

**ORDINANCE # 300-003**  
**AN ORDINANCE REGULATING THE USE OF PUBLIC SEWERS**

The City Council of the City of Hewitt does ordain as follows:

**SECTION 1: Definitions:**

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

**Biochemical Oxygen Demand (BOD<sub>5</sub> or CBOD<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.

**Building Drain:** that part of the lower horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five (5) feet outside the inner face of the building wall.

**Building Sewer:** The extension from the building drain to the public sewer or other place of disposal. Also called "house connection".

**City:** The area within the corporate boundaries of the City of Hewitt, County of Todd and State of Minnesota, as presently established or as amended by Ordinance or other legal action at a future time. When used herein, the term City may also refer to the City Council or its authorized representatives.

**COD or Chemical Oxygen Demand:** The quantity of oxygen utilized in the chemical oxidation of organic matter, expressed in milligrams per liter, as determined in accordance with standard laboratory procedures as set out in the latest edition of Standard Methods for the Examination of Water and Wastewater.

**Combined Sewer:**

**Commercial User:** Any place of business which discharges sanitary waste as distinct from industrial wastewater.

**Commercial Wastewaters:** domestic wastewater emanating from a place of business as distinct from industrial wastewater.

**Debt Service Charge:** The charge for the recovery of capital costs bonded indebtedness of the wastewater treatment facility and collection system not covered by the assessments.

**Extraneous Flow:** The infiltration and inflow clear water, which is not a component of the normal domestic strength wastewater.

**Extraneous Flow Charge:** The charge for infiltration and inflow clear water.

**Normal Domestic Strength Wastewater:** Wastewater that is primarily produced by residential users, with BOD<sub>5</sub> concentrations not greater than 250 mg/l and suspended solids concentration not greater than 300 mg/l.

**Equivalent Residential Unit (ERU):** A unit of wastewater volume of 200 gallons per day at a strength not greater than 250 mg/l of BOD<sub>5</sub> and 300mg/l of Total Suspended Solids.

**Extra Strength Waste:** Wastewater having a BOD and or TSS greater than domestic waste as defined in this Section and not otherwise classified as an incompatible waste.

**Governmental User:** Users which are units, agencies or instrumentalities of federal, state or local government discharging Normal Domestic Strength wastewater.

**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, creates a public nuisance or creates any hazard to the receiving waters of the wastewater treatment works.

**Industrial User or Industries:**

a. Entities that discharge into a publicly owned wastewater treatment works, liquid wastes resulting from the processes employed in industrial or manufacturing processes, or 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 supplemental 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 purposes of this definition, domestic waste shall be considered to have the following characteristics:

BOD5 less than 250mg/l

Suspended Solids less than 300 mg/l

b. Any nongovernmental user of a publicly owned treatment works which discharges to the wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals or creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

**Industrial Wastewater:** The liquid processing wastes from an industrial manufacturing process, trade or business including but not limited to all Standard Industrial Classification Manual Divisions A, B, D, E and I manufacturers as distinct from domestic wastewater.

**Institutional User:** Users other than commercial, governmental, industrial or residential users, discharging primarily Normal Domestic Strength wastewater. (i.e. Non-profit organizations)

**Operation and Maintenance:** Activities required to provide for the dependable and economical functioning of the treatment works, throughout the design or useful life, whichever is longer or the treatment works, and at the level of performance for which treatment works were constructed. Operation and Maintenance includes replacement.

**Operations and Maintenance Costs:** Expenditures for operation and maintenance, including replacement.

**Public Wastewater Collection System:** A system of sanitary sewers owned, maintained, operated and controlled by the City.

**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.

**Replacement Costs:** Expenditures for replacement.

**Residential User:** A user of the 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.

**Sanitary Sewer:** A sewer intended to carry only liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters which are not admitted intentionally.

**Sewer Service Charge:** The aggregate of all charges, including charges for operation, maintenance, replacement, debt service, extraneous flow, administration and other sewer related charges that are billed periodically to users of the City's wastewater treatment facilities.

**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. 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.

**Sludge:** Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of time of duration longer than fifteen (15) minutes more than five (5) times the average concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

**Standard Industrial Classification Manual:** Office of Management and Budget 1972

**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 filtration as prescribed in "Standard Methods for the Examination of Water and Wastewater" latest edition, and referred to as nonfilterable residue.

Toxic Pollutant: The concentration of any pollutants as defined in standards issued pursuant to Section 307(a) of the Act, which upon exposure to or assimilation into any organism will cause adverse effects.

User Charge: A charge levied on users of a treatment works for the user's proportionate share of the costs of operation and maintenance, including replacement.

Users: Those residential, commercial (sic), governmental industrial and institutional establishments which are connected to the public sewer collection system.

Wastewater: the spent water or 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.

