

**Township of Carlos
Douglas County, Minnesota**

**South Lake Miltona Wastewater System Subordinate Service District
Operation, Maintenance, and Financing Ordinance**

The Carlos Township Board of Supervisors Hereby Adopts and Ordains The Following:

Section I. Purpose and Authority

- A. The South Lake Miltona Wastewater System LLC (Company) was formed as a homeowner's association by the owners of 18 properties located along South Lake Miltona Drive in Carlos Township. The sole purpose of the Company was to develop, construct, and operate a cluster wastewater treatment system (system) for the benefit of the member property owners.**
- B. The Company petitioned Carlos Township to establish a subordinate service district for the purpose of wastewater collection, treatment, and management services. The Carlos Township Board of Supervisors (Township) accepted the petition and established the South Lake Miltona Wastewater System Subordinate Service District (the District) pursuant to Minnesota Statutes Chapter 365A on May 24, 2018 through the adoption of Resolution #2018-10, which includes a description of the original boundaries of the district. The purpose of the District is to provide wastewater collection and treatment services, including the construction, operation and maintenance of a cluster subsurface sewage treatment system (facilities) within the District.**
- C. The wastewater collection and treatment system was constructed by the Company but financed through a Minnesota Department of Agriculture loan program administered by the Township. It was understood by all parties that once constructed, the system (including real property, easements, and physical infrastructure) would be turned over to Carlos Township to operate and maintain through the South Lake Miltona Wastewater (SLMWW) subordinate service district.**
- D. On December 13, 2018, Carlos Township adopted resolution #2018-21, formally accepting the newly constructed wastewater collection and treatment system, and agreeing to facilitate the continuous operation and maintenance of the system through the South Lake Miltona Wastewater subordinate service district.**

- E. Now, therefore, the Township pursuant to authority granted under Minnesota Statutes, Chapters 365A and 444.075, enacts the following rules and regulations to govern the District for the health, safety, and welfare of the users and residents of Carlos Township.
- F. The Township adopts this ordinance to ensure the proper use of the facilities, provide for the lawful, fair and equitable recovery of the cost of construction of the facilities as well as the lawful, fair and equitable charges for operations, maintenance and replacement of the facilities and the treatment of wastewater generated in the District.
- G. The Ordinance shall apply to the District, users of the facilities, and all properties and owners of properties whereon wastewater is produced, discharged or treated within the District boundaries.

Section II. Definitions

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

- A. "Availability Charge" means a charge to pay the user's proportionate share of the Capital Cost of the facilities and services.
- B. "Bedroom" has the definition given in MN Rules Chapters 7080 or successor Rule.
- C. "Building Drain" means the lowest piping that collects the discharge from all other drainage piping inside the house and extends 30 inches (762 mm) in developed length of pipe, beyond the exterior walls and conveys the drainage to the building sewer.
- D. "Building Sewer" means that part of the drainage system that extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage-disposal system or other point of disposal.
- E. "Capital Costs" means all reasonable and necessary costs and expenses incurred by the District in planning, designing, financing, and constructing the facilities and obtaining service, including but not limited to costs and expenses for obtaining necessary permits, licenses, approvals and grants for design and construction costs; fees for legal and consulting services; or the acquisition of such facilities and service.
- F. "Connection" means to install building sewer plumbing from a source to any part of the disposal system such that the wastewater is delivered to the treatment

works. This includes any new or existing structure from which wastewater is produced that is plumbed to drain that wastewater into the system.

- G. "Connection Charge" means a charge equal to a pro-rata share of OM&R costs for the facilities from the time the facilities are constructed until a connection is made to the facilities.
- H. "Debt Service" means the principal and interest necessary to pay indebtedness related to Capital Costs of the facilities.
- I. "Debt Service Charge" means the charge related to the principal and interest necessary to pay indebtedness related to Capital Costs of the facilities.
- J. "Disposal System" and "Treatment Works" are given the definitions contained in Minnesota Statutes Section 115.01 and shall include, for the purpose of this Ordinance, the District's facilities.
- K. "District" means the South Lake Miltona Wastewater System Subordinate Service District formed by the Carlos Township Board of Supervisors for the purposes described in this ordinance.
- L. "Domestic Waste" means wastes from residential users and from the sanitary conveniences of multiple dwellings, commercial buildings, institutions, and industrial facilities.
- M. "Facilities" means the system of treatment works, trunk and lateral lines, gravity and force mains, pumps, lift stations, tanks, drain fields and other appurtenance constructed to collect, convey and treat wastewater from the District.
- N. "Flow" means the quantity of wastewater expressed in gallons or cubic feet per twenty-four (24) hours.
- O. "Future User" means any person who is not initially connected to the facilities.
- P. "Groundwater" means water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near-surface unconsolidated sediment or regolith, or in rock formations deeper underground.
- Q. "Holding Tank" or "Septic Tank" means a tank for storage of sewage, including the accumulation of solids, until it can be transported to a point of treatment and dispersal.
- R. "Indirect Discharge" means the introduction of pollutants or wastes into the Facilities from any nondomestic source regulated under Section 301 (b), (c), or (d) of the Federal Water Pollution Control Act.

- S. "Industrial Waste" means solid, liquid, or gaseous wastes, including cooling water (except where exempted by a NPDES Permit), resulting from any industrial, manufacturing, or business process, or from the development, recovery, or processing of a natural resource.
- T. "Initial User" means any person who is initially connected to the facilities.
- U. "Interference" means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the Facilities.
- V. "MPCA" means the Minnesota Pollution Control Agency.
- W. "Normal Residential Strength Waste" means wastewater that is produced primarily in a residence or seasonal residence with Biochemical Oxygen Demand concentrations not greater than 300 mg/1 and total suspended solid concentrations not greater than 300 mg/1.
- X. "Operations, Maintenance, and Replacement Costs(OM&R)" means the expenditures necessary to provide for the dependable, economical, and efficient functioning of the facilities throughout their useful life, including operator training and permit fees, and the cost of replacement of certain equipment appurtenant to the facilities.
- Y. "Ordinance" means the set of rules contained herein.
- Z. "Other Wastes" shall mean other substances except wastewater and industrial wastes.
- AA. "Person" means the State or any agency or institution thereof, any municipality governmental subdivision, public or private corporation, individual, partnership, or other entity, including, but not limited to, association, commission or any interstate body, and including any officer or governing or managing body of any municipality, governmental subdivision or public or private corporation, or other entity.
- BB. "Private Vacation Home Rental" means any home, cabin, condominium, bedroom or similar building that is advertised as, or held out to be, a place where sleeping accommodations are furnished to the public on a nightly, weekly, or for less than a 30-day time period, and is not a bed and breakfast, resort, hotel or motel.
- CC. "Producer" means the owner of improved property within the district, within which property wastewater is produced or stored.

- DD. "Residence" means a single-family dwelling, home, cottage or cabin which are producing and discharging wastewater to the facilities.
- EE. "Sanitary Sewer" means a sewer which carries wastewater and to which storm, surface, and groundwater are not intentionally admitted.
- FF. "Sewer" means a pipe or conduit for carrying wastewater, industrial waste, or other waste liquids.
- GG. "Sewer System" means pipelines or conduits, pumping stations, force mains, and all other devices and appliances appurtenant thereto, used for collecting or conducting wastewater.
- HH. "Shall" is mandatory; "May" is permissive.
- II. "State" means the State of Minnesota or its designated agency, the Minnesota Pollution Control Agency (MPCA).
- JJ. "Storm Water" means any flow occurring during or following any form of natural precipitation and resulting therefrom.
- KK. "User" means any person who discharges, causes, or permits the discharge of wastewater into the facilities.
- LL. "User Advisory Committee" means two or three Users of the System and/or property owners within the District organized to act as a communications conduit between the District and the Users, and to provide feedback and input on the administration and operation of the System.
- MM. "User Fee" means the fee paid by all users of the facilities to pay the cost of OM&R of the facilities.
- NN. "Wastewater" means the liquid and water-carried industrial or domestic wastes, including human waste, from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the facilities.

Section III. Obligations of Users and of the District.

This section establishes the general responsibilities of the users of the System and their financial obligations, as well as the responsibilities and expectations of the District in operating the System.

A. District Obligations

1. The District shall be responsible for the components of the System located on parcels within the District, and shall be entitled to inspect and monitor each part of the System and the associated filtration, monitoring, shutoff and electrical systems, if any.
2. The District shall be obligated to perform regular maintenance, replacement, upgrade and improvements to the System and the filtration, monitoring, shutoff and electrical components.
3. The District shall be responsible to levy and collect annual and special assessment for the cost of repair, replacement, upgrade or improvement of the System in the event the Cluster System fails or is not in compliance with applicable law, rules and regulations. Notwithstanding the foregoing, in the event any failure or noncompliance of the System is the result of an act or omission by a User, the User or the guest, licensee or invitee of such User shall be responsible for the cost of repair, replacement, upgrade or improvement necessitated by such failure or noncompliance in order to make the System compliant and fully operable.

B. User Obligations

1. Users shall comply with this Ordinance, including but limited to the obligation to pay for the annual and special assessments levied by the District with respect to any parcel.
2. Users shall be responsible for the cost to pump and dispose of sewage effluent from a septic tank contained on the User's property to the extent that such pumping is required as a result of abuse or misuse, and for all maintenance, repair, replacements, upgrades and improvements to the building sewer on each property.
3. In the event the System fails or is not in compliance with applicable law, rules and regulations and such failure or noncompliance is the result of an act or omission of a User or User's agent, contractor, guest, licensee or invitee, the User shall be responsible for the cost of repair, replacement, upgrade or improvement necessitated by such failure or noncompliance in order to make the System compliant and fully operable.

Section IV. Wastewater system operation and use.

This Section sets forth uniform requirements for discharges of wastewater to the facilities and responsible management oversight of operations and maintenance of the facilities. This Section establishes the regulation of discharges into the District's wastewater facilities through enforcement of the general requirements for all users, authorizes inspection, monitoring and enforcement activities, establishes penalties, and describes the responsibilities of Users and of the District.

A. Mandatory connection and abandonment of private septic system.

1. Connection to the facilities by any existing structure within the District in which wastewater is produced, or from which wastewater is discharged, is mandatory.
2. At the time a connection is made to the Facilities, any private wastewater disposal facilities that are not included within the system through an approved design, shall be abandoned according to applicable rule.
3. Employees of the District and/or service providers contracted by the District may enter upon any property for the purpose of inspecting the wastewater system and making such other investigations and tests as are deemed necessary. Entry shall be made during the daylight hours unless abnormal or emergency circumstances require otherwise.

B. Building sewer and connections to the system.

1. No person, unless authorized, shall uncover, make any connections with, or disturb any portion of the facilities, except in accordance with the applicable provisions of this Ordinance.
2. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify and hold harmless the District from any loss or damage to the facilities that may directly or indirectly be occasioned by the installation of the building sewer.
3. A separate and independent building sewer shall be provided for every building on a separate lot, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, provided that the District shall require a written agreement between the property owners as to the share of the costs of construction and maintenance which each will contribute.

4. Existing building sewer may be used in connections with new buildings only when they are found, on examination and test by the District, to meet all requirements of this Ordinance.
5. The size, slope, alignment, materials of construction of a building sewer, and the method to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of Water Pollution Control Federation Manual of Practice No. 9 and applicable American Society of Testing and Materials (ASTM) standards shall apply.
6. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the sewer system, such building drain shall be equipped by the building owner with a lifting device approved by the District and discharged to the building sewer.
7. No persons shall make connection of roof downspouts, exterior foundation drains, areaway drains, floor-drains in garages or accessory structures, sump pumps, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to the Facilities.
8. The construction of the building sewer and its connection into the Facilities shall conform to the requirements of the building and plumbing code or other applicable rules and regulations and the procedures set forth in appropriate specifications of the Water Pollution Control Federation Manual of Practice No. 9, and the American Society for Testing and Materials (ASTM). All such construction shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the District before installation.
9. Employees of the District shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the connection shall notify the District when the work is ready for final inspection and no underground portions shall be covered before the final inspection is completed. The connection shall be made under the supervision of the District or its representative.

C. New connections or expansions of wastewater generating facilities

1. The original or initial collection and treatment components of the System had a design capacity based on a specific number of bedrooms attributed to each tract or parcel of land owned by each Initial User at the time of

construction. A legal description of each of these parcels of land and the number of bedrooms permitted on each parcel is listed in Schedule 1.

