

RESOLUTION NO. 2011-0218-2
SOUTH-WEST LAKE MAXINKUCKEE CONSERVANCY DISTRICT

A RESOLUTION AMENDING AND RESTATING SOUTH-WEST LAKE MAXINKUCKEE CONSERVANCY DISTRICT'S SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE SOUTH-WEST LAKE MAXINKUCKEE CONSERVANCY DISTRICT, FROM THE USERS OF THE SEWAGE WORKS OF SAID CONSERVANCY DISTRICT, AND OTHER MATTERS CONNECTED THEREWITH.

WHEREAS, the Board of Directors of the South-West Lake Maxinkuckee Conservancy District ("District") adopted Resolution No. 2011-02-1 entitled "**A RESOLUTION ESTABLISHING A SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE SOUTH-WEST LAKE MAXINKUCKEE CONSERVANCY DISTRICT FROM THE USERS OF THE SEWAGE WORKS OF SAID CONSERVANCY DISTRICT AND OTHER MATTERS CONNECTED THEREWITH**" ("Rate Resolution") on April 16, 2011; and

WHEREAS, the District has closed on its financing with the Indiana Finance Authority; and

WHEREAS, the District has assessed exceptional benefits to cover the capital costs of the construction of the District's sewage system; and

WHEREAS, certain lots within the District were vacant at the time the exceptional benefits were assessed and the District desires to provide that should a Dwelling or Dwellings be constructed on any vacant lots not assessed that said owners will be required to contribute to the capital cost of the District's system; and

WHEREAS, the District has requested the Indiana Finance Authority to grant the District approval to reduce its monthly rates and charges to reflect the assessments and collection of the exceptional benefits approved by the Marshall Circuit Court; and

WHEREAS, the District has employed O.W. Krohn & Associates, Certified Public Accounts, LLP to conduct a rate analysis to consider the assessment and collection of exceptional benefits and to determine just and equitable rates and charges necessary to permit the District to collect sufficient revenues to provide the funds necessary to pay the principal and interest on revenue bonds issued or to be issued by the District, to provide funds necessary for replacements and improvements to the District's sewer system and to pay expenses of maintenance and operation; and

WHEREAS, the District finds that based upon the advice from its rate consultant O.W. Krohn & Associates, it is necessary to amend the District's Rate Resolution 2011-02-1, and modify the Schedule of Rates and Charges so as to produce sufficient revenues to provide the funds necessary to pay expenses of maintenance and operation, and the replacement of improvements to the District's sewer system in a just and equitable manner and to pay the principal and interest on revenue bonds issued or to be issued by the District in accordance with the applicable bond resolutions and to pay line of credit or other

financing resolutions; and

WHEREAS, the Board of Directors desires to amend its Rate Resolution and restate the Rate Resolution embodying all effective terms and conditions of the District's Rate Resolution as of the effective date of this Resolution 2012-0218-2.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the South-West Lake Maxinkuckee Conservancy District;

Section 1. Unless the context specifically indicates otherwise, the meaning of terms used in this Resolution shall be as follows:

(a) "Board" shall mean the Board of Directors of the South-West Lake Maxinkuckee Conservancy District, or any duly authorized officials acting in its behalf.

(b) "BOD" (Biochemical Oxygen Demand) shall mean 5-day biochemical oxygen demand.

(c) "District" shall mean the South-West Lake Maxinkuckee Conservancy District, acting by and through the Board of Directors.

(d) "Debt Service Cost" shall mean the average annual principal and interest payments on all outstanding revenue bonds or other long-term capital debt and interest costs for all District debt.

(e) "Dwelling" shall mean any building with one or more connecting rooms containing permanent cooking accommodations and at least one bathroom.

(f) "EDU" (Equivalent Dwelling Unit) shall mean the average daily amount of sewage flow from a normal residence unit based upon industry standards.

(g) "Excessive Strength Surcharge" shall mean an additional charge which is billed to users for treating sewage wastes with an average strength in excess of Normal Domestic Sewage (as defined herein)

(h) NH₃N shall mean ammonia nitrogen.

(i) "Normal Domestic Sewage" (for the purpose of determining surcharges) shall mean wastewater or sewage having an average daily concentration as follows:

B.O.D.	not more than	220	mg/L
S.S.	not more than	220	mg/L
NH ₃ N.	not more than	12.5	mg/L

As defined by origin, wastewater from segregated domestic and or sanitary conveniences.

(j) "NPDES (National Pollutant Discharge Elimination System) Permit" shall mean the permit issued by the Indiana Department of Environmental Management for the discharges of wastewaters to navigable waters of the United States pursuant to Section 402 of 33 U.S.C. 466.

