

DISTRICT REGULATIONS:
District Connection Charges –
Conveyance Facility Connection Charges (CFCC) and
Treatment Plant Connection Charges (TPCC)

1. General Statement of Policy.

It is in the public interest for an area served by the District to bear its proportionate cost of wastewater conveyance facilities and the wastewater treatment plant facilities that serve the area. The Commission finds that this is best accomplished through a coordinated system of Conveyance Facility Connection Charges (CFCC) and Treatment Plant Connection Charges (TPCC). The District Regulations compiled here apply to both CFCC and TPCC except where otherwise indicated.

2. Authority.

These District Regulations were first adopted by the Commission on July 27, 2017, under the authority in District Ordinance Section 4.3.4 and Chapter 200 of the Wisconsin Statutes.

For additional information regarding District Ordinances, District Regulations, District Guidance and Standard Operating Procedures, please see the District Guidance entitled *What's Our Policy?* and first approved by Michael Mucha, Chief Engineer and Director, on January 5, 2017.

3. Effective Date.

These District Regulations shall be effective January 1, 2018, as provided by law. Notwithstanding the foregoing, the provisions related to unpaid connection charges shall be enforced on a going-forward basis only.

4. Definitions.¹

- 4.1. Capital Area Regional Planning Commission (CARPC)** shall mean the regional planning commission having jurisdiction over the District sewerage service area.
- 4.2. Chief Engineer and Director or CED** shall mean the Chief Engineer and Director of the District.
- 4.3. Commission** shall mean the Commission of the District as defined and with such powers as set forth in Wis. Stat. § 200.09, as amended from time to time.

¹ Terms used in Commission Regulations shall be interpreted consistent with the definitions in District Ordinances, except where otherwise indicated by context.

- 4.4. Connection Charge or Connection Fee** shall mean the connection charge paid by the Customer Community to the District for areas that are authorized to receive sewerage service from the District.
- 4.4.1. Conveyance Facility Connection Charge (CFCC)** shall mean a connection charge associated with the conveyance facilities that convey wastewater from a basin to the District wastewater treatment plant.
- 4.4.2. Treatment Plant Connection Charge (TPCC)** shall mean the connection charge associated with the District wastewater treatment plant facilities.
- 4.5. Customer Community** shall mean a city, village, town sanitary district, or utility district that is billed directly by the District for sewerage service provided.
- 4.6. District** shall mean the Madison Metropolitan Sewerage District, a metropolitan sewerage district formed pursuant to Chapter 200 of the Wisconsin Statutes.
- 4.7. District Guidance** shall mean guidance approved by the Chief Engineer and Director (CED) and used to set forth the CFCC and TPCC rate methodology, adjustments, and those procedures necessary and prudent to implement these regulations. All District Guidance regarding connection charges shall be consistent with these District Regulations.
- 4.8. District Regulations** shall mean regulations approved by the Commission and used to establish the fundamental principles and parameters for all District connection charges. All District Regulations regarding connection charges shall be interpreted consistent with District Ordinances and applicable law.
- 4.9. Conveyance Facilities** shall mean all interceptors and related facilities including, but not limited to, manholes and appurtenances, pumping stations, and forcemains owned by the District.
- 4.10. Sewer Service Charge** shall mean the service charges periodically paid by a Customer Community that reflect costs for operation, maintenance, and replacement of the District's conveyance facilities and wastewater treatment plant.
- 4.11. Subject Area** shall mean the area of land that: (a) has been annexed to the District's service area; and (b) is the subject of an application to the District for a sewer service extension or other form of connection, is connected to the District but has not paid connection charges, or is connected to the District and is subject to adjustment connection charges as set forth in this Regulation.
- 4.12. Unpaid Connection Charges** shall mean those connection charges that are due and owing for areas connected to the District, but that are unpaid.
- 4.13. Wastewater Treatment Plant** shall mean the wastewater treatment facilities owned and operated by the District.

