

ORDINANCE NO. 23-02

**AN ORDINANCE RESTATING AND AMENDING ORDINANCE NO. 14-02
ESTABLISHING SEWER USER SERVICE CHARGES FOR USERS
OF THE PUBLIC SEWAGE WORKS IN THE
NORTHERN MORAINÉ WASTEWATER RECLAMATION DISTRICT,
COUNTIES OF LAKE AND McHENRY, STATE OF ILLINOIS**

Adopted by the
President and Board of Trustees
of the
Northern Moraine Wastewater Reclamation District
this 14th day of March 2023

Published in pamphlet form by direction
and authority of the
Northern Moraine Wastewater Reclamation District,
Counties of Lake and McHenry, State of Illinois
this 14th day of March 2023

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WHEREAS, in January 2014, the Board of Trustees (the "***District Board***") of the Northern Moraine Wastewater Reclamation District (the "***District***") adopted its Ordinance No. 14-02, which ordinance established a comprehensive schedule of sewer user service charges for users of the District's public sewage works; and

WHEREAS, the District Board has the authority to amend its fees and charges as reasonably determined in the legislative discretion of the District Board, and pursuant to such authority the District Board has amended Ordinance No. 14-02 from time-to-time; and

WHEREAS, the District Board has determined that it is in the best interest of the District and its residents and taxpayers to restate and comprehensively amend Ordinance No. 14-02 (as amended) as hereinafter set forth;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE NORTHERN MORAINÉ WASTEWATER RECLAMATION DISTRICT, COUNTIES OF LAKE AND McHENRY, STATE OF ILLINOIS, as follows:

SECTION 1 DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- 1.1 "District" – the Northern Moraine Wastewater Reclamation District of Lake and McHenry Counties, Illinois.
- 1.2 "District Manager" – the District Manager of the District or his duly authorized deputy or representative.
- 1.3 "Ordinance" – means this ordinance.
- 1.4 "Federal Act" - the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended by the Federal Water Pollution Control Act or Amendments of 1972 (Public Law 92-500 and Public Law 93-243) and the Clean Water Act of 1977 (Public Act 95-217) and any amendments thereto.

- 1.5 "State Act" – the Illinois Anti-Pollution Bond Act of 1970 and any amendments thereto.
- 1.6 "State Grant" – a State of Illinois grant under the State Act for financing the construction of sewage works.
- 1.7 "Person" – any and all persons, natural or artificial, including any individual, firm, company, public or private corporation, association, society, institution, enterprise, governmental agency or other entity.
- 1.8 "Shall" means mandatory; "May" means permissive.
- 1.9 "CBOD" – carbonaceous biochemical oxygen demand which is defined as the quantity of oxygen required to oxidize only the carbonaceous organic matter in five (5) days at 20 degrees C., determined by standard laboratory test procedures and expressed in mg/l.
- 1.10 "Basic User Charge" – the amount to be paid each billing period by all public sewer users for payment of operation and maintenance costs plus replacement of the sewage works.
- 1.11 "mg/l" – means milligrams per liter.
- 1.12 "NPDES Permit" – means any permit or equivalent document to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.
- 1.13 "Owner" – the titleholder of record of the premise, including, without limitation any or all beneficiaries of any trust holding title to the premises.
- 1.14 "Population Equivalent" – a term used to evaluate the loading of the wastewater system. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of CBOD and 0.20 pounds of suspended solids.
- 1.15 "Premises" – any lot or parcel of real property, improved or unimproved, which is in any manner served by a public sewer or a sewer operated, controlled, or maintained by the District, which provides the means for causing sewage to be removed from any part of or improvement upon the real property.
- 1.16 "Public Sewer" – (a) a sewer in which all owners of abutting properties have equal rights of connection and use, and is operated, maintained and controlled by the District; or (b) a sewer owned by a municipality whose sewer system is connected to a sewer operated, maintained, and controlled by the District.
- 1.17 "Replacement Costs" – expenditures for purchasing and installing equipment, accessories, or appurtenances which are necessary during the service life of the sewage works to maintain the capacity and performance for which such works were designed and constructed.
- 1.18 "Residential User" – any user of the sewage works located in a structure that is primarily used as a residence by its occupants.

