

DULUTH PUBLIC UTILITIES COMMISSION

Tuesday, March 20, 2018

City Council Chambers

AGENDA

1. Roll call
2. Public hearing:
18PUC-003 - RESOLUTION AMENDING RESOLUTION 17PUC-004 ESTABLISHING WATER RATES TO MODIFY RATES CHARGED TO POLITICAL SUBDIVISIONS EFFECTIVE MAY 1, 2018.
3. Approval of previous meeting minutes
4. New business:
 - 4.1 18PUC-003 - RESOLUTION AMENDING RESOLUTION 17PUC-004 ESTABLISHING WATER RATES TO MODIFY RATES CHARGED TO POLITICAL SUBDIVISIONS EFFECTIVE MAY 1, 2018.
 - 4.2 18PUC-004 - RESOLUTION RECOMMENDING CITY COUNCIL APPROVE AMENDMENTS TO THE CITY'S SEWER CODE, ITS I & I PROGRAM GUIDELINES, AND ITS PRIVATE SEWER SERVICE GRANT PROGRAM GUIDELINES TO MEET WLSSD REQUIREMENTS.
5. Updates from staff
6. Upcoming Council actions
7. Commissioner questions or comments
8. Preview of upcoming business
9. Known absences for future meetings

DULUTH PUBLIC UTILITIES COMMISSION

Meeting Minutes

February 20, 2018

Members Present: Councilor Noah Hobbs, Jen Julsrud, Chris McIntosh, Councilor Joel Sipress, Councilor Em Westerlund

Members Absent: Jim Lewis, Rob Prusak

Staff Present: Bob Asleson, Jim Benning, Todd Carlson, Leanna Gilbert, Howard Jacobson, Chris Kleist, Eric Shaffer, Glenn Strid, Andy Swanson, Kerry Venier

Call to Order: The meeting was called to order at 5:19 p.m. by Vice President McIntosh.

Public hearing:

18PUC-002 - RESOLUTION ESTABLISHING A NATURAL GAS RATE FOR MUNICIPAL ENERGY RESALE INTERRUPTIBLE LARGE VOLUME EFFECTIVE WITH METER READINGS AFTER MARCH 14, 2018.

The Commission held a public hearing on natural gas rate resolution 18PUC-002. No one from the public was present to speak. The hearing was closed and the Commission moved on to the regular meeting.

Approval of previous meeting minutes

New business:

18PUC-002 - RESOLUTION ESTABLISHING A NATURAL GAS RATE FOR MUNICIPAL ENERGY RESALE INTERRUPTIBLE LARGE VOLUME EFFECTIVE WITH METER READINGS AFTER MARCH 14, 2018.

Commissioner Sipress motioned to approve the resolution, and the motion was seconded. Resolution 18PUC-002 was approved by all present.

WLSSD I&I ordinance

Todd Carlson gave an overview of the sanitary sewer system and its history. Andy Swanson talked about the updated WLSSD I&I ordinance. Proposed changes to Chapter 43, the Private Sewer Service Grant Program, and the I/I Grant Program Guidelines were sent to commissioners prior to the meeting. Staff would like to propose a minimum of 100 laterals per year. Grants of \$4,000 would be available for those mandated to replace their laterals, and grants of \$2,000 would be available for volunteers. After some discussion, Vice President McIntosh asked staff to prepare the resolution recommending the proposed changes to Council.

Municipal water resale discussion

Jim Benning stated that Proctor withdrew their appeal to the MPUC. Commissioner Julsrud motioned to have staff bring a municipal water resale rate resolution next month, and the motion was approved by all present.

Updates from staff

Jim Benning reported that the bids for Superior Street will be open on February 28th. Glenn Strid mentioned the 2017 year end adjustment letter from WLSSD that was sent to commissioners prior to the meeting. The adjustment will result in a sanitary sewer variable rate increase of approximately 0.976% to cover the cost of the additional surcharge. This increase will equate to about \$0.06 per CCF or \$0.36 per month for the average household.

Upcoming Council actions

Commissioner Julsrud mentioned that the ordinance eliminating DPUC member term limits passed. Jim Benning stated that we will need a Council resolution reappointing Rob Prusak for the March 26 agenda.

Commissioner questions or comments

Commissioner Julsrud thanked everyone for all of their work.

Preview of upcoming business

The next regular meeting is scheduled for Tuesday, March 20, 2018, at 5:15 p.m. in City Council Chambers. The Commission will consider a municipal water resale rate and continue to discuss the WLSSD I&I ordinance.

Known absences for future meetings

Vice President McIntosh and Commissioner Hobbs will not be able to attend the March meeting.

Adjournment: The meeting was adjourned at 5:47 p.m.

DULUTH PUBLIC UTILITIES COMMISSION
Public Hearing
February 20, 2018

Members Present: Councilor Noah Hobbs, Jen Julsrud, Chris McIntosh, Councilor Joel Sipress, Councilor Em Westerlund

Members Absent: Jim Lewis, Rob Prusak

Staff Present: Bob Asleson, Jim Benning, Todd Carlson, Leanna Gilbert, Howard Jacobson, Chris Kleist, Eric Shaffer, Glenn Strid, Andy Swanson, Kerry Venier

Call to Order: The hearing was called to order at 5:19 p.m. by Vice President McIntosh.

Under consideration was a resolution to establish a natural gas rate for the Duluth Steam District.

No one from the public was present to speak at the hearing.

The Duluth Public Utilities Commission voted to approve the natural gas rate resolution after the public hearing closed.

Adjournment: The hearing was closed at 5:21 p.m.

A recording of this hearing is available upon request.

RESOLUTION NO. 18PUC-003

**RESOLUTION AMENDING RESOLUTION 17PUC-004
ESTABLISHING WATER RATES TO MODIFY RATES
CHARGED TO POLITICAL SUBDIVISIONS EFFECTIVE
MAY 1, 2018.**

RESOLVED by the Duluth Public Utilities Commission (the “Commission”) that the Commission hereby makes the following Finds of Fact:

- 1.) On September 19, 2017, the Commission approved 17PUC-004 establishing rates to be charged to all customers of the water utility of the city of Duluth including those customers constituting political subdivisions outside the city as set forth in Section 3 of said resolution.
- 2.) That upon further study, it has been determined that the rates established for political subdivisions outside the city of Duluth do not reasonably reflect the cost of providing water service to them and that those rates should be modified as hereinafter set forth.

