



STAFF REPORT

DATE: July 16, 2019

REGULAR

AGENDA ITEM: Adopt Ordinance 08-225 Amending the Stormwater Management Utility to Establish Storm Water Area Districts

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Kristina Handt, City Administrator
Sarah Sonsalla, City Attorney
Ken Roberts, Planning Director
Chad Isakson, Assistant City Engineer

ISSUE BEFORE COUNCIL: Should the City Council adopt Ordinance 08-225 Amending Chapter 53 Stormwater Management Utility to establish the Downtown Regional Stormwater District and Regional Infiltration Storm Water District?

BACKGROUND: In 2015 the City of Lake Elmo, in partnership with Washington County, constructed a regional infiltration facility as part of the Old Village reconstruction projects. The facility was constructed downstream of the Union Pacific railroad and west of the Easton Village subdivision. The regional basin was constructed with excess capacity to provide stormwater rate and volume control for future redevelopment within the Downtown Regional Stormwater District as shown on Figure 1. The regional basin also was constructed with excess volume control capacity for future development and redevelopment occurring within the Downs Lake subwatershed. The City cost share for the regional drainage improvements were \$2,826,470 of which \$1,154,190 consisted of land acquisition.

On April 16, 2019, the City Council approved a Memorandum of Understanding with the Valley Branch Watershed District to regulate the use of the excess stormwater rate and volume capacity of the Downtown Regional Infiltration Facility. In addition, the Council established a Downtown Regional Stormwater District Connection Charge and a Regional Infiltration Basin Volume Control Use Charge for the use of this excess capacity.

PROPOSAL DETAILS/ANALYSIS: To implement and formalize these decisions the City must amend its Stormwater Utility Ordinance to provide for the establishment of storm water area districts. Therefore, staff has prepared Ordinance No. 08-225 an Ordinance amending the Lake Elmo City Code of Ordinances by amending Chapter 53 to add a new Section 53.10. The amendments provide the following provisions:

1. Establishment of storm water area districts, allowing the City to establish various storm water districts throughout the City as deemed appropriate and necessary;
2. Determination of benefit to all properties that would reside within and benefit from the establishment of a storm water district;
3. Establishment of connection charges and volume control use charges for use of storm water facilities within storm water area districts;
4. Establishment of the Downtown Regional Storm Water District and connection charge for the area described in Figure 1 attached.
5. Establishment of the Regional Infiltration Basin Storm Water District and volume control use charge for the area described in Figure 2 attached.

This ordinance amendment establishes both the “Downtown Regional Storm Water District connection charge” and the “Regional Infiltration Basin Storm Water District volume control use charge”, to be an amount as set forth in the City’s fee schedule. This allows the City to more easily evaluate and amend the fee amounts from time to time as part of the City’s Fee Schedule revisions. At the April 16, 2019, meeting the Council approved the following fee amounts as recommended by staff. Therefore, these fees will be added to the City Fee Schedule and brought forward for City Council approval at a future meeting.

1. Downtown Regional Stormwater District Connection Charge. \$1.40 per square foot of total site area.

This charge would be limited to properties located within the Downtown Regional Stormwater District shown on Figure 1 consisting of 46.5 acres. By submitting and receiving a VBWD permit and paying this connection charge the property would be allowed to capture its storm water and discharge it directly to the City’s existing storm sewer system that discharges to the regional infiltration basin. No additional on-site storm water BMPs would be required on these properties to achieve rate and volume control permitting requirements. This strategy results in the property retaining full use of its property for development.

2. Regional Infiltration Basin Volume Control Use Charge. \$0.70 per square foot of total site area.

This charge would be limited to properties located within the Downs Lake subwatershed shown on Figure 2 *and* within the City of Lake Elmo. By submitting and receiving a VBWD permit and paying this connection charge, the property would receive credit toward meeting the volume control requirements for the VBWD permit. The project, however would not be allowed to connect to the City storm sewer system and would not be allowed to discharge to the regional infiltration basin. It is likely that projects on these properties would require additional on-site storm water management BMPs to address rate control.

