

CHARTER RESOLUTION NO. 29-92

Version 2013

***Adopted as Charter Resolution No. 29-92 by the Board of County Commissioners of Johnson County, Kansas, on February 20, 1992; amended June 19, 1997 by Charter Resolution 33-97; amended May 4, 2000 by Charter Resolution 35-00; amended June 5, 2008 by Charter Resolution 39-08; amended May 3, 2012, by Charter Resolution 041-12; amended March 7, 2013, by Charter Resolution No. 042-13 (effective May 23, 2013).***

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**ARTICLE I. LEGISLATIVE PROVISIONS**

**SECTION 1: AUTHORITY AND DESIGNATION**

This Charter Resolution is adopted and enacted pursuant to the home rule powers of the Board of County Commissioners of Johnson County, Kansas as specified in subsection (J) of Section 2 of Charter Resolution 18-84, and under K.S.A. 19-101a and 19-101b and the other powers and authorities of the Board and shall be known and designated as the Johnson County Wastewater Facilities Act, adopted as Charter Resolution No. 18-84, as amended and modified.

**SECTION 2: JURISDICTION AND APPLICATION**

The provisions of this Charter Resolution shall apply to all persons and properties located within or without Johnson County, Kansas, for which the Board of County Commissioners shall have or exercise jurisdictional authority, under federal or state law or mandate, to provide or regulate sanitary sewer facilities for the discharge and/or treatment of wastewater and sanitary waste products.

**SECTION 3: STATEMENT OF POLICY**

It is hereby declared to be the policies of Johnson County that:

A. Wastewater treatment and sewerage facilities in Johnson County shall be designed and constructed to efficiently and effectively provide cost-effective service to the persons and properties using the facilities while maintaining and providing adequate capacities and processes to protect the future interests of the County and its residents and to comply with federal and state environmental and water quality requirements.

B. All persons and properties in Johnson County derive equivalent benefits from properly constructed and maintained sanitary sewer facilities.

C. The costs of constructing, repairing and replacing sewerage facilities, as well as the operation and maintenance of those facilities, should be shared uniformly through all of the users.

D. The costs of sanitary sewer facilities should be shared and allocated proportionately to the users of the sewer system based upon the design requirements to provide the facilities for

the various types of users.

E. New development and additional connections to the sewer facilities should bear a proportionate cost to have facilities available and to access those facilities.

F. Properties committed to use for productive agricultural purposes should be allowed a period of time for conversion to other property uses prior to the allocation of costs for sewer facilities.

#### SECTION 4: POWERS AND AUTHORITIES OF THE BOARD

The Board of County Commissioners shall be the governing body of any and all sewer districts that it creates or over which it exercises jurisdiction and control, and the Board shall have the power and authority to:

A. create any sewer district, as provided in this Act, and to enlarge, combine, consolidate, or otherwise alter or modify the boundaries of any sewer district under the governance of the Board, for any purpose authorized by this Act;

B. remove or exclude property from any sewer district and to dissolve any sewer district under the governance of the Board, and any property excluded from or located within a dissolved sewer district may be included in or attached to any one or more other sewer districts governed by the Board;

C. exercise powers of local legislation and administration, in conformance with K.S.A. 19-101a, 19-101b and 19-101c, and amendments thereto, as may be necessary and convenient for the purpose of providing sewer services and governing the operation and transaction of business of sewer districts, including, but not limited to, the establishing of administrative procedures and practices and the delegation of powers and authorities, by resolution, to the Chairman of the Board, the County Manager, or the General Manager or Chief Engineer of Johnson County Wastewater;

D. create, construct, reconstruct, extend, enlarge, operate and maintain a sewer system for and in any sewer district;

E. acquire, by purchase or condemnation, any real or personal property necessary to provide an adequate sewerage system;

F. improve sewers and appurtenances thereof, through, under or along any street, public highway, alley or park and across any land within the county and to a connection with any creek, ravine, river or any other place;

G. construct, extend, enlarge, improve, operate and maintain sewage disposal plants;

H. acquire, by contract or purchase, easements, rights-of-way or any other interests in sewers, sewage plants or other means of disposal of sanitary sewage, either within or outside the state, in the manner and on the terms the Board of County Commissioners deems advisable;

I. issue permits to any person to construct sewers for any sewer district according to plans and specifications and under terms approved by the Board and under its inspection. The cost of the construction shall be borne entirely by the person contracting for the improvements or as otherwise directed by the Board;

J. enter into contracts and inter-local agreements pursuant to K. S. A. 12-2901 et seq., and amendments thereto;

K. adopt any rule, regulation, standard limitation or requirement which is necessary to provide for the efficient and economical operation of the sewerage system;

L. create an area-wide sewage disposal district, for the elimination or prevention of pollution of the waters of the state in any one or more drainage areas, to be served by a single jurisdiction;

M. conduct any plan or study and contract with any person to provide any plans or studies determined to be advisable by the Board, and provide for the payment of costs of plans and studies through the annual wastewater district budget for operation, maintenance and planning of the sewerage system;

N. commence legal proceedings necessary or advisable to enforce the provisions of this Act or any rule or regulation governing the operation of the sewerage system, and to initiate or



defend any legal action of any kind;

O. prevent, control, reduce and eliminate water pollution within and without the county; protect, restore and maintain the integrity of the county's waters; and plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate and maintain a sewerage system;

P. apply for and accept advances, loans, grants, contributions or any other form of financial assistance from the federal government, the state or other private or public body for the purposes of providing or operating or maintaining a sewerage system;

Q. establish, levy and collect taxes, fees, charges, assessments or other exactions, for revenue purposes and otherwise, as authorized in this Act, and to use the proceeds of such fees, charges and assessments in such manner and for such purposes as the Board determines are reasonable and necessary for the planning, altering, enlarging, extending, improving, constructing, reconstructing, developing, redeveloping, operating and maintaining the sewerage system, and to pay the costs of principal and interest upon any notes, bonds, contracts or other instruments or evidence of indebtedness of any sewer district or districts; and

R. establish and maintain funds, including multi-year capital improvement funds, which may be authorized by this Act or by Kansas law, including the provisions of K.S.A. 19-120, and to invest the proceeds of any such funds in the manner authorized by K.S.A. 10-131.

## **ARTICLE II. ADMINISTRATION**

### **SECTION 1: RESPONSIBILITIES**

The provisions of the Johnson County Wastewater Facilities Act shall be administered, as directed by the Board, by and through the General Manager and Chief Engineer of Johnson County Wastewater (JCW), under the supervision of the County Manager, or his designee.

The General Manager of JCW shall be responsible for the day-to-day supervision and management of the staff and duties of Johnson County Wastewater. The Chief Engineer of JCW shall be responsible for supervising all engineering services required for the proper operation of the wastewater treatment and sanitary sewerage system of Johnson County.

## SECTION 2: RULES AND REGULATIONS

The General Manager and the Chief Engineer of JCW shall be and hereby are authorized and directed to develop, establish and implement programs, procedures, rules and regulations subject to the advice and consent of the Board of County Commissioners which are or which may hereafter be required to implement the provisions of this Act and to comply with the policies of this Board and all applicable federal and state laws, rules and regulations.

The policies, procedures, rules and regulations now existing and in effect, whether expressly adopted by Resolution or otherwise implemented, which are not directly in conflict with the provisions of this Act, shall be and hereby are affirmed and ratified to be applicable and enforced under this Act.

The General Manager and Chief Engineer of JCW shall further develop and implement appropriate forms, procedures, and administrative programs which are reasonably necessary to effectively implement and administer this Act.

## SECTION 3: RULES FOR CONSTRUCTION AND INTERPRETATION

In implementing and administering the provisions of this Act, the following intentions shall apply:

A. The provisions of this Resolution shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.

B. For the purposes of administration and enforcement of this Resolution, unless otherwise stated in this Resolution, the following rules of construction shall apply to the text of this Resolution:

1. In case of any difference of meaning or implication between the text of this Resolution and any caption, illustration, summary table, or illustrative table, the text shall control.

2. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

3. Words used in the present tense shall include the future; and words used in

the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

4. The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".

5. The word "person" includes an individual, a corporation, a partnership, an unincorporated association, or any other similar entity.

6. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either...or", the conjunction shall be interpreted as follows:

a. "And" indicates that all the connected terms, conditions, provisions or events shall apply.

b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

7. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

#### SECTION 4: DEFINITIONS

A. "Board" means the Board of County Commissioners of Johnson County;

B. "Chief Engineer" means the Chief Engineer, acting Chief Engineer and/or his or her designee, as designated herein and by Board Resolution No. 036-01, and amendments thereto.

C. "County Manager" means the County Manager, acting County Manager and/or his or her designee, as designated herein and by Board Resolution No. 036-01, and amendments thereto.

D. "sewer district" means any classification of wastewater or storm sewer districts;

E. "Johnson County Sewer Use Regulation" means the Johnson County Code of

Regulations for Sanitary Sewer Use, 2003 Edition, adopted by Resolution No. 120-02, and any amendments or superseding resolutions thereto.

F. "Johnson County Wastewater (JCW)" means the combined sewer districts comprised of all sanitary sewer districts under the jurisdiction of the Johnson County Board of County Commissioners;

G. "General Manager" means the Director of Johnson County Wastewater (formerly known as the Johnson County Unified Wastewater Districts), acting Director, and/or his or her designee, as designated herein and by Board Resolution No. 036-01, and amendments thereto.

H. "improvement" means any trunk sewers, outfall or intercepting sewers, manholes, pumps, pumping stations, lift stations, force mains, treatment plants and any appurtenances and apparatus necessary for the collection, storage, treatment and disposal of storm or sanitary sewage, sludge, and wastewater;

I. "improve" means constructing, reconstructing, enlarging or extending any improvement;

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

K. "project cost" shall mean all costs including engineering, legal fees, easement acquisition, construction or any other cost, including financing costs and interest, which relates to completion of the improvement project;

L. "sewerage system" means any property owned by the sewer district or any property in which the sewer district has a property interest and any sewers, outfall or intercepting sewers, manholes, pumps, pumping stations, lift stations, force mains, treatment plants and any appurtenances and apparatus necessary for the collection, storage, treatment and disposal of storm or sanitary sewage, sludge, and wastewater.

M. "federal law" and "federal pollution control laws" means the Clean Water Act, 33

U.S.C. 1251 et seq., and the amendments thereto, also known as the Federal Water Pollution Control Act, and all administrative regulations adopted pursuant thereto.

N. "industrial user" means a person who indirectly discharges or introduces pollutants into any treatment facility or collection system owned, operated, maintained or served by JCW and which is a non-domestic source regulated under Section 307(b), (c) or (d) of The Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq.

O. "person" means any individual, firm, corporation, partnership, association, government entity or any other legal entity.

P. "user" means a person that introduces wastewater, storm water, or water to the JCW sewerage system or the owner of land located within any sewer district created or operated under the jurisdiction and authority of the Board, regardless of whether it is connected to the JCW sewerage system.

Q. "publicly financed district" means a created sewer district as provided herein where the improvements in the district are financed by the issuance of municipal bonds or by federal, state or other local municipal funds.

R. "privately financed district" means a created sewer district as provided herein where the improvements in the district are paid for solely by the property owner(s) or their agent with private financing.

S. "area wide district" means a district lying within two (2) or more adjacent counties.

T. "assessable land" means all land in a sewer district subject to payment of fees except the following:

1. Publicly-owned roads, parking lots, parks, and cemeteries;
2. FAA designated airport operations areas;
3. Public utility-owned properties;
4. Railroad rights-of-way; and;
5. Other similar rights-of-way 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”.

U. The term “public utility” as used in Charter Resolution No. 29-92 and all amendments or additions thereto shall be a public utility as defined by K.S.A. 66-104 and amendments thereto.

V. The initials “LPS” or the phrase “low pressure sewer system,” shall refer to a sewer system comprised of one or more low pressure sewer mains, grinder pumps, low pressure service lines, and items appurtenant thereto.

W. The phrase “gravity sewer system”, shall refer to a sewer system comprised primarily of conventional gravity dependent sewer mains and service lines and items appurtenant thereto.

### **ARTICLE III. SEWER DISTRICTS**

#### **SECTION 1: PURPOSE AND TYPES OF DISTRICTS**

The Board of County Commissioners shall have the power to provide one or more systems of sanitary sewerage and wastewater treatment facilities within the County and to create or establish by resolution one or more sanitary sewer districts for the purposes of designing, planning, building, constructing, acquiring, maintaining and regulating wastewater treatment and sewerage facilities. All properties requiring or desiring sanitary sewerage service, under the jurisdiction of the Board, shall be included within one or more sanitary sewer districts, as determined by the Board and shall be subject to all rules, regulations, charges, taxes, fees, and other assessments or requirements adopted and applicable for and within the sewer district.

