

ORDINANCE NO. 2003-2

AN ORDINANCE ESTABLISHING CHARGES FOR USERS AND PROVIDING FOR THE RECOVERY OF CAPITAL COSTS OF THE WASTEWATER FACILITIES OF THE LAKE WASHINGTON SANITARY DISTRICT, BLUE EARTH AND LE SUEUR COUNTIES, MINNESOTA

THE BOARD OF MANAGERS OF THE LAKE WASHINGTON SANITARY DISTRICT ADOPTS AND ORDAINS THE FOLLOWING:

Section 2 - Sewer Rate and Cost Recovery Ordinance

Section 2.00. General Recitals.

Subd. 1. The Lake Washington Sanitary District is formed by order of the Minnesota Pollution Control Agency, under the authority of Minnesota Statutes Sections 115.18 to 115.37 and 115.61 to 115.67. The District has or will undertake to construct a wastewater collection and conveyance system (the "Facilities") within the District.

Subd. 2. The Board of Managers has entered into a Sewage Treatment Capacity Agreement with the City of Mankato to treat wastewater collected in the District under certain terms and conditions.

Subd. 3. The Board of Managers has or will issue its general obligation bond to secure certain indebtedness for the procurement of the facilities.

Subd. 4. The Board of Managers requires an ordinance to provide for the lawful, fair and equitable recovery of the cost of construction of the District's wastewater facilities as well as the lawful, fair and equitable charges for operations, maintenance and replacement of the facilities and the treatment of wastewater generated in the District.

Section 2.01. Purpose and Policy. This Ordinance sets forth a uniform system for charges and user fees for the procurement, operations, maintenance and replacement of wastewater facilities within the District.

The objectives of this Ordinance are:

- a) To provide a system of charges and/or assessments to Initial Users of the Facilities in order to recover capital costs associated with procurement of the facilities and the providing of wastewater treatment within the District;
- b) To provide a system of User Fees or charges in order to pay for the treatment of wastewater generated by Users of the Facilities and to provide for the operations,

maintenance and replacement of the Facilities; and

- c) To provide a system of charges and or assessments to Future Users of the Facilities in order to recover and offset the initial capital costs paid by the initial users.

The Ordinance shall apply to the District and users of the District's facilities.

Section 2.02. Definitions.

Subd. 1. Unless the context specifically indicates otherwise, the following terms, as used in this Ordinance, shall have the meanings hereinafter designated.

Subd. 2. "Board" means the Board of Managers of the Lake Washington Sanitary District.

Subd. 3 "Capital Costs" means all reasonable and necessary costs and expenses incurred by the District in planning, designing, financing, and constructing the Facilities and obtaining service, including but not limited to costs and expenses for obtaining necessary permits, licenses, approvals and grants for design and construction costs; fees for legal and consulting services; or the acquisition of such Facilities and service.

Subd. 4. "Connection Charge" means a charge equal to a pro-rata share of the maintenance and replacement components of OM&R costs per user on the system for the period from construction of the Facilities through the date of connection to the Facilities.

Subd. 5 "Debt Service" means the principal and interest necessary to pay bonded indebtedness.

Subd. 6. "Debt Service Charge" means the charge related to the principal and interest necessary to pay bonded indebtedness.

Subd. 7. "District" means the Lake Washington Sanitary District formed by the Minnesota Pollution Control Agency for the purposes described in this ordinance.

Subd. 8. "Facilities" means the system of trunk and lateral lines, gravity and force mains, pumps, lift stations and other appurtenance constructed to collect and convey wastewater from the District.

Subd. 9. "Flow" means the quantity of wastewater expressed in gallons or cubic feet per twenty-four (24) hours.

Subd.10. "Future User" means any Person who, not less than 180 days after the Facilities are available for use, desires or is required to connect to the facilities, or discharges, causes, or

permits the discharge of wastewater into the facilities.

Subd. 11. “Initial User” means any Person who, not more than 180 days after the Facilities are available for use, desires or is required to connect to the Facilities, or discharges, causes, or permits the discharge of wastewater into the Facilities.

Subd. 12. “Multiple Unit User” means any Person, authorized under agreement with the District, discharges wastewater to the Facilities from multiple sources through one connection to the system (i.e. a campground or other multi-unit property use).

Subd. 13. “Non-residential User” means any Person who discharges, causes, or permits the discharge of wastewater into the facilities from a structure other than a residence, seasonal residence or, in the case of a multiple unit user, some combination thereof.

Subd. 14. “Normal Residential Strength Waste” means wastewater that is produced primarily in a residence or seasonal residence with Biochemical Oxygen Demand concentrations not greater than 300 mg/l and total suspended solid concentrations not greater than 300 mg/l.

Subd. 15. “Operations, Maintenance, and Replacement Costs (OM&R)” means the expenditures necessary to provide for the dependable, economical, and efficient functioning of the Facilities throughout their useful life, including operator training and permit fees, and the cost of replacement of certain equipment appurtenant to the Facilities.

Subd. 16. “Ordinance” means the set of rules contained herein and in the District’s Sewer Use Ordinance.

Subd. 17. “Person” means the State or any agency or institution thereof, any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity, including, but not limited to, association, commission or any interstate body, and including any officer or governing or managing body of any municipality, governmental subdivision or public or private corporation, or other entity.

Subd. 18. “Residence” means a single family dwelling, home, cottage or cabin used for more than 200 days per year.

Subd. 19. “Residential Equivalent Unit (REU)” means a unit of measure applied, for the purpose of the Ordinance, to users of the Facilities. One REU equals an average annual discharge of wastewater to the Facilities of 200 gallons per day, or 6,000 gallons per month.

Subd. 20. “Seasonal Residence” means a non-homesteaded single family dwelling, home, cottage or cabin used for less than 200 days per year.

Subd. 21. “Sewer Availability Charge” (SAC) means a charge for the User’s proportionate

share of the Capital Cost of the Facilities and services.

Subd. 22. “Shall” is mandatory; “May” is permissive.

Subd. 23. “Treatment Cost” means the actual cost of treatment per 1000 gallons of wastewater conveyed by the Facilities to the City of Mankato’s treatment works, as contained in the Sewage Treatment Capacity Agreement between the City of Mankato and the District.

Subd. 24. “User” means any Person who discharges, causes, or permits the discharge of wastewater into the Facilities.

Subd. 25. “User Fee” means the fee paid by all Users of the Facilities to pay the treatment cost, cost of OM&R of the facilities, and any future allocated debt service costs.

Subd. 26. “Wastewater” means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the Facilities.

Section 2.03. Mandatory Connection, Charges, Initial Users.

Subd. 1. Connection to the Facilities by Initial Users within the District is mandatory within the timelines specified in Ordinance No. 2003-1 of the District.

Subd. 2. At, or immediately prior to the time a connection is made to the Facilities, each Initial User shall pay or be subject to an approved assessment for a SAC to the District.

Subd. 3. The SAC paid by each Initial User shall be determined as follows:

$$(\text{Capital Cost (less grant funding)} / \text{total Initial Users}) \times \text{User REU} = \text{SAC}$$

For Example: Capital Cost (less grant funding) = \$1,000,000.00
Total Initial Users = 100
User REUs = 3 (Multiple Unit User)

$$\$1,000,000.00 \div 100 = \$10,000.00 \times 3 = \$30,000.00$$

For the purpose of determining the SAC, the number of total Initial Users shall be based on the number of total Initial Users at the time the Facilities are constructed.

Subd. 4. Each Initial User may prepay a portion or all of the SAC in accordance with the Assessment Certifying Resolution adopted by the District following the assessment hearing at, or immediately prior to connecting to the Facilities, and have the remainder of the SAC certified to

the County Auditor of Blue Earth or Le Sueur County as an assessment against the property served by the connection for collection as other assessments are collected according to the certification.

Subd. 5. All assessments certified to the County Auditor of Blue Earth or Le Sueur County under this section shall be certified for payment over a period not greater than 20 years at an interest rate not higher than 1.5% above the rate charged on the bonded indebtedness.

Subd. 6. Any owner of property within the District, who shall not be an Initial User, but who may become a Future User, may secure a future connection to the Facilities, under the terms of this section by providing notice to the District prior to the construction of the Facilities and by immediately paying or agreeing to the assessment terms in Subd.5 above of the SAC

Subd. 7. In the event an owner shall fail to connect to the Facilities, as required by Ordinance **No. 2003-1 Section 1.03**, the District may undertake to have said connection made and shall charge the cost thereof against the property and said charge shall be a lien against said property. Such charge, when made, shall bear interest at the rate of eight percent (8%) per annum and shall be certified to the auditor of the County in which the land is situated and shall be collected and remitted to the District in the same manner as assessments for local improvements. The rights of the District under this subdivision shall be in addition to any other remedial or enforcement provisions of this Ordinance.

Section 2.04. Mandatory Connection, Charges, Future Users.

Subd. 1. Connection to the Facilities by Future Users within the District is mandatory prior to the production of wastewater by the User.

Subd. 2. Immediately prior to the time a connection is made to the Facilities, each Future User shall pay a SAC, and a connection charge to the District.

Subd. 3. The SAC paid by each Future User shall be determined in the same manner as that outlined in section 2.03.

Subd. 4. The connection charge shall equal the pro-rata, by the annual number of connections converted to REU's, share of the maintenance and replacement components of OM&R costs per User on the system for the period from the construction of the Facilities through the date of connection.

Subd. 5. Future Users paying the SAC under section 2.03 shall only pay the Connection Charge under this section prior to the time of connection.

Subd. 6. Future Users shall bear the entire cost of extending the facilities to their property line unless a Future User has previously paid the SAC under section 2.03 or unless the Future

User has previously paid for the extension of service at outlined in subdivision 7 below.

Subd. 7. Any owner of property within the District past whose property the Facilities run or against whose property the Facilities abut, who shall not be an Initial User, but who may become a Future User, may have the Facilities extended to the property line at the point of future use by providing notice to the District prior to the construction of the Facilities and by paying to the District, either as an assessment or a one time payment, the full amount of the cost of the extension of the Facilities.

Subd. 8. In the event an owner shall fail to connect to the Facilities, as required by this Ordinance, the District may undertake to have said connection made and shall charge the cost thereof against the property and said charge shall be a lien against said property. Such charge, when made, shall bear interest at the rate of eight percent (8%) per annum and shall be certified to the auditor of the County in which the land is situated and shall be collected and remitted to the District in the same manner as assessments for local improvements. The rights of the District under this subdivision shall be in addition to any other remedial or enforcement provisions of this Ordinance.

Section 2.05. User Fees.

Subd. 1. User Fees shall be set by the District, reviewed annually and adjusted as necessary to pay the cost of treatment and to cover OM&R costs. The User Fees shall be adopted by resolution upon enactment of this Ordinance and shall be published in the local newspaper and shall be effective upon publication. Subsequent changes in the sewer service rates and charges shall be adopted by the District resolution and published in the local newspaper.

Subd. 2. User Fees shall be charged monthly and be payable within 30 days of receipt of billing.

Subd. 3. User Fees shall consist of the following components:

- a. Treatment Costs
- b. OM&R, consisting of
 - i. **Operations:** Cost of operating the Facilities, including but not limited to the cost of administering the Facilities and cost of operating lift stations, test equipment and measuring devices.
 - ii. **Maintenance and Replacement:** Cost of maintaining the Facilities in efficient working order, including but not limited to routine maintenance, line clearing, repairs, and replacement of

equipment appurtenant to the Facilities

Subd. 4. Determination of Monthly Total User Charges

- a. **OM&R Uniform Monthly Charge** : For producers of Normal Residential Strength Wastes the base minimum monthly OM&R sewer charge for all connections shall be set by the Board and charged uniformly to all connections after the Board has set the annual OM&R costs allocated to all Users:

$$\mathbf{MOMR} = \frac{\mathbf{OM\&R}}{\mathbf{TCU}}$$

Where:

MOMR	=	Monthly Unit cost for Operation, Maintenance and Equipment Replacement per connection (REU).
OM&R	=	Total annual OM&R costs allocated by the Board the total connections served.
TCU	=	Total annual Connections Units(REU's) .

- b. **OM&R Uniform Usage Charge** : For producers of Normal Residential Strength Wastes the unit charge for OM&R for all wastewater produced shall be set by the Board and charged uniformly to the flow after the Board has set the annual OM&R costs allocated to billable wastewater flow:

- i. Calculation of Unit Cost for OM&R Charge

$$\mathbf{Uomr} = \frac{\mathbf{OM\&R}}{\mathbf{Tbvw}}$$

Where:

Uomr	=	Unit cost for Operation, Maintenance and Equipment Replacement in \$/1000 gallons.
OM&R	=	Total annual OM&R costs allocated by the Board to billable wastewater flow
Tbvw	=	Total annual billable wastewater flow in 1000 gallons.

