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 10th 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 the District, 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, 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Court for the Western District of Kentucky, pursuant to civil action number 3:05-cv-236-S, subsequently amended and superseded by the Amended Consent Decree entered pursuant to civil action number 3:08-cv-00608-CRS (the “Consent Decree”), whereby MSD has committed to rehabilitating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, in order to comply with the terms of the Consent Decree, perform the work required under the Consent Decree, and provide a more reliable, efficient and environmentally sound wastewater and drainage system, MSD added a Consent Decree Surcharge in 2007 that is an additional wastewater volume charge to customer billings; and

WHEREAS, MSD must maintain 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 which necessitates that MSD 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 all operation and maintenance; and

WHEREAS, MSD must also maintain a schedule of wastewater and drainage service charges sufficient to operate, replace, repair and maintain the aging features of the Louisville Kentucky Flood Protection Project; 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, 2020, will be 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 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

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 Consent Decree, the Board is proposing that the schedule of wastewater and drainage rates, rentals and charges be amended; and

WHEREAS, pursuant to KRS Chapter 76 and 424, the proposed amended schedule of wastewater and drainage 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 schedule of wastewater and drainage 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, 2020:

1. Sections 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 2.4, 3.1, 3.2, 3.2.2, 3.2.3, 4.0 of MSD’s current *Schedule of Rates, Rentals and Charges*, which establish wastewater service charges, wastewater volume charges, wastewater quality charges, and a flat rate charge for residential customers, are hereby amended and shall read as follows:

**1.0 WASTEWATER SERVICE CHARGES**

The Wastewater Service Charge is a fixed service charge based on the size of the water meter and applies to all wastewater service charge billings. 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 Charges:**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Meter Size |  | Monthly Billing |  | Daily Proration |  | Bi-Monthly Billing |  | Daily Proration |
| Inches |  | $/Bill |  | $/Bill |  | $/Bill |  | $/Bill |
|  |  |  |  |  |  |  |  |  |
| 5/8 or 3/4 |  | 17.68 |  | 0.58126 |  | 35.36 |  | 0.58126 |
| 1 |  | 35.50 |  | 1.16712 |  | 71.00 |  | 1.16712 |
| 1 1/2 |  | 59.06 |  | 1.94170 |  | 118.13 |  | 1.94170 |
| 2 |  | 81.01 |  | 2.66334 |  | 162.02 |  | 2.66334 |
| 3 |  | 180.58 |  | 5.93688 |  | 361.16 |  | 5.93688 |
| 4 |  | 291.97 |  | 9.59901 |  | 583.95 |  | 9.59901 |
| 6 |  | 573.71 |  | 18.86170 |  | 1147.42 |  | 18.86170 |
| 8 |  | 860.58 |  | 28.29304 |  | 1721.16 |  | 28.29304 |
| 10 |  | 1130.61 |  | 37.17074 |  | 2261.22 |  | 37.17074 |
| 12 |  | 1665.88 |  | 54.76866 |  | 3331.76 |  | 54.76866 |
| 16 |  | 2019.20 |  | 66.38466 |  | 4038.41 |  | 66.38466 |

**1.2 Residential Charges:**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Meter Size |  | Monthly Billing |  | Daily Proration |  | Bi-Monthly Billing |  | Daily Proration |
| Inches |  | $/Bill |  | $/Bill |  | $/Bill |  | $/Bill |
|  |  |  |  |  |  |  |  |  |
| 5/8 or 3/4 |  | 17.68 |  | 0.58126 |  | 35.36 |  | 0.58126 |
| 1 |  | 35.50 |  | 1.16712 |  | 71.00 |  | 1.16712 |
| 1 1/2 |  | 59.06 |  | 1.94170 |  | 118.13 |  | 1.94170 |
| 2 |  | 81.01 |  | 2.66334 |  | 162.02 |  | 2.66334 |
| 3 |  | 180.58 |  | 5.93688 |  | 361.16 |  | 5.93688 |
| 4 |  | 291.97 |  | 9.59901 |  | 583.95 |  | 9.59901 |

**1.3 Meter Read Charge**:

An additional charge of **$118.03** shall be applied for each reading of each meter owned by a customer for the purpose if determining billable consumption. Examples of these meters are flow meters, addition and subtraction meters.

**2.0 WASTEWATER VOLUME CHARGES**

The Wastewater Volume Charge is based on either water used as measured by a Louisville Water Company (LWC) 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 (LWC meters/effluent flow 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**

The Regular Volume Rate shall be applicable to all water used and not meeting the requirements of Optional Volume Rate as described in Section 2.2 below. The Residential Regular Volume Rate is calculated to provide a year-long 15% discount for lawn watering and other uses of water which does not enter the public sewer. In addition, the Regular Volume Rate is calculated to provide automatic year round volume rate discounts of 10% for Commercial and Institutional customers and 5% for Industrial customers.