(k) "Number of Bathrooms." The number of bathrooms shall be determined based on the property cards used by the Marshall County Assessor in assessing the real estate or alternatively by an inspection of the premise conducted by or on behalf of the District.

(l) "Operation and Maintenance Costs" include all costs, direct and indirect, including but not limited to, Replacement Costs (as defined herein) necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and to produce discharges to receiving waters that conform with all related Federal, State and local requirements.

(m) "Other Service Charges" shall mean tap-on charges, connection charges, area charges, and other identifiable charges other than User Charges, debt service charges and excessive strength surcharges.

(n) "Person" shall mean any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

(o) "Replacement Costs" shall mean the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(p) "Shall" is mandatory; "May" is permissive.

(q) "Service Area" shall mean the area within the boundary of the South-West Lake Maxinkuckee Conservancy District as amended from time to time and described in Marshall Circuit Court, Cause No. 50C01-0309-MI-91.

(r) "Sewage" shall mean a combination of the water carried wastes from residences and business buildings.

(s) "Sewer Maintenance Costs" shall mean the costs to transport sewage and to repair the collection system.

(t) "S.S." shall mean suspended solids.

(u) "Sewer Use Resolution" shall mean a separate and companion enactment to this Resolution, which regulates the connection to and use of public and private sewers.

(v) "User Charge" shall mean a charge levied on users of the wastewater treatment works for the cost of Operation and Maintenance of such works and Debt Service Costs.

(w) "User Class" shall mean the division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities (i.e., residential and commercial in the User Charge System)

(i) "Residential User" shall mean a user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units, etc.

(ii) "Commercial User" shall mean any establishment involved in a commercial enterprise, business or service which, based on a determination by the District, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(x) "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

Section 2. Every person whose premises are served by said sewage works shall be charged for the services provided. These charges are established for each User, as defined, in order that the sewage works shall recover from each User revenue to defray the cost of Operation and Maintenance (cost and replacement costs) of the treatment works and to cover Debt Service Costs.

Section 3. For the use of and the services rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the District's sanitary sewer system or otherwise discharges sewage, water or other liquids, either directly or indirectly, into the sanitary sewer system of the South-West Lake Maxinkuckee Conservancy District. Such rates and charges include Operation and Maintenance Costs, User Charges, Debt Service Costs, Excessive Strength Surcharges and Other Service Charges, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(A) For All Users of the sewage works:

I. From the date of this Rate Resolution until the date set forth in Section II hereof, for each connection to the District's collection system the number of bathrooms that contribute waste through that connection shall be determined by the District and the monthly charges for each connection shall be as follows:

Number of Bathrooms	Monthly Rate
1	\$160.00 per month
2	\$166.00 per month
3	\$172.00 per month
4	\$178.00 per month
5	\$184.00 per month
6	\$188.75 per month
7	\$194.25 per month
8	\$202.00 per month
9 or more	\$208.00 per month

- II. Upon approval of the Indiana Finance Authority (IFA) and effective on the first day of the month after receiving the IFA's approval to reduce the monthly rates and charges set forth in Section I above, the monthly charge for each connection shall be as follows:

Number of Bathrooms	Monthly Rate
1	\$ 62 per month

2	\$ 68 per month
3	\$ 74 per month
4	\$ 80 per month
5	\$ 86 per month
6	\$ 90.75 per month
7	\$ 96.25 per month
8	\$ 104 per month
9 or more	\$ 110 per month

(B) Non-Recurring Charges and Other Service Charges

(1) Capital Contribution:

For any owner seeking to connect to the District's sewage system whose property was not assessed an exceptional benefit as per the Order Approving Exceptional Benefits entered by the Marshall Circuit Court on December 2, 2011: — \$7,500.00 per Dwelling.

(2) Grinder Stations, Lateral Installation and Lateral Connection Inspection Fee:

(a) \$75.00 per hour.

(b) all other District review, inspection and any other associated costs for proposed development(s) approval, development inspection costs shall be billed by District at District's cost for said service.

(3) Engineering Evaluation Fee:

Fees associated with the plan review for all facilities will be the usual and customary charges consistent to such review practices as charged by the District Engineer.

(4) Reconnection Charge:

Actual cost of disconnection and reconnection.

(5) Sewer connection application fee:

The District will charge a fee of \$300.00 for any application for service which is made one year after the initial notice is given to freeholders to hook up to District's sewer system.

(6) Dishonored check charge:

\$30.00 per Dishonored check

Section 4.