To provide adequate sanitary sewerage facilities and regulation for the use and discharge to the system, the Board may create or establish the following types of sewer districts:

- Lateral sewer districts;
- Joint sewer districts;
- Sewer sub-districts;
- Sub-main sewer districts;
- Main sewer districts;
- Special service districts;
- Planning districts;
- Regulatory districts;
- Unified districts;
- Combined districts;
- Consolidated districts; and
- Contract districts.

The Chief Engineer for Johnson County Wastewater shall establish and define engineering standards and criteria applicable for establishment of each type of district.

SECTION 2: CREATION OF SEWER DISTRICTS

A. GENERAL REQUIREMENTS. The Board shall have the power to create a sewer district in the manner hereinafter provided whenever:

1. A valid petition requesting the creation of a sewer district is filed with the Board as defined in paragraph B of this section; or

2. The secretary of the Kansas Department of Health and Environment (KDHE) or the local health officer determines and certifies to the Board that unsanitary conditions or a nuisance exists or are expected to develop and which may be removed or prevented by the installation and utilization of sewers; or

3. The JCW Chief Engineer recommends the creation of a joint sewer district, regulatory district, or contract district; or

4. It is necessary or advisable to combine, unify or consolidate sewer districts;

or

5. It is necessary to create a district for planning purposes or regulatory

purposes; or

6. The creation is required by any applicable code, law, or regulation.

B. PETITIONS FOR CREATION. For any sewer district sought or required to be created by petition of property owners, the petition requesting the creation of a sewer district shall be signed by the owners of at least 51% of the acreage of the land in the proposed district, excluding that acreage dedicated or used for public roads, public parks, FAA designated airport operations areas, railroad rights-of-way, and cemeteries. To be valid, the petition shall meet all requirements established by the administrative rules and regulations adopted by the General Manager and Chief Engineer of JCW for creation of sewer districts. Petitions for the creation of any sewer district for which the costs of improvements are proposed to be paid through public financing shall, at a minimum, contain the following requirements:

1. The boundaries of the district;
2. The nature of sewerage improvements requested or required;
3. The estimated cost of any construction project, including a proportionate share of costs due other districts, if any, for use of facilities;

4. The applicable Capital Finance Charge, or other fees, assessments or charges including user charges, buy-in fees, and operation, maintenance and planning taxes for districts not already paying those costs;

5. The proposed method of assessment and/or allocation of the project costs and the estimated amount of such costs; and

6. A statement acknowledging that a connection fee is due and payable before any structure is connected to the sewerage system; and that if the district is created, petitioners will not be eligible for deferment from the Capital Finance Charge or connection fee.



Petitions for the creation of any sewer district in which the costs of the proposed capital improvements are to be paid through private financing shall not be required to include the information required in paragraphs 3, 4 or 5. Petitions solely for the enlargement of the Consolidated Main Sewer District shall not be required to include the information required in Paragraph 3.

The petition also shall state that if the Board determines that the improvement project is not feasible, then all costs and expenses of the work, including preliminary planning, engineering, legal and other preliminary work of skilled persons employed by the Board may be assessed against the district if the Board so determines.

Any person who has signed a petition for creation or enlargement of a sewer district and who desires to withdraw their name from the petition or any person who did not sign a petition for creation or enlargement of a sewer district and who desires to add their name to the petition may do so by giving written notice to the Board on or before 9:00 A.M. on the date the Board takes formal action to set the public hearing on the Petition. Notice of withdrawal or addition of names shall be delivered to the Board of County Commissioners at its official offices, by United States mail, facsimile transmission, courier or hand delivery.

7. Upon request, Johnson County Wastewater's Chief Engineer or the Chief Engineer's designee may prepare Petitions for the creation or enlargement of any sewer district. In such case, Johnson County Wastewater's General Manager shall set a date, not to exceed two (2) years, by which the Petition shall expire. Petitions for the creation or enlargement of any sewer district not prepared by Johnson County Wastewater's staff shall expire two (2) years after the date the first person signed the Petition or a copy thereof.

C. PROCEDURES FOR CREATION BY PETITION

1. TIME FOR CONSIDERATION. The Board shall hold a public hearing on the petition within one hundred and twenty (120) days after the petition is filed with the Office of Records and Tax Administration, unless for good cause, the Board, by official action extends

that time. The petition shall be null and void after the Board has determined not to create the district.

2. NOTICE AND HEARING. Prior to the creation of a sewer district, the Board of County Commissioners shall publish a notice stating: (1) its intent to create a sewer district, (2) a description of the area of the proposed district or the property within the boundaries in sufficient detail to advise the landowners within the proposed district of the proposal, and (3) the date and location of a public hearing to be held to consider the creation of the sewer district and to hear objections thereto. The notice shall be published in the official newspaper or newspapers of general circulation in the County at least ten (10) days prior to the date of the hearing. Except for main sewer districts, combined or consolidated sewer districts, and JCW, notice of the hearing shall also be mailed by prepaid first class mail, at least 14 days prior to the date of the hearing, to all landowners within the proposed district. The failure of any landowner to receive notice shall not invalidate creation of the district or any allocation of costs therefore. Notice and hearing shall not be required when the petition requesting the creation of a district is signed by 100% of the landowners within the district or subject to any assessment or levy of costs for improvements in a proposed district, or when the proposed improvements are to be paid by private financing.

3. CITY CONSENT. The Board shall not create initially any sewer district within or enlarge any sewer district into the limits of any incorporated city without the consent of the governing body of that city. Once the city consents to such creation or enlargement, such consent shall extend to all types of sewer districts within that created district. Cities may supply the required consent in advance by means of a blanket consent that will be effective for all sewer district creations in the city, until written revocation thereof is received by the Board. Revocations of blanket consents may not be retroactive. Said blanket consents shall be subject to any limitations therein contained.

4. CONSIDERATION OF PETITION. Upon the filing of a petition, the Board may employ engineers or other skilled persons to make a preliminary study of the area sought to be sewerred, determine the approximate boundary lines of the sewer district, the feasibility of the proposed improvement, the treatment required, the approximate size of sewers and disposal plant required, the approximate cost of the project when completed, and any other information pertinent to the planning and construction of the sewer improvements.

If the Board then determines that the proposed creation or enlargement of a sewer district is not feasible, then the cost and expense of the work, including preliminary planning, engineering, legal and other work of skilled persons employed by the Board may be paid from the planning fund of JCW.

If the district is created, then the cost of the preliminary study may be included in the project cost for the district.

Although the use of a gravity sewer system is the preferred method of providing public sewer service, if construction of a gravity sewer system is not feasible due to topographic or economic considerations, or due to the predominance of a pre-existing onsite sewer systems, the use of a low pressure sewer system (LPS) or such other alternative design system may be recommended by the Chief Engineer and approved by the General Manager to serve the district.

5. ACTION ON PETITION. The Board shall act on the petition at any time within 120 days after the conclusion of the public hearing required herein, and if not created within the 120 days, the petition shall be considered null and void unless the Board formally extends its action for another thirty (30) days due to unusual circumstances necessitating such extension. The sewer district shall be created substantially as requested by the petition or other authorized request, except that no area shall be added which was not described in a notice of public hearing, except as otherwise provided in this Resolution.

Whenever the Board adopts a resolution creating, enlarging, consolidating or combining any sewer district or districts, or implementing sewer improvements, a certified copy of the resolution, within fifteen (15) days of the adoption thereof, shall be filed with the Office of Records and Tax Administration. No fee shall be charged for the filing, and the Office of Records and Tax Administration shall file, record and index the certified copy. The resolution shall state:

- a. The boundaries of the district;
- b. The nature of the improvement and where feasible the estimated number of project phases and the estimated population equivalent serviced by the project phases;
- c. The estimated cost of the project;
- d. The method of cost allocation.

Whenever the costs of improvements requested or required to serve the district being created are proposed to be privately financed and not publicly financed by the petitioners, then the resolution for creation of the District shall not be required to specify the nature of the improvements, the estimated costs, nor the method of cost allocation but shall state that all improvements shall be paid by private financing.

A resolution authorizing additional improvements or any resolution which has been amended, shall be filed in the same manner as the original resolution.

#### D. PROCEDURES FOR OTHER CREATION

1. JOINT SEWER DISTRICTS. Whenever the JCW Chief Engineer recommends the creation or enlargement of one or more joint sewer districts to serve an existing or proposed lateral sewer district or any part thereof, together with additional described land in the same natural drainage area, the Board of County Commissioners may adopt the appropriate resolution to create a joint sewer district. All outstanding debt or contract obligations of any lateral sewer district at the time of its inclusion in a joint sewer district shall remain the obligations of the original lateral sewer district, and the Board shall levy assessments and taxes necessary to pay the obligations against the users or lands located within the lateral

sewer district.

The creation resolution shall state the requirements listed in Section C.5. of this article, and prior to the creation of any joint sewer district, the Board shall hold a public hearing, giving notice by publication in the manner authorized by this Act.

2. AREA-WIDE SEWER DISTRICTS. Whenever a petition signed by the owners of not less than fifty-one percent (51%) of the real property located within any proposed district is filed in the Office of Records and Tax Administration of the county or the County Clerk of any other county or counties, or whenever KDHE or county board or boards of health of this county and/or any other counties shall determine that it is necessary for the protection of the health of the inhabitants of the area or for the elimination or prevention of pollution of the waters of the state in any drainage area, the Board and the Board of County Commissioners of any other county, if such area is located within the two counties, are hereby authorized to create and establish one or more area-wide sewer districts comprising all or such portion of the area as can be served by a single sewerage system, except that no such district shall be created until the Board of County Commissioners of the counties shall have published a notice of their intention to establish the same. Such notice shall describe the boundaries of the proposed district in sufficient detail to advise the owners of property within the area and shall state that the Board or Boards of County Commissioners will meet at a specified time or place to consider the formation of such district, will hear objections thereto and proposals to adopt a resolution creating such district. Such notice shall be published once each week for two consecutive weeks in the official newspaper of the County or both counties. Such districts shall be created by resolution of the Board of County Commissioners of this County or by a joint resolution adopted by the Board of County Commissioners of the two (2) or more counties. Such resolution shall describe the boundary lines of the district, but no such district shall include area within the boundaries of an incorporated city, except with the consent to such inclusion by resolution of the governing body of such city. The Board of County Commissioners shall be the governing body of any district

located solely within one (1) county and the members of the Boards of County Commissioners meeting jointly shall constitute the governing body of any district located in two (2) or more counties, except that whenever the Board of County Commissioners of any county shall, by resolution, find and determine that it is in the best interest of the inhabitants of that portion of the district lying within such county, such Board may delegate all power and authority vested in such Board under the provisions of this Act, to the Board or Boards of County Commissioners of the other county or counties in which such district is located and thereupon the Board or Boards of County Commissioners of such other county or counties shall be the governing body of such district. Each district created under the provisions of this Act shall be a body corporate with authority to levy taxes and special assessments and fix and collect charges; to enter into contracts; to sue and be sued and to establish, construct, operate and maintain a sewerage system including such treatment facilities as the district may require and to issue bonds for the payment of the costs of constructing such system in the manner hereinafter provided.

3. PLANNING DISTRICTS. The Board may, in its discretion, with or without the filing of any petition, create a planning district for the sole purpose of making a preliminary engineering study and not for the construction of sewer improvements. The Board may employ engineers or other skilled persons to gather data, make the preliminary study of the territory to be sewered, determine the approximate boundary lines of the sewer district, the feasibility of the proposed improvement, the treatment required, the approximate size of sewers and disposal plants required, and the approximate cost of the improvement and any other information pertinent to the construction of the sewer improvements. For the purpose of paying for the costs of the preliminary planning, the Board of County Commissioners may assess the costs against the tracts within such planning district in the manner provided by this Act.

4. SPECIAL OR REGULATORY DISTRICTS. Whenever authorized or required by a finding of the Board, upon application of any property owner or upon recommendation by KDHE or the Chief Engineer or by any applicable code, law, or regulation,

the Board may create, by resolution, a special service district or a regulatory district for the preservation of health and safety and protection of the environment. Prior to creation, the Board shall provide notice and conduct a public hearing on the proposed creation, and the resolution creating the district shall be filed and recorded as authorized for creation of districts by petition.

5. CONTRACT DISTRICTS. Whenever the Board determines or is requested by any person or governmental entity to provide sanitary sewerage services at or for any wastewater treatment facility or sewerage system operated by the Board by and through a contract for service or inter-local agreement, then the Board may, by resolution, authorize the service and create such contract district or districts as the Board may determine to be necessary and advisable. The contract for service or inter-local agreement and the creation resolution shall be filed and recorded as provided for creations by petition.

