

City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, Minnesota

September 21, 2010

7:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: ___ Johnston ___ DeLapp ___ Emmons, ___ Park ___ Smith
- D. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)
- E. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)
- F. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)
- G. APPROVE MINUTES:
 - 1. Approval of the September 7, 2010 City Council minutes
- H. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.
- I. CONSENT AGENDA: (Items are placed on the consent agenda by City staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)
 - 2. Approve payment of disbursements and payroll
 - 3. 2010 Street & Water Quality Improvements Change Order #2
- J. REGULAR AGENDA:
 - 4. VARIANCE: allow construction of a septic system up to 10 ft into the right-of-way; 9051 Jane Road N.; Resolution No. 2010-046
 - 5. Consideration of a Conditional Use Permit application to allow an open sales lot for Cranky Ape at 9200 Hudson Blvd.; Resolution No. 2010-047
 - 6. 2009 and 2010 Street Improvement Rain Garden Project – Accepting the quotes and awarding the contract
 - 7. 2011 Street and Water Quality Improvements – Authorization of Preparation of Feasibility Report

8. 2011 Municipal State Aid Street Improvements – authorization of preparation of Feasibility Report
9. I-94 – 30th Street Trunk Sewer Improvement – Authorization to negotiate easement acquisition for Lift Station site #3
10. Subsurface Sewage Treatment (SSTS); Resolution No. 2010-048, Ordinance No. 08-029

K. REPORTS AND ANNOUNCEMENTS:

(These are verbal updates and do not have to be formally added to the agenda.)

- Mayor and City Council
- Administrator
- City Engineer
- Planning Director

L. Adjourn

****A social gathering may or may not be held at the Lake Elmo Inn following the meeting.****

City of Lake Elmo
City Council Minutes

September 7, 2010

Mayor Johnston called the meeting to order at 7:00 p.m.

PRESENT: Mayor Johnston and Council Members DeLapp, Emmons, Park and Smith

Also Present: Administrator Messelt, City Engineer Griffin, Attorney Snyder, Finance Director Bouthilet and City Clerk Lumby

APPROVAL OF AGENDA:

MOTION: Council Member Smith moved to approve the September 7, 2010 City Council agenda as amended. (Adding #9 Fall Festival Transition). Council Member Park seconded the motion. The motion passed 5-0.

APPROVED MINUTES:

The August 17, 2010 City Council minutes are approved by consensus.

NEW BUSINESSES:

The City Council welcomed Lake Elmo Wine Co, 3511 Lake Elmo Ave. N and Foth Infrastructure & Environment, LLC, Eagle Point II, 8550 Hudson Blvd N.

PUBLIC COMMENTS/INQUIRIES:

Jim Martin introduced himself as a candidate running for State Representative for 56A.

CONSENT AGENDA:

MOTION: Council Member Smith moved to approve the Consent Agenda. Council Member Park seconded the motion. The motion passed 5-0.

- Approve payment of disbursements and payroll in the amount of \$406,817.66
- Approve Change Order No. 1, T.A. Schifsky and Sons, in the amount of \$8,805.00 for the 2010 Street and Water Quality Improvements Project
- Approve Partial Payment No. 1, T.A. Schifsky and Sons, in the amount of \$188,676.76, to be paid from the Project Fund, for the 2010 Street and Water Quality Improvements project
- Approve Resolution No. 2010-042 continuing the current stay on Enforcement of Certain Agricultural Sales Business Activities
- Approve Resolution No. 2010-043 approving the issuance of General Obligation Bond Series 2010A in the amount not to exceed \$710,000

REGULAR AGENDA:

2011 Proposed General Levy and Annual Budget

The Budget and Finance Sub-committee evaluated several options before focusing on three specific scenarios. The Sub-committee recommended affirmative Council consideration of Scenario C, which presents a fiscally austere budget with only a marginal increase in the overall tax rate, due to efforts to recoup lost local government aid from the State of Minnesota increasing debt service for continuation of the City's street reconstruction program, and a decline in overall taxable market value by approximately 5%.

City staff presented the proposed Preliminary General Levy and Budget scenarios.

Total General Fund Levy	\$ 2,409,867
Total G.O. Debt Levy	\$ 304,656
2010 MVHC Unallotment Levy	\$ 37,518
2011 MVHC Unallotment Levy	\$ 37,518
Total Levy	\$ 2,789,559

MOTION: Council Member Smith moved to approve Resolution No. 2010-044 adopting the preliminary 2011 General Levy and Annual Budget (Scenario C). Council Member Park seconded the motion. The motion passed 5-0.

Set Hearing Date for Budget and Levy Discussion

The City Council was asked to consider setting the Truth in Taxation public meeting, as required by State law.

MOTION: Council Member DeLapp moved to approve Resolution No. 2010-045 setting December 7, 2010 at 7:00 p.m. for the Budget and Levy discussion and time set aside to allow the public to speak. Council Member Emmons seconded the motion. The motion passed 5-0.

Fall Festival Transition

Council Member DeLapp asked if the Fall Festival Committee could put together an informational packet for the Lake Elmo Rotary since this organization will be taking the Fall Festival over. Council Member Smith responded the Fall Festival Committee is comprised of 5 members and they will be partnering with the Lake Elmo Rotary to make this an easier process. The City Administrator will co-ordinate event documentation and review funding regulations.

The Council adjourned the meeting at 8:45 p.m.

Respectfully submitted by Sharon Lumby, City Clerk



MAYOR & COUNCIL COMMUNICATION

DATE: 9/21/2010
CONSENT
ITEM #: 2
MOTION *as part of Consent Agenda*

AGENDA ITEM: Approve Disbursements and Payroll in the Amount of \$ 178,203.61

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: City Staff

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements and payroll in the amount of \$ 178,203.61. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION: The City of Lake Elmo has fiduciary authority and responsibility to conduct normal business operation. Below is a summary of current claims to be disbursed and payroll to be paid in accordance with State law and City policies and procedures.

Claim #	Amount	Description
ACH	\$ 7,712.95	Payroll Taxes to IRS 09/09/2010
ACH	\$ 1,141.45	Payroll Taxes to MN Dept. of Revenue 09/09/2010
ACH	\$ 3,708.20	Payroll Retirement to PERA 09/09/2010
DD 2959 -DD 2999	\$ 25,036.26	Payroll Dated 09/09/2010 (Direct Deposit)
33071 - 36080	\$ 14,036.26	Payroll Dated 09/09/2010 (Payroll)
36081 - 36134	\$ 125,967.61	Accounts Payable Dated 09/21/2010
TOTAL	\$ 178,203.61	

STAFF REPORT: City staff has complied and reviewed the attached set of claims. All appears to be in order and consistent with City budgetary and fiscal policies and Council direction

RECOMMENDATION: It is recommended that the City Council approve as part of the Consent Agenda proposed disbursements in the amount of \$ 178,203.61.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda or a particular claim from this item and further discuss and deliberate prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**“Move to approve the September 21st, 2010 Disbursement and Payroll, as
Presented *[and modified]* herein.”**

ATTACHMENTS:

1. Accounts Payable Dated 09/16/2010

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

Accounts Payable To Be Paid Proof List

User: Administrator

Printed: 09/16/2010 - 11:14 AM

Batch: 002-09-2010

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ABRAHAMSON Nurseries										
20788	08/31/2010	1,657.21	0.00	09/21/2010	Landscaping - City Hall		-	No		0000
411-480-8000-45200 Buildings and Structures										
20788 Total:		1,657.21								
ABRAHAMSON Total:		1,657.21								
ALERTALL Alert-All Corp										
210080629	09/07/2010	2,219.34	0.00	09/21/2010	Re stock fire prevention Supplies		-	No		0000
101-420-2220-42090 Fire Prevention										
210080629 Total:		2,219.34								
ALERTALL Total:		2,219.34								
ALEXAIR Alex Air Apparatus, Inc										
18561	09/02/2010	2,227.52	0.00	09/21/2010	Annual Maintenance/inspections on SCBA's		-	No		0000
101-420-2220-44040 Repairs/Maint Eqpt										
18561 Total:		2,227.52								
ALEXAIR Total:		2,227.52								
ALPHAVID Alpha Video & Audio Inc.										
SVCIN11820	08/31/2010	2,932.33	0.00	09/21/2010	Repair Cameras & Video Production Equip		-	No		0000
101-410-1320-44300 Miscellaneous										
SVCIN11820 Total:		2,932.33								
ALPHAVID Total:		2,932.33								
AMERICAN American Eng and Testing, Inc.										
48680	08/31/2010	6,884.43	0.00	09/21/2010	Geotechnical Services Keats Ave		-	No		0000
409-480-8000-43030 Engineering Services										
48680 Total:		6,884.43								
AMERICAN Total:		6,884.43								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ARAM Aramark, Inc.										
629-7031997	09/13/2010	59.73	0.00	09/21/2010	Monthly Rug Service - Station #2		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-7031997 Total:	59.73								
629-7031999	09/13/2010	57.37	0.00	09/21/2010	Monthly Rug Service - Station #1		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-7031999 Total:	57.37								
629-7067367	09/02/2010	22.97	0.00	09/21/2010	Uniforms		-		No	0000
101-430-3100-44170	Uniforms									
	629-7067367 Total:	22.97								
629-7069181	09/06/2010	65.71	0.00	09/21/2010	Monthly Rug service - Station #2		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-7069181 Total:	65.71								
629-7069182	09/06/2010	100.90	0.00	09/21/2010	Linen City Hall		-		No	0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-7069182 Total:	100.90								
629-7069183	09/06/2010	63.11	0.00	09/21/2010	Monthly Rug service - Station #1		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-7069183 Total:	63.11								
629-7072037	09/09/2010	22.97	0.00	09/21/2010	Uniforms		-		No	0000
101-430-3100-44170	Uniforms									
	629-7072037 Total:	22.97								
629-7074689	09/13/2010	46.68	0.00	09/21/2010	Linen City Hall - Annex		-		No	0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-7074689 Total:	46.68								
	ARAM Total:	439.44								
BUBERL Buberl Recycling & Compost Inc										
13055	09/07/2010	160.31	0.00	09/21/2010	City Hall		-		No	0000
411-480-8000-45200	Buildings and Structures									
	13055 Total:	160.31								
	BUBERL Total:	160.31								
CARQUEST Car Quest Auto Parts										
2055-199848	08/31/2010	17.97	0.00	09/21/2010	Shop Supplies		-		No	0000
101-430-3120-42210	Equipment Parts									
2055-199848	08/31/2010	33.89	0.00	09/21/2010	00-2 tune up parts		-		No	0000
101-430-3120-42120	Fuel, Oil and Fluids									
	2055-199848 Total:	51.86								
	CARQUEST Total:	51.86								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
CENWOOD CENTRAL WOOD PRODUCTS										
13054	08/26/2010	500.00	0.00	09/21/2010	Rec Step Cert. Mulch - Carriage Station		-		No	0000
404-480-8000-45300	Improvements Other Than Bldgs									
13054	08/26/2010	271.30	0.00	09/21/2010	Mulch - City Hall		-		No	0000
411-480-8000-45200	Buildings and Structures									
	13054 Total:	771.30								
	CENWOOD Total:	771.30								
COMCAST COMCAST										
08/27/2010	08/27/2010	15.78	0.00	09/21/2010	Monthly Service		-		No	0000
101-420-2220-44300	Miscellaneous									
	08/27/2010 Total:	15.78								
	COMCAST Total:	15.78								
COMPENSA Compensation Consultants, Ltd										
08/30/2010	08/30/2010	40.00	0.00	09/21/2010	Monthly Admin Fee - September 2010		-		No	0000
101-410-1320-44300	Miscellaneous									
	08/30/2010 Total:	40.00								
	COMPENSA Total:	40.00								
CTYBLOOM City of Bloomington										
August 2010	08/31/2010	50.00	0.00	09/21/2010	Lab Bacteria Tests		-		No	0000
601-494-9400-42270	Utility System Maintenance									
	August 2010 Total:	50.00								
	CTYBLOOM Total:	50.00								
CTYOAKDA City of Oakdale										
10000460-01	09/30/2010	14,937.26	0.00	09/21/2010	Water Service I-94		-		No	0000
601-494-9400-43820	Water Utility									
	10000460-01 Total:	14,937.26								
	CTYOAKDA Total:	14,937.26								
CTYROSEV City of Roseville										
0210088	10/01/2010	1,551.58	0.00	09/21/2010	Monthly IT Services - September 2010		-		No	0000
101-410-1450-43180	Information Technology/Web									
	0210088 Total:	1,551.58								
	CTYROSEV Total:	1,551.58								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
ECKBERG Eckberg Lamers Briggs Wolff										
08-2010	08/31/2010	3,844.33	0.00	09/21/2010	Legal Services - Criminal		-	No		0000
101-420-2150-43045	Attorney Criminal									
	08-2010 Total:	3,844.33								
106612	08/31/2010	3,057.00	0.00	09/21/2010	Legal Services - Civil		-	No		0000
101-410-1320-43040	Legal Services									
106612	08/31/2010	227.50	0.00	09/21/2010	Legal Services - Development		-	No		0000
203-490-9070-43040	Legal Services									
	106612 Total:	3,284.50								
	ECKBERG Total:	7,128.83								
ELECTSER Election Systems & Software										
747836	09/15/2010	78.15	0.00	09/21/2010	Election Transfer Cases		-	No		0000
101-410-1410-44300	Miscellaneous									
	747836 Total:	78.15								
	ELECTSER Total:	78.15								
EMERGAPP Emergency Apparatus Maint. INC										
50235, 50236	09/08/2010	710.24	0.00	09/21/2010	Repairs to E2/3183		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
	50235, 50236 Total:	710.24								
	EMERGAPP Total:	710.24								
EMMONS A Emmons Alex										
09/15/2010	09/15/2010	96.25	0.00	09/21/2010	CC wkshp 9/14/10 & PZ Meeting 9/13		-	No		0000
101-410-1450-43620	Cable Operations									
	09/15/2010 Total:	96.25								
	EMMONS A Total:	96.25								
ENVENTIS ENVENTIS										
737500	09/13/2010	452.41	0.00	09/21/2010	Telephone/Data Service - PW Sept 2010		-	No		0000
101-430-3100-43210	Telephone									
	737500 Total:	452.41								
738507	09/13/2010	560.95	0.00	09/21/2010	Telephone/Data Service CH Sept 2010		-	No		0000
101-410-1940-43210	Telephone									
	738507 Total:	560.95								
	ENVENTIS Total:	1,013.36								
FERGUSON Ferguson Waterworks										
So12733233.01	09/08/2010	192.67	0.00	09/21/2010	Water Meter		-	No		0000
601-494-9400-42300	Water Meters & Supplies									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
Sol2733233.01 Total:										
SO1273462.001	09/09/2010	192.67								
601-494-9400-42300	Water Meters & Supplies	823.66	0.00	09/21/2010	Water Meters		-		No	0000
SO1273462.001 Total:										
So1273907.001	09/10/2010	823.66								
601-494-9400-42300	Water Meters & Supplies	5,845.00	0.00	09/21/2010	Installation Labor - Water Meter		-		No	0000
Sol273907.001 Total:										
FERGUSON Total:										
		5,845.00								
		6,861.33								
FRIENDS Friends of Washington County										
09/21/2010	09/21/2010	2,500.00	0.00	09/21/2010	Donation - Landfill Advisory Group		-		No	0000
101-410-1320-44300	Miscellaneous									
09/21/2010 Total:										
FRIENDS Total:										
		2,500.00								
		2,500.00								
HAGBERGS Hagbergs Country Market										
08/14/2010	08/14/2010	1.99	0.00	09/21/2010	Ice		-		No	0000
101-420-2220-44300	Miscellaneous									
08/14/2010 Total:										
09/13/2010	09/13/2010	1.99	0.00	09/21/2010	Primary Election		-		No	0000
101-410-1410-44300	Miscellaneous	16.59								
09/13/2010	09/13/2010	8.88	0.00	09/21/2010	8/10/10		-		No	0000
101-410-1410-44300	Miscellaneous									
09/13/2010 Total:										
HAGBERGS Total:										
		25.47								
		27.46								
HAILPRO Hail Pros										
08/31/2010	09/13/2010	200.75	0.00	09/21/2010	Return of Permit Fee - Not in LE		-		No	0000
Chk Req										
101-420-2400-44300	Miscellaneous									
Chk Req Total:										
		200.75								
HAILPRO Total:										
		200.75								
LEOIL Lake Elmo Oil, Inc.										
08/31/2010	08/31/2010	1,303.65	0.00	09/21/2010	Fuel		-		No	0000
101-420-2220-42120	Fuel, Oil and Fluids									
08/31/2010 Total:										
1155, 11556	08/31/2010	1,303.65								
101-430-3120-42120	Fuel, Oil and Fluids	3,033.09	0.00	09/21/2010	Fuel		-		No	0000
1155, 11556 Total:										
LEOIL Total:										
		3,033.09								
		4,336.74								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
Lillie Newspapers Inc. Lillie Suburban										
09/07/2010	09/07/2010	36.11	0.00	09/21/2010	Publications - Newspaper Noticed		-		No	0000
101-410-1320-43510	Legal Publishing									
	09/07/2010 Total:	36.11								
	Lillie Total:	36.11								
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LOFF Loffler Companies, Inc.										
1159290	09/01/2010	102.26	0.00	09/21/2010	Copy Machines Overage & Base 09/10		-		No	0000
101-410-1940-44040	Repairs/Maint Contractual Eqpt									
	1159290 Total:	102.26								
	LOFF Total:	102.26								
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LTG PWR L.T.G. Power Equipment										
134872	09/08/2010	86.14	0.00	09/21/2010	Toro Belt		-		No	0000
101-450-5200-42210	Equipment Parts									
	134872 Total:	86.14								
	LTG PWR Total:	86.14								
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MARONEYS Maroney's Sanitation, Inc										
354421	09/01/2010	103.66	0.00	09/21/2010	Waste Removal - City Hall		-		No	0000
101-410-1940-43840	Refuse									
354421	09/01/2010	45.62	0.00	09/21/2010	Waste Removal - Fire		-		No	0000
101-420-2220-43840	Refuse									
354421	09/01/2010	198.87	0.00	09/21/2010	Waste Removal - Public Works		-		No	0000
101-430-3100-43840	Refuse									
354421	09/01/2010	198.87	0.00	09/21/2010	Waste Removal - Parks		-		No	0000
101-450-5200-43840	Refuse									
	354421 Total:	547.02								
	MARONEYS Total:	547.02								
<hr/>										
MARVS Marv's Professional Tools										
229049	09/09/2010	61.77	0.00	09/21/2010	Torx Screw Set		-		No	0000
101-430-3100-42400	Small Tools & Minor Equipment									
	229049 Total:	61.77								
	MARVS Total:	61.77								
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MENARDSO Menards - Oakdale										
374	09/09/2010	30.63	0.00	09/21/2010	City Hall Lights/Planter		-		No	0000
411-480-8000-45200	Buildings and Structures									
	374 Total:	30.63								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
433	09/09/2010	17.96	0.00	09/21/2010	City Hall Lights		-		No	0000
411-480-8000-45200	Buildings and Structures									
433	09/09/2010	24.70	0.00	09/21/2010	Banner Ropes - Fall Festival		-		No	0000
204-450-5200-44300	Miscellaneous									
433	09/09/2010	9.91	0.00	09/21/2010	Measure Tapes		-		No	0000
101-430-3100-42150	Shop Materials									
	433 Total:	52.57								
96272	08/26/2010	27.36	0.00	09/21/2010	Vehicle Cleaning supplies		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