**Residential - $4.83 per 1,000 gallons of volume billed**

**Commercial - $5.58 per 1,000 gallons of volume billed**

**Industrial - $5.81 per 1,000 gallons of volume billed**

Commercial, Institutional 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 3.1 below.

**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, Institutional 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.

**$3.31 per 1,000 gallons of volume billed**

**2.3 Sewer Only Volume Rate**

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 (LWC meters/effluent flow 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 - $5.57 regular rate**

**Commercial - $6.24 regular rate or $3.54 optional rate/1,000 gallons**

**Industrial - $6.29 regular rate or $3.54 optional rate/1,000 gallons**

**2.4 Consent Decree Surcharge**

The Consent Decree Surchargeshall beapplicable to the following billings:

**Residential** - **$14.45** per month or **$28.90** bi-monthly

**Condominium complexes without water meters for each condominium** - greater of **$14.45** per month or **$2.42** per thousand gallons of water billed

**Commercial Regular Volume Rate** - greater of **$14.45** per month or **$1.73** per thousand gallons of water billed

**Commercial Sewer Only Volume Rate** - greater of **$14.45** per month or $**1.92** per thousand gallons of wastewater discharged

**Industrial Regular Volume Rate** - greater of **$14.45** per month or **$1.80** per thousand gallons of water billed

**Industrial Sewer Only Volume Rate** - greater of **$14.45** per month or **$1.92** per thousand gallons of wastewater discharged

**Optional (clean) Volume Rate** - greater of **$14.45** per month or **$1.03** per thousand gallons of water billed

**Optional (sewer only) Volume Rate** - greater of **$14.45** per month or **$1.10** per thousand gallons of wastewater discharged

**3.0 WATER QUALITY CHARGES**

Commercial, Institutional and Industrial customers that discharge wastewater to the public sewer characterized by excess strength of Biochemical Oxygen Demand (BOD) and/or Total Suspended Solids (TSS) shall be assessed a Quality Charge Rate established by MSD.

Any Commercial, Institutional or Industrial customer who is deemed eligible to be 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**

Excess Quality Charges shall apply to Commercial, Institutional and Industrial customers paying the Regular Volume Rate as follows:

BOD Concentration: $**0.004603** per mg/liter in excess of 250 mg/liter billed per 1,000 gallons of water recorded by a LWC meter OR wastewater discharged to the public sewer as directly measured by an effluent flow meter; and/or

TSS Concentration: $**0.00186005** per mg/liter in excess of 270 mg/liter billed per 1,000 gallons of water recorded by a LWC 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, Institutional and Industrial customers paying the Optional Volume Rate as follows:

**3.2.2** BOD Concentration: $**0.004516** per mg/liter billed per 1,000 gallons of water recorded by a LWC meter OR wastewater discharged to the public sewer as directly measured by an effluent flow meter; and/or

**3.2.3** TSS Concentration: $**0.00189616** per mg/liter billed per 1,000 gallons of water recorded by a LWC meter OR wastewater discharged to the public sewer as directly measured by an effluent flow meter.

**4.0 FLAT RATE CHARGE FOR RESIDENTIAL CUSTOMER**

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

**$46.75 monthly plus $14.45 Consent Decree Surcharge**

**-OR-**

**$93.49 bi-monthly plus $28.90 Consent Decree Surcharge**

1. MSD’s current *Schedule of Rates, Rentals, and Charges* is hereby amended to include a new Section **9.7** which authorizes MSD’s Wastewater Facility Review and Inspection Fees” which shall read as follows:

**9.7** The MSD Board may establish fees for the review and approval of plans and designs of wastewater facilities and for the inspection of the construction of wastewater facilities and the review, approval and programming of telemetry for wastewater facilities, all in accordance with KRS Section 76.085.

1. Sections **10.2**, **10.3** and **10.4**, which establish MSD’s Drainage Service Charges, Section **10.6**, which establishes MSD’s Monthly Drainage Service Charge Credit, and Section **10.8**, which authorizes MSD’s Drainage Design Review and Inspection Fees are hereby amended and shall read as follows:

**10.2 Service Charge**

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** City-owned property where that incorporated city has entered into an interlocal drainage service agreement with MSD providing for detention basin sites, easements, drainage right-of-way or other assets of value comparable to applicable drainage service charges;

**10.2.2** Properties owned by the Metro Government, or their budgeted agencies, which have offset their drainage service charges by the dedication of drainage facilities and future considerations through concomitant cooperative agreements;

**10.2.3** MSD-owned property;

**10.2.4** Public roads;

**10.2.5** All undeveloped land; and

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

The following charges are hereby established and imposed for all parcels or real property within the drainage service area, excluding exempted properties.