FISCAL IMPACT: Through the establishment of the Downtown Regional Stormwater District Connection Charge and the Regional Infiltration Basin Volume Control Use Charge, the City may begin to recapture part of the City’s \$2,826,470 in costs related to the design and construction of the regional infiltration basin constructed downstream of the Union Pacific railroad and west of the Easton Village subdivision. In addition, as future redevelopment and new development projects take advantage of the excess capacity within the regional infiltration basin, those properties will result in higher use of their property and therefore increased land values.

RECOMMENDATION: Staff is recommending that the City Council adopt an Ordinance amending the Lake Elmo City Code of Ordinances by amending Chapter 53 to add a new Section 53.10 regarding Storm Water Area Districts. The recommended motion for this action is as follows:

“Move to adopt Ordinance 08-225 amending the Lake Elmo City Code of Ordinances by amending Chapter 53 to add a new Section 53.10 regarding Storm Water Area Districts and adopt Resolution 2019-051 authorizing summary publication.”

ATTACHMENTS:

1. Ordinance No. 08-225 an Ordinance amending the Lake Elmo City Code of Ordinances by amending Chapter 53 to add a new Section 53.10 regarding Storm Water Area Districts.
2. Resolution No. 2019-051 – Resolution Authorizing Publication of Ordinance 08-225
3. Notice of Proposed Ordinance Amendment.
4. Figure 1. Downtown Regional Storm Water District Map.
5. Figure 2. Regional Infiltration Basin Storm Water District Map.

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

ORDINANCE NO. 08-225

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
AMENDING CHAPTER 53 TO ADD A NEW SECTION 53.10 REGARDING STORM
WATER AREA DISTRICTS**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title V, Chapter 53, Storm Water Management Utility, by adding a new Section 53.10 as follows:

§ 53.10 STORM WATER AREA DISTRICTS.

(A) *Establishment of storm water area districts.* The City may create storm water area districts throughout the City, in which districts the City will require payment for the use of the City's storm drainage facilities, either through the connection and discharge to the City's storm drainage facilities or the receipt of volume control credits. Payments are required to assist in paying the costs of the establishment, construction, reconstruction, repair, replacement, enlargement, and improvement of the City's storm water and surface water drainage system. It is determined by the City Council that charges in accordance with the rates provided in the City's fee schedule shall be paid for every lot, parcel, or piece of land that connects to, or receives volume control credits from the use of the City's storm water and surface water drainage system in any storm water area district which the City may establish in the future.

(B) *Benefit.* It has been determined by the City Council that the City's storm water and surface water drainage systems benefit all properties located within the City's storm water area districts by providing for the conveyance, storage, treatment, and drainage of storm water, which protects the residents and property in the City. Charges against all real property in the City's storm water area districts will be calculated by the City to reasonably represent the benefit the City's storm water and surface water drainage system provides to the property in the particular storm water area district. The City Council determines that such benefit is in addition to any previous assessment or charge for construction of any storm water interceptor, trunk, or sub-trunk, and does not include any other fee or charge for service or availability, any amount paid for any permit fee, charges paid for inspection of connection pursuant to any other ordinance of the City or any other governmental agency or entity.

(C) *Connection and volume control use charges.* The applicable storm water and surface water system connection charge or volume control use charge shall be imposed by the City upon those parcels or land located within the boundaries of any applicable storm water area district. No City approvals, including, but not limited to, building permits or other development permits or approvals shall be issued, or any permits or approvals granted, within the established storm water area district, except upon payment of such storm water and surface water system connection or volume control use charges to the City. At the time a City approval such as a building permit or development permit or approval is required, the storm water and surface water system connection

or volume control use charge shall be computed by the City. Payment of the connection or volume control use charge shall be required at the time the permit is issued or approval granted.