	96272 Total:	27.36								
	MENARDSO Total:	110.56								
METCOU Metropolitan Council										
0000940248	10/01/2010	1,374.96	0.00	09/21/2010	Monthly Wastewater Service Oct 2010		-		No	0000
602-495-9450-43820	Sewer Utility - Met Council									
	0000940248 Total:	1,374.96								
	METCOU Total:	1,374.96								
MILLEREX Miller Excavating, Inc.										
15023	09/06/2010	1,158.75	0.00	09/21/2010	Grading Gravel Roads		-		No	0000
101-430-3120-43150	Contract Services									
	15023 Total:	1,158.75								
	MILLEREX Total:	1,158.75								
MN CORP Minnesota Corporate Mechanical										
24-Jun	08/03/2010	311.76	0.00	09/21/2010	Repair A/C Unit in Annex		-		No	0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	24-Jun Total:	311.76								
	MN CORP Total:	311.76								
MN NATIV Minnesota Native Landscapes										
6091	09/01/2010	75.00	0.00	09/21/2010	Consulting - Sunfish lake Park		-		No	0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									
	6091 Total:	75.00								
	MN NATIV Total:	75.00								
NATREPRO National Reprographics, LLC										
68410	09/01/2010	526.52	0.00	09/21/2010	Printing Comp Plan Copies		-		No	0000
101-410-1910-43020	Comprehensive Planning									
	68410 Total:	526.52								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
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	NATREPRO Total:	526.52								
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ONECALL Gopher State One Call										
0080635	08/31/2010	216.05	0.00	09/21/2010	Line Locates - August 2010		-	No		0000
101-430-3100-43150	Contract Services									
	0080635 Total:	216.05								
	ONECALL Total:	216.05								
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PLANTH PLANT HEALTH ASSOCIATES, INC										
1019-10	09/02/2010	1,704.00	0.00	09/21/2010	Forester Services - August 2010		-	No		0000
101-430-3250-43150	Contract Services									
1019-10	09/02/2010	48.00	0.00	09/21/2010	Forester Services Development		-	No		0000
203-490-9070-43150	Contract Services									
	1019-10 Total:	1,752.00								
	PLANTH Total:	1,752.00								
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POMPS Pump's Tire Service, Inc.										
799988	09/08/2010	87.75	0.00	09/21/2010	Roller Trailer Tire		-	No		0000
101-450-5200-42210	Equipment Parts									
	799988 Total:	87.75								
	POMPS Total:	87.75								
<hr/>										
POSTOFF POSTMASTER										
09/08/2010	09/08/2010	500.00	0.00	09/21/2010	Postage for Newsletter		-	No		0000
101-410-1320-43220	Postage									
	09/08/2010 Total:	500.00								
	POSTOFF Total:	500.00								
<hr/>										
REPUBLIC Republican of MN SD56										
09/16/2010	09/16/2010	50.00	0.00	09/21/2010	Refund on Parade Fee		-	No		0000
204-450-5200-44300	Miscellaneous									
	09/16/2010 Total:	50.00								
	REPUBLIC Total:	50.00								
<hr/>										
RICHTMAN Richtman Karen										
09/08/2010	09/08/2010	2,500.00	0.00	09/21/2010	Administrative Duties Jan - June 2010		-	No		0000
101-430-3200-44300	Miscellaneous									
09/08/2010	09/08/2010	921.21	0.00	09/21/2010	Recycling Promotional/Fall Festival Prod		-	No		0000
101-430-3200-42100	Recycling Supplies									
	09/08/2010 Total:	3,421.21								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
RICHTMAN Total:		3,421.21								
RIVRCOOP River Country Cooperative										
08/31/2010	08/31/2010	184.50	0.00	09/21/2010	Fuel		-		No	0000
101-420-2220-42120	Fuel, Oil and Fluids	184.50								
08/31/2010 Total:		184.50								
RIVRCOOP Total:		184.50								
ROGERS Rogers Printing Services, Corp										
17339	09/02/2010	72.68	0.00	09/21/2010	Business Cards - M. Bouthilet PW		-		No	0000
101-430-3100-42000	Office Supplies	72.68								
17339 Total:		72.68								
ROGERS Total:		72.68								
RUD Prince-Rud Diane										
09/13/2010	09/13/2010	320.00	0.00	09/21/2010	Cleaning City Hall & Annex		-		No	0000
101-410-1940-44010	Repairs/Maint Contractual Bldg	240.00								
09/13/2010	09/13/2010	560.00	0.00	09/21/2010	Cleaning Fire Hall		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg	560.00								
09/13/2010 Total:		560.00								
RUD Total:		560.00								
S&T S&T Office Products, Inc.										
010E1546	08/31/2010	710.22	0.00	09/21/2010	Office Supplies		-		No	0000
101-410-1320-42000	Office Supplies	710.22								
010E1546 Total:		710.22								
S&T Total:		710.22								
SAMSClub Sam's Club										
2377	09/15/2010	285.32	0.00	09/21/2010	Pig Roast Supplies		-		No	0000
204-450-5200-44300	Miscellaneous	285.32								
2377 Total:		285.32								
SAMSClub Total:		285.32								
TDS TDS METROCOM - LLC										
651-779-8882	09/13/2010	158.30	0.00	09/21/2010	Analog Lines - Fire		-		No	0000
101-420-2220-43210	Telephone	148.96								
651-779-8882	09/13/2010		0.00	09/21/2010	Analog Lines - Public Works		-		No	0000
101-430-3100-43210	Telephone									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
651-779-8882	09/13/2010	104.70	0.00	09/21/2010	Analog Lines - Lift Station Alarms		-			0000
602-495-9450-43210	Telephone									
651-779-8882	09/13/2010	42.21	0.00	09/21/2010	Alarm Well house #2		-			0000
601-494-9400-43210	Telephone									
	651-779-8882 Total:	454.17								
	TDS Total:	454.17								
TKDA TKDA, Inc.										
000201002502	09/15/2010	1,797.83	0.00	09/21/2010	Development - Whistling Valley III		-			0000
203-490-9070-43030	Engineering Services									
	000201002502 Total:	1,797.83								
000201002503	09/15/2010	297.22	0.00	09/21/2010	Lake Elmo Farms		-			0000
203-490-9070-43030	Engineering Services									
	000201002503 Total:	297.22								
000201002504	09/15/2010	410.74	0.00	09/21/2010	Sanctuary		-			0000
203-490-9070-43030	Engineering Services									
	000201002504 Total:	410.74								
000201002505	09/15/2010	296.40	0.00	09/21/2010	1-94 to 30th Street - Village Sanitary		-			0000
413-480-8000-43030	Engineering Services									
	000201002505 Total:	296.40								
000201002506	09/15/2010	138.74	0.00	09/21/2010	Surface Water Management Plan		-			0000
603-496-9500-43030	Engineering Services									
	000201002506 Total:	138.74								
000201002507	09/15/2010	828.61	0.00	09/21/2010	Lake Elmo Area Village Engineering Supp		-			0000
413-480-8000-43030	Engineering Services									
	000201002507 Total:	828.61								
000201002508	09/15/2010	1,358.37	0.00	09/21/2010	2009 Street Improvement - Final Design		-			0000
415-480-8000-43030	Engineering Services									
	000201002508 Total:	1,358.37								
000201002509	09/15/2010	25,034.35	0.00	09/21/2010	Lake Elmo 2010 Street & Water Quality		-			0000
417-480-8000-43030	Engineering Services									
	000201002509 Total:	25,034.35								
000201002510	09/15/2010	4,245.98	0.00	09/21/2010	General Engineering -		-			0000
101-410-1930-43030	Engineering Services									
	000201002510 Total:	4,245.98								
000201002511	09/15/2010	1,047.21	0.00	09/21/2010	General Engineering -		-			0000
101-410-1910-43030	Engineering Services									
	000201002511 Total:	1,047.21								
000201002512	09/15/2010	5,293.19	0.00	09/21/2010	General Engineering - VRA		-			0000
101-420-2400-43030	Engineering									
	000201002512 Total:	5,293.19								
000201002513	09/15/2010	1,322.07	0.00	09/21/2010	General Engineering - VRA		-			0000
101-410-1910-43030	Engineering Services									
	000201002513 Total:	1,322.07								
000201002514	09/15/2010	2,850.45	0.00	09/21/2010	General Engineering - VRA		-			0000
409-480-8000-43030	Engineering Services									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
000201002511	09/15/2010	834.19	0.00	09/21/2010	General Engineering - VRA		-		No	0000
404-480-8000-43030	Engineering Services									
000201002511	09/15/2010	1,768.91	0.00	09/21/2010	General Engineering - VRA		-		No	0000
603-496-9500-43030	Engineering Services									
000201002511	09/15/2010	214.55	0.00	09/21/2010	General Engineering - VRA		-		No	0000
601-494-9400-43030	Engineering Services									
000201002511	09/15/2010	1,034.78	0.00	09/21/2010	General Engineering - VRA		-		No	0000
602-495-9450-43030	Engineering Services									
000201002511	Total:	8,818.49								
417-480-8000-43030	Engineering Services									
000201002512	09/15/2010	1,890.76	0.00	09/21/2010	TH 5 & Jamaca Ave Roundabout		-		No	0000
411-480-8000-45200	Buildings and Structures									
000201002513	Total:	1,890.76								
409-480-8000-43030	Engineering Services									
000201002514	09/15/2010	333.71	0.00	09/21/2010	Lake Elmo City Hall Improvements		-		No	0000
409-480-8000-43030	Engineering Services									
000201002514	Total:	47.68								
601-494-9400-43030	Engineering Services									
000201002515	09/15/2010	333.71	0.00	09/21/2010	Lake Elmo Water Systems		-		No	0000
409-480-8000-43030	Engineering Services									
000201002515	Total:	4,394.82								
409-480-8000-43030	Engineering Services									
000201002516	09/15/2010	119.16	0.00	09/21/2010	Lake Elmo Living/Farm Development		-		No	0000
409-480-8000-43030	Engineering Services									
000201002516	Total:	119.16								
TKDA Total:		51,060.07								
VISA-SL VISA										
0791	09/15/2010	37.69	0.00	09/21/2010	Pizza - Council Meeting		-		No	0000
101-410-1110-44300	Miscellaneous									
0791	09/15/2010	35.75	0.00	09/21/2010	Outstanding Balance		-		No	0000
101-410-1110-44300	Miscellaneous									
0791	Total:	73.44								
VISA-SL Total:		73.44								
VISALE40 VISA										
8040	08/31/2010	26.96	0.00	09/21/2010	Finance Budget Meeting		-		No	0000
101-410-1520-44300	Miscellaneous									
8040	Total:	26.96								
VISALE40 Total:		26.96								
VOLFIRE Volunteer Firefighter's Assoc.										
07/13/2010	07/13/2010	355.00	0.00	09/21/2010	Annual benefit fee/New Registrations		-		No	0000
101-420-2220-44330	Dues & Subscriptions									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	07/13/2010 Total:	355.00								
	VOLFIRE Total:	355.00								
WAS-LAND Washington County Surveyor										
1768	08/31/2010	46.00	0.00	09/21/2010	Copy of Abstract - Vacation		-	No		0000
101-410-1910-44300 Miscellaneous										
	1768 Total:	46.00								
WAS-LAND Total:		46.00								
XCEL Xcel Energy										
51-4504807-7	09/15/2010	246.53	0.00	09/21/2010	Lights at Legion Park		-	No		0000
101-450-5200-43810 Electric Utility										
51-4504807-7	09/15/2010	82.90	0.00	09/21/2010	Lift Station		-	No		0000
602-495-9450-43810 Electric Utility										
51-4504807-7	09/15/2010	31.77	0.00	09/21/2010	Traffic Lights - Inwood		-	No		0000
101-430-3160-43810 Street Lighting										
	51-4504807-7 Total:	361.20								
51-5356323-8	09/15/2010	2,126.83	0.00	09/21/2010	Wells 1 & 2		-	No		0000
601-494-9400-43810 Electric Utility										
	51-5356323-8 Total:	2,126.83								
51-6736544-2	09/15/2010	1,762.94	0.00	09/21/2010	Street Lights		-	No		0000
101-430-3160-43810 Street Lighting										
	51-6736544-2 Total:	1,762.94								
51-7538112-1	09/15/2010	522.40	0.00	09/21/2010	Public Works		-	No		0000
101-430-3100-43810 Electric Utility										
	51-7538112-1 Total:	522.40								
XCEL Total:		4,773.37								
ZIERT Ziertman Joan & Steve										
09/18/2010	09/18/2010	56.25	0.00	09/21/2010	Straw Fall Festival		-	No		0000
204-450-5200-44300 Miscellaneous										
	09/18/2010 Total:	56.25								
ZIERT Total:		56.25								
Report Total:		125,967.31								