**10.3 Class A properties or Single-Family Residential**

The single-family residential charge rate shall be **$11.11** per month for each parcel having one or two residential dwelling unit(s). This flat rate fee is based on each single-family residential parcel being equal to one equivalent service unit (ESU). MSD shall determine the number of single-family residential parcels in the drainage service area and designate each as a single ESU irrespective of the size of parcel is segregated or the use of the land is modified to other than single-family. Drainage Charges may be pro-rated based on the number of actual days in a billing cycle.

**10.4 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 by rounding to the next highest ESU (an ESU has been determined to be 2,500 square feet of impervious surface). The 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 $**11.11** per month. Drainage Charges may be pro-rated based on the number of actual days in a billing cycle. Any owner of Class B property may request a drainage charge credit adjustment for approved on-site stormwater retention or detention facilities provided:

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

**10.4.2** The facility has been constructed in accordance with all approved plans, “and drainage service charges” following the term “Wastewater Service Charges” whenever said term appears in said provision;

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

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

**10.6 Monthly Stormwater Drainage Service Charge 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, beginning January 1, 2021:

|  |  |
| --- | --- |
| **Fiscal Year** | **Max Credit %** |
| 2021 | 78% |
| 2022 | 74% |
| 2023 | 70% |
| 2024 | 66% |
| 2025 | 62% |
| 2026 | 58% |
| 2027 | 54% |
| 2028 | 50% |

New applications for drainage service charge credits may be granted for up to a maximum credit of 50%, and a maximum period of up to 10 years provided, however 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 addition, the following conditions apply to obtaining and maintaining the credit:

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

**10.6.2** 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).

**10.8 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. The current schedule of fees can be found at: <https://louisvillemsd.org/what-we-do/stormwaterdrainage/permitting>

1. Section **17.0 SENIOR CITIZEN DISCOUNT** is hereby renumbered as Section **18.0**.
2. Section **18.0 AJUSTMENTS OF SURCHARGES AND APPEALS** is hereby renumbered as Section **19.0**.
3. Section **19.0** **SEVERABILITY** is hereby renumbered as Section **20.0**.
4. MSD’s current *Schedule of Rates, Rentals, and Charges* is hereby amended to include a new Section **17.0** to incorporate an “emergency wastewater rate assistance program” which shall read as follows:

**17.0** **EMERGENCY WASTEWATER RATE ASSISTANCE PROGRAM**

**17.1** **Definitions**

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

**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**

All eligible low-income residential customers may receive a ten percent (10%) discount on the wastewater charges on their sewer bill beginning August 1, 2020. The discount, known as the Emergency Wastewater Rate Assistance Program discount, shall apply to wastewater service charges, wastewater volume charges and Consent Decree surcharges.

**17.3** **Eligibility Criteria**

The Emergency Wastewater Rate Assistance Program (“EWRAP” / “Program”) 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.

**173.2** 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 the Louisville Water Company 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’s 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’s Discount as of August 1, 2020, shall not be eligible for the Emergency Wastewater Rate Assistance Program. MSD customers receiving MSD’s Senior Citizen’s Discount are disqualified from receiving the Emergency Wastewater Rate Assistance Program discount.

**17.5** **LIHEAP Customer Qualification**

MSD Customers approved for the Low Income Home Energy Assistance Program (LIHEAP) state plan prepared by the Kentucky Cabinet for Health and Family Services, Department for Community Based Services at the time of application for the Emergency Wastewater Rate Assistance Program discount, shall automatically qualify for the wastewater charge discount. If a customer’s LIHEAP approval is terminated or ends, however, and for any reason, the customer’s automatic eligibility for the Emergency Wastewater Rate Assistance Program Discount shall also terminate or end and the customer must apply for the discount and meet the eligibility requirements set forth in Section 17.3 to qualify.

**17.6** **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 **July 31, 2021**, conditioned upon the customer’s continued eligibility.

**17.7** **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.

**17.8 Program Modification / Termination**

The Emergency Wastewater Rate Assistance Program shall continue through July 31, 2021 unless earlier terminated at the discretion of MSD, and may be modified by MSD at any time.

1. **ADDITIONAL PROVISIONS AFFECTING SCHEDULE**:

All remaining provisions of MSD’s current schedule of wastewater rates, rentals and charges not amended herein shall continue in full force and effect. MSD’s *Schedule of Rates, Rentals and Charges* as amended herein shall become effective **August 1, 2020.**