



ARTICLE XVIII

MISCELLANEOUS

Section 1801 Design and Construction Standards

The design and construction of all sanitary sewers connected, either directly or indirectly to the wastewater treatment system managed by the District shall meet all published standards and specifications as established by the District.

Section 1802 Municipalities' Rights

No statement contained herein shall preclude any municipality from its rights under law to construct a sanitary sewer, subject to these Rules and Regulations.

Section 1803 Expansion of District

No statement contained herein shall prevent the Director from negotiating with any other public authority in regard to expanding the District subject to the approval of the Board and the City.

Section 1804 Special Permits

A special permit will be issued when the following conditions occur:

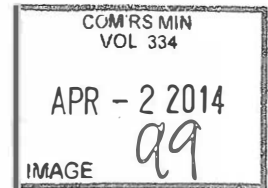
- A. When an existing private sanitary or combined building sewer is proposed to be replaced, relocated or extended.
- B. When an investigation/TV is requested by private companies or contractors for existing public or private sanitary or combined sewers.
- C. When an existing manhole must be adjusted to grade because of excavation/fill over the public or private sanitary or combined sewer.
- D. When a sanitary building sewer dry line is installed. However, the District does not guarantee the sewer availability of this dry line for future connection until such time as the appropriate plans and flow data have been approved.
- E. Installation of a manhole on an existing building sewer.

Section 1805 Amendments

April 2, 2014

Other Amendments to this Section were adopted
- February 9, 2005
This was repealed with the 2014 Amendment

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Section 1805 Policy on Management of Requests for Local Sewer Assessment Projects

- A. General.** It is the policy of the Board of County Commissioners of Hamilton County, Ohio to encourage public sewers and to finance sewer improvements which provide local sewer service by levying special assessments on the properties receiving benefit from a public sewer improvement, as determined by MSD and as provided in Ohio Revised Code (“ORC”) Chapter 6117. Sewer Lateral petitions are included in this policy only if the request for sewer lateral is for a property containing a single-family dwelling and the property utilizes a household sewage treatment system (HSTS) that will be eliminated by construction of the lateral.
- B. Types of Requests.** The Board will categorize requests it receives for local sewer service according to the following classifications:
- 1) **Citizen Petition for Local Sewer.** A petition may be requested by an owner of property within the district if the property has a dwelling or structure that utilizes a household sewage treatment system that would be abandoned as a result of construction of a new local sewer. Requests for petitions shall be in writing.
 - 2) **Petition for Acceptance of Private Sewer.** An owner of a sanitary sewer which is owned, controlled, operated, and/or maintained by a person other than the Board of County Commissioners of Hamilton County (BoCC) through the MSD may petition BoCC to accept dedication of the said sewer for public use, control, operation, and maintenance. See Section 1806 for procedures.
 - 3) **Declaration of Public Health Nuisance.** A Board of Health of a jurisdiction within the MSD may issue a declaration that a public health nuisance exists in a specified location in the sewer district and that the public health nuisance may be remedied by the construction of a sewer improvement.
 - 4) **Order of the Director of the Ohio Environmental Protection Agency (EPA).** Director of the Ohio EPA may issue orders that it is necessary for the public health and welfare that sewer improvements or sewage treatment or disposal works be constructed.
- C. Legislation.**
- 1) For petitions that are supported by property owners representing 100% of the benefited properties, MSD will request property owners to endorse a waiver of process, per Ohio Revised Code, to expedite Board proceedings. Per ORC 6117.28, if the owners of all the lots and lands to be benefited by and to be assessed for a local sewer improvement petition the Board to provide for the construction, maintenance, and operation of any such improvement, consenting that their said lots and lands may be assessed to pay the cost of such improvements, and waive notice and the publication of all resolutions and legal notices, the Board may direct MSD to prepare the necessary plans, specifications, and estimates of cost of construction, and a tentative assessment. When all the owners of all the lots and lands to be benefited by and assessed for the proposed improvements state in writing that they have examined the estimated cost and tentative assessment and that they have no objection thereto, then the Board may proceed to cause such improvements to be constructed and provision to be made for the payment of the cost of construction,