FURTHER RESOLVED, that effective with the water meter readings after April 30, 2018, Section 3 of 17PUC-004 establishing the rates to be charged to customers of the water utility of the city of Duluth which are political subdivisions outside the city shall be amended as follows:

3. Political Subdivisions outside City:
Rates charged for water furnished to political subdivisions outside the corporate limits of the city will be by individual contract, and such customers shall be charged the following per 100 cubic feet (CCF):

Political Subdivision	Effective May 1, 2018	Effective January 1, 2019	Effective January 1, 2020	Effective January 1, 2021	Effective January 1, 2022	Effective January 1, 2023
Hermantown	\$3.02	\$3.42\$3.16	\$3.58\$3.31	\$3.75\$3.47	\$3.93\$3.63	\$4.11\$3.80
Proctor	\$3.02	\$3.86\$3.16	\$4.04\$3.31	\$4.23\$3.47	\$4.43\$3.63	\$4.64\$3.80
City of Rice Lake	\$3.02	\$3.30\$3.16	\$3.45\$3.31	\$3.62\$3.47	\$3.79\$3.63	\$3.97\$3.80

Approved by the DPUC: _____
(date)

Submitted to City Council: _____
(where appropriate) (date)

ATTEST:

Director
Public Works and Utilities
City of Duluth

STATEMENT OF PURPOSE:

This resolution amends volumetric charges for political subdivisions outside Duluth city limits as of May 1st. Revised rates reflect their share of costs, including capital expenses, based on consumption. Political subdivisions will still be subject to annual 4.7% increases through 2023 as approved by Resolution No. 17PUC-004 and any subsequent increases approved by the Commission unless otherwise stated.

This resolution sets water rates effective with meter readings after April 30, 2018.

RESOLUTION NO. 18PUC-004

**RESOLUTION RECOMMENDING CITY COUNCIL
APPROVE AMENDMENTS TO THE CITY'S SEWER
CODE, ITS I & I PROGRAM GUIDELINES, AND ITS
PRIVATE SEWER SERVICE GRANT PROGRAM
GUIDELINES TO MEET WLSSD REQUIREMENTS.**

WHEREAS, since shortly after its creation in 1971, the Western Lake Superior Sanitary District ("WLSSD") has accepted and treated sanitary sewage from the City of Duluth's sanitary sewage collection system as well as the systems of the surrounding jurisdictions in fulfillment of the WLSSD's statutory obligations; and

WHEREAS, the WLSSD treatment system, along with portions of its sewer intercept system have been subject to system demands in excess of its capacity and WLSSD has determined to address this condition by requiring the jurisdictions sending sanitary sewage to its system to reduce the demands on that system by reducing the inflow and infiltration of clear water, not requiring treatment ("I & I") into its system; and

WHEREAS, the City of Duluth has long had in force ordinance provisions as part of Chapter 43 of the Duluth City Code, 1959, as amended, an Inflow and Infiltration Program, and a Private Sewer Service Grant Program, all with the purpose of reducing I & I in its sanitary sewer system and therefore in the WLSSD system; and

WHEREAS, on June 26, 2017, WLSSD approved its ORDINANCE ESTABLISHING STANDARDS FOR REDUCTION OF INFLOW AND INFILTRATION (the "WLSSD Ordinance") which is binding on all jurisdictions contributing sewage into WLSSD's system including the City of Duluth; and

WHEREAS, while the City has had ordinance provisions and programs in place for some time directed at addressing these issues, the City needs to update its ordinance provisions and its guidelines for its I & I Program and its Private Sewer Service Grant Program to conform to the requirements of the WLSSD Ordinance.

RESOLVED by the Duluth Public Utilities Commission (the "Commission"), that the Commission hereby recommends that the Duluth City Council amend Chapter 43 of the Duluth City Code, 1959, as amended, the City's Amended I/I Program Guidelines as approved on September 12, 2008 by Council Resolution No. 08-0628, and the City's Private Sewer Service Grant Program Guidelines approved on April 9, 2012 by City Council Resolution No. 12-0177 in conformance with the attached Exhibits A, B, and C respectively in order to conform to the requirements of the WLSSD Ordinance.

Approved by the DPUC: _____
(date)

Submitted to City Council: _____
(where appropriate) (date)

ATTEST:

Director
Public Works and Utilities
City of Duluth

STATEMENT OF PURPOSE:

The purpose of this resolution is to recommend to the City Council that it amend chapter 43 of the City Code, the guidelines for the I & I grant program, and the private sewer service grant program to bring them into line with the requirements of the WLSSD I & I ordinance.

The most significant changes to the ordinance are to eliminate references to the Consent Decree, which involved the City and other jurisdictions with the EPA and the MPCA, to reflect that the City has now done I & I reduction work throughout the entire city and is now looking to clean up situations that were not adequately addressed on the first run-through and to eliminate the minimum threshold of household systems to be addressed to a level more in line with the complicated circumstances remaining to be addressed.

The changes to the I & I Program Guidelines and Private Sewer Service Grant Program Guidelines are again oriented to moving from a sewage basin inspection program to one more directed toward addressing those services that still need work.

In addition, there have been some nomenclature changes that hopefully will assist people in navigating the system.

18-XXX-O

AN ORDINANCE AMENDING CHAPTER 43 OF DULUTH CITY CODE, 1959, AS AMENDED, TO CONFORM TO REQUIREMENTS OF WLSSD I & I ORDINANCE AND TO DELETE REFERENCES TO THE CONSENT DECREE, AMENDING SECTIONS 43-11.1, 43-31, 43-33.1 AND 43-31.2 AND BY REPEALING Section 43-34 OF THE CODE.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 43-11.1 of the Duluth city code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-11.1. Clean water surcharge.