- 1.19 "Non-Residential User" – any user of the sewage works located in a structure that is not primarily used as a residence by its occupants, including any incidental residential use.
- 1.20 "Sanitary Sewer" – a sewer that conveys sewage and polluted industrial wastes, and to which storm water, surface drainage, ground water or unpolluted wastewater is not intentionally admitted.
- 1.21 "Sewage" – a combination of the wastewater from residential, commercial, industrial and institutional buildings together with such ground water infiltration and surface water inflow that may be in the sewers.
- 1.22 "Sewage Treatment Plant" – an arrangement of devices, structures and processes for the treating and disposing of sewage.
- 1.23 "Sewer" – a pipe or conduit for conveying sewage or any other wastewater, including storm water, surface water and ground water drainage.
- 1.24 "Sewer User Service Charge" – the total amount to be paid each billing period by public sewer users including the basic user charge and a surcharge, if applicable.
- 1.25 "Sewer O&M Fund" – the principal accounting designation for all revenues received in the operation of the sewage works.
- 1.26 "Sewage Works" – all facilities of the District for collecting and pumping sewage and treating sewage and industrial waste in conformity with the District's NPDES permit and the Federal Act.
- 1.27 "Surcharge" – the amount to be paid each billing period by certain public sewer users in addition to the basic user charge.
- 1.28 "Suspended Solids" – solids that either float on the surface of, or are in suspension in water, sewage, industrial wastes, or other wastewater; the quantity of which is determined by standard laboratory filtering test procedures and referred to as nonfilterable residue expressed in mg/l.
- 1.29 "Useful Life" – the estimated period during which the sewage works will be operated from the date of start-up of any facilities constructed with a State grant.
- 1.30 "User" – the owner of any premises, as well as any person with any possessory interest in the real property or a person directly benefiting from such ownership or possessory interest. A person with a possessory interest shall include, without limitation, a person occupying or using the real estate by tenancy, use and occupancy, license, or adverse possession. A user shall also include any person who acquires possession or control of the premises by or through any judicial or extra-judicial legal proceeding or transaction, including, without limitation, appointment of a receiver, assignment for the benefit of creditors, deed in lieu of foreclosure, or assignment of rents or leases.
- 1.31 "User Class" – the type of user, either "residential" or "non-residential" as defined herein.
- 1.32 "Wastewater" – the wastewater from any residential, commercial, industrial and institutional uses.

- 1.33 "Billing Period" – the period of time for which a user of the sewerage system is billed by the District. The length of the Billing Period shall be monthly.

SECTION 2 SEWER USER SERVICE CHARGES

- 2.1 There shall be and there are hereby established Sewer User Service Charges for the use of and for the service supplied by the District sewage works which shall consist of a basic user charge for operation and maintenance plus replacement and a surcharge, if applicable.
- 2.1.1 The basic user charge shall be based on the water usage as recorded by approved water meters and/or sewage meters for wastewater having normal concentrations of 200 mg/l of CBOD and 250 mg/l of suspended solids.
- (a) Metered usage shall be read to the lowest even increment of 1,000 gallons.
- (b) Sewer users who obtain any portion of their water service from other than public water supply sources shall install and maintain, at no expense to the District, water meters of a type approved by the District Manager for the purpose of metering the water usage obtained from such other sources.
- (c) Wherever required by the District Manager, sewage metering devices shall be installed and maintained, at no expense to the District, when the volume of wastewater discharged to the public sewer cannot be otherwise determined by use of water meters.
- (d) Metering devices shall not be removed without the consent of the District Manager or written notification has been provided to the Northern Moraine Wastewater Reclamation District seven calendar days prior to the removal of service.
- 2.1.2 The Sewer User Service Charge shall be determined by the amount of revenue funds required to operate and maintain the District sewage works and to provide a depreciation fund for the repair and/or replacement of component parts of said sewage works for each fiscal year.
- 2.1.3 The Sewer User Service Charge to be paid monthly by all sewer users within the corporate limits of the District shall be in accordance within **Exhibit A** as approved by the Northern Moraine Wastewater Reclamation District.
- 2.1.4 The Sewer User Service Charges for each user outside the corporate limits of the District shall include a surcharge of fifty percent (50%) of the basic user charge, to each such user, as if such user were within the corporate limits of the District, except as provided for in a written intergovernmental or special sewer service agreement.
- 2.1.5 A surcharge shall be levied to all sewer users whose wastewater exceed the normal concentrations of 200 mg/l of CBOD and/or 250 mg/l of suspended solids as determined by waste sampling which shall be performed as often as deemed necessary by the District Manager and shall be binding as the basis for computing the surcharge. These surcharges shall be in accordance with

