

MSD RULES AND REGULATIONS
AMENDMENT TO SECTION 1215(B)(10)

LEGISLATIVE REQUEST:

Resolution concluding the public hearing held relative to the modifications to Article 12, Section 1215(B)(10) of the Rules and Regulations of the Metropolitan Sewer District of Greater Cincinnati and adopting said modifications.

EXPLANATION:

The Board will hold a public hearing on the proposed modifications to the MSD Rules and Regulations, as required under Section 5.2 (b) of the 1968 Hamilton County-City of Cincinnati Management Agreement for the Metropolitan Sewer District. The public hearing affords the Board the ability to receive comments regarding the proposed addition.

This public hearing is to discuss modifications to ARTICLE XII, "BUILDING SEWERS: CONNECTIONS AND PERMITS", SECTION 1215(B)(10), "Tap-in-Fee: Conditions, exceptions, and additional information" (Exhibit 1).

At its regular session of June 8, 2005, Virginia Snyder, the property owner of 226 Albion Place, (PID 8900010022) located in the City of Cincinnati, requested the Board review its policy regarding tap-in fees for re-developed residential properties. Specifically, the owner asked the Board to either waive the tap-in fee relating to the re-development or to consider modifications to the existing Rules and Regulations that regulate how tap-in fees are assessed to re-developed properties that have no water meter or records.

Presently, the Rules and Regulations provide that MSD will not collect an additional tap-in fee if the property is re-developed within six years of the building being demolished or destroyed, the re-development has a water meter of the same size as the building that was demolished or destroyed and the property has a permitted sewer tap. MSD informally used a six-year period since the mid-1980s; this timeframe was codified in the 2001 Rules and Regulations.

MSD has reviewed the facts and circumstances surrounding Ms. Snyder's request and her re-development of 226 Albion Place. First and foremost, based upon a 1997 Prosecutor's opinion, neither the MSD Director nor the County Commissioners may reduce or waive tap-in fees, except where the fee is unreasonable to collect.

The property owner applied for a building permit for a garage/apartment at this location. The site plan was very vague, however MSD records indicate that a previous building occupied this site long ago and had a connection to a private sewer located on another property. Records indicate that this lot has been vacant for longer than six years. MSD approved a building permit for the re-development November 18, 2003.

Although current regulations would require a tap-in fee by the owner, the District offers the following amendment to Section 1215(B)(10) in order to eliminate the existing six year time frame (see Exhibit 1).

Both the City Solicitor and County Prosecutor have reviewed and approved this amendment as consistent with law.

FUNDING: None.

REMAINING FUTURE LEGISLATION: • None.

Amendment to MSD's Rules and Regulations
(September 7, 2005)

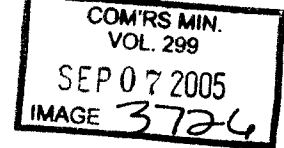


EXHIBIT 1

Section 1215 Tap-in-Fee

B. Conditions, exceptions, and additional information:

10. Applicants for sewer tap permits under the following circumstances will be charged Tap-in Fees as follows:
- a. No additional tap-in fee will be charged for an existing building with a permitted sewer tap which is demolished or destroyed, is replaced with a new building on the same site, and for which the water meter size for the replacement building is the same as the water meter size for the demolished or destroyed building. Where records do not exist on water meter size, the minimum water meter size, as indicated in Table 1215-2 or Table 1215-3, will be assumed.
 - b. For an existing building with a permitted sewer tap which is demolished or destroyed, is replaced with a new building on the same site, and for which the water meter size for the replacement building is increased from the water meter size for the demolished or destroyed building, or in the case where water meter size records do not exist and the minimum size meter is assumed, the Tap-in Fee will be calculated based on the current rates for Tap-in Fees, less the Tap-in fee previously paid. If no record of prior Tap-in fee payment exists, the Tap-in Fee amount previously paid will be assumed to be in accordance with Table 1215 -2 or Table 1215 -3, below, as applicable.
 - c. For an existing building with a permitted sewer tap for which the water meter is replaced with a new, larger water meter, the Tap-in Fee will be calculated based on the current rates for Tap-in Fees, less the Tap-in fee previously paid. If no record of prior Tap-in fee payment exists, the Tap-in Fee amount previously paid will be assumed to be in accordance with Table 1215-2 or Table 1215-3, below, as applicable.

