

ORDINANCE NO.13021

AN ORDINANCE, repealing and superseding Ordinance No. 12905 adopted June 11, 2009, and enacting a new ordinance in lieu thereof establishing a new Section Six, Back Billing, pertaining to Wastewater User Charges.

WHEREAS, The Metropolitan St. Louis Sewer District, a body corporate, a municipal corporation and a political subdivision of the State of Missouri (herein called the "District"), now owns and operates a revenue producing sewer and drainage system serving the District and its inhabitants (the "System") and pursuant to Section 3.020(1) of the Charter of the District adopted by the voters within the District for its government (the "Charter"), has the power "to maintain, operate, reconstruct, and improve the same as a comprehensive sewer and drainage system, and to make additions, betterments, and extensions thereto; to protect the public health and welfare by preventing or abating the pollution of water; and . . . [has] all the rights, privileges, and jurisdiction necessary or proper for carrying such powers into execution"; and

WHEREAS, the District is subject to the provisions of the federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq., commonly referred to as the Clean Water Act (the "Federal Clean Water Act") and the Missouri Clean Water Law, §§ 644.006 et seq. R.S.MO. 1986, as amended (the "Missouri Clean Water Law") the objectives of which are to restore and maintain the chemical, physical, and biological integrity of the nation's waters; and

WHEREAS, the District has obtained construction grants (the "Grants") from the Missouri Department of Natural Resources ("MDNR") and the Environmental Protection Agency ("EPA") for improvements to the System and has entered into grant agreements with such governmental agencies as a condition to obtaining such Grants (the "Grant Agreements"); and

WHEREAS, the federal regulations promulgated pursuant to the Federal Clean Water Act and the District's Grant Agreements require the District to "review not less often than every two years the wastewater contribution of users and user classes, the total cost of operation and maintenance of the treatment works, and its approved user charge system . . . and to revise the charges for users or user classes to accomplish the following: (1) Maintain the proportionate distribution of operation and maintenance costs among users and user classes as required herein; (2) generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works . . ."; and

WHEREAS, Section 3.020 (16) of the Plan of the District authorizes the Board of Trustees "[t]o establish by ordinance a schedule or schedules of rates, rentals, and other charges, to be collected from all the real property served by the sewer facilities of the District, whether public or private, and to prescribe the manner in which and time at which such rates, rentals, and charges are to be paid, and to change such schedule or schedules from time to time as the Board may deem necessary, proper, or advisable, and to collect or enforce collection of all such charges. Such schedule or schedules may be based upon any classifications or sub-classifications which the Board may determine to be fair and reasonable . . . including but not limited to: (a) the consumption of water on premises connected with such facilities, taking into consideration commercial, industrial, and agricultural use of water; (b) the number and kind of plumbing fixtures connected with such facilities; (c) the number of persons served by such facilities; or (d) any combination of the factors enumerated. Any such rates, rentals, or other charges against public property shall be paid out of the general treasury of the public body, agency, corporation, or authority owning such property."; and

WHEREAS, Section 7.040 of the Charter of the District established a Rate Commission to review and make recommendations to the Board of Trustees regarding all

proposed changes in wastewater rates, storm water rates and tax rates or change in the structure of any of the foregoing; and

WHEREAS, the Rate Commission, after having conducted public hearings and weighing evidence regarding the proposed wastewater user rate change, issued its Wastewater Rate Change Amendment Report on April 1, 2008, which recommended the wastewater user rates as hereinafter adopted; and

WHEREAS, through Resolution No. 2785, adopted May 23, 2008, the Board of Trustees accepted said Wastewater Rate Change Amendment Report as issued by the Rate Commission on April 1, 2008.

WHEREAS, the Board of Trustees (the "Board") has determined that it is appropriate to revise the schedule of Wastewater User Charges as provided in this Ordinance to provide for the determination and billing of such user charges; and

WHEREAS, the Board is concerned with the impact of the Wastewater User Charges as provided by this Ordinance on low income customers of the District and the Board has adopted a low income assistance program (the "Low Income Assistance Program") to provide a "low income assistance credit" on bills for Wastewater User Charges to "eligible low income customers" pursuant to Ordinance No.12686 of the District; and

WHEREAS, the revenues to be derived from the Wastewater User Charges will be set aside in a separate fund and used for the purposes of operating, maintaining and replacing the Wastewater System in the District, as herein provided; and

