RESOLUTION NO. WD 13-022

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS, ADOPTING A SYSTEM OF CHARGES FOR THE PAYMENT OF OPERATION AND MAINTENANCE COSTS OF JOHNSON COUNTY WASTEWATER AND CAPITAL IMPROVEMENT COSTS OF THE CONSOLIDATED MAIN SEWER DISTRICT AND CONSOLIDATING THE BILLING, COLLECTION AND APPEAL OF CHARGES TO THE EXTENT PRACTICABLE.

At a regular meeting of the Board of County Commissioners of Johnson County, Kansas, conducted Thursday, the 8th day of August, 2013, there came before the Board for consideration the matter of adopting a System of Charges for the payment of operation and maintenance costs of the sanitary sewer system operated by Johnson County Wastewater and capital improvement costs of the Consolidated Main Sewer District and consolidating the billing, collection and appeal of Charges to the extent practicable.

The Board, acting in its capacity as the governing body of Johnson County Wastewater and the Consolidated Main Sewer District, by motion duly made, seconded and carried, Resolution No. WD 13-022 was adopted; to wit:

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WHEREAS, Johnson County Wastewater (JCW) is the administrative body operating and maintaining wastewater collection and treatment facilities serving individual sewer districts located therein including the adoption and implementation of budgets for payment of such costs pursuant to State statute and Charter Resolution No. 29-92, and amendments thereto (the Charter Resolution); and

WHEREAS, on July 11, 2002, the Board adopted a System of Charges for the payment of operation and maintenance costs of the sanitary sewer system through the adoption of Resolution No. WD 02-35; and

WHEREAS, Resolution No. WD 02-35 was subsequently amended by the adoption of Resolution Numbers WD 02-67, on December 5, 2002; WD 03-56, on July 3, 2003; WD 04-069, on December 16, 2004; and WD 10-040, on November 4, 2010; and

WHEREAS, the Consolidated Main Sewer District (CMSD) of Johnson County is the administrative body that designs, constructs, and repairs capital improvements to sewer
facilities located therein, including the adoption and implementation of budgets for the payment of such capital improvement projects; and

WHEREAS, on February 20, 1992, the Board adopted a system of Capital Finance Charges to pay the cost of capital improvement projects within the Consolidated Main Sewer District by the adoption of Charter Resolution No. 29-92 and Resolution No. 025-92, as amended; and

WHEREAS, on August 23, 2012, in order to promote more cost effective billing, collection and appeal procedures, the Board adopted Resolution No. WD 12-019 authorizing the billing, collection and appeal of Capital Finance Charges in the same manner and in conjunction with the billing, collection and appeal of Sewer Use Charges to the extent practicable; and

WHEREAS, in order to further streamline and consolidate the assessment and collection of charges, the Board desires to adopt a System of Charges for the payment of operation and maintenance costs of the sanitary sewer system operated by Johnson County Wastewater and the capital improvement costs of the Consolidated Main Sewer District.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Johnson County, Kansas, as the governing body of Johnson County Wastewater and the Consolidated Main Sewer District, that from and after the effective date of this Resolution, Resolution Numbers 025-92, WD 10-040 and WD 12-019 are hereby repealed and pursuant to the authority set forth in Section II hereof, the provisions of this Resolution shall become applicable for the assessment of charges for the payment of the operation and maintenance costs of Johnson County Wastewater and capital improvement costs of the Consolidated Main Sewer District and the billing, collection and appeal of such charges shall be consolidated to the extent practicable.

SECTION I: PURPOSE. It is determined and declared to be necessary and conducive to the public health, safety, welfare and convenience and to the efficient and economical operation of the wastewater treatment facilities governed by the Board of County Commissioners that a System of Charges for the payment of operation and maintenance costs of the sanitary sewer system operated by Johnson County Wastewater and payment of capital improvement costs of the Consolidated Main Sewer District be adopted and the billing, collection and appeal of such charges be consolidated to the extent practicable.

SECTION II: AUTHORITY. This Resolution is adopted pursuant to the authority provided by Johnson County Charter Resolution No. 29-92 (Version 2013), the general powers provided under K.S.A. §19-101 et seq., and the powers and authorities established under
federal and state laws including but not limited to the Federal Clean Water Act and the Administrative Regulations of the United States Environmental Protection Agency.

SECTION III: DEFINITIONS. As used in this Resolution, unless the context specifically indicates otherwise, the terms used in this Resolution shall have the following meanings:

A. "Actual Water Use" shall mean actual water consumption based upon meter readings taken during a specified time period.

B. "Ad Valorem Tax" shall mean a tax or charge levied based upon the value of real property.

C. "Ad Valorem Real Property Tax Statement" shall mean the tax bill prepared and sent annually by the County Treasurer of Johnson County, Kansas, pursuant to K.S.A. §79-2001.

D. "Assessable Land" shall mean all land in a sewer district subject to payment of fees except for the following:
   1. Publicly-owned roads, parking lots, parks and cemeteries;
   2. FAA designated airport operations area;
   3. Public utility-owned properties;
   4. Railroad rights-of-ways; and;
   5. Other similar rights-of-ways or common area determined by the Chief Engineer to be dedicated to public use and/or not capable of development or other private purpose usage.

Notwithstanding the above exceptions, any land connected to a sewer shall be "assessable land".

E. "Average Annual Daily Equivalents" shall mean a measurement of BOD and suspended solids converted by calculation to units equivalent to the Average Domestic Sanitary Wastes and calculated to show average per day for each day of the year.

F. "Average Domestic Sanitary Wastes" shall mean wastewater that has a BOD and Suspended Solids concentration of that typically contributed by residential customers.

G. "Board" or "BOCC" shall mean the Board of County Commissioners of Johnson County, Kansas.

H. "BOD" shall mean the Biochemical Oxygen Demand which is the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard conditions.
laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter (mg/l).

I. "BOD Rate" shall mean the rate per pound of BOD used to calculate the cost of operation and maintenance allocated to the collection, treatment and processing of each pound of BOD.