Wastewater Treatment Works or Treatment Works: an arrangement of any devices, facilities, structures, equipment or processes owned or used by the City 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, and 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.

### SECTION 3: Establishment of a Sewer Service Charge System:

3.01: The City of Hewitt, County of Todd and State of Minnesota hereby establishes as Sewer Service Charge System whereby all revenue collected from users of the wastewater treatment facilities will be used to affect all expenditures incurred for annual operation, maintenance and replacement and for debt service on capital expenditure incurred in constructing the wastewater treatment works.

3.02: Each user shall pay its proportionate share of operation, maintenance and replacement costs of the treatment works, based on the users proportionate contribution to the total wastewater loading from all users.

3.03: Each user shall pay debt service charges to retire local capital costs as determined by the City Council.

3.04: Sewer service rates and charges to users of the wastewater treatment facility shall be determined and fixed in the "Sewer Service Charge System" developed according to the provisions of this Ordinance. The Sewer Service Charge System developed with the assistance of the consulting engineer shall be adopted by resolution upon enactment of this Ordinance, shall be published in the Official Newspaper and shall be effective upon publication.

3.05: 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.

3.06: Sewer Service Charges and the Sewer Service Fund will be administrated in accordance with the provisions of Section 6 of this Ordinance.

### SECTION 4: Determination of Sewer Service Charges

4.01: Users of the City of Hewitt, County of Todd and State of Minnesota wastewater treatment works shall be identified as belonging to one of the following user classes:

1. Residential
2. Commercial
3. Governmental/Institutional
4. Industrial

The Allocation of users to the categories for the purpose of assessing the User Charges and Debt Service Charges shall be the responsibility of the City Clerk. Allocation of users to

user classes shall be based on the substantive intent of the definitions of these classes contained herein.

4.02: The charges assessed residential users and those users or other classes who discharge normal domestic strength wastewater shall be calculated on the basis of wastewater volume. Those industrial users who discharge normal domestic strength wastewater only, can be classified as Commercial Users for the purposes of rate determination.

4.03: For those who discharge normal domestic strength wastewater as defined above, wastewater volume will be calculated on the basis of equivalent Residential Units ("ERUs") at a volume of 200 gallons per day, will be assigned to connections according to Tables 1 and 2, Appendix "A", attached.

Determination of the number of ERU's assigned to a particular connection, in accordance to Tables 1 and 2 shall be the responsibility of the City Council or its authorized representative.

4.04: The Sewer Service Charge shall consist of a User Charge for operation, maintenance and replacement and administration to recover costs associated with billing service, and extraneous flow charge to recover the costs of operation and maintenance for all flows not directly attributable to users and a debt service charge for local capital costs not recovered through special assessments.

4.04(a): Administration charge:

The Administration charge per connection shall be determined based on the following formula:

$$AC = A / \#C$$

Where AC= Administrative Charge

A= Annual Costs Attributable to Billing

#C= Total Number of Connections to the Treatment Facility

4.04(b): Extraneous Flow Charge:

$$EFC = EFOMR / \#C$$

Where EFC= Extraneous Flow Charge

EFOMR= Annual Operation, Maintenance and Replacement Costs attributable to Extraneous Flows

#C= Total Number of Connection to the Treatment Facility

4.04(c): User Charge:

The user rate per equivalent residential unit shall be based on the following formula:

$$UC/ERU = UOMR/TERU$$

Where UC= User Charge

ERU= Equivalent Residential User

UOMR= Annual Operation, Maintenance and Replacement Costs Attributable to User Discharge

TERU= Total Number of Equivalent Residential Units connected to the Treatment Facilities

4.04(d): Debt Service Charge:

The Debt Service Charge shall be determined based on the following formula (see Appendix "B"):

$$DC = DSC / \#DSU$$

Where DC= Debt Service Charge

DSC= Local Capital Costs Not Recovered

#DSU= Total Number of Debt Service Units

4.04(e): Sewer Service Charge:

$$SSC/ERU = AC + EFC + UC/ERU + DC$$

Where SSC= Sewer Service Charge

ERU= Equivalent Residential Unit

AC= Administrative Charge

EFC= Extraneous Flow Charge

UC= User Charge

DC= Debt Service Charge

4.05: Determination of Charge to a Connection

The annual charge to a connection shall be determined based on the following formula:

$ASSC = AC + EFC + (DC \times \#DSU) + (UC \times \#ERU)$

Where ASSC= Annual Sewer Service Charge

AC= Administrative Charge

EFC= Extraneous Flow Charge

DC= Debt Service Charge

#DSU= Number of Debt Service Units Assigned to that Connection

UC= User Charge

#ERU= Number of Equivalent Residential Units Assigned to that connections

SECTION 5: Users may appeal the number of ERU's assigned to a particular connection by installing and maintaining, at his or her own expense, water meters of a type approved by the City. Such meters shall be equipped with remote registering recorders located at an accessible site on the owner's property.