WHEREAS, the Wastewater User Charges bear a substantial relationship to and are designed to cover the costs of operating, maintaining and replacing the Wastewater System, as herein provided; and

WHEREAS, the Board does hereby find and determine that the imposition of the

schedule of increased Wastewater User Charges as provided in this Ordinance, is necessary to enable the District to operate its Wastewater System on a sound basis, to satisfy the requirements of the Plan, the Federal Clean Water Act, and the Missouri Clean Water Law, and to comply with the mandates of the, the District's Grant Agreements, and the rules and regulations of the EPA.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE METROPOLITAN ST. LOUIS SEWER DISTRICT:

Section One. Definitions of Words and Terms. In addition to words and terms defined elsewhere in this Ordinance, the following words and terms as used in this Ordinance shall have the following meanings, unless some other meaning is plainly intended:

"Approved Meter" means a water meter meeting the standards of meters used by the City of St. Louis Water Division, the St. Louis County Water Company, or the public water supplier which provides water service to such Property, or a sewage flow meter satisfactory to the District.

"Base Charge" means the sum of the System Availability Charge and the Billing and Collection Charges pursuant to Section Three of this Ordinance.

"Billing and Collection Charges" means the charges established by the District pursuant to Section Three of this Ordinance, which are designed to recover the cost related to issuing and collecting bills.

"Best Equated Period" means a 90 to 92 day period of water usage for Metered Residential Property between November and April of the preceding winter period when lawn watering and other outdoor water uses are at a minimum and metered water use can best be equated to Wastewater discharges; provided that if the water bill issued during such period

covers water usage for a period less than 90 days or more than 92 days the Best Equated Period shall mean a 91 day period and water usage shall be calculated based on average daily usage for the actual billing period. If water usage is less than 1 ccf for the aforesaid 90 to 92 day period, and water service remained active for said period, a minimum water usage of 1 ccf shall be imposed for said "Metered Residential Property". If water service is instituted after the aforesaid 90 to 92 day period, an average water usage of 8 ccf shall be imposed for said "Metered Residential Property" until such time as the actual "Best Equated Period" data can be established.

"Biochemical Oxygen Demand" or "BOD" means the quantity of oxygen utilized in the biochemical oxidation of organic matter in 5 days as determined by Standard Test Procedures and expressed in milligrams per liter.

"Board" means the Board of Trustees of the District.

"Capital Charge" means that portion of the total charges for wastewater services provided by the District which is established for debt retirement, construction or reconstruction of the Wastewater System, and any other lawful purpose of the District or its sub districts and not considered part of the Wastewater User Charges, or the Storm Water User Charges.

"Chemical Oxygen Demand" or "COD" means the quantity of oxygen utilized in the chemical oxidation of organic and inorganic matter as determined by Standard Test Procedures and expressed in milligrams per liter.

"Compliance Charge" means the charge established by the District pursuant to Section Three (A)(3) of this Ordinance which is designed to recover all District compliance activities for Non-Residential Properties required to comply with federal environmental regulations which are not recovered by specific environmental permit fees, Wastewater Monitoring Fees, or other related fees.

"Contributed Wastewater Volume" means the quantity of water-borne wastes

emanating from Property and, specifically, (1) for Metered Single-Unit Residential Property, means billed water usage during the Best Equated Period; (2) for Metered Multi-Unit Residential/Non-Residential Property, means either (a) billed water usage throughout the year with exemption allowances for any water that does not enter the Wastewater System, or (b) measured Wastewater volume; and (3) for Unmetered Residential Property, means average indoor water usage characteristics of various housing attributes, as defined in the Rate Study, applied to the number of rooms and plumbing fixtures of each User's Property, as determined by the District.

"District" means The Metropolitan St. Louis Sewer District.

"Extra Strength Surcharges" means the Extra Strength Surcharges imposed by Section Three (A)(2) of this Ordinance.

"Metered Non-Residential/Multi-Unit Residential Property" means Property used both for non-residential and residential purposes which consists of one or more non-residential units and one or more residential dwelling units connected to an approved meter.

"Metered Property" means all Property connected to an Approved Meter through which the amount of water usage is measured.

"Metered Residential Property" means Property used only for human residency which consists of one or more residential units connected to an approved meter.

"Non-residential Property" means all Property other than Residential Property.

"Normal Wastewater" means waters or wastes having (a) a 5-day Biochemical Oxygen Demand (BOD) not greater than 300 milligrams per liter; and (b) containing not more than 300 milligrams per liter of Suspended Solids (SS); and (c) having a Chemical Oxygen Demand (COD) not greater than 600 milligrams per liter.