(a) In order to protect the public health and the environment, the city, under order from the United States environmental protection agency and Minnesota pollution control agency must improve its wastewater collection system. Therefore, upon the effective date of this ordinance, the Duluth public utilities commission shall be authorized to create a clean water surcharge upon each customer and user. There is also created in the city accounting system a fund known as the clean water fund. Into the fund shall be deposited the following amounts:

- (1) The amounts collected as the clean water surcharge under this Section;
- (2) Any amount allocated to it by action of the city council or city administration;
- (3) Any amounts received as penalties for violation of Chapter 43, Article IV;
- (4) Any amount received as fees or surcharge under Section 43-33.4;
- (5) Any amount received as the surcharge authorized by Section 43-12.1;
- (6) Any interest earned by the fund;
- (7) Any loans, loan payments or grants received by the city for the purpose of designing, constructing, repairing, maintaining, or replacing structures or facilities, including structures used for sanitary sewage overflow storage or for repayment of loans made pursuant to the private sewer service program established pursuant to Section 43-33.1(c)(2) below, for the purpose of attaining compliance with federal, ~~or state, or local~~ I&I standards, ~~or any consent decree for that purpose which is binding on the city;~~

(b) The money in the clean water fund shall be spent only for the purpose set out in (7) above or for the purpose of making grants and loans under the said private sewer service program. The requirements of this Chapter continue in force after the termination of the clean water surcharge. It is the policy of the city that eventually each sewer in the city shall be inspected and brought into compliance with this Chapter.

Section 2. That Section 43-31 of the Duluth city code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-31. Unpolluted water prohibited.

(a) No leak, break, failure to function of a building sewer, or connection of area way drains, perimeter foundation drains, rain leaders, down spouts or rain connector, or any condition of the building sewer that allows other sources of unpolluted waters, such as stormwater, ground water, roof runoff, subsurface drainage, unpolluted industrial water or cooling water, to enter a

building sewer or building drain which is connected directly or indirectly to a public sanitary sewer shall be made or allowed to exist. ~~Down spouts connected to roof gutters will not discharge water within two feet of the building foundations, and parallel to the property if within five feet of the property line. An exception of this will be if the building down spout is connected to a rain barrel with a minimum capacity of 35 gallons. The owner or operator is responsible for compliance with the requirements of this Article.~~ From time to time, the city may offer programs, grants or incentives in an effort to improve the sanitary collection system. Regardless of these measures, it is the policy of the city to inspect, enforce and attain compliance with this Code for all buildings and sewers. Enforcement actions separate from any program or incentive are proper. Homes with existing sump pumps will be reinspected to ensure proper functioning. There shall be no fee for this reinspection;

(b) Upon completion of the construction, reconstruction, repair which includes excavation of any kind or replacement of any building sewer, said building sewer shall be capable of passing an air test in accordance with the plumbing code. Any such building sewer not capable of passing such air test shall either be further repaired or replaced in its entirety until it passes such air test;

(c) No person owning or controlling, in whole or in part, any building shall allow any condition or connection prohibited in subsection (a) above to be made or to exist, or shall fail to cause any such condition or connection existing to be disconnected or remedied within 90 days of discovery of the defect or of being ordered to make such disconnection or repair by the director. Any homeowners with redirected sump pump that deliberately discharges into the sanitary sewer system will be fined up to \$500 upon conviction for each offense. Additionally, any homeowner who installed a sump pump at any city expense which pump deliberately discharges into the sanitary sewer system will be required to reimburse the city for all costs associated with the installation of the sump pump;

(d) No person shall tamper with, modify or make any change to any plumbing materials or equipment necessary to prevent noncompliance with the requirements of Subsection (a) above. Nor shall any owner or person owning or controlling any building permit any person to so tamper with, modify or make any changes to such materials or equipment in such building or fail to maintain in fully functional condition such materials and equipment.

Section 3. That Section 43-33.1 of the Duluth city code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-33.1. Entry for inspections; building sewer improvement, I&I program and private sewer service grant/loan program.

(a) Upon designation of any sewer basin pursuant to Section 43-33 above, the director shall cause all buildings within said sewer basin to be inspected for compliance with Section 43-31 above. Upon determination that any building does not comply with Section 43-31 above and does not qualify for a certificate of noncontribution, the director shall issue an order to disconnect any portion of the plumbing of such building in violation of said Section 43-31, or do any act required to attain compliance;

(b) No person shall fail or refuse to allow the director to inspect any building to determine whether the plumbing of such building complies with the requirements of Section 43-31 above after having been given reasonable advance notice of the director's intent to do so; such

notice may be given by mail as provided for in Section 43-33 above or in person or by posting notice thereof on the premises to be inspected. In the event that the owner or person in control of any building shall deny or refuse to allow the director to inspect any such building after such notice has been given, the director may allow the inspection to be made by a qualified person who is not a city employee, in a manner acceptable to the director, having results reported and supported by evidence acceptable to the director, all at the owner's expense. If the owner or person in control refuses to allow any sufficient inspection, the director shall use such other means as are authorized by law, including but not limited to securing a search warrant for such building or a court order requiring that access be granted in order to gain access to conduct such inspection;

(c) (1) The director, using uniform criteria, shall determine which properties and/or building sewers in the district shall be included in the I&I program. For each building sewer included in the I&I program, sewer inspections required by the director for purposes of the program will be performed by city employees or agents without charge. The director, using uniform criteria, shall annually designate ~~at least 630~~ building sewers that, as part of the I&I program, will have the building sewer trap removed, footing drains disconnected from the sanitary sewer system, and a sump pump installed or gravity discharge installed. The city will pay up to \$2,150 of the reasonable cost of these improvements based upon the uniform criteria in the I&I guidelines;

(2) Pursuant to the authority of Minnesota Statutes Section 471.342 and any successor thereto, the city hereby establishes the Duluth private sewer service grant/loan program, hereinafter referred to as the "private sewer service program," as part of the city's inflow and infiltration program. Said program shall be available for use on properties located within basins designated pursuant to paragraph (a) above which have been specifically designated as eligible therefor in writing by the director. The city council is hereby authorized to approve, by resolution, program guidelines establishing criteria for program eligibility and standards for compliance with the program. Pursuant to said guidelines the city may provide grants or loans or both to private property owners for the repair, reconstruction or lining of private sanitary sewer laterals which are eligible therefore pursuant to the private sewer service program guidelines;

(d) A property remains subject to all applicable standards, requirements, and penalties of this Chapter regardless of whether or not it is selected for the I&I program;

(e) The clean water surcharge shall terminate on June 30, 2028.

Section 4. That Section 43-33.2 of the Duluth city code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-33.2. Certificate of noncontribution.