Table 1215-2. For single-family buildings constructed prior to July 2, 1996:

Water Meter Size	Tap-in Fee
Up to ¾"	\$480.00
1"	\$870.00
1½"	\$1,990.00
2"	\$3,580.00
3"	\$8,120.00
4"	\$14,500.00
6"	\$32,800.00
8"	\$58,400.00

Table 1215-3. For buildings constructed on or after July 2, 1996:
(*eff. 1/1/2005*)¹

Water Meter Size	Tap-in Fee
Up to ¾"	\$2,840.00
1"	\$5,140.00
1½"	\$11,760.00
2"	\$21,180.00
3"	\$48,020.00
4"	\$85,760.00
6"	\$193,990.00
8"	\$345,410.00
10"	\$539,400.00
12"	\$775,960.00

1. Per Section 2501, these are the 2005 tap-in fees.

11. Policy Concerning Tap-in-Fees associated with Residential and Non-Residential Redevelopment (**added 8/28/2002**)

It is the policy of the Board of County Commissioners to encourage redevelopment throughout Hamilton County. Redevelopment is defined as the removal of one or more buildings of any type from one or more parcels of any zoning, and the replacement of that structure or structures with any number of new structures.

MSD will calculate the tap-in-fees for the new structure(s) within residential or non-residential redevelopments based on the current rates for tap-in-fees (Table 1215-1 *et. seq.*), less the tap-in-fee amount for the old structure. The tap-in-fee equivalent for the redevelopment will be the sum of the various size meters times the rate for that meter minus the sum of the pre-redevelopment meter sizes times the present rate for that size meter.

Rates to be used are the rates in effect at the time the development plans are approved for construction.

The redevelopment tap-in-fees balance shall be collected based on building meter size prior to the credit balance being issued. In the event the predevelopment amount is greater than the redevelopment amount, there will be no refund of the difference.

Only those taps within the specific recorded land parcel limits of the original development, whose bounds have been defined by a development plan that has been reviewed and approved by a County or Municipal Zoning or Planning Board or Commission sanctioned by the Ohio Revised Code and Ohio Administrative Code, are transferable.

Each redevelopment that occurs will be based on the most recent previous development. No credits will be given for past redevelopment activity.

To receive the credit for pre-existing taps, the developer must submit satisfactory proof to establish the number and size of pre-existing water meters available for the new development units during the concept or detail plan review process defined under Section V of the MSD Rules and Regulations. The following shall be used to determine "satisfactory proof":

1. Clear written description describing the source of the pre-existing information.
2. A plan clearly showing the location of the pre-existing buildings and water meters in relation to the current parcel lines for which credit is requested.

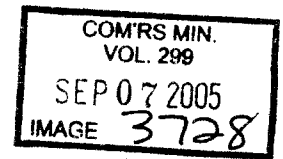
Approval shall be void if construction has not commenced within twelve (12) months and completed within thirty-six (36) months from the date of the approval of construction letter consistent with Section 510 of these Rules and Regulations. The Director may extend approval for a period not to exceed twelve months.

Credit for pre-existing taps approved during Concept or Detail Plan Review will be granted after Tap Permits have been applied for and granted. No credits for the planned demolition of structure(s) will be granted until the demolition of such structure(s) is complete.

Where special conditions are identified, determination of the amount of credit for pre-existing units shall be set after consultation with the Director.

This policy only applies where connection credits exist.