(a) In order that the rate and charges may be justly and equitably adjusted to the service rendered to Users, the District shall also base its charges on strength and character of the stronger-than-Normal Domestic Sewage and shall require the user to determine the strength and content of all sewage and wastes discharges, either directly or indirectly into the sewage system, in such manner and by such method as the District may deem practicable in light of the conditions and attending circumstances of the case, in order to determine the proper charge. If required by the District, the User shall furnish a control manhole suitably located which shall be available to the District at all times.

(b) Normal Domestic Sewage strength should not exceed a biochemical oxygen demand of 220 milligrams per liter of fluid or suspended solids in excess of 220 milligrams per liter of fluid or total kjehdahl nitrogen in excess of 12.5 milligrams per liter of fluid. Additional charges for treating stronger-than-Normal Domestic Sewage shall be made on the following basis:

(1) Rate Surcharge Based Upon Suspended Solids

There shall be an additional charge of .52 cents per pound of suspended solids for suspended solids received in excess of 220 milligrams per liter of fluid.

(2) Rate Surcharge Based Upon BOD

There shall be an additional charge of .40 cents per pound of biochemical oxygen demand for BOD received in excess of 220 milligrams per liter of fluid.

(3) Rate Surcharge Based Upon Ammonia

There shall be an additional charge of 1.41 cents per pound for ammonia in excess of 12.5 milligrams per liter of fluid.

(c) The determination of Suspended Solids and Five-day Biochemical Oxygen Demand contained in the water shall be in accordance with the latest copy of "Standard Methods for the Examination of Water, Sewage and Industrial Wastes", as written by the

American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation, and in conformance with "Guidelines Establishing Test Procedures for Analysis of Pollutants", Regulation CFR Part 136, published in the Federal Register on October 16, 1973, as amended.

Section 5. Such Rates and Charges shall be prepared, billed and collected by the District in the manner provided by law and resolution.

(a) The Rates and Charges for all Users shall be prepared and billed on a monthly basis.

(b) The Rates and Charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. Notwithstanding the owner's request the District in its sole and absolute discretion may continue to bill the owner. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the District for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that such office is open for business.

(c) As is provided by statute, all Rates and Charges not paid when due, which is 15 days after the date of the mailing of the bill, are hereby declared delinquent. A penalty of ten percent (10%) of the amount of the bill attaches as a delinquent fee. The amount of the Rates and Charges, the penalty, and a reasonable attorney fee may be recovered by the District in a civil action.

Section 6.

(a) In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the costs of providing services to the various Users, the District may, in its sole and absolute discretion, periodically cause a cost of service study or updated rate analysis to be made. Such document shall include, but not be limited to, an analysis of the costs associated with the treatment of excessive strength effluents, if any, volume and delivery flow rate characteristics attributed to the various users, the financial position of the District and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the waste treatment systems.

(b) Said studies shall be conducted by officers or employees of the District, by a firm of certified public accountants, a firm of utility rate consultants and/or a firm of consulting engineers which firms shall have experience in such studies, or by such combination of officers, employees, certified public accountants, rate consultants and/or engineers as the District shall determine to be best under the circumstances.

Section 7.

(a) The District shall make and enforce such rules and regulations as may be deemed necessary for the safe, economical and efficient management of the District's sewerage system, pumping stations and sewage treatment works, for the construction and use of house sewers and connections to the sewerage treatment works, for the regulation,

collection, rebating and refunding of such rate and charges. No free service shall be provided to any User of the wastewater treatment facility.

(b) The District is hereby authorized to prohibit dumping of wastes into the District's sewerage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the District, or to require methods affecting pretreatment of said wastes to comply with the pretreatment standards included in the National Pollution Discharge Elimination System (NPDES) permit issued to the sewage works.

Section 8. The invalidity of any section, clause, sentence, or provision of this Resolution shall not affect the validity of any other part of this Resolution which can be given effect without such invalid part or parts.

Section 9. No statement or language in this Resolution shall be construed in any manner to conflict with any applicable statute.

Section 10. The Rates and Charges as herein set forth shall become effective upon completion of the District's collection system and connection to the Culver system.

Section 11. This Resolution shall be in full force and effect from and after its passage.

Passed and adopted by the Board of Directors of the South-West Lake Maxinkuckee Conservancy District, on the ___ day of _____, 2012.

BOARD OF DIRECTORS OF THE SOUTH- WEST
LAKE MAXINKUCKEE CONSERVANCY DISTRICT

Kathryn A. Densborn

Theodore R. Schenberg

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Charles H. Norman, Jr.

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