### SECTION 3: COMBINING OF SEWER DISTRICTS

The Board, by resolution, may combine any existing sewer districts into a single main sewer district or may create or enlarge a main sewer district so as to include one or more sewer districts and may join with another governmental entity to provide sewer services for any purpose deemed advisable by the Board. Prior to combining districts, the Board shall publish a notice stating the intent to combine, describing the districts and the date and location of a public hearing to hear objections. The notice shall be published in a newspaper of general circulation in the county at least ten (10) days prior to the date of hearing.

### SECTION 4: ENLARGEMENT OF SEWER DISTRICT BOUNDARIES

The Board of County Commissioners as the governing body of any sewer district may, by resolution or pursuant to procedures established under Section 9 of this Article, enlarge the boundaries of the district upon the presentation of a petition approved by the Chief Engineer. The petition, except for a district with private financing, shall fulfill the requirements listed in Section 2 of this Article. The resolution shall provide for the levying of taxes, allocation of costs or assessments, as may be appropriate, upon the property in the added area, the same as are being

levied or charged upon similar property in the district, so enlarged. For lateral sewer districts and joint sewer districts the resolution also shall provide for an additional special assessment upon the property in the added area to pay a proportionate share of all amounts previously paid by the lateral or joint district upon any bonds issued for such purposes. The additional levies shall be made over a period of years, as determined by the governing body, and the proceeds there-from shall be credited to the bond and interest fund of the enlarged district.

#### SECTION 5: ALTERATION OF BOUNDARIES

A. The Board, as the governing body of any sewer district, may, by resolution or pursuant to the procedures contained in subsection B of this Section 5, (1) alter the boundaries of a district to include or exclude parts of platted lots not wholly within the district to coincide with lot lines or, when good engineering practice requires, alter the boundaries of a district to include or exclude areas as is appropriate by reason of the topography or include or exclude areas from which sewage could flow by gravity in more than one direction or when the alteration will result in a more cost effective operation; (2) assess the added areas the same as the districts being enlarged; (3) relieve the parts of platted lots or other excluded areas from current assessments made by any other sewer district on those parts excluded; and (4) provide for the payment of principal and interest on outstanding bonds with the funds of the sewer district in which those parts were formerly located.

B. (1) Except as provided in part (2) of this subsection, prior to exercising any authority granted by this section, the Board of County Commissioners shall call and hold a public hearing on the proposal. Notice of the hearing shall be given in the manner provided by Section 2, except that mailing of individual notices shall not be required.

(2) Whenever the owners of record, as recorded in the Office of Records and Tax Administration for taxation purposes, of any property that is to be included within or excluded from any sewer district by the alteration of boundaries, have, in writing, consented to the alteration of sewer district boundaries and to the assessment of any charges, then notice and hearing shall not



be required, and the Chairman of the Board of County Commissioners, upon recommendation of the Chief Engineer of Johnson County Wastewater may execute an Administrative Resolution exercising those powers specified in subsection A of this section 5.

SECTION 6: CREATING OR ENLARGING SEWER DISTRICTS  
BY ADDING AREA WITHIN CITIES

A. Whenever a sewer district is proposed to be created or enlarged and a part or all of the land to be included within the sewer district is located within the boundaries of a city, then the governing body of the city may sign the petition for creation or enlargement on behalf of the owners of the land located within the city when the petition has been approved and authorized by an appropriate ordinance adopted by the governing body and the governing body has jurisdiction over the land area, either under a benefit or improvement district created by the city or the city does, or has authority to, provide sewer service to the properties.

Upon receipt of any petition signed by the governing body of any city, the Board may create any sewer district to be composed of lands located wholly within the city or may enlarge sewer districts by adding area lying within the city to an existing county sewer district. Prior to the creation of a district or to adding the area to a county sewer district, the Board shall give notice of its intent to do so and of a public hearing to be held thereon. Notice of the hearing shall be given to the owners within the district to be created or the area being added in the manner provided by Section 2 of this Article. The cost of the hearing and notice shall be borne by the city. After the hearing, if the Board finds that it would be in the best interest of the persons residing within the area affected by the transfer, the Board may adopt a resolution providing for the creation of a sewer district or the attachment of the area to the county sewer district. If applicable, all bonds issued or other indebtedness incurred by the county or the city prior to adding the territory shall remain the liability of, and lien against, the properties to which the liability was attached prior to the inclusion of the territory in the county sewer district unless otherwise agreed to by inter-local agreement between the Board and City Council.

B. Whenever a sewer district is created or enlarged under this Section, upon the petition of any city, and the property is then sewerred and sewer service is provided by the city, the Board may enter into appropriate negotiations and agreements with the city for the allocation and assessment of any costs, charges or assessments authorized or levied for or upon the properties within the city sewer service area. The resolution creating or enlarging the district shall provide for the allocation of costs, levying of taxes or special assessments, or the imposition of charges or fees, as may be appropriate, upon the property in the area. The costs or charges to be levied upon the properties in the district shall be the same as or equivalent to those levied and assessed in other districts except as modified by the Board in consideration for services and improvements made by the city. The resolution also may, if applicable, provide for an additional special assessment or the levy of charges upon the property in the added area to pay a proportionate share of all amounts previously paid by the newly created or enlarged district upon any bonds issued for improvements in the district.

#### SECTION 7: PROJECT CONSIDERATION ON CREATION

If the Board determines subsequent to the creation or enlargement that a project is not feasible, then the costs and expenses of the work, including preliminary planning, engineering, legal and other preliminary work of skilled persons employed by the Board may be allocated to the parcels of property located within such district. The assessment shall be levied and collected as one tax, in addition to all other taxes and special assessments, in the manner provided in this Act.

If, at any time, after creating or enlarging a sewer district and prior to the execution of contracts for construction, the Board determines that the project cost of the improvement project will increase by more than 10% of the initial estimated project cost after adjustment to reflect any annual or cumulative increase in the established construction cost index, the Board shall hold another public hearing on the proposed project. For lateral and joint sewer districts, notice of any subsequent hearings shall be given in the same manner as for the first hearing. For projects to be funded by the Consolidated Main Sewer District, publication of the notice of the public hearing shall

be sufficient and individual mailed notification shall not be required.

If the Board of County Commissioners determines that the continuation of the project is not feasible, all costs and expenses of the project, including preliminary planning, engineering, legal and work of other skilled persons employed by the Board of County Commissioners may be assessed against the lots and pieces of property within the district, and shall be levied as and collected in the manner provided in this Resolution. The Board may, in its discretion, allocate the costs as a part of any other charges or assessments authorized by this Resolution.

**SECTION 8: DISSOLUTION OF CREATED DISTRICTS.**

The Board may, for good cause shown, upon petition or recommendation, dissolve any sewer district created by the Board. Prior to dissolution of any district, the Board shall provide notice and conduct a hearing in the manner analogous to the procedure under which the district was created.

**SECTION 9: PROCEDURES FOR CREATION OR ENLARGEMENT UPON 100% PETITION.**

As a complete alternative to and notwithstanding the provisions of Section 2 and Section 4 of this Article, the Board of County Commissioners may adopt, by resolution, procedures for the approval of any sewer district creation or enlargement through administrative action, without formal consideration by the Board, whenever the Petition for creation or enlargement of the sewer district is signed by 100% of the property owners of record for the land included in the area seeking creation or enlargement or whenever the Petition is signed by 100% of the property owners of record for the lands subject to any assessment or levy of costs for improvements in the enlargement area or proposed district or whenever the proposed improvements are to be paid totally by private, not public, financing. Such procedures may provide for the creation or enlargement, as petitioned, upon the execution and recording with the Board and the Office of Records and Tax Administration of an Administrative Resolution, executed by the Chairman of the Board and the Chief Engineer of the JCW, approving and establishing the district or district enlargement. Notice and a public hearing shall not be required for the approval of an

Administrative Resolution authorized under this section.

**ARTICLE IV. CONSOLIDATED MAIN DISTRICT**

**SECTION 1: AUTHORITY TO CREATE**

The Board may, by resolution, create a single main sewer district, to be composed of a consolidation of the sewer sub districts, sub main districts, and main sewer districts, including Dyke's Branch Joint Sewer District A, now or hereafter created or existing under the jurisdiction and authority of the Board, for any one or more of the following purposes:

- A. To make or conduct any plan or study;
- B. To construct, reconstruct, improve, enlarge or extend any sewerage or wastewater treatment facilities or other major facilities of the sewer districts, excluding construction of new joint or lateral sewers;
- C. To finance or refinance the capital construction costs for any sewerage or treatment facilities;
- D. To maintain and operate the sewerage and treatment facilities as a single sewer system; and
- E. To assess and allocate capital improvement costs throughout the entire single district.

**SECTION 2: POWERS OF CONSOLIDATED DISTRICT**

Upon creation of a consolidated main district under this Article, the Board, as the governing body, shall have and exercise all powers and authorities specified in Section 4 of Article I of this Resolution, including the power and authority to:

- A. Combine and consolidate any and all outstanding bonded indebtedness or contracted capital costs of each or all of the separate districts existing or incurred for main, sub-main or sewer sub-district capital improvement projects (excluding joint district and lateral district project costs but specifically including Dyke's Branch Joint Sewer District A);

B. Issue and sell temporary notes and general obligation bonds to refund or refinance any consolidated indebtedness and to pay the costs of construction, reconstruction, improvement, enlargement or extension of any sewerage or treatment facilities, excluding construction of joint or lateral sewers, but specifically including facilities within Dyke's Branch Joint Sewer District A;

C. Apply for and accept grants, loans or other financial assistance from any source, private or governmental;

D. Remove, release and relieve any and all existing tax or special assessments levied upon lands within any or all of the separate districts, including specifically Dyke's Branch Joint Sewer District A but excluding levies and special assessments of joint or lateral districts;

E. Contract on behalf of the consolidated main sewer district with any person, firm, corporation, partnership, municipality, governmental agency, or other legal entity for any lawful purpose;

F. Allocate costs for existing and future capital improvements to and upon all lands or users within the consolidated main sewer district, except all public roads, cemeteries, public park lands not using the sewer system, FAA designated airport operations areas, and railroad rights-of-way, without distinction as to any initially created separate sewer district boundary lines;

G. Establish, assess, and levy a system of capital charges, user fees, and connection fees to and upon all lands and users within the consolidated main sewer district without distinction as to any initially created separate sewer district boundary lines; and

H. Transfer and utilize any and all funds and fund balances now existing or hereafter developed within any separate reserve fund or account, within any bond or interest account, within any enlargement or capital project fund or account, for lawful purposes of the consolidated main sewer district.

### SECTION 3: ENLARGEMENT

From and after the creation of a consolidated main sewer district, the Board may, by resolution or pursuant to procedures established under Section 9 of Article III of this Resolution,

enlarge the consolidated main sewer district to include any and all land not originally a part of the District and for which a district is created or enlarged pursuant to Article III of this Resolution or for which a contract for sewer service is authorized by the Board or for which a Petition for enlargement of the District is filed, meeting the requirements of Article III of this Resolution. Prior to the adoption of any resolution for enlargement, other than an enlargement approved pursuant to procedures established under Section 9 of Article III of this Resolution, the Board shall provide notice, by publication, and conduct a public hearing on the proposed enlargement, but notice and hearing shall not be required when the enlargement applies to any area for which 100% of the property owners have consented to or petitioned for the creation or enlargement of the district.

Any resolution enlarging the consolidated main sewer district shall provide for the allocation of costs and the assessment of charges to the added area in the same manner as those assessed within the consolidated main sewer district. When the enlargement is made upon petition of any city for property then served by the sewerage system of the city, the Board may provide for an allocation of costs which allows credits or other consideration for sewerage system improvements made by the city.

#### SECTION 4: ACT OF CREATION

There shall be and hereby is created, by the Board, the Consolidated Main Sewer District of Johnson County, Kansas,

A. PURPOSE. Consolidated Main Sewer District of Johnson County, Kansas is being created for the purpose of establishing one comprehensive sewerage system to be operated under the authority and jurisdiction of the Board and to eliminate the separate benefit district structure for Dyke's Branch Joint Sewer District A and for main, sub-main, and sewer sub-districts. It is the intent of the Board that capital facilities, capital improvement projects, and capital costs be allocated and distributed consistently throughout the whole of the single system.

B. DETERMINATION. It is the determination of the Board that a single comprehensive sewerage system best serves the interests of all citizens and residents of the

County and users of the system; that main, sub-main and sewer sub-district facilities, treatment plants and lines, excluding joint and lateral sewers, do provide public service commensurate throughout all sewer areas of the County; and that capital improvement projects for each and all main, sub-main, and sewer sub-districts serve the best interests of all users uniformly to promote public health and welfare and to protect the environment.