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- maintenance, and operation of the local sewer improvement.
- 2) If the Board decides that a local sewer improvement shall be designed, upon completion of the design MSD will certify final plans, specifications, estimate of cost, and tentative assessments to the Board for its consideration per ORC 6117.06(C).
 - 3) After plans, specifications, estimates of costs and tentative assessments have been accepted by the Board, MSD will notify benefited property owners of tentative assessments and the date of the project's public hearing as per ORC 6117.06(D).
 - 4) MSD will assist the Board in conducting a public hearing on the local public sewer improvement project. The public hearing provides benefited property owners the opportunity to endorse or oppose the local public sewer improvement per ORC 6117.06(E).
 - 5) After the adoption of the tentative assessments and the conclusion of the public hearing, project property owners have five days in which to file any objections per ORC 6117.06(E). MSD will present any objections to the Board for their disposal of the same.
 - 6) MSD will prepare a Resolution to Proceed for the Board's consideration. Objectors who filed objections under ORC 6117.06 will be notified as to this legislation's date of proposed adoption pursuant to ORC 6117.07.
 - 7) MSD or the Board may amend the plans, specifications, estimate and tentative assessments. Any amendments must follow the procedures laid out in ORC 6117.07.
 - 8) The Board, pursuant to ORC 6117.07, will decide whether to proceed with construction of the local public sewer improvement. In making its decision, the Board may consider: whether the sewer improvement is necessary for the preservation and promotion of public health and welfare, any notice of unsanitary conditions or public health hazard from a Board of Health, the cost of the improvement, the boundaries of the assessment district, the tentative apportionment of the district, the recommendations of MSD, and concerns of property owners served by the proposed improvement.
 - 9) Property owners have appeal rights as provided in ORC 6117.09. Appeals must be effected within ten days of the passage of the resolution. Appeals are limited to the following three issues by statute:
 - a. The necessity of the improvement, including the question whether the cost of the improvement will exceed the benefits resulting therefrom;
 - b. The boundaries of the assessment district;
 - c. The tentative apportionment of the assessment.
 - 10) After waiting ten days following the adoption of the Resolution to Proceed, MSD will present resolutions to appropriate funds and advertise and bid the local public sewer improvement pursuant to ORC 6117.08.
 - 11) After the acceptance and use of the local public sewer improvement, MSD will present to the Board legislation to confirm the original or revised tentative assessments and benefits.

D. Procedure for Citizen Petitions for Local Sewer

- 1.) Citizen Petition. MSD will mail sewer petitions to those property owners who request a petition for the planning and design of a sewer improvement. Petitions will include the following items as a minimum:
 - i) Description of the assessment area as determined by MSD.
 - ii) Names and addresses of properties to be served by the proposed local sewer.
 - iii) A signature line and "vote" checkboxes for indicating support for or opposition of the sewer project.