MAYOR & COUNCIL COMMUNICATION

DATE: 9/21/10

CONSENT

ITEM #: 3

MOTION as part of the Consent Agenda

AGENDA ITEM: 2010 Street and Water Quality Improvements – Change Order No. 2

SUBMITTED BY: Ryan Stempski, Assistant City Engineer

THROUGH: Bruce A Messelt, City Administrator *BAM*

REVIEWED BY: Tom Bouthilet, Finance Director
Jack Griffin, City Engineer

SUMMARY AND ACTION REQUESTED: The City Council is asked to approve Change Order No. 2 for the 2010 Street and Water Quality Improvements. This change order is necessary to increase the work scope to address a saturated roadway base condition for a portion of 57th Street. Change Order No. 2 increases the contract by an estimated amount of \$2,900 for the construction of approximately 210 lineal feet of drainage interception trenches behind the curb line. In addition, this change order includes a time extension for the placement of the bituminous wear course on 57th Street, extending the completion date from September 9, 2010 to June 10, 2011. The time extension is required to allow sufficient time for the drainage interception trenches to successfully dry out the road base in preparation of the wear course placement. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

ADDITIONAL INFORMATION: The roadway construction work for 57th street has been mostly completed including the placement of the bituminous base course. Following the base course placement, however, a saturated base condition appeared within a 100 foot by 12 foot section of the roadway, thus weakening the roadway strength in this localized area. Although the source of the water is not known for sure, it appears that it may be attributable to either a perched water table or is coming from leaks in nearby residential irrigation systems. Staff has met with various residents to further investigate and correct possible irrigation system leaks. In order to prevent the future migration of groundwater entering the road base, an interception trench has been designed and is proposed for construction to transfer groundwater along the road into a draitile line that has been placed within the aggregate base. The draitile then discharges to catch basins located at the low point of the road. The trench construction is necessary to allow the saturated base to drain so that the design strength of the roadway can be regained.

We are recommending the extension of the bituminous wear course construction to June 10, 2011. Based on the presence of water in the road, it is recommended to install the interception

trench and allow the aggregate base to drain over the winter season, and then re-review the road in the Spring of 2011 to ensure that the condition has been corrected. Any necessary corrections can be made in Spring 2011 prior to paving the bituminous wear course by June 10, 2011.

RECOMMENDATION: Based upon the above information, it is recommended that the City Council approve as part of tonight's *Consent Agenda* Change Order No. 2. Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda*, table this item for future consideration, or further discuss and deliberation prior to taking action. If the latter is done so, the appropriate action of the Council following such discussion would be:

“Move to approve Change Order No. 2, extending the completion date of bituminous wear course construction on 57th Street to June 1, 2011, and increasing the construction contract in the estimated amount of \$2,900 for the 2010 Street and Water Quality Improvements project [and amended and/or modified at tonight's meeting].”