C. DESCRIPTION AND BOUNDARIES. Consolidated Main Sewer District of Johnson County, Kansas shall be and is legally described as depicted graphically on the attached map as Exhibit A, and is inclusive with the main, sub-main, sewer sub-districts, and contract service areas listed on the attached Exhibit B. Upon the effective date of this Resolution, the legal boundaries of Consolidated Main Sewer District of Johnson County, Kansas shall be established and recorded with the Office of Records and Tax Administration

D. EFFECTIVE DATE. The creation of Consolidated Main Sewer District of Johnson County, Kansas shall be and become effective as and upon the effective date of this Charter Resolution. In addition to the publication of this Charter Resolution as required under K.S.A. 19-101b, notice of the creation of the Consolidated Main Sewer District shall be separately published once each week for two consecutive weeks in the official county newspaper, describing the district and its purpose. Upon the effective creation of the district, its boundaries and creation shall be recorded with the Office of Records and Tax Administration

E. AFFECT UPON CREATION. Upon the effective date of the creation of the Consolidated Main Sewer District, the Board shall have and exercise the powers and authorities specified in this Article, and the Board shall, upon publication notice, adopt and implement, by resolution, an order releasing and relieving existing sewer tax and special assessments for capital improvement projects, excluding those for joint and lateral sewers, which have been levied and assessed upon lands then included within the Consolidated Main Sewer District.

## **ARTICLE V. CAPITAL IMPROVEMENT PROJECTS**

### **SECTION 1: PLANS AND STUDIES**

A. The Board itself may conduct or may contract with any person to conduct any plan or study determined by the Board to be necessary for the effective and efficient operation, maintenance, and planning of the sewerage system. The Board may, in its discretion, provide that costs for such plan or study be paid in installments and may issue and sell general obligation bonds of the county in like manner as is provided in K. S. A. 10-101 et seq. and any amendments thereto. In addition, thereto, for the purpose of paying for all or any part of the costs of such plan or study, the Board may establish and collect just and equitable rates or charges to be paid to such sewer district or combined sewer districts by all persons or users located within the boundaries of such sewer district or combined sewer districts.

B. Such assessments or charges shall be levied and collected in addition to any ad valorem tax levy authorized for such district or combined districts and may be certified to the Office of Records and Tax Administration and placed upon the tax roll of the county in which the sewer district lies or combined sewer districts lie or billed and collected in such other manner as adopted by ordinary resolution of the Board. All assessments or charges so collected shall be used for the cost of such plan or study.

### **SECTION 2: ANNUAL CIP**

The Board shall annually review and adopt a capital improvements plan for the sewer districts under its jurisdiction. The plan shall cover a time period of not less than five (5) years but may be amended or revised at any time by the Board in its sole discretion. The plan shall be based upon appropriate plans and studies and shall be prepared upon recommendation of the Chief Engineer, and shall give due consideration to projects proposed by petition and those required or recommended by applicable codes, regulations and state or federal law.

### **SECTION 3: PROJECT DETERMINATION AND AUTHORIZATION**

A. **PROJECT SCOPE.** The Chief Engineer shall prepare appropriate engineering



standards and criteria to be applied in defining the scope of all work to be completed for any capital improvement project. The project, to the extent necessary, shall include all appropriate engineering and administrative services and costs as well as construction services and costs.

B. PLANS AND SPECIFICATIONS. All plans and specifications for any capital improvements project for any sewer district, whether publicly or privately financed, shall be subject to review and approval of the JCW Chief Engineer, and, when required by law or regulation, by the Kansas Department of Health and Environment (KDHE).

C. AUTHORIZATION. Except as hereinafter provided, all capital improvement projects for any sewer district shall be authorized by the Board. The Board may, as a part of its' annual budget process or through a separate process, approve and adopt an annual Capital Improvement Program for JCW, identifying specific projects and stating an authorized project cost. Adoption of the annual Capital Improvement Program shall constitute project authorization for the specific projects and, to the extent that requirements for public notice and hearing are satisfied, the adoption shall constitute an appropriation of funds for the specific projects. Whether as a part of the budget or otherwise, individual or multiple projects may be authorized and approved by the Board through a single resolution. Whenever a project or a term and supply contract has been authorized by action of the Board and funding has been lawfully appropriated to pay the project costs or cover the contract terms and costs, then contracts, whether for commodities, services, or public improvements, which are inclusive to the authorized project or term and supply contract may be approved and executed by the General Manager, with the express written authorization of the County Manager without further action of the Board, provided such contracts are awarded in conformance with the County purchasing policies and procedures adopted by the Board and do not exceed the total amount budgeted for such purposes in the adopted Capital Improvement Program. Any improvement project which is financed totally through private, not public, funds may be approved and authorized by the Chief Engineer of JCW, without separate approval of the Board, whenever the Chief Engineer certifies that: (1) The project is necessary to provide sewer

service to property located within the Consolidated Main Sewer District; (2) no public funds will be used or required to construct the improvements; (3) the improvements, upon completion, will be and become a part of the public sewerage system, and (4) the project meets all specifications and requirements for sewerage facilities. The Board may adopt and establish procedures for the review and authorization of any projects approved or authorized under this subsection.

#### SECTION 4: CONTRACT AWARD, BIDS

Except when authorized or directed by KDHE or other state or federal law or under emergency provisions of Charter Resolution No. 25-89, all contracts for capital improvements projects, whether construction or services, except those arising by intergovernmental agreements for contractual sewer services, which are to be publicly financed, shall be awarded in conformance with the County purchasing policies and procedures adopted by the Board.

#### SECTION 5: PROJECT COMPLETION AND ACCEPTANCE

All capital improvement projects shall be subject to review and acceptance upon final completion by the Chief Engineer. Upon acceptance of any project which is privately financed, all facilities, equipment, rights-of-way and documentation shall be and become the sole property of the County, subject to any warranties and reservations.

#### SECTION 6: RELEASE OF EASEMENTS

The Chairman of the Board shall be authorized to act for and on behalf of the Board and to execute and cause to be filed any release of an easement, which was obtained or is held by the Board or any sewer district for sewer purposes, when, upon recommendation of the Chief Engineer of JCW and approval of legal counsel, it is determined that the easement is no longer necessary for sewer purposes, the sewer district derives no direct benefit from maintaining the easement, and neither the County nor any sewer district will incur financial loss by release of the easement.

**ARTICLE VI. PROJECT FINANCING**

**SECTION 1: BONDS AND NOTES**

A. **GENERAL AUTHORITY.** The Board shall have the power and authority to issue and sell temporary notes and/or general obligation bonds for the purpose of paying for all or any portion of the costs for any capital improvement project approved and authorized for any sewer district. The bonds and/or notes shall be issued in the manner provided by the general bond law. The bonds and/or notes shall be in addition to and may exceed the limits of the bonded indebtedness of the County.

B. **PAYMENT FOR PRINCIPAL AND INTEREST.** Prior to the issuance of any temporary notes or bonds, the Board shall determine and establish the method of assessments or the levy of charges necessary to make the payments of principal and interest as and when they shall become due, and for that purpose, the Board may make provisions for the payment from funds on hand, from a single charge or assessment, or for installment payments over a term of years.

**SECTION 2: GRANTS OR LOANS**

In any sewer district, the Board may apply for and accept grants, loans, materials or labor from the federal and state governments, or any departments thereof, in the construction of sewer systems. The Board may enter into any agreements required by the federal and state laws, or the rules and regulations of any federal or state department, to which the application is made. If assistance is granted, the Board of County Commissioners may issue bonds of the County for the remainder of the cost of the project.

**SECTION 3: CONTRACTS**

The Board may negotiate and enter into contracts with any person, firm, governmental entity or private enterprise for the acquisition or making of any capital improvement project for any sewer district and may provide for payment of any incurred contract obligations upon terms and conditions determined prudent and advisable by the Board.

#### SECTION 4: PRIVATIZATION

The Board may authorize and solicit proposals for and negotiate and enter into short or long term agreements with any person, firm or private entity to provide for the acquisition or making of any capital improvement project in any sewer district and for the leasing, use, operation and/or management of the sewerage system or treatment facilities.

#### SECTION 5: EXCESS FUNDS AND ACCOUNTS

A. BOND AND INTEREST. Where a bond and interest account established for any capital improvement project in any sewer district carries a balance in excess of the total requirements needed for the balance of the term of the bonds, the Board as the governing body may cease to make a levy or assessment within that district and use the balance of the bond and interest account to meet the remaining obligations on the bonds. If a surplus still exists after the amount needed to reduce bonds has been set aside, the balance may be transferred by the Board of County Commissioners to the Capital Improvements Fund or to any other fund or account administered for or by any sewer district, as determined by the Board.

B. OTHER FUND ACCOUNTS. The Board may transfer any fund balances in any fund or account administered for or by any sewer district to the Capital Improvements Fund whenever the Board determines that the purposes for which the fund balance was intended have been satisfied or the moneys are no longer needed for the intended purpose.

#### SECTION 6: REVENUE BONDS

In any sewer district, the Board, without an election thereon, may issue revenue bonds to (1) acquire property rights in connection with disposal of sewage or sludge, either within or outside the state; (2) enlarge sewers of the district; (3) construct treatment plants; (4) acquire or construct revenue producing improvements for the district; and (5) provide funds to enable the Board of County Commissioners to exercise any of its powers. All revenue bonds issued shall be secured by a pledge of the revenues of the district, including user fees, charges and other revenues, any of which may be pledged to their payment.

The Board shall adopt a resolution, which shall be recorded in its journal, declaring the acquisition or improvement necessary to be done, and authorize issuance of revenue bonds to pay all or part of the costs thereof, including legal, engineering and other special costs. The final bond resolution shall specify the amount of bonds to be issued, the rate of interest thereon, the maturity dates and the purpose for which the proceeds are to be expended. Revenue from the operation of any improvement financed in whole or in part by revenue bonds shall be paid into the treasury of the sewer district and kept in a separate fund to be used only for the purpose of paying the cost of operating and maintaining the improvement, providing an adequate sinking fund and paying the principal and interest on the revenue bonds issued.

## **ARTICLE VII. CAPITAL IMPROVEMENTS FUND**

### **SECTION 1: ESTABLISHMENT**

There shall be and hereby is established, pursuant to K.S.A. 19-120, a Capital Improvements Fund for the Consolidated Main Sewer District of Johnson County. All fees, charges or assessments of whatever kind or nature, hereafter assessed or levied for and within the Consolidated Main Sewer District for capital improvement projects or purposes shall be accounted for and administered through the Capital Improvements Fund. All excess funds now maintained in funds or accounts for any sewer district, which are determined no longer to be needed for their established fund or account purpose shall be and hereby are budgeted for transfer to the Capital Improvements Fund.

### **SECTION 2: USE OF MONEYS IN FUND**

Moneys in the Capital Improvements Fund shall be used as and when authorized by the Board to finance and pay for, in whole or part, any capital improvement project contained in the adopted capital improvement plan for the Consolidated Main Sewer District. Disbursements from the fund may be made to pay for the costs of engineering and other advance public improvement plans and studies, for the payment of the principal and interest on any temporary

notes or bonds issued for the payment of costs of any capital improvement project in the Consolidated Main Sewer District or issued for the refunding of obligations of any sewer district included in the Consolidated Main Sewer District, and for the payment of any contractual obligation incurred for the Consolidated Main Sewer District, including refunds or reimbursements to property owners. Use of funds in the Capital Improvements Fund shall be accounted for in accordance with standard board policies and Generally Accepted Accounting Principles and shall be budgeted and appropriated as specified in K.S.A. 19-120. Expenditures from the Fund shall be approved by the General Manager of Johnson County Wastewater or the County Manager.

SECTION 3: ADVANCES, CREDITS AND REIMBURSEMENTS

A. INSUFFICIENT FUNDS AND ACCOUNTS. In the event that a bond and interest account established for any publicly financed joint or lateral sewer district carries an insufficient balance to pay any principal or interest payment for bonds issued for the improvements as they become due, sufficient funds may be transferred from the capital improvements fund to cover such principal and interest payments as they come due. A reserve account shall be established as part of the capital improvement fund sufficient for this purpose, the balance of which shall be subject to annual adjustment by the Board as part of its annual budgetary duties. Any principal and interest payments made in this manner from the capital improvement fund, shall not affect any underlying obligations of properties within the sewer district for unpaid assessments or any lien attached to any such properties as security for such unpaid assessments. In the event funds are thereafter collected from properties within such sewer district that exceed the amount required to satisfy the principal and interest obligations due for that year, such excess funds shall be transferred from the bond and interest account of such sewer district to reimburse the reserve account.