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- iv) A statement that it is Board policy that the actual cost to the property owner will not exceed \$12,000 for the public improvement.
 - v) A statement that costs associated with "private-side" improvements, i.e., connection to the public sewer and abandonment of the existing household sewage treatment system, are not a part of the local public sewer improvement costs.
 - vi) A statement that it is incumbent upon the petitioner to circulate the petition.
 - vii) A statement describing the purpose and benefit of the proposed public improvement.
- 2.) MSD Polling. When a petitioner submits a petition with absolute majority support for the planning and design of a sewer improvement, MSD will poll all project area property owners inquiring as to their support or opposition. The polling will be distributed by MSD and will inform all property owners of a potential local public sewer improvement and afford comment to all. The polling letter will contain the following statements:
- i. It is Board policy that the actual cost to the property owner will not exceed \$12,000 for the public improvement.
 - ii. Costs associated with "private-side" improvements, i.e., connection to the public sewer and abandonment of the existing household sewage treatment system, are not a part of the local public sewer improvement costs.
- 3.) Submittals to Board.
- i. MSD will present all petition and polling results to the Board for its record.
 - ii. MSD will request project funding based upon the establishment of absolute majority support.
 - iii. Should an outfall sewer not exist, MSD will present options to the Board for provision of trunk sewers.
 - iv. MSD will present declarations of public health nuisance received from a Board of Health within Hamilton County, or Orders received from the Ohio EPA to the County Commissioners for review, along with the data available from the Board of Health and/or the Ohio EPA.
 - v. For projects involving declaration of public health nuisance or Ohio EPA orders, MSD will do the following:
 - (a) request the Board of Health to conduct a public informational meeting concerning the nuisance for the residents of the identified area;
 - (b) forego any petition or polling efforts unless directed otherwise by the Board.
- 4.) Actions by the Board on Citizen Petitions after Submittals.
- i) The Board will enter into its official record all citizen petitions received for a local public sewer improvement. Returned petitions that are not supported by property owners representing an absolute majority of properties are not valid under Board policy.
 - ii) The Board will decide whether a local public sewer improvement shall be designed upon receipt of a written petition, initiated by a citizen or citizens of Hamilton County, to provide local sewer service to property within the MSD service area and jurisdiction. The petition will request the construction, operation and maintenance of a local public sewer improvement. In making its decision, the Board may consider one or more of the following factors as significant:
 - (a) Level of Interest: It is the policy of the Board of County Commissioners that to be considered as valid, a citizen petition for the planning and

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design of a sewer improvement shall have affirmative endorsement from property owners representing an absolute majority of the properties that benefit from the local public sewer improvement as determined per Section 1805 (H);

- (b) Whether or not a public sewer outfall presently exists to serve the local public sewer improvement project;
 - (c) The necessity of the improvement, including the question whether the cost of the improvement will exceed the benefits resulting therefrom;
 - (d) The boundaries of the assessment district;
 - (e) The tentative apportionment of the assessment.
- iii) If the Board determines that a sewer improvement shall not be designed, it will direct MSD to dismiss the petition and it will notify the Board of Health of its decision.
 - iv) If the Board decides that a local public sewer improvement shall be designed based upon the level of interest, or if the Board decides a local public sewer improvement is necessary for the preservation and promotion of public health and welfare, or if the Board decides a local public sewer improvement is necessary as a result of a Notice of Public Health Nuisance from a local Board of Health, it will direct MSD to prepare plans, specifications, estimate of cost, and tentative assessments for a local public sewer improvement which serves the properties on the petition or the specified location to remedy the public health nuisance.
 - v) Pursuant to ORC 6117.34, if the Board receives notice from the director of the Ohio EPA that it is necessary for the public health and welfare that sewer improvements or sewage treatment or disposal works be constructed, the Board shall obey such order and proceed to construct such sewers or treatment works, or maintain, repair, or operate the same, as are required by such order and in such manner as is satisfactory to the Director.

E. Notification of Tentative Assessment. MSD will provide to property owners in an assessment district notice of the maximum assessment cost of \$12,000 for a proposed local public sewer improvement. Actual costs and final credit amount are based on construction costs. MSD will provide this information during the following points in the assessment project process:

- 1.) With the petition.
- 2.) With the "polling" of all property owners in a proposed assessment district.
- 3.) With the notice of tentative assessments included in the announcement of the public hearing required by statute.

F. Determination of Benefited Properties. All properties, regardless of type and size, that abut and are specially benefited by the local public sewer improvement, will be allocated one benefit. MSD will assign benefits according to the following criteria:

- 1.) MSD will assess all buildable parcels, regardless of type and size, as 1 benefit per parcel. MSD will apply this policy whether the parcel is a single-family residence, a school, an industrial-use development or undeveloped property.
- 2.) MSD will assess a vacant parcel that is buildable, regardless of type and size, in the local public sewer improvement project area as 1 benefit, except as provided below:
 - i) Vacant parcels that have been placed in a land conservation easement, duly recorded with the Hamilton County Recorder before the date the Board adopts the resolution to proceed for the local public sewer improvement, will receive zero benefit.