"Ordinance" means this Ordinance of the District unless a different Ordinance is

indicated.

"Owner" or "Owners" means the Person or Persons designated as the owner or owners of record of Property as set forth in the records of the office of the respective Recordors of Deeds for the City of St. Louis or for St. Louis County, Missouri.

"Person" means any individual, firm, proprietorship, partnership, company, municipality, state, federal or local governmental entity, association, society, corporation, group, or other entity.

"Plan" means the Proposed Plan of the Metropolitan St. Louis Sewer District as approved by the voters of the City of St. Louis and St. Louis County at a special election held on February 9, 1954 and amended by said voters on November 7, 2000.

"Pollutant" means any material or substance, toxic or otherwise, discharged to the Wastewater System which either singularly or in combination with other materials or substances interferes with, disrupts, or inhibits the Wastewater System's operations, or is not in compliance with specific prohibitions or standards developed by District, federal, state or local governments, or passes through the Wastewater System in a concentration which violates established effluent regulations or water quality standards.

"Property" means an improved lot or parcel of real property, whether public or private, which is served by the Wastewater System.

"Rate Commission" means that body established pursuant to Section 7.040 of the Charter of the District to review and make recommendations to the Board of Trustees regarding all proposed changes in wastewater rates, storm water rates and tax rates or change in the structure of any of the foregoing.

"Residential Property" means Property used only for human residency.

"Room/Fixture Charges" means the charges established by the District pursuant to

Section Three of this Ordinance billed to each User Account based on the number of rooms and plumbing fixtures in such User's Property as determined by the District.

"Served" or "Service" means Property with a sewer connected, either directly or indirectly, to the District's Wastewater System, or Property which otherwise discharges Wastewater directly or indirectly into the Wastewater System; or if the discharge of such substances there from ultimately enters the District's Wastewater System.

"Sewer Use Ordinance" means Ordinance No. 12559 of the District, adopted October 7, 2008, as amended.

"Standard Test Procedures" means "Guidelines Establishing Test Procedures for Analysis of Pollutants Under Clean Water Act" (40 CFR 136), as supplemented and amended from time to time.

"Storm Water User Charges" means the charges established by District Ordinance No. 12560, adopted October 7, 2008, as amended.

"Suspended Solids" or "SS" means solids that either float on the surface of, or are suspended in water, Wastewater, or other liquids; as determined by analysis for non-filterable residue, in accordance with Standard Test Procedures and expressed in milligrams per liter.

"System Availability Charge" means the charge established by the District pursuant to Section Three of this Ordinance which is designed to recover a portion of the costs related to infiltration and inflow.

"Unit" means the portion of Residential Property designed for occupancy by a single person or single family.

"Unmetered Residential Property" means Residential Property which is not connected to an Approved Meter.

"User" means: (1) the Person occupying the Property; or (2) Owner of Property;

or (3) the Person holding a permit for water service to the Property Served by the Wastewater System; or (4) any Person Served by the Wastewater System.

"User Account" means each separate account to which a bill for Wastewater User Charges is issued by the District.

"Volume Charge" means the Volume Charges established by the District pursuant to Section Three of this Ordinance billed to each User Account based on Contributed Wastewater Volume.

"Wastewater" means the water-borne wastes emanating from Property, together with such groundwater, surface water, or storm water which enters the Wastewater System.

"Wastewater Monitoring Fees" means the Schedule of Wastewater Monitoring Fees referred to in Section Four of this Ordinance and set forth in Appendix II.

"Wastewater System" means the entire sewer and drainage system owned and operated by the District for the collection, transportation, storage, handling, and treatment of Wastewater, to serve the needs of the District and its inhabitants and others, including all appurtenances and facilities connected therewith or relating thereto, together with all extensions, improvements, additions and enlargements thereto hereafter made or acquired by the District.

"Wastewater User Charges" means the applicable charges established by Section Three of this Ordinance, which consist of that portion of the charges of the District, which are established in a proportional and adequate manner to pay the cost of operation and maintenance (including replacement) of the Wastewater System in accordance with the requirements of the EPA and the MDNR.

Section Two. Establishment of Wastewater User Charges. There are hereby ratified, confirmed and established for services provided by the District to any Property Served by the Wastewater System, the Wastewater User Charges as set forth in Appendix I. All such

Wastewater User Charges shall be in addition to any applicable Capital Charges.