5. District Connection Charges.

District connection charges are subject to the fundamental principles set forth in this section, which the Commission has deemed to be fair and equitable to ratepayers and the

public. Additional details regarding Conveyance Facility Connection Charges (CFCC) and Treatment Plant Connection Charges (TPCC) may be set forth in District Guidance.

- 5.1. Connection Charges Are Based on the Area Served.** District connection charges shall be calculated based on the size of the area that receives sewerage service from the District. The Commission finds this approach to be a reasonable and efficient way to recover costs of facilities that provide capacity from those who most directly benefit from the capacity. Both the CFCC and TPCC rates shall be expressed using area terms that are straightforward and understandable to the public, ratepayers and developers, such as a dollar amount per thousand square feet of chargeable area.
- 5.2. Connection Charges Are Assessed on That Portion of the Subject Area That Is Chargeable.** All areas within a Subject Area are categorized as either “chargeable” or “not chargeable.” An area is deemed chargeable or not chargeable based on its characteristics and the requirements set forth in Wisconsin Statutes. Chargeable areas pay both the CFCC and TPCC.
 - 5.2.1. Areas Are Presumed Chargeable.** All areas are chargeable unless an exemption applies. If an exemption applies, the District may not assess, levy or collect a connection charge from the area.
 - 5.2.2. The Chargeability Determination is Made at the Time of Approval or Invoice.** District staff shall determine which areas are chargeable through application of the standards in statute and this Regulation. The determination is made during the sewer extension application process; or upon preparation of a District invoice for connections not requiring sewer extension, areas that are connected to the District but have not paid a connection charge; or adjustment connection charges as provided in this Regulation. District Guidance may provide examples, illustrations, and other information to assist with interpretation and implementation of these District Regulations related to chargeability.
 - 5.2.3. Certain Lands Are Exempt.** As set forth in Wis. Stat. § 200.13(12), certain lands designated as permanent open space, agricultural protection areas or other undeveloped areas not to be served by public sanitary sewer service in plans adopted by the Capital Area Regional Planning Commission (CARPC), or a successor regional planning commission, and approved by the Dane County Board, shall not have property taxes, assessments or service charges levied against them by the District. More specifically, the Commission directs that the following areas be exempt from District connection charges:
 - 5.2.3.1. Environmental Corridor,** provided that: (1) the area is designated by CARPC as Environmental Corridor; (2) District staff determines that there is a sufficient legal description of the Environmental Corridor; and (3) the designated Environmental Corridor area is not to be served by public sewer.
 - 5.2.3.2. Public Right-of-Way,** provided that: (1) the right-of-way has been legally dedicated to the public; (2) District staff determines that

there is a sufficient legal description of the public right-of-way; and (3) the designated right-of-way is not to be served by public sewer.

5.2.3.3. Agricultural Protection Area, provided that: (1) the area is zoned for Exclusive Agricultural Use (i.e., A1-Ex.) or is a state-designated Agricultural Protection Area, under Wisconsin's farmland preservation law; (2) District staff determines that there is a sufficient legal description of the Agricultural Protection Area; and (3) the designated Agricultural Protection Area is not to be served by public sewer.