(a) Upon inspection of any building by the director for compliance with the requirements of Section 43-31 above and based on that inspection, the director is authorized to issue a certificate of noncontribution in a form suitable for recording among the property records of St. Louis County recorder if he or she determines either that:

(1) The sump pump, footing drain disconnect, and building trap removal are in compliance with Section 43-31 above;

(2) The plumbing materials and equipment as installed and operating in that building are in compliance with the requirements of Section 43-31 above;

(3) The plumbing and equipment in said building is not in compliance with the requirements of Section 43-31 above but the director determines that the building is not contributing any material or observable amounts of unpolluted water to the public wastewater collection system and is not likely to do so in the future;

(b) Certificates of noncontribution shall only be issued by the director and persons designated by him or her to issue such certificates. The director shall establish standards and procedures for certifying persons authorized to issue certificates of noncontribution on his or her behalf;

(b)(c) In the event that the director determines after reasonable investigation that any building for which a certificate of noncontribution has been issued is now contributing a material or observable amount of unpolluted water to the public wastewater collection system, the director may give notice in the manner provided for in Section 43-33 above of his or her intention to revoke such certificate of noncontribution and that such revocation shall become final 15 days of the date of giving such notice unless the affected owner or person in control of the affected building files a written appeal of that decision with the city clerk prior to the revocation of the certificate. Any such appeal shall be heard by the Duluth public utilities commission in accordance with the procedures established by the commission. When the revocation of any certificate of noncontribution has become final, the director shall cause notice there to be filed in the office of the St. Louis County recorder

Section 5. That Section 43-34 of the Duluth city code, 1959, as amended, is hereby repealed.

~~Sec. 43-34. Survey by director.~~

~~The director shall make a careful survey of all districts provided with sanitary sewers and report to the city council, as early as practical, the extent of which such sewers are being used for the disposal of unpolluted water and make such recommendations as he may deem proper. (Ord. No. 8331, 6-13-1977, § 1; Ord. No. 9629, 10-27-2003, § 11.)~~

Section 6. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is to eliminate reference to the Consent Decree and to make minor adjustments to bring the City's I & I provisions into conformance with the requirements of the recently-enacted WLSSD I & I ordinance.

The City has had provisions in its Code aimed at reducing or eliminating inflow and infiltration ("I & I") of clear water into its sanitary sewer system. Some of these provisions were drafted to address issues that were identified by the Consent Decree with USEPA and the MPCA and Code provisions reflected this origin. These and other efforts undertaken by the City have been sufficiently successful to allow the Consent Decree to be lifted and consequently the City's approach to the I & I issue is no longer controlled by it. Therefore, it is appropriate to eliminate the references to it in the Code, and that is what is done by a number of the proposed Code changes.

In addition, other changes coincide with the passage of the soon-to-be-effective WLSSD I & I ordinance. At this point, the City has completed its initial sweep of all of its sewer basins and it is

now in the process of doing second-round follow-up of those properties that did not respond to the City's first attempts to inspect and enforce compliance with its I & I programs. So the designation, inspection and enforcement process is being adjusted to this phase of enforcement.

AMENDED I/I GRANT PROGRAM GUIDELINES

These changes supersede guidelines of September 12, 2008 as approved by Resolution No. 08-0628R.

POLICY:

The City of Duluth will remove inflow and infiltration (I/I) from the sanitary sewer collection system by conducting an inspection program to identify contributions of I/I on private property. Properties that are contributing I/I will be offered grants of up to \$2,150 in specified allowances to assist in funding corrective work to remove I/I. Funding private property corrective work to remove I/I was authorized by the Minnesota State Legislature on March 15, 1996 as codified in Minnesota Statutes Section 471.342 subd. 4.

GRANT PROCEDURE:

The purpose of this procedure is to provide the mechanism for efficiently disbursing and tracking I/I Grants. The I/I Reimbursement Grant Program will reimburse the party making the corrections in the amount of up to \$2,150 toward the cost of corrective work. The authorization given to the City by the Minnesota State Legislature requires the City Council to adopt grant guidelines.

1. The City of Duluth has an I&I Remediation Plan, Public Document No. 96-0129-13(b), that was approved by City Council Resolution No. 96-0098R dated January 29, 1996. The plan included a grant program. The program guidelines for the grant program were last modified on September 12, 2008. The grant program guidelines describe the process for selecting and awarding grant recipients.
2. The City sanitary sewer collection system consists of 30 sewer basins. Starting in 1995, the City established a program of home inspection, on a basin-by-basin basis, to determine whether the homes have active foundation drains connected to the sanitary sewer system. If foundation drains were found to be contributing I/I, the property owner would be required to disconnect foundation drains from the sanitary sewer and, if necessary, install a sump pump and remove the house trap unless the location of the trap or other physical factors outside the control of the owner make it financially infeasible to remove the trap, in which case the Director of Public Works and Utilities or his/her designee could exercise their discretion and give an exemption. All properties that required disconnection work were given an opportunity to receive a grant of up to \$2,150 on a reimbursement basis. Additionally, properties identified as contributing I/I at the time of Point of Sale as described in Section 43-33.4 of the City Code were eligible for the grant program. Corrective action to address code deficiencies in existing sump pumps were not grant eligible.
3. Despite the City's best efforts, some homes in various basins were not inspected and consequently not required to take corrective action if needed. It is now the City's intention to follow up with those homes not previously inspected and to cause any corrective action to be implemented in substantially the same manner as provided for in the original program.
4. The inspections or previously uninspected homes will be mandatory. The City will schedule inspections for such homes based on the availability of City staff to perform them. If a property owner does not allow the City in to perform an inspection for I/I, an administrative search warrant will be secured to authorize the inspection. If an administrative search warrant is to be sought, then timely notice must be given to any affected person that a warrant is being requested and that person may be present at any court proceeding to consider the requested search warrant.