The District's Wastewater User Charges must comply with the following mandates (the "Environmental Mandates"): (i) to have an approved Wastewater User Charge as required by the Federal Clean Water Act, the Missouri Clean Water Law and its Grant Agreements, and (ii) to provide necessary funds to operate, maintain and replace its Wastewater System so as to provide adequate Service to District residents. The District finds that it is necessary and in the public interest to implement the schedule of Wastewater User Charges as herein provided in order to protect the public health, safety and welfare and to insure the District's continued compliance with the Environmental Mandates.

Section Three. Wastewater User Charges.

(A) Metered Property.

(1) Each metered property shall be charged a Base Charge and a Volume Charge as set forth in Appendix I. The Volume Charge shall be calculated separately for each Property, using the most current determination of Contributed Wastewater Volume.

(2) Extra Strength Surcharges. Extra Strength Surcharges for the treatment of wastes containing Suspended Solids, Biochemical Oxygen Demand or Chemical Oxygen Demand exceeding Normal Wastewater strengths are hereby established and shall be billed to and collected from Non-residential Property Served by the Wastewater System at the rates for each User Account set forth in Appendix I, and shall be collected in addition to the charges imposed by Subsections (1) and (3) hereof.

(a) A User shall be subject to Extra Strength Surcharges in any month if that User's water usage in such month equals or exceeds eight thousand cubic feet.

(b) Each User subject to Extra Strength Surcharges shall submit to the District on forms supplied by the District pursuant to the Sewer Use Ordinance, a certified

statement setting forth the strength and volume of Wastewater discharged by the User into the Wastewater System or into any sewer connected thereto. The data set forth in such statement shall be obtained from samples collected in accordance with accepted procedures from the manhole or adequate place as described in the Sewer Use Ordinance at a time period representative of normal operational conditions and analyzed utilizing Standard Test Procedures.

(c) Analytical data reported by the User discharging such Wastewater will be considered current for each subsequent billing period until such data is reported inaccurate and replaced by updated certified data by said User. The results of routine scheduled sampling and analyses by the District may be used in lieu of data reported by said User if such data is found to be not current or in error.

(d) An Extra Strength Surcharge shall be collected from any User subject to Extra Strength Surcharges as provided for herein for the discharge into the Wastewater System of Suspended Solids (SS) which average concentration exceeds 300 milligrams per liter or Biochemical Oxygen Demand (BOD) which average concentration exceeds 300 milligrams per liter, with said Extra Strength Surcharge ("ESS") calculated for each billing period according to the following formula, to wit:

$$ESS = \frac{0.00624 \times V}{2000} \times [(SS-300) \times RSS + (BOD-300) \times RBOD]$$

(e) If the BOD/COD ratio of a User's Wastewater is equal to or less than 0.35 the BOD measurement may not be considered representative of the User's actual Wastewater strength. The District may substitute Chemical Oxygen Demand (COD) which average concentration exceeds 600 milligrams per liter, with said Extra Strength Surcharge ("ESS") calculated for each billing period according to the following formula, to wit:

$$ESS = \frac{0.00624 \times V}{2000} \times [(SS-300) \times RSS + (COD-600) \times RCOD]$$

In the above formulas the following terms shall mean:

ESS = Extra Strength Surcharges.

300 = Maximum concentration of total BOD in Normal Wastewater in milligrams per liter.

300 = Maximum concentration of total Suspended Solids in Normal Wastewater in milligrams per liter.

600 = Maximum concentration of total COD in Normal Wastewater in milligrams per liter.

0.00624 = Conversion factor for milligrams per liter to pounds per hundred cubic feet.

V = Volume of water usage or Wastewater discharged expressed in hundred cubic feet.

RSS = Rate for SS in dollars per ton.

RBOD = Rate for BOD in dollars per ton.

RCOD = Rate for COD in dollars per ton.

2,000 = The number of pounds per ton.

(f) All Extra Strength Surcharges shall be calculated separately for each Property using the Wastewater flow proportioned average strength concentration for each strength parameter and the most current determination of Contributed Wastewater Volume.

(3) Non-residential Property Compliance Charge. A Compliance Charge shall be collected from all Non-residential Property Served by the Wastewater System at the rate for each User Account as set forth in Appendix I and shall be collected in addition to the charges imposed by Subsections (1) and (2) hereof.