2. Properties listed in Schedule 1 shall be permitted by the District to make connections to the System, and/or expansions or additions to wastewater generating facilities on each of the listed parcels, up to the number of bedrooms allotted to each parcel and for which the capacity of the system was initially designed.
3. Any user wishing to expand or add to the number of bedrooms on a property shall make a written request to do so to the District prior to, or in conjunction with, any required permitting for construction by Douglas County. The District will determine if the system has the capacity for such an expansion, first taking into consideration and allowing for the number of bedrooms allotted to each of the parcels listed in Schedule 1, and provide that determination to the User in writing.
4. Any expansion to the number of bedrooms or new connections to the Facilities, above and beyond those included in the initial design and listed in Schedule 1, shall be prohibited unless sufficient capacity is available in all downstream portions of the facilities, including but not limited to capacity for flow, CBOD and suspended solids, as determined by the District.
5. Recommendations on the capacity of the System shall be provided to the District by a MN Licensed Advanced Septic Designer and/or a Registered Professional Engineer and reviewed and approved by the responsible permitting authority (Douglas County or MN Pollution Control Agency) prior to the District making a determination on availability of capacity in the system for any requested expansion.
6. The cost to upgrade, modify, alter or improve the System as a result of any expansion to the number of bedrooms or new connections to the System, above and beyond the number of bedrooms included in the initial design and listed in Schedule 1, shall be the sole responsibility of and assessed to the benefitting property.

D. Connections and alterations to the sewer collection main and lateral lines.

1. No person, unless authorized, shall uncover, make any connections with or opening into, use, alter, or disturb any portion of the facilities without first obtaining a written permit from the District. The District may charge a reasonable permit fee to cover the costs of inspections associated with alterations or connections to the facilities as well as administrative expenses incurred by the District on account of such alterations and connections.

2. No main or lateral sewer shall be constructed in the District (except house or building service sewers) except by the District. No such main or lateral sewer shall be considered to be a part of the facilities unless accepted by the District.
3. No lift station or check valve shall be installed on any portion of the facilities (except house or building service sewers) except by the District. No such lift station or check valve shall be considered to be a part of the facilities unless accepted by the District.
4. The size, slope, alignment, material of construction, methods to be used in excavation, placing of pipe, jointing, testing, backfilling and other work connected with the construction of sewers shall conform to the requirements of the District.

E. Protection from Damage.

1. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the Facilities.
2. No person shall:
 - a. Drive, park or perform or allow any other activity that causes compaction of the any component of the system;
 - b. Perform or allow any other activity that would interfere with the reasonable and efficient operation of the System;
 - c. Perform any activity that is prohibited by applicable state or county laws, regulations, or ordinance; and
 - d. Fail to comply with any Septic System Management Plan adopted or developed with respect to the System.
3. The District shall be entitled to install a shut-off valve from each of the dwellings and/or wastewater generating facilities on a parcel, and shall be entitled to stop the flow of treated liquids from a Users property into the System if an excess volume of sewage is discharged, the User fails to perform regular or necessary maintenance, repairs, upgrades or improvements as directed by the District, or if otherwise required in connection with the operation of the System.
4. Homeowners will be required to shut off main water supply when home is not occupied for a period exceeding seven (7) consecutive days.

F. Use of the wastewater system.

1. It shall be unlawful to discharge to any natural outlet within the District or in any area under the jurisdiction of the District any wastewater or other polluted water.
2. It shall be unlawful within the District to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
3. Construction of any new structures within the District from which wastewater is or shall be discharged shall not occur without first securing a connection to the facilities.
4. The owner of any building or property which is located within the District, or in any area under the jurisdiction of the District, and from which wastewater is discharged, shall be required to connect to the facilities.
5. In the event an owner shall fail to connect to a public sewer, the District may undertake to have said connection made and shall charge the cost thereof against the property and said charge shall be a lien against said property. Such charge, when made, shall bear interest at the rate of five percent (5%) over the prime lending rate per annum and shall be certified to the auditor of Douglas County and shall be collected and remitted to the District in the same manner as assessments for local improvements. The rights of the District under this subdivision shall be in addition to any other remedial or enforcement provisions of this Ordinance.
6. No person shall discharge or cause to be discharged directly or indirectly any storm water, surface water, groundwater, roof runoff, subsurface drainage, unpolluted cooling or process water to the facilities unless there is no prudent and feasible alternative and unless as approved by the District.

G. Prohibited wastewater generating uses within the district.

1. No industrial or commercial use that generates wastewater related to such use shall be connected to the facilities.
2. Private vacation home rental use, as defined in the Douglas County Zoning Ordinance and this Ordinance, shall be prohibited within the District.

H. Accidental discharges of prohibited waste.

1. Accidental discharges of prohibited waste into the Facilities, directly or through another disposal system, or to any place from which such waste may enter the Facilities, shall be reported to the District by the persons responsible for the discharge, or by the owner or occupant of the premises where the discharge occurred, immediately upon obtaining knowledge of the fact of such discharge. Such notification will not relieve users of liability for any expense, loss or damage to the wastewater disposal system or treatment process, or for any fines imposed on the District on account thereof under any state or federal law. The responsible Person shall take immediate action as is reasonably possible to minimize or abate the prohibited discharge.

I. System monitoring.

1. A user, when required by the District, shall install and maintain a flow measurement device for instantaneous rate and/or cumulative flow volume determinations. Metered water supply may be used in lieu of flow measurement devices if it can be documented that the water usage and waste discharge are the same, or where a measurable adjustment to the metered supply can be made to determine the waste volume.
2. If a flow measurement device is required under subpart 1, such devices installed within a building and the subsequent flow records shall be maintained at the user's expense in good operating condition at all times.
3. The District shall complete and submit accurate routine self-monitoring reports as may be required by Federal, State, or County regulation.
4. The District may conduct such tests as are necessary to enforce this Ordinance, and employees or contracted service providers of the District may enter upon any property for the purpose of taking samples, obtaining information or conducting surveys or investigations relating to such enforcement. Entry shall be made during ordinary business hours unless circumstances require otherwise. In all cases where tests are conducted by the District for the purpose of determining whether the user is in compliance with regulations, the cost of such tests shall be charged to the user and added to the user's sewer charge. In those cases where the District determines that the nature or volume of a particular user's wastewater requires more frequent than normal testing, the District may charge such user for the tests, after giving the user ten (10) days written notice of its intention to do so, and the cost thereof shall be added to the user's sewer charge.

5. Duly authorized employees or contractors of the District bearing proper credentials and identification shall be permitted to enter all private properties through which the District holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the Facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in accordance with the terms of the easement pertaining to the private property involved.

Section V. Enforcement.

To secure compliance with the requirements of this Ordinance, the District may suspend service, order abatement or correction and/or take other appropriate action as allowed by law.

- A. **Suspension of Service.** The District may suspend service when necessary to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or to the Facilities, or would cause the District to violate any condition of its State Disposal System Permits, or any other law or regulation. Any user notified of a suspension of service shall immediately stop discharging to the Facilities. In the event of a failure of the user to comply voluntarily with the suspension order, the District shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the Facilities or endangerment to any individuals. The District shall reinstate service upon proof of the elimination of the noncomplying discharge.
- B. **Abatement.** Should the District discover a condition requiring abatement to secure compliance with the requirements of this Ordinance or any State or local rule or ordinance, the District may order abatement of the condition. In the event an owner shall fail to abate a condition in compliance with a notice given under this section, the District may undertake to have said condition abated or corrected and shall charge the cost thereof against the property and said charge shall be a lien against said property. Such charge, when made, shall bear interest at the rate of five percent (5%) over the prime lending rate per annum and shall be certified to the auditor of Douglas County and shall be collected and remitted to the District in the same manner as assessments for local improvements. The rights of the District under this subdivision shall be in addition to any other remedial or enforcement provisions of this Ordinance.
- C. **Show Cause Hearing.**
 1. If a violation is not corrected by timely compliance, the District may order any user which causes or allows an unauthorized discharge, or persists in a violation of this ordinance, to show cause before the District why an enforcement action should not be taken. A notice shall be served on the

user specifying the time and place of a hearing to be held by the District regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the District why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days before the hearing.

2. The hearing shall be held before the Carlos Township Board of Supervisors.
3. After the District has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

D. Legal remedies and penalties.

1. **Administrative Fines.** Notwithstanding any other Section of this Ordinance, any user who is found to have violated any provision of this Ordinance, or orders issued hereunder, may be fined in an amount not to exceed \$1,000 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer, service charge and the District shall have such other collection remedies as it has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the user's property.
2. Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished accordingly.
3. Any person violating any of the provisions of this Ordinance, or if any damage caused to the System that is due to the act or omission of any one or more users or their invitees or guests, such person(s) shall become liable to the District for any expense, loss, or damage. The District may assess the costs of repairing the damage, or replacing the improvement if repair is not feasible, exclusively against the user. The District may add to the user's charges and fees the costs assessed for any cleaning, repair, or replacement work caused by the violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this Ordinance.

Section VI. Sewer availability, operation, and maintenance cost recovery.

The purpose of this section is to establish uniform charges and user fees for the procurement, betterment, operation, maintenance and replacement of the wastewater facilities within the District. This system of charges and assessments will:

- recover initial capital costs and offset the depreciation of the system components from future users;
- pay for the treatment of wastewater generated by users of the facilities and provide for the operations, maintenance and replacement of the facilities

A. Mandatory connection and charges for future users of the System

1. Connection to the facilities by future users within the District is mandatory prior to the production of wastewater by the user.
2. Prior to discharging wastewater into the System, each Future User shall pay an availability charge, adjusted for inflation according to the Consumer Price Index (CPI) for the Midwest for the period from the construction of the facilities through the date of connection. The availability charge shall be as follows:

Sixteen thousand, six hundred – thirty dollars (\$16,630) plus inflation + pro-rata share of the maintenance and replacement components of OM&R costs per user on the system for the period from the construction of the facilities through the date of connection.

$\$16,630 + \text{inflation} + \text{pro-rata share of M\&R costs}$

3. The above availability charge may be paid by the Future User in full to the District prior to connection or through an agreement with the District placed on the benefitting property's taxes as a special assessment for a period not to exceed 10 years bearing interest as set by the District annually prior to August 31 and shall be certified to the auditor of the County in which the land is situated and shall be collected and remitted to the District in the same manner as assessments for local improvements.
4. Future users shall bear the entire cost of connecting to the System facilities including but not limited to the costs for septic tank(s), electrical service and connections, alarms, pumps, and labor required to install components. In the event a future user shall fail to pay the availability charge, as required by this Ordinance, the District may undertake to have said charge assessed against the property and said charge shall be a lien against said property. Such charge, when made, shall bear interest at the rate of five percent (5%) above the prime lending rate per annum and shall

be certified to the auditor of the County in which the land is situated and shall be collected and remitted to the District in the same manner as assessments for local improvements. The rights of the District under this subdivision shall be in addition to any other remedial or enforcement provisions of this Ordinance.

B. Establishment of annual user fees for the operation, maintenance, and replacement (OM&R) of the System.

1. User fees shall be set by the District prior to August 31 of each year. This fee shall be reviewed at least every two years and adjusted as necessary to pay the current and projected costs for OM&R.
2. User fees shall be based on the costs of OM&R consisting of the following components, prorated by user:
 - a. Costs to operate, maintain, use, replace, repair, upgrade, and improve the System, and back flow check valves and filtration, monitoring, and electrical systems associated with the System; the sewer system running from sewer tanks and under the Public Road Rights of Way (as defined below) and to the treatment area; and the mound system, drain field tank and pumping station situated on the Property; sewer lines, force mains, filtration system, monitoring system, electrical system, and related appurtenances.
 - b. Costs to repair, pump, or dispose of sewage effluent with respect to any portion of the System and related appurtenances due to a system failure in any portion of the System;
 - c. Utility costs associated with the System, together with the mowing and controlling of noxious weeds on the treatment area;
 - d. Reserves for the upgrade, repair, maintenance, replacement or improvement of the System;
 - e. Cost of administering the facilities, monitoring the system, pumping tanks, disposing of solids and cost of operating lift stations; test equipment and measuring devices, reporting to county and state regulatory agencies.
 - f. Cost of any work required to make the system compliant with county or state rules.

Section VII. Financial Management of the District

- A. The Township Treasurer shall maintain a separate account for funds of the district and separately account for funds collected for recovery of capital costs, operations costs, maintenance costs, and replacement costs. The account shall be appropriate and suitable for the deposit of municipal funds.
- B. The Township acting on behalf of the District may invest funds, in its discretion, in investments appropriate and suitable for municipal funds, and only in a manner consistent with existing law.
- C. Interest earned on any fund, deposited or invested, shall remain in and become part of the fund, and be used for the purpose of the fund.
- D. The Township acting on behalf of the District may lend and/or borrow between District and Township funds only under an obligation to repay the borrowed fund with interest, and only in a manner consistent with existing law regarding such activity.
- E. The Township may, as necessary, and as allowed by law, certify to the County Auditor, a tax upon property within the district to pay costs associated with operation of the District. Such funds shall be maintained in the account established for operation of the facilities.
- F. The Carlos Town Board, its employees, and its agents shall be considered fiduciaries to the District in the collection, handling, deposit, investment, use and disbursement of the funds of the District.
- G. The Township shall order an audit, as may from time to time be required by law, of the District's finances and may provide a report to the residents of the District at a meeting held for such purpose.
- H. If the District is dissolved under the provisions of Minnesota Statutes Chapter 365A.095 Subd. 1, or if the Town Board determines that the conditions for the creation of the District no longer exist, that all indebtedness of the district has been paid, and that all property of the district except funds has been disposed of, then the Town Board shall pass an order to refund any surplus tax revenue or service charge, or any part of it, collected from the Users. The refund must be distributed equally to the owners of any property within the discontinued District that were charged the extra tax or service fee during the most recent tax year for which the tax or service fee was imposed. Any remaining funds collected for the long-term Maintenance and Replacement of the System shall be credited to the benefit of the Users by the Town Board in a manner that is just and equitable. The clerk of the Town Board shall transmit a certified copy of the order to the

treasurer. The treasurer shall then distribute the remaining funds of the District as directed by the order, and is responsible for the funds until distributed.

Section VIII. Annual Report, Meeting, and User Advisory Committee.

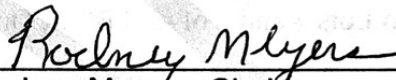
- A. Annually, the District shall provide a written report to the residents of the district that includes a summary of the District's finances and audit, and a compilation of the monitoring reports completed by the contracted service provider, and any repairs completed or planned for the system within an 12-month period.
- B. The District shall annually hold a meeting to be scheduled between June 1 and August 31 and invite either all owners of property within the District or the members of a User Advisory Committee, if such a committee has been created by the property owners. The purpose of the meeting shall be to report on the audit and finances of the district; provide a summary of the monitoring data; report on operational, maintenance, and repair issues; address concerns and questions of facility users; and to hear comments on suggested amendments to the ordinances and future OM&R fees.
- C. The Users and property owners within the District shall be entitled to establish a User Advisory Committee consisting of two to three property owners within the District or their appointees. The Users shall be responsible for notifying the District of the establishment of such an User Advisory Committee and shall provide contact information of the members to the District by January 1 of each calendar year.
- D. The User Advisory Committee may be consulted as needed by the District to provide input on System operations, proposed maintenance, service issues, repair needs, ordinance interpretation and changes, and to generally serve as a conduit of communication between the District and the Users. The District may establish direct communications between the User Advisory Committee and a designated District employee or contracted service provider to expedite service-related concerns, if such an arrangement is agreeable to both the District and the Committee.

Section IX. Amendments, Validity and Severability, and Effective Date.


- A. Any amendments of this ordinance shall follow the procedures established in MN Statutes Chapter 365.125, or successor statute.
- B. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts.
- C. This Ordinance, its rules and regulations for the South Lake Miliona Wastewater System Subordinate Service District shall take effect and be in full force immediately following its adoption and publication as per MN Statutes.

Adopted at Carlos, Minnesota this 13th day of June, 2019.

BOARD OF SUPERVISORS
CARLOS TOWNSHIP, MINNESOTA


Rodney Meyers, Chair

ATTEST:


Rebecca Anderson
Clerk of the Board

Attachment: Schedule 1

This Instrument drafted by:
Rush Land Use Consulting
David B. Rush
9134 County Rd 11 NW
Alexandria, MN 56308

**SOUTH LAKE MILTONA WASTEWATER SYSTEM, LLC - OPERATING
AGREEMENT**

SCHEDULE 1

(Listing of legal descriptions of Tracts, the owners of which are Members pursuant to this Agreement, together with the number of bedrooms allowed on each Tract)

Tract II (12-0089-000): Lot 8, Block 1, Steidl's Miltona Beach, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 3

Tract III (12-0088-000): Lot 7 and West ½ (25 feet) of Lot 6, both in Block 1, Steidl's Miltona Beach, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 3

Tract IV (12-0087-000): Lot 5, Block One, Steidl's Miltona Beach, according to the plat duly filed and of record in the Office of the Douglas County Recorder, EXCEPT the Easterly 12.50 feet of said Lot 5, said Easterly 12.50 feet is measured at a right angle to and is parallel with the lot line common to Lots 4 and 5 of said Block One

AND

That part of Lot 6, Block One, Steidl's Miltona Beach, according to the plat duly filed and of record in the Office of the Douglas County Recorder, described as follows:

Beginning at the southeast corner of said Lot 6;

Thence South 80 degrees 00 minutes 00 second West, assumed bearing, along the south line of said Lot 6, a distance of 25.06 feet;

Thence North 01 degree 08 minutes 42 second East 165 feet more or less to the shoreline of Lake Miltona;

Thence Easterly, along said Lake, 25 feet more or less to the East line of aforesaid Lot 6;

Thence South 01 degree 00 minutes 46 seconds West, along said East line, 166 feet more or less to the point of beginning. Bedrooms: 4

Tract V (12-0082-000): Lot 1, Block 1, Steidl's Miltona Beach, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 5

Tract VI (12-0081-000): Lot D of Auditor's Subdivision of Lot 16, Block B of Sylvan Shores in Government Lot 3, Section 3, Township 129 North, Range 37 West, Douglas County, Minnesota. Bedrooms: 3

Tract VII (12-0079-000): Lot B of Auditor's Subdivision of Lot 16, Block B of Sylvan Shores in Government Lot 3, Section 3, Township 129 North, Range 37 West, Douglas County, Minnesota. Bedrooms: 4

Tract VIII (12-0076-000): Lots 14 and 15, both in Block B, Sylvan Shores, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 4

Tract IX (12-0075-000): Lot 13, Block B, Sylvan Shores, according to the plat duly filed and of record in the Office of the Douglas County Recorder, Minnesota EXCEPTING THEREFROM the following described real property: That part of Lot 13, Block B, Sylvan Shores, according to the recorded plat thereof, described as follows: Commencing at the easterly most corner of said Lot 13; thence on a plat bearing of South 62 degrees 02 minutes West along the southeasterly line of said Lot 13 a distance of 8.00 feet to the point of beginning of the land to be described; thence reversing North 62 degrees 02 minutes East 8.00 feet to said easterly most corner; thence northwesterly along the northeasterly line of said Lot 13 a distance of 180.00 feet; thence southeasterly 180 feet more or less to the point of beginning. Containing 0.017 acres more or less. Bedrooms: 3

Tract X (12-0073-000): Lot 11, Block B, Sylvan Shores, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 4

Tract XI (12-0072-000): Lot 10, Block B, Sylvan Shores, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 4

Tract XII (12-0071-000): Lot 9, Block B, Sylvan Shores, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 4

Tract XIII (12-0067-000): Lot 5, Block B, Sylvan Shores, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 3

Tract XIV (12-0066-000): Lot 4, Block B, Sylvan Shores, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 4

Tract XV (12-0065-000): Lot 3, Block B, Sylvan Shores, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 5

Tract XVI (12-0064-000): Lot 2, Block B, Sylvan Shores, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 5

Tract XVII (12-0063-000): Lot 1, Block B, Sylvan Shores, according to the plat duly filed and of record in the Office of the Douglas County Recorder. Bedrooms: 3

Tract XVIII (12-0062-000): Lot 6, Auditor's Subdivision of Lot 1, Block A of Milona Shores and of Lots 1 and 2, Block A of Sylvan Shores, according to the plat thereof on file and of record in the Office of the Douglas County Recorder. Bedrooms: 5

Tract XIX (12-0061-000): Lot 5, Auditor's Subdivision of Lot 1, Block A of Milona Shores and of Lots 1 and 2, Block A of Sylvan Shores, according to the plat thereof on file and of record in the Office of the Douglas County Recorder. Bedrooms: 3