5. A Utility Resources Specialist (hereinafter referred to as “URS”) will conduct the inspection to look for evidence of I/I. If no such evidence is found, the property will be in compliance and no work will be required. If such evidence of I/I is found, the property will be considered in noncompliance and the property owners will be informed by a mailed Notice to Correct.
6. Properties that are in noncompliance will be required to perform the corrective work needed to get into compliance. The URS will prepare a “Form A” identifying the corrective action required. Once the corrective action is identified, the property owner will be responsible for making arrangement to have the repairs completed within 90 days of the notification of inspection. Property owners who fail to make the required corrections within the time specified will have a monthly surcharge added to their sewer bill as established by council resolution until the necessary corrections have been made. The property owner will be responsible for design of the corrective work to conform to that set forth and described on Form A, to obtain any permits required to perform said work, and to have the corrective work done. Form A will be signed by a designated City Official. In addition, to be qualified to receive grant funds under these guidelines, the property owner will be required to sign Form A.
7. Owners of properties that are in noncompliance will be given the opportunity to request a grant to reimburse them for a portion of the costs of bringing the property into compliance. Property owners seeking a reimbursement grant must apply to the Department and receive approval of grant funds before commencing corrective work to be eligible for grant funds under these guidelines.
8. Whether or not a reimbursement grant is sought, the property owner will be responsible for obtaining bid proposals, awarding the contract(s), and paying for the corrective work. The property owner is responsible to insure that the work contracted for and performed complies with the requirements for the work set forth in Form A.
9. Upon approval of the grant, the property owner will be sent a letter informing them of the approval. The property owner shall then be responsible to make the improvements as set out in Form A and to pay all contractors and/or materialmen supplying labor or materials for the work. It shall be the responsibility of the property owner to be sure that all necessary permits are obtained and the work is completed within 90 days of the notice of non-compliance.
10. The property owner is responsible to contact the Construction Services & Inspections Division for all inspections required under the Building Code. All such inspections have to be completed prior to final inspection by the URS referred to in below Paragraph 12 and prior to releasing the grant funds.
11. Upon the completion of the work and all inspections referred to in above Paragraph, the property owner will notify the Department that the work is completed and, if a reimbursement grant is being sought, shall also request such reimbursement in writing together with copies of contracts, receipts, and other documentation demonstrating that the property owner is entitled to such reimbursement under the program. The URS will inspect to ensure the work identified on Form A has been completed. Form B will be prepared by the URS to process the grant.
12. The URS will submit Form B to the Utility Operations Manager to authorize the release of the grant funds. Upon approval, the URS shall forward a copy of both Form A and Form B to an Administrative Finance Specialist in the City Auditor’s office. Upon presentation of adequate documentation, allowable expenses for the work will be reimbursed up to a total amount not to exceed \$2,150. Reimbursement for labor will be allowed only for costs of labor paid to a licensed contractor performing the work on the property; in-kind costs of labor supplied by or for the owner or by persons other than licensed contractors will not be allowed. The City will reimburse up to the following amounts for the specified work, provided that the total reimbursement does not exceed \$2,150.

- a. \$1,400 - Working sump pump or gravity system including dedicated electrical outlet
- b. \$350 - Removal of house trap(s)
- c. \$250 - Tap into an existing storm line, catch basin, or I/I stub
- d. \$150 - Additional electrical work (side panel or electrical upgrade)
- e. Point of Sale Inspection costs including fees – as outlined by the Duluth Public Utilities Commission.

The City Auditor shall then issue a check or checks to the grantee. If payment is based on any unpaid invoices, checks to pay for such costs may be made payable jointly to the owner and the invoicing contractor or materialman. Payment may be made directly to the contractor if requested by the property owner.

POINT OF SALE INSPECTIONS

1. The Public Works & Utilities - Utility Operations Division will maintain a record of which properties have been inspected and all actions taken.
2. Point of Sale (POS) inspections are required upon the signing and acceptance of a legally binding offer to purchase or at least 30 days before transfer of title, entering into a contract for deed, or contract for sale of real estate. A one week notice to request an inspection is preferred but, under special circumstances, a minimum of a 24-hour notice would ensure that the Point of Sale Inspection could be scheduled.
 - a. An inspection fee payable to the City will be required in advance.
 - b. Any work required for POS, will be eligible for grant money, as noted above in Section 12.
3. A URS will conduct the inspection to look for sources of I/I. If no I/I is noted, the property will be in compliance and a POS Certificate of Compliance will be issued. If sources of I/I are found, the property will be considered in non-compliance and the property owners will be informed by a mailed Notice to Correct. The owner will then be eligible to apply for grant assistance under the terms of these guidelines. If corrective work cannot be completed before transfer of title, a Conditional Compliance Certificate will be issued and work to be completed within 90 days.

INCOME BASED SUPPLEMENTAL GRANT PROCEDURE:

The purpose of this portion of the procedure is to provide the guidelines under which the City of Duluth will provide additional funding to income eligible property owners to perform corrective work to remove I/I.

1. Supplemental grant funding will be available to property owners identified with I/I with income of 50% less than the median income. The additional funding will be available to complete *required* work for installation of the sump pump (electrical upgrades, floor replacement, plumbing repairs, etc.), but cannot be used for home improvements unrelated to I/I removal.
2. At the time of the original inspection by the URS, information on the supplemental grant program will be made available to property owners.
3. Property owners must apply for the income based supplemental grant program through the Housing Redevelopment Authority (HRA) office. The HRA will contract with the City to do the income eligibility determinations. The HRA will determine whether an applicant is qualified for a supplemental grant and forward the information to the City.

**CITY OF DULUTH
PRIVATE SEWER SERVICE GRANT PROGRAM
PROGRAM GUIDELINES**

Policy and Statement of Purpose

The City of Duluth has existed as a city on the shoreline of Lake Superior for more than 100 years and many of its residential neighborhoods and the utilities that serve them, including sanitary sewer services are also very old. Because of this age factor and because of the extreme of weather and geological stresses created by being a city built on a granite hillside, that sanitary sewer, including the private sewer services lines carrying sanitary sewage from individual structures to the City's sanitary sewer mains which are the responsibility of the individual Owners, has been subjected to significant and unusual stress, causing many partial failures of that system and admitting clear groundwater into that system, overloading its capacity and leading to overflows of untreated sanitary sewage entering Lake Superior.

The City has long recognized Lake Superior not only as a local asset to its commerce, its well-being and its quality of life but also as a national treasure which the City needed and continues to need to protect and, to that end, the City has established a policy of striving to reduce or eliminate sources of pollution upon which it can have an impact and which could negatively impact Lake Superior, including those sanitary sewer overflows, while, to the extent possible, trying to avoid unduly burdening its citizens and utility rate payers.

To this end, the City has established programs to encourage disconnection of footing and foundation drains from the City's sanitary sewer system and installing sump pumps to divert water from those sources to surface water drainage systems, has undertaken to repair, replace and upgrade its sanitary sewer mains to prevent infiltration of groundwater into its mains and has constructed or is constructing sanitary sewer holding facilities designed to temporarily retain portions of the excess sanitary sewer system flow during overload conditions for release and treatment after the overload conditions have passed.