- 5.3. Connection Charges Are Adjusted Periodically.** To ensure fairness and consistency over time, the Commission has determined that connection charge rates shall be adjusted periodically at times deemed reasonable and prudent by the District. Adjustments shall be made for price changes, based on the Engineering News Record Construction Cost Index (ENR-CCI), which is a construction cost index and a common industry standard. If the ENR-CCI is not available, a substitute index shall be used or a projection of construction costs shall be determined using available historical data, and set forth in District Guidance. Adjustments shall also be made for re-estimates of chargeable area percentage, following the method used by the District in 2016–2017, with methodological adjustments deemed reasonable and prudent by the District from time to time. Areas shall pay connection charges at the rate in effect at the time of payment.
- 5.4. Connection Charges Are Paid by the Customer Community.** The Customer Community is required to pay the connection charges to the District. The District will only accept a payment on a Customer Community's account where the payment is made by the Customer Community directly or the Customer Community provides written acknowledgment to the District of the payment being made. If a private firm or person makes payment directly to the District for connection charges, the Customer Community must provide the District with a cover letter acknowledging the payment was made on behalf of the Customer Community. Additional detail regarding payment methods may be included in District Guidance. The District shall deposit connection charge payments in the capital projects fund.
- 5.5. Connection Charges Are Due Upon Approval or Invoice.** Connection charges are due for an area prior to construction of the public sanitary sewer mains approved by the Commission as part of a sewer extension request; or upon issuance of a District invoice for connections not requiring sewer extension or for adjustment connection charges as provided in this Regulation. District staff may prepare an estimate of connection charges on request, prior to approval or invoicing. Late fees of ½% per month of the amount due shall be imposed for each month or partial month thereafter following connection in cases requiring Commission approval or beginning the month following invoicing in all other cases, charged as simple interest not compounded. For connection charges associated with a sewer extension request:
- 5.5.1. IF THE CONNECTION CHARGE IS NOT PAID IN FULL OR DEFERRED BY THE DISTRICT WITHIN SIX (6) MONTHS** of the

date of the Commission's resolution approving the sewer extension, then the District approval of the extension shall be automatically deemed null and void and the connection charge is no longer owed. Subsequent requests for sewer extension for the area shall be required to include new or updated application materials, required documentation, and a new application fee.

5.5.2. IF THE CONNECTION CHARGE IS PAID IN FULL OR DEFERRED BY THE DISTRICT WITHIN SIX (6) MONTHS of the date of the Commission's resolution approving the sewer extension, then the District approval of the extension shall remain in full force and effect for a period of four (4) years from the date of the Commission's resolution approving the sewer extension.

5.6. The District May Defer Payment of Connection Charges. The District may defer payment of a connection charge to assist Customer Communities in management of phased subdivision plats or similar situations involving large contiguous areas. To provide notice to third parties of the deferred connection charge and better assure payment of the deferred connection charge, the District shall require that a "Notice of Deferred MMSD Connection Charges" or "Deed Restriction" be recorded by the Customer Community against the area as a condition of the deferral. District Guidance may provide specific eligibility criteria for deferrals, examples, and templates of Deed Restrictions to assist with implementation of these District Regulations.

5.7. Connection Charges Are Paid Once. Generally, when an area's applicable CFCC and TPCC have been paid, no additional future connection charges will be charged against that area. Areas developed before approximately 2003 were charged on a different basis than the one set forth in this Regulation. To align charges for those areas with the basis set forth in this Regulation, these areas may be charged one adjustment connection charge in the event of changes in capacity use by the area. District guidance shall indicate as accurately as practicable what areas are subject to an adjustment connection charge; procedures for identifying when an adjustment connection charge is applicable; and, methods for calculating an adjustment connection charge.

6. Treatment of Areas Discovered to Be Connected to the District but That Have Not Paid Connection Charges.

6.1. Applicability. In keeping with the obligations created by District Ordinance, Customer Communities have a duty to notify the District of sewer connections and to pay connection charges. This section applies to those areas that are discovered to be already connected to the District but that have not paid connection charges, including adjustment connection charges associated with changes in capacity use as provided in this Regulation. It is applicable only to areas first discovered by the District after July 1, 2017. Nothing in this regulation precludes collection of connection charges for areas discovered to be already connected prior to July 1, 2017. Any charges for areas discovered to be already connected prior to July 1, 2017 shall be approved by

Commission resolution. Connected areas for which the District has no record of payment shall be presumed unpaid unless the affected Customer Community provides evidence of payment satisfactory to the District.