ATTACHMENTS:

1. Change Order No. 2

TKDA

ENGINEERING • ARCHITECTURE • PLANNING

The right time. The right people. The right company.

444 Cedar Street, Suite 1500
Saint Paul, MN 55101-2140

(651) 292-4400
(651) 292-0083 Fax
www.tkda.com

September 17, 2010

T.A. Schifsky and Sons Inc.
2370 C Highway 36
North Saint Paul, Minnesota 55109

Re: 2010 Street and Water Quality Improvements
City of Lake Elmo, Minnesota
TKDA Project No. 14504.001

Dear Sir or Madam:

Enclosed please find three copies of Change Order No. 2 for \$2,899.00 for the above-referenced project. This change order also extends the completion date for the wear course construction on 57th Street to June 10, 2011. Please sign all copies where indicated and return all copies to this office for further processing. An executed copy will be returned to you when payment is made.

Sincerely,

Ryan W. Stempski, P.E.
Project Manager

RWS:jac
Enclosures

cc: Jack Griffin, P.E., City Engineer

CHANGE ORDER

TKDA Engineering-Architecture-Planning

Saint Paul, MN September 21 20 10 Proj. No. 14504.001 Change Order No. 2

To T.A. Schifsky and Sons, Inc.

for 2010 Street and Water Quality Improvements

for City of Lake Elmo, Minnesota

You are hereby directed to make the following change to your contract dated June 4, 20 10. The change and the work affected thereby is subject to all contract stipulations and covenants. This Change Order will (increase) (decrease) (~~not change~~) the contract sum by two thousand eight hundred ninty-eight and 00/100 (\$ 2,898.00). In addition, this change order includes a time extension for the placement of the bituminous wear course on 57th Street, extending the completion date to June 10, 2011. The time extension is required to allow sufficient time for the drainage interception trench to successfully dry out the road base in preparation of the wear course placement. The completion dates for all other work on this contract remains unchanged, including the work for 53rd Street, Isle Avenue, and Jane Road.

This change order is necessary to increase the work scope to address a saturated roadway base condition for a portion of 57th Street. Groundwater appeared to saturate the aggregate base beneath the road and was observed pumping through the road surface. Change Order No. 2 increases the contract by an estimated amount of \$2,898 for the construction of approximately 210 lineal feet of drainage interception trenches behind the curb line. The trench will be 6 inches wide, 2 feet deep, filled with 1.5-inch rock, and lined with fabric.

NET CHANGE = \$ 2,898.00

Amount of Original Contract	\$ 425,565.41
Additions approved to date (Change Order Nos.)	\$ -
Deductions approved to date (Nos.)	
Contract amount to date	\$ 425,565.41
Amount of this Change Order (Add) (Deduct) (No Change)	\$ 2,898.00
Revised Contract Amount	\$ 428,463.41

Approved _____
City of Lake Elmo

TKDA

By _____

By _____
Ryan Stempski, P.E.

Approved _____
T. A. Schifsky and Sons, Inc.

White - Owner
Pink - Contractor
Blue - TKDA

By _____

CHANGE ORDER NO. 2

Period Ending: September 21, 2010

2010 STREET & WATER QUALITY IMPROVEMENTS
CITY OF LAKE ELMO, MINNESOTA
TKDA PROJECT NO. 14504.001

ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	AMOUNT TO DATE
1	DRAINAGE INTERCEPTION TRENCH ALONG 57TH STREET	L.F.	210.0		\$ 13.80	\$ 2,898.00
	SUBTOTAL					\$ 2,898.00
TOTAL CHANGE ORDER NO. 2						\$ 2,898.00



MAYOR & COUNCIL COMMUNICATION

DATE: 9/21/10
REGULAR
ITEM #: 4
MOTION *Resolution 2010 - 046*

AGENDA ITEM: Consideration of an application for a variance from the 10 foot property line setback for a septic system and for the 75 foot setback from the Ordinary High Waterline

SUBMITTED BY: Lake Elmo Planning Commission
Kelli Matzek, Planner

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Kyle Klatt, Planning Director
Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: The City Council is asked to consider a variance request from Ms. Mairlynn Kennedy to construct a new septic system partially within the city's road right-of-way, therefore not meeting the required 10 foot property line setback. Because the non-conforming lot at 9051 Jane Road is just 95 feet deep, the proposed septic tank will likely not meet the required 75 foot Ordinary High Waterline setback as identified in the Shoreland code and a minor variance will be needed as well. For the reasons denoted blow, it is recommended that the City Council affirmatively consider the following motion:

SUGGESTED: *"Move to approve Resolution 2010 - 046 approving the requested*
MOTION: *variances to allow the septic system to be built as proposed at 9051 Jane Road"*

BACKGROUND INFORMATION: For variance applications, the burden is on the applicant to demonstrate why this situation is unique and necessitates flexibility to code requirements. To make this case, a variance can only be granted by the city when strict enforcement of the code would cause undue hardship on a property owner. "Hardship" is broken down into the following three components:

- a. *The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists;*
- b. *The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or*

buildings in the same zoning district; the unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations; and

c. Granting of the variance would not alter the essential character of the neighborhood.

The septic designer has identified this as the only available location for a septic system to be located on the site due to the conditions of the site such as the location of the house, the lakeshore, and the slopes on the property.

PLANNING COMMISSION RECOMMENDATION/STAFF REPORT: In reviewing the request against the three criteria listed above, and with careful consideration of the recent Minnesota court case, staff has determined all criteria were met as a septic system would be necessary to utilize the home on the site and the current property owner did not create the nonconformities. The request was also deemed to be reasonable as the addition of the septic system would have no impact on adjacent properties.

The Planning Commission has reviewed the application, held a public hearing, and recommended approval of the variance request at the regularly scheduled meeting on September 13, 2010. The Valley Branch Watershed District did not have any concerns with the application.

RECOMMENDATION: Based upon the above background information and staff report, it is recommended that the City Council affirmatively consider approving the variance by undertaking the following action

“Move to approve Resolution 2010 – 046 approving the requested variances to allow the septic system to be built as proposed at 9051 Jane Road”

Alternatively, the City Council may amend or deny the requested variance with findings, which may be ***tabled*** tonight and remanded to staff for preparation for an upcoming meeting; or may be discussed and findings identified at tonight's meeting. The suggested motion in this latter instance would be:

“Move to deny the requested variances to allow the septic system to be built as proposed at 9051 Jane Road [for the reasons delineated at tonight's meeting].”

ATTACHMENTS:

1. Staff Report
2. Resolution 2010 - 046
3. Location Map
4. Letter from Septic Installer
5. Letter from Lake Elmo Acting Building Official

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... City Planner
- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

City of Lake Elmo Planning Department
Variance Request

To: **City Council**

From: Kelli Matzek, City Planner

Meeting Date: **9/21/10**

Applicant: **Mairlynn Kennedy**

Owner: Same

Location: **9051 Jane Road**

Zoning: R-1; Shoreland District

Introductory Information

<i>Application Summary:</i>	The City of Lake Elmo has received a request from Ms. Kennedy to construct a septic system partially within the city's road right-of-way at 9051 Jane Road. The proposed system would not meet the 10 foot property line setback and would likely not meet the 75 foot setback from the Ordinary High Waterline (OHW).
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<i>Property Information:</i>	<p>This property at 9051 Jane Road was platted as part of the Pabst Lake Jane Lots 2nd Addition. A building permit was issued for the house and garage in 1972. No septic system permit was found in the address file for the original system.</p> <p>The lakeshore lot is 0.26 acres in size including the area in the Ordinary High Water Water Line (OHW). Lake Jane is categorized as a Recreational Development Lake in the shoreland codes, which requires a minimum sewage treatment system setback of 75 feet from the OHW.</p> <p>The property has a number of physical constraints, which are identified in the review of the variance criteria.</p>
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<i>Applicable Codes:</i>	<p>Section 150.253 Administration.</p> <p><u>(B 2) Variance.</u> Identifies procedures.</p> <p>Section 150.254 Shoreland Classification.</p> <p><u>(B 2) Recreational Development Lakes.</u> Identifies Lake Jane's OHW at 924 and the 100-Year Elevation at 925.</p> <p>Section 150.255 Shoreland Standards.</p> <p><u>(D 1 a).</u> Identifies the sewage treatment system setback for recreational</p>
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development lakes to be 75 feet.

Section 150.253 Administration (Shoreland)

(B 2 b) Variance.

For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a non-conforming sewage treatment system.

Staff has interpreted this section as "conforming" meaning functioning as necessary to serve the home.

Section 325 Shoreland District. Subd 4. Placement, Design and Height of Structures
States that on-site sewage systems must be setback a minimum of 75 feet from the OHW of Recreational Development classified lakes.