- ii. Calculation of OM&R Usage Charge

$$\mathbf{UOMR} = \mathbf{Uomr} \times \mathbf{Bwv}$$

Where:

UOMR	=	OM&R Usage Charge
Uomr	=	Unit Charge for OM&R (\$/1000gal.)
Bwv	=	Billable wastewater volume of a single user (1000 gal.)

c. Calculation of **Treatment User Charges**

$$UC = Tomr \times Bwv + Base$$

Where: Uc = User Charge
 Tomr = Unit cost for Treatment by the City of Mankato in \$/1000 gal.
 Bwv = Billable wastewater volume in 1000 gal.
 Base = Base charge for administration costs

d. Recovery of Local Construction Costs:

Local construction costs for the wastewater treatment facility will be recovered through a SAC as calculated in Section 2.03 above. Any additional construction costs not covered through the SAC may be recovered by the District and calculated in a manner consistent with the Debt Service User Charge as follows:

i. Calculation of Unit Cost for Debt Service

$$Uads = \frac{Ads}{Tbwv}$$

Where: Uads = Unit cost for annual debt service (\$/1000 gal.)
 Ads = Cost of annual debt service
 Tbwv = Total amount billable wastewater volume (1000gal.)

iii. Calculation of Debt Service Charge

$$Dsc = Uds \times Bwv$$

Where: Dsc = Debt Service Charge
 Uds = Unit Charge for Debt Service (\$/Kgal.)
 Bwv = Billable wastewater volume of a single user (Kgal.)

e. Determination of Total Sewer Service Charges

The sewer service charge for a particular connection shall be determined as follows:

$$SSC = MOMR + UOMR + UC + DSC$$

Where: SSC = Sewer Service Charge
 MOMR = Monthly OM&R Charge
 UOMR = OM&R Usage Charge
 UC = User Charge

DSC = Debt Service Charge

Subd. 5. Multiple Unit Users may be charged additional OM&R costs as part of the User Fee to account for volumes of wastewater actually produced in excess of the REU volume.

Subd. 6. Seasonal Residence Users shall be charged a User Fee in an amount to reflect the Treatment Costs for the monthly volume of wastewater produced in addition to the full monthly OM&R costs as pro-rated by the total number of connections.

Subd. 7. The User Fees established in this ordinance will not prevent the assessment of additional charges to non-residential users who discharge wastes in concentrations greater than NDSW or of unusual character (industrial users). Special contractual agreements can be made with such users, subject to the following conditions:

- a. The User pays OM&R costs in proportion to the User's contribution of wastewater flows and loadings to the treatment facility and no User is charged at a rate inferior to the charge for normal domestic strength wastes.
- b. The sampling of wastewater shall be conducted in accordance with the techniques established in "Standard Methods for the Examination of Water and Wastewater," latest edition.

Subd. 8. Unpaid User Fees shall become a lien on the property that is served by the Facilities. In the event an owner shall fail to pay User Fees, as required by this ordinance, the District may undertake to have said fees certified as an assessment against the property at an interest rate of eight percent (8%) per annum to be collected and remitted to the District in the same manner as assessments for local improvements. The rights of the District under this subdivision shall be in addition to any other remedial or enforcement provisions of this ordinance.

Section 2.06. Finances of the District.

Subd. 1. The District shall maintain separate accounts for funds collected for recovery of Capital Costs, Treatment Costs, Operations costs, Maintenance costs, and Replacement costs. The accounts shall be appropriate and suitable for the deposit of municipal funds.

Subd. 2. The District shall neither deposit nor invest funds collected for recovery of Capital Costs in any account or investment bearing an interest rate greater than the interest rate on the bonded indebtedness for the project.

Subd. 3. Subject to subdivision 2 above, the District may invest funds, in its discretion, in investments appropriate and suitable for municipal funds, and only in a manner consistent with existing law.

Subd. 4. Interest earned on any fund, deposited or invested, shall remain in and become part of the fund from which it is earned, and be used for the purposes of the fund from which it is earned.

Subd. 5. The District may lend and/or borrow between funds only under an obligation to repay the borrowed funds with interest, and only in a manner consistent with existing law regarding such activity.

Subd. 6. The District may, as necessary, and as allowed by law, certify to the Auditor of Blue Earth or Le Sueur County a tax upon property within the District to pay administrative costs associated with operation of the District. Such funds shall be maintained in the account established for operation of the Facilities.

Subd. 7. The Board of Managers of the District, its employees, and its agents shall be considered fiduciaries to the District in the collection, handling, deposit, investment, use and disbursement of the funds of the District.

Subd. 8. The Board shall order an annual audit of the District's finances and provide an annual report the residents of the District at a meeting held for such purpose.

Section 2.07. Notice of Amendment. Prior to any amendment of this ordinance or any amendment to the system of user charges established under this ordinance, the District shall publish notice of the proposed amendment, at least once per week for two successive weeks, in a qualified newspaper in general circulation in the District.