Unfortunately, these programs have not been sufficient to meet the policy objectives of the City in preventing overflow of untreated sanitary sewage into Lake Superior. Continuing investigation of the source of clear water inflow and infiltration into the City's sanitary sewer system has revealed that one of the major remaining sources of such inflow and infiltration are the privately owned and maintained sanitary sewers connecting private structures with the City's sewer mains and so, in conjunction with the United States Environmental Protection Agency, the United States Department of Justice, the Minnesota State Pollution Control Agency and the Western Lake Superior Sanitary District, the City has determined to develop and implement a program to incentivize the repair, replacement or relining of as many of the private sanitary sewer service lines in the City as are contributing to the overloading of its sanitary sewer system by clear water and to provide financial assistance to its citizens to mitigate the financial impacts of this program on the individuals who will bear a portion of the costs of this necessary work.

For these reasons and pursuant to the authority granted to the City pursuant to Minnesota Statutes Section 471.342, the City does hereby establish the following Guidelines for the City's Private Sewer Service Grant Program (hereinafter referred to as the "Program").

I. Grant Program Concept.

- 1.) Pursuant to and subject to the process set forth below the City will determine whether properties are contributing clear, unpolluted water (hereinafter referred to as "I/I") to the City's sanitary sewer mains by virtue of a deteriorated or damaged private sewer service (that portion of the sewer system connecting a private structure with an adjacent City-owned and maintained sewer main (hereinafter referred to as a "Service"). Upon determination that a Service is contributing I/I to the City's sanitary sewer mains (hereinafter referred to as an "Identified Service"), the City will notify the property Owner of this condition and that the property Owner or Owners (hereinafter referred to as the "Owner") need to repair, replace or reline their Service and will further notify them that, upon completion of such repair, replacement or relining in a satisfactory manner, the City may reimburse Owner, in the form of a grant,

for Eighty (80%) percent of their cost of the work up to a maximum grant amount of \$4,000 except as provided for below. The Owner will be responsible for properly applying for the grant, and having all inspections of the Work done and for submitting all necessary documentation to the City in Order to be entitled to the reimbursement grant.

- 2.) If the Identified Service lies in whole or in part under a street which has been reconstructed or resurfaced within 15 years of the date of designation of a Service as an Identified Service, said Identified Service shall be relined without any excavation in said street and the amount of the grant available to the Owner to defray a portion of the cost of the work shall be up to \$5,000.

II. Identification of Properties Eligible for Grants.

The Director will evaluate a minimum of 100 services annually by closed circuit television (hereinafter referred to as "CCTV") of the City's mains during actual or simulated wet weather events to identify Identified Services. Video records of examinations will be retained by the Director until at least three years after notices are sent to Owners as provided for in Article III Section 1 below.

III. Notice to Owners.

- 1.) At a time deemed appropriate by the Director after any Identified Service has been identified, the Director will cause a written "I/I Private Sewer Service Notice to Correct" (hereinafter referred to as the "Notice") to be sent to the Owner of the property served by the Identified Service by depositing the Notice in the U.S. Mail, postage prepaid, as herein after provided for. For the purposes of this notice, the Owner shall be deemed to be the person or persons identified as such on the information on file in the office of the St. Louis County Recorder and the address of the Owner shall be deemed to be the address shown on such records.
- 2.) If the property served by the Identified Service is not equipped with a sump pump, the Owner may apply to City for assistance under City's standard I/I Reduction Program, and upon approval of their application, promptly disconnect their footing drains from the Identified Service and install a sump pump in accordance with City requirements. Upon completion of such work, the City shall cause the subject Identified Service to be re-evaluated as provided for in Article II above, and if the Identified Service no longer qualifies as an Identified Service as described in Article II above, it shall no longer be so identified and no further action shall be taken under this Section. If the evaluation establishes that the Service at issue continues to be an Identified Service, the Director shall proceed as hereinafter provided for.
- 3.) The Notice referred to in Article III Section 1 above shall include the following:
 - a.) The name and address of the Owner.
 - b.) The address of the property served by the Identified Service.
 - c.) Notification that the Identified Service has been determined to be allowing I/I to enter the City's sanitary sewer mains and that the Identified Service must be repaired, replaced or relined (hereinafter referred to as the "Work").
 - d.) Notification that the Work must be completed on or before a specified date, ninety (90) days from the date of the Notice, and setting forth the consequences of failure to complete the Work within the time specified.
 - e.) Notification that the Owner is eligible for participation in the program to defray a portion of the cost of the Work.
 - f.) Notification that the video recording which identifies the Owner's Identified Service is available for review upon arrangement with the Director and providing the name and telephone number of the person who the Owner should contact to make such arrangement.
 - g.) Notification that the Owner may appeal the Notice to the Duluth Public Utilities Commission (hereinafter referred to as "the DPUC") by submitting a written appeal to the DPUC at the address specified in the Notice within thirty (30) days of the date of the Notice as provided for in Article IV below.

IV. Appeals

Any Owner disputing the facts supporting the Notice may appeal from the Notice within thirty (30) days of the Notice as provided for in this Section. The appeal shall specify in writing all grounds for the appeal and all facts supporting the appeal. In addition, it shall be accompanied by an appeals fee of \$750 as noted below to reimburse the City for its costs of processing the appeal and of performing the selected test. Failure to file an appeal within thirty (30) days of the date of the notice or to accompany such appeal with the appeals fee, where required, shall constitute a waiver of the right to appeal the Notice.

1.) Grounds for Appeal

Valid grounds for appeal shall be those set forth below; the decision of the DPUC shall be final:

- a.) That the appealing Owner is not responsible for the subject Identified Service.
- b.) That the Identified Service is not contributing I/I to the City's sanitary sewer service.
- c.) That the Identified Service is no longer contributing I/I to the City's sanitary sewer system due to removal of a direct connection thereto.

2.) Testing process under Section 1(b) above

Any appellant appealing based on the grounds for appeal set forth in Section 1(b) above, shall, at the time of filing his or her appeal, elect to proceed under one of the two testing procedures set forth in Section 3 below and shall have paid the appropriate fee. The two testing methods from which appellant may select shall be as follows:

- a.) Wet Weather Simulation Test as provided for in Section 4 below.
- b.) Lateral Air Test as provided for in Section 5 below.