Minnesota Rules, Chapter 7080.

State rules require a ten foot setback to property lines for both the septic tank and the absorption area. There is a footnote that allows infringement on property line setbacks to be made through accepted local procedures.

Findings & General Site Overview

Site Data:	Lot Size: 0.26 acres (including area below OHW) Existing Use: Residential Existing Zoning: R-1 (One Family Residential); Shoreland District Property Identification Number (PID): 10-029-21-22-0014
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Application Review:

Applicable Definitions:	<p>BUILDING. Any structure either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal, or movable property of any kind. When any portion of a building is completely separate from every other part of a building by area separation, each portion of the building shall be deemed as a separate building.</p> <p>BUILDING LINE. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.</p> <p>BUILDING SETBACK LINE. A line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluff line, or a high water mark or line, behind which buildings or structures must be placed.</p>
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DWELLING, SINGLE-FAMILY. A residential structure designed for or used exclusively as 1 dwelling unit of permanent occupancy.

HARDSHIP. The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists; that the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and that these unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile sewage disposal system, or other sewage treatment device.

INDIVIDUAL SEWAGE TREATMENT SYSTEM. An on-site sewage treatment system connecting to a single dwelling or other establishment, consisting of soil treatment unit, septic tank, and any associated pumping and piping systems.

LOT, RIPARIAN. A separate parcel of land within a designated shoreland area having frontage along a lake or tributary stream.

MOUND SYSTEM. An alternative sewage treatment system designed with the soil treatment area built above existing grade to overcome the limitations of water table, bedrock, or soil permeability.

NON-CONFORMITY – NON-CONFORMING USE. Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of zoning regulations or amendments to the zoning regulations that would not have been permitted to become established under the terms of the zoning regulations as now written, if the zoning regulations had been in effect prior to the date it was established, recorded, or authorized.

ORDINARY HIGH WATER MARK OR ELEVATION (O.H.W.). The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For water courses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

SEPTIC TANK. A sound, durable, watertight sewage tank designed and constructed to receive the discharge of sewage from a building sewer, separate solids from liquids, digest organic matter, and store liquids through a period of detention.

SHORE IMPACT ZONE. Land located between the ordinary high water level of a

	<p>public water and a line parallel to it at a setback of 50% of the structure setback.</p> <p>SHORELAND. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or foliage; and 300 feet from a river or stream, or the landward extend of a flood plain designated by ordinance on a river or stream; whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.</p> <p>STANDARD SYSTEM. An individual sewage treatment system employing a building sewer, sewage tank, and the soil treatment system commonly known as a dram field or leach field.</p> <p>VARIANCE. A modification of a specific permitted development standard required to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship as defined in Section 300.06, Subd. 3. Economic considerations along shall not constitute a hardship. [sic]</p>
Variance Criteria:	<p>An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. For ease of review, staff provides a three-part breakdown of the definition of "hardship" in Lake Elmo City code to ensure the requests are meeting the spirit and intent of the ordinance.</p> <p>1. <i>The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists;</i></p> <p>The design and location of the septic system were established by a professional septic system design company. The septic designer states in his memo that "This is the last possible location for a standard system for this lot so we may want to grant a variance to the lot line and make the bed larger." He also states in his memo that this is not an ideal location as it is fill soil, but is the only place to put such a system.</p> <p>This property is unable to hook up to a 201 system (city-owned community septic system) and is not guided for city sewer in the 2030 Lake Elmo Comprehensive Plan. A private system is necessary to serve the existing home with wastewater services.</p> <p>Due to the physical constraints of the lot, the lack of other options to sewer the house, and the need for wastewater management for the existing home, staff finds that this criteria is met.</p>

2. *The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; the unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.*

In 1972, it was determined this lot could be utilized for residential purposes and a building permit was issued for a new home. The property is less than a third of an acre in size where a 1.5 acre minimum lot size is required and is located on a lake which, in combination with the house location, create a difficult situation in which to find a conforming location for a replacement septic system.

As identified by the septic designer and confirmed by the city's Acting Building Official, the steep slopes in the front side yards are not conducive to allowing a septic drainfield to be established.

The slopes and shape of the lakeshore property as well as the location of the home and well are all restrictions that severely limit the potential location sites at which the septic tanks and drainfield could be built. In addition to the reasons cited above, staff finds that **this criteria is met.**

3. *The variance, if granted, will not change the essential character of the neighborhood.*

The septic system will be completely underground. The septic design does **not** include a mound system which would be more physically intrusive than the proposed system. Although staff is recommending the septic system be identified with physical markers to ensure city staff is aware of the private infrastructure in the city's right-of-way, staff finds that the essential character of the neighborhood would remain intact. **Staff finds this criteria is also satisfied.**

**Variance
Conclusions:**

Based on the analysis of the review criteria in City Code, the Planning Commission and City Staff would recommend **approval of the septic variance requests** for 9150 Jane Road.

**Resident
Concerns:**

Staff has not received any comments for or against the application from those resident's notified.

**Additional
Information:**

The Valley Branch Watershed District did not have any concerns with the application.

**Planning
Commission
Report:**

The Planning Commission reviewed the proposed request at its meeting on September 13th of 2010. The Commission unanimously recommended approval of the application with the findings and conditions provided by Staff.

Conclusion:

Ms. Kennedy is seeking approval of a 10-foot property line and minor OHW setback variance to allow the construction of a replacement septic system at 9051 Jane Road.

**Commission
Options:**

The City Council has the following options:

- A) Approve the variance request;
- B) Deny the variance request;
- C) Table the request and direct staff or the applicant to provide additional information concerning this application.

The deadline for a Council decision on this item is October 15, 2010, which can be extended an additional 60-days if needed.

Rec:

Both the Planning Commission and Staff are recommending approval of the variances to allow construction of a septic system partially within the city's road right-of-way at 9051 Jane Road based on reasons stated above with the following conditions:

- 1. A minimum 10-foot setback from the edge of the bituminous pavement must be maintained.
- 2. Inspection pipes with caps must be maintained and be visible after construction to serve as a visual delineation of the drainfield.
- 3. All utilities in the area must be located and marked before the septic system is installed.
- 4. The system shall be monitored for proper operation once in each of the first two years.

**Denial
Motion**

To deny the request, you may use the following motion as a guide:

Template:

I move to deny the request for the construction of septic system within the road right-of-way at 9051 Jane Road...(please site reasons for the recommendation)

**Approval
Motion**

To approve the request, you may use the following motion as a guide:

Template:

I move to approve the request for the construction of septic system up to ten feet within the road right of way and within the OHW setback at 9051 Jane Road

**based on the findings provided in the staff report...(or cite your own)
...with the conditions outlined in the staff report.**

cc: Mairlynn Kennedy, applicants

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

RESOLUTION NO. 2010-046

*A RESOLUTION APPROVING VARIANCES FROM THE REQUIRED SETBACK FROM THE
ORDINARY HIGH WATER LINE OF LAKE JANE AND THE 10 FOOT PROPERTY LINE
SETBACK AT 9051 JANE ROAD*

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Mairlynn Kennedy, 9051 Jane Road (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for variances to allow the construction of replacement septic system to serve an existing residence that would be located up to ten feet within the city's road right-of-way and minimally intrusive of the 75 foot Ordinary High Water Elevation of Lake Jane, a copy of which is on file with the City; and

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on September 13, 2010; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated September 21, 2010; and

WHEREAS, the City Council considered said matter at its September 21, 2010 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following:

FINDINGS

- 1) That the procedures for obtaining said Variances are found in the Lake Elmo Zoning Ordinance, Section 154.017.
- 2) That all the submission requirements of said 154.017 have been met by the Applicant.
- 3) That the proposed variance is to allow the construction of a replacement septic system up to ten feet within the road right-of-way and the septic tank may minimally encroach upon the 75 foot setback from the Ordinary High Waterline as required for Recreational Development Lakes.
- 4) That the Variance will be located on property legally described as Lot 1, Block 1, of Pabst Lake Jane Lots Second Addition, Washington Co., Minnesota.
- 5) The proposed addition cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists. *The certified septic designed identified this as the last possible location for a standard system on the lot. The property is unable to connect to a city-run 201 system and is not guided for city sewer in the 2030 Lake Elmo Comprehensive Plan. A private system is necessary to serve the existing home with wastewater services.*
- 6) The plight of the landowner is due to the physical conditions unique to the land and are not applicable to other lands, structures, or buildings in the same zoning district. The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations. *Although the substandard lot is only 0.26 acres in size, in the 1970's it was deemed a buildable lot and a building permit was issued for a single family dwelling to be built. The lakeshore lot has physical limitations for placement of a septic system due to it's size (lot depth of 95 feet), lakeshore setback requirements, unsuitable slopes, and house and well location on the lot.*
- 7) The variance will not change the essential character of the neighborhood. *The essential character of the neighborhood would not be affected by the construction of the proposed septic system. The septic system will be completely underground. The septic design does not include a mound system which would be more physically intrusive than the proposed system. Although staff is recommending the septic system be identified with physical markers to ensure city staff is aware of the private infrastructure in the city's right-of-way, staff finds that the essential character of the neighborhood would remain intact.*
- 8) The property could no longer be used for residential purposes without wastewater service. The property does not have a reasonable alternative use.

