

Section 609 – Sewer Service Charge

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

- 1) Operation, maintenance, and replacement to ensure effective functioning of the City's Wastewater Treatment System.
- 2) Local capital costs incurred in the construction of the City's Wastewater Treatment System.

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 administration of wastewater conveyance works (i.e., billing and associated bookkeeping and accounting costs).
- Sec. 2           “Biochemical Oxygen Demand or BODs”.   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.
- Sec. 3           “City”.           The area within the corporate boundaries of the City of Foley, as presently established or as amended by Ordinance or other legal actions at a future time. When used herein the term City may also refer to the City Council or its authorized representative.
- Sec. 4           “Commercial User”.     Any place of business which discharges sanitary waste as distinct from industrial wastewater.
- Sec. 5           “Commercial Wastewaters.”     Domestic wastewater emanating from a place of business as distinct from industrial wastewater.
- Sec. 6           “Debt Service Charge”.       A charge levied on users of wastewater facilities for the cost of repaying money bonded to construct said facilities.

- Sec. 7 “Normal Domestic Strength Wastewater”. Wastewater that is primarily produced by residential users, with BODs concentrations not greater than 300 mg/l and suspended solids concentrations not greater than 300 mg/l.
- Sec. 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.
- Sec. 9 “Governmental User”. Users which are units, 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, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.

Sec. 11 Industrial Users or “Industries” are:

- a. Entitles that discharge into a publicly owned wastewater treatment works, liquid wastes resulting from the processes employed in industrial or manufacturing process, 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.

BODs	less than 300 mg/l
Suspended Solids	less than 300 mg/l

- 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.

- Sec. 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 Divisions A, B, D, E 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 wastewater system throughout the design or useful life, which ever is longer of the system, and at the level of performance for which the system was constructed. Operation and Maintenance includes replacement.
- Sec. 15      “Operation and Maintenance Costs”.      Expenditures for operation and maintenance, including replacement.
- Sec. 16      “Public Wastewater Collection System”.      A system of sanitary sewers owned, maintained, operated and controlled by the City.
- 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 wastewater system to maintain the capacity and performance for which such system was designed and constructed.
- Sec. 18      “Replacement Costs”.      Expenditures for replacement.
- Sec. 19      “Residential User”.      A user of the 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.
- Sec. 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.
- Sec. 21      “Sewer Service Charge”.      The aggregate of all charges, including charges for operation, maintenance, replacement, debt service, and other sewer related charges that are billed periodically to users of the City’s wastewater facilities.

- 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 facilities. Expenditures from the Sewer Service Fund will be for operation, maintenance and replacement costs; and to retire debt incurred through capital expenditure for wastewater facilities.
- 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 of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration or 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, and referred to as non-filterable residue.
- Sec. 27      “Toxic Pollutant”.      The concentration of any pollutant or combination of 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.
- Sec. 28      “User Charge”.      A charge levied on users of a wastewater system for the user’s proportionate share of the cost of operation and maintenance, including replacement.
- Sec. 29      “Users”.      Those residential, commercial, governmental, institutional 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 Works, Wastewater System or Wastewater Facilities”.

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

- Sec. 1        The City of Foley, hereby establishes a Sewer Service Charge System whereby all revenue collected from users of the wastewater 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 facilities.
- Sec. 2        Each user shall pay its proportionate share of operation maintenance and replacement costs of the system, based on the users proportionate contribution to the total wastewater loading from all users.
- Sec. 3        Each user shall pay debt service charges to retire local capital costs as determined by the City Council.
- Sec. 4        Sewer Service rates and charges to users of the wastewater facilities 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 the City Engineer shall be adopted by resolution 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 Council resolution and shall be published in the local newspaper.
- 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 facilities and to retire the debt for capital expenditure.
- Sec. 6        Sewer Service Charges and the Sewer Service Fund will be administrated in accordance with the provisions of Article V of this Ordinance.

ARTICLE III

Article III A. Determination of Sewer Service Charges

Sec. 1 Users of the City of Foley wastewater facilities 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 users to user classes shall be based on the substantive intent of the definitions of these classes contained herein.

Sec. 2 Each user shall pay Operation, Maintenance, and Replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings, with the minimum rate for loadings of BOD and TSS being the rate established for concentrations of 300 mg/1 BOD and 300 mg/1 TSS (i.e. Normal Domestic Strength Wastewater).

Those "Industrial Users" discharging segregated "Normal Domestic Strength Wastewater" only, can be classified as "Commercial Users" for the purpose of rate determination.

Sec. 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 monthly billable wastewater volume shall be equal to monthly metered water usage.

The City requires residential users to install water meters.

B. Non-Residential Users.

Billable wastewater volume for non-residential users shall be calculated on the basis of metered water usage. The per monthly billable wastewater volume shall be equal to the monthly metered water usage.

The City requires non-residential users to install water meters.

Sec. 4 Determination of User Charges.  
User Charges for Normal Domestic Strength users shall be determined as follows:

A. CALCULATION OF UNIT COST FOR NORMAL DOMESTIC STRENGTH WASTEWATER:

$$Uomr = \frac{Comr}{Tbwv}$$

Where: Uomr = Unit cost for Operation, Maintenance and Replacement in \$/100 gallons  
Comr = Total annual OM&R costs  
Tbwv = Total annual billable wastewater volume in 100 gallons

B. CALCULATION OF USER CHARGE:

$$Uc = Uomr \times bwv$$

Where: Uc = User Charge.  
Uomr = Unit cost for Operation, Maintenance and Replacement in \$/100 gallons  
bwv = Billable wastewater volume of a particular user in 100 gallons

Sec. 5 Recovery of Local Construction Costs.  
Local construction costs for the wastewater system will be recovered through ad valorem taxes and a user charge.

A. CALCULATION OF UNIT COST FOR DEBT SERVICE

$$Uds = \frac{Cds}{Tbwv}$$

Where: Uds = Unit cost for debt service in \$/100 gallons  
Cds = Cost of annual debt service.  
Tbwv = Total annual billable wastewater volume in 100 gallons

B. CALCULATION OF DEBT SERVICE CHARGE

$$Dc = Uds \times bwv$$

Where: Dc = Debt Service Charge.  
Uds = Unit cost for debt service in \$/100 gallons  
bwv = Billable wastewater volume of a particular



user in 100 gallons

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Sec. 6      Determination of Sewer Service Charges.  
The Sewer Service charge for a particular user shall be determined as follows:

$$SSC = Uc + Dc$$

Where:      SSC = Sewer Service Charge  
                 Uc = User Charge  
                 Dc = Debt Service Charge

Sec. 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 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 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.

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 flows and loadings for users discharging wastes of greater than normal domestic strength or wastes of unusual character.

ARTICLE III

Article IIIB. Sewer Service Connection Charges

- Sec. 1      At the time that a new service connection is made to the City's Wastewater System the customer shall pay \$1,200.00 as a sewer connection fee. Penalty for non-payment of said charge shall be as provided in Article V, Section 4.

ARTICLE III

Article III C. Sewer and Water Area Trunk Fees

Pursuant to the authority granted the City in Minnesota Statute § 44.075, Section 609, Article III is hereby amended as follows:

- Sec. 1      Area Trunk Fee Established. Sewer and Water Area Trunk Fees are hereby established for the purpose of making improvements, enlargements and extensions to service property within the City with sewer and water.
- Sec. 2      Payment.      Upon the subdivision or improvement of property not currently serviced by sewer and/or water, or the further subdivision of previously subdivided property that is serviced with sewer and water, the owner of the property shall pay a Sewer Area Trunk Fee and/or a Water Area Trunk Fee based on the entire area of the plat versus the developable square footage of the property multiplied by the applicable Area Trunk Fee in effect at the time. The City Council shall establish the Sewer Area Trunk Fee and Water Area Trunk Fee from time to time by ordinance. The payment of the Sewer Area Trunk Fee and the Water Area Trunk Fee shall be a condition of the issuance of a building permit for the property. In the case of subdivisions, the City Council reserves the right to require payment of Sewer Area Trunk Fees and Water Area Trunk Fees as a condition of its approval of the subdivision and at such time and under such conditions as it determines are in the best interests of the City.
- Sec. 3      The schedule of Sewer Connection Fees, Sewer Area Trunk Fees, Water Connection Fees, and Water Area Trunk Fees attached hereto as Exhibit A is hereby adopted.
- Sec. 4      Ordinance Number 321 is hereby amended to incorporate Exhibit A.
- Sec. 5      All resolutions, policies, and ordinances inconsistent with the attached Exhibit A are hereby repealed.
- Sec. 6      City Staff is directed to revise and update the City's Fee Schedule consistent with this Ordinance.
- Sec. 7      This Ordinance shall be effective immediately upon its passage.

Exhibit A: City of Foley Trunk Water and Sewer Rates  
2005

Land Use	Water Rates				Sewer Rates			
	Trunk Fee		WAC		Trunk Fee		SAC	
	Rate	Unit	Rate	Unit	Rate	Unit	Rate	Unit
Single Family Residential, Manufactured Housing	\$ 1,510	Ac	\$ 1,500	Unit	\$ 3,130	Ac	\$ 1,200	Unit
Commercial, General Commercial	2,520	Ac	2,520	Ac	5,220	Ac	4,810	Ac
Industrial, Multi Family	3,860	Ac	3,860	Ac	6,260	Ac	5,780	Ac
Public/Golf/Park	630	Ac	630	Ac	1,300	Ac	1,200	Ac

ARTICLE IV  
Sewer Service Fund

Sec. 1      The City of Foley 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 facilities, 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 Account
- 2)      Equipment Replacement Account
- 3)      Debt Retirement Account

Sec. 2      All revenue generated by the Sewer Service Charge System, and all other income pertinent to the 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.

Sec. 3      Revenue generated by the Sewer Service Charge System sufficient to insure adequate replacement throughout the design or useful life, which ever is longer, 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 administrated according to the following provisions:

Sec. 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 facilities and shall furnish the City Council with a report of such costs annually.

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 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 City Clerk shall be responsible for maintaining all records necessary to document compliance with the Sewer Service Charge System adopted.

Sec. 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 on the quarterly due date that is stamped on the billing, and shall be considered delinquent 30 days thereafter. At the time the bill becomes delinquent 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.

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

- Sec. 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 10 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.
- Sec. 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.
- Sec. 3      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 facilities shall be liable for interest upon all unpaid balances at the rate of 10% per annum.



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        This Ordinance repeals previous City of Foley Code of Ordinances relating to the Sanitary Sewer System.
- Sec. 5        Passed by the City Council of the City of Foley, Minnesota on the 15<sup>th</sup> day of August, 1989.

Section 609:00 was added to the 1974 Code of Ordinances by Ordinance Number 226, passed and adopted August 15, 1989 and published November 28, 1989.

Section 609:00 Article III of the 1974 Code of Ordinances was amended by adding Article IIIC by Ordinance Number 361, passed, adopted and effective March 1, 2005.

Section 609:00 Article III A, Section 3 of the 1974 Code of Ordinances was repealed and substituted by Ordinance Number 364, passed, adopted and effective April 5, 2022.