(4) Registration of Unmetered Water Supply. In the event Property is supplied either in whole or in part with water from wells or any source other than a public water supplier, then such wells or other source of supply shall be registered with the Director of Finance of the District. If such supply serves Metered Property and is not measured by a water meter, or is measured by a water meter not acceptable to the District, then in such case, the User, at his own expense shall install and maintain an Approved Meter connected to such water supply. Whenever a new supplier or source of water other than a public water supplier shall be put into

use by Metered Property, such source of water shall be registered with the Director of Finance of the District within thirty days.

(5) Metered Water Not Entering the Wastewater System. Where it can be shown to the satisfaction of the District that a portion of the water as measured by an Approved Meter does not enter the Wastewater System, then the District is hereby authorized to determine, in such manner and by such method as may be practicable, the percentage of the water measured by the Approved Meter which enters the Wastewater System. In such case, Wastewater User Charges shall be based upon the percentage of the metered water entering the Wastewater System. Additional Approved Meters may be required or permitted at the User's expense in such manner as to measure the quantity of Contributed Wastewater Volume entering the Wastewater System from the Property of such User. Applications requesting consideration for a reduction in the Wastewater Service Charge, because of water not entering the Wastewater System, shall be made to the Director of Finance of the District, on forms provided by the District.

(6) Requirement of an Approved Meter for Non-Residential Property. All Non-Residential Property within the District shall be connected to an Approved Meter. In the event Property within the District is owned by a municipality and is served by water provided by such municipality and not connected to an Approved Meter, the District shall provide a method for estimating Wastewater discharge by such Property which is fair and equitable, in lieu of connection to an Approved Meter, and shall bill such municipality for Wastewater User Charges as provided for Metered Property pursuant to this Ordinance based on such estimated Wastewater usage.

(B) Unmetered Residential Property.

(1) Each unmetered residential property shall be charged a Base

Charge and a Room/Fixture Charge as set forth in Appendix I. Such charges shall be calculated separately for each Property using the most current available data regarding the number of rooms and plumbing fixtures in such Property. The Director of Finance shall determine the number of rooms and plumbing fixtures in such Property from the records of the City of St. Louis Water Division or other public water suppliers, from the records of the Office of Assessor of the City of St. Louis or St. Louis County, or from on site inspection. A User of Unmetered Residential Property who considers the determination by the District of the number of rooms and plumbing fixtures for which such User is billed Wastewater User Charges to be inaccurate or erroneous may appeal such determination as herein provided.

(2) Right of Entry and Inspection. The District shall have the power to enter on any Property for the purposes of examining the use made of its Wastewater System, the number of rooms and plumbing fixtures in such Property, the number and kind of plumbing fixtures connected with such Wastewater System, and for the purpose of inspecting or reading the Approved Meter connected to such Property. When such examination gives reason to believe that the usage of water on such Property places a burden on the Wastewater System in excess of that for which the User of such Property is being billed then the Wastewater discharged from such Property shall be measured, at the expense of the User, by a water meter or meters or by a Wastewater flow meter or meters. If such measurement shows that the flow of Wastewater is excessive, Wastewater User Charges shall be billed and collected for such measured usage as for Metered Property.

(C) Application of Wastewater User Charge Revenues. All revenues collected from Wastewater User Charges shall be segregated, credited and deposited in a Wastewater Revenue Fund to be established and maintained by the Director of Finance of the District, and shall be used solely to pay for the costs of the operation (including billing, administration and

overhead), repair, maintenance, improvement, renewal, replacement and reconstruction of the District's Wastewater System.

Section Four. Wastewater Monitoring Fees. When the Sewer Use Ordinance of the District or regulations of the federal government or state government require periodic monitoring of Wastewater from Non-residential Property, whether for strength calculations, for National Pollutant Discharge Elimination System compliance, or for pretreatment program requirements, the User of such Property monitored shall furnish the District at least one report for each quarterly calendar period from an independent testing laboratory satisfactory to the District, which report shall set forth the information required by the District on forms supplied by the District. As an alternative to furnishing the reports herein required, the User of such Property may request the District to collect the necessary samples and perform the analysis thereof. If the District agrees to so act, the User of such Property shall be billed for and agree to pay all costs for personnel, material and equipment used to collect and analyze samples from the User's Wastewater as set forth in the schedule of charges in Appendix II hereof. Each User shall be billed based on the number of samples collected and the number and types of analyses performed during each billing period and billed in accordance with current billing procedures. A User shall not be billed for more than four (4) such samplings per year for each connection to the Wastewater System. Sampling and analysis undertaken for purposes other than required periodic monitoring shall not be billed for Wastewater Monitoring Fees under this section. The District may terminate such collection and analysis at any time and it shall thereafter be the obligation of the User of such Property to furnish the test information called for above from an independent testing laboratory.