Exhibit A as approved by the Northern Moraine Wastewater Reclamation District.

- 2.1.6 Fees for other services such as filing of liens, returned checks and collection of outstanding debits to the District shall be charged in accordance with **Exhibit A.**
- 2.2 The Sewer User Service Charges shall be reviewed annually by the District's Board of Trustees and revised as appropriate to reflect changes in operation and maintenance costs including replacement costs of the Northern Moraine Wastewater Reclamation District. Adequacy of the Sewer User Service Charges shall be reviewed annually by the certified public accountants for the District in their annual audit report.
- 2.3 Sewer User Service Charges shall be billed in arrears on a monthly basis to all sewer users. Bills for sewer service shall be mailed or otherwise delivered on or after the first day of the month succeeding the billing period for which the service is provided, and payment shall be due twenty-one (21) days after the date the bill was rendered. If payment of the entire amount of said bill for Sewer User Service Charges is not received by the District on or before the twenty-first (21st) day after the billing date, then a late payment penalty of ten percent (10%) of the unpaid balance of the current bill shall be added thereto and become due and payable.
- 2.4 Any and all users of the premises shall be jointly and severally liable to pay the Sewer User Service Charge for service to the premises, and service is furnished to the premises by the District only upon the condition that the users are jointly and severally liable therefore to the District. Bills will be mailed to the owners of record of the premises. The District shall not be responsible for forwarding bills to tenants or other persons notwithstanding whether such other persons are users and therefore, are jointly and severally liable.
 - 2.4.1 Except as provided in this sub-paragraph to paragraph 2.4 of this Ordinance, the joint and several liability of any users of the premises shall include all charges due and owed pertaining to such premises regardless of the date that person became a user pursuant to this Ordinance or any preceding ordinance of the District. In the event that any premises are sold, transferred or assigned to another (hereinafter referred to as the "transferee") by any person or entity theretofore responsible for payment of charges (hereinafter referred to as the "transferor"), it shall be the responsibility of both the transferor and the transferee to notify, in writing, the District of the intended transfer no less than five (5) working days prior to the date of the intended transfer of the premises. Upon notification, the District shall render a final prorated billing for such service, prorated to the date of the proposed sale, transfer or assignment, and upon full payment thereof, the transferor shall thereafter be relieved of any further responsibility for such service. In the event that the District is not so notified of such transfer the transferee shall be deemed jointly and severally liable with the transferor for all unpaid charges for the premises incurred up to and including the date of transfer, as well as thereafter. In the event that the District is not so notified and paid the pro-rated amount calculated to the date of the proposed sale, transfer or assignment prior to such transfer, the transferee shall be deemed jointly and severally liable with the transferor for all unpaid charges for the premises incurred up to and including the date of transfer, as well as thereafter.