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Variance is granted with the following conditions:

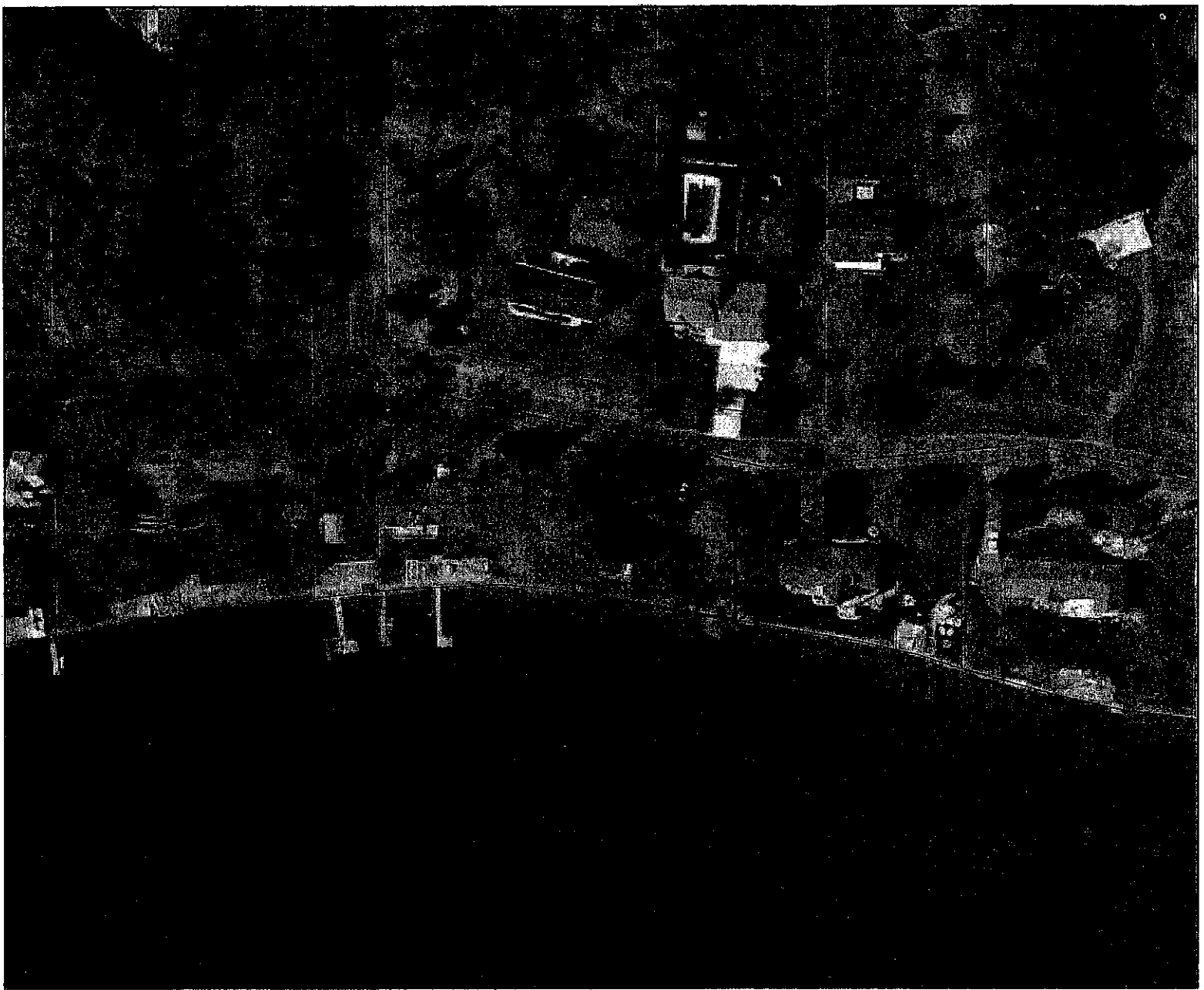
1. A minimum 10-foot setback from the edge of the bituminous pavement must be maintained.
2. Inspection pipes with caps must be maintained and be visible after construction to serve as a visual delineation of the drainfield.
3. All utilities in the area must be located and marked before the septic system is installed.
4. The system shall be monitored for proper operation once in each of the first two years.

Passed and duly adopted this 21st day of September 2010 by the City Council of the City of Lake Elmo, Minnesota.

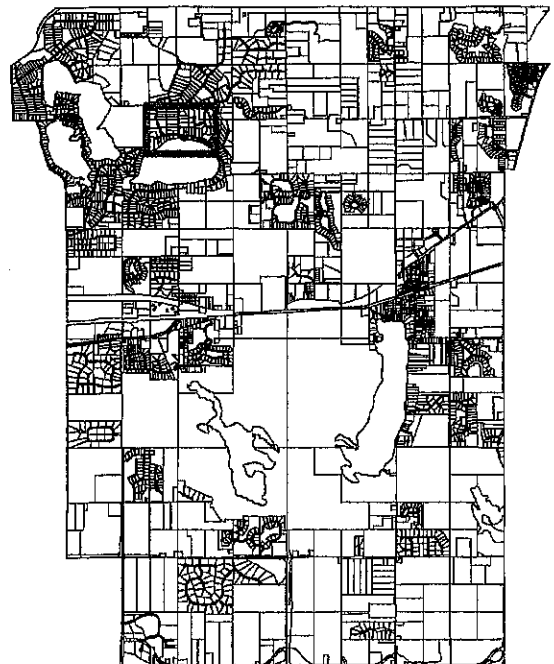
Dean A. Johnston, Mayor

ATTEST:

Bruce Messelt, City Administrator



9051 Jane Road



651-735-7321

PERCOLATION REPORT

THE RESOURCE MANAGEMENT DOESN'T COST...IT PAYS

06-08-10

MARILYN KENNEDY

651-770-2650

SOIL TESTING AND DESIGN FOR SEPTIC SYSTEMS

LOCATION: 9051 Jane Rd., Lake Elmo

USE OF BUILDING: Existing 3-bedroom home

I started this design with soil testing last fall. The way the house is situated on the small lot with the lake in the back makes a 3-bedroom system difficult. The lawn is graded sharply toward the house in fill soil. The utilities have been located in the right of way and the design is to build a pressure bed partially within the right of way. This is the last possible location for a standard system for this lot so we may want to grant a variance to the lot line and make the bed larger.

The system should be considered a monitored system because it is being built in fill soil. It should be monitored for proper operation once in each of the first two years. The mitigation plan would be to use the tanks as holding tanks to be pumped when filled. The city of Lake Elmo will need to grant a variance for location or pumped holding tanks will need to be used.

The absorption width is designed to be at least 10 feet from the lot line and at least 20 feet from a house or any occupied structure. The well is located on the lake side of the house at least 50 feet from any part of this system.

All wastewater treatments sites are to be cordoned off prior to the start of any construction activity on the property. No construction traffic or grading is permitted in the drain field site. All proposed wastewater treatments sites are to be protected with a visual barrier to prevent construction traffic from encroaching into the tested area and possibly causing irreversible soil damage with respect to on-site wastewater treatment and absorption. A septic system permit will not be issued until the tested area is surrounded with silt or snow fence.

This design was prepared in accordance to County Ordinance and should be presented for inspection as soon as possible. All stakes should be left in place until the system is installed.

Barry J. Brown

BARRY BROWN
LICENSE # 1772

MON

6130

MEMORANDUM

To: Kelli Matzek, City Planner
Copies To: Kyle Klatt, Planning Director

From: Ryan W. Stempski, P.E.
Date: September 9, 2010

Reference: 9051 Jane Road Septic Variance

City of Lake Elmo
Proj. No.: 14575.001 Phase 00010
Routing:

Kelli,

I have reviewed the Variance Application submitted by the applicant on August 17, 2010 and have the following comments:

1. A minimum 10-foot setback from the edge of bituminous pavement must be maintained (this should be updated on the site plan and verified in the field during construction).
2. Inspection pipes with caps should be visible after construction. This would serve as a visual delineation of the drainfield.

Please contact me with any questions.