Section Five. Pollutants. Any User which discharges any Pollutants which cause an increase in the cost of managing the effluent or sludge from the Wastewater System shall pay

for such increased costs.

Section Six. All bills for Wastewater User Charges shall be prepared by the District and shall be issued monthly for services provided in the preceding month.

The issuance of any monthly bill may be delayed by the District for good cause.

On or after May 1, 2004, the Wastewater User Charges shall be billed to the Owner or Owners of the property served by the Wastewater System. Such Wastewater User Charges shall also constitute a personal obligation of any User of the Wastewater System regardless of to whom the bill for Wastewater User Charges is sent and shall constitute a charge and a lien against the Property Served, whether or not a notice of lien has been served.

For the District's convenience, all individual Wastewater User Charges may be combined with any other charges of the District, and all such charges may be billed together. In the event of a change in Owner or User of Property or termination of Service to Property during a billing period, application may be made to the Director of Finance of the District for a refund or proration of Wastewater User Charges for such billing period.

The Owner of Metered Residential Property containing more than one unit shall have the option of being charged on the basis of Best Equated Period. The Owner may obtain an application for such change from the Director of Finance. Upon receipt of an Application of Change in billing basis for said Property the change in billing will take effect not sooner than sixty (60) days from receipt of the application.

Once an Owner of Metered Residential Property containing more than one (1) unit has elected to be charged on the basis of Best Equated Period, that Owner shall not be permitted to again change.

In the event wastewater service is being provided to any parcel of real property and said parcel is being under-billed or not being billed at all, the District shall have the authority

to charge the owner of said parcel retroactively for a period not to exceed one and one-half (1½) years from the date of discovery.

In the event said parcel is being over-billed by the District, and the current owner of said parcel can verify such over-billing, then the District shall refund the current owner of the parcel any amount verified to be overpaid by said owner.

The Metropolitan St. Louis Sewer District will not collect Wastewater User Charges from the owner of real property when it is known that said real property is connected to a septic tank. Upon notification from the property owner that certain real property which is connected to a septic tank is being billed by the District for Wastewater User Charges, upon verification, the District will refund to the owner any and all of said Wastewater User Charges so collected from said owner.

Section Seven. Charge for Late Payments. On or after July 1, 2009, any Wastewater User charges billed that are not paid by the due date indicated on any bill rendered shall bear a late payment charge equal to three-fourths of one percent (0.75%) per month, or nine percent (9%) per annum, of the amount of the bill rendered and is hereby imposed for each month or portion thereof that the bill remains unpaid beyond the due date.

Section Eight. Wastewater User Charges Constitute a Lien. The Wastewater User Charges shall constitute a lien upon the Property Served on the date a bill is rendered for Wastewater Service, and said lien shall have the same priority as taxes levied for state and county purposes. The District may cause a notice of lien for non-payment of such charges to be filed in the Office of the Recorder of Deeds within and for the City of St. Louis or St. Louis County, depending upon where such Property Served is located. Such notice of lien shall state the amount of the delinquent Wastewater User Charges, and shall adequately describe the Property against which such lien is asserted. A copy of such notice of lien shall be mailed to the

Owner of the Property at the last address on file with the District and the filing of such notice in the Office of the Recorder of Deeds may be deferred as a matter of grace for not more than thirty (30) days from the mailing date. All Wastewater User Charges that remain unpaid shall bear interest at a rate not to exceed the lower of nine percent (9%) per annum or the maximum legal rate from the time a notice of lien is filed with the appropriate recorder of deeds as herein prescribed, until such time as the account is closed.

After such notice of lien is filed of record, the fees of the Recorder for filing and releasing said lien shall also be payable to the District as a prerequisite to releasing said lien.

Section Nine. Termination of Service for Nonpayment. When any Wastewater User Charge has not been paid and has been delinquent for a period in excess of three months, the District is authorized to order the water supply to be shut off for the Property for which the Wastewater User Charge is delinquent or to remove or close any sewer connections, or both, until payment of the delinquent charge together with the reasonable costs involved in shutting off and turning on the water, or closing and reopening the sewer connection, as the case may be, have been paid.