- 2.5 In the event the Sewer User Service Charges, including any penalty then due, are not paid within thirty (30) days after the date of billing, such charges and penalties shall be deemed and are hereby declared to be delinquent, and thereafter the District may file suit against the delinquent owner or owners to recover the unpaid Sewer User Service Charges as well as any and all court costs and attorney fees incurred by the District in filing such civil suit or costs, including attorneys' fees, incurred in collecting the past due charges. The District may also file a statement of lien claim with the County Recorder of Deeds in the county where the premises are located. This statement of lien claim shall include the legal description of the premises and the amount of the unpaid Sewer User Service Charges as of the date of recording. The recording of the lien itself shall be sufficient to include all additional accruing charges to be included in such lien until the date such lien is released. The District may cause notice of its claim for lien to be sent to any or all known users or other persons with an interest in the premises. The failure of the District to record a lien with the County Recorder of Deeds, or to mail the notice of delinquency and lien to an owner, user or occupant of the premises, or failure of a user to receive such notice shall not affect the right of the District to foreclose the lien for unpaid bills as mentioned in the foregoing section.
- 2.6 Premises subject to the District's lien may be foreclosed upon and sold for nonpayment of charges, and the proceeds shall be applied to pay for the amounts due the District and costs and expenses incurred in the foreclosure, including reasonable attorney fees. The foreclosure proceeding shall be by a bill-in-equity in the name of the District and the District's attorney is authorized and directed without further Board of Trustees approval to institute such proceedings in the name of the District in any court having jurisdiction of such matters against any premises for which the bill has remained unpaid for a period of 60 days.
- 2.7 The Clerk of the District shall receive all revenues from the Sewer User Service Charges and all other funds and moneys incident to the operation of the sewage works as the same may be delivered to the Clerk and deposit the same in the account of the fund designated for the Sewer O&M Revenue Fund. Said Clerk shall administer such fund in every respect in the manner provided in Section 12a of the Sanitary District Act of 1917, 70 ILCS 2405/12a, and all other laws amendatory thereof and supplementary thereto. The Clerk of the District shall report monthly to the Treasurer of the District on all revenues received and expenses incurred such that the Treasurer may report on the finances of the District to the Board of Trustees.
- 2.8 The Sewer User Service Charges shall be paid by any and all users of any premises that actually are or required to be connected to the District's sewage works, whether or not said premises are in fact connected to the District's sewage works, and shall commence on the last day said premises was required to be connected to the system. The fact that any premise is not occupied on a permanent or temporary basis does not negate the obligation to pay Sewer User Service Charges.
- a) In the event the Sewer User Service Charges for any premises are unpaid (delinquent) for 90 days or more past the due date, the District may discontinue sewer service to the premises. In such case, the District may block the flow of sewage from the delinquent premises to the District's sewer main, or physically disconnect the service line from the sewer main. The cost incurred by the District for such disconnection shall be added to the amount due to the District.
- b) Sewer service shall not be restored to any premises whose service is discontinued

except upon payment to the District of all delinquent Sewer User Service Charges, penalties as well as payment of a new connection fee and connection permit and inspection fee (as is due in the case of original connection to the District's system) at the then current rates. The cost of restoring the physical connection from the disconnected premises to the District's sewer main shall be borne solely by the User.

c) In lieu of, or in addition to disconnecting sewer service as provided above, the District may obtain the discontinuance of water service to any Premises for which Sewer User Service Charges are unpaid (delinquent) for more than 90 days past the due date, in accordance with the provisions of 70 ILCS 3010/7.

i. Any public or municipal corporation or political subdivision of the State furnishing water service to a premises shall discontinue that service upon receiving written notice from the District that payment of the Sewer User Charges for service to the premises has become delinquent and shall not resume water service until receiving a similar notice that the delinquency has been removed. The District shall not request discontinuation of water service before sending a notice of the delinquency to the sewer User and affording the User an opportunity to be heard. The District shall reimburse the public or municipal corporation or political subdivision of the State for the reasonable cost of the discontinuance and the resumption of water service. The District may contract with any privately owned or public utility for the discontinuance of water service to a premise with respect to which the payment of Sewer User Service Charge has become delinquent. The District shall reimburse the water service provider for any lost water service revenues and the costs of discontinuing water service, and shall indemnify the water service provider for any judgment and related attorney's fees resulting from an action based on any provision of this paragraph.

ii. The User shall be liable to the District for all costs and expenses incurred in shutting off or disconnecting, as well as restoring the User's water or sewer service, which shall be paid to the District before such service(s) are restored. Fees shall be in accordance with fees established in Exhibit A, as approved by the Northern Moraine Wastewater Reclamation District.