SECTION 6: The City may, at its discretion, require non-residential users to install water meters for the purpose of determining wastewater volume. The City may require residential connections to install water meters as part of a comprehensive program to install meters throughout the City's water system. When so required, such meters shall be of a type approved by the City, equipped with remote registering recorders and located at an accessible site on the owner's property.

SECTION 7: The Sewer Service charges established in this Ordinance shall not prevent 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. The user pay Operation, Maintenance and Replacement Costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, and no user is charged at a rate less than that of Normal Domestic Strength Wastewater.
2. 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 City as provided for in this Code.

SECTION 8: A study of unit costs of collection and 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.

SECTION 9: Sewer Service Fund

9.01: The City of Hewitt, State of Minnesota hereby established a "Sewer Service Fund" as an income to receive all the revenues generated by the Sewer Service Charge System, and all other income dedicated to the operation, maintenance and replacement and construction of the wastewater treatment works, including taxes, special charges, fees and assessments intended to retire construction debt.

9.02: The City 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. Debt Retirement Account

9.03: All revenue generated by the Sewer Service Charge System, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction debt, shall be held by the Clerk separate and apart from all other City funds. Funds received by the Sewer Service Fund shall be transferred to the "Operation and Maintenance" account, the "Equipment Replacement" account and the "Debt Retirement" account in accordance with State and Federal Regulations and the provisions of this Ordinance.

9.04: Revenue generated by the Sewer Service Charge System sufficient to insure adequate replacement throughout the design of useful life, whichever is longer, of the wastewater facility

shall be held separate and apart from the "Equipment Replacement" account and dedicated to affecting replacement costs. Interest income shall remain in the "Equipment Replacement" account.

9.05: 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.

#### SECTION 10: Administration

The Sewer Service Charge System Fund shall be administered according to the following provisions:

10.01: The City Clerk/Treasurer shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement and debt retirement costs of the treatment works, and shall furnish the City Council with a report of such costs annually in January.

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

The City 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 charge 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.

10.02: In accordance with Federal and State requirements, each user will be notified annually in conjunction with regular billing of that portion of the Sewer Service Charge attributable to operation, maintenance and replacement.

10.03: In accordance with Federal and State requirements, the City Clerk/Treasurer shall be responsible for maintaining all records necessary to document compliance with the Sewer Service Charge System adopted.

10.04: Bills for sewer service charges shall be rendered on a monthly basis succeeding the period for which the service was rendered as determined by the water meter reading taken on or about the fifteenth (15<sup>th</sup>) of each month and shall be due the fifth (5<sup>th</sup>) day of the following month. Any bill not paid in full twenty (20) days after the due date will be considered delinquent. At that time the City shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty. The penalty shall be \$5.00 per month, for every month the bill remains outstanding.

10.05: The owner of the premises shall be liable to pay for the service to such premises if furnished to the premises by the City, only upon the condition that the owner of the premises is liable therefore to the City.

10.06: Any additional costs caused by discharges to the treatment works of toxins and other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs, and sludge disposal, shall be the responsibility of the discharger of such wastes, and at no expense to the City.

#### SECTION 11: Penalties

11.01: Each and every sewer service charge levied by and pursuant to this Ordinance is hereby made a lien upon the lot or premises served, and all such charges which are on September 30<sup>th</sup> of each year past due and delinquent, shall be certified to the County Auditor as taxes or assessments on the real estate. Nothing in this Ordinance shall be held or construed as in any way stopping or interfering with the right of the City to levy as taxes or assessments against any premises affected any delinquent or past due sewer service charges.

11.02: As an alternative to levying a lien, the City may, at its discretion, file suit in civil action to collect such amounts as are delinquent and due against the occupant, owner or user of the real estate, and shall collect as well all attorney's fees incurred by the City in filing the civil action. Such attorney's fees shall be fixed by order of court.

11.03: In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being serviced by the treatment works shall be liable for interest upon all unpaid balances at the maximum rate allowable by law.

**SECTION 12: Severability and Validity**

12.01: 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.

12.02: The Sewer Service Charge System shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with Section 204 (b)(1)(A) of the Act and Federal Regulation 40 CFR (Code of Federal Regulations) 35.2140 of the Environmental Agency's grant regulations, as may be amended from time to time.

12.03: This Ordinance shall be in affect an in full force from and after its passage and approval and publication as provided by law.

Passed and adopted by a majority vote of the City Council of the City of Hewitt this \_\_\_ day of May, 2009.

By Juanita Mitchell, Mayor

Attest: Miriam A. Collom, City Clerk/Treasurer