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- ii) The Board will determine if a vacant parcel **not** placed in a land conservation easement is buildable and to be included in a sewer assessment district.
- 3.) MSD will report to the Board how it has determined and assigned benefits for each local public sewer improvement, subject to the Board's approval.
- 4.) The Board will confirm benefits after a local public sewer improvement is complete and accepted for use.
- 5.) Subject to the provisions of Chapter 6117 ORC, the Board's determination of benefits shall be final.
- 6.) MSD will report benefits determination to the Board at the time of the local public sewer improvement project's public hearing. Benefits so determined are subject to the provisions of §6117.09 ORC regarding objection and legal challenge. (Properties included in the assessment district as the result of an executed petition, statement and waiver are not subject to provisions of §6117.09 ORC regarding objection and legal challenge.)

G. Financing of Local Public Sewer Improvements. All costs of a local public sewer improvement shall be reported to the Board by MSD. The cost of the aforesaid local public sewer improvement, per Chapter 6117 ORC, shall be paid in part by Special Assessments against the property or properties abutting on and specially benefited by the local public sewer improvement. It is the policy of the Board to structure the financing of local public sewer improvements in the following manner:

- 1.) The total cost of said special assessment shall be the actual cost of the local public sewer improvement.
- 2.) Actual costs are those defined under ORC Chapter 6117, et. seq.
- 3.) Total actual cost shall be divided by the number of benefited properties to determine the per-benefit cost.
- 4.) MSD shall apply all applicable assessment credits, per Section 1216, to the total actual per-benefit cost.
- 5.) Actual costs per benefited property shall apply only to parcels benefited by the local public sewer improvement.
- 6.) Benefited parcels are determined under Section 1805 (H).
- 7.) MSD shall apprise property owners of their ability to apply to the Board for individual Community Block Development Grant (CDBG) funding. MSD shall apprise the political jurisdiction in which the local public sewer improvement is located of their ability to apply to the Hamilton County Department of Community Development for CDBG funding. The use and award of such funding is subject to the rules and regulations associated with it. The Board will endeavor to secure such CDBG funding where available and applicable.

H. Deferred Assessments. Under ORC 6117.061, the Board of County Commissioners may defer collection of up to 75% of the principal amount of a local public sewer improvement assessment for up to 20 years.

- 1.) It is the policy of the Board that the ability of a property owner to place the assessed cost of the local public sewer improvement on the property tax duplicate, over 20 years, constitutes, *de-facto*, a deferment under this chapter of the Revised Code.
- 2.) Per ORC 6117.061, the decision of the Board in this matter is final and no appeal thereof may be taken.
- 3.) MSD will report to the Board on all deferment requests received and request the Board to dispose of the same as a part of the project legislation. Decisions of the Board are final, with no avenue of judicial appeal.

