

CASTLE DANGER SEWER SERVICE AREA USER CHARGE SYSTEM ORDINANCE

Town of Silver Creek Ordinance No. 98-2

AN ORDINANCE ESTABLISHING A SEWER SERVICE CHARGE SYSTEM FOR THE  
CASTLE DANGER SEWER SERVICE AREA, TOWN OF SILVER CREEK,  
LAKE COUNTY, MINNESOTA

This Ordinance provides for sewer charges to recover costs associated with:

- (1) The operation, maintenance, and equipment replacement of the Castle Danger Sewer Service Area wastewater system; and,
- (2) The Local capital costs incurred in the construction of the Castle Danger Sewer Service Area wastewater treatment system.
- (3) By reference all provisions of the Town of Silver Creek/Castle Danger Wastewater Growth Plan adopted on September 4, 2007 are hereby incorporated into this ordinance.

ARTICLE I

DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of the terms used in this Ordinance shall be as hereafter designated:

Sec. 1 "Administration" – Those fixed costs attributable to the Town's administration of the wastewater treatment and collection system.

Sec. 2 "Biochemical Oxygen Demand or BOD<sub>5</sub>" – The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter. It represents the breakdown of carbonaceous materials as distinct from nitrogenous materials.

- Sec. 3 “Town” – The area within the corporate boundaries of the Town of Silver Creek, Minnesota as presently established or as amended by Ordinance or other legal actions at a future time.
- Sec. 4 “Commercial User” – Any user that is not defined as a governmental, industrial, institutional or residential user in this ordinance.
- Sec. 5 “Commercial Wastewater” – Domestic strength wastewater emanating from a place of business of a commercial user as distinct from industrial wastewater.
- Sec. 6 “Debt Service Charge” – A charge levied on the users of wastewater treatment and collection facilities for the cost of repaying money obtained to construct said facilities.
- Sec. 7 “Normal Domestic Strength Wastewater” – Wastewater characterized by wastes created in the preparation of foods, bathing, laundry facilities, and water carried human waste whose characteristics do not exceed 389 mg/1BOD<sub>5</sub> and 467 mg/1 TSS, and is identified for the purpose of determining surcharge rates.
- Sec. 8 “Extra Strength Waste” – Wastewater having a BOD<sub>5</sub> and/or TSS greater than domestic waste as defined in Article 1, Section 7 above and not otherwise classified as an incompatible waste.
- Sec. 9 “Governmental User” – Users which are agencies or instrumentalities of federal, state or local government discharging normal domestic strength wastewater.
- Sec. 10 “Incompatible Waste” – Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to

humans or animals in spite of the treatment method used at Silver Creek, creates a public nuisance or creates any hazards in the receiving waters of the wastewater treatment works.

Sec. 11 "Industrial Users" or "Industries" –

- a. Entities that discharge into a publicly owned wastewater treatment system, (1) liquid wastes resulting from the processes employed in industrial or manufacturing processes, or (2) liquid wastes resulting from the development of any natural resources. These are identified in the Standard Industrial Classification Manual 1972, Office of Management and Budget, as amended and supplemented, under one of the following divisions:

- Division A. Agriculture, forestry and fishing
- Division B. Mining
- Division D. Manufacturing
- Division E. Transportation, communications, electric, gas, and sanitary sewers
- Division I. Services

For the purpose of this definition, domestic waste shall be considered to have the characteristics as defined in Section 7 above.

- b. Any nongovernmental user of a publicly owned treatment system which discharges wastewater the treatment system which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, or which constitutes a hazard to humans or animals in spite of treatment, or which creates a public nuisance, or which creates any hazard

in or has an adverse effect on the waters receiving any discharge from the treatment works.

- Sec. 12 “Industrial Wastewater” – The liquid, gaseous, and solid processing wastes from an industrial manufacturing process, trade, or business including but not limited to all Standard Industrial Classification Manual Divisions, B, D, and I manufacturers as distinct from domestic wastewater.
- Sec. 13 “Institutional User” – Users other than commercial, governmental, industrial or residential users, discharging primarily normal domestic strength wastewater (e.g. non-profit organizations).
- Sec. 14 “Operation and Maintenance” – Activities required to provide for the dependable and economical functioning of the treatment system, throughout its design or useful life, whichever is longer, and at the level of performance for which the treatment system was constructed. Operation and maintenance includes replacement.
- Sec. 15 “Operation and Maintenance Costs” – Expenditures for operation and maintenance costs.
- Sec. 16 “Public Wastewater Collection System” – The system of sanitary sewers owned, maintained, operated, and controlled by the town.
- Sec. 17 “Replacement” – Obtaining and installing of equipment, accessories, or appurtenances which are necessary during the design life or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

- Sec. 18 “Replacement Costs” – Expenditures for replacement.
- Sec. 19 “Residential User” – A user of the collection and treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached and semi-detached housing, apartments, and mobile homes; and which discharges primarily normal domestic strength sanitary wastes in an amount not exceeding 250 gallons per day.
- Sec. 20 “Sanitary Sewer” – A sewer intended to carry only liquid and water carried wastes from residences, commercial building, industrial plants, and institutions, together with minor quantities of ground, storm, and surface waters which are not admitted intentionally.
- Sec. 21 “Sewer Service Charge” – The total of charges for operation, maintenance, replacement, and debt service.
- Sec. 22 “Sewer Service Fund” – A fund into which income from “sewer service charges” is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment and collection. Expenditure of the “sewer service fund” will be for operation, maintenance, and replacement costs: and to retire debt incurred through capital expenditure for wastewater treatment and collection.
- Sec. 23 “Shall” is mandatory; “may” is permissive.
- Sec. 24 “Slug” – Any discharge of water or wastewater which in concentration of any given constituent or in quantity flow exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration of

flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

- Sec. 25 “Standard Industrial Classification Manual” – office of management and budget, 1972.
- Sec. 26 “Suspended Solids (SS) or Total Suspended Solids (TSS)” – The total suspended matter that either floats on the surface or is in suspension in water, wastewater, or other liquids, and is removable by laboratory filtering as prescribed in “standard methods for the examination of water and wastewater”, latest edition.
- Sec. 27 “Toxic Pollutant” – The concentration of any pollutant or combination of pollutants, which upon exposure to or assimilation into any organism will cause adverse affects, as defined in standards issued pursuant to Section 307 (a) of the Clean Water Act.
- Sec. 28 “User Charge” – A charge levied on users of a treatment system for the user’s proportionate share of the cost of operation and maintenance, including replacement.
- Sec. 29 “Users” – Those residential, commercial, governmental, institution, and industrial establishments which are connected to the public sewer collection system.
- Sec. 30 “Wastewater” – The spent water of a community, also referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any ground water, surface water, and storm water that may be present.

Sec. 31 “Wastewater Treatment System or Treatment System” – An arrangement of any devices, facilities, structures, equipment, or processes owned or used by the Town for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers. Outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities, and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

## ARTICLE II

### ESTABLISHMENT OF A SEWER SERVICE CHARGE SYSTEM

Sec. 1 The Town of Silver Creek, Minnesota hereby establishes a sewer service charge system whereby all revenue collected from users of the wastewater treatment system within the Castle Danger Sewer Service Area as established by Town of Silver Creek Ordinance No. 98-1 will be used to affect all expenditures incurred for annual operation, maintenance, and replacement and for debt service on capital expenditure incurred in construction of the wastewater treatment system.

Sec. 2 Each user shall pay its proportionate share of operation, maintenance, repairs, and replacement costs of the treatment works, based on the users proportionate contribution to the total wastewater flow and loading from all users, and/or proportionate repair and replacement costs.

- Sec. 3 Each user shall pay debt service charges to retire local capital costs as determined by the Town Board.
- Sec. 4 Sewer service rates and charges to users of the wastewater treatment facility shall be determined and fixed in a “sewer service charge system” developed according to the provisions of this Ordinance. The sewer service charge system shall be published in the local newspaper, and shall be effective upon publication. Annual rate review hearings will be held at the first Subordinate Service District meeting in April for consideration of rate changes. Subsequent changes in sewer service rates and charges shall be adopted by Board resolution and shall be mailed to all connected property owners.
- Sec. 5 Revenues collected for sewer service shall be deposited in a separate fund known as “the sewer service fund.” Income from revenues collected will be expended to offset the cost of operation, maintenance, and equipment replacement for the facility and to retire the debt for capital expenditure.
- Sec. 6 Sewer service charges and the sewer service fund will be administered in accordance with the provisions of Article V of this Ordinance.

### ARTICLE III

#### DETERMINATION OF SEWER SERVICE CHARGES

- Sec. 1 Users of the Town of Silver Creek, Minnesota wastewater treatment works shall be identified as belonging to one of the following user classes:

Residential  
Commercial  
Industrial  
Institutional  
Governmental

The allocation of these users to these categories for the purpose of assessing user charges and debt service charges shall be the responsibility of the Town Clerk. Allocation of users to user classes shall be based on the substantive intent of the definitions of these classes contained herein.

Sec. 2 The rates assessed residential users and those users of other classes who discharge “normal domestic strength wastewater” shall be determined on the basis of wastewater volume only. Those “industrial users” who discharge “normal domestic strength wastewater” only, can be classified as “commercial users” for the purpose of rate determination.

Sec. 3 The metered user charges assessed residential users and those users of other classes discharging “normal domestic strength wastewater” as described in Sec. 2 above, shall be established proportionately according to billable wastewater volume. Billable wastewater volume shall be calculated as follows:

(a) Residential users: Billable wastewater volume for residential users shall be calculated on the basis of metered or estimated wastewater flow.

The Town may require residential users to install wastewater meters for the purpose of determining billable wastewater volume.

(b) Non-residential users: The billable wastewater volume of non-residential users may be determined in the same manner as for residential users with the following exception. If the Town Board determines, through means established by ordinance, that there are significant seasonal variations in the metered wastewater usage of non-residential users; that is, variations resulting in a proportionate increase or decrease in wastewater volume; billable wastewater volume shall be: 1) calculated on the basis of quarterly metered wastewater usage as recorded throughout the year, 2) calculated on the basis of wastewater flow meters.

The Town may require non-residential users to install such additional water meters or wastewater flow meters as may be necessary to determine billable wastewater volume.

Sec. 4 The basic user charges assessed all users shall be established equally per user hook up. Basic user charges shall be calculated as follows:

The total sewage flow will be measured and recorded at the wastewater treatment facility. The total annual metered usage (described in section 3 above) from all users will then be subtracted from the total sewage flow, the result being extraneous flows (infiltration & inflow). The proportion of extraneous flows to the total sewage flow will then be applied to the OM&R costs. The resultant OM&R portion will then be added to the total administration costs and divided equally among all users.

Sec. 5 The sewer service charge shall consist of a user charge for operation, maintenance, and replacement. These charges will be determined as follows:

(A) User Charge - Residential User

The user charge per residential user will be a basic user charge. The basic user charge will be an amount equal to the proportion of residential flow of the total sewage flow as applied to the OM&R costs. The basic user charge will then be distributed equally among all residential users of the wastewater system.

$$Rm \text{ flow} = Tm \text{ flow} - NRm \text{ flow}$$

$$Ucb = ((Rm \text{ flow} / Tm \text{ flow})) * Momr / Nru$$

Where: Ucb	=	Monthly basic User charge
Tm flow	=	Total monthly flow
NRm flow	=	Total Non-residential monthly flow
Rm flow	=	Total Residential monthly flow
Momr	=	Monthly Operation, Maintenance and
Nru	=	Number of Residential Users

(B) User Charge - Non-residential User

The user charge per non-residential user will be computed in a metered user charge. The metered user charge will be an amount equal to the proportion of flow attributable to the metered use (as described in Section 3 above) of the total sewage flow as applied to the OM&R costs.

$$Ucm = Momr \times (Bm \text{ flow} / Tm \text{ flow})$$

Where: Ucm	=	metered user charge
Momr	=	total monthly operation, maintenance and replacement cost
Tm flow	=	total monthly flow
Bm flow	=	billable monthly flow for a particular user

The method of development for the sewer service charge is attached as Appendix A. Appendix A shall be reviewed annually as provided for in Article V of this Ordinance.

- Sec. 6 The Town may, at its discretion, require non-residential users to install wastewater samplers for the purpose of determining wastewater volume and loading. When so required, such samplers shall be of a type approved by the Town and located at a sufficient number of sites to permit determination of wastewater characteristics.

The measurement of such wastes shall be conducted according to the latest edition of Standard Methods for the Examination of Water and Wastewater in a manner acceptable to the Town as provided for in Town of Silver Creek Ordinance No. 98-1, "An Ordinance Establishing the Castle Danger Sewer Service Area in the Town of Silver Creek."

- Sec. 7 The sewer service charges established in this Ordinance shall not prevent either the assessment of additional charges to users who discharge wastes with concentrations greater than "normal domestic strength" or wastes of unusual character, or contractual agreements with such users, as long as the following conditions are met:

- (1) No user is charged at a rate less than that of "normal domestic strength wastewater."
- (2) The user pays operation, maintenance, and replacement costs in proportion to the user's contribution of wastewater flow and loading to the treatment plant.

- (3) The measurements of such wastes are conducted according to the latest edition of Standard Methods for the Examination of Water and Wastewater in a manner acceptable to the Town Board as provided for in Ordinance No. 98-1, "An Ordinance Establishing the Castle Danger Sewer Service Area in the Town of Silver Creek."
- (4) The Town's NPDES permit and sewer use regulations are not violated.
- (5) A study of unit costs of treatment processes attributable to flow, BOD, TSS and other significant loadings shall be developed for determining the proportionate allocation of costs to users discharging wastes of greater than "normal domestic strength" or wastes of unusual character.

ARTICLE IV  
SEWER SERVICE FUND

Sec. 1 The Town hereby establishes a "sewer service fund" as an income fund to receive all revenues generated by the sewer service charge system, and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment works, including taxes, special charges, fees, and assessments intended to retire construction debt.

The Town also establishes the following accounts as income and expenditure accounts within the sewer service fund:

- (1) Operation and maintenance account
- (2) Equipment replacement account
- (3) Treatment system debt retirement account

Sec. 2 All revenue generated by the sewer service charge system, and all other income pertinent to the treatment and collection systems, including taxes and special assessments dedicated to retire construction debt, shall be held by the Clerk separate and apart from all other funds of the Town. Funds received by the sewer service fund shall be transferred to the accounts established in Sec. 1 above in accordance with state and federal regulations and the provisions of this Ordinance.

Sec. 3 Revenue generated by the sewer service charge system sufficient to insure adequate replacement throughout the design or useful life of the wastewater facility shall be held separate and apart in the "equipment replacement account" and dedicated to affecting replacement costs. Interest income generated by the "equipment replacement account" shall remain in the "equipment replacement account".

Sec. 4 Revenue generated by the sewer service charge system sufficient for operation and maintenance shall be held separate and apart in the "operation and maintenance account."

## ARTICLE V

### ADMINISTRATION

The sewer service charge system and sewer service fund shall be administered according to the following provisions:

Sec. 1 The Town Clerk shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement, and debt

retirement costs of the treatment facility, and shall furnish the Town Board with a report of such costs annually on the first Tuesday of February.

The Town Board shall annually determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Board will also determine whether the user charges are distributed proportionately to each user in accordance with Article II, Section 2 of this Ordinance and Section 204 (b) (2) (A) of the Federal Water Pollution Control Act, as amended.

The Town shall thereafter, but not later than the end of the year, reassess, and as necessary revise the sewer service charge system then in use to insure the proportionality of the user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

Sec. 2 In accordance with federal and state requirements each user will be notified annually in conjunction with a regular billing of that portion of the sewer service charge attributable to operation, maintenance, and replacement.

Sec. 3 In accordance with federal and state requirements, the Town Clerk shall be responsible for maintaining all records necessary to document compliance with the sewer service charge system adopted.

Sec. 4 The Town Board shall by Resolution establish procedures for billing and collection of charges for sewer service charges within the Castle Danger Sewer Service Area, which Resolution shall be considered a part of this Ordinance.

Sec. 5 The owner of the premises shall be liable to pay for the service to such premises, and the service is furnished to the premises by the Town only upon condition that the owner of the premises is liable therefore to the Town.

Sec. 6 Any additional costs caused by discharges to the treatment works of toxic substances or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs, fines or penalties levied by regulatory agencies, and sludge disposal, shall be borne by the discharger(s) of said wastes, at no expense to the Town.

## ARTICLE VI

### PENALTIES

Sec. 1 Any penalties for violating any provisions of this ordinance, failure to pay sewer service charges when due, or violating any rules or regulations adopted by the Town Board may be imposed by the Resolution adopted pursuant to Article V, Sec. 4.

## ARTICLE VII

### SEVERABILITY AND VALIDITY

Sec. 1 If any section or subdivision of this Ordinance shall be held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance, which shall continue in full force and effect.

Sec. 2 The sewer service charge system shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of Section 204 (b) (1) (A) of the Act and Federal Regulation 40 CFR (Code of Federal Regulations) 35.2140 of the Environmental Protection Agency's grant regulations.

Sec. 3 This Ordinance shall be in full force and take effect from and after its passage and approval and publication as provided by law.

Sec. 4 Passed by the Board of Supervisors of the Town of Silver Creek, Minnesota on the 9<sup>th</sup> day of April 2008.

\_\_\_\_\_  
Town Board Chair

Attest: \_\_\_\_\_  
Clerk