

PRELIMINARY RESOLUTION BY THE BOARD OF THE LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT AMENDING THE 2024 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 tis 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 adequate debt service coverage, continue the proper operation and maintenance of MSD’s existing sewerage system in Oldham County, and to support the cost of making renewals and replacements of the sewerage system, 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, 2024:

I. Section 1.0 Wastewater Service Charges is 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	99.44	3.26910
3/4	99.44	3.26910
1	129.99	4.27364
1 1/2	213.51	7.01941
2	263.12	8.65050
3	338.99	11.14496
4	408.56	13.43195

1.2 Residential Charges:

<u>Monthly Billing</u>	<u>Daily Proration</u>
\$/Bill	\$/Bill
52.84	1.73707

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

2.1 Regular Volume Rate

Commercial Volume Rate - \$6.39 per 1,000 gallons of volume billed

Industrial Volume Rate - \$6.39 per 1,000 gallons of volume billed

Residential Volume Rate - \$6.39 per 1,000 gallons of volume billed

III. A new Section 2.2 **Optional (Clean) Volume Rate** is hereby incorporated, 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. 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. A new Section 2.3 **Private Property Illicit Discharge Surcharge** is hereby incorporated, and shall read as follows:

2.3 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.

V. Section **3.0 Penalty Charges** is hereby renumbered as Section 4.0, amended, and shall read as follows:

VI. A new Section **3.0 Water Quality Surcharge** is hereby incorporated, and shall read as follows:

3.0 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.

3.1. Excess Quality Charges

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

3.1.1.1. 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

3.1.1.2. 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.

3.2. Total Quality Charges

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

3.2.1.1. 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

3.2.1.2. 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.

VII. Section **4.0 Unusual Discharge Fee** is hereby renumbered as Section 5.0.

VIII. Section **5.0 Connection Fees** is hereby renumbered as Section 6.0, amended, and shall read as follows:

6.0 Connection Fee

6.1 A property service connection is the physical connection from MSD's public sewer to the property to be served or the easement line.

6.1.1 The Connection Fee shall be equal to the actual construction cost plus a \$250.00 administrative fee. The cost of connection must be paid prior to the installation of the connection.

IX. Section **6.0 Capacity Fees** is hereby renumbered as Section 7.0.

X. Section **7.0 Wastewater Facility Review and Inspection Fees** is hereby renumbered as Section 8.0.

XI. Section **8.0 System Development Surcharge** is hereby renumbered as Section 10.

XII. Section 9.0 **Emergency Wastewater Rate Assistance Program (EWRAP)** is hereby renumbered as Section 13, amended, and shall read as follows:

13.0 Emergency Wastewater Rate Assistance Program (EWRAP)

13.1 Definitions

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

- 13.1.1 **Household** means an individual or group of individuals who are living together in the principal residence sharing common living arrangements.
- 13.1.2 **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.
- 13.1.3 **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.
- 13.1.4 **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.

13.2 Wastewater Discount

All eligible low-income residential customers may receive a thirty percent (30%) discount on the wastewater charges on their sewer bill beginning November 1, 2024. The discount, known as the Emergency Wastewater Rate Assistance Program (EWRAP) 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.

13.3 Eligibility Criteria

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

- 13.3.1 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.
- 13.3.2 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.
- 13.3.3 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.

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

13.3.5 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 13.1.3 computed annually.

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

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

13.4 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.

13.5 Effective Date of EWRAP Discount

Except as set forth in Section 13.7, 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 to continue to receive the discount. Customer's 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.

13.6 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.

13.7 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.

XIII. A new Section **9.0 Inflow and Infiltration (I&I) Charge** is hereby incorporated and shall read as follows:

9.0 Inflow and Infiltration (I&I) Charge

9.1 I&I charges are applicable to individuals and/or entities ("hereinafter "Developers") who provide sewer service by extension of or connection to MSD's separate sanitary sewer system as follows:

\$1 per gallon per day calculated by multiplying \$1 times the gallons per day estimated to flow from a new development connecting to MSD's sewer system as determined by MSD, with a minimum charge of \$400.00 for a single project.