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- I. **Pump Station Capacity.** It is the policy of the Board of County Commissioners of Hamilton County, Ohio that when an existing pump station requires an upgrade to accommodate the additional flows associated with a local public sewer improvement, the costs for said upgrade should be incorporated into the local sewer public improvement's actual costs, consistent with Sections 1805 (H)-(I). The distribution of those costs among the specially benefited properties shall also follow the provisions of Section 1805 (I), above.
- J. **Definitions.**
- 1.) **Absolute Majority:** Voting basis for petitions, whether at the signature stage or polling stage, that requires more than half of *all* the benefited properties within the assessment district (including those not voting) to vote in support of the petition in order for the petition to be considered valid. In practical terms, abstention from voting is equivalent to a *no* vote
 - 2.) **Assessment or Special Assessment:** The amount of actual cost assessed against a property benefited by a local public sewer improvement.
 - 3.) **Assessment District:** The area consisting of properties benefited from a local public sewer improvement as determined by MSD.
 - 4.) **Benefited Property:** A property within the MSD service area that abuts or is adjacent to a local public sewer improvement and will receive sewer service from said public improvement, whether directly connected to the local sewer at the time of the improvement's completion or not.
 - 5.) **Buildable Parcel:** A benefited property within the MSD service area that does not have a structure on it at the time the Board of County Commissioners adopt tentative assessments for a local sewer assessment project, but can be developed under existing zoning regulations.
 - 6.) **Land Conservation Easement:** An easement recorded to a buildable parcel that governs that parcel's development and use.
 - 7.) **Local Public Sewer Improvement or Local Sewer Assessment Project:** A public sewer improvement designed and constructed to serve a specified number of benefited properties in an assessment district within the MSD service area. Costs are borne, in part, by the benefited properties.
 - 8.) **MSD Service Area:** Hamilton County Sewer District No. 1.
 - 9.) **Household Sewage Treatment System:** The household wastewater disposal system used to serve a property not connected to the MSD service area public sewers.
 - 10.) **Net Assessment Amount:** The net assessment amount is the total project cost of the local sewer project divided by the number of benefited parcels within the local sewer project, less the amount of all assessment credits applicable to the particular parcel.
 - 11.) **Petition:** A form, containing the names, addresses, parcel identifications, signatures, and per parcel vote of benefited properties of a local sewer assessment project.
 - 12.) **Public Sewer Improvement:** A sewer constructed, operated, and maintained by the Board of County Commissioners of Hamilton County Ohio within the service area of the Metropolitan Sewer District of Greater Cincinnati (Sewer District No. 1) under the provisions of Chapter 6117 of the Revised Code of Ohio.
 - 13.) **Tentative Assessment:** The estimated amount of cost anticipated to be assessed against a property benefited by a local public sewer improvement.
 - 14.) **Vacant Parcel:** A benefited property within the MSD service area that does not have a structure on it at the time the Board of County Commissioners adopt tentative assessments for a local sewer assessment project.



- A. A television inspection will be done to document the condition of the sewer. The inspection and any sewer cleaning necessary to perform the inspection will be provided by MSD one time only. The owner must provide a right of entry for the inspection. The said television inspection will include only sewer sections that have adequate equipment access and sufficient pipe structural integrity to allow equipment passage through the sewer.
- B. The owner must, at his own cost, provide a smoke and dye inspection of the sewer to identify any sources of inflow or infiltration.
- C. The owner must, at his own cost, make any and all repairs or improvements to the sewer that are necessary to bring the sewer to MSD's current standards. If repairs or improvements are necessary, the owner shall provide to MSD a television inspection of the said private sewer after the necessary repairs or improvements are made.
- D. The owner must dedicate and provide a recordable plat for any and all easements necessary for the maintenance and operation of the sewer, at no cost to the County.
- E. The Director of MSD will notify the owner of any repairs or improvements that are necessary to bring the sewer to MSD's current standards.

After the above requirements are met, the Director of MSD will make a recommendation for BOCC's consideration as to the acceptability of the said sewer for public use, control, operation, and maintenance. If BOCC decides to accept the said sewer, it will adopt a resolution so stating. BOCC does not consider any private sewers to be under its jurisdiction unless and until such a resolution is adopted.

Dedication of combined sewers which are owned, controlled, operated, and/or maintained by a person other than BOCC will not generally be considered for acceptance by BOCC of County Commissioners. However, any owner of a combined sewer may appeal to BOCC in writing to accept dedication of the said sewer. The owner must accompany such an appeal with data demonstrating that the combined sewer has sufficient capacity to convey flow in such a manner so as to prevent backups, flooding, and sewer overflows.

Section 1807 Policy on Sewer Improvement Easement Acquisitions

Section VIII, paragraph 13 of the April 10, 1968 Agreement between the City of Cincinnati (City) and the Board of County Commissioners of Hamilton County (BOCC) for the MSD places responsibility for sewer easement acquisition with the City. It is the policy of BOCC that acquisition of easements for sewer construction, operation, maintenance and repair shall be as expeditious and efficient as is possible.

In order to acquire easements for sewer purposes, the City shall perform an appraisal of the fair market value of the easement and negotiate a final offer with the property owner. The City will use its best efforts to adhere to the following schedule for this process. This policy does not preclude shorter timeframes whenever possible.



