

ORDINANCE NO. 22 - 2015

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 BEGINNING EFFECTIVE JULY 1, 2017, 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 \$5.09 FOR THE FIRST UNIT, FROM ZERO (0) TO ONE HUNDRED (100) CUBIC FEET OF WATER AND \$3.83 PER UNIT FOR USAGE IN EXCESS OF ONE (1) UNIT TO \$5.70 EFFECTIVE JULY 1, 2015 AND \$6.38 EFFECTIVE JULY 1, 2016, FOR THE FIRST UNIT, FROM ZERO (0) TO ONE HUNDRED (100) CUBIC FEET OF WATER AND \$4.21 EFFECTIVE JULY 1, 2015 AND \$4.80 EFFECTIVE JULY 1, 2016, PER UNIT FOR USAGE IN EXCESS OF ONE (1) UNIT; TO INCREASE SANITARY SEWER SERVICE RATES FOR USERS SUBJECT TO SCHEDULE B FROM \$6.17 FOR THE FIRST UNIT, FROM ZERO (0) TO ONE HUNDRED (100) CUBIC FEET OF WATER, AND \$4.65 FOR USAGE IN EXCESS OF ONE (1) UNIT TO \$6.91 EFFECTIVE JULY 1, 2015 AND \$7.74 EFFECTIVE JULY 1, 2016, FOR THE FIRST UNIT, FROM ZERO (0) TO ONE HUNDRED (100) CUBIC FEET OF WATER AND \$5.21 EFFECTIVE JULY 1, 2015 AND \$5.84 EFFECTIVE JULY 1, 2016, PER UNIT FOR USAGE IN EXCESS OF ONE (1) UNIT, PLUS INCREASE THE CHARGE FOR SUSPENDED SOLIDS FROM 0.694 TO 0.777 EFFECTIVE JULY 1, 2015 AND 0.870 EFFECTIVE JULY 1, 2016, THE CHARGE FOR AMMONIA NITROGEN FROM 2.108 TO 2.361 EFFECTIVE JULY 1, 2015 AND 2.644 EFFECTIVE JULY 1, 2016, AND THE CHARGE FOR BIOCHEMICAL OXYGEN DEMAND FROM 0.839 TO 0.940 EFFECTIVE JULY 1, 2015 AND 1.053 EFFECTIVE JULY 1, 2016; 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 of the Code of Ordinances, Lexington-Fayette Urban County Government, be and hereby is amended to read as follows:

- (a) Every person engaged in the business of disposing of sewage, sewage waste or similar refuse when disposal of same is made from within the limits of the urban county shall dispose of the same under the following terms and conditions:

(1) Any conveyance used for the hauling of sewage, sewage waste or similar refuse shall be equipped with waterproof tanks with tight-fitting covers so as to be free from leakage in the course of transportation.

(2) All such sewage, sewage waste and similar refuse shall be disposed of at the town branch sewage treatment plant septage receiving station maintained by the urban county government at such hours as may be designated by the director, division of water quality.

(3) All tanks, after having been emptied as herein provided, shall be thoroughly cleaned before leaving the disposal area.

(b) All vehicles and conveyances used in such manner as to be affected by the terms of this section shall be first approved by the board of health and a permit for their use obtained from such board.

(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.

TABLE INSET:

Tank Capacity (gallons)	Effective July 1, 2015	Effective July 1, 2016
500 or less	\$ 38.60	\$ 43.23
501 to 700	48.23	54.02
701 to 900	59.09	66.18
901 to 1000	66.32	74.28
1,000 or more, per gallon	0.075	0.084

(d) Every person who shall dispose of such sewage, sewage waste or similar refuse, as herein provided, shall make application to the urban county government, director, division of revenue, for a permit and shall purchase from the director, division of revenue, a book of tickets in the amount of fifty dollars (\$50.00) for the right to use the facilities of the urban county government in disposing of sewage waste and similar refuse. Before any person shall be permitted to use such facilities, he shall deliver to the person in charge of the disposal plant tickets in the amount of the fee as provided in subsection (c) of this section. All moneys received under the provisions of this section shall become a part of the urban county government sewer revenue fund.

(e) The emptying of sewage, sewage waste or similar refuse into any sanitary sewer or storm sewer which leads into or is a part of the urban county government's sanitary sewer system or storm sewer is specifically prohibited; and nothing contained in this section shall be construed to approve in any manner of disposal of sewage, sewage waste or similar refuse except as provided in this section.

(f) The urban county government recognizes no obligation to receive and treat at its sewage treatment plant any sewage, sewage waste or similar refuse hauled there in vehicles or

conveyances and tendered for such purpose. In the event the urban county government shall see fit to suffer such use of the services and facilities of the sewage treatment plant, the conditions thereof and rates and charges applicable thereto shall be as set forth in this section, or as the same may be amended from time to time.

(g) All materials listed under section 16-43 (materials forbidden to be discharged into public sewer) are likewise forbidden to be discharged at the town branch sewage treatment plant septage receiving station.

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, 2017, 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 five dollars and seventy cents (\$5.70) effective July 1, 2015, and six dollars and thirty-eight cents (\$6.38) effective July 1, 2016, 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 . . . \$4.21 effective July 1, 2015, and \$4.80 effective July 1, 2016

(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 . . . \$6.91 effective July 1, 2015, and \$7.74 effective July 1, 2016

Flow per unit over 1 unit . . . \$5.21 effective July 1, 2015, and \$5.84 effective July 1, 2016

Plus

Suspended solids discharged, per pound in excess of 250 ppm . . . 0.777 effective July 1, 2015, and 0.870 effective July 1, 2016

Ammonia nitrogen discharged, per pound in excess of 25 ppm . . . 2.361 effective July 1, 2015, and 2.644 effective July 1, 2016

Biochemical oxygen demand discharged, per pound in excess of 250 ppm . . . 0.940 effective July 1, 2015, and 1.053 effective July 1, 2016

(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 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, 2015	Effective July 1, 2016
Of 1/4 acre or less . . .	\$ 1,011.90	\$ 1,133.33
From 1/4 to 1/2 acre . .	1,879.05	2,104.54
From 1/2 to 3/4 acre . .	2,748.61	3,078.44
From 3/4 to 1 acre . . .	3,760.50	4,211.76
Larger than 1 acre . . .	4,772.39	5,345.08

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

	Effective July 1, 2015	Effective July 1, 2016
Each efficiency unit . . .	405.23	453.86
Each 1-bedroom unit . . .	751.37	841.53
Each 2-bedroom unit . . .	982.93	1,100.88
3- or 4-bedroom unit . . .	1,215.70	1,361.58
Minimum for each building . . .	2,023.76	2,266.61

(3) Motels:

	Effective July 1, 2015	Effective July 1, 2016
Each living unit . . .	751.37	841.53

(4) Trailer parks:

	Effective July 1, 2015	Effective July 1, 2016
Each trailer or space . . .	1,011.90	1,133.33

(5) Service stations:

	Effective July 1, 2015	Effective July 1, 2016
Each station . . .	5,784.27	6,478.38

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

	Effective July 1, 2015	Effective July 1, 2016
A fee to be per square foot of floor space . . .	1.158	1.297
Minimum fee for each urban county government sewer connection . . .	1,011.90	1,133.33

(7) Storage areas, warehouses, and distribution centers:  
 Effective July 1, 2015    Effective July 1, 2016  
 A fee to be per square foot of  
 floor space . . .                    0.241                    0.270  
 Minimum fee for each urban county  
 government sewer connection . . . 1,011.90    1,133.33


(8) Swimming pools:  
 Effective July 1, 2015    Effective July 1, 2016  
 For the erection of each swimming  
 pool, a fee 100 cubic feet . . . 1.737                    1.945

(9) Non-profit school establishments:  
 Effective July 1, 2015    Effective July 1, 2016  
 The fee for each urban county  
 government sewer connection,  
 per square foot of floor space . . . 0.578                    0.647

(b) However, neighborhoods which are served by septic tanks and which are identified for sewer installation in the urban county government's 1976 201 Facilities Plan for Wastewater Treatment Works and were further identified in a capacity reservation resolution as at the previous rate, shall pay the tap-on fee rates in effect prior to July 1, 1986.

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, 2015, with the new rates set forth herein taking effect for bills issued on or after July 1, 2015 and for bills issued on and after July 1, 2016, respectively, as provided hereinabove.

PASSED URBAN COUNTY COUNCIL:    March 17, 2015

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 MAYOR                    

ATTEST:

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 CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: March 26, 2015-1t  
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