(D) *Establishment of the Downtown Regional Storm Water District and connection charges.* The Downtown Regional Storm Water District is hereby established, and shall encompass that area of land and those lots, parcels, and pieces of property within the City, that are more particularly described and depicted on the City's "Downtown Regional Storm Water District Map" which is on file with the City Clerk. This map and all notations, references, and data thereon are hereby incorporated by reference into this Section and shall have the same force and effect as if fully set forth and described within this Section. The amount of the Downtown Regional Storm Water District connection charge is set forth in the City's fee schedule.

(E) *Establishment of the Regional Infiltration Basin Storm Water District and volume control use charge.* The Regional Infiltration Basin Storm Water District is hereby established, and shall encompass that area of land and those lots, parcels, and pieces of property within the City, that are within the Downs Lake Subwatershed as defined by the Valley Branch Watershed District. The purpose of this charge is to allow properties within the Regional Infiltration Basin Storm Water District to pay a use charge in order to receive a credit toward meeting the volume control requirements for the property's Valley Branch Watershed District permit. The property is not allowed to connect to and discharge storm water to the City's regional infiltration basin. The amount of the Regional Infiltration Basin volume control use charge is set forth in the City's fee schedule. If or when the volume control capacity is depleted at the regional infiltration basin, storm water management must be provided elsewhere by the property owner.

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 08-225 was adopted on this _____ day of _____ 2019, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-____ was published on the ____ day of _____, 2019.

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

RESOLUTION NO. 2019-051

RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-225

WHEREAS, the Lake Elmo City Council has adopted Ordinance No. 08-225, an ordinance amending Chapter 53 Storm Water Management Utility to establish stormwater area districts

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-225 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-225 that establishes a Downtown Regional Storm Water District and connection charge, and a Regional Infiltration Basin Storm Water District and volume control use charge. The Downtown Storm Water District establishment will enable properties to utilize the existing City infrastructure that currently has excess capacity available to meet City and watershed permitting requirements instead of constructing new infrastructure for their projects.

The following is a summary of the adopted ordinance language:

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title V, Chapter 53, Storm Water Management Utility, by adding a new Section 53.10 as follows:

§ 53.10 STORMWATER AREA DISTRICTS.

Establishes a Downtown Regional Storm Water District and connection charge, and a Regional Infiltration Basin Storm Water District and volume control use charge.

The full text of Ordinance No. 08-225 is available for inspection at Lake Elmo City Offices during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: July 16, 2019

Mayor Mike Pearson

ATTEST:

Julie Johnson, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

_____ and upon vote being taken thereon, the following voted in favor thereof:

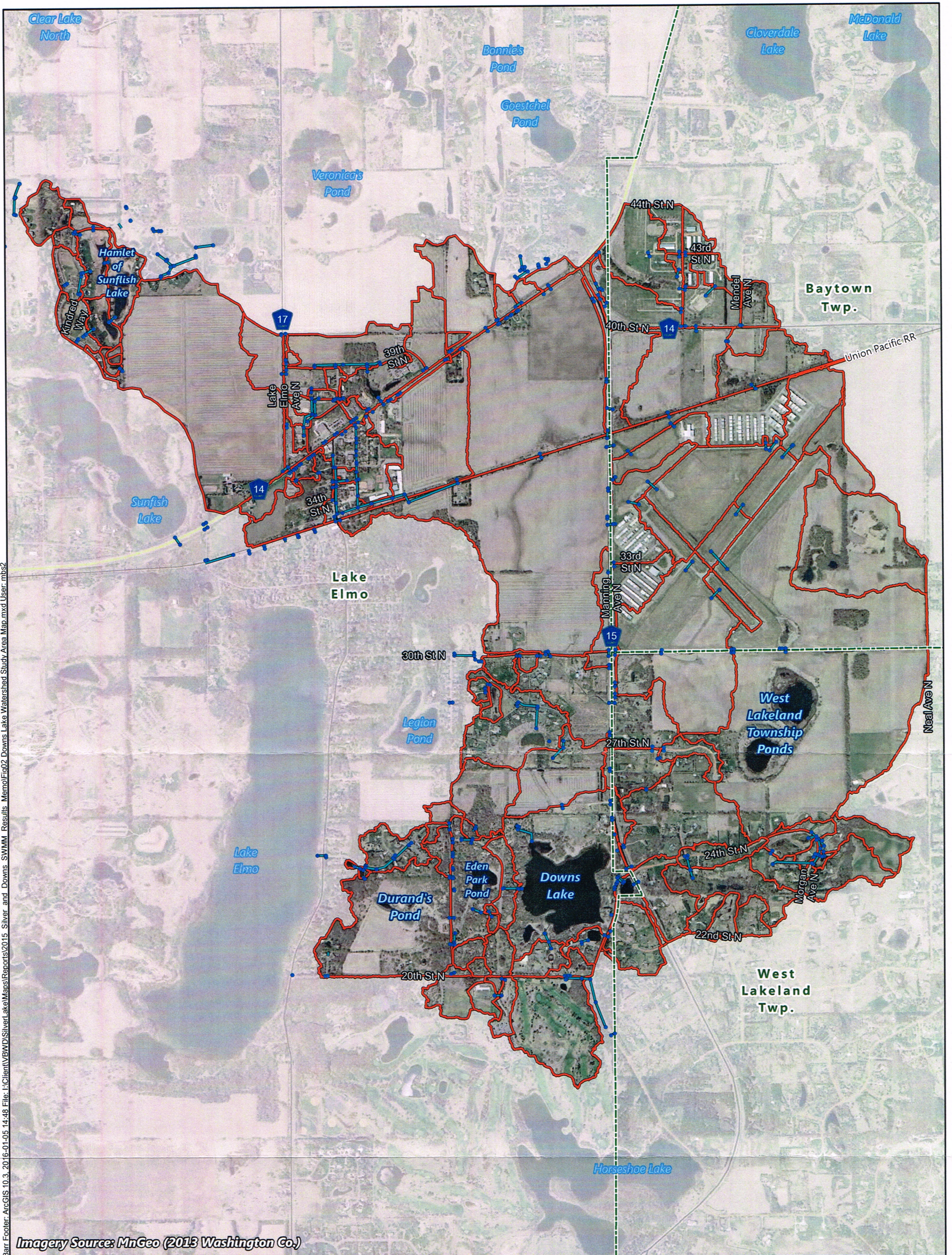
and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.



**STORMWATER MANAGEMENT UTILITY AMENDMENTS
TO ESTABLISH DOWNTOWN REGIONAL STORMWATER DISTRICT**

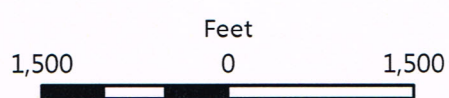
At the July 16 council meeting, the City of Lake Elmo will consider amendments to Chapter 53 Storm Water Management Utility ordinance to establish a Downtown Regional Storm Water District and connection charge, and a Regional Infiltration Basin Storm Water District and volume control use charge. The Downtown Storm Water District establishment will enable properties to utilize the existing City infrastructure that currently has excess capacity available to meet City and watershed permitting requirements instead of constructing new infrastructure for their projects.



Barr Footer: ArcGIS 10.3, 2016-01-05 14:48 File: I:\Client\BWD\SilverLake\Map\Reports\2015 Silver and Downs SWMM Results Memo\Fig02 Downs Lake Watershed Study Area Map.mxd User: mbsz

Imagery Source: MnGeo (2013 Washington Co.)

- Manhole / Catch Basin
- Storm Sewer Pipe
- Subwatershed Divide
- City Boundary



1 inch = 1,500 feet

Figure 2

STUDY AREA MAP
Downs Lake Watershed
 XP-SWMM Modeling
 Valley Branch Watershed District

REGIONAL INFILTRATION BASIN STORM WATER DISTRICT MAP
 Service Areas Eligible for Regional Infiltration Basin volume control use charge