When any Wastewater User Charge has not been paid and has been delinquent for more than fifteen days after the due date, then the District may refuse to issue to the Owner and/or User a permit to connect any other Property owned or controlled by said Owner and/or User to the Wastewater System or Storm Water System; or may refuse to review any plans submitted by or on behalf of such Owner and/or User; or issue any permits requested by or on behalf of such Owner and/or User; or refuse to contract for any purpose with or accept Wastewater or Storm Water from any such Owner and/or User.

Section Ten. Remedies. Whenever any charge is unpaid after ninety days from the date the bill for such charges was rendered, then the amount overdue may be collected by any

or all of the three procedures:

- (A) by assignment to a collection agency; or
- (B) by suit or other proceedings in any court of competent jurisdiction; or
- (C) by enforcement of the lien provided herein.

The District shall have the power to sue any Owner and/or User, jointly and severally, in a civil action to recover delinquent charges plus the late payment charge and interest on the delinquent bill, plus all costs incurred by the District in connection with the filing and enforcement of such lien and the prosecution and collection of such charges including court costs, fees for transcript judgments, special process servers, credit reports, video reports, sewer and/or water shutoff costs, other related fees, and reasonable attorney's fees to be fixed by the court.

Section Eleven. False Information. It shall be unlawful for any Person to furnish any false report or information to the District which would reduce any charge imposed by the District.

Section Twelve. Violation of Ordinance. Any Person violating Section Eleven of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50.00 nor more than \$500.00. The imposition of such penalty shall in no way restrict or deprive the District of its right to pursue any other remedy it may have for the collection of any delinquent bill for Charges.

Section Thirteen. Wastewater User Charge Review. The Board shall regularly review the Wastewater User needs of the District and Wastewater User Charges, usually as a part of a Rate Proposal from the Rate Commission, to assure the appropriateness of the Wastewater User Charges.

- (A) Maintain the proportional distribution of operation, maintenance and

replacement costs among User classes.

(B) Provide adequate revenues to cover operation, maintenance and replacement costs.

(C) Provide adequate revenues for the payment of debt service on or required by the provisions of any outstanding bonds.

Section Fourteen. Notice of Rates. Each User Account shall be notified at least annually in conjunction with a regular billing for Wastewater User Charges as to:

(A) the rate schedule in effect; and

(B) that part of Wastewater User Charges attributable to wastewater services.

Section Fifteen. Deposit of Funds. The funds received from the collection of any of the aforesaid charges shall be deposited daily as received by the Secretary-Treasurer of the District, and shall be deposited in duly designated bank accounts, and such moneys may be appropriated and used for the purposes of the District as herein provided.

Section Sixteen. Collection Offices. Collection offices may be established at convenient locations throughout the District. The Director of Finance is hereby authorized to enter into contracts with the owners or operators of business establishments to provide collection services at such locations as are selected and may provide in such contracts for the payment by the District of a fee to the collecting establishment for rendering such collection services.

Section Seventeen. Appeals. Any Person who considers the Wastewater User Charges billed to such Person pursuant to the provisions of this Ordinance or any other determination by the District pursuant to the provisions of the Ordinance to be illegal, inaccurate or erroneous may request a review thereof by the Director of Finance or his designate within thirty (30) days of (i) the bill to such Person for Wastewater User Charges with respect to such Property, or (ii) written notice to such Person of a determination by the District which is

contested. The determination by the Director of Finance may be appealed by such Person to the Executive Director, by written notice of appeal filed with the Director of Finance within thirty (30) days of his determination. The determination by the Executive Director shall be considered a final order of the District.

Section Eighteen. Judicial Review. Any Person or Persons jointly or severally aggrieved by any final order of the Executive Director of the District may seek judicial review of such decision or pursuant to the procedures set forth in Section 12.110 of the District's Plan.

Section Nineteen. Adjustment Review Committee. A committee, to be known as the Adjustment Review Committee (ARC), is hereby established and shall meet, at minimum, once a month to conduct its business. The ARC shall be comprised of the voting members which are the District's Director of Finance, Assistant Director of Finance, the Secretary-Treasurer, and General Counsel. Non-voting members are the Accounts Receivable Manager and Audit Administrator.

For purposes of Section Nineteen of this Ordinance the following terms as used in this Ordinance shall have the following meanings, unless some other meaning is plainly intended.

Adjustment - any change in billing resulting from errors and/or changes in circumstances.

Write-off - an uncollectible amount due the District according to State or Federal Statute or as determined by majority approval of the ARC.