3.) Appeals Testing Process

The following process shall be followed where an appellant chooses one of the Testing Processes specified in Section 2 above:

- a.) Upon receipt of such an appeal, the DPUC shall cause a copy of said appeal to be sent to the Director.
- b.) As soon thereafter as is reasonably practical, subject to work schedules, available staff and resources, weather conditions, soil conditions, and other practical limitations as determined by the Director, the Director shall cause to be effectuated the Testing Process chose by the Appellant.
- c.) If the Wet Weather Simulation Test as described in Section 4 below is chosen by the Owner, the Director shall make reasonable efforts to notify the Owner of the property served by the Identified Service in advance of the date and time of the Test.
- d.) After completion of any testing procedure, the City staff person on site will attempt to contact the appellant to verify whether they still wish to continue their appeal.
- e.) If the appeal is to be continued, a copy of the test results will be forwarded to the DPUC, an appeal date will be scheduled and notice of the date, time and place where the appeal will be heard will be mailed to the appellant at least ten (10) days prior to the date of the hearing.
- f.) At the hearing the Department shall present evidence supporting the Director's determination and the Appellant may present such evidence as it is relevant to the grounds for his or her appeal. If the DPUC determines that the Identified Service is contributing I/I to the City's sanitary sewer system, the Owner's appeal shall be denied and the City may proceed with the process established by ordinance and these Guidelines; the Owner will remain eligible for a grant under this Program. If the DPUC determines that the Identified Service is not contributing I/I to the City's sanitary sewer system as defined herein, the City shall return the appeals fee, the Notice shall be withdrawn, the service in question shall no longer be deemed to be an Identified Service and Owner shall have no further obligation to repair, replace or reline the previously Identified Service unless and until subsequent testing of said lateral line reveals a change in the condition of such line.

4.) Wet Weather Simulation Test Process:

The Director shall cause to be implemented a simulated wet weather incident by introducing water on the surface of the property served by the Identified Service above the Identified Service while making a video recording by means of CCTV of the flow discharging from Identified Service.

- a.) The Utility Resources Specialist (hereinafter referred to as "URS") assigned to the project will obtain the customer file and review the original CCTV video (if this is determined to be a re-televising of the Owner's private sewer line.)
- b.) In either the Appeal or volunteer instance, the URS will contact the Owner and:
 1. Explain the process to them
 2. Obtain their permission to enter their property
 3. Schedule the process so that the Owner can be available to view the process (if they so choose)
- c.) On the day of the appointment the URS will act as the jobsite lead worker. They will always be the "primary contact" with the Owner.
- d.) The URS will inform the Owner of the presence of the CCTV crew and explain the process again. They will let the Owner know that they are invited to review the actual video recording of their sewer line if they so desire.
- e.) The "crew" will consist of the following and be billed for 2 hours of service:
 1. One hydraulic rodder and 2 operators
 2. One CCTV Truck and 1 operator
 3. One URS
 4. One Administrative support
 - Hydraulic rodder is a combination catch basin sewer cleaning machine that has a water tank for clean water used to clean pipes and to flood simulate.
- f.) Once the crew is onsite and the Owner has been alerted, the follow process will be followed:
 1. CCTV operator will place the camera in the Wastewater Collection and Transmission System (hereinafter referred to as the "WCTS") and locate the Owner's sewer line before the water is turned on to observe the service line in a normal condition.
 - (a) The upstream manhole should be accessed if at all possible
 - (b) The operator must make sure that the cable footage is zeroed out to ten-foot mark (tape on cable must be in the center of the manhole)
 - (c) The operator must ensure that the date sequence on the film is correct.
 2. The crew operating the hydraulic rodder will place the "soaker hose" over the Owner's sewer line. The hose shall be placed no closer than 4 to 5 feet from the building foundation.
 3. Once the URS has confirmed the above, they will authorize the simulation process to begin and let the Owner know that they have started the process.
 4. The video recording sequence must be:
 - (1) Dry video (prior to soaking):
 - (a) From several feet above the Wye
 - (b) Pointing into the Wye
 - (c) To a point clearly below the Wye
 - (2) Wet video:
 - (a) From several feet above the Wye
 - (b) Pointing into the Wye
 - (c) To a point clearly below the Wye
 5. Soaking will consist of a maximum of thirty (30) gallons of water for each lineal foot of the Identified Service run through a modified 2 1/2" fire hose with holes drilled into it (soaker hose) over a period of 1 hour or until the flow of clear water appears and continues flowing from the service connection. The URS will monitor this operation and determine when to cease the flood simulation.
 6. Once the URS has confirmed clear water flow present, the CCTV operator will make sure that they have 2 to 3 minutes of video clearly showing the flow.

7. Upon completion of the video recording process and prior to leaving the site (should the Owner not have chosen to watch the process), the URS will attempt to make contact with the Owner in person and inform them of the results of the process. If unable to make contact with the Owner in person, the URS will either call the Owner or send a letter with the results.

5.) Lateral Air test

- a.) When an Appellant has filed an appeal and has requested that his or her lateral line be tested by means of a Lateral Air Test as authorized in Section 2(b) above the Appellant shall hire and pay for a plumber licensed as such by the State of Minnesota who has the professional skill, knowledge and equipment to perform such a test, the identity of which shall be subject to the approval of the Director. The Appellant shall arrange for the performance of the test by said plumber at a time and date acceptable to the Director.
- b.) At the date and time established for the Test, the Appellant or other person acting on behalf of Appellant shall provide access to the structure served by the subject lateral line sufficient to allow the City's personnel to observe the conduct of the air test. If the appellant fails or refuses to make such access available to the City, such Appellant's appeal shall be deemed to be abandoned and the City may proceed to enforce the Notice originally provided.
- c.) The Appellant shall cause an air test to be conducted on the subject lateral line in a manner complying with the requirements for such tests under the Minnesota State Plumbing Code. The entire lateral line from the point where such line commences under the foundation of the subject structure to the wye-connection to the City's main shall be tested.
- d.) If necessary to the conduct of the Lateral Air Test and not previously done, the Department will make a grant available to Appellant to assist in the removal of an existing house trap in Appellant's structure under the City's I/I Grant Program Guidelines.
- e.) Upon completion of the air test process and prior to leaving the site (should the Owner not have chosen to watch the process), the City staff person observing the test will attempt to make contact with the Appellant in person and inform them of the results of the process. If unable to make contact with the Owner in person, the staff person will either call the Owner or send a letter with the results.
- f.) If as a result of the Lateral Air Test it is determined that the Appellant's Identified Service is not contributing I/I to the sanitary sewer system, the Department will reimburse the Appellant for the reasonable cost of the Lateral Air Test upon presentation to the Department of documentation of the cost thereof up to an amount of the appeals fee paid by Owner.

