

ORDINANCE NO. \_\_\_\_\_ - 2019

AN ORDINANCE AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES AS FOLLOWS: AMENDING SECTION 16-48 TO INCREASE DISPOSAL FEES FOR SEWAGE; AMENDING SECTION 16-57.1 TO PROVIDE THAT ALL RATES AND FEES SET FORTH IN SECTIONS 16-48, 16-59, AND 16-60 SHALL BE ADJUSTED ANNUALLY EACH FISCAL YEAR EFFECTIVE JULY 1, 2021, IN ACCORDANCE WITH THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS; AMENDING SECTION 16-59 TO INCREASE FEES FOR SANITARY SEWER SERVICE RATES FOR RESIDENTIAL USERS SUBJECT TO SCHEDULE A FROM \$6.68 FOR THE FIRST UNIT, FROM ZERO (0) TO ONE HUNDRED (100) CUBIC FEET OF WATER AND \$5.03 PER UNIT FOR USAGE IN EXCESS OF ONE (1) UNIT TO \$7.01 EFFECTIVE JULY 1, 2019 AND \$7.36 EFFECTIVE JULY 1, 2020, FOR THE FIRST UNIT, FROM ZERO (0) TO ONE HUNDRED (100) CUBIC FEET OF WATER AND \$5.28 EFFECTIVE JULY 1, 2019 AND \$5.54 EFFECTIVE JULY 1, 2020, PER UNIT FOR USAGE IN EXCESS OF ONE (1) UNIT; TO INCREASE SANITARY SEWER SERVICE RATES FOR USERS SUBJECT TO SCHEDULE B FROM \$8.10 FOR THE FIRST UNIT, FROM ZERO (0) TO ONE HUNDRED (100) CUBIC FEET OF WATER, AND \$6.12 FOR USAGE IN EXCESS OF ONE (1) UNIT TO \$8.51 EFFECTIVE JULY 1, 2019 AND \$8.94 EFFECTIVE JULY 1, 2020, FOR THE FIRST UNIT, FROM ZERO (0) TO ONE HUNDRED (100) CUBIC FEET OF WATER AND \$6.43 EFFECTIVE JULY 1, 2019 AND \$6.75 EFFECTIVE JULY 1, 2020, PER UNIT FOR USAGE IN EXCESS OF ONE (1) UNIT, PLUS INCREASE THE CHARGE FOR SUSPENDED SOLIDS FROM 0.911 TO 0.957 EFFECTIVE JULY 1, 2019 AND 1.005 EFFECTIVE JULY 1, 2020, THE CHARGE FOR AMMONIA NITROGEN FROM 2.769 TO 2.907 EFFECTIVE JULY 1, 2019 AND 3.052 EFFECTIVE JULY 1, 2020, AND THE CHARGE FOR BIOCHEMICAL OXYGEN DEMAND FROM 1.102 TO 1.157 EFFECTIVE JULY 1, 2019 AND 1.215 EFFECTIVE JULY 1, 2020; AND AMENDING SECTION 16-60 TO INCREASE SANITARY SEWER TAP ON FEES.

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WHEREAS, on January 3, 2011, LFUCG, the United States Environmental Protection Agency, and the Commonwealth of Kentucky entered into a Consent Decree in a case styled United States et al. v. Lexington-Fayette Urban County Government, United States District Court for the Eastern District of Kentucky, Case No. 5:06-CV-00386 (“Consent Decree”), wherein LFUCG is required to develop Remedial Measure Plans to address wet weather overflows and sewer capacity related issues; and

WHEREAS, the Consent Decree requires, among other things, LFUCG to eliminate Sanitary Sewer Overflows (“SSOs”) in accordance with schedules approved by the Environmental Protection Agency and the Commonwealth of Kentucky; and

WHEREAS, it is necessary for sanitary sewer capacity to be increased to eliminate most SSOs, as required by the Consent Decree; and

WHEREAS, scheduled sanitary sewer infrastructure improvements are necessary in order to increase sanitary sewer capacity and eliminate SSOs, as required by the Consent Decree; and

WHEREAS, the current sanitary sewer user rates do not provide adequate revenue to pay for all scheduled sanitary sewer infrastructure improvements that are necessary to comply with the Consent Decree; and

WHEREAS, the most accurate and feasible method of ascertaining and measuring the use of the facilities and services of the sanitary sewer system, and for requiring compensation for such use, is by basing sanitary sewer service rates and charges upon the quantity of water supplied to the premises of the respective users, as shown by periodic meter readings of the party supplying water service, and therefore LFUCG's rates and charges for such use and service are established on such basis; and

WHEREAS, an increase in the sanitary sewer user fee is necessary to fund the costs of serious maintenance needs and scheduled sanitary sewer infrastructure improvements that are necessary in order to increase sanitary sewer capacity and eliminate SSOs, as required by the Consent Decree; and

WHEREAS, pursuant to the Consent Decree, failure to meet the SSO elimination schedule approved by the Environmental Protection Agency and the Commonwealth of Kentucky will result in significant, recurring, and cumulative financial penalties; and

WHEREAS, failure to meet the requirements of the Consent Decree is likely to result in further legal action by the United States Department of Justice.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 16-48(c) of the Code of Ordinances, Lexington-Fayette Urban County Government, be and hereby is amended to read as follows:

(c) Any person disposing of sewage, sewage waste or similar refuse as herein provided shall pay to the urban county government, director, division of revenue, a fee as follows, based on tank capacity, such fee being due for each tank, or portion of tank, of such waste disposed of as herein provided.

Tank Capacity (gallons)	Effective July 1, 2019	Effective July 1, 2020
500 or less	\$ 47.53	\$ 49.91
501 to 700	59.40	62.37
701 to 900	72.78	76.42
901 to 1000	81.67	85.75
1,000 or more, per gallon	0.923	0.969

Section 2 – That Section 16-57.1 of the Code of Ordinances, Lexington-Fayette Urban County Government, be and hereby is amended to read as follows:

All rates and fees set forth in sections 16-48, 16-59, and 16-60 shall be adjustable each July 1 beginning on July 1, 2021, by an amount based upon the Consumer Price Index for All Urban Consumers, the U.S. City Average (“CPI-u”) published monthly by the Bureau of Labor Statistics. These rates shall be adjusted up if so indicated by a factor determined by averaging the monthly CPI-u published for the twelve-month period ending, and including, April of the year before the July 1 adjustment.

Section 3 – That Section 16-59 of the Code of Ordinances, Lexington-Fayette Urban County Government, be and hereby is amended to read as follows:

Rates and charges for sanitary sewer service are hereby established as follows:

(a) *Schedule A*: Rates and charges shall be as follows:

(1) This schedule shall apply to users whose sewage originates solely from the result of human habitation in dwelling units which are individually metered for water service, defined herein to be a room or suite of two (2) or more rooms that is designed for, or is occupied by, one (1) family doing its own cooking therein and having only one (1) kitchen; however, "dwelling unit" shall not include a boardinghouse, motel or hotel as defined in the zoning ordinance. Residential users whose sewage originates solely from the result of human habitation in dwelling units as defined herein shall be charged the rate of seven dollars and one cent (\$7.01) effective July 1, 2019, and seven dollars and thirty six cents (\$7.36) effective July 1, 2020, for any amount between zero and the first one hundred (100) cubic feet (one (1) unit, equivalent of seven hundred and forty-eight (748) gallons) of incoming water used per residential unit per month for the first unit of incoming water per month.

(2) For all amounts in excess of one unit of usage, users shall be charged at the following unit cost, as established by the commissioner of environmental quality, in accordance with the provisions of this Code:

Flow per 1 unit of incoming water:

Effective July 1, 2019 ..... \$5.28

Effective July 1, 2020 ..... \$5.54

(b) *Schedule B*: Rates and charges shall be as follows:

(1) Users, other than those users charged under schedule A of this section, whose parameter loadings are established by the commissioner of public works in accordance with the provisions of this Code, shall be charged the rate for each parameter according to the following:

Flow per unit of incoming water for any amount between zero and the first unit:

Effective July 1, 2019 ..... \$8.51

Effective July 1, 2020 ..... \$8.94

Flow per unit over 1 unit:

Effective July 1, 2019 ..... \$6.43

Effective July 1, 2020 ..... \$6.75

Plus

Suspended solids discharged, per pound in excess of 250 ppm:

Effective July 1, 2019 ..... 0.957

Effective July 1, 2020 ..... 1.005

Ammonia nitrogen discharged, per pound in excess of 25 ppm:

Effective July 1, 2019 ..... 2.907

Effective July 1, 2020 ..... 3.052

Biochemical oxygen demand discharged, per pound in excess of 250 ppm:

Effective July 1, 2019 ..... 1.157

Effective July 1, 2020 ..... 1.215

(2) The urban county government will permit the installation of a separate water meter for those users as defined under schedule B. The installation of meters will be at the expense of the customer. This meter will measure the amount of water used that does not go into the sewer system and can then be excluded from the billing.

(3) Applications for a billing credit for water that does not go into the sanitary sewer system shall be made in writing to the compliance and monitoring manager, division of water quality, on a form provided by the division. Provided satisfactory evidence is provided with the application a credit for water excluded from the sewer system shall be granted for a period not to exceed six (6) months prior to the application date. No further credit shall be granted without a monthly application for credit with sufficient supporting evidence. The administration of these credits shall be under the division of

revenue and the division may prescribe such regulations, policies, or guidelines consistent with the provisions of this section as deemed necessary or appropriate to carry out the intentions stated herein.

(c) Any user subject to schedule A who is the legal title/leaseholder/renter of the benefited property who is age sixty-five (65) or older or who is receiving social security disability benefits and whose annual household income (as defined in section 16-59.1 below) is twenty-five thousand dollars (\$25,000) or less, said amount of income to be adjusted annually in accordance with the Social Security Administration’s cost of living adjustment, can apply for a discount. Upon acceptance for the discount, said user’s bill shall be decreased by thirty (30) percent of the billing amount or the amount of the rate for the first unit of usage, whichever is greater.

Section 4 – That Section 16-60(a) of the Code of Ordinances, Lexington-Fayette Urban County Government, be and hereby is amended to read as follows:

(a) Prior to every future tap-on or connection to any sewer pipe, main lateral, trunk line, interceptor or other installation or facility of the sanitary sewer system, there shall be paid to the director, division of revenue, a fee or charge, hereby established, which shall be solely for the privilege of connecting to the system and which shall be in addition to the requirement, as prescribed in section 16-38, that connections to the system be made at the sole expense of the connecting property owner. Such tap-on, connection or privilege fee is established and fixed as follows:

(1) Single-family residences, town homes, and duplexes (per unit) occupying lots:

	Effective July 1, 2019	Effective July 1, 2020
Of 1/4 acre or less	\$ 1,246.12	\$ 1,308.43
From 1/4 to 1/2 acre	2,313.99	2,429.69
From 1/2 to 3/4 acre	3,384.82	3,554.06
From 3/4 to 1 acre	4,630.94	4,862.49
Larger than 1 acre	5,877.05	6,170.90

(2) Apartments, condominiums, hospitals, and nursing homes:

	Effective July 1, 2019	Effective July 1, 2020
Each efficiency unit	\$ 499.02	\$ 523.97
Each 1-bedroom unit	925.28	971.54
Each 2-bedroom unit	1,210.45	1,270.97
3- or 4-bedroom unit	1,497.09	1,571.94
Minimum for each building	2,492.20	2,616.81

(3) Motels:

	Effective July 1, 2019	Effective July 1, 2020
Each living unit	\$ 925.28	\$ 971.54

(4) Trailer parks:

	Effective July 1, 2019	Effective July 1, 2020
Each trailer or space	\$ 1,246.12	\$ 1,308.43

(5) Service stations:

	Effective July 1, 2019	Effective July 1, 2020
Each station	\$ 7,123.14	\$ 7,479.30

(6) Restaurants, business, professional, commercial and industrial buildings, including such facilities in hospitals or nursing homes:

	Effective July 1, 2019	Effective July 1, 2020
A fee to be per square foot of floor space	\$ 1.427	\$ 1.498
Minimum fee for each Urban County Government sewer connection	\$ 1,246.12	\$ 1,308.43

(7) Storage areas, warehouses, and distribution centers:

	Effective July 1, 2019	Effective July 1, 2020
A fee to be per square foot of floor space	\$ 0.297	\$ 0.312
Minimum fee for each Urban County Government sewer connection	\$ 1,246.12	\$ 1,308.43

(8) Swimming pools:

	Effective July 1, 2019	Effective July 1, 2020
For the erection of each swimming pool, a fee 100 cubic feet	\$ 2.139	\$ 2.246

(9) Non-profit school establishments:

	Effective July 1, 2019	Effective July 1, 2020
The fee for each Urban County Government sewer connection, per square foot of floor space	\$ 0.711	\$ 0.747

Section 5 – That this Ordinance shall become effective on the date of its passage, but current rates shall remain effective for bills issued through June 30, 2019, with the new rates set forth herein taking effect for bills issued on or after July 1, 2019 and for bills issued on and after July 1, 2020, respectively, as provided hereinabove.

PASSED URBAN COUNTY COUNCIL:

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MAYOR

ATTEST:

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CLERK OF URBAN COUNTY COUNCIL  
PUBLISHED:  
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