B. ADVANCES AND REIMBURSEMENTS TO ASSIST WITH THE REPLACEMENT OF PRIVATELY OWNED TREATMENT OR SEPTIC SYSTEMS. The Board may, by resolution, advance moneys from the fund to assist in the payment of costs for public sewer lines or improvements for a lateral sewer district created by the Board, for which public financing is approved, upon a finding by the Board that the lateral sewer improvements are necessary to eliminate a threat to the public health through the replacement of privately owned treatment or septic systems. The resolution authorizing the use of funds for that purpose shall provide for reimbursement of all or part of the moneys through the issuance of bonds and/or the levy of charges or assessments against the lands or users in the lateral sewer district over a defined term of years not to exceed thirty (30) years.

Reimbursements to the fund shall be made and required for all advanced costs, from the issuance of bonds and bond proceeds, the receipt of state or federal financial assistance, and the levy of charges or assessments, except under circumstances where the Board determines by resolution that it is in the public interest to grant a credit or otherwise waive reimbursement. The Board, through the adoption of administrative procedures and practices may establish policies and guidelines that identify such circumstances.

#### SECTION 4: INVESTMENT OF MONEYS

Moneys in the Capital Improvements Fund may be invested in accordance with the provisions of K.S.A. 10-131, and amendments thereto, and the policies of the Board. All interest earned on investments shall be credited to the fund.

#### SECTION 5: FUND ACCOUNTING

The Board shall annually, as a part of its budgetary process, review and evaluate the accounting for and balances of the Capital Improvements Fund.

A. SUPPLEMENTATION. Upon review of the annual accounting of the Fund, whenever the Board shall determine that the fund balance is or may be insufficient to meet anticipated appropriations or expenditures, the Board may, in its discretion, supplement the

moneys in the Fund by transfer, in the budget of moneys from any other County funds lawfully available for improvements purposes, including moneys in the general fund, or other lawful source, as provided in K.S.A. 19-120 as now adopted or hereafter amended.

B. UN-APPROPRIATED RESERVES. Upon review of the annual accounting of the Fund, whenever the Board shall determine that the fund balance does or may exceed the anticipated appropriations or expenditures, the Board may, in its discretion, apply the moneys in the fund to un-appropriated reserves which may be carried forward from year to year as unencumbered fund balances or may apply the moneys to the early retirement of any indebtedness incurred for sewerage system projects, to the payment of costs of any sewer improvement, or the Board may authorize a refund of or reduction of any levy or charges authorized under this Resolution and credited to the fund.

### **ARTICLE VIII. CHARGES AND ASSESSMENTS**

#### **SECTION 1: SPECIAL ASSESSMENT AND TAX LEVIES**

A. DETERMINATION. After a publicly financed joint or lateral sewer district, or other sewer district not specifically included in the Consolidated Main Sewer District, has been created and capital improvement projects have been completed for that district, the Board shall determine the cost of the improvements, the amount of costs to be assessed, and the assessment, if any, to be levied against each tract of land or user within the district. Whenever the Board determines to levy the costs by special assessment, then the Board shall prepare a proposed assessment resolution and an assessment roll. The proposed assessment roll shall be filed with the Office of Records and Tax Administration and shall be open for public inspection. The proposed resolution fixing the assessments shall be published once in a newspaper of general circulation within the County at least ten (10) days prior to the date of the public hearing thereon. It shall state the cost of the improvements, a boundary map of the district, the method of assessment, the date, time and place of the public hearing to consider the proposed special assessments and that written or oral objections will be considered at the



hearing. The proposed assessment shall be mailed by prepaid first class mail at least ten (10) days prior to the hearing to all landowners made liable to pay the special assessments. The failure of any landowner to receive the proposed assessment notice shall not invalidate the proceedings. At the meeting or at any adjournment thereof, the Board shall hear all objections to each proposed special assessment and may amend the proposed assessment resolution as to any tract of land. The Board shall levy the special assessment against the property described in the assessment roll by the adoption and publication of the proposed assessment resolution. The special assessment shall become a lien on the property against which the special assessment is made from the date of the adoption of the resolution confirming the assessments.

B. BASIS FOR ASSESSMENT. The Board shall assess the cost of the improvements, except those of the Consolidated Main Sewer District, against the property in accordance with the benefit received. The cost may be assessed:

1. Equally per square foot against all property in the district;
2. Against the assessed value of the lots and pieces of property in the district with or without regard to improvements thereon;
3. By a combination of (1) and (2);
4. Equally on a per lot or per home site basis; or
5. In any other reasonable manner which will result in imposing substantially equal burdens or shares of cost upon property similarly benefited.
6. Consideration may be given to excluding from assessment those areas located within floodways as defined by written policy of the Board.

Property excluded from “assessable land” as defined in Article II, Section 4 of Charter Resolution No. 29-92, as amended, shall be exempt from assessment, unless such land is connected to a sewer.

C. PAYMENT OF ASSESSMENTS:

1. OPTION TO PAY IN FULL. When the Board determines the cost of the

improvements and apportions the cost among the various lots or parcels of land within the sewer district, except the Consolidated Main Sewer District, by the passage of the proposed assessment resolution, it shall fix a date on or prior to which the special assessments may be paid in full without interest. If the special assessment is paid in full as to any lot or parcel of property, such lot or parcel of property shall be relieved from any further liability for the cost of the improvement or for payment of any bonds thereafter issued in payment therefore.

2. INSTALLMENT PAYMENTS. After the expiration of the date in which the special assessment may be paid in full, the Board shall determine the total amount of the costs of the improvements remaining unpaid, and may issue and sell general obligation bonds of the County. The bonds shall be issued in the manner provided by the general bond law. Each bond shall specify the date of its separate maturity and shall be in the denomination determined by the Board. The bonds shall be in addition to and may exceed the limits of the bonded indebtedness of the County. The special assessments then levied shall be paid in annual installments in the amount apportioned, together with the accrued interest for payment of the principal and interest on the bonds. Special assessments levied in annual installments, after expiration of the time for payment in full, may be paid off in full by the property owner only by the payment of the entire assessment and all interest accruing thereto for the term of the bonds.

D. REAPPORTIONMENT OF ASSESMENTS. The Board may, and hereby is authorized to, review and reconsider any levy of special assessments and to reapportion the costs then outstanding, at any time. The reapportionment of costs shall be made using the procedures specified in Section 1 of this Article, but the Board may, in its discretion, modify the method of apportionment or extend the term of years for payment.

E. ADJUSTMENTS TO ASSESSMENTS. Whenever property subject to a special assessment levied under this section is divided, whether by plat or otherwise, the special assessments shall be distributed and reassessed proportionately to the divisions of land.

F. PROPERTY DEDICATION. If subsequent to the making of any special

assessment against any parcel or tract of land, the landowner desires to plat or replat the land and dedicate streets and roads, for public use, the Board may release the land proposed to be dedicated from the lien and effect of the special assessment. The landowner shall in or on the instrument making the dedication consent in appropriate form that the amount of the unpaid special assessment on the dedicated land shall become and remain a lien on the remainder of the owner's land.

G. CHALLENGES TO ASSESSMENTS. No suit to set aside the special assessments provided for by this section, or to enjoin the making of the assessment or improvement, nor any defense to the validity of the assessment shall be brought later than thirty (30) days from the date of adoption of the resolution approving the assessments.

## SECTION 2: CONNECTION FEES AND CHARGES

A. AUTHORITY. The Board may, by resolution, establish connection fees for making connection to the sewerage system. Such fees may be based upon the sewerage facility capacity required to service the structure requesting connection to the sewer system or may be based upon such other engineering standards, classifications or criteria which the Board determines would establish an appropriate allocation of capital, system development and recoupment costs attributable to the defined or proposed use of the property. The connection fees may be proportioned in graduated tiers for properties that are located within established sewer districts, for properties which petition for or are enlarged into established sewer districts and for properties that are converted from one use or classification designation to another.

B. IMPOSITION PROCEDURE. Except for the fees established under Article X of this Resolution, a connection fee or charge authorized under this Section shall not be adopted until the Board first publishes a notice of its intention to adopt the same; and such notice shall describe the proposed sewer connection charges or fees in sufficient detail to advise the owners of the property within the district or districts in which they are to be applicable as to the amount and application of such charges or fees. The notice shall inform such owners that the Board of

County Commissioners will meet at a specified time and place to consider the adoption of a resolution establishing sewer connection fees. Such notice shall be published once a week for two (2) consecutive weeks in a newspaper having general circulation within the County.

C. USE OF FUNDS. All moneys derived from the imposition of such sewer connection charges or fees shall be placed in a special account of the Capital Improvements Fund, when established, and shall be used at the direction of the Board for capital project costs or capital related cost within any sewer district. Such connection fees shall usually be collected before a sewer connection permit is issued, but in all cases before the connection is approved by JCW.

D. CONTINUATION OF ESTABLISHED FEES AND CHARGES. Any connection fee or charge already established or proposed by resolution of the Board shall be and remain in force and affect unless and until the Board, by resolution, shall repeal, amend or modify that resolution. Once a connection fee or charge has been adopted and imposed, and not repealed, amendments or modifications related only to the amount of the fee or charge and the method of its imposition, and not related to its application, may be made and become effective upon notice by publication in the official county newspaper and upon holding a public hearing on the proposed amendments or modifications.

E. INCREASE IN FEE OR CHARGE LIMITATIONS. After the Board has adopted and imposed a connection fee or charge, with an established base fee amount, the base connection fee or charge amount may not then be increased in any subsequent year by a percentage greater than ten percent (10%) over the prior year base connection fee or charge amount after adjustment to reflect any annual or cumulative increase reflected in the established construction cost index without the affirmative vote of five-sevenths (5/7ths) of the Board, after notice and hearing.

F. VARIANCES AND APPEALS. The Board shall provide, by resolution, for procedures for any property owner to appeal the determination of the amount of any fee or charge

assessed for connection of his property to the sewerage system or for variance from any established fee schedule or amount.

### SECTION 3: USER CHARGES

The Board of County Commissioners may, by resolution, establish and collect, on an ad valorem tax basis or as a service charge, or both, a user charge or system of user charges, for the purpose of paying all or any portion of the construction and reconstruction of the sewerage system, the costs of operation, maintenance, and planning of the sewerage system, or the payment of principal and interest on bonds issued in accordance with this Resolution assessed against all persons connected to or using the sewerage system and owners of land located within any sewer district created or operated under the jurisdiction and authority of the Board. The user charge or system of user charges may be apportioned among classes of users or graduated as to individual users based upon the present or future use required of the sewerage system and shall include consideration of, but not be limited to, the quantity, quality and rate of wastewater discharged or dischargeable to the sewerage system and may include a customer service charge component. Any such user charge shall become a lien upon the property against which the charge is made from the date said user charge is included on the ad valorem tax rolls or is recorded with the Office of Records and Tax Administration, whichever occurs first, and such lien shall be enforceable against the property for which the charge is made in the same manner that ad valorem real estate tax liens attach to and are foreclosed under Kansas Law. User charges may be in addition to any ad valorem tax levy authorized for the consolidated main sewer districts and shall not be subject to any limitation upon the tax levy for such districts.

### SECTION 4: FEE SCHEDULE FOR APPLICATIONS, INSPECTIONS AND OTHER SERVICES

The Board may, in addition to any other tax levy, service charge, or user charge authorized by law, adopt a charge or fee schedule for applications to create, enlarge, and extend any lateral, joint, main, sub-main or sub-district sewer district; for the preparation, review or approval of design

or plans and specifications for any proposed sewerage facilities to be provided or constructed by any private developer of land in or for a proposed or created sewer district; for the issuance of any permit; for any required inspection of any connection to the sewerage facilities of any installed sewerage facilities which were or are being installed other than under a contract issued by JCW; for the testing and monitoring of the wastewater discharged to the sewerage facilities by any person for whom pretreatment standards or regulations have been promulgated pursuant to this Act; and for any other service performed by personnel of JCW at the specific request of any person connected to and using, or requesting to be connected to and to use, the sewerage system and for which JCW is not required by law to perform.

Prior to the assessment or collection of any fee or charge authorized by this section, the Board shall publish a notice of its intention to adopt such fees, describing in sufficient detail to advise all interested persons of the amount of the fee and the services to which the fee applies and informing the public that the Board shall meet at a specified time and place to consider the adoption by resolution of the fee or fees. Mailing of notice is not required. All fees or charges collected pursuant to this section shall be used for sewer district purposes.

#### SECTION 5: SERVICE CHARGES

In addition to or as a component of any other charge or system of charges authorized by this Resolution, the Board may assess and levy a customer service charge for costs related to the billing, collection, and administration of such charge including but not limited to interest on delinquent accounts, late fees, bank fees, attorney fees, lien certification fees, sewer disconnection and reconnection expenses, credit union and collection agency fees.

#### SECTION 6: OPERATION, MAINTENANCE AND PLANNING TAX OR USER CHARGE AND COMBINING OF DISTRICTS

A. OPERATION, MAINTENANCE AND PLANNING FUND. In any sewer district, the Board shall have power to levy an operation, maintenance and planning tax or user charge for the purpose of creating an operation, maintenance and planning fund to be used for the purpose of

maintaining and keeping in repair sewer improvements and planning in the district. The Board may, by resolution, combine for operation, maintenance and planning purposes any sewer districts created pursuant to the provisions of this Resolution.