V. Grant Program

- 1.) Any Owner desiring to receive a grant under the Program to defray a portion of the cost of the Work shall, with the help of a department URS, complete and execute an "Application for Private Sewer Service Grant Funds Form", which a Form shall be developed for this purpose by the Director. Upon completion and execution of the Form by the Owner, the Owner or the URS shall cause the Form to be transmitted to the Director for his or her approval.
- 2.) The above form shall contain at least the following information:
 - a.) The name and address of the Owner.
 - b.) The address of the property served by the Identified Service.
 - c.) A description of the Work to be performed with regard to the Identified Service.
- 3.) To be eligible for a grant under the Program, footing and foundation drains on the property served by the Identified Service shall have been previously disconnected from the City's sanitary sewer system and a sump pump shall have been installed if necessary or Owner shall commit to the completion of such disconnection and sump pump installation at the same time as the Work is performed. Provided, however, that such disconnection work and sump pump installation shall not be part of the Work under the Program and shall not be available for grant fund reimbursement under the Program.

- 4.) Upon receipt of the form complying with the requirements of the Program and subject to available funds for the Program, the Director may approve the Form and approving funding of a grant as herein provided for the Work on the Identified Service. Notice of such approval shall be sent to the Owner in the same manner as the Notice.
- 5.) Upon receipt of approval of grant funding for the Work from the Director, the Owner may thereafter contract for the construction of the Work.
- 6.) Upon completion of the Work in accordance with the requirements of Article VI below, the Owner, with the assistance of a Department URS, will complete and execute "Private Sewer Service Payment Form", which, together with such documentation as the Director shall reasonable require, shall be sent to the Director at the address specified on the Payment Form.
- 7.) Upon approval by the Director of the payment Form of the Work and of the required documentation, the Director will cause a disbursement of grant proceeds to be made to the Owner, subject to available funding and to the limitations of Section 8 below. Provided, however, that in the event that the documentation does not establish that contractors performing the Work have been paid, grant fund payment may be made jointly to the Owner and to such contractors.
- 8.) The amount of the grant available under the Program with regard to the Work related to any single Identified Service shall be equal to eighty (80%) of the out-of-pocket costs to the Owner of constructing the Work as approved pursuant to Section 3 of this Article above, up to a maximum grant amount of Four Thousand Dollars (\$4,000).
- 9.) Only costs related to performance of the Work will be eligible for grant funds reimbursement.

VI. Performance of the Work

- 1.) The Owner shall be responsible for securing or for having secured by Owner's contractor all permits required under the Minnesota State Building Code and ancillary codes adopted by reference and any other required permits and for paying the costs thereof. The cost of such permits shall be the responsibility of the Owner but shall constitute an eligible cost of the Work for the purposes of the grant.
- 2.) The Owner shall be responsible for having the Work performed by a licensed contractor within the time parameters set forth in the order and for paying the contractor or contractors performing the Work for the costs thereof. The cost of performing the Work shall be the responsibility of the Owner but shall constitute and eligible cost of the Work for the purposes of the grant.
- 3.) The Owner and his or her contractor shall be responsible for securing and having performed all inspections necessary to insure that the Work has been performed in accordance with the requirements of the Notice, of the plans for the work and in conformance with the Minnesota State Building Code and ancillary codes adopted by reference. The cost of such inspections shall be the responsibility of the Owner but shall constitute an eligible cost of the Work for the purposes of the grant. Failure to secure and have performed all such inspections shall be grounds for denying reimbursement under the Program. In addition, the costs, if any, incurred to inspect any work which is covered or obscured prior to the performance of any required inspection shall not be eligible for reimbursement under the Program.

VII. Failure to Complete Work-Surcharge.

- 1.) If any Owner fails to complete the Work within Ninety (90) days of transmission of the Notice as provided for in Article III Section 1 above, a surcharge for noncompliance as provided for in City Ordinance Section 43012.1 shall be imposed on the Owner as provided for therein.

- 2.) Notwithstanding the provisions of Section 1 above, the Director in the exercise of his or her discretion, upon a finding of special circumstances or good cause not attributable to the Owner, may authorize an extension of time to perform the Work; provided that the written finds of fact setting forth the nature and character of the applicable special conditions or good cause shall be prepared and kept on file in the office of the Director for so long as the Work has not been performed and the extension is in effect.

VIII. Voluntary Participation

- 1.) Any Owner that believe that their Service is contributing I/I to the City's sanitary sewer system who wishes to participate in the program and is willing pay any unreimbursed costs and to otherwise abide by the terms of the Program may prepare and execute a "Voluntary Participation Form" on a form approved by the Director.
- 2.) The Voluntary Participation Form shall contain at least the following:
 - a.) The name and address of the Owner.
 - b.) The name and address of any additional addressee, if any.
 - c.) The address of the property served by the Identified Service.
 - d.) Owner's agreement to participate in the program and to be bound by the terms thereof, including agreement that Program grant funds will only be available if the subject Service is found to be contributing I/I to the City's sanitary sewer system and that Owner's ability to participate in the Program will be subject to the approval of the Director.
- 3.) Upon receipt of a Voluntary Participation Form, the Director may cause the subject Service to be evaluated in the manner provided for in Article II above, subject to his or her determination of allocation of available evaluation resources. Such evaluation shall be made by the City at no cost to the Owner except as provided for in Section 4 below.
- 4.) Upon a determination by the Director that the subject Service is contributing I/I to the City's sanitary sewer system, subject to available resources, the Director may designate the subject Service to be an Identified Service and upon such designation, said Service and the Owner thereof shall be subject to the terms and condition of these Guidelines except as follows:
 - a.) The amount of the grant available to the Owner who is a Voluntary Participant shall be reduced to an amount not to exceed two thousand dollars (\$2,000).