J. "Capital Finance User Charge" or "Capital Finance Charge" shall mean the charge levied by the Board of County Commissioners pursuant to Article IX of Charter Resolution No. 29-92 (Version 2013), as amended, for the purpose of paying the costs of any capital improvement project or contract obligation or bonded indebtedness incurred by the Consolidated Main Sewer District.

K. "Capital Improvement Cost" shall mean expenditures for any capital improvement project or contract obligation or bonded indebtedness incurred by the Consolidated Main Sewer District.


M. "Clerical Errors" shall mean errors committed in the calculation of charges by Johnson County Wastewater including but not limited to one or more of the following:
   1. Errors in the description, quantity or quality of a property or use as listed by Johnson County Wastewater.
   2. Errors in the assignment of a property or use to an incorrect user class by Johnson County Wastewater.
   3. Errors in the approval of deferment applications by Johnson County Wastewater.
   4. Errors in which the amount of a charge is understated or overstated as a result of a mathematical miscomputation on the part of Johnson County Wastewater.
   5. Errors made in determining a property’s connection to the sanitary sewer system.

N. "Commercial User" shall mean a user where commodities or services of whatever kind or nature are exchanged, bought or sold.

O. "Customer Service Charge" shall mean the calculated Customer Cost Allocation which determines the amount of charge allocated for that portion of the operation
and maintenance costs and capital improvement costs attributable to services performed in the administration of the accounts of users, including billing, mailing and information services all of which are included as a component of the User Charge.

P. "Minimum User Charge" shall mean the calculated cost to provide basic sewer service to a user who contributes minimal or no actual volume or strength of wastewater discharge to the sewerage system and shall include the Basic Service Charge and the Customer Service Charge.

Q. "County Clerk" shall mean the County Clerk of Johnson County, Kansas, and/or the Johnson County Office of Records and Tax Administration.

R. "Deferment" means the deferment of assessment of Capital Finance Charges granted to qualified property pursuant to the provisions of Article IX, Section 10, of Charter Resolution No. 29-92 (Version 2013), as amended.

S. "Department of Treasury and Financial Management" shall mean the county officials assigned the duties of the County Treasurer, Motor Vehicle Department and the Financial Management Department as authorized by Resolution No. 050-10, and amendments thereto.

T. "Discharge" shall mean the introduction of or addition of any wastewater or other substance, whether liquid, solid or gas, into the wastewater treatment facilities of Johnson County Wastewater.

U. "Exempt Property" shall mean real property located within the prescribed service area of the Johnson County Wastewater that is determined to be exempt from Ad Valorem Taxes by order of the Court of Tax Appeals and/or the County Appraiser pursuant to K.S.A. 79-213, as amended.

V. "General Manager" shall mean the Director of Johnson County Wastewater, acting Director, or his or her designee, as designated herein and by Board Resolution No. 036-01, and amendments thereto.

W. "Government User" shall mean any user which is a publicly owned facility performing governmental functions.

X. "Industrial User" shall mean any user which is an industry identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions: Division A; Division B; Division D; Division E; Division I.
Y. "Infiltration" shall mean the water, other than wastewater, that enters a sanitary sewer system, including private service lines and/or sewer service connections, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include, and is distinguished from, inflow.

Z. "Infiltration and Inflow (I&I)" shall mean the total quantity of water from both infiltration and inflow entering a sanitary sewer system without distinguishing the source.

AA. "Inflow" shall mean the water, other than wastewater that enters a sanitary sewer system, including private service lines and/or sewer service connections, from such sources as, but not limited to, roof leaders; cellar, yard and area drains; foundation drains; cooling water discharges; drains from springs or swamppy areas; manhole covers; cross connections from storm sewers; combined sewers; catch basins; storm waters; surface runoff; street wash-waters; or drainage. Inflow does not include, and is distinguished from, infiltration.

BB. "Institutional User" shall mean any user which is an establishment, created or organized to conduct the business of a public institution or recognized society or association.

CC. "Johnson County Wastewater" means the combined sewer districts comprised of all sanitary sewer districts under the jurisdiction of the Johnson County Board of County Commissioners.

DD. "Metered Water Flow" shall mean actual wastewater flow received based upon meter readings taken during a specified time period.

EE. "Office of Records and Tax Administration" shall mean county officials assigned the duties of the County Clerk and Register of Deeds as authorized by Resolution No. 036-01, and amendments thereto.

FF. "Operation and Maintenance Cost" shall mean all expenditures during the useful life of the wastewater treatment facilities for materials, labor, utilities, and other items which are necessary for management and maintenance of the wastewater treatment facilities to achieve the capacity and performance for which such facilities were designed and constructed and shall include replacement costs which are expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the wastewater treatment facilities to maintain the capacity and performance for which such
facilities were designed and constructed but shall not include major capital improvements or expenses.

GG. "Person" shall mean an individual, a corporation, a partnership, an unincorporated association, a governmental entity or any other similar entity.

HH. "Prescribed Service Area" shall mean the area that lies within the defined boundaries of Johnson County Wastewater and which receives sewerage treatment services from wastewater treatment facilities operated and maintained by Johnson County Wastewater.

II. "Pollutant" shall mean any substance discharged into water, which alters the chemical, physical, biological or radiological integrity of the water.

JJ. "Residential User" shall mean any user that is a single family or multifamily dwelling that is used solely as a personal residence of the occupants but shall not include any commercial or institutional dwelling such as a hotel, motel, dormitory or care facility.

KK. "Sanitary Sewer System" shall mean all sanitary sewers and sanitary sewer facilities are owned, operated, or maintained by Johnson County Wastewater including but not limited to the Publicly Owned Treatment Works (POTW).

LL. "System Availability Charge" shall mean the charge assessed to vacant real property within the CMSD to recover the cost of the design and construction of capital improvements to the wastewater collection and treatment facilities with sufficient reserve capacity to serve the property when it is connected to the sanitary sewer system in the future.

MM. "Shall" is mandatory, "may" is permissive.

NN. "Subscriber" shall mean any entity, which is not located within the prescribed service area of Johnson County Wastewater but which by contract, utilizes the wastewater treatment facilities and services of Johnson County Wastewater.

OO. "Suspended Solids" or "TSS" shall mean solids that either float on the surface of or are in suspension in water, wastewater, or other liquids and which are removable by laboratory filtering.