Settlement - agreement between the customer and the District to alleviate all or part of a delinquent condition.

On a monthly basis, the ARC shall review and properly record in the minutes all prior monthly billing adjustments as approved and presented by the Accounts Receivable Manager. These billing adjustments may result from but are not limited to; misapplied payment, ccf adjustment, reduction factor, water-off, transfer of balance due to bankruptcy notice, new occupant/water meter registrant, bank encoding error, or water back-up.

All write-offs or settlements of accounts shall require a majority of the ARC voting members to meet and discuss before approval. No write-off or settlement in excess of Five Thousand Dollars (\$5,000.00) and less than Twenty-five Thousand Dollars (\$25,000.00) shall be effective unless reviewed and approved by three (3) out of the four (4) voting members of the ARC. Any write-off or settlement greater than Twenty-five Thousand Dollars (\$25,000.00) shall require Finance Committee approval or ratification. The suspension of these rules may occur when a time constraint exists and a decision must be made before the next scheduled meeting, or a situation exists from, but not limited to; foreclosure, sheriff or county tax sale, Land Reutilization Authority, Land Clearance for Redevelopment Authority, or discharged bankruptcy. In these instances, no settlements or write-offs in excess of Five Thousand Dollars (\$5,000.00) shall be effective unless reviewed and approved by three (3) out of four (4) voting members of the ARC on an individual basis or at a special meeting as requested by any of the ARC members. All such instances will be reported at the next regularly scheduled meeting of the ARC and recorded in the minutes.

ARC activity will be reported to the Board's Finance Committee on a monthly basis.

The committee shall perform any other such duties relating to billing and collection policies. Such duties shall be reported to the Executive Director and Board of Trustees.

Section Twenty. Severability. The Board hereby declares that if any section, part, sentence or clause of this Ordinance is held invalid, such invalidity shall not affect the remainder of this Ordinance, the Board hereby declaring that it would have enacted the remainder of this Ordinance without regard to that part hereof that may be held invalid.

Section Twenty-One. Prior Ordinances. The provisions contained in this Ordinance shall repeal and supersede Ordinance No. 12754, adopted October 7, 2008, and shall take the place of and supersede the provisions of all prior ordinances relating to the same subject matter, which are herewith inconsistent. This Ordinance shall not be so construed as to relieve any Person from the payment of any charge which is due and payable under the provisions of any prior ordinance, nor to bar the collection of same by any and all of the means provided for in said prior ordinance. This Ordinance shall not be so construed as to relieve any Person from any penalty heretofore incurred by the violation of any prior ordinance nor to bar the prosecution of any such violation in the manner provided therein.

The foregoing Ordinance was adopted January 14, 2010.

## APPENDIX I

### WASTEWATER USER CHARGES

	<u>July 1, 2009 Charge</u>	<u>July 1, 2010 Charge</u>	<u>July 1, 2011 Charge</u>
<b>METERED PROPERTY</b>			
(per Month/per User Account)			
Base Charge	\$10.90	\$11.40	\$11.85
Volume Charge	\$1.92/100	\$2.02/100	\$2.11/100
All Volume	Cubic Feet	Cubic Feet	Cubic Feet
<b>UNMETERED RESIDENTIAL PROPERTY</b>			
(per Month/per User Account)			
Base Charge	\$10.90	\$11.40	\$11.85
Room/Fixture Charge:			
Room (each room)	\$1.25	\$1.32	\$1.38
Water Closet (each fixture)	\$4.69	\$4.93	\$5.15
Bath (each fixture)	\$3.91	\$4.11	\$4.30
Separate Shower (each fixture)	\$3.91	\$4.11	\$4.30
<b>NON-RESIDENTIAL PROPERTY</b>			
(per Month/per User Account)			
Extra Strength Surcharges if water usage equals or exceeds 8000 cubic feet per month:			
Suspended Solids (SS) *	\$218.90	\$222.62	\$231.35
Over 300 mg/liter (Milligrams per liter)			
Biochemical Oxygen Demand (BOD) *	\$551.52	\$596.72	\$620.14
Over 300mg/liter (milligrams per liter)			
Chemical oxygen Demand (COD)*	\$275.76	\$298.36	\$310.07
Over 600 mg/liter (milligrams per liter)			
Base Charge	\$10.90	\$11.40	\$11.85
Compliance Charge	\$29.65	\$30.85	\$31.95

\* Per Ton