XVIII. Additional Provisions Affecting Schedule:**

All remaining provisions of MSD's current Jefferson County Schedule of Rates, Rentals and Charges not amended herein shall continue in full force and effect. MSD's Jefferson County Schedule of Rates, Rentals and Charges as amended herein shall become effective August 1, 2024.

Adopted this 28<sup>th</sup> day of May 2024.

MSD Board:

  
\_\_\_\_\_  
Marita Willis, Chair

Attest:

  
\_\_\_\_\_  
James A. Parrott, Secretary-Treasurer