- 6.2. Date of Connection.** Any such area shall be deemed to have been connected on the date of actual connection, if known. If the date of connection cannot be determined with certainty, the District shall make a reasonable estimate based on available evidence.
- 6.3. Payment and Administrative Fee.** All unpaid connection charges shall be paid at the connection charge rate in effect at the time of payment. A one-time administrative fee of Five Hundred Dollars (\$500.00) shall be added to all such connection charges. The District may adjust this administrative fee periodically by the consumer price index, or another appropriate indicator of general inflation, as set forth in District Guidance.
- 6.4. Late Fees.** Late fees shall be charged for all such unpaid connection charges. Late fees shall be charged at the rate of ½% per month of the amount due for each month or portion thereof, calculated as simple interest not compounded. For the period between the date of connection and discovery by the District, total late fees shall not exceed the connection charge in effect at the time of payment. For the period after discovery by the District, late fees shall continue to be charged until the connection charge is paid. Examples of fee calculations may be included in District Guidance.

7. Provisions Applicable to Conveyance Facility Connection Charges (CFCC).

- 7.1. Conveyance Facility Connection Charge for Subject Area.** The CFCC due for a particular Subject Area is calculated by multiplying the square footage of the chargeable portion of the Subject Area by the basin CFCC rate.
- 7.2. Basin CFCC Rate.** A CFCC rate is calculated for each basin within the District. A basin CFCC rate allocates the cost of conveyance facilities over the estimated chargeable area of the basin to yield a rate per square foot. The current CFCC rates for each basin shall be adopted by resolution of the Commission.
 - 7.2.1. Basin CFCC Rate Calculations.** The basin CFCC rate calculation includes the following factors: the actual cost of conveyance facilities in each basin, including the downstream conveyance facilities serving each basin and costs of capacity increases; increases in conveyance capacity that have occurred over time; the chargeable area percentage; and the ENR-CCI or comparable index. Details regarding the basin CFCC rate calculations shall be included in District Guidance.
 - 7.2.2. Chargeable Area Percentage.** The chargeable area percentage for a basin is an estimate of the percentage of the total basin area that is expected to remain chargeable over the development of the basin. Chargeable area percentage shall be estimated based on chargeability standards; land use data; plans and other information specific to the basin; and overall studies of chargeable area, following the method used by the District in 2016–2017, with methodological adjustments

deemed reasonable and prudent by the District from time to time. The Commission finds the method to be a reasonable basis for estimating chargeable area percentage. District Guidance may include additional detail on the method.

- 7.2.3. Charges for Added Capacity.** Project costs associated with conveyance facilities that add capacity shall be included in the basin CFCC rate or charged to a Customer Community, as appropriate for the circumstances. The charges for conveyance facilities that add capacity shall be based on the proportion of capacity added in anticipation of future needs in the area.

8. Provisions Applicable to Treatment Plant Connection Charges (TPCC).

- 8.1. Treatment Plant Connection Charge for Subject Area.** The TPCC due for a particular Subject Area is calculated by multiplying the square footage of the chargeable portion of the Subject Area by the TPCC rate.
- 8.2. TPCC Rate.** The TPCC rate shall be uniform throughout the District. The TPCC rate allocates the cost of the treatment plant to an area basis using estimates of average treatment plant capacity usage per lot. The TPCC rate shall be set by a resolution adopted by the Commission.
- 8.2.1. TPCC Rate Calculations.** The TPCC rate calculation includes the following factors: total treatment plant cost, net of grants; treatment plant capacity, expressed as gallons per day; estimates of average sewerage service use per average residential lot size; and the ENR-CCI or comparable index. Details regarding the TPCC rate calculation shall be included in District Guidance.
- 8.2.2. Treatment Plant Cost.** Total treatment plant cost is an estimate of the present-day equivalent cost of constructing the treatment plant, considering historical cost information, sources of funds, components no longer in service, costs of new components placed in service, and similar relevant factors. Total treatment plant cost shall be determined following the method used by the District in 2016–2017, with methodological adjustments deemed reasonable and prudent by the District from time to time. The Commission finds the method to be a reasonable basis for estimating treatment plant costs. District Guidance may include additional detail on the method.

9. District Guidance for Situations Not Addressed in Regulations.

For those situations not addressed in these regulations, the Chief Engineer and Director (CED) may provide District Guidance or refer the situation to the Commission for further consideration and possible amendment of the Regulations.