City of Cincinnati



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August 30, 2005

Honorable Board of County Commissioners
Hamilton County, Ohio
% Ms. Suzanne Burke
Acting Hamilton County Administrator
County Administration Building, Room 603
Cincinnati, Ohio 45202

Honorable Commissioners:

Enclosed for your consideration and approval is a resolution pertaining to proposed changes to the Rules and Regulations for the Metropolitan Sewer District of Greater Cincinnati.

The proposed change modifies ARTICLE XII, "BUILDING SEWERS: CONNECTIONS AND PERMITS", SECTION 1215(B)(10), "Tap-in-Fee: Conditions, exceptions, and additional information".

The Board will conduct a public hearing, as required under Section 5.2 (b) of the 1968 Hamilton County-City of Cincinnati Management Agreement for the Metropolitan Sewer District, on September 7, 2005. MSD advertised the public hearing in a newspaper of general circulation, as well as notified interested parties of the public hearing.

The resolution concludes the public hearing and amends the existing Rules and Regulations providing for the modifications to Section 1215(B)(10).

RECOMMENDED:

Robert J. Campbell, P.E., DEE
Director, MSD

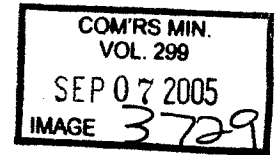
Approved:

Valerie A. Lemmie
City Manager

Reviewed by Karen McFarland and recommended by County Administration.

On motion of Mr. Heimlich, seconded by Mr. Portune,
the following resolution was adopted...

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RESOLUTION
CONCLUDING THE PUBLIC HEARING
AND
AMENDING THE RULES AND REGULATIONS OF
THE METROPOLITAN SEWER DISTRICT OF GREATER CINCINNATI
ARTICLE XII, SECTION 1215(B)(10)

WHEREAS, Section 6117.01 of the Revised Code of Ohio, and Section IV of the 1968 Management Agreement (hereinafter "1968 Agreement") between Hamilton County and the City of Cincinnati for the Metropolitan Sewer District vests the Board of County Commissioners of Hamilton County, Ohio, with the authority to adopt Rules and Regulations for the Metropolitan Sewer District of Greater Cincinnati (MSD); and

WHEREAS, this Board did, on January 24, 2001, after a public hearing, adopt revised MSD Rules and Regulations, and as subsequently amended; and

WHEREAS, pursuant to and consistent with Article V, Paragraph 2(b) of the 1968 Agreement the MSD Director has recommended to the Board an amendment to Article XII of the Rules and Regulations, modifying Section 1215(B)(10), "Tap in Fee: Conditions, exceptions, and additional information," said amendment being attached hereto and by this reference made a part hereof as Exhibit 1; and

WHEREAS, the Board did, on September 7, 2005, conduct a public hearing to receive and consider comments, remonstrances and objections to proposed modifications to the proposed modification of the Rules and Regulations and the names of persons appearing at said hearing have been entered in the minutes.

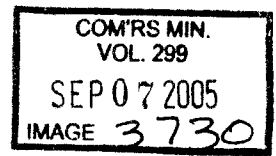
NOW, THEREFORE, BE IT RESOLVED by this Board of County Commissioners of Hamilton County, Ohio that the aforesaid hearing be and the same hereby is concluded.

BE IT FURTHER RESOLVED, that this Board hereby amends the MSD Rules and Regulations to modify Section 1215(B)(10), "Tap-in-Fee: Conditions, exceptions, and additional information" in accordance with the provisions contained in Exhibit 1.

BE IT FURTHER RESOLVED, that this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board of County Commissioners and that all deliberations of this Board of County Commissioners and of its committees, if any, which resulted in formal action were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio, this 7th day of September 2005.

Mr. DeWine Absent/Excused Mr. Heimlich AYE Mr. Portune AYE



CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution adopted by the Board of County Commissioners in session the 7th day of September 2005.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the Office of the Board of County Commissioners of Hamilton County, Ohio, this 7th day of September 2005.

Wilbur Sinclair, Deputy Clerk

Jacqueline Panioto, Clerk
Board of County Commissioners
Hamilton County, Ohio