

ORDINANCE NUMBER 3

CITY OF TOWER, MINNESOTA

An ordinance establishing a sewer service charge.

The City of Tower Ordains:

An Ordinance providing for Sewer Service Charges to recover costs associated with:

- 1) The operation, maintenance, and replacement of the Tower Breitung wastewater treatment facility and the City's collection system.
- 2) Local capital costs incurred in the construction of the Tower Breitung Wastewater treatment facility.

ARTICLE I

DEFINITIONS

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

Section 1. Administration - Those fixed costs attributable to administration of the wastewater treatment works.

Section 2. Biochemical Oxygen Demand or BOD₅ - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° centigrade in terms of milligrams per liter (mg/l).

Section 3. City - The area within the corporate boundaries of the City of Tower, as presently established or as amended by ordinance or other legal actions at a future time.

Section 4. Commercial User - Any place of business which discharges sanitary waste as distinct from industrial wastewater.

Section 5. Commercial Wastewaters - Domestic wastewater emanating from a place of business as distinct from industrial wastewater.

Section 6. Debt Service Charge - A charge levied on users of wastewater treatment facilities for the cost of repaying money bonded to construct said facilities.

Section 7. Normal Domestic Strength Wastewater -Wastewater that is primarily produced by residential users, with BOD₅ concentrations of approximately 250 mg/1 and suspended solids concentrations of approximately 275 mg/1.

Section 8. Extra Strength Waste – Wastewater having a BOD and/or TSS greater than domestic waste as defined in Article I, Section 7 above and not otherwise classified as an incompatible waste.

Section 9. Governmental User – Users which are units, agencies, or instrumentalities of federal, state, or local government discharging normal Domestic Strength Wastewater.

Section 10. Incompatible Waste – Waste that either singly or by interaction with other wastes interferes with any waste treatment process constitutes a hazard to humans animals, creates a public nuisance, or creates any hazard in the receiving waters of the wastewater treatment works.

Section 11. Industrial Users or Industries are:

- A. Entities that discharge into a publicly owned wastewater treatment works, liquid wastes resulting from the process 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 purpose of this definition, domestic waste shall be considered to have the following characteristics:

BOD ₅	Less than 250 mg/1
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Suspended Solids	Less than 275 mg/1
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- B. Any nongovernmental user of a publicly owned treatment works which discharges 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, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

Section 12. Industrial Wastewater – The liquid, processing wastes from an industrial manufacturing process, trade, or business including but not limited to all Standard Industrial Classification Manual Class D manufactures as distinct from domestic wastewater.

Section 13. Institutional User – Users other than commercial, governmental, industrial, or residential users, discharging primarily normal domestic strength wastewater (e.g. Non-profit organizations).

Section 14. Operation and Maintenance – Activities required to provide for the dependable and economical functioning of the treatment works, throughout the useful life of the treatment works, and at the level of performance for which the treatment works were constructed. Operation and Maintenance includes replacement.

Section 15. Operation and Maintenance Costs – Expenditures for operation and maintenance, including replacement.

Section 16. Public Wastewater Collection System – A system of sanitary sewers owned maintained, operated, and controlled by the City.

Section 17. Replacement – The obtaining and installing of equipment, accessories, or appurtenances which are necessary during the design or useful life of the wastewater treatment works, whichever is longer, to maintain the capacity and performance for which such facilities were designed and constructed.

Section 18. Replacement Costs – Expenditures for replacement.

Section 19. 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.

Section 20. 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.

Section 21. Sewer Service Charge – The total of the charges for operation, maintenance, replacement, and debt service.

Section 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 of wastewater treatment. Expenditure of the Sewer Service Fund will be for operation, maintenance, and replacement cost; and to retire debt incurred through capital expenditure for wastewater treatment.

Section 23. Shall – is mandatory; May is permissive.

Section 24. Slug – Any discharge of water or wastewater which in concentration of any given constituent, or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average 24-hour concentration of flows during normal operation, and shall adversely affect the collection and/or performance of the wastewater treatment works.

Section 25. Standard Industrial Classification Manual – Office of Management and Budget, 1972.

Section 26. Suspended Solids (SS) or Total Suspended Solids (TSS) – The total suspended matter that either floats on the surface of, 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, and referred to as non-filterable residue.

Section 27. Township – The area within the boundaries of the Township of Breitung, as presently established or as amended by ordinance or other legal actions at a future time.

Section 28. 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 Act.

Section 29. User Charge – A charge levied on a users of a treatment works for the user’s proportionate share of the cost of operation and maintenance, including replacement.

Section 30. Users – Those residential, commercial, institutional, industrial, and governmental establishments which are connected to the public sewer collection system.

Section 31. 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.

Section 32. 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, 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

Section 1. The City of Tower hereby establishes a 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.

Section 2. 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.

Section 3. Each user shall pay debt service charges to retire local capital costs as delineated in Article III, Section 4(b).

Section 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 developed with the assistance of Hateffy Engineering & Associates, Inc. shall be adopted upon enactment of this Ordinance, shall be published in the local newspaper, and shall be effective upon publication. Subsequent changes in sewer service rates and charges shall be adopted by City Council resolution and shall be published in the local newspaper.

Section 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.

Section 6. Sewer service charge and the sewer service fund will be administrated in accordance with the provisions of Article V of this ordinance.

ARTICLE III

DETERMINATION OF SEWER SERVICE CHARGE

Section 1. Users of the City of Tower wastewater treatment works shall be identified as belonging to one of the following user classes:

- 1) Residential
- 2) Commercial
- 3) Industrial
- 4) Institutional
- 5) Governmental

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

Section 2. The rates assessed residential users and those users of other classes who discharge "Normal Domestic Strength Wastewater" only, can be classified as "Commercial Users" for the purpose of rate determination.

Those "industrial users" who discharge "Normal Domestic Strength Wastewater" only, can be classified as "Commercial Users" for the purpose of rate determination.

Section 3. The charges assessed residential users and those users of other classes discharging “Normal Domestic Strength Wastewater” 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 water usage. The per quarter billable wastewater volume shall be equal to quarterly metered water usage as averaged between the first and last quarters of the calendar year.
- B. Non-Residential Users - The billable wastewaters volume of non-residential users may be determined in the same manner as for residential users. Except that if the City determines that there are significant seasonal variations in the metered water usage of non-residential users resulting in a proportionate increase or decrease in wastewater volume; then billable wastewater volume shall be : 1) Calculated on the basis of quarterly metered water usage as recorded throughout a year, or 2) calculated on the basis of wastewater flow meters.

The City may, at its discretion, require non-residential users to install such additional water meters or wastewater flow meters as may be necessary to determine billable wastewater volume.

Section 4. The Sewer Service Charge shall consist of a user charge for operation, maintenance, and replacement, and a debt service charge for retirement of the capital cost debt. These charges will be determined as follows:

- A. User Charge – User Charges for Normal Domestic Strength users shall be determined as follows:
 - 1. Calculation of unit cost for treatment of normal domestic strength wastewater (including infiltration/inflow):

$$\text{UOMR} = \frac{\text{COMR}}{\text{TWV}}$$

Where:

UOMR = Unit cost for operation, maintenance, and replacement in \$/kgal.

COMR = Total annual O, M, & R costs.

TWV = Total annual wastewater volume in kgal. (Including infiltration/inflow)

- 2. Calculation of Unit Cost per Community

(per community = PC)

Where:

COMR(PC) = Total annual O, M, & R costs per community

UOMR = Unit cost for O, M, & R in \$/kgal

TWV(PC) = Total annual wastewater volume in kgal (including infiltration/inflow)

$$UMOR(PC) = \frac{COMR(PC)}{TBWV(PC)}$$

Where:

UOMR(PC) = Unit cost for O, M, & R in \$/kgal of billable wastewater volume (metered water volume)

TBWV(PC) = Total annual billable wastewater volume in kgal. (Metered water volume)

3. Calculation of User Charge:

$$UC = UOMR(PC) \times BWV$$

Where:

UC = User Charge

UOMR = Unit cost of Operation, Maintenance, and Replacement of \$/kgal.

BWV = Billable wastewater volume of a particular user in kgal (Metered water volume).

B. Debt Service Charge

Local construction costs of the wastewater treatment facility will be recovered through a Debt Service Charge calculate as follows:

1. Calculation of unit cost for debt service:

$$\frac{UDS}{ERU} = \frac{CDS}{\text{Total ERU's}}$$

Where:

UDS = Annual debt service charge

CDS = Cost of annual debt service

ERU = Equivalent residential units

Total ERU's = Total # of ERU's connected to the treatment facility.

2. Calculation of Debt Service Charge:

$$UDC = \frac{UDS}{\text{ERU}} \times \text{\# of ERU's}$$

ERU

Where:

UDC = User Debt Service Charge

UDS = Annual Debt Service charge per equivalent

ERU = Residential Unit

of ERU's = Number of ERU's assigned to each connection

C. Determination of Sewer Service Charges

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

$$SSC = UC + UDC$$

Where:

SSC = Sewer Service Charge

UC = User Charge

UDC = User Debt Service Charge

Section 5. The sewer service charge 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:

- A. The user pays 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 as a rate less than that of Normal Domestic Strength Wastewater.
- B. The Facility's NPDES Permit and sewer use regulations are not violated.

A study of unit costs of collection and treatment process attributable to flow, BOD, TBS, 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

Section 1. The City of Tower hereby established a "Sewer Service Fund" as an income fund to receive all revenues generated by the Sewer Service Charge Systems, 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 City also establishes the following accounts as income and expenditure accounts within the Sewer Service Fund:

1. Operation and Maintenance
2. Equipment Replacement Account
3. Debt Retirement Account

Section 2. 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 funds of the City. 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.

Section 3. Revenue generated by the Sewer Service Charge System sufficient to insure adequate replacement throughout the service 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".

Section 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:

Section 1. The City Clerk 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 City Council with a report of such costs annually in the annual financial statement.

The City Council 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 Council 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 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 charges

and to insure the sufficiency of fund to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

Section 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.

Section 3. In accordance with Federal and State requirements, the City Clerk shall be responsible for maintaining all records necessary to document compliance with the Sewer Service Charge System adopted.

Section 4. Bills for Sewer Service Charges shall be rendered on a quarterly basis succeeding the period for which the service was rendered and shall be due 30 days from the date of the rendering. Any bill not paid in full 15 days after the due date will be considered delinquent. At that the City shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty. The penalty shall be computed as 10% of the original bill and shall be increased the same 10% for every quarter the bill is outstanding.

Section 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 City only upon the condition that the owner of the premises is liable therefore to the City.

Section 6. Any additional costs caused by discharges to the treatment works of toxics or 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 borne by the discharger(s) of said wastes, at no expense to the City.

ARTICLE VI

PENALTIES

Section 1. 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 October 15th of the 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 assessment against any premises affected and delinquent or past due sewer service charges.

Section 2. As an alternative to levying a lien, the City may, at its discretion, file suit in a 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 the court.

Section 3. In addition to all penalties and cost 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 rate of 12% per annum.

ARTICLE VII

SEVERABILITY AND VALIDITY

Section 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.

Section 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.

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

Section 4. Introduced by Alderman Adkisson and given first reading on June 13, 1989.

Given second reading by Alderman Adkisson on June 27, 1989. Moved by Alderman Majerle, supported by Alderman Trembath that the ordinance be adopted.

Adopted June 27, 1989, by the following votes:

Ayes: Aldermen Adkisson, Trembath, Olson, and Majerle and Mayor Burgess.

Nays: None.

Published in the Tower Weekly News July 13, 1989.

Gary Burgess
Mayor

Attest:

Timothy L Kotzian
Clerk/Treasurer