B. COMBINED DISTRICT. Any combined districts may thereafter operate under a single budget for planning and operation of the combined sewer district office and for the maintenance and repair of the sewer system or other equipment or appurtenances used in connection therewith. In addition, the combined district shall have the authority to levy user charges as provided above, upon all land and improvements within such combined district; except that, all property excluded from "assessable land" as defined in Article II, Section 4 of Charter Resolution No. 29-92, as amended, shall be exempt from the levy, unless such land is connected to a sewer, and such funds may be used for operation, maintenance and planning as above provided throughout the combined district without distinction as to the initially created district boundary line. The combining of such districts for this specific purpose shall not affect the bond authority as otherwise provided by law nor affect any existing bonded debt and obligations and liens created thereby.

C. OTHER CHARGES. In addition to the maintenance tax or user charge for the purpose of sewer improvements or to pay the costs of operation, maintenance and planning thereof, the Board may establish a schedule of charges to be collected from individuals, cities, townships, other municipalities or sewer districts for the use of the sewer district facilities.

D. LIEN CREATION. To the extent not prohibited by law, any operation, maintenance and planning tax or user charge shall become a lien upon the property against which the levy or service charge is made from the date such taxes or user charges are included on the ad valorem tax rolls or recorded with the Office of Records and Tax Administration whichever occurs first, and such lien shall be enforceable against the property for which the charge is made in the same manner that ad valorem real estate tax liens attach to and are foreclosed under Kansas Law.

SECTION 7: BUY-IN FEES AND CONVERSION CHARGES

The Board shall have the power and authority to adopt and levy, by resolution, a system of fees and charges to be assessed upon users and owners of land located within any sewer district created or operated under jurisdiction of the Board which petition for inclusion within any sewer district for a proportion of the costs of facilities then committed to serve the property or for the conversion of any property from one classification of sewer use to another.

SECTION 8: RESERVATION FEES AND SURCHARGES.

The Board shall have the power and authority to adopt and levy, by resolution, a system of fees and charges to be assessed upon users and owners of land located within any sewer district created or operated under jurisdiction of the Board which require designated reserve capacities for any sewerage facilities and for surcharges to any classification of sewer use which places demands or loads upon the sewerage system, by either quantity or quality of discharge, which are disproportionate to either the design of the facilities or the authorized discharge permit of the user.

SECTION 9: FEES AND CHARGES FOR SPECIAL USES.

The Board shall have the power and authority to adopt and levy, by resolution, a system of user fees and charges, in addition to any or all other fees and charges authorized under this resolution, for the operation, maintenance, repair and replacement of all or any parts of sewerage systems or facilities which are specially designed and installed for the purpose of providing sewer services for any property, area, or district and to assess such fees and charges upon the properties requesting, requiring or being served by such special systems or facilities, including but not limited to pump stations, pressure sewers, package plants and holding facilities. Any such fees or charges shall become a lien upon the property against which the fee or charge is assessed from the date such fees or charges are included on the ad valorem tax rolls or recorded with the Office of Records and Tax Administration whichever occurs first and shall be enforceable against the property for which the charge is made in the same manner that ad valorem real estate tax liens attach to and are foreclosed under Kansas Law. Funds generated by such fees and charges shall be placed in



reserve accounts as dedicated revenue for the operation, maintenance, repair and replacement of the special systems or facilities and shall be used solely for that purpose.

## **ARTICLE IX. CAPITAL FINANCE CHARGE**

### **SECTION 1: AUTHORITY**

In addition to any other charge, fee, levy or assessment authorized by this Resolution, the Board may, by resolution, adopt and levy a Capital Finance Charge, on an ad valorem basis or as a component of a User Charge or System of User Charges upon or against any land or any use, whether connected to the sewerage system or not, located within any sewer district created or operated under the jurisdiction and authority of the Board for the purpose of paying all or any portion of the cost of construction or reconstruction or the sewerage system, the costs for any capital improvement project or contract obligation or bonded indebtedness incurred for the sewerage system of the sewer district or the Consolidated Main Sewer District. The Capital Finance Charge may be assessed against all persons connected to the sewerage system and to all owners of land located within any sewer district owned or operated under the jurisdiction and authority of the Board.

### **SECTION 2: LEVY AND ASSESSMENT OF CHARGE**

There shall be and hereby is levied, by the Board, a charge, designated as the Capital Finance Charge, upon each and all individual tracts or parcels of land or the user thereof now or hereafter located within the boundaries of any sewer district created or operated under the jurisdiction of the Board, or subject to a contract for sewerage service with the Board for the purpose of paying the costs of capital improvement projects, contract obligations or bonded indebtedness incurred for the sewerage system, sewer district or the Consolidated Main Sewer District. Capital Finance Charges may be certified to the Office of Records and Tax Administration and placed on the ad valorem tax rolls of individual tracts or parcels of land or may be billed and collected as a component of a User Charge or System of User Charges in the

manner provided by ordinary resolution of the Board. Capital Finance Charges to be placed on the ad valorem tax rolls of individual tracts or parcels that are not certified to the Office of Records and Tax Administration on or before August 25 of each fiscal year shall be certified and placed on the tax rolls the following fiscal year. Except to the extent prohibited by law, the liability of the owner of a tract or parcel of land for payment of the Capital Finance Charge shall be concurrent with that of any user residing upon or otherwise occupying the real property and discharging wastewater to the sewerage system who shall be deemed to be the actual user of the sewer service.

### SECTION 3: EFFECTIVE DATE

The Capital Finance Charge levied under this Article shall be and become effective at and upon the effective date of this Charter Resolution pursuant to the provisions of K.S.A. 19-101b and K.S.A. 19-117. The amendments to this Article adopted by Charter Resolution No. 042-13, shall be and become effective on January 1, 2014. Capital Finance Charges levied under this Article prior to January 1, 2014, shall be levied in the manner provided by the Article prior to the amendments provided by Charter Resolution No. 042-13, and shall remain in full force and effect until paid in full.

### SECTION 4: DETERMINATION OF THE CAPITAL FINANCE CHARGE

The Capital Finance Charge may be apportioned among classes of users or graduated as to individual users based upon the present or future use required of the sewerage system and shall include consideration of, but not be limited to, the quantity, quality and rate of wastewater discharged or dischargeable to the sewerage system and may include a customer service charge component.

A. USAGE BASIS. The Capital Finance Charge shall be based upon the usage of the sewerage system and shall be and hereby is levied and assessed as a charge upon the quantity, quality and rate of flow of wastewater determined to be discharged or dischargeable to the sewerage system from each tract or parcel of land according to its property use or proposed

property use. Usage of the sewerage system shall be determined annually for each tract or parcel of land and property use located within the Consolidated Main Sewer District. Measurement of the sewer use for each tract or parcel of land and property use may be determined according to accepted standard professional engineering practices applicable to the design criteria for the allocation of capacity for wastewater treatment and sewerage system facilities or according to the actual or estimated quantity, quality and rate of wastewater discharged or dischargeable to the sewer system from each tract calculated in terms of gallons of flow, pounds of total suspended solids, and pounds of total five (5) day biochemical oxygen demand.

B. ESTABLISHMENT OF CHARGE. The Capital Finance Charge levied and assessed pursuant to this Article shall be established each year in an amount equal to the base fee rate multiplied times the sewer usage determined for each property. and may include a customer service charge component.

C. BASE FEE RATE. The base fee rate shall be determined and established each year by the Board of County Commissioners as a part of the budget process for Johnson County Government.

D. LIMITATIONS ON INCREASE OF BASE FEE RATE. The base fee rate established by this Resolution or any subsequent resolution or action of the Board shall not be changed nor modified except as a part of the annual Johnson County budget, and the base fee rate shall not be increased in any given year by more than ten (10%) percent over the prior year fee rate, after adjustment to reflect any annual or cumulative increase reflected in the established construction cost index, without an affirmative vote of five-sevenths (5/7ths) of the members of the Board.

#### SECTION 5: USE OF FUNDS

With the exception of new joint and lateral sewer districts, moneys collected from the Capital Finance Charge shall be used for funding sanitary sewer capital improvements in the Consolidated Main Sewer District. These moneys may be used to either pay the sanitary sewer

capital improvements in full, to pay the principal and interest due on general obligation bonds issued for such capital improvements, or to pay contract obligations incurred for capital projects.

#### SECTION 6: VARIANCES

Any property owner may request a variance from the established and adopted fee schedule by making payment in full of the scheduled Capital Finance Charge and filing a written variance request form, stating the specific reason for the variance and providing information which demonstrates that the schedule of charges, as adopted, should not be applied to the use or property.

#### SECTION 7: REVIEW AND APPEAL PROCESS

The General Manager of JCW shall establish and implement procedures whereby any person may seek a review of and appeal the Capital Finance Charge or the capital finance charge component of a User Charge for any tract, parcel, or land use. An appeal of a Capital Finance Charge that has been certified to the Office of Records and Tax Administration and placed on the ad valorem tax rolls must be filed with the General Manager on or before January 10 of the calendar year following receipt of the initial tax statement assessing the Capital Finance Charge for the tract or parcel. An appeal of a Capital Finance Charge not placed on the ad valorem tax rolls shall be filed in the manner provided by ordinary resolution of the Board. The filing of a request for review or appeal of the designation shall not relieve the obligation of the property owner to otherwise pay the charge as and when due. In all such appeal proceedings, the burden of demonstrating the inaccuracy of the Capital Finance Charge or capital finance charge component of a User Charge for any tract, parcel, or land use shall rest with the appellant.

#### SECTION 8: ALTERNATIVE DESIGNATIONS

From and after the initial levy and assessment of the Capital Finance Charge pursuant to this Resolution and upon payment in full of the charge as levied, the owner of any tract or parcel of land which qualifies as an industrial or high volume or strength user of the sewer system under criteria and regulations established by the Chief Engineer of Johnson County Wastewater, may

apply to the Chief Engineer for an alternative use designation for the tract or parcel of land to be applied to the subsequent billing(s) based upon either or both of the following considerations:

a. The actual measured or tested quantity and quality of wastewater discharged to the sewerage system or the annualized average maximum fresh water usage attributable to the property based upon usage during the winter quarter months or other appropriate time period, computed by standard engineering practices for peak flow determinations, establishes a more accurate use designation for the property; or

b. Facilities or equipment installed or erected and operated at the property significantly reduces the demand capacity needed or attributable by standard engineering practices for the use classification of the properties.

The burden shall be upon the property owner to establish by appropriate tests and documentation the alternative use designation. If the Chief Engineer accepts the alternative designation, then that use assignment shall thereafter be applied to that tract or parcel, and a credit may be applied to subsequent billing(s), if appropriate.

#### SECTION 9: PROTESTS AND CHALLENGES

The Capital Finance Charges levied under this Resolution shall not be subject to any appeal or protest procedure other than as authorized by this Resolution, and any challenge to the Capital Finance Charge or capital finance charge component of a User Charge shall be brought within thirty (30) days after any final decision of the appeal process established under this Resolution.

#### SECTION 10: DEFERMENT OF CAPITAL FINANCE CHARGE

A. **ELIGIBILITY.** The Board of County Commissioners may, by resolution, provide for certain types or classification of properties to be eligible for a deferment of the application of the Capital Finance Charge for a period of time not to exceed ten (10) years, unless otherwise expressly authorized by action of the Board.

1. **ELIGIBLE DESIGNATIONS.** The following designated classifications of

property uses shall be and hereby are determined to be eligible for deferment of the Capital Finance Charge:

a. Property which was and is dedicated to an economical and viable use for agricultural purposes and which is classified as agricultural use for general real estate tax purposes under the appraisal and classification laws of the State of Kansas on the effective date of this Resolution or its inclusion in the Consolidated Main Sewer District;

b. Property which is classified as residential real estate, which is used as of the effective date of this Resolution or its inclusion in the Consolidated Main Sewer District as a single family residence, and which is not connected to or using the sanitary sewerage facilities of any sewer district, and/or which, in the determination of the Chief Engineer of JCW, cannot be reasonably or timely connected to the sewerage system.

2. DEFERMENT PERIOD. The Capital Finance Charge applicable to the individual tracts or parcels of property which are determined to be eligible for deferment under this Resolution shall be and hereby are declared to be deferred for a period of ten (10) years from the effective date of this Resolution, or the date of their inclusion within a sewer district created under this Resolution, whichever is later, unless the deferment period is sooner terminated in accordance with this Resolution or other official action of the Board; provided, however, that rural residential properties, containing five (5) acres or less, which qualify for deferment may be granted an additional deferment period by official action of the Board.

B. TERMINATION OF DEFERMENT. The deferment of application of the Capital Finance Charge shall terminate for any particular tract or parcel of land otherwise eligible for deferment whenever:

1. The current or any prior owner of the property signed or signs a petition requesting creation or enlargement of a sanitary sewer district of any kind; or

2. Any structure on the parcel or related parcels if subdivided, is or becomes connected to the sanitary sewerage system; or

3. The eligible property use or classification for the tract or parcel is changed to any other use or classification not eligible for deferment; or

4. The property is divided, subdivided, or otherwise split into two or more resulting lots, tracts or parcels, by deed, plat, re-plat or otherwise, other than by formal governmental condemnation proceedings or by dedication at the request of a governmental entity.

5. The property is transferred, other than by testamentary or intestacy succession or divorce judgment.

C. WAIVER OF TERMINATION OF DEFERMENT. Any property owner who has met the qualifications for deferment of the Capital Finance Charge but whose eligibility is terminated or subject to termination under the provisions of this Section may apply to the Board for a waiver of the termination and reinstatement or application of the deferment. The burden of persuasion to show good and proper cause why the deferment should apply and/or not be terminated shall be upon the property owner. Reinstatement or waiver of the termination shall be granted by the Board only for substantial reasons of equity and fairness. The Board shall adopt procedures and guidelines for consideration of any waiver.

D. PROCEDURES FOR APPLICATION OF DEFERMENT. Any property owner eligible for and designated as eligible for the deferment of the Capital Finance Charge shall complete and file with the General Manager a written application requesting that a deferment be granted. The application shall be on a form provided by the General Manager and shall contain the express basis for which the applicant claims eligibility for deferment.

#### SECTION 11: CREDITS AGAINST PAYMENT OF CAPITAL FINANCE CHARGES

The Board may and is hereby authorized to establish, by resolution, qualifications and procedures for granting of credits to the owner of a tract or parcel of land against the payment of the Capital Finance Charge.

SECTION 12: REFUNDS OF PRE-PAID ASSESSMENT AND COSTS

A. AUTHORITY. The Board may and is hereby authorized to provide for the payment of refunds, by rebate or abatement of all or part of the Capital Finance Charge applicable to individual tracts or parcels of land, under terms and qualifications deemed just and equitable by the Board.

B. AUTOMATIC ELIGIBILITY. The owner of any tract or parcel of land which is located within the Consolidated Main Sewer District who has pre-paid in full any special assessment or other tax assessment levied for a capital improvements project which was financed through the issuance of general obligation bonds, which have been refunded as a part of the Sewer Repair and Construction Finance Plan and for which outstanding debt obligations are payable from proceeds of the Capital Finance Charge shall be and hereby are determined to be eligible for a rebate or abatement of part or all of the Capital Finance Charge.

C. AMOUNT OF REFUND OR ABATEMENT. The amount of any refund or abatement shall be equal to the amount of the assessment pre-paid in full less the sum of the annual principal installment payments, excluding interest, which would otherwise have been assessed against the tract or parcel of land prior to the effective date of this resolution had prepayment in full not been made. All payments of refunds or abatement of charges shall be without interest.

D. APPLICATION FOR REFUND OR ABATEMENT. Unless otherwise officially approved by the Board or directed under this Resolution, refunds and abatements for pre-payment of special assessments under this Section shall be made upon receipt of written application by the property owner demonstrating entitlement to the refund or abatement.

E. OTHER APPLICATIONS. Any property owner who is not automatically eligible for the refund or abatement authorized by this Section but who has paid in full for sewerage facilities which were not publicly financed but which are available for use by the property, including pretreatment facilities, other than joint or lateral sewer lines, which are available for use by other



tracts or parcels of land within the Consolidated Main Sewer District, may apply to the General Manager for authorization of a refund or abatement. Refunds or abatements authorized by this Section shall be granted only by official action of the Board upon the express recommendation of the General Manager or Chief Engineer and, then, only upon a finding by the Board that the property owner has demonstrated substantial equitable considerations that the Consolidated Main Sewer District is now being substantially benefited by the privately financed facilities.

F. PAYMENTS NOT ELIGIBLE FOR REFUND CONSIDERATION. No refund, rebate, credit or abatement shall be authorized and granted for the payment of any special assessments or charges, whether pre-paid in full or not, for the costs of any lateral or joint sewer district, for the costs of any capital improvement project for which the bonds have been retired and not refunded under the Sewer Repair and Construction Finance Plan, or for the costs of any public improvement, including pretreatment facilities, which are required by code, law, rule or regulation for the use being made of the property by the landowner.

## **ARTICLE X. SYSTEM DEVELOPMENT, RECOUPMENT AND CONNECTION FEES**

### **SECTION 1: PURPOSE**

The purpose of this Article and the fees imposed are to regulate and manage the use and development of the sanitary sewer system and wastewater treatment facilities of Johnson County Wastewater through coordination of growth and development consistent with the comprehensive plan of the County and affected cities, through procedures designed to ensure that new development bears an appropriate and proportionate share of the capital costs for existing facilities, and facilities designated on the capital improvement plan; and by appropriate permit and use regulation to ensure compliance with environmental standards and prudent allocation and use of limited available resources and services.

### **SECTION 2: APPLICATION**

The provisions of this Article shall apply and be applicable to all persons and property now

or hereafter located within or designated, by contract or otherwise, to be within or a part of Johnson County Wastewater and to all property or persons requesting or eligible for connection to and use of facilities of Johnson County Wastewater.

### SECTION 3: PERMIT REQUIREMENTS

From and after the effective date of this Resolution, no person shall connect or cause to be connected any property, building or structure to a sewer or the sewerage system belonging to or operated by Johnson County Wastewater without first having applied for and received an appropriate hook-up, connection or discharge permit, nor shall any person discharge into and use any sewer or the sewerage system of Johnson County Wastewater in any manner other than that manner permitted or authorized by the permit and the Johnson County Sewer Use Regulations then in affect. Any person who does alter or modify the nature of sewer use permitted or authorized for any given property that is connected to the sewer system shall provide notice to Johnson County Wastewater prior to affecting any change and shall request and obtain any new or modified hook-up, connection or discharge permit, as required under the then applicable Sewer Use Regulations. Any permit issued under this Section shall be subject to the Sewer Use Regulations adopted by resolution of the Board and the applicable rules and procedures established by the Chief Engineer and shall be valid only for the period of time and conditions specified under the permit, pursuant to the established Sewer Use Regulations.

### SECTION 4: AMENDMENTS

The amendments to this Article adopted by Charter Resolution No. 042-13, shall be and become effective on January 1, 2014. Fees and Charges levied under this Article prior to January 1, 2014, shall be levied in the manner provided by the Article prior to the amendments provided by Charter Resolution No. 042-13, and shall remain in full force and effect until paid in full.

### SECTION 5: IMPOSITION OF FEES AND CHARGES

From and after the effective date of this Resolution, there shall be and hereby is levied and assessed a connection fee for and upon the connection to and usage of the sanitary sewerage

system of Johnson County Wastewater, and the connection fee shall be and hereby is imposed upon any person or property that applies for or receives a permit for, or otherwise causes to be made, any hook-up, connection or discharge to the sewerage system or any authorized sewer use or modified sewer use in the amount and according to the classifications established for the defined or proposed use of the property. The connection fee imposed pursuant to this Article shall apply at the time of connection or change in usage and shall be in addition to and separate from other connection, permit or inspection fees imposed under applicable sewer use regulations.

**SECTION 6: ESTABLISHMENT OF FEES AND CHARGES**

A. **CONNECTION FEE.** Any person or property that applies for or receives a permit for, or otherwise causes to be made, any hook-up, connection or discharge to the sewerage system shall be charged and required to pay, as a capital cost, a connection fee in an amount equal to the fee rate established by the Board from time to time multiplied by the usage rate applicable to the property or property use, for each connection or permit.

B. **SYSTEM DEVELOPMENT CHARGE.** Any person or property which is not located within the Consolidated Main Sewer District as and when created pursuant to this Resolution but which is subsequently included within the Consolidated Main Sewer District, by enlargement or otherwise, and which applies for or receives a permit for, or otherwise causes to be made, any hook-up, connection or discharge to the sewerage system shall be charged and required to pay, as a capital cost, the connection fee amount determined under this Section and Article and may by ordinary resolution adopted by the Board be required to pay a System Development Charge..

C. **RECOUPMENT AND CONVERSION CHARGE.** Any person or property which now or hereafter is granted a deferment of the Capital Finance Charge under the provisions of this Resolution and which, at any time more than five (5) years thereafter, applies for and receives a permit for, or otherwise makes, any hook-up connection or discharge to the sewerage system may, by ordinary resolution adopted by the Board, in addition to the regular annual Capital Finance Charge and connection fee determined and assessed under this Article be charged and required to

pay, as a capital cost, for the recoupment of an appropriate amount of the deferred charges for conversion from a deferred property to a user property, a one-time recoupment and conversion charge, assessed in an amount equal to the total Capital Finance Charge applicable to the property or property use during the year of connection to the sewerage system.

#### SECTION 7: DETERMINATION OF CONNECTION FEE RATE

The base connection fee rate shall be determined and established each year by the Board of County Commissioners as a part of its adopted and approved budget and shall be effectively levied on January 1 of each fiscal year in the amount designated by the budget, unless otherwise provided or modified by official action of the Board. The annual base fee amount shall be derived as a function of the allocation of capital project costs and may be increased in any given year by an amount equivalent to the proportional allocable increase in capital costs to the County, but the base fee amount shall not be increased by a percentage greater than ten percent (10%) of the base fee amount after adjustment to reflect any annual or cumulative increase in the established construction cost index in any given year without the affirmative vote of five-sevenths (5/7ths) of the Board after notice and hearing on the proposed amount.

#### SECTION 8: DETERMINATION OF USAGE RATE

The usage rate for any structure that applies for and receives a sewer hook-up, connection or discharge permit shall be determined on the basis of the sewerage facility capacity required to service the structure requesting connection to the sewer system and may be based upon such engineering standards, classifications or criteria which the Chief Engineer determines would establish an appropriate allocation of sewerage system capacity to classes and types of property use and sewerage system users. The connection fees may be proportioned in graduated tiers for properties that are located within established sewer districts, for properties which petition for or are enlarged into established sewer districts and for properties that are converted from one use or classification designation to another.

## SECTION 9: USE RATE CLASSIFICATIONS

A. BASE UNIT. The base unit for usage rate classification for any structure shall be based on the capacity of a 5/8ths inch water meter.

B. CONNECTION FEE. The connection fee for each structure that applies for or receives a hook-up, connection or discharge permit shall be based on the size of the water meter or, where the meter size is 3 inches or larger, the equivalent meter size necessary to serve the structure or the estimated wastewater discharged or dischargeable from the structure to the sewerage system. Measurement of the quantity, quality, and rate of flow of dischargeable wastewater shall be determined by the Chief Engineer according to accepted, standard professional engineering practices applicable to the design criteria for the allocation of sewerage system capacity to classes and types of property use and sewerage system users.

C. FEE SCHEDULES. Based upon the established fees and user rates, the Board shall adopt a standard schedule of fees utilizing the approved standardized meter size table. The fee schedule shall list the standard, acceptable connection fee multiplier for each meter size classification. Payment of the standard fee schedule charge shall comply with the requirements of this Resolution, subject to change or modification of the use of the sewerage system by the applicant.

D. FEE VARIANCES. Any applicant may request a variance from the established and adopted fee schedule by making payment in full of the scheduled fee and filing a written variance request form, stating the specific reason for the variance and providing information which demonstrates that the fee schedule, as adopted, should not be applied to the use or property requesting connection or change of sewer use.

E. USAGE CHANGES. The connection fee and charges established under this Resolution shall apply to and be paid by any person who proposes or causes a modification or change of use for any existing connection to the sewerage system. In the event of change of use, redevelopment, expansion or other modification of an existing use the calculated connection fee

shall be adjusted to include only the increased difference in the proposed water meter size or use versus the existing use.

#### SECTION 10: PAYMENT AND COLLECTION

The connection fees and charges imposed by this Resolution shall be payable to and collected by Johnson County Wastewater prior to issuance of a hook-up, connection or discharge permit or modified usage permit. All funds collected as and for connection fees and charges shall be accounted for in the Capital Improvements Fund.

#### SECTION 11: USE OF FUNDS COLLECTED

The Capital Improvements Fund shall be used exclusively for capital improvement projects, including construction, reconstruction, repair, rehabilitation, replacement and acquisition of the sewerage system and wastewater treatment facilities or other capital related costs, including contract obligations, at the direction of the Board of County Commissioners. Such funds shall not be used for the payment of the costs of operation and maintenance of the sanitary sewer system, but may be used to pay debt service on any debt instruments issued for capital projects, including refunded debt, existing debt, or debt for existing or new facilities within any sewer district. All interest accruing to the funds shall be kept within the account and expended in the same manner.