MAYOR & COUNCIL COMMUNICATION

DATE: 9/21/2010
REGULAR
ITEM #: 5
MOTION Resolution 2010-047

AGENDA ITEM: Consideration of a Conditional Use Permit application to allow an open sales lot for Cranky Ape at 9200 Hudson Boulevard

SUBMITTED BY: Lake Elmo Planning Commission

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is asked to review a request from the Cranky Ape Company to allow the outdoor display of merchandise for public viewing at 9200 Hudson Boulevard. The applicants intend to make this site the headquarters for the online auction company. The site would allow potential buyers to view recreational vehicles before they place their online bids, as well as to pick up the merchandise after it is won. The products are reclaimed items such as motor homes, boats, ATV's and RVs that are received from entities such as banks or insurance companies and then prepped for sale.

Below are the options for consideration by the City Council:

1. Approve the CUP, as requested, with the conditions outlined in the attached staff report. (Recommended by the Planning Commission and Planning Staff);
2. Deny the CUP (staff has provided possible findings of facts for a denial in the resolution of denial, should the Council choose to do so);
3. Deny the CUP and encourage the applicant to apply for a zoning text amendment and Interim Use Permit, to allow the use, but not necessarily in perpetuity by right, as this area is guided for sewer residential uses under the Comprehensive Plan;
4. Table the application and request additional information.

BACKGROUND INFORMATION: The 9.95 acre parcel is located along Hudson Boulevard and is guided for future sewer development in the Lake Elmo Comprehensive Plan. This property is unique in that it is one of just a few properties utilized for commercial purposes, but is in a holding district expected to be developed for sewer residences. The zoning district HD-GB-SRD (Holding District-General Business-Sewer Residential Development) allows the properties to continue the uses allowed in the General Business zoning district – both permitted and conditionally permitted – including an open sales lot. The holding districts were created to

be responsive to the Comprehensive Plan. At the time the holding districts were created, there was an interest in allowing property owners to continue to use their property. However, property ownership has changed (formerly Link Recreational) and the previous CUP has lapsed.

The ordinance establishing Interim Use Permits in the City was approved in December of 2007; six months after the holding districts were approved.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission held a public hearing on this request on August 23rd and has recommended approval of the proposed CUP. A copy of the full Staff report attached includes a detailed review of the application along with a Staff recommendation.

STAFF REPORT: The following is from the city code regarding conditional use permits:

Conditional use permits may be granted or denied in any district by action of the governing body according to the standards for that district in granting a conditional use permit, the governing body shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals, convenience, and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions including parking facilities on adjacent streets and land, the effect on utility and school capacities, the effect on property values of property in the surrounding area, and the effect of the proposed use on the Comprehensive Plan. If it determines that the proposed use will not be detrimental to the health, safety, convenience, morals, or general welfare of the community nor will cause serious traffic congestion, nor hazards, nor will seriously depreciate surrounding property values, and that the use is in harmony with the general purpose and intent of this chapter and the Comprehensive Plan, the Council may grant the permits.

City Planning Department Staff recommend approval of the proposed CUP. The City Administrator disagrees with this recommendation, based upon recent City Council conversation regarding planned activities and decisions to develop the I-94 Corridor, as well as a general desire to utilize Interim Use Permits on a larger basis where requested uses are ultimately inconsistent and/or incompatible with the Comprehensive Plan. As such, the City Administrator recommends consideration of denial of the CUP application and encouragement of a re-application for an Interim Use Permit (as well as a waiver of new application fee).

RECOMMENDATION: The following options are available for the City Council to consider:

“Move to approve Resolution 2010 – 047 A approving the Conditional Use Permit for 9200 Hudson Boulevard.”

“Move to approve Resolution 2010 – 047 B denying the Conditional Use Permit for 9200 Hudson Boulevard.”

Alternatively, the City Council may table the application, amend the proposed Resolution, and/or request additional information prior to taking action. To table or amend:

“Move to table Resolution 2010 – 047 A relating to the Conditional Use Permit for 9200 Hudson Boulevard.”

“Move to approve Resolution 2010 – 047 A approving the Conditional Use Permit for 9200 Hudson Boulevard, as amended at tonight’s meeting.”

ATTACHMENTS:

1. Staff Report
2. Resolution 2010 – 047 A (Approval)
3. Resolution 2010 – 047 B (Denial)
4. Location Map
5. Applicant’s Submittals

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... Planner
- Questions from Council to Staff.....Mayor Facilitates
- Public Input, if AppropriateMayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion.....Mayor Facilitates

City of Lake Elmo Planning Department
Conditional Use Permit Request

To: City Council

From: Kelli Matzek, City Planner

Meeting Date: 9/21/10

Applicant: Cranky Ape; Brian Livingston

Owner: Midwest Recreational Clearinghouse (MRC)

Location: 9200 Hudson Boulevard

Zoning: HD-GB-SRD

Introductory Information

<i>Application Summary:</i>	The City of Lake Elmo has received a request from the company Cranky Ape to allow the outdoor display of boats and recreational vehicles at 9200 Hudson Boulevard. The company advertises primarily through an online auction website. The conditional use permit application is for an open sales lot.
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<i>Property /Historic Information:</i>	<p>The 9.95 acre site currently has two buildings which were constructed in the 1970's. A Special Use Permit from the 1970's allowed gravel mining in the rear portion of the site which is no longer in operation. In 2004, the City Council approved a Conditional Use Permit and Section 520 Site Plan to convert the site and structures to a Family Entertainment Center. That project was abandoned and the Link Recreational dealership then moved in to the buildings. Link Recreational has since ceased operation at the site.</p> <p>The site contains the aforementioned structures (separated by 60 feet) in the southeast one-quarter (closest to Hudson Blvd.). The north one half of the site (the portion that was previously "mined") is currently vacant.</p> <p>The 9.95 acre parcel is located along Hudson Boulevard and is guided for future sewer development in the Lake Elmo Comprehensive Plan. The zoning district HD-GB-SRD (Holding District-General Business-Sewered Residential Development) limits the ability of the property to subdivide at less than 20 acres (not applicable for this site due to land area), but also specifically allows the properties to continue the uses allowed in the General Business zoning district – both permitted and conditionally permitted.</p> <p>The applicants are not proposing any physical improvements to the site other than landscaping. Some internal remodeling may occur to utilize the buildings, which is administratively permitted.</p>
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No plans have been presented for external improvements to either of the existing buildings on the site.

The applicant has stated their intent to use the smaller building as an area to prep (clean and fix up) the merchandise before sale. The products are items that are then bought from entities such as banks or insurance companies. The larger building is proposed for an internal display, which is outright allowed by code and would not require any special permits from the city. The company does not fix or service the recreational vehicles they sell.

The outdoor display of merchandise requires a CUP as an open sales lot in the GB zoning district.

The City currently holds a grading escrow in conjunction with a grading permit application that was submitted by the previous owners – Link Recreational. The City believes that the grading was never completed, but is not required for the site to be utilized. The applicant's are proposing to leave the area graded as-is. If additional outdoor display area is requested in the future, a CUP amendment will be required in addition to a grading permit.

**Applicable
Codes:**

Section 154.054 HD-GB-SRD (Holding District – General Business – Sewered Residential Development)

Identifies the property as being guided for a future sewered use in the Comprehensive Plan.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-GB-SRD Zoning District shall be the same as in the General Business (GB) Zoning District.

Section 154.051 GB (General Business)

(A. 5) *Uses allowed by conditional use permit*

Open Sales Lot

(6) *General requirements.*

(a) All storage, services, repair or processing shall be conducted wholly within an enclosed building or behind opaque fence or wall not less than 6 feet high, except the outdoor display of merchandise;

(c) Where a proposed GB development abuts on RR, R-1, R-2, R-3, R-4, or RE district other than at a public street line, buffer provision shall be established. There shall be provided a protective strip of not less than 35 feet in width. The protective strip shall not be used for parking, off- street loading or storage and shall be landscaped. The protective strip must be approved by the Council as being in

harmony with the residential neighborhood and providing sufficient screening of the commercial area;

Section 154.018 Conditional Use Permits.

(A) Granting/Denial. Outlines the general requirements for all conditionally permitted uses in Lake Elmo.

Section 154.095 Off-Street Parking.

Contains the City's requirements for the general provisions and design and maintenance of off-street parking areas. The section of code includes landscaping, lighting, setbacks, size, signage, and various other requirements.

Findings & General Site Overview

Site Data: Lot Size: 9.95 acres

Existing Use: Vacant Commercial Buildings (2)

Existing Zoning: HD-GB-SRD – Holding District – General Business – Sewered Residential Development

Application Review:

CUP Review: The applicant is requesting approval a conditional use permit to allow an open sales lot. The outdoor display of merchandise will include recreational vehicles such as motor homes, automobiles, ATVs, and snowmobiles. The area identified on the applicant's map is the proposed location of the outdoor display. Although a majority of the outside display is located behind a second fence, the applicants intend to allow the public to view the merchandise during normal business hours in that location. Because of this distinction, staff would interpret this to be an outdoor display rather than storage.

Landscaping/Buffer

The city code requires that a 35-foot buffer be established between certain uses on this property and any adjacent property zoