



Le Sueur County, MN

Tuesday, May 2, 2017

Board Meeting

Item 13

German Jefferson / West Jefferson Work Session

Staff Contact:

LE SUEUR COUNTY ORDINANCE NO. ____

**ORDINANCE PROVIDING FOR THE CONTINUOUS COMPLIANCE OF
SUBSURFACE SEWAGE TREATMENT SYSTEMS WITHIN THE
GERMAN-JEFFERSON SUBORDINATE SERVICE DISTRICT**

WHEREAS, the County established the German-Jefferson Subordinate Service District (the District) to address an area with a high density of known and suspected wastewater concerns within the County;

WHEREAS, the wastewater concerns within the District have the potential to impact public health and water quality;

WHEREAS, the County inspected and inventoried a high percentage of SSTs within the District and confirmed the County's wastewater concerns within the District;

WHEREAS, the County conducted numerous public meetings to elicit public input from residents in the District on various options for addressing wastewater concerns within the District;

WHEREAS, the overwhelming consensus from District residents was that continuous compliance of SSTs, through rigorous inspection and enforcement, was the preferred option for addressing wastewater concerns within the District;

WHEREAS, the County's existing SSTS regulation in Section 17 of the Le Sueur County Zoning Ordinance (Existing Ordinance) does not provide for an inspection program to ensure continuous compliance.

WHEREAS, the County has determined that District residents' demands for rigorous inspection and enforcement processes is appropriate and will properly address wastewater concerns within the District;

WHEREAS, a new District-specific ordinance is necessary in order to implement the rigorous inspection and enforcement processes demanded by resident of the District, which shall take effect after the final compliance deadline in the Existing Ordinance.

NOW THEREFORE, the Le Sueur County Board hereby ordains:

SECTION 1. Purpose. The District was established for the purpose of addressing wastewater issues around German and Jefferson Lakes. The purpose of this Ordinance is to establish a rigorous compliance program for the inspection and enforcement of established standards for wastewater treatment systems within the District to ensure continuous compliance.

SECTION 2. Effective Date. This Ordinance shall take effect on January 1, 2018.

[15741-0019/2603483/1]

SECTION 3. Definitions.

Certificate of Compliance: A document, written after a compliance inspection, from an Inspector, certifying that an ISTS is in compliance with the applicable requirements of Minnesota Rules, Chapters 7080 to 7083, as amended and the Existing Ordinance at the time of the inspection.

Cluster System: An SSTS under some form of common ownership or operation that collects wastewater from two or more dwellings or structures and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or structures.

Compliance Inspection: An evaluation, investigation, inspection, or other process for the purpose of issuing a certificate of compliance or notice of noncompliance. ■

Department: The Le Sueur County Department of Environmental Services.

District: The German-Jefferson Subordinate Service District established by the Le Sueur County Board.

Holding Tank: A tank for storage of sewage until it can be transported to a point of treatment and dispersal as defined in Minnesota Rules, Chapter 7080.1100, subpart 41, as amended.

Inspection Report: A Certificate of Compliance or Notice of Noncompliance, together with the Le Sueur County Certification Form, signed and sworn by an Inspector.

Inspector: An individual qualified to review proposed plans and inspect on-site sewage treatment systems and who has been issued a license from the Agency.

Jefferson-German Lakes Septic Inventory Project-JGSIP: The voluntary Jefferson-German Lakes Septic Inventory Project (JGSIP) initiated on March 29, 2011 by Le Sueur County within the boundaries of the Jefferson- German Subordinate Service District.

Licensed Business: A business that designs, installs or maintains, repairs, pumps, operates, or inspects SSTS.

MPCA: Minnesota Pollution Control Agency; referred to as “the Agency” throughout this Ordinance.

Notice of Noncompliance: A document written and signed by a certified inspector after a compliance inspection that gives notice that an SSTS is not in compliance as specified under Minnesota Rules 7080.1500, as amended.

Subsurface Sewage Treatment System (SSTS): Either an individual subsurface sewage treatment system (ISTS) or a mid-sized subsurface sewage treatment system (MSTS) as defined in Chapters 7080 and 7081, as amended.

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Subsurface Sewage Treatment System, Individual (ISTS): A subsurface sewage treatment systems as defined in Minnesota Rules, Chapter 7080.1100, subpart 41, as amended.

Subsurface Sewage Treatment System, Midsized (MSTS): A subsurface sewage treatment systems as defined in Minnesota Rules, Chapter 7081.0020, subpart 4, as amended from.

Type I System: A subsurface sewage treatment system as defined in Minnesota Rules, Chapter 7080.2200; a Type I System utilizes trenches and seepage beds, mounds, at-grade systems, or gray water systems that meet or exceed the design and performance requirements of Minnesota Rules Chapter 7080.

SECTION 4. Application. The County has an existing SSTS ordinance (Section 17) that conforms to Minn. Rule Chapter 7082 and applies to all properties. All provisions of the Existing Ordinance, to the extent they are not modified by this ordinance, shall remain in full force and effect within the District. This Ordinance is in addition to the minimum requirements of the existing ordinance and shall apply only to properties within the District.

SECTION 5. Continuous Compliance. A valid certificate of compliance is required at all times. It is unlawful for any person to maintain, occupy, or use any structure intended for habitation without a valid certificate of compliance or a permit for the repair or replacement of a non-compliant SSTS.

SECTION 6. Inspector Requirements. All Compliance Inspections must be performed by an Inspector, as defined in 7082.0700. No Inspector or Licensed Business who previously designed, installed, inspected, or performed any maintenance on the SSTS may submit an Inspection Report for that SSTS for purposes of this ordinance until the SSTS has been independently inspected.

SECTION 7. Certificate of Compliance. Certificates of Compliance for a new SSTS shall be valid for 5 years. Certificates of Compliance for an existing SSTS shall be valid for 3 years unless evidence of noncompliance is found by the Department.

SECTION 8. SSTS Compliance. All compliant SSTSs shall meet the standards in the Existing Ordinance as it may be amended, specifically three feet of vertical separation and tank integrity verification, as well as all requirements under Minnesota Rules Chapter 7080 for an ISTS and Chapter 7081 for an MSTS.

SECTION 9. Cluster System Compliance. Every component a Cluster System must be compliant prior to the issuance of a Certificate of Compliance. In addition to the standards for an ISTS or MSTS, Cluster Systems shall meet the following standards:

- a. Written agreement between all owners of the parcels served by the Cluster System to allow system-wide inspection and maintenance on all parcels served by the Cluster System.

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- b. Documentation of all service performed in the past three years in accordance with the Management Plan and Minnesota Rule Chapter 7082.0600 for ISTS or all service performed in the past three years in accordance with the Operation and Maintenance Plan and Minnesota Rule Chapter 7080.2450 and Chapter 7081.0290 for an MSTs must be submitted to the Department prior to the issuance of a new Certificate of Compliance.

SECTION 10. Holding Tank Compliance. All compliant Holding Tanks shall meet the standards in the Existing Ordinance as it may be amended. After December 31, 2017, new Holding Tanks shall only be allowed for seasonal residences or Lots of Record where a Type I system cannot be installed and a Cluster System is not available for connection. Existing, compliant Holding Tanks shall be allowed to remain. All compliant Holding Tanks shall meet the following standards:

- a. A copy of a current, valid monitoring and disposal contract must on file with the Department at all times.
- b. Documentation of all service performed in the past three years in accordance with a monitoring and disposal contract must be submitted to the Department prior to the issuance of a new Certificate of Compliance.
- c. Where available, a designated soil treatment area must be preserved through a written declaration recorded on the property when new seasonal residences are constructed or when parcels with existing Holding Tanks request a land use approval or property transfer.

SECTION 11. Required Installation of Type I System. Compliant Holding Tanks with available soil treatment areas, but lacking a Type I System, must install a Type I System within one (1) year of the following events:

- a. Transfer of the property, or
- b. Issuance of a land use or building permit or approval.

All new SSTSs installed after the effective date of this Ordinance shall include a Type I System if an adequate soil treatment area is available.

SECTION 12. Effect of New Regulations. No system shall be “grandfathered” based on new County or state regulations and standards. All existing systems must be upgraded, repaired, or replaced in order to meet all performance and design standards for SSTS with the District prior to the issuance of a Certificate of Compliance.

SECTION 13. Compliance Period.

- a. An SSTS that is determined not to be protective of groundwater, in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4.B or otherwise fail to meet any standard of this ordinance and Minnesota Rules Chapter 7080 for an ISTS or Chapter 7081 for an MSTs, shall be upgraded, repaired, replaced, or abandoned by the owner in accordance with the provisions of this Section within one (1) year of receipt of a Notice of Noncompliance.

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- b. An SSTS that is determined to be an imminent threat to public health or safety, in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4A, shall be upgraded, repaired, replaced, or abandoned by the owner in accordance with the provisions of this Section within ten (10) months of receipt of a Notice of Noncompliance.
- c. All operational deficiencies must be corrected immediately.

SECTION 14. Variances. No variances shall be granted from this Ordinance.

SECTION 15. Inspection Program. The Department shall send notice of the impending expiration of a Certificate of Compliance 90 days before expiration. Notice shall also be provided when a change in use of the property is proposed.

SECTION 16. Administrative Search Warrant. The County reserves the right to seek an administrative search warrant to perform a Compliance Inspection of any property within the District for which a valid Certificate of Compliance does not exist.

SECTION 17. Penalties. Any property owner who fails to upgrade, repair, or replace a non-compliant SSTS but continues maintain, occupy, or use any structure for habitation without a valid certificate of compliance shall be guilty of a misdemeanor. Any person or entity who violates any provision of this Ordinance or makes any false statement in any document required to be submitted under this Ordinance shall be guilty of a misdemeanor.

SECTION 18. Funding. All activities resulting from this Ordinance shall be funded through the District in accordance with Minnesota Statute Chapter 375B and the resolution establishing the District.

SECTION 19. Severability. In the event any provision or part of this Ordinance is determined to be void or unenforceable by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

SECTION 20. Effective Date. This Ordinance shall be effective immediately upon passage.

Adopted _____, 2017

Board Chairperson
Le Sueur County Board of Commissioners

ATTEST:

County Administrator

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**INTERCONNECTION AGREEMENT FOR WASTEWATER TREATMENT
BETWEEN
LE SUEUR COUNTY AND THE CITY OF CLEVELAND**

**DRAFT
MARCH 13, 2017**

[15741-0031/2604270/1]

THIS AGREEMENT, made and entered into this _____ day of _____, 2017, by and between the City of Cleveland, a municipal corporation in Le Sueur County, Minnesota (“City”) and the County of Le Sueur, of the State of Minnesota (“County”) (collectively the “Parties”).

NOW, THEREFORE BE IT RESOLVED, in consideration of the mutual covenants and conditions herein contained and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree:

RECITALS

The recitals shall not be deemed to be a limitation on the interconnection agreement of City and County to be exercised pursuant to this agreement, but shall be deemed statements of the general purposes of the agreement.

1. The City owns and operates a wastewater treatment system that includes wastewater treatment ponds and a wastewater collection system to provide wastewater treatment services to properties within the City.
2. Property owners around West Jefferson Lake requested the County to construct a centralized wastewater collection and treatment system, and the County has determined these properties are in need of centralized wastewater collection and treatment services.
3. The County has exercised its authority under Minnesota Statutes, Chapter 375B to establish a subordinate service district encompassing the West Jefferson Lake properties for the purposes of addressing wastewater needs within the district.
4. The County has determined the best method for providing wastewater collection and treatment services is for the County to install a wastewater collection system to serve the properties within the district and to connect its collection system to the City’s wastewater treatment ponds for treatment.
5. The County desires to discharge wastewater it collects from the West Jefferson Subordinate Service District it intends to construct to the City wastewater treatment ponds for treatment and the City agrees to receive and treat the County’s wastewater from the West Jefferson Subordinate Service District (“District”) under the terms and conditions of this Agreement.
6. The County intends to perform the maintenance on the District wastewater infrastructure and perform all billing functions within the District.

AGREEMENT

In consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

ARTICLE I GENERAL PROVISIONS

- 1.1. Purpose of Agreement.** The purpose of this Agreement is to set out the terms and conditions under which the City agrees to permit the interconnection of the District to

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the City's Wastewater Treatment Ponds ("WTP"). The County will construct and maintain all wastewater infrastructure necessary to collect and carry wastewater to the Connection Point at the WTP. The County will perform all billing functions within the District. The City shall solely be responsible for the treatment of wastewater from the District.

1.2. Definitions of Terms. For the purposes of this Agreement, the following terms shall have the meaning given them in this Section.

- 1.2.1. Agreement. Agreement means this contract for the interconnection of sanitary sewer systems between the County Le Sueur and the City of Cleveland, to receive and treat the County's wastewater from the West Jefferson Subordinate Service District in the City Wastewater Treatment Ponds.
- 1.2.2. Base Fee. The monthly fee charge per Service Connection in addition to the User Fee.
- 1.2.3. Carbonaceous Biochemical Oxygen Demand (CBOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Centigrade, expressed in terms of weight and concentration (milligrams per liter, mg/l).
- 1.2.4. City. City of Cleveland, Minnesota.
- 1.2.5. City Wastewater Treatment Ponds (WTP). The wastewater treatment ponds constructed, owned, operated, and maintained by the City.
- 1.2.6. City Wastewater Treatment System. The comprehensive collection and treatment of wastewater by the City including, but not limited to, the City Collection System and the City Wastewater Treatment Ponds.
- 1.2.7. County. County of Le Sueur, Minnesota.
- 1.2.8. Connection Point. The point of interconnection with the City Wastewater Treatment System from the West Jefferson Subordinate Service District.
- 1.2.9. Design Capacity. Capacity of the City Wastewater System to collect and treat wastewater consistent with all requirements of the Federal Water Pollution Control Act, as amended, the City's National Pollution Discharge Elimination System (NPDES) permit, and all other requirements established by the City without incurring unreasonable operating expense or causing damage to the City Wastewater System.
- 1.2.10. District. A Subordinate Service District of Le Sueur County established for the West Jefferson Lake area by Le Sueur County Board of Commissioners on January 17, 2017, in accordance with the procedures outlined in Minnesota

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Statutes, Section 375B. The initial boundaries of the District are as shown in **Exhibit A**. In case of a discrepancy between the map adopted as part of County Resolution and the map included with this Agreement as **Exhibit A**, the map included with this Agreement as **Exhibit A**, including amendments thereto which may be made subsequent to the execution of this Agreement as given under Article VIII, shall govern.

- 1.2.11. District System. The system of sewers, force mains, lift stations, grinder pumps, and meters constructed, and owned by the County, which are intended to carry only liquid and water-carried wastes from residences and other approved uses located within the West Jefferson Subordinate Service District established by the County.
- 1.2.12. Infiltration. Water entering the sewage system (including building drains and pipes) from the ground through sources such as, but not limited to, defective pipes, pipe joints, connections and manhole walls.
- 1.2.13. Inflow. Water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.
- 1.2.14. Infiltration/Inflow (I/I). The total quantity of water from both infiltration and inflow.
- 1.2.15. Maximum Annual Daily Average. The maximum monthly annual daily average is the maximum daily average measured level of a characteristic averaged over a one year period.
- 1.2.16. Maximum Daily Limit. The maximum daily limit is the maximum measured level of a characteristic measured over a single day.
- 1.2.17. Maximum Monthly Average. The maximum monthly average limit is the maximum daily average measured level of a characteristic averaged over a one month period.
- 1.2.18. Monitoring Station. A building or other suitable structure installed at or between the ends of the West Jefferson Lake System where it exits the Subordinate Service District and the Connection Point, containing flow metering and sampling equipment and other apparatus to accurately monitor the strength and volume of wastewater being discharged.
- 1.2.19. MPCA. Minnesota Pollution Control Agency.

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- 1.2.20. Normal Domestic Strength Waste. Wastewater that is primarily introduced by residential users with a CBOD concentration not greater than two hundred twenty (220) mg/l and a total suspended solids (TSS) concentration not greater than two hundred forty (220) mg/l.
- 1.2.21. NPDES. National Pollution Discharge Elimination System.
- 1.2.22. Service Connection. The physical connection of a sanitary sewer service line from an individual property to the West Jefferson Subordinate Service District. Each service connection represents one SAC Unit as defined below.
- 1.2.23. Sewer Availability Charge (SAC). A development impact fee assessed for reserve capacity, sewage treatment, and connection rights to the City sanitary sewer system.
- 1.2.24. SAC Units. A number of units that is defined in the City's utility fee schedule, adopted by ordinance, using various parameters for different types of facilities or uses. Under this Agreement, a limit of 140 SAC units or a Maximum of 12,264,000 gallons/year will be allowed for the West Jefferson Lake System, specifically assigned to individual parcels as given in **Exhibit B**.
- 1.2.25. State. State of Minnesota.
- 1.2.26. Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids and which is removable by a standard glass fiber filter.
- 1.2.27. User. Any person who discharges wastewater, or causes or permits the discharge or placement of wastewater, into the West Jefferson Lake System.
- 1.2.28. User Fees. The amount the City shall charge the County for receiving and treating wastewater from the District System based on gallons of wastewater.
- 1.2.29. Wastewater. All liquid or water-carried waste products from whatever source derived, together with such groundwater infiltration and surface water inflow as may be present.
- 1.3. **Compliance with Applicable Laws**. Each party shall be responsible for complying with all applicable Federal, State, and local laws, rules, regulations, and ordinances in carrying out their respective obligations under this Agreement and for obtaining all permits or permissions that may be required.
- 1.4. **Cooperation with Agencies**. The County and the City shall cooperate and participate in providing all data requested by any State or Federal agency relative to regulatory policies or funding requests related to activities contemplated by this Agreement.

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- 1.5. **Term of Agreement.** Unless terminated earlier as provided herein, the County shall have the right, for as long as the City operates the City Wastewater System, to convey wastewater from District System to the City WTP for treatment, provided the County acts in compliance with provisions of this Agreement.
- 1.6. **Review of Agreement.** The County and the City shall cooperate and participate in a review of this Agreement at least every five (5) years from the date of execution of this Agreement, or at such time that the renewal of the NPDES permit for the WTP occurs, whichever occurs sooner.
- 1.7. **Termination.** Either party may terminate this Agreement for cause arising from an event of default as provided in this Section.
- 1.7.1. **Termination for Cause.** Notwithstanding anything else to the contrary in this Agreement, either party may terminate this Agreement for cause arising from an event of default. If an event of default occurs, and if the non-defaulting party desires to terminate this Agreement, it shall provide the other party written notice describing the event of default and what must be done in order to cure the default. If the defaulting party fails to reasonably cure the default within 180 days of its receipt of the notice of default, the non-defaulting party may terminate this Agreement by providing the other party a written notice of termination. For the purposes of this section, the failure to adequately perform any of the following obligations under this Agreement shall constitute an “event of default” allowing a termination for cause: (1) repeated non-payment of any non-disputed amounts; (2) failure of the County to put in place or enforce restrictions regarding the number of connections within the Subordinate Service District; (3) failure to construct the District System or Connecting Sewer Line by <insert date>; or (4) failure to comply with any other material term of this Agreement.
- 1.7.2. **Effect of Termination.** Upon termination, the respective rights and obligations of the Parties under this Agreement shall cease, except that the City shall be entitled to any past due payments and for continuing payments until the City Wastewater System is no longer receiving wastewater from the District. Recognizing the fact this Agreement provides for the connection of two wastewater systems, and that the County must provide an alternative means for treating wastewater before it can reasonably disconnect from the City Wastewater System, the Parties agree to work in good faith to identify and the resolve the issues associated with separating the systems and dissolving the cooperative arrangement established between the Parties by this Agreement.
- 1.8. **Title to Wastewater Systems.** It is agreed and understood by the Parties that the title to, and all incidents of ownership in, the City Wastewater System, any subsequent replacement or upgrades, improvements or expansions thereof, and all the grounds upon which the same is located shall remain in the City and shall be the absolute property of said City. It is further agreed and understood that the operation of the City Wastewater System and employment of personnel therefore shall be in the full charge of the City. It

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is further agreed and understood that the title to, and all incidents of ownership in, the District System, including any subsequent replacement or improvements, shall be the property of and owned by the County exclusively. Those that may be contracted by the County to construct or improve the District System and shall not be the responsibility of the City.

- 1.9. **Disposition of Property.** Upon termination of this Agreement all property hereunder which is within the City limits of the City, including the connecting sewer forcemain that discharges wastewater from the District to the WTP, shall belong to the City and all other property acquired hereunder shall belong to the County.

ARTICLE II WEST JEFFERSON SUBORDINATE SERVICE DISTRICT

- 2.1. **Construction.** The County is solely responsible for, at its own cost, designing and constructing the District System, and completing all work to connect the system to the WTP. The City shall have no financial or other obligation to the District System other than to receive and treat its wastewater as provided in this Agreement.
- 2.2. **Plan Review.** The County shall be responsible for preparing all plans and specifications needed for the construction of the District System. The County shall submit all such plans and specifications to the City for review and approval at least 30 days prior to the County advertising for bids for its construction. The materials and specifications to construct the District System must be at least of the same quality used by the City and must otherwise be acceptable to the City. Approval by the City shall not be unreasonably withheld.
- 2.3. **Limitations on District System.** The Parties understand and agree that the District System will be designed to serve up to a total of 140 SAC units which is approximately a maximum of 12,264,000 gal/yr. No Service Connections shall be allowed downstream of the Monitoring Station. The total number allowable SAC Units available to the District shall be specifically allocated to individual properties. Initial allocations shall be designated by Parcel Identification Number as set forth in **Exhibit B**. The designation of additional allocation, not to exceed 140 SAC units, or the transfer of SAC Unit allocations from one parcel to another by the County is allowed under this Agreement, but requires an immediate revision to **Exhibit B**. The County shall not make or allow any additional Service Connections in excess of 140 SAC units to the District System without the prior written consent of the City and amendment of this Agreement.
- 2.4. **Easements.** The County is responsible for acquiring, at its own expense, all easements or other permissions required to construct the District System, Monitoring Station, and extend the District System to the Connection Point, and as may otherwise be needed to carry out its obligations under this Agreement. The City will provide permits as may be required to perform any work within the City's streets, right of ways, or easement areas at no cost. The County shall be responsible for maintaining the grounds and any associated facilities around the Monitoring Station. Should the Connection Point or Monitoring

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Station be required to be relocated in the future, the County shall be responsible for the costs of removal, restoration, and relocation.

- 2.5. **Third Party Penalties.** The County shall be responsible for paying any penalties or violation fees imposed on the City and County from the MPCA, or other similar agency, if such penalties or violation fees are the result of the County's action or inaction related to the District System. The City shall be responsible for paying any penalties or violation fees imposed on the City and County from the MPCA, or other similar agency, if such penalties or violation fees are the result of the City's action or inaction related to the operation or maintenance of the City's Wastewater Treatment System or WTP.

ARTICLE III INTERCONNECTION

- 3.1. **Authority for Connection.** In consideration of the terms and conditions of this Agreement, the City hereby grants the County permission and authority to connect the District to the City WTP at the Connection Point.
- 3.2. **Connection Point.** The connection point of the District System with the City Wastewater Treatment System shall be at a point near the City WTP as provided in construction plans approved by the Parties.
- 3.3. **Construction of Interconnection.** The District shall be responsible for all work and costs associated with the connection of the District System to the City WTP.
- 3.4. **Future Discharge Interconnection.** The City may determine, in conjunction with a review by an independent third party engineer, that it is in the best interests of the City that the location of the Connection Point of the District System with the WTP needs to be modified or changed. The City in its sole discretion may exercise the option to determine that the location of the Connection Point of the District System with the WTP needs to be modified or changed in the future. The City shall be responsible for all work and costs associated with the modification or relocation of the Connection Point of the District System to the WTP.
- 3.5. **Monitoring Station.** The County shall be responsible for acquisition, construction, maintenance, and insurance for the Monitoring Station as provided in this Section.
- 3.5.1 **Monitoring Required.** All wastewater discharged into the WTP from the District System shall be accurately monitored for strength and volume by acceptable automatic metering and sampling equipment installed at the Monitoring Station. The County shall, at its own cost, be responsible for purchasing and installing the equipment. The type, specification, and location of the metering and sampling equipment, any future improvement or replacement of such equipment, shall be approved by the City. At a minimum, the metering device shall be equipped with automatic registering and recording mechanisms for continuous recording of the rate of flow, which measures and provides a

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cumulative total of the volume of discharge. The County shall provide the City unfettered access to the Monitoring Station at all times.

3.5.2 **Operation and Maintenance.** The City shall operate and maintain the monitoring equipment and Monitoring Station. The cost for all such services shall be the responsibility of the County. All required flow metering and sampling equipment shall be operational on a continuous basis and wastewater flow shall be measured on a continuous basis, with volumes totaled and recorded continuously. The reading and recording of results and collection and analysis of wastewater samples from the District System metering and sampling equipment shall be completed by the City. Wastewater samples shall be analyzed for CBOD, TSS and any other pollutants once a week for the first six months after connection to the WTP, twice a month for the following six months, and thereafter monitoring and sampling will be performed monthly or as needed. A report shall be submitted by the City to the County monthly. Analysis of pollutants may be conducted by the City at any time in a laboratory certified for such analyses by the State of Minnesota.

3.5.3 **Calibrations.** The flow meter in the monitoring station shall be calibrated as provided in this Section.

3.5.3.1 *Regular Calibrations.* The City, at the County's expense, shall calibrate, with certified calibration procedures, its flow meter on a quarterly basis for the first year of this Agreement, and thereafter on an annual basis. A calibration report shall be prepared and filed with the County within twenty (20) days of completion of the calibration procedures.

3.5.3.2 *Annual Calibrations.* On a yearly basis, the City shall, at the County's expense, contract with a qualified flow metering calibration firm to have the metering device used in billing calculations of this Agreement calibrated.

3.6. **Events of Failure.** If the required flow metering or sampling equipment fails, the City shall estimate the wastewater volume and pollutant loadings for the period of equipment failure using the most comparable recent historical data. Said estimates shall continue until such time as the equipment is repaired or replacement equipment is installed as required by this Agreement.

ARTICLE IV ACCEPTABLE WASTEWATER

4.1 **User Regulations.** The County and City shall enact, adopt, and strictly enforce all such resolutions, ordinances, or regulations as may be necessary to impose limitations on users of the District System that are at least as strict as those applicable to users within the City and as may be needed to give full effect to the stipulations contained in this Agreement.

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- 4.2 **Acceptable Wastewater.** The quality, strength and character of wastewater which the City receives at its WTP from the District System shall comply with applicable statutes, rules and regulations of the State of Minnesota. The County shall do those things necessary to comply with the City's NPDES permit and use its best efforts to prevent any surface or storm water, excessive I/I, or industrial wastes to be discharged into the District System.
- 4.3 **Maximum Limits.** The Parties recognize that the capacity of the City WTP is limited. In order to avoid overburdening the City's system, or precluding use by properties within the City, the amount of wastewater discharge from the West Jefferson Lake System and the Connecting Sewer Line to the City Collection System shall strictly conform to the following parameters and limits, which shall constitute the County Capacity Allocation:

County Capacity Allocation and Monitoring Requirements					Monitoring Requirements	
Effluent Characteristic	Maximum Daily Limit	Maximum Monthly Average	Maximum Annual Daily Average	Peak Instantaneous Limit	Minimum Measurement frequency	Sample type
Flow (gal/day)	152,000	45,600	38,000		Continuous	Recorded
CBOD (lbs/day)	84	76	70	N/A	Monthly	Composite
TSS (lbs/day)	100	91	76	N/A	Monthly	Composite
Phosphorous (lbs/day)	5.3	4.6	3.8	N/A	Monthly	Composite

4.4 **Quality and Prohibited Materials.**

4.4.1 **Quality of Effluent.** The quality of raw wastewater to be delivered to the WTP from the District System shall be aerobic in character and the odor shall not be stronger than that associated with municipal raw wastewater. If additional aeration or injection of chemicals is required in the judgment of the MPCA or the City in order to prevent damage to the WTP or to eliminate nuisance odor conditions from resulting from the District System, all costs associated with such mitigation or corrective measures shall be borne by the County.

4.4.2 **Prohibited Materials or Discharges.** The County shall not allow any user to discharge, either directly or indirectly, into the District System, any flows or materials prohibited by the City Code of Ordinances and the City's WTP NPDES Permit, along with any of the following:

- A. Waste of any type generated from any source outside the District;

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- B. Waste generated from septic tank contents, privy vault contents, sewage holding tanks or similar sources from within the District;
- C. Wastes which may directly or indirectly impair the proper functioning of the City Wastewater System;
- D. Any wastes, the strength or pollution effects of which are not effectively altered by ordinary treatment processes, or the presence of which in the receiving stream would violate State and Federal water quality standards; and
- D. Any wastewater having a pH less than 6.0 or more than 10.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the City Wastewater System.

ARTICLE V INSPECTIONS

- 5.1 **City Inspections**. The City, or its designated representative, upon reasonable notice first given to the County and any affected private property owner, shall be permitted to audit and inspect the materials and construction of the District System in order to confirm that the same is being constructed, according to applicable City specifications and standards, all applicable Federal, State, and local laws, rules, regulations, and ordinances, and to verify compliance with terms of this Agreement.

ARTICLE VI FEES, PAYMENTS AND ADDITIONAL COSTS

- 6.1 **Consideration**. In consideration of the use of the City WTP by the County for its District System, the District shall pay the City the fees and charges provided for in this Article as well as any other amounts required by this Agreement.
- 6.2 **SAC Connection Fee**. The District shall pay to the City a SAC connection fee in the amount of \$1,000.00 per connection. This will be paid prior to the connection of the Service Connection to the District System.
- 6.3 **Fees**. The City may maintain a user fee system which assesses a user charge for each Service Connection on the District.
- 6.3.1 **Base Fees**. The District shall pay a base fee of \$1.00 per Service Connection per month to the City. This is allocated for operation and maintenance of the WTP.
- 6.3.2 **User Fees**. The District shall pay a User Fee based on the monthly flow discharged to the WTP as measured by flow meters at the Monitoring Station. The monthly User Fee shall be calculated by multiplying the metered gallons of wastewater through the Monitoring Station in a month by the current rate (metered gallons X \$/gallon)

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= User Fee). The rate per 1,000 gallons of wastewater shall be 120% of the User Fee that the City charges its residents. The rates are as follows:

2017-- \$6.19 per 1,000 gallons
2018-- \$6.38 per 1,000 gallons
2019-- \$6.56 per 1,000 gallons

After 2019, the User Fee shall be set by the City, reviewed annually and adjusted as necessary. The City shall provide the County at least 60 days' notice of changes to the User Fees.

6.3.3 **Invoice**. The City shall invoice the County monthly for the prior month's fees and costs. The invoice shall include a total invoice amount but shall also list the number of Base Fees, the calculation of the current User Fee, and all itemized pass-through costs for calibration of monitoring equipment, operation and maintenance of the Monitoring Station, or other related expenses. The County, through its established subordinate service district, collects all costs from properties within the District, so detailed and itemized invoices are critical.

6.4 **Non-Payment**. Failure on the part of the District to pay all amounts due to the City within 30 days of the invoice date shall render such unpaid amount delinquent. If the delinquent amount is not paid in full within 14 days of notice of delinquency, such delinquent amount shall bear interest at an annual rate of twelve percent (12%).

ARTICLE VII REQUEST FOR EXPANSION

7.1 **Procedure**. The District may request to expand the number of connections within the District. The request for adding connections must be approved by the City. The City will authorize the County to expand the District boundaries. The County has the authority to allow the expansion of the District following Minnesota Statutes Section 375B.

7.2 **Review of Request**. No expansion shall be allowed by the City unless it is in the form of a written amendment to this Agreement and approved by the governing bodies of the County and the City.

7.3 **Expansion of City Wastewater System**. Expansion or improvement of the City Wastewater System shall be subject to this Section.

7.3.1. **City Project**. If the City undertakes a project to expand or replace its WTP, construct a new Wastewater Treatment Plant, the District shall be responsible for paying its proportionate share of such project, with such proportionate share to be determined based on the percentage of flow as monitored by the District flow meter and the City flow meter based on a five (5) year average.

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**ARTICLE VIII
INDEMNIFICATION AND LIABILITY**

- 8.1 **County Indemnification of City.** The County shall defend, indemnify, and hold harmless the City, its officers, employees, and agents against any claim brought, action filed, or penalty imposed by reason of any act or omission of the County, its officers, employees, and agents against any and all liability, loss, costs, damages, expenses, fines, penalties, claims, or actions, including attorney fees, which the City, its officers, employees, or agents may hereafter sustain, incur, or be required to pay, arising out of or by reason of the construction, operation, maintenance, or improvement of the District System, the Connecting Sewer Line, or the District. This indemnification obligation includes the County defending, indemnifying, and holding the City harmless against any claims or actions arising from or related to any actions taken by the City or County to enforce the limits or prohibitions established in this Agreement related to the amount of the wastewater received from the District including, but not limited to, restricting flow, suspending service, or imposing additional costs on Users. The County is not responsible for indemnifying the City against actions arising solely from the claimed negligence of the City, its officers, employees, or agents. The indemnification obligation contained in this Section is in addition to any other County indemnification obligations contained in this Agreement.
- 8.2 **City Indemnification of County.** The City shall indemnify, defend, and hold harmless the County from any and all loss or damage to any property, liability, loss, costs, damages, expenses, fines, penalties, claims, or actions, including attorney fees incurred by the County by reason of any act or omission on the part of the City, its agents or employees, in connection with the construction or operation and maintenance of the City Wastewater System, unless the same shall be due to the negligence of the County, its agents or employees. This indemnification obligation includes the City defending, indemnifying, and holding the County harmless against any claims or actions arising from or related to any actions taken by the City or County to enforce the limits or prohibitions established in this Agreement related to the amount of the wastewater received from the District including, but not limited to, restricting flow, suspending service, or imposing additional costs on Users. The City is not responsible for indemnifying the County against actions arising solely from the claimed negligence of the County, its officers, employees, or agents. The indemnification obligation contained in this Section is in addition to any other City indemnification obligations contained in this Agreement.
- 8.3 **Circumstances Beyond Control.** The City shall not be responsible if the City Wastewater System is prevented from receiving or treating wastewater from the District in accordance with the terms of this Agreement by any cause not reasonably within the control of the City including, but not limited to, acts of God (fire, explosion, flood, earthquake, tornado), strike, war, unavoidable accident, ruptured pipe resulting from temperature change or ground disturbances, or Federal or State interference (governmental exercise of authority, court orders). The City agrees (except in the case of total destruction or near total destruction of its properties) to diligently put its works in

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condition again, as soon as practicable, to dispose of sewage in the manner provided for in this Agreement. The County shall hold, save, and defend the City harmless for any damage or loss resulting from such impossibility, frustration, interruption, or suspension of performance of the terms of this Agreement.

- 8.4 **Liability Caps and Exemptions.** To the extent a court considers this Agreement to constitute a joint venture or joint enterprise between the City and the County, any liability arising from or related to the activities contemplated by this Agreement shall be considered as against a single entity and shall not exceed the limit for a single entity as provided in Minnesota Statutes, Section 471.59, Subdivision 1a(a). Nothing herein shall constitute a waiver by any party of the limitations on or exclusions from liability available to either under Minnesota Statutes, Chapter 466 or as otherwise provided in law.

ARTICLE IX CHOICE OF LAW AND VENUE; DISPUTES

- 9.1 **Choice of Law and Venue; Disputes.** This Agreement shall be governed by and construed in accordance with the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and the Parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

ARTICLE X MISCELLANEOUS PROVISIONS

- 10.1 **Entire Agreement.** The terms, covenants, conditions, and provisions of this Agreement, including present and all future attachments or exhibits shall constitute the entire agreement between the Parties, superseding all prior agreements and negotiations. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the City of Cleveland and the County of Le Sueur.
- 10.2 **Amendments.** This Agreement may be amended or modified only by mutual, written agreement duly executed by both of the Parties. Such written agreement shall be executed by a resolution duly adopted by the Board of the Le Sueur County Commissioners and the City Council of the City of Cleveland.
- 10.3 **Governing Law.** This Agreement is made pursuant to and shall be construed in accordance with the laws of the State of Minnesota.
- 10.4 **No Third Party Rights.** No party to this Agreement shall by virtue of this Agreement have any responsibility with respect to services provided or contractual obligations assumed by any other party, and nothing in this Agreement shall be deemed to constitute or to create any fiduciary or agency relationship among the Parties or any other party.

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- 10.5 **Audit.** The County shall have the right to inspect and audit City records with respect to this Agreement.
- 10.6 **Recitals and Attachments.** The recitals contained herein, together with all Attachments or Exhibits referred to in this Agreement, are hereby made a part hereof and incorporated herein by reference as fully and as completely as if set forth herein verbatim.
- 10.7 **Waiver.** The waiver by either party of an event of default of any term of this Agreement by the non-defaulting party shall not operate, or be construed to operate, as a waiver of any subsequent claim of default or any other claim available under this Agreement or available at law or in equity. The making or the acceptance of a payment by either party with knowledge of the existence of a default shall not operate, or be construed to operate, as a waiver of any subsequent claim of default or any other claim available under this Agreement or available at law or in equity.
- 10.8 **Severability.** In the event that any provision of this Agreement is determined to be invalid, illegal, or unenforceable by any court of competent jurisdiction, by reason of any existing or subsequently enacted legislation, or by the application of existing or subsequently adopted rules and regulations of any State or Federal agency, the other provisions of this Agreement shall remain in full force and effect, and the Parties shall negotiate in good faith and agree to such amendments or modifications of or to this Agreement or other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement, and give effect to the intentions of the Parties.
- 10.9 **Notice.** Any notices required under the provisions of this Agreement shall be in writing and sufficiently given if delivered in person or sent by first class mail, postage prepaid, as follows to the City Clerk if to the City, or to the County Administrator if to the County.

[Remainder of page left intentionally blank.]

IN WITNESS WHEREOF, the City of Cleveland has caused this Agreement to be signed in duplicate by its Mayor and City Clerk, and its corporate seal to be hereunto affixed pursuant to a resolution of the City Council of the City of Cleveland, a certified copy of which is hereto attached; and the County of Le Sueur has caused this Agreement to be executed by its chairman, attested to by its clerk to the Board pursuant to a resolution duly adopted by the Board of the Commissioners of Le Sueur County, certified copy of which is hereto attached.

COUNTY OF LE SUEUR

Approved by on the _____ day of _____, 2016.

BY THE LE SUEUR COUNTY BOARD

Chairperson

ATTEST:

County Administrator

CITY OF CLEVELAND

Approved on the _____ day of _____, 2016.

BY THE CITY COUNCIL

Mayor

ATTEST:

City Clerk

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EXHIBIT A
Map of Subordinate Service District

(attached hereto)

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EXHIBIT B

Parcel Listing / Number of Allowable SAC Units per Property

(attached hereto)

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B-1

**LE SUEUR COUNTY, MN
WEST JEFFERSON SUBORDINATE SERVICE DISTRICT
ORDINANCE NO. ____**

The County Board of Le Sueur County Ordains:

CHAPTER 725 GENERAL PROVISIONS

725.1 Title

This Ordinance shall be known and referenced as the “West Jefferson Subordinate Service District Ordinance.”

725.2 Statutory Authority.

This Ordinance is enacted pursuant to Minn. Statutes Chapter 375B.

725.3 Purpose and Intent

The purpose of this Ordinance is to establish methods for setting fees, determining levels, methods and cost of operational oversight, set performance standards and determine responsibilities and obligations of the citizen participants, and the West Jefferson Subordinate Service District.

725.4 Definitions and Rules of Construction

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The term shall means mandatory and the term may is permissive. The following terms shall have the definitions given to them:

“Account”

All unsettled obligations of a person to the District, including unpaid User Fees, loss, damage, costs, expense, charges and fees incurred by the District for cleaning, repair and/or replacement of any part of the Sewer System or other District property caused or incurred by said person.

“Board”

The Le Sueur County, Minnesota Board of Commissioners.

“Building Sanitary Drain”

Building Sanitary Drain means that part of the piping of the drainage system which receives the discharge from soil and waste pipes inside the walls of the building and conveys it to the building Building sewer Sewer beginning at least one foot outside the building footings.

“Building Sewer”

“Building Sewer” means that part of the drainage system which extends from the end of the building Building drain Drain and conveys its’ discharge to the grinder station connection, the beginning of the District Sewer System.

“Capital Costs”

The reasonable and necessary costs and expenses incurred by the District in planning, designing, financing and constructing the Sewer System 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 and the acquisition of such Sewer System and service.

“CBOD”

Carbonaceous Biochemical Oxygen Demand the quantity of oxygen utilized in the biochemical oxidation [15741-0031/2542906/1]

of organic matter, under standard laboratory procedures in five days at 20 degrees centigrade expressed in terms of weight and concentration (mg/l).

“Clean Water Act”

The Clean Water Act, 33 U.S.C. §§ 1251-1387, and as amended from time to time.

“Cooling Water”

Water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added to the water is heat.

“Connection Charge”

Charge to a user for connection to the sewer system. Connection charges may include capital cost, administrative fees, interest charges and other charges as required to construct, maintain, operate and develop reserve funds for future maintenance of the system.

“Debt Service”

The principal and interest necessary to pay the bonded indebtedness for the construction and installation of the Sewer System.

“Debt Service Charge”

The charge related to the principal and interest necessary to pay the bonded indebtedness.

“District”

The West Jefferson Subordinate Service District formed by Le Sueur County for the purposes described in this Ordinance.

“Domestic Waste”

Wastes from residential users.

“Flow”

The quantity of wastewater expressed in gallons or cubic feet per 24-hour period.

“Full Connection”

Those properties that connect to the Sewer System and discharge wastewater to the Sewer System once it is operational.

“Greywater”

Sewage that does not contain toilet wastes.

“Grinder Station”

Pump station installed to pump wastewater from Building sanitary sewer to the District Sewer System. Grinder station to include the pump basin, pump, pump controls and electrical wiring from pump control to pump, and other appurtenances. The Grinder Station is considered to be part of the District Sewer System.

“Indirect Discharge”

The introduction of pollutants or wastes into the Sewer System from any non-domestic source regulated under Section 301 (b), (c), or (d) of the Clean Water Act.

“Infiltration”

Water entering the sewage system (including building drains and pipes) from the ground through sources such as, but not limited to, defective pipes, pipe joints, connections and manhole walls.

Comment [AR]: Vs. the term “SAC”, seems to be used interchangeably; SAC is not really used

“Inflow”

Water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.

“Infiltration/Inflow (I/I)”

The total quantity of water from both infiltration and inflow.

“Initial Project”

Construction project to build the West Jefferson Lake Sewer System, with 140<?> connections and connect to the City of Cleveland’s Wastewater Treatment Ponds.

“MPCA”

Minnesota Pollution Control Agency.

“Multiple Unit User”

Any person, authorized under agreement with the District, who discharges wastewater to the Sewer System from multiple sources through one connection to the system, *i.e.* a campground or other multi-unit property use.

“Natural Outlet”

Any outlet in a water course, pond, ditch, lake or other body of surface water or groundwater.

“Normal Domestic Strength Waste”

Wastewater that is primarily introduced by residential users with a biochemical oxygen demand (CBOD) concentrations not greater than 260 mg/L and total suspended solid (TSS) concentrations not greater than 280 mg/L.

“NPDES Permit”

(National Pollutant Discharge Elimination System Permit) (Also “wastewater discharge permit”) Any permit or requirement issued by the MPCA pursuant to the Clean Water Act for the purpose of regulating the discharge of wastewater, industrial wastes, or other wastes under Section 402 of the Act.

“Partial Connection”

Those properties that construct a portion of the individual service facilities required to provide connection to the Sewer System under the initial projects, but do not actually connect to the system under the initial project.

“Person”

Includes any individual, firm, association, organization, partnership, business trust, company or corporation, the state or any agency or institution thereof, and any municipality, governmental subdivision, or other entity, including any officer or governing or managing body thereof.

“POTW”

Publicly Owned Treatment Works - the treatment works as defined by Section 212 of the Clean Water Act which is owned by the municipality (as defined by Section 502(4) of the Act). This includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances if they convey wastewater to a POTW plant. This also includes the City of Cleveland Water Treatment Ponds (WTP).

“Residential user”

User category defined as all residential users of the system .

Comment [AR]: Have the term “User” defined and predominately use that

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“Sanitary Sewer”

A sewer which carries wastewater and to which storm, surface, and groundwater are not intentionally admitted.

“Sewage”

Waste produced by toilets, bathing, laundry, water treatment devices, water conditioning devices, culinary operations, or any waste derived from any potable water source, or the floor drains associated with these sources.

“Sewer Availability Charge (SAC)”

Charges for a User's connection to system.

“Sewer Charges”

Means all fees paid by Users of the Sewer System to pay for the treatment cost, cost of OM&R for the Sewer System, and any future allocated debt service costs in addition to any additional fees pursuant to this Code.

“Sewer System”

The system of grinder station pumps, meters, structures, pipes and appurtenances used for collecting, transporting and conveying Wastewater and in some contexts also for treating and disposing of Wastewater. In this Code, “Sewer System” refers to the District's Sewer System, unless the context indicates otherwise.

“Storm Water”

Any flow occurring during or following any form of natural precipitation and resulting there from.

“User”

Any person who discharges, causes, or permits the discharge of wastewater, storm water or other unpolluted water into the Sewer System.

“User Fees”

Refers to the fees paid by all Users of the Sewer System.

“Wastewater”

The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any grey water, groundwater, surface water, and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the Sewer System.

Comment [AR]: Necessary?

Comment [AR]:

Comment [AR]: duplicative

Comment [AR]: My understanding is that only residential wastewater is permitted

CHAPTER 726 DISTRICT ORGANIZATION

726.1 Office and Mailing Address

The mailing address of the District is:
West Jefferson Subordinate Service District
Environmental Services Office
Le Sueur County
88 South Park Ave.
Le Center, MN 56057
Direct Dial 507-357-8538

The physical address of the District is:
West Jefferson Subordinate Service District
Environmental Services Office
Le Sueur County
515 South Maple Avenue
Le Center, MN 56057
Fax 507-357-8541

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726.2 **Advisory Committee**

726.02.1 The Board shall appoint an advisory committee. Primary responsibilities of the committee are to review and recommend annual budget and annual rates, and to provide recommendations on any policies or procedures as assigned by the county Board.

726.02.2 726.02.02 Number of members. The Advisory Committee shall consist of three (3) members. The members shall be property owners within the District, appointed by the County Board.

726.02.3 Term length and reappointment. The term of each member shall be for three (3) years. Each member may be eligible for reappointment, for not more than three (3) consecutive three (3) year terms.

The Board will arrange and determine the terms of the first advisory committee members appointed after the District's creation to expire on the 1st business day in January as follows:

The term of one (1) member will expire in the 2nd calendar year after the year in which the members are elected;

The term of the one (1) other member will expire in the 3rd calendar year after the year in which the members are elected; and

The term of the remaining one (1) member will expire in the 4th calendar year after the year in which the member is elected.

726.02.4 Compensation. No compensation shall be made to the advisory committee members.

CHAPTER 727 CONSTRUCTION OF DISTRICT SEWER SYSTEM

727.1 Building Sanitary Sewers and Connections

727.01.01 No person, unless authorized, shall uncover, make any connections with, or disturb any portion of the Sewer System without first obtaining a sanitary sewer permit from the District. The initial construction contract shall be considered written permission for work performed under the initial construction project.

727.01.02 For all future connections and work done to Partial Connections after the conclusion of the initial construction project, all costs and expenses incident to the installation and connection of the Building Sewer System to the District Sewer System shall be the responsibility of the owner.

727.01.03 A separate and independent Building Sewer and pressure grinder pump (or similar device approved by the District) shall be required for every single family dwelling, and for each separate living quarters or unit within a multi-family residential unit such as an apartment building, duplex, triplex, townhome structure or other multi-family structure. Each separate Building Sewer shall be separately connected to the Sewer System unless a special permit is obtained from the District for proven extenuating circumstances. Any such special permit shall require a written agreement between the property owners and the written consent of the District, allocating among the applicable property owners the costs

Comment [AR]: I suggest adding a meeting schedule (annually, quarterly, as-needed, etc). I also suggest address whether the committee is subject to the open meeting law; an argument could be made that since the advisory committee has no authority it is not subject to the OML, but a more conservative and more transparent approach would make it subject to the OML. Eitherway, if it is done on the front end, it will reduce inevitable conflict later.

Comment [AR]: I suggest getting some feedback from the engineers. Multi-unit structures can be tricky. Do any exist in the District? Are multiple pumps feasible if any exist?

of construction and maintenance of any common Building Sewer or pressure grinder pump. The initial construction contract shall be considered a special permit for work completed under the initial construction project.

727.01.04 Existing Building Sewers may be used in connections with new buildings only when they are found, upon examination and testing by the District, to meet all requirements of Le Sueur County Code and ordinances.

727.01.05 The size, slope, alignment, materials of construction of a building Building sewerSewer, and the method to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall conform to the requirements of the Minnesota Building Code, Minnesota Plumbing Code, and all other applicable rules and regulations. In the absence of specific Code provisions, or in amplification thereof, the materials and procedures established by the City Engineers Association of Minnesota (CEAM) and the American Society of Testing and Materials (ASTM) shall apply.

727.01.06 No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, sump pumps, or other source of surface runoff or groundwater to a Building Sewer or building drain that is connected in any manner whatsoever to the District Sewer System.

727.01.07 All private septic systems and other similar facilities shall be properly abandoned or removed at the time connection to the Sewer System is made, unless alternate use is permitted by Le Sueur County.

727.01.08 As a condition of connection to the Sewer System, tThe District shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for connection to the Sewer System shall notify the District when the work is ready for formal inspection. No underground portions shall be covered before the final inspection is completed, and all connections shall be made under the supervision of the District or its representative.

727.01.09 Any new connections to the Sewer System shall be prohibited unless the District determines that sufficient capacity, (including but not limited to flow, CBOD, and suspended solids) is available in all downstream portions of the system and at the POTW.

727.01.10 New connections shall also be required to have an SAC allocation available as defined in the agreement with the City of Cleveland.

Comment [AR]: What does this mean?

Comment [AR]: No sure what this means. Is the intent to say that a connection allocation must be available?

Comment [AR]: Blanket easements vs. surveyed easements should be discussed. A blanket easement is cheaper on the front end but will lead to future issues as to location when people add to their house or do other work, when other underground utilities need access, and blanket easements could create some title issues. Mass surveys are expensive, take a while, and may cause latent title issues to have to be fixed.

CHAPTER 728 USE OF DISTRICT SEWER SYSTEM

728.1 Connection

728.01.01 All properties within the West Jefferson Lake Subordinate Service District must either connect to the District Sewer System at the time of initial construction (Full Connection) or have a Partial Connection installed at the time of initial construction.

728.01.02 As a condition of connection, each User shall dedicate a utility easement to the District for the location of the necessary portion of Sewer System to service the User's property.

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728.2 Prohibited Discharges

728.02.01 No user shall discharge, either directly or indirectly, any flows or materials prohibited in the Cleveland City Code of Ordinances and the City's WRF NPDES Permit along with any of the following:

728.02.01.01 All waste of any type generated from any source outside the designated Subordinate Service District.

728.02.01.02 Any wastes which may directly or indirectly impair the proper functioning of the Sewer System or the City of Cleveland's Wastewater System.

728.02.01.03 Unpolluted storm water or groundwater.

728.02.01.04 Any wastes the strength or pollution of which are not effectively altered by ordinary treatment processes or the presence of which in the receiving stream would violate state or federal water quality standards.

728.02.02 Storm water and all other unpolluted water, including infiltration and inflow, shall be discharged to a storm sewer or other appropriate outlet, subject to existing regulatory requirements including the requirement to obtain an NPDES Permit as applicable.

728.3 Accidental Discharges

728.03.01 Accidental discharges of prohibited waste in the Sewer System, directly or through another disposal system, or to any place from which such waste may enter the Sewer System, shall be reported to the District (and City) by the persons responsible for the discharge, or by the owner or occupant of the premises where such 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

728.4 Monitoring

728.04.01 Inspection and Sampling. The District and its authorized agents bearing proper credentials and identification may conduct such tests as are necessary to enforce this Ordinance, and employees or representatives of the District may enter upon the utility easement of any property for the purpose of taking samples, obtaining information, or conducting surveys or investigations relating to such enforcement. All entry and subsequent work, if any, on said utility easement shall be done in accordance with the terms of the utility easement. Entry shall be made during normal business hours unless circumstances require otherwise. In all cases where tests are conducted by the district District for the purpose of determining whether a User is in compliance with the applicable regulations and rules, the cost of such tests shall be charged to the User and added to the User's Sewer Charges.

728.04.02 District Right of Entry. Duly authorized employees and representatives of the District bearing proper credentials and identification shall be permitted to enter all private properties, upon which the District holds an easement for the purpose of, but not limited to, the inspection, observation, measurement, sampling, repair, and maintenance of any portion

Comment [AR]: Probably want to avoid delays and have the city get noticed ASAP so that they can take remedial measures if necessary.

Comment [AR]: fragment

Comment [AR]: If the test show compliance, it seems a little harsh to stick the property owner with the bill.

of the Sewer System 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.

728.04.03 02 Testing Procedures. Testing procedures for the analysis of pollutants shall conform to the guidelines established in 40 C.P.R. Part 136 (Guidelines Establishing Test Procedures for the Analysis of Pollutants), and 40 C.P.R. 403.12 (General Pretreatment Regulations for Existing and New Sources of Pollution).

728.04.04 03 Confidential InformationData Practices. Information and data on a User obtained from reports, questionnaires, permit applications, permits, monitoring programs, and from inspections shall be available to the public or other governmental agencies without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information of the User. Data collected by the District is subject to the Minnesota Government Data Practices Act (Minnesota Statute Chapter 13).

Comment [AR]: Not defined

CHAPTER 729 THE ESTABLISHMENT AND COLLECTION OF CHARGES FOR USE OF THE DISTRICT SEWER SYSTEM

729.1 Connection Charges for Full Connections

729.01.01 At the time of connection, each user shall be subject to and pay applicable connection Connection charges Charges to the District.

729.01.02 Connection charges Charges paid by each User shall be determined as follows:

729.01.02.01 Capital costCosts, less grant funding and cumulative Building Sewer costs, for the construction of the Sewer System facilities required to provide service to the District. Capital charges shall be distributed among users Users as defined by the Board.

729.01.02.02 The Capital Costactual cost, less grant funding, of the individual Building Sewer installed at each facility connection as part of the initial project which provides service to each facility property served.

729.01.03 Connection Charges for users Users under the initial project shall be assessed to property owners in accordance with the Assessment assessment Certifying certifying Resolution resolution adopted by the Board following the assessment hearing. Each User may prepay a portion or all of the AssessmentConnection Charge, and have the remainder of the assessment Connection Charge certified to the county auditor as an assessment against the property served by the connection for collection.

729.2 Connection Charges for Partial Connections

729.02.01 Users with partial Partial connections Connections shall be subject to and pay applicable connection Connection charges Charges (Collection and **Trunk Line** charges) to the District. Connection Charge costs will be assessed to the property being served. This will guarantee a future connection to the sewer system. At the time of connection, each user with a partial Partial connection Connection shall be subject to pay remaining connection Connection charges Charges to the District.

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729.02.02 Connection charges paid by each Partial Connection shall be determined as follows:

729.02.02.01 Capital cost, less grant funding, for the construction of the sewer Sewer system System facilities constructed under the initial project required to provide service to the District. Initial Capital charges shall be distributed among users as defined by the Board, and shall be assessed to property owners in accordance with the Assessment Certifying Resolution adopted by the Board following the assessment hearing. Users with a partial connection may prepay a portion or all of the Assessment, and have the remainder of the assessment certified to the county auditor as an assessment against the property served by the connection for collection.

729.02.02.02 The Capital Cost of any Building Sanitary Sewer and Sewer System facilities required to complete the connection to the sewer system. Capital cost incurred for completion of the connection to the sewer system shall be paid at the time of connection.]

<Should future users be addressed?>

729.3 User Fees

729.03.01 User Fees shall be set by the District, reviewed annually and adjusted as necessary. The User Fees have been shall be adopted by resolution of the District, published in the local newspaper, and are effective as of the date of such publication. Subsequent changes in the sewer rates and charges shall be adopted by District Resolution and published in the local newspaper.

729.03.02 User fees shall be charged as established by the Board and are payable within 30 days of receipt of the billing.

729.03.03 Determination of Monthly Service Charge

729.03.03.01 Uniform Monthly Charges. For producers of Normal Residential Strength Wastes (The base monthly sewer charges for all connections shall be set by the Board and charged to all connections as follows:

TMC= MBC + MFC
TMC = Total Monthly Charge
MBC = Monthly Base Charge
MFC = Monthly Flow Charge

729.03.03.02 Monthly Base Charge (MBC) shall include cost allocated for operation and maintenance of the system, administration of the District, debt retirement, facility replacement and administration charges for treatment. MBC shall be charged to all users Users, regardless of usage, as outlined in Board resolution setting system charges.

729.03.03.03 Monthly Flow Charge (MFC) shall include cost allocated based on flow discharged to the sewer Sewer system System. Monthly Flow Charge includes treatment charges from the City of Cleveland, Capital reserve charge, and any other additional charges as allocated by the Board. This charge is based on usage of water within the dwelling. The water will be metered within each dwelling with a metering system that is installed as part

Comment [AR]: I think this whole section could use a little more focus. I am having a difficulty discerning what a full connection pays up front, from what a Partial Connection pays up front.

Comment [AR]: This area is a little unclear since it seems to conflict with the interconnection agreement. Will the District collect the City's user fee? I understand that the City will be maintain the System but the District will administer it. Where do those costs fit in?

Comment [AR]: My assumption is that the base charge covers all maintenance and administration costs based on the budgeted projection, divided pro-rata to each User

Comment [AR]: My assumption is that the flow charge is simply the cost of treatment per gallon X the # of gallons discharged for each User

Comment [AR]: Not defined

of the project.

729.03.04 Collection Charges and Fees. Fees Late fees and charges will be imposed for User Fees that are not paid based on terms established by the District.

Additionally, if the District is required to take legal action to recover any unpaid user User fees Fees or charges, the District may recover all costs incurred by it, including its actual costs of collection and attorneys' fees.

If the user User fees Fees, and/or late fees, and costs of collection assessed thereon are not paid to the District within 30 days after the user User has been notified of the same via U.S. Mail at their last known address, the District may assess the costs against the property served and for which the user User fees Fees, and/or late fees, and costs of collection remain unpaid and the same shall be transmitted to the county auditor and collectible with the real property taxes for such property.]

729.03.05 Unpaid User Fees shall become a lien on the property that is served by the Sewer System. In the event an owner shall fail to pay User Fees as required by this Ordinance, the District may undertake to have said fees certified as an assessment against the property at an interest rate of 8% per annum to 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.

729.03.06 Delinquent Accounts and Assessments. All Accounts and charges which are delinquent on September 30th of any year may be certified by the City Clerk who will prepare and file in his or her office an assessment roll no later than November 1st of each year providing for the special assessment of all such delinquent accounts against the respective real estate, lands, tracts or parcels served or owned by such User or person obligated on the account. A copy of the assessment roll will be delivered to the Board for adoption on or before December 1st of each year. Notice of the proposed assessment will be given not later than 14 days before the date of the first meeting of the Board in December at which time the Board will hear all comments or objections to such assessments. Notice will be made by mailing a copy of the notice to the person to be assessed or other person obligated on the account at his or her last known address or by personal service stating (1) the amount of the assessment; (2) the description of the real estate or property sought to be assessed; (3) the date and place of the assessment hearing. Each assessment shall be payable on or before the first Monday of the following December. Interest will be charged on the assessment at the rate of 8% per year or the rate that is charged for assessment rolls for improvement projects adopted in the same year, whichever is greater and will accrue from and after the 30th day following the date of each delinquent Account. The owner of the assessed property may at any time prior to the certification of assessment, pay to the City Clerk the balance of the assessment covering the property with interest at the same rate as established above accrued to the date of payment.]

Upon adoption by the Board, the District will transmit a certified duplicate of such assessments to the applicable county auditor to be placed on the property tax rolls of the applicable county, to be collected and paid over in the same manner as for real estate taxes.

729.4 District Finances

729.04.01 The District shall maintain a separate account for funds collected for the [15741-0031/2542906/1] 10

Comment [AR]: Be careful of double dipping, can only collect the same fee once.

Comment [AR]: Will this timing work? Usually the Auditor need to know the assessed amount by December 1st in order to get it on the next year's rolls.

recovery of Capital Costs, Treatment Costs, Operations Costs, Maintenance Costs, and Replacement Costs. The account shall be appropriate and suitable for the deposit of municipal funds.

729.04.02 The District shall neither deposit nor invest funds collected for recovery of Capital costs in any account or investment bearing an interest rate greater than the interest rate on the bonded indebtedness for the project.]

729.04.03 The District may, as necessary, and as allowed by law, certify to the auditor of Le Sueur County a tax upon property within the District to pay administrative costs associated with the operation of the District. Such funds shall be maintained in the account established for operation of the Sewer System.]

729.04.04 The 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.

729.04.05 The Board shall order an annual audit of the District's finances and provide an annual report to the residents of the District at a meeting held for such purpose.

729.04.06 Notice of Amendment. Prior to any amendment of this Ordinance or any amendment to the system of user charge established under this Ordinance, the District shall publish notice of the proposed amendment, at least one per week for two successive weeks, in a qualified newspaper in general circulation in the District.

729.5 Responsibility for Defects

All persons performing work in the construction or maintenance of the Sewer System shall be responsible for their own errors and omissions and those of their agents, subcontractors and employees. Upon notification by the District of any defects in the work or a violation of any applicable requirements of the work, all such persons shall be responsible to take immediate and appropriate corrective measures. If the person or persons performing the work do not remedy the problems within the time frame specified by the District, the District may do so and recover its expense from the responsible person.

729.6 Liability

The District, its directors, officers, agents and employees shall not be liable for injuries or damages of any kind or nature arising out of or related to any work of construction and maintenance except, and to the extent, the District is itself legally at fault for such injuries or damages. To the same extent, any contractor or other person causing the work to be performed shall defend, indemnify and hold harmless the District, its directors, officer, agents and employees of and from any such injuries or damages which may be imposed or sought to be imposed on any of them, including all costs, expenses, attorneys' fees and interest incurred in any legal action or proceeding. Nothing in this Agreement shall affect or otherwise constitute a waiver of the limits on the liability of the District or Le Sueur County provided by Minnesota Statutes Chapter 466 (Tort Liability, Political Subdivisions) or other applicable law.

729.7 Severability and Conflicts

729.07.01 Severability. If the provisions of any section, paragraph, or sentence of this Ordinance shall for any reason be held to be unconstitutional or invalid by any court of competent jurisdiction, the provisions of the remaining sections, paragraphs, and sentences shall nevertheless continue in full force and effect.

Comment [AR]: I am not sure the purpose or source of this restriction

Comment [AR]: I think there should be certainty about whether administration costs are collected by tax of charge; this provision creates ambiguity.

729.07.02 Conflicts. If conflicts arise between this Ordinance and the Cleveland Code, the Cleveland Code shall take precedence.

Comment [AR]: duplicative

729.8 Enforcement

729.08.1 Unlawful Acts.

729.08.01.01 No person shall negligently, willfully, or maliciously break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the Sewer System.

729.08.01.02 No person shall cause any buildings, sidewalks, trees or other encumbrances to be located in such a manner as to create a hardship for the District to make any repairs, alterations or installation of its facilities located on the landowner's propertythe Sewer System within the utility easement. Additional costs incurred by the District for making such repairs, alterations or installation because of such encumbrances and encroachments shall be borne by the landowner.

729.08.01.03 No person shall make or maintain a connection between eaves troughs, rainspouts, footing drains, or any other conductor used to carry natural precipitation or ground water to the Sewer System or any part thereof.

729.08.01.04 No person shall to construct, alter, or extend any sewer connected or proposed to be connected to the Sewer System without first having the plans and specifications there for approved by the District.

729.08.01.05 No person having charge of any premises shall maintain thereon any drain or sewer connected with the Facilities in a clogged, obstructed, broken or damaged condition, or not in conformance with the State Building Code.

729.08.01.06 No person shall discharge, or cause or permit to be discharged, any sewage or unhealthful matter into any lake, natural ravine, or public waters.

729.08.01.07 No person shall discharge wastewater, industrial wastes, or other wastes into the Sewer System in a form, manner, or concentration contrary to the provisions of this Ordinance, federal or state pretreatment requirements or any order of the District.

729.08.01.08 No person shall knowingly makes false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Ordinance, or falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this Ordinance.

729.08.02 Suspension of Services. The District may suspend sewer services to a User when, in the opinion of the District, such suspension is necessary to stop an actual or threatened discharge that presents or may present an imminent or substantial endangerment to the health or welfare of humans, to the environment, or to the Sewer System, or would

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cause the District to violate any conditions of its NPDES or state disposal system permits, or any other law or regulation. Any User notified of a suspension of service shall immediately stop discharging to the Sewer System. In the event of a failure of the User to comply voluntarily with the suspension order, the District shall take necessary steps, including immediate severance of the User's connection to the Sewer System, to prevent or minimize damage to the Sewer System or endangerment to any individuals. In such a case, service will not be reinstated unless and until the District has received proof of the elimination of the noncompliant discharge. A detailed written statement submitted by the User describing the causes of the noncompliant discharge, and the measures taken to prevent any future occurrence shall be submitted to the District within 5 business days of the date of the occurrence.

729.08.03 Notification of Violation. Whenever the District finds that any person has violated or is violating this Ordinance, the District may serve upon such person a written notice stating the nature of the violation. Within 10 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the District by said person. The District may impose a monthly surcharge for noncompliance with the violation notice.

729.08.04 Criminal Penalties. Any person who violates a provision of this Ordinance or fails to timely respond to notification of a violation shall be guilty of a misdemeanor and said person may be punished by a fine of up to \$1,000.00 and/or 90 days in jail.

729.08.05 Costs and Attorneys' Fees. In addition to the penalties provided herein, the District may recover attorney's fees, court costs, court reporter's fees, and other expenses of litigation by an appropriate action against the person found to have violated this Ordinance or any orders, rules, regulations, and permits issued hereunder.

729.08.06 Costs of Damage. Any person violating any of the provisions of this Ordinance shall be liable to the District for any expense, loss, or damage occasioned the District because of such violation. The District may commence an action for appropriate legal and/or equitable relief. The District may add to the person's User Fees the cost of any cleaning, repair, or replacement work caused by the violation. Refusal to pay the properly assessed costs, including fines and penalties, shall constitute a violation of this Ordinance.

729.09 This Ordinance shall be in full force and effect upon adoption pursuant to Minnesota law.

ATTEST:
Darrell Pettis
COUNTY ADMINISTRATOR

COUNTY OF LE SUEUR, STATE OF MINNESOTA
XXXXXXXXX, Chairperson
Le Sueur County Board of Commissioners

Date: _____

Date: _____