#### SECTION 12: EXEMPTIONS, CREDITS AND REFUNDS

The Board of County Commissioners may provide for properties to be exempt from the payment of the connection fee, system development or recoupment charges imposed or authorized by this Article or may establish procedures for the granting of credits and refunds to eligible persons. To be eligible for an exemption, credit or refund, the claimant must demonstrate that:

A. It complies with all requirements of a specific statute or Board Resolution providing for the exemption, credit or refund;

B. Its use of the sewerage system will not violate any sewer use laws or regulations;  
and

C. It has made timely application for the exemption, credit or refund.

All exemptions, credits and/or refunds, if any, shall be waived if not properly and timely claimed and applied for in writing.

### SECTION 13: APPEAL AND REVIEW

Any person or persons aggrieved by the assessment of a sewer connection fee or system development or recoupment charges may file a written protest with the Wastewater General Manager within seven (7) days after issuance of the permit for actual sewer connection or modification of the sewer use. The General Manager shall set a hearing date within thirty (30) days of receiving such written protest. The person requesting review shall have the burden of showing why the sewer connection fee or other charges is unjust or unreasonable. Regardless of a written protest, all fees shall be paid in full to the Wastewater offices at the time of permit issuance. If the property owner prevails in his protest, the Wastewater offices shall have thirty (30) days to refund the difference.

## ARTICLE XI. SEWER USE

### SECTION 1: AUTHORITY

The Board shall have the authority to adopt and implement, by resolution, codes and regulations for connection to and usage of the sewerage system, including a permit and pretreatment program to control and regulate the discharge of wastewater and pollutants into the sanitary sewerage system.

### SECTION 2: EXPRESS POWERS

The Board shall have the express power and authority to:

A. Adopt and enforce any rule, regulation, standard, effluent limitation or treatment requirement adopted by the Kansas Department of Health and Environment (KDHE) or the United States Environmental Protection Agency (EPA) pursuant to state law and/or federal pollution control law.

B. Require any user of the sewerage system to:

1. Obtain a permit from JCW or other designated regulatory agency prior to connecting to the sewerage system or, if connected, prior to a specified time of not less than thirty (30) days after notice of the requirement for a permit;
2. Satisfy conditions on the quantity, quality and rate of flow of discharged wastewater, which are necessary to prevent dangers to the public health, safety and welfare, to protect the proper operation of the sewerage system, pursuant to the Johnson County Code of Regulations for Sanitary Sewer Use, 2003 Edition, adopted by Resolution No. 120-02, and any amendments or superseding resolutions thereto, and to comply with current state and federal pollution control laws;
3. Comply with any effluent limitation or pretreatment standard promulgated by KDHE or the EPA applicable to the user group or classification of which the user is a part;
4. Cease or control the discharge of any pollutant determined to be a toxic or hazardous substance by KDHE or the EPA;
5. Control and regulate the amount and manner of wastewater discharge necessary to ensure compatibility with the sewerage system and treatment process and to protect the proper operation of the sewerage system;
6. Install and operate such equipment and treatment processes as are necessary to comply with state and federal pollution control laws, with pretreatment standards and effluent limitations adopted by the KDHE and the EPA, with rules and regulations of JCW or other regulatory agency, and with the provisions of this Resolution;
7. Install and operate such equipment and processes as are necessary to measure, test, and monitor the quantity, quality, and rate of flow of wastewater discharged to the sewerage system, including that necessary to determine the existence and amount of certain pollutants prescribed by JCW, KDHE or the EPA;
8. Prepare, maintain and submit to JCW or other regulatory agency such information and reports as the Board requires to effectively determine, measure, test and monitor



the pollutants in and quantity, quality and rate of flow of wastewater discharged to the sewerage system;

9. Provide access by JCW personnel to the premises of the industrial user to inspect and examine the records and reports required pursuant to this Resolution, to inspect and examine the equipment and treatment processes required pursuant to this Resolution, and to measure, test, determine and monitor the pollutants in, and the quantity, quality and rate of flow of wastewater discharged by the industrial user to the sewerage system; and

10. Develop and submit to the sewer district a compliance schedule and technical data to demonstrate progress toward obtaining, developing or installing equipment or operating methods commensurate with advancements in new technologies.

C. Deny or condition any increased or new discharge of wastewater by any user where such increased or new discharge would result in a violation of the permit issued for the user, a violation of the permit issued for the treatment plant, a danger to the public health, safety or welfare, interference with the proper operation of the treatment plant or a violation of state or federal pollution control laws and the Johnson County Code of Regulations for Sanitary Sewer Use, 2003 Edition, adopted by Resolution No. 120-02, and any amendments or superseding resolutions thereto.

D. Adopt appropriate enforcement measures in accordance with the provisions of this Resolution.

E. Take any action necessary to prevent, control, reduce and eliminate water pollution in order to comply with the Clean Water Act, 33 U.S.C. 1251 et seq., and amendments thereto;

F. Take such actions and adopt such rules and regulations which are consistent with the powers authorized in this Resolution, and which are reasonable and necessary by implication to adopt and enforce an adequate permit and pretreatment program within the requirements of state and federal pollution control laws.

**ARTICLE XII. ENFORCEMENT PROVISIONS**

**SECTION 1: AUTHORITY**

The Board shall have the power to establish, by resolution, enforcement procedures and penalties as provided in this Section, for violations of any charge, rule, regulation, standard or requirement adopted pursuant to this Act.

**SECTION 2: ACTIONS FOR ENFORCEMENT**

The Board may refer any complaints or charges for such violations to the district attorney or county counselor for the county wherein the consolidated main sewer district is located, who shall immediately prosecute the action in either the district court or the codes court of that county, seeking any of the relief provided for in this Section.

**SECTION 3: REMEDIES**

A. **REFUSAL OF SERVICE.** In the event that any person shall wrongfully neglect, fail or refuse to pay any charge or fee authorized by this Act, in addition to any other remedy available by statute or common law, the Board is hereby authorized, after notice and opportunity for hearing, to refuse the discharge of wastewater from the premises of the user into the sewerage system of the district and to take such action as may be necessary to prevent unauthorized discharges into the sewerage system until such time as such charges are fully paid.

In the event that any user shall violate any rule, regulation, standard or limitation duly adopted by JCW or any state law regulating water pollution in addition to any other remedy available by statute or common law, the Board is hereby authorized, after notice and opportunity for hearing, to refuse the discharge of wastewater from the premises of the user into the sewerage system of the district and to take such action as may be necessary to prevent violating discharges into the sewerage system until such time as such violations cease and are corrected.

B. **INJUNCTIVE RELIEF.** In the event that any violation by a user of the rules, regulations, standards, limitations or requirements adopted pursuant to this Resolution is determined by the Board to pose a threat or danger to the public health, safety or welfare or to the

proper operation of the sewerage system, the Board is hereby authorized to take immediate and effective emergency action to issue or obtain any preliminary injunctive relief as is authorized by law to prevent the discharge of the wastewater creating such threat or danger.

C. AWARD OF COSTS AND LIEN. All penalties, damages and costs assessed or awarded pursuant to the authority of this Article shall be a lien upon the premises of the user from the date assessed or awarded until the date fully paid. All proceeds received or collected from such fines, penalties, damages or costs shall be used by the Board first to defray the costs of administering the rules, regulations and other requirements adopted pursuant to this Act and then to defray the costs of any repairs, replacement, maintenance or reconstruction necessitated by violations of the rules and regulations or other requirements, and then to defray the general operation, maintenance and planning costs of the sewer district.

D. FINES AND PENALTIES. In addition to any fines or penalties authorized or permitted under any federal or state law, any failure to comply with or any violation of any provision of this Resolution, or any code, regulation, standard or permit requirement shall be a public offense punishable upon conviction by a fine or other civil penalties, as established by the Board pursuant to K.S.A. 19-101d and the code of regulation for enforcement of county codes and resolutions, or as determined by the judge of the district court or codes court. All violations as specified in this Article may be prosecuted in the County Codes Court or other Court of competent jurisdiction. Each separate violation or offense and each day of violation after notice and a reasonable time to cease or correct the violation shall be considered a separate and successive violation, and the established fine or penalty shall be enhanced and increased for every successive violation.

### **ARTICLE XIII. MISCELLANEOUS PROVISIONS**

#### **SECTION 1: ADDITIONAL OR EXPANSION OF FACILITIES OR SERVICES.**

A. FOR THE CONSOLIDATED MAIN SEWER DISTRICT. The Board may, at any time, find it necessary and by resolution may implement capital improvements to the existing

sewerage system or any main, sub-main, sub-sewer district, or Consolidated Main Sewer District. The resolution authorizing the additional improvements shall be filed as provided for other capital improvement projects under this Resolution. Prior to authorizing such enlargement or expansion of the existing sewerage system, notice of such proposal shall be published once in the official newspaper of the county giving the nature of the project, estimated cost and a time and place when the Board will hold a public hearing thereon. The Johnson County Wastewater Chief Engineer may set the date of the public hearing and cause notice to be published as required. Such additional improvements may be paid by the issuance and sale of general obligation bonds of the county in the manner as is provided in the General Bond Law in K.S.A. 10-101 et seq., and all amendments thereto.

B. FOR JOINT OR LATERAL SEWER DISTRICTS. After a part but not all of the sewers which will ultimately serve all the property in a joint sewer district or lateral sewer district are constructed, and upon petition of any landowner in such district who desires to have a sewer built to serve the petitioner's land, the Board of County Commissioners may design, plan and build the sewers and apportion and assess the cost thereof in the manner provided in this Resolution.

In any lateral sewer district, whenever additional sewers are constructed, after a part but not all of the sewers have been constructed, the cost of the construction of additional sewers shall be charged to the property served by the additional sewers.

#### SECTION 2: USE OF TREATMENT PLANT IN ANOTHER MUNICIPALITY

Whenever the sewers of one or more sewer districts under the direction and control of the Board connect to and discharge into the sewerage system or treatment plant of another municipality, either within or outside the state, and the municipality imposes a charge upon the sewer district for a proportionate share of the expense of operating the treatment plant, the Board by resolution, may establish and levy a user charge or other charges or assessments authorized by this Resolution to cover the total cost of the charge imposed upon the district. The Board shall determine the method of apportioning the user charge or other charges among the users of the

district.

SECTION 3: ANNEXATION OF AREA WITHIN SEWER DISTRICTS

Whenever the Board has created any sewer district, and thereafter all or part of the lands within the district are annexed by a city, the district shall not be dissolved as a result thereof.

SECTION 4: PRIOR DISTRICTS TO CONTINUE UNDER THIS RESOLUTION

Any sewer district created under the provisions of Article 27 of Chapter 19 of the Kansas Statutes Annotated, and amendments thereto or under Charter Resolution No. 18-84, prior to the effective date of this Resolution shall continue in existence, and shall operate under the provisions of this Resolution. Enlargements of the Consolidated Main Sewer District, whether by creation of a sewer district, the formation of a contract district, or upon separate petition, shall extend the boundaries of the Consolidated District and JCW but shall not alter the boundaries of any such prior existing districts unless expressly directed by action of the Board.

SECTION 5: SEWER DISTRICT CLERK

The Clerk of the Board of County Commissioners shall be the official clerk of the governing body of any sewer district.

SECTION 6: SEVERABILITY

If any provision or section of this Resolution is deemed or ruled unconstitutional or otherwise invalid by any court of competent jurisdiction, said ruling shall not affect the validity of the other parts of this Resolution.

SECTION 7: REPEAL

The following Charter Resolutions and resolutions are hereby repealed when this Charter Resolution, as amended, shall become effective; Charter Resolution 7-80; 8-81; 10-81; 12-81; 13-82; 14-83; Resolutions 82-150; and 051-83.

SECTION 8: TAKE EFFECT

This is a Charter Resolution authorized by K. S. A. 19-101b and K. S. A. 19-117 and shall be subject to approval and take effect as provided in K. S. A. 19-101b or 19-117 and to the extent

applicable shall become effective if and when approved by a majority of the electors voting at an election called for the purpose of approving this Resolution.

This Charter Resolution shall be published once a week for two consecutive weeks in the official County newspaper.

***Adopted as Charter Resolution No. 29-92 by the Board of County Commissioners of Johnson County, Kansas, on February 20, 1992; amended June 19, 1997 by Charter Resolution 33-97; amended May 4, 2000 by Charter Resolution 35-00; amended June 5, 2008 by Charter Resolution 39-08; amended May 3, 2012, by Charter Resolution 041-12; amended March 7, 2013, by Charter Resolution No. 042-13 (effective May 23, 2013).***