9.2 I&I fees are due and payable to MSD in full at time of the Developer's payment of Capacity Charges.

9.3 I&I fees are not applicable to the following:

- 9.3.1 Properties located within an area of an MSD sewershed subject to “recapture fees” but exempted from such fees as “Non-Subject Properties” pursuant to express terms and conditions of the applicable Recapture Agreement between MSD and Developer, provided the Facilities constructed pursuant to the Agreement were constructed according to MSD’s Master Plan for sewerage Jefferson County.
 - 9.3.2 Properties at which I/I reduction work has been approved by MSD and performed in accordance with the MSD Capacity Assurance Program.
 - 9.3.3 Properties which do not impact documented sanitary sewer overflows as determined by MSD, and for which a Reservation of Capacity Agreement was executed prior to August 1, 2008, and a Lateral Extension Agreement was executed prior to September 1, 2008.
 - 9.3.4 Properties which will discharge flow directly into an MSD combined sewer and for which a separate MSD sanitary sewer is not available.
- 9.4 I/I Surcharge fees will terminate at such time MSD terminates its Capacity Assurance Program.

XIV. Section **10.0 Senior Citizens Discount** is hereby renumbered as Section 14, amended, and shall read as follows:

14.0 Senior Citizen Discount

Senior Citizens are eligible for a 30% discount off MSD’s wastewater service 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.

XV. Section **11.0 Adjustment of Charges and Appeals** is hereby renumbered as Section 15.0.

XVI. A new Section **11.0 Excess Cost Payments for Sewer Extension** is hereby incorporated and shall read as follows:

11.0 Excess Cost Payments for Sewer Extension

If a wastewater sewer extension funded by a private developer provides the opportunity to affect MSD’s long-term sewer plans, MSD may participate in the cost of construction of the facilities.

11.1 When determining whether to contribute money to the construction of sewer facilities, MSD shall consider the following factors:

11.1.1 The extent to which funds are available.

11.1.2 Whether the project is consistent with MSD’s Design Manual, Standard Specifications, and Master Plan or Action Plan, taking into consideration the

location of the infrastructure, timing of construction, sizing of the infrastructure and the service area.

11.1.3 Whether the project will bring public sewers closer to areas needing service.

11.1.4 Whether the project is necessary to protect public health, safety and welfare.

11.1.5 Whether the project, when completed, will generate significant revenue for MSD's wastewater and drainage system.

11.1.6 Whether the project, when completed, will eliminate existing pump stations.

11.2 Oversized Sewers

11.2.1 When sewers to or through a development are required to be oversized in order to serve properties upstream or adjacent to a proposed development, MSD may participate in the cost of sewers as determined by MSD.

11.2.2 When the oversized sewer is deeper than required to serve the development and will result in additional excavation beyond the applicant's needs, MSD may reimburse for additional trench and rock excavation as determined by MSD.

11.2.3 When conditions exist other than those described in sections 11.2.1 and 11.2.2, MSD will evaluate each situation and prepare unit calculations based on the current construction cost conditions and other factors as determined by MSD.

11.3 Additional Sewers

11.3.1 MSD may require additional infrastructure to be installed within a development in accordance with MSD's Master Plan or Action Plan

11.4 Pump Station Decommissioning and Upsizing

11.4.1 MSD may elect to eliminate existing pump stations within or adjacent to an existing development.

11.4.2 When a pump station must be constructed to serve a development and there is an opportunity to upsize the pump station to serve additional properties, MSD may require the pump station to be upsized and pay excess costs as determined by MSD.

11.5 Design Costs

11.5.1 MSD may share in the design costs of sewer infrastructure constructed by private developers when the planned facilities must be altered to meet MSD's Master Plan or Action Plan. The excess design costs shall be determined prior to the start of final design.

11.6 Conditions

11.6.1 Available funding as determined by MSD.

11.6.2 A written agreement between MSD and the developer as to the excess costs having been executed prior to the execution of a Lateral Extension Agreement.

11.6.3 Agreement by the developer to obtain additional bonding and insurance as determined by MSD. Additional bonding and insurance requirements shall be included in the written agreement.

11.6.4 A determination by MSD that the payment of excess cost is equitable and in the best interest of MSD based on consideration of the factors set forth at section 11.1.

XII. Section **12.0 Severability** is hereby renumbered as Section 16.0.

XIII. A new Section **12.0 Payment Programs** is hereby incorporated, and shall read as follows:

12.0 Payment Programs

The Executive Director is authorized to develop programs to facilitate the payment of costs authorized by and the collection of fees and surcharges imposed under this Schedule of Rates, Rentals and Charges, to include the development of all necessary supplemental guidelines, applications, and agreements.

XIV. 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, 2024.

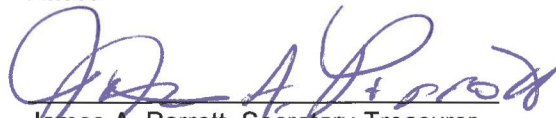
Adopted this 28th day of May 2024.

MSD Board:



Marita Willis, Chair

Attest:



James A. Parrott, Secretary-Treasurer