PP. "Suspended Solids Rate" shall mean the rate per pound of suspended solids used to calculate the cost of operation, maintenance and capital improvements allocated to the collection, treatment and processing of each pound of suspended solids.
QQ. "Toxic Pollutant" shall mean any pollutant determined by the Environmental Protection Agency to be toxic under the Clean Water Act.

RR. "Unit Cost" shall mean the amount of cost allocated per unit to the determined component parts of the level and type of services provided; including the wastewater load, the character of the discharge and the customer account administration.

SS. "Useful Life" shall mean the estimated period during which a wastewater treatment facility will be operated without major renovations.

TT. "User" shall mean:
   1. All owners of real property located within the Prescribed Service Area of Johnson County Wastewater regardless of whether or not such owners reside upon or otherwise occupy the property.
   2. Any person or persons residing upon or otherwise occupying any real property who contribute wastewater into the wastewater treatment facilities of Johnson County Wastewater and who are deemed to be the actual user of the sewer service.
   3. Subscribers (i.e., wholesale customers such as other political units and municipal corporations) who are provided the services of the wastewater treatment facilities of Johnson County Wastewater by contract.

UU. "User Charge" shall mean the charge, or system of User Charges established to recover the operation and maintenance costs of the wastewater collection and treatment facilities and services of Johnson County Wastewater and the capital improvement costs of the Consolidated Main Sewer District.

VV. "Volume Rate" shall mean the rate per one thousand gallons per day of wastewater discharged used to calculate the cost of operation, maintenance and capital improvements allocated to the collection, handling, treatment and processing of the volume and delivery flow rate or discharge.

WW. "Wastewater" shall mean all pollutant and waste carrying water, liquids or fluids discharged into, transported through, and treated by wastewater treatment facilities.

XX. "Wastewater Treatment Facilities" shall mean all sanitary sewers, pumping and other equipment and their appurtenances, the treatment plant and other facilities that are an integral part of the wastewater collection and treatment process and treatment residue disposal system.
“Winter Water Use” shall mean average water consumption based upon meter readings of the volume of potable water used at the property during a specified time period that reasonably estimates the volume of wastewater discharged to the wastewater treatment facilities of Johnson County Wastewater.

SECTION IV: IMPLEMENTATION OF CHARGES.

A. SEWER USER CHARGE. For the purpose of paying for the costs of the operation and maintenance of the sewer facilities of Johnson County Wastewater, a Sewer User Charge is hereby implemented based upon each user class established under Section V of this Resolution. Each user within each user class shall be liable to pay, in the manner hereinafter provided, an amount which together with that of each other user in the class provides a total payment which is the proportionate share of the operation and maintenance costs of the wastewater collection and treatment facilities within the Prescribed Service Area based upon the proportionate contribution/water use of the user class to the total wastewater loading from all user classes. Except as may otherwise be prohibited by law, the liability of the owners of real property for said user charges is concurrent with that of any person or persons residing upon or otherwise occupying the real property who are deemed to be the actual users of the sewer service. All user charges shall begin accruing on the effective date of this Resolution.

B. BASIC USER CHARGE. Pursuant to Charter Resolution No. 29-92 (Version 2013), the Board may adopt and assess a basic user charge payable by each and every user of the sanitary sewer system. Such charge may be adopted by ordinary resolution of the board after notice and public hearing on the proposed charge.

C. MINIMUM SEWER USER CHARGE. There shall be and hereby is implemented a minimum sewer user charge, which shall be assessable to and payable by each and every user who, for whatever reason, does not discharge measurable amounts of wastewater into the sewerage system. The minimum user charge shall be determined annually by the Board of County Commissioners and shall, at least, be in an amount equal to the Basic Service Charge and Customer Service Charge.

D. CAPITAL USER CHARGE. For the purpose of paying for the costs of any capital improvement project or contract obligation or bonded indebtedness incurred by
the Consolidated Main Sewer District, a Capital Finance Charge is hereby implemented based upon each user class established under Section V of this Resolution. Each user within each user class shall be liable to pay in the manner hereinafter provided an amount which together with that of each other user in the class provides a total payment which is the proportionate share of such costs based upon the proportionate present or future contribution/water use of the user class to the total wastewater loading from all user classes. Except as may otherwise be prohibited by law, the liability of the owners of real property for said user charges is concurrent with that of any person or persons residing upon or otherwise occupying the real property who are deemed to be the actual users of the sewer service. All user charges shall begin accruing on the effective date of this Resolution.

E. **SYSTEM AVAILABILITY CHARGE.** For the purpose of paying for the cost of design and construction of capital improvements to the wastewater collection and treatment facilities with sufficient reserve capacity to serve vacant property located in the Prescribed Service Area when connected to the Sanitary Sewer System in the future, a System Availability Charge is hereby implemented. The System Availability Charge shall be determined, assessed and collected in the manner and amount specified in Section VI of this Resolution.

F. **CUSTOMER SERVICE CHARGE.** There shall be and hereby is implemented a Customer Service Charge assessed to recover operation, maintenance and capital improvement costs attributable to account administration, including but not limited to, billing, mailing, information services, and costs associated with the collection and treatment of Infiltration and Inflow entering the Sanitary Sewer System. The Customer Service Charge shall be determined, assessed and collected in the manner and amount as specified under Section VI of this Resolution.

G. **DEFAULT VALUE USER CHARGE.** There shall be and hereby is implemented a default value user charge which shall be assessable to and payable by each and every user for whom an accurate, measured or calculated usage is not available. The default value user charge shall be calculated and assessed on the basis of a prescribed usage equivalent to the defined average usage for each particular class and type of user.
H. ADDITIVE COST CHARGE. There shall be and hereby is implemented an additive cost charge which shall be assessed to and payable by any user who discharges or introduces into the sewerage system any toxic pollutants or other substances as described in Subsection VD.2. of this Resolution or as identified in any sewer use regulation or sewer use permit. The amount of the additive cost charge shall be equal to the actual additional operating costs incurred by the wastewater districts which are directly attributable to the discharge of the user.

