

**ORDINANCE No. \_\_\_\_**

**AN ORDINANCE ESTABLISHING CHAPTER 99A, BENEFITED SEWER DISTRICTS, OF THE CODE OF ORDINANCES OF THE CITY OF ADEL**

WHEREAS, Iowa Code Section 384.38(3) allows the City to establish districts and schedules of fees for the connection of property to the sanitary sewer utility; and

WHEREAS, such fees may include the equitable cost of extending the utility to the property, including reasonable interest from the date of construction to the date of payment; and

WHEREAS, the City Council of the City of Adel, Iowa, after public notice and hearing as prescribed by law, has determined the necessity of establishing the East Annex Sanitary Sewer Connection Fee District (the “Benefited District”) and the imposition of a fee for connecting to the City sanitary sewer upon each person who owns property in said areas and who will be served by connecting to the City sanitary sewer; and

WHEREAS, the City Council of the City of Adel, Iowa has declared its intent to utilize connection fees to recover the costs for design and construction of such major sanitary sewer facilities from property owners who connect to such facilities subsequent to their construction; and

WHEREAS, the City Council of the City of Adel, Iowa has set forth the method of recovery of proportional cost shares from those property owners who connect their properties to major sanitary sewer facilities subsequent to their construction, so that in the event that all property, other than street and road right-of-way, which lies within the Benefited District is connected to the major sanitary sewer facilities during their expected useful life, then those properties shall bear, in the aggregate, up to 100 percent of the cost for design and construction of such facilities, including legal, administrative, and interest expenses associated therewith; and

WHEREAS, the sanitary sewer facilities in the Benefitted District will be constructed in phases over several years, with the first phase being completed in 2020.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ADEL, DALLAS COUNTY, IOWA:**

SECTION 1. Chapter 99A, Benefited Sewer Districts, of the Code of Ordinances of the City of Adel is hereby adopted as follows:

**“CHAPTER 99A. BENEFITTED SEWER DISTRICTS.**

**99A.01 PURPOSE.**

The City has determined the necessity of establishing a policy and a procedure to be utilized to recover the cost of design and construction of major sanitary sewer facilities in those instances in

which a significant number of the properties to be benefited by such facilities are not sufficiently developed to permit the recovery of those costs through the special assessment process as provided in Chapter 384, Division IV of the Code of Iowa. The City hereby declares its intent to utilize connection fees, as herein provided, to recover the costs for design and construction of such major sanitary sewer facilities from property owners who connect to such facilities subsequent to their construction.

**99A.02 INTENT.**

It is the intent of this chapter to set forth the method of recovery of proportional cost shares from those property owners who connect their properties to major sanitary sewer facilities subsequent to their construction, so that in the event that all property, other than street and road right-of-way, which lies within the benefited district is connected to the major sanitary sewer facilities during their expected useful life, then those properties shall bear, in the aggregate, up to 100 percent of the cost for design and construction of such facilities, including legal, administrative, and interest expenses associated therewith.

**99A.03 PROCEDURE.**

1. In the event the Council determines the necessity for construction of a major sanitary sewer facility, and determines that the utilization of a connection fee is the most equitable manner in which to recover the City's costs associated therewith, the Council shall cause a "Notice of Public Hearing on the Proposed Adoption of an Ordinance to Establish a Benefited District and a Connection Fee Schedule" to be published in a newspaper of general circulation within the City as required by Iowa Code Section 384.38(3).
2. At the public hearing, the owners of property within the proposed benefited district shall be heard and may offer comments or objections as to:
  - A. The necessity for the project;
  - B. The calculation of the area benefited by the proposed major sanitary sewer facilities;
  - C. The estimated cost of the proposed facilities; and
  - D. The proposed connection fee.
3. Upon concluding the hearing, the Council shall rule upon the objections presented during the hearing and may consider the adoption of the proposed connection fee ordinance. Upon consideration of the proposed connection fee ordinance, the Council may:
  - A. Adopt the ordinance as proposed;
  - B. Delete elements or portions of the proposed major sanitary sewer facilities from the proposed project and the properties served thereby from the benefited district proposed; or
  - C. Amend the ordinance to revise the connection fee.
4. The connection fee ordinance may provide, at the Council's discretion, that single family residences within the benefited district, in existence or under construction upon the effective date of the ordinance, and located within the corporate limits of the City, are eligible for connection to the major sanitary sewer facility. In that event, the ordinance shall include the following provisions:

- A. That the owners of residences on parcels of less than one acre in size located within the City may connect such residences to the major sanitary sewer facility upon approval of their application for connection, payment of the connection fee for the parcel, and construction, at the owner's expense, of appropriate connection structures, as determined necessary by the City.
- B. That the owners of residences on parcels in excess of one acre in size located within the City may connect such residences to the major sanitary sewer facility upon approval of their application for connection, designation in writing of a one acre single residence parcel and a remainder parcel, payment of the connection fee for the area of the one acre residence parcel, and construction at the owner's expense, of appropriate connection structures, as determined necessary by the City. Any future development of said parcel shall necessitate a revised application for connection and payment of the appropriate connection fee.

All other property located within the corporate limits of the City and within a benefited district shall be eligible for connection to the major sanitary sewer facility upon approval of an application for connection by the owner thereof, as hereafter provided, and payment of the connection fee for such property, provided such property has been appropriately subdivided for development, and, where applicable, all sanitary sewer improvements necessary to serve said property have been constructed, at the owner's expense, and accepted by the City.

- 5. After adoption, publication and recording by the Clerk of a connection fee ordinance for a benefited district, all owners of those properties within the benefited district whose properties are eligible for connection, and who propose to connect such properties directly or indirectly to the major sanitary sewer facility, shall make application to the City for such connection. The submittal of construction plans to the City for sanitary sewer improvements on property being subdivided for development shall constitute an application to the City for purposes of this chapter. The sewer connection fee shall be due and payable at the time application is made to the City for connection to the major sanitary sewer facility. No connection shall be made to a major sanitary sewer facility until such application has been approved and until the required connection fee has been paid. The sewer connection fee shall be paid before the City will approve the final plat of property subject to the connection fee.
- 6. The sewer connection fee shall be in an amount equal to the maximum acre area of contiguous property, or fraction thereof, within the benefited district under common ownership which can be lawfully served through such proposed connection, multiplied by the per acre connection fee or such other fee basis as determined for the benefited district established in the connection fee ordinance for that benefited district. The connection fee ordinance may provide for a graduated connection fee, with annual interest adjustments, such that property owners who connect in later years pay interest on the connection fee for their property. The rate of interest applicable to the connection fee established in each benefited district shall not exceed the rate of interest applicable to special assessments pursuant to Chapter 74A and Section 384.60(3) of the Iowa Code in effect on the date that the connection fee was established for that district by enactment of a connection fee ordinance.

7. The sewer connection fee required by this chapter shall be due and payable to the City and is in addition to, and not in lieu of, any other fees for connection required under the plumbing code or other provisions of this Code of Ordinances.
8. In the event any property owner connects his or her property within a benefited district to a major sanitary sewer facility without having made application therefor or without having received approval thereof or without having paid the required connection fee established by a connection fee ordinance, the City shall be entitled to disconnect such private sewer connection until such time as the property owner has made and received approval of his or her application, and/or has paid the required connection fee.

**99A.04. EAST ANNEX SANITARY SEWER CONNECTION FEE DISTRICT.**

**1. DEFINITIONS.**

- A. "Benefitted Service Area" means a designated area to which sanitary sewer service will be provided by a sanitary sewer utility of a given design and capacity.
- B. The boundaries of "The East Annex Sanitary Sewer Connection Fee District" are as follows:

Beginning at the East 1/4 corner of Section 26, Township 79 North, Range 27 West of the 5<sup>th</sup> Principal Meridian, Dallas County, Iowa.

Thence West along the North line of the South 1/2 of said Section 26, Township 79 North, Range 27 West, to the West 1/4 corner of said Section 26, Township 79 North, Range 27 West. Said point also being the East 1/4 corner of Section 27, Township 79 North, Range 27 West.

Thence West along the North line of the South 1/2 of Said Section 27, Township 79 North, Range 27 West, to the West 1/4 corner of said Section 27, Township 79 North, Range 27 West. Said point is also the East 1/4 corner of Section 28, Township 79 North, Range 27 West.

Thence West along the North line of the South 1/2 of said Section 28, Township 79 North, Range 27 West to the NW corner of the NE 1/4, SW 1/4 of said Section 28, Township 79 North, Range 27 West.

Thence South along the West line of the East 1/2 of the SW 1/4 of said Section 28, Township 79 North, Range 27 West, to the south line of 288<sup>th</sup> Trail.

Thence Southwesterly along the South line of 288<sup>th</sup> Trail to a point approximately 359 feet east of the West line of the SW 1/4 of said Section 28, Township 79 North, Range 27 West.

Thence Southeasterly to a point on the South line of the SW 1/4 of said Section 28, Township 79 North, Range 27 West, said point being 778 feet east of the SW corner of said Section 28, Township 79 North, Range 27 West.

Thence Easterly along the South line of the SW 1/4 of said Section 28, Township 79 North, Range 27 West said line also being the North line of the NW 1/4 of Section 33, Township 79 North, Range 27 West to the NW corner of the East 1/2 of the NW 1/4 of Section 33, Township 79 North, Range 27 West.

Thence South along the West line of the East 1/2 of the NW 1/4 of said Section 33, Township 79 North, Range 27 West to the North (Left Downstream) Bank of the North Raccoon River.

Thence easterly and southerly along the Left Downstream Bank of the North Raccoon River to the South line of the NE 1/4 of said Section 33, Township 79 North, Range 27 West.

Thence East along the South line of the NE 1/4 of said Section 33, Township 79 North, Range 27 West, to a point 813.6 ft. West of the East line of the SE 1/4 of said Section 33, Township 79 North, Range 27 West.

Thence South on a line 813.6 ft. West of and parallel with the East line of the SE 1/4 of said Section 33, Township 79 North, Range 27 West to the South line of the SE 1/4 of said Section 33, Township 79 North, Range 27 West.

Thence East along the South line of the SE 1/4 of said Section 33, Township 79 North, Range 27 West to the SE corner of said Section 33, Township 79 North, Range 27 West. Said corner also being the SW corner of Section 34, Township 79 North, Range 27 West.

Thence East along the South line of the SW 1/4 of the SW 1/4 of said Section 34, Township 79 North, Range 27 West, to the SE corner of the SW 1/4 of the SW 1/4 of said Section 34, Township 79 North, Range 27 West.

Thence North along the East line of the SW 1/4 of the SW 1/4 of said Section 34, Township 79 North, Range 27 West, to the NE corner of the SW 1/4 of the SW 1/4 of said Section 34, Township 79 North, Range 27 West.

Thence East along the North line of the SE 1/4 of the SW 1/4 of said Section 34, Township 79 North, Range 27 East, to the NE corner of the SE 1/4 of the SW 1/4 of said Section 34, Township 79 North, Range 27 West.

Thence South along the East line of the SE 1/4 of the SW 1/4 of said Section 34, Township 79 North, Range 27 West, to the SE corner of the SE 1/4 of the SW 1/4 of said Section 34, 79 North, Range 27 West.

Thence East along the South line of the SW 1/4 of the SE 1/4 of said Section 34, Township 79 North, Range 27 West, to the SE corner of the SW 1/4 of the SE 1/4 of said Section 34, Township 79 North, Range 27 West.

Thence North along the West line of the SE 1/4 of the SE 1/4 of said Section 34, Township 79 North, Range 27 West, to the NW corner of the SE 1/4 of the SE 1/4 of said Section 34, Township 79 North, Range 27 West.

Thence East along the North line of the SE 1/4 of the SE 1/4 of said Section 34, Township 79 North, Range 27 West, to the NE corner of the SE 1/4 of the SE 1/4 of said Section 34, Township 79 North, Range 27 West.

Thence South along the East line of the SE 1/4 of the SE 1/4 of said Section 34, Township 79 North, Range 27 West, to the SE corner of said Section 34, Township 79 North, Range 27 West. Said point also being the SW corner of Section 35, Township 79 North, Range 27 West.

Thence East along the South line of Section 35, Township 79 North, Range 27 West to the SE corner of the SW 1/4 of the SE 1/4 of Section 35, Township 79 North, Range 27 West.

Thence North along the East line of the West 1/2 of the East 1/2 of said Section 35, Township 79 North, Range 27 West, to the NE corner of the West 1/2 of the East 1/2 of said Section 35, Township 79 North, Range 27 West.

Thence East along the North line of the East 1/2 of the East 1/2 of said Section 35, Township 79 North, Range 27 West, to the NE corner of said Section 35, Township 79 North, Range 27 West. Said point also being the SE corner of Section 26, Township 79 North, Range 27 West.

Thence North along the East line of the SE 1/4 of Section 26, Township 79 North, Range 27 West, to the East 1/4 corner of said Section 26, Township 79 North, Range 27 West. Said point being the point of beginning.

Connection fees are hereby established and shall be imposed upon owners of properties within the Benefitted District at the time of application to connect their property to said sewer facilities.

- C. "Sanitary Sewer Utility" means and includes sanitary sewer trunk lines and sanitary sewer interceptors, sanitary sewer force mains, pumping stations and detention basins.
- D. "Connection" means any act that results in a direct or indirect discharge into a city sewer utility, including but not limited to, the connection of a private sewer system to a lateral sewer or manhole or the connection of a lateral sewer serving a subdivision to a trunk sewer or manhole.

E. "Original Cost" means all costs incurred in the design, construction and financing of City sewer utilities necessary to provide sanitary sewer service to the East Annex Sanitary Sewer Connection Fee District, including but not limited to, the cost of labor, materials, engineering, fees, legal fees, closing costs, and interest from the date of construction to payment at the rate equal to 2.75%.

2. FEE SCHEDULE. Connection fees shall be imposed as follows:

A. Connection Fee. A connection fee is established for all existing and future connections for property directly adjoining and abutting the sanitary sewer facilities constructed in the Benefitted District according to the following schedule adjusted annually, which includes increases into which a reasonable amount of interest has been calculated from the date of construction of each particular phase of sanitary sewer facilities to the date of payment:

Effective Date	Connection Fee (\$/acre)*
May , 2020.....	\$6,083.12
July 1, 2021.....	\$6,250.40
July 1, 2022.....	\$6,422.29
July 1, 2023.....	\$6,598.90
July 1, 2024.....	\$6,780.37
July 1, 2025.....	\$6,966.83
July 1, 2026.....	\$7,158.42
July 1, 2027.....	\$7,355.28
July 1, 2028.....	\$7,557.55
July 1, 2029.....	\$7,765.38
July 1, 2030.....	\$7,978.92

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\* An interest rate of 2.75% is applied annually to the connection fee.

\*\*The connection fee shall increase in each subsequent year by applying simple interest thereto at the rate of 2.75% percent per annum. The interest rate will not apply to the connection fee before the construction of the particular phase of the sanitary sewer facilities in the Benefitted District to which a property owner may connect has been completed. For example, if a particular phase of the sanitary sewer facilities is not constructed until 2022, then the connection fee in 2022 for property owners who may connect to that particular phase of the sanitary sewer facilities would be \$6,083.12 and the fee schedule for those property owners would run from there.

B. Property Outside City limits. Pursuant to a 28E Agreement between the City of Adel and Dallas County, dated March 5, 2018, the city council may authorize the connection of properties outside the corporate limits of Adel to the East Annex Sanitary Sewer. Such properties shall be eligible to connect to the East Annex Sanitary Sewer upon payment of the connection fee and compliance with all other requirements of the city code. These properties have been included within the boundaries of the East Annex Sanitary Sewer Connection Fee District.

### 3. FEE OUTSIDE DISTRICT.

The established connection fee shall apply to any property outside of the Benefitted District that uses or derives benefit from any of the sewer facilities constructed for the East Annex Sanitary Sewer Connection Fee District. The appropriate fee shall be imposed at the time of determination that a benefit is derived from the property.

### 4. EXCEPTION WITHIN DISTRICT.

The established connection fee shall not apply to the following properties within the benefitted district:

- A. Pursuant to the 28E Agreement between the City of Adel and Dallas County, dated March 5, 2018, the property on which the county's public safety facility has been built is exempted from paying the connection fee (Parcel Nos. 1127400013 & 1127400012);
- B. Pursuant to the 28E Agreement between the City of Adel and Dallas County, dated March 5, 2018, properties that are currently being served by the county's Ortonville sewer collection system are exempted from paying the connection fee and Dallas County will instead be responsible for the connection fees associated with these properties;
- C. The connection fee shall not apply to any properties within the East Annex Sanitary Sewer Connection Fee District which do not use or derive benefit from any sewer facilities constructed for the East Annex Sanitary Sewer Connection Fee District.

### 5. PAYMENT.

The determination that a property is to be connected to the sewer facilities shall occur and the appropriate connection fee shall be paid prior to the time of release of a final plat for recordation or the issuance of a building or plumbing permit, whichever occurs first.

### 6. EXISTING SINGLE FAMILY RESIDENCE.

Any single family residences within the East Annex Sanitary Sewer Connection Fee District, in existence or under construction upon the effective date of the ordinance are eligible for connection to the Sanitary Sewer Utility.

The owners of residences on parcels of less than one acre located within the East Annex Sanitary Sewer Connection Fee District may connect such residences to the Sanitary Sewer Utility upon approval of their application for connection, payment of the connection fee for the parcel, and construction, at the owner's expense, of appropriate connection structures, as determined necessary by the City.

Any single family residence existing or under construction upon the effective date of the ordinance codified in this section located upon a parcel in excess of one acre may apply for

connection upon division of said parcel into a single family residence parcel and a remainder parcel in the payment of a single connection fee. Any development of said parcel shall necessitate a revised application for connection and payment of the appropriate connection fee. For purposes of this section, subdivision of the property into a single family residence parcel and a remainder parcel shall only require a reasonably accurate graphical division of the property and shall not be construed to require a legal division of the property.

The owners of residences on parcels in excess of one acre located within the East Annex Sanitary Sewer Connection Fee District may connect such residences to the Sanitary Sewer Utility upon approval of their application for connection, division of said parcel into a residence parcel and a remainder parcel, payment of the connection fee for the residence parcel, and construction, at the owner's expense, of appropriate connection structures, as determined necessary by the City.

The connection fee for the remainder parcel shall be payable at such time as the remainder parcel shall be connected to the Sanitary Sewer Utility. A parcel may be divided once. For purposes of this section, division of the property into a residence parcel and a remainder parcel may be accomplished by submitting a drawing showing a graphical depiction of the two parcels including dimensions accurate to within a distance of one foot, a legal description of the entire parcel and a legal description of the residence parcel with such accuracy as to allow the City to determine a reasonable description of the remainder parcel. For purposes of this section, the division of property does not require a subdivision of the property or a plat of survey.

#### 7. OTHER PROPERTY.

All other property located within the East Annex Sanitary Sewer Connection Fee District shall be eligible for connection to the Sanitary Sewer Utility upon approval of an application for connection by the owner thereof, as hereafter provided, and payment of the connection fee for such property, provided such property has been appropriately subdivided for development, and, where applicable, all sanitary sewer improvements necessary to serve said property have been constructed, at the owner's expense, and accepted by the City.

#### 8. PROCEDURE.

After adoption, publication and recording by the Clerk of a connection fee ordinance for the East Annex Sanitary Sewer Connection Fee District, all owners of those properties within the Benefited District whose properties are eligible for connection, and who propose to connect such properties directly or indirectly to the Sanitary Sewer Utility, shall make application to the City for such connection. The submittal of construction plans to the City for sanitary sewer improvements on property being subdivided for development shall constitute an application to the City. The sewer connection fee shall be due and payable at the time application is made to the City for connection to the Sanitary Sewer Utility. No connection shall be made to a Sanitary Sewer Utility until such application has been approved and until the required connection fee has been paid. The sewer connection fee shall be paid before the City will approve the final plat of property subject to the connection fee.

#### 9. UNAUTHORIZED CONNECTIONS CONSTITUTE MUNICIPAL INFRACTION.

Any unauthorized connection(s) to the Sanitary Sewer Utility in the Benefitted District will constitute a municipal infraction pursuant to Section 96.04 of the City Code.

10. DISCONNECTION OF UNAUTHORIZED CONNECTIONS.

In the event any property owner connects his or her property within the Benefitted District to a Sanitary Sewer Utility without having made application therefor or without having received approval thereof or without having paid the required connection fee established by a connection fee ordinance, the City shall be entitled to disconnect such private sewer connection until such time as the property owner has made and received approval of his or her application, and/or has paid the required connection fee.”

SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. The provisions of this ordinance are intended and shall be construed so as to fully implement the provisions of Section 384.38(3) of the Code of Iowa, 2019, as amended. In the event that any provision of this Ordinance shall be determined to be contrary to law, it shall not affect other provisions or application of this Ordinance which shall at all times be construed to fully invoke the provisions of Section 384.38(3) of the Code of Iowa with reference to the assessment and collection of fees for connection to a sewer utility.

SECTION 3. This ordinance shall be in full force and effect from and after its passage, adoption, and publications as required by law.

SECTION 4. The Clerk shall certify a copy of the ordinance codified in this section and any amendments to the County Recorder for recording.

Passed and approved by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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