A.	Project design complete (including acceptable easement drawings)		
B.	MSD prepares for submittal to Law Department for easement acquisition		1 month
C.	Law Department initiates appraisal and title opinion		2 months
D.	Review appraisal Assign to negotiator		1 month
E.	First contact with owner by negotiator		2 weeks
F.	Minimum of three contacts with owner by negotiator		3 months

If negotiations are successful:

G.	Obtain release of mortgage		2 months
H.	Record executed documents		1 month

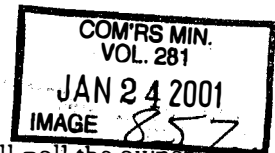
If the property owner does not agree to grant the necessary easement, the Director of MSD shall notify the Board of County Commissioners. The Board will decide whether to authorize additional negotiation or to refer the matter to the County Prosecutor to appropriate the easement through litigation.

MSD will provide semi-annual status report on easement acquisition to BOCC with reference to the above schedule and timeframes. MSD will report to BOCC on any easement acquisitions that exceed any of the timeframes referenced in the above schedule.

Section 1808 Policy Regarding Repairs to Private Sewers Under Circumstances of a Public Health Emergency

If the Board receives notice that a Health Commissioner of a Health District within the Metropolitan Sewer District has declared that a public health emergency exists at a specified location in the sewer district and that the public health emergency is due to the failure of a private sewer which connects indirectly or directly to the public wastewater collection and treatment system of MSD, then MSD will proceed immediately to make necessary repairs to resolve the public health emergency. When the repairs are complete and the public health emergency is resolved, MSD will seek reimbursement from the Board of Health of the Health District within which the emergency occurred. The billing for reimbursement will include the total cost of the repairs including engineering, inspection and incidental costs.

If, after the public health emergency is abated, an appropriate public authority requests additional repairs be performed such that the private sewer will be in a condition which meets MSD current standards for acceptance for dedication to public use, MSD will provide such repairs, provided the public authority commits to reimburse all costs of said repairs.



If the public authority declines to pay the costs of said additional repairs, MSD will poll the owners of the private sewer to determine whether the owners are interested in MSD completing such repairs, with the owners to be assessed for the cost of said additional repairs in accordance with ORC 6117.01-6117.51. If at all possible this polling will take place while MSD contractors, workers and equipment are still on the job site of the emergency repair, so that costs mobilization may be minimized.

If 100% of owners of the private sewer are in favor of an assessment project to repair the private sewer to standards such that it is acceptable for dedication to public use, and if 100% of owners waive their rights to object to the assessment project, then MSD will proceed with completion of the repairs.

If fewer than 100% of owners of the private sewer are in favor of the assessment project, no further work will be performed by MSD. An assessment project may be initiated in accordance with the procedures defined in Article XVIII, Section 1805.

Section 1809 Sewer Construction Inspection Fees

General Construction Inspection of Private Development \$50 per Hour

Section 1810 Mutual Aid Policy

Governmental agencies (cities, townships and villages in Hamilton County) request from MSD various types of assistance unrelated to the wastewater system, using MSD personnel and equipment. MSD may respond to requests for equipment and personnel services from other governmental agencies under the following conditions:

- a. The governmental agency requesting MSD services must designate in writing to the Director of MSD the individual(s) authorized to request and pay for requested services.
- b. MSD will bill the governmental agency for the services provided, within 30 days from the last day of service.
- c. MSD will not provide service to any governmental agency (including departments or divisions within the governmental agency) if bills for prior services are unpaid after 180 days.
- d. The services provided shall benefit the public and include public health and safety situations in the community.
- e. The MSD services shall be for a short duration and will not impair the basic sewer service provided by MSD to the MSD rate payers.
- f. MSD will not rent equipment or hire additional staff to provide these services.
- g. The Director of MSD or the Director's designee shall authorize any MSD services. In the cases of disaster or extreme emergency, the Director of MSD or the Director's designee shall take reasonable and immediate action to provide services as requested by a governmental agency. Expenditures shall be made in accordance with Section 2402 of these Rules and Regulations.
- h. Charges for service shall include overhead costs, as specified by the County Administrator, in addition to labor and equipment.
- i. The Director of MSD will report to the County Administrator all actions taken by MSD under the provisions of this policy prior to the next meeting of the Board of County Commissioners.