SECTION 3 ACCOUNTS

3.1 The District shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the Sewer O&M Fund, and at regular annual intervals shall cause to be made an audit of the books to show the receipts and disbursements of said fund by the certified public accountants for the District.

3.2 In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the sewage works including a replacement cost, to indicate that Sewer User Service Charges do in fact comply with this ordinance. In this regard, the financial information to be shown in the audit report shall include the following:

- 3.2.1 Flow data showing total gallons of wastewater treated for the fiscal year.
- 3.2.2 Billing data to show total number of dollars billed.
- 3.2.3 Debt service for the next succeeding fiscal year.
- 3.2.4 Number of users connected to the sewage works.
- 3.2.5 Number of non-metered users.

SECTION 4 NOTICE OF SEWER USERS SERVICE CHARGES

- 4.1 A copy of this ordinance properly certified by the District Clerk, shall be filed in the Office of the Recorder of Deeds of Lake and McHenry Counties, Illinois, and shall be deemed additional public notice to all persons of the Sewer User Service Charges and fees of the District for sewer service.

SECTION 5 PENALTY

- 5.1 Any person, firm, corporation, association, agent or legal representative violating any of the terms and provisions of this ordinance except for non-payment of Sewer User Service Charges shall be subject to a penalty of not less than \$10 nor more than \$500 for each said violation. Each day the violation continues shall be construed as a separate offense.

In the event there is a failure to make any payments due and owing under the terms and conditions of this ordinance, the District shall send written notice of demand for payment and thereafter there shall be assessed penalties on all sums due and owing in the amount of ten (10%) percent per month on the unpaid balance of the current bill.

SECTION 6 ACCESS TO RECORDS

- 6.1 The Illinois Environmental Protection Agency or its authorized representative shall have access to the books, documents, papers and records of the District which are applicable to the District system of Sewer User Service Charges for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the Special and General Sections to the State grant.

SECTION 7 EFFECTIVE DATE OF SEWER USER SERVICE CHARGES

- 7.1 The rates, fees and charges established for sewer user service in Section 2 and Exhibits A shall be effective on the effective date(s) listed in Exhibit A of the ordinance as may be amended from time to time.

SECTION 8 VALIDITY

- 8.1 All ordinances and any parts thereof in conflict with the terms and provisions of this Ordinance are hereby repealed to the extent of such conflict.
- 8.2 If any of the provisions of this Ordinance or the application thereof to any person or circumstance is declared invalid by a Court of competent jurisdiction said partial invalidity shall not affect other provisions or applications of this Ordinance which can

be given effect without the invalid provision and to this extent the provisions of this Ordinance are declared to be severable.

This Ordinance shall be published in pamphlet form by and under the authority of the corporate authorities of the Northern Moraine Wastewater Reclamation District, Lake and McHenry Counties, Illinois.

SECTION 9 ORDINANCE IN FORCE

- 9.1 This Ordinance shall be in full force and effect from and after May 1, 2023. The rates, charges, and other fees set forth in Exhibit A shall be applicable to the first full billing period following the effective date(s) noted in the Ordinance.
- 9.2 Passed and adopted by the Board of Trustees of the Northern Moraine Wastewater Reclamation District, Counties of Lake and McHenry, State of Illinois, on this 14th day of March, 2023 by the following vote:

Ayes: 4
Nays: 0
Abstain: 0

Approved this 14 Day of March, 2023.



Kenneth A. Michaels, Jr., President
Northern Moraine Wastewater Reclamation District

ATTEST:



Elisa Fisher, Clerk
Northern Moraine Wastewater Reclamation District



Ordinance No. 23-02

Exhibit A

**NORTHERN MORAIN WASTEWATER RECLAMATION DISTRICT,
LAKE AND McHENRY COUNTIES, ILLINOIS**

...
Effective May 1, 2023.

Sewer User Service Charges within the District shall be as follows:

1. **\$44.75 per month per individual residential dwelling unit per connection.** On May 1, 2024, this charge shall increase to \$47.00.
2. **\$44.75 per month per living unit for all apartment units or multiple living units** within the corporate limits of the District. On May 1, 2024, this charge shall increase to \$47.00.
3. **\$89.50 per month for up to 20,000 gallons discharged per month for all non-metered, non-residential users.** On May 1, 2024, this charge shall increase to \$94.00.

Such users exceeding 20,000 gallons discharged per month may be required to install a metering device to measure the volume of wastewater discharged and will result in reclassification to metered, non-residential users. Failure to install a required meter will result in a monthly rate of \$268.50. On May 1, 2024, this charge shall increase to \$282.00.

4. **\$44.75 per month for non-metered non-residential users who can consistently demonstrate a low user usage of 10,000 gallons or less per month,** as verified by the Northern Moraine Wastewater Reclamation District. On May 1, 2024, this charge shall increase to \$47.00.
5. **\$4.47 per 1,000 gallons of metered usage or a minimum bill of \$44.75 per month,** whichever is greater for all **metered non-residential users.** On May 1, 2024, this charge shall increase to \$4.70 per 1,000 gallons of metered usage or a minimum bill of \$47.00 per month, whichever is greater for all metered non-residential users.
6. **\$1.53 per pound of CBOD for discharges exceeding 200 mg/l of CBOD.** On May 1, 2024, this charge shall increase to \$1.61.
7. **\$1.53 per pound of suspended solids for discharges exceeding 250 mg/l of suspended solids.** On May 1, 2024, this charge shall increase to \$1.61.
8. A discount of \$1.00 per billing period may be applied in cases where paperless billing and payments are used or for billing periods for which prepayment was received to the extent that no bill is issued by the District.

**FEEES CHARGED FOR ISSUING NOTICES OF DELINQUENCY, PROCESSING
WATER SHUT OFF NOTICES, PROCESSING SERVICE SUSPENSIONS
AND/OR REINSTATEMENTS DUE TO DELINQUENCY, FILING AND
RELEASING OF LIENS AND RETURNED CHECKS**

Fee Schedule:

For Sewer Users in the Village of Island Lake:	
Issuance of Notice of Delinquency	\$15.00
Issuance of Water Shut off Notice	\$30.00
Village of Island Lake Red Tag Fee	\$55.00
Village of Island Lake Shutoff/Turn On fee	\$105.00
For Sewer Users in the Village of Lakemoor:	
Issuance of Notice of Delinquency	\$15.00
Issuance of Water Shut off Notice	\$30.00
Village of Lakemoor Shutoff/Turn On fee	\$55.00
For Sewer Users in the Village of Port Barrington:	
Issuance of Notice of Delinquency	\$15.00
Issuance of Service Suspension Notice	\$30.00
Issuance of Service Suspension Second Notice	\$65.00
NMWRD Sewer Service Shutoff/Restoration Fee	\$105.00
For Sewer Users in Unincorporated Areas	
Issuance of Notice of Delinquency	\$15.00
Issuance of Service Suspension Notice	\$30.00
Issuance of Service Suspension Second Notice	\$65.00
Issuance of Special Notices-Process Server	\$105.00
Service Suspension via Disconnection	District's Cost
Filing of Liens	
Filing and Releasing of Liens in McHenry County	\$136.00
Filing and Releasing of Liens in Lake County	\$150.00
Returned Check Fee	\$30.00