I. USAGE SURCHARGE. There shall be and hereby is implemented a usage surcharge which shall be assessable to and payable by any user whose discharge is determined to contribute an excessive amount of wastewater or pollutants, whether measured by volume or strength components, to the sewerage system. Excessive use shall be established whenever the user discharges, over a period of seven days or more, an average daily equivalent usage that exceeds the standard usage for any component by at least 200 percent. The surcharge rate shall be twice the established basic user charge rate applied to each of the measured units determined to be excessive.

J. OTHER CHARGES. Pursuant to Charter Resolution No. 29-92 (Version 2013), the Board of County Commissioners may from time to time establish and assess other charges by separate ordinary resolution. Such other charges shall be assessed after notice and public hearing on the proposed charge and adoption of a resolution imposing the charge.

K. EXISTING CHARGES NOT AFFECTED. The charges established and assessed under this Resolution shall not supersede nor affect other charges adopted and imposed by the Board unless expressly identified in this Resolution, and existing charges including but not limited to those for maintenance of low pressure sewers and charges assessed under the Capital Finance Plan for the payment of capital costs shall continue in effect and shall not be affected by this Resolution.

SECTION V: CLASSIFICATIONS ESTABLISHED. Based upon the Administrative Regulations, Guidelines, and criteria adopted by the Environmental Protection Agency and upon the analysis and study of Johnson County Wastewater, the following classifications are established to ensure the equitable allocation of operation, maintenance and capital improvement costs.
A. USER CLASS R-I (Residential Customers) shall include all single family dwelling residential users with property located within the prescribed service area of Johnson County Wastewater.

B. USER CLASS R-II (Multi-Family Residential Customers) shall include all non-exempt, multi-family residential users with property located within the prescribed service area of Johnson County Wastewater. User Class R-II is sub-classified as follows for the purpose of calculating the applicable default user charge:
   1. Single Meter Single Unit Multi-Family
   2. Master Meter Multi-Units Multi-Family

C. USER CLASS C-I (Small Commercial Customers) shall include all non-exempt, non-residential users, including small commercial users with property located within the prescribed service area of Johnson County Wastewater that introduce or discharge into the wastewater treatment facilities of Johnson County Wastewater less than the average annual daily equivalent of 27,000 gallons per day of domestic sanitary wastes, or wastewater containing less than 42 pounds per day of BOD, or wastewater containing less than 52 pounds per day of TSS, as determined by the Chief Engineer for Johnson County Wastewater from data and measurements of water usage and discharge characteristics, including volume, strength and delivery flow rate.

D. USER CLASS IC-I (Large Commercial and Industrial Customers) shall include:
   1. All non-exempt, non-residential users, including industrial, commercial, institutional, and governmental users with property located within the prescribed service area of Johnson County Wastewater that introduce or discharge into the wastewater treatment facilities of Johnson County Wastewater the average annual daily equivalent of 27,000 gallons per day or more of domestic sanitary wastes, or wastewater containing more than 42 pounds per day of BOD, or wastewater containing more than 52 pounds per day of TSS, as determined by the Chief Engineer for Johnson County Wastewater from data and measurements of water usage and discharge characteristics, including volume, strength and delivery flow rate.
   2. All non-exempt, non-residential users with property located within the prescribed service area of Johnson County Wastewater that introduce or discharge into the treatment facilities of Johnson County Wastewater:
a. Any pollutant identified by, or designated by EPA under and in accordance with Section 307 of Public Law 95-217, the Clean Water Act, as a toxic pollutant; or

b. Any substance, whether solid, liquid, or gas which is generally considered to be poisonous to human, animal, aquatic or plant life; in a quantity which, either singly or by interaction with other pollutants, is determined, through chemical testing, biological monitoring, or data provided by EPA pursuant to Section 304 of the Federal Water Pollution Control Act, Public Law 92-500, as amended by the Clean Water Act of 1977, Public Law 95-217, sufficient to cause any of the following:

1) Contamination of the sludge of the sewerage treatment system; or

2) Obstruction of the sewerage treatment facilities; or

3) Chemical, physical or biological harm or injury to the processes utilized in the sewerage treatment facilities to remove or treat pollutants; or

4) A hazard to human health or the propagation of animal or aquatic life as determined by officials of EPA or the Johnson County Health Department or Kansas Department of Health and Environment; or

5) Creation of a public nuisance as determined by the Kansas Department of Health and Environment pursuant to K.S.A. §65-159; or

6) Creation of a hazard in or an adverse effect on the waters receiving any discharge from the sewerage treatment facilities.

E. USER CLASS S-I (Subscriber Customers) shall include all subscribers (i.e., wholesale customers such as political units, municipal corporations and other entities) that are provided the services of the wastewater treatment facilities of Johnson County Wastewater by negotiated contract.

F. USER CLASS EX-I (Exempt Non-Residential Customers) shall include all non-residential users of real property located within the prescribed service area of the Johnson County Wastewater that are determined to be exempt from Ad Valorem
Taxes by order of the Court of Tax Appeals and/or the County Appraiser pursuant to K.S.A. §79-213, as amended.

G. USER CLASS EX-II (Exempt Residential Customers) shall include all single family dwelling residential users of real property located within the prescribed service area of the Johnson County Wastewater that are determined to be exempt from Ad Valorem Taxes by order of the Court of Tax Appeals and/or the County Appraiser pursuant to K.S.A. §79-213, as amended.

H. USER CLASS EX-III (Exempt Multi-Family Residential Customers) shall include all multi-family residential users of real property located within the prescribed service area of Johnson County Wastewater that are determined to be exempt from Ad Valorem Taxes by order of the Court of Tax Appeals and/or the County Appraiser pursuant to K.S.A. §79-213, as amended. User Class EX-III is subclassified as follows for the purpose of calculating the applicable default user charge:

1. Exempt Single Meter Multi-Family
2. Exempt Master Meter Multi-Family

I. CLASS A-1 (Vacant Land Not Connected to the Sanitary Sewer System) shall include all vacant parcels or tracts of Assessable Land within the Consolidated Main Sewer District and contract districts that are not currently and have never been connected to or received wastewater treatment services from Johnson County Wastewater.

SECTION VI: RATES. The Board of County Commissioners of Johnson County, Kansas, shall review rates at least annually and shall, by resolution, adopt rates that are sufficient and adequate for the payment of the operation, maintenance, capital improvement, and administrative costs of Johnson County Wastewater and the Consolidated Main Sewer District. In reviewing and establishing such rates, the Board of County Commissioners, to the extent practicable, shall utilize the following procedures:

A. The General Manager for Johnson County Wastewater shall as part of the annual budget process, submit to the Board of County Commissioners a schedule of rates based on the proportionate contribution of each user class (except Class A-1) of the total wastewater loading derived from all user classes to the wastewater treatment facilities of Johnson County Wastewater based upon a calculation of the volume, capacity (rate of flow), BOD, and suspended solids contributed to the system by each user class.
B. The Board of County Commissioners shall review the adopted and/or proposed Operation and Maintenance and Capital Improvement Budgets for Johnson County Wastewater and the Consolidated Main Sewer District and, to the extent necessary, establish expenditure guidelines for the Budgets. The official Budgets shall be adopted annually as required by state law and in accordance with the standard budget policies and procedures of the Board of County Commissioners.

C. The Board of County Commissioners, or its designated agent, shall allocate according to the information submitted by the General Manager of Johnson County Wastewater the proportionate costs for Operation and Maintenance and Capital Improvements determined from each Budget to each class.

D. The Board of County Commissioners, or its designated agent, shall at least annually establish a Customer Service Charge to recover, at a minimum, all billing and collection costs and a portion of the cost of collecting and treating Infiltration and Inflow.

E. The Board of County Commissioners, or its designated agent, shall at least annually establish a Minimum Sewer User Charge to recover the costs of maintaining sewer service for users, regardless of the actual volume and strength of wastewater discharged to the wastewater treatment facilities of Johnson County Wastewater, but inclusive of the Customer Service Charge.

F. Based on the determinations made in Subsections A, B, and C of this Section, the General Manager shall recommend for approval by the Board of County Commissioners as part of the budget process a unified Volume rate, BOD rate, and Suspended Solids (TSS) rate to be used for the calculation of charges for all classes. These rates, upon approval and publication, shall be and become effective upon the date of the first billing cycle after January 1 of the year following their adoption unless the resolution adopting such rates provides for a different effective date, in which case the rates shall go into effect for the first billing cycle following the effective date.

G. The User Charge for properties that are connected to the sanitary sewer system shall be the greater of the Minimum Sewer User charge determined under Subsection E. of this Section, or the total User Charge based upon the allocable cost of the prior year’s winter water use for users in class R-I, R-II, EX-II and EX-III; actual monthly water use for users in classes C-I, IC-I, and EX-I; and actual
monthly metered wastewater flow for users in class S-I and other users whose wastewater characteristics vary significantly from domestic strength, as determined by the chief engineer; calculated under the following formula:

The (Volume charge rate x water use by the user, based on the criteria described in Section VI.G. for the various classes, measured per 1,000 gallons) + (the BOD charge rate x the number of pounds of BOD discharged annually by the user) + (the Suspended Solids (TSS) charge rate x the number of pounds of suspended solids discharged annually by the user) + (the customer service charge).

As a transitional measure and for one year only, for purposes of determining the amount of the Capital User Charge component of the User Charge for Classes EX-I, EX-II and EX-III that are included on the 2013 Ad Valorem Tax Statement, the charge shall be based on the number of Equivalent Dwelling Units (EDUs) assigned the property and the EDU rate established by the Board for the fiscal year 2014 budget.

H. The Board of County Commissioners, or its designated agent, shall at least annually establish a Service Availability Charge per acre for vacant property within Class A-1 that is not and has never been connected to the sanitary sewer system based on the Capital Revenue requirements of the Consolidated Main Sewer District divided by the total number of acres of Assessable Land within the Consolidated Main Sewer District and contract districts.

I. Nothing in this Section shall prevent the Board of County Commissioners from reviewing and/or adopting rates at any time as and when the Board determines it necessary and advisable, and the rates may be adopted by the Board as a part of the Resolution approving and authorizing the annual budget of the County and/or Johnson County Wastewater.

SECTION VII: SUBSCRIBERS. Unless otherwise provided by Resolution of the Board, subscribers to the wastewater treatment facilities or services of Johnson County Wastewater shall:

A. Provide, within thirty (30) days of the receipt of written request, to Johnson County Wastewater, all information necessary to properly classify all users located within the service area of the subscriber and shall fully cooperate in
providing information necessary for the General Manager to determine actual use of any such user based upon the criteria provided in Section VI of this Resolution.

B. Pay to Johnson County Wastewater the user charge determined by the Board of County Commissioners as the allocated cost of operation, maintenance, capital improvement and administrative costs attributable to the contributed wastewater loading of the subscriber in accordance with the provisions of Section VI of this Resolution.

C. Adopt a user charge system in accordance with Section 204(b)(1)(A) of the Clean Water Act and Sections 35.929 through 35.929-3 of 40 CFR Part 35, Subpart E of the Rules and Regulations of the EPA as required by Section 35.929-2(e) of such Rules and Regulations.

This Resolution shall not apply to contracts entered into between Subscribers and Johnson County Wastewater prior to the effective date unless agreed to by the parties.

SECTION VIII: ADJUSTMENTS AND REVIEW. The Board of County Commissioners or its designated agent shall at least biennially review the wastewater contribution of users and user classes; the total costs of operation and maintenance capital improvements and administration; the allocation and determination of costs; and the User Charge system. The Board of County Commissioners shall revise the charges for users or user classes to:

A. Maintain the proportionate distribution of operation and maintenance costs among users and user classes;

B. Maintain the proportionate distribution of capital improvement costs among users and user classes;

C. Generate sufficient revenue to pay the total operation and maintenance costs necessary for proper operation and maintenance of the wastewater collection and treatment facilities;

D. Generate sufficient revenue to pay the total capital improvement costs necessary to pay the costs of any capital improvement project or contract obligation or bonded indebtedness incurred by the Consolidated Main Sewer District or Johnson County Wastewater.

SECTION IX: ASSESSMENT OF CHARGES.

A. EFFECTIVE DATE AND ASSESSMENT PERIOD. This Resolution shall become effective from and after January 1, 2014. The User Charges shall be assessed on an annual basis for users within user class R-I, R-II, EX-II, EX-III, and A-1, on
a monthly basis for users within user classes C-I, IC-I and S-I, and on either an annual or monthly basis as designated by users in class EX-I.

B. REGULAR ASSESSMENT PERIOD. Assessment rates and water use data shall be established annually and apply to User Charges effective on the first billing period commencing after January 1 of each calendar year following the conclusion of all billing periods for customers based upon the prior year rates and water use data, or such other date as may be established by the Board of County Commissioners as part of the Resolution approving and adopting the rates or charges.

C. USAGE DETERMINATION AND RATE APPLICATION. The charges assessed to and payable by users of property connected to the sanitary sewer system shall be determined in the manner provided under Section VI of this Resolution by applying the effective rate charges to the measured or calculated usage as provided therein. Usage shall be determined by measured flow for users in the IC-I class, by actual monthly water use for user classes C-I, IC-I and EX-I, and by extrapolated annual water use for users in user classes R-I, R-II, EX-II and EX-III. The extrapolation of the annual water use shall be based upon the winter water use determined for the property based upon winter month water consumption. The winter month water consumption shall be based upon records available from the water district serving the property reflecting the prior year winter months. The winter water use calculations shall be reviewed and revised annually, with changes in the determined water usage calculation to be made effective consistent with determinations made by the water supplier. In the event that the water supplier does not separately calculate the winter water usage, then Johnson County Wastewater shall make the calculation in a manner consistent with the method used for the majority of users in the same class. For users who receive water from on-site or non-measured sources, the usage shall be determined from records and documentation kept by the user. In the event that water use data, for whatever reason, is not available either for a particular property or for a particular period of time, then the water usage may be determined and assessed utilizing the default usage charge.

D. WATER DATA RECORDS. As a condition to the use of the sanitary sewer system, each and every user shall be and hereby is required to have and to maintain reasonable documents and records to reflect the use, by volume and
strength, of the sewerage system. Unless otherwise expressly required, records showing the monthly water use and billing from the water supplier to the property shall be sufficient and adequate records. Upon reasonable request or in the event of a dispute, the property owner or other user shall provide the wastewater district with copies of or access to such records. For convenience of administration, Johnson County Wastewater will make reasonable efforts to obtain the required data and information directly from the water suppliers. Johnson County Wastewater may share such data and information with the property owner and/or occupant of the property, and shall upon the request of any property owner, provide use data and information related to the property including account status even if the user is not the owner.

E. RECOVERY OF DATA CHARGES. In the event that any user shall fail or refuse to keep and provide records as required by Subsection D of Section IX of this Resolution or provides false, incomplete or inaccurate data or information related to sewer use, then, in addition to the recovery of charges not assessed and/or collected as a result of such lack of records or such false or inaccurate data, Johnson County Wastewater may assess a recovery fee to the user. The amount of the recovery fee shall be based upon the allocated cost of staff time and expense expended to obtain, correct or verify the data, records and information.

F. USER CHARGES. As and when the owner of a property or other user of the sewer services changes at any particular property or user facility, the charge assessment, classification, and/or usage determination shall be reviewed and considered for modification upon application of the new owner or other user or upon confirmed receipt of information by Johnson County Wastewater of the change. Changes shall be made in the manner authorized by the procedures adopted by the General Manager of Johnson Count Wastewater, but no changes in the assessment shall be made when the change of user or use has no demonstrable change in the annual use or the change in use is temporary only. In the event that a change in the assessment is warranted but adequate usage data is not available, then the default usage charge will be assessed. In the event that a user in the R-I, R-II, EX-II or EX-III bi-monthly classification moves into or out of a dwelling unit during a billing cycle, then the charges will be prorated to reflect appropriate days of usage, upon request of the user.
SECTION X: BILLING AND COLLECTION.

A. **PROCEDURE.** All User Charges shall, to the extent practicable, be consolidated and billed in the following manner:

1. Subscribers shall be billed in the manner provided in the contract negotiated between the Subscriber and Johnson County Wastewater.

2. The bills of users provided water service through a municipal or other public water utility company shall be sent by U.S. Mail to the same address where water bills are currently being sent by the water company serving the property, unless a user requests that Johnson County Wastewater send the bill to an alternative mailing address and/or by pre-authorized electronic transmission to an electronic address requested by the user.

3. The bills of users who receive water from on-site sources shall be sent by U.S. Mail to the mailing address of the owners of the property listed on the tax records at the Department of Treasury and Financial Management, unless a user requests that Johnson County Wastewater send the bill to an alternative mailing address and/or by pre-authorized electronic transmission to an electronic address requested by the user.

4. The bills of users in Class EX-I, EX-II and EX-III shall be sent by U.S. Mail and/or by pre-authorized electronic transmission to the same address where water bills are currently being sent by the water company serving the property, unless written request is received from the owner on or before July 15 requesting that the user charge for the year be included on the current Ad Valorem Real Property Tax Statement for the property.

5. The System Availability Charge for property in Class A-1 shall be included on the Ad Valorem Real Property Tax Statement for the property.

B. **BILLING CYCLE.** The user charge provided for in this Resolution shall be billed as follows:

- R-I and R-II users shall receive statements on a bi-monthly basis
- C-I users shall receive statements on a monthly basis
- IC-I users shall receive statements on a monthly basis
- S-I users shall receive statements on a monthly basis
- EX-I users shall have the option of receiving statements on a monthly basis or at the request of the owner of the real property, the user charge
for the year shall be included on the Ad Valorem Real Property Tax Statement.

EX-II and EX-III users shall have the option of receiving statements on a bi-monthly basis or at the request of the owner of the real property the user charge for the year shall be included on the Ad Valorem Real Property Tax Statement.

A-1 System Availability Charges shall be included on the Ad Valorem Real Property Tax Statement for the property.

C. PAYMENT. All charges, except charges assessed classes EX-I, EX-II, EX-III, and A-1, that are included on the Ad Valorem Real Property Tax Statements, shall be due and payable 30 days from the billing date. Users receiving bills on a monthly or bi-monthly basis shall pay the assessed charges in full within thirty (30) days from the date posted on the bill. Failure to timely pay the assessed charges as billed shall be a violation of this Resolution and result in the assessment of interest, late fees and additional delinquency charges or penalties as provided herein. User charges included on the Ad Valorem Real Property Tax Statement shall become due and payable and subject to collection (with statutory penalties and interest) in the same manner that Ad Valorem Real Property Taxes become due and payable and are collected under Kansas law. User charges not included on the Ad Valorem Real Property Tax Statement shall be payable by the user to the Johnson County Wastewater and upon receipt thereof, the funds shall be deposited in the appropriate fund of Johnson County Wastewater.

D. REVIEW AND APPEAL. Any user may dispute the amount of a charge or the method of its calculation by filing an appeal with the General Manager of Johnson County Wastewater. The General Manager shall adopt procedures for processing the dispute application and for consideration and resolution of the dispute. In order to prosecute an appeal, the charge must be paid in full and a written appeal describing the amount and reason for the appeal must be timely filed with the General Manager. In all such dispute proceedings, it shall be the responsibility of the user to demonstrate the inaccuracy of the data or charges and to provide documentation sufficient for an accurate determination of the usage contributed by the user. The appeal of charges included on Ad Valorem Real Property Tax Statements shall be filed with the General Manager on or before January 10, of the calendar year following receipt of the initial Ad Valorem
Real Property Tax Statement for the tract or parcel. The Appeal of a User Charge that is not included on the Ad Valorem Real Property Tax Statement shall be filed with the General Manager within the same calendar year the bill was issued. Users in user classes R-I, R-II, EX-II and EX-III may dispute only the annual calculated charge or its basis, and may not dispute individual billings. Any user filing multiple appeals in any one regular assessment period (annually from January 1 to December 31) without submission of credible and accurate data to support the appeal shall be subject to an additional assessment of costs for the appeals, which shall be determined and assessed for each appeal, other than the first, which is not supported by the required documentation and the amount of the cost assessed shall be equivalent to the cost attributable to the staff time and expense expended to process the appeal, but not less than $100.00.

E. REFUNDS. If it is determined that a charge was incorrectly calculated by Johnson County Wastewater due to a Clerical Error resulting in an over assessment, the overage paid by the appellant for the current and prior two years as a result of the error shall be refunded to the appellant. If it is determined that a charge was incorrectly calculated by Johnson County Wastewater as a result of a Clerical Error resulting in an under assessment, the additional amount due for the current year may assessed by Johnson County Wastewater and collected from the appellant.

F. TRANSFER OF DEBT. For the purpose of collecting delinquent account receivables, JCW may transfer past due charges from an inactive account to an active account provided the customer of record is the same.

G. LIEN. Except as otherwise prohibited by applicable law, any charges included on the Ad Valorem Real Property Tax Statements shall become due and payable and the tract or parcel shall become subject to the attachment of a lien securing collection of such charges in the same manner Ad Valorem Real Property Taxes are secured and collected under Kansas Law.

SECTION XI: ANNUAL NOTICE: The General Manager shall on at least an annual basis by mail or by other means deemed appropriate such as e-mail, notification on billing statements, and/or by posting on Johnson County Wastewater's website made available to the user provide notice of the user charge rate currently being charged to such user or user class. This Notice may be included in the monthly, bi-monthly bill, or the annual Ad Valorem Real
Property Tax Statement sent to the user by including the information as a separate line item notation on the bill or provided in the form of a separate itemized billing notice mailed to the user.

SECTION XII: ENFORCEMENT:

A. **DELINQUENCY:** The account of any user that is not paid in full on the due date shall be considered delinquent and subject to the accrual of interest from the date thereof and subject to collection in the same manner that delinquent Ad Valorem Taxes are collected under Kansas law. In addition thereto, but not in lieu thereof, the Board of County Commissioners may cause suit to be commenced against any user or subscriber that has failed to make timely payment of such user charges in any Court of competent jurisdiction for the purpose of collecting the user charge, and the County shall be entitled to recover all costs of such suit, including reasonable attorneys' fees.

B. **BANK FEES.** Johnson County Wastewater shall charge and be entitled to recover any bank fees or charges, including but not limited to fees or charges assessed for returned checks, insufficient funds checks, and stop payments, at the same rate such fees or charges are assessed from time to time by the Department of Treasury and Financial Management.

C. **LATE FEE.** Johnson County Wastewater shall impose and collect, in addition to any interest payable on the past due balance, a late payment fee in the amount of Five Dollars ($5.00) for each late payment of a monthly or bi-monthly bill. A late payment shall be any amount paid or balance due accruing more than thirty (30) days from the date of the billing statement.

D. **INTEREST ON DELINQUENT USER CHARGES.** Any charge established by or under this Resolution if not paid in full on the due date shall be considered delinquent and subject to the accrual of interest from the date thereof at the same rate interest accrues against delinquent Ad Valorem Taxes under Kansas Law.

E. **FEES ON DELINQUENT USER CHARGES.** In addition to interest and other late fees or delinquency charges, Johnson County Wastewater may impose and collect from any user whose user charge payments are delinquent the fees and charges incurred by Johnson County Wastewater for collection of the delinquency, including but not limited to:

1. Any Right Party Contact and Collection Agency fees;
2. A lien certification fee in an amount of Two Hundred Dollars ($200.00);
3. Reasonable attorneys' fees and court costs;
4. Returned check (NSF) charges; and
5. All other applicable collection costs.

F. CERTIFICATION OF LIEN. Except for tracts or parcels for which charges are already subject to a lien by virtue of their inclusion on the Ad Valorem Real Property Tax rolls, the General Manager may, on or before August 25 of each year, certify to the Office of Records and Tax Administration the legal description and amount of any delinquent charges, fees and interest accrued through the date of certification to be included on the Ad Valorem Real Property Tax Statement of the tract or parcel. Upon receipt of certification, the Office of Records and Tax Administration shall place such delinquent charges, fees and accrued interest on the tax rolls of the property for collection in the same manner that a lien securing delinquent Ad Valorem Taxes is collected under Kansas Law.

G. NOTICE OF INTENT TO CERTIFY LIEN. Written notice of the intent of the General Manager to certify delinquent charges and interest to the Office of Records and Tax Administration for placement on the tax rolls shall be sent by certified mail at least thirty (30) days prior to certification to the mailing address of the owners of the subject property listed on the real estate tax records at the Office of Records and Tax Administration or other known address and to the current billing address of any person or persons residing upon or otherwise occupying the real property deemed the actual users of the sewer service that shall state:
1. The intent of the General Manager to certify the delinquent charges and interest to the Office of Records and Tax Administration for placement on the tax rolls of the subject property unless the charges and any accrued interest is paid in full within thirty (30) days from the date of the Notice.
2. The date the General Manager intends to certify the lien.

H. DISCONNECTION. The General Manager, after notice and opportunity for hearing as hereinafter provided, and upon a finding that a charge assessed by or under the provisions of this Resolution is delinquent and unpaid, may issue an order directing that wastewater treatment facilities and services be disconnected to the delinquent user, subscriber, or property owner unless, within thirty (30) days of receipt of the order by the user, subscriber, or owner, the charge is paid.
in full, together with any accrued interest, or the user, subscriber, or owner demonstrates sufficient cause why the property should not be disconnected.

I. NOTICE OF INTENT TO DISCONNECT. Notice of the intent to issue an order to disconnect pursuant to Subsection H of this section shall be given at least twenty (20) days prior to issuance of the disconnect order to the user, subscriber or owner, in writing, sent by certified mail to the mailing address of the owners of the subject property listed on the real estate tax records at the Office of Records and Tax Administration or other known address, and to the current billing address of any person or persons residing upon or otherwise occupying the real property who are deemed to be the actual users of the sewer service that shall state:

1. The intent of the General Manager to issue an order directing that the property be disconnected unless the charge is paid in full together with any accrued interest, unless cause is shown by the user not to disconnect the property;

2. The date the General Manager intends to issue the order; and

3. That the user, subscriber, or owner has the right to request within the twenty (20) days an opportunity to appear before the Board of County Commissioners and be heard to show cause why such order should not be issued.

J. RECONNECTION. Wastewater collection and treatment facilities and services shall be reconnected to the user, subscriber, or owner upon payment of all delinquent user charges, accrued interest, penalties, fees, and costs associated with collecting amounts, and all costs for disconnection and reconnection to Johnson County Wastewater.

K. APPLICATION OF PAYMENTS. Any partial payments received after a delinquent account is certified to the Office of Records and Tax Administration and placed on the Ad Valorem real property tax roll shall be paid to the Department of Treasury and Financial Management and shall be subject to the same procedures under which delinquent ad valorem real estate taxes are collected, applied and distributed by the Department of Treasury and Financial Management under Kansas Law. Any partial payments received on delinquent accounts prior to the time they are certified to the Office of Records and Tax
Administration and placed on the Ad Valorem real property tax roll shall be paid
and applied in the following manner:

1. Partial payments on delinquent accounts that have been turned over to
and are currently held for collection by a private collection agency shall be
applied in the following order:
   a. Satisfaction of any utility deposits ordered funded by a bankruptcy
      Court, if applicable;
   b. Satisfaction of any accrued interest, penalties, fees and other
costs associated with the collection of the delinquent balance that
is currently held for collection by a private collection agency in
order of oldest to newest; and
   c. Satisfaction of any remaining principal balance of the delinquent
balance that is currently held for collection by a private collection
agency in order of oldest to newest.

2. Partial payments on delinquent accounts that have not been turned over
to and are not currently held for collection by a private collection agency
shall be applied in the following order:
   a. Satisfaction of any utility deposits ordered funded by a bankruptcy
Court, if applicable;
   b. Satisfaction of any accrued interest, penalties, fees and other
costs associated with the collection of the delinquent balance that
is not currently held for collection by a private collection agency in
order of oldest to newest; and
   c. Satisfaction of any remaining principal balance of the delinquent
balance that is not currently held for collection by a private
collection agency in order of oldest to newest.

SECTION XIV: SEVERABILITY. In the event any section or part thereof of this
Resolution shall be found to be unenforceable by a competent Court of jurisdiction, then the
remaining provisions of this Resolution shall remain valid and in full force and effect.

SECTION XV: EFFECT OF REPEALER. The repeal of Resolution Numbers 025-92,
WD 10-040 and WD 12-019 and any resolution, regulation or policy otherwise conflicting with
this Resolution shall not impair the validity of any charges accrued prior to the effective date of
this Resolution or the ability of Johnson County Wastewater to collect such charges after the
effective date in the manner provided for under such resolutions, nor shall it impair any pre-
existing rights or obligations of parties to private contracts to the extent such impairment may be prohibited under Article 1, Section 10 of the United States Constitution. The repeal of such resolutions is not intended to apply to nor otherwise affect the provisions of Charter Resolution No. 29-92 (Version 2013), which remains in full force and effect.

SECTION XVI: EFFECTIVE DATE. This Resolution shall become effective on January 1, 2014, following its adoption and publication in a newspaper of general circulation within Johnson County, Kansas.

The Board of County Commissioners of Johnson County, Kansas, setting as the governing body of Johnson County Wastewater

[Signature]

Ed Eilert, Chairman

ATTEST:

[Signature]

Linda W. Barnes, Interim Clerk of the Board

APPROVED AS TO FORM:

[Signature]

Roger L. Tarbution, Assistant County Counselor

RESOLUTION NO. WD 13-022 OF THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS, ADOPTING A SYSTEM OF CHARGES FOR THE PAYMENT OF OPERATION AND MAINTENANCE COSTS OF JOHNSON COUNTY WASTEWATER AND CAPITAL IMPROVEMENT COSTS OF THE CONSOLIDATED MAIN SEWER DISTRICT AND CONSOLIDATING THE BILLING, COLLECTION AND APPEAL OF USER CHARGES TO THE EXTENT PRACTICABLE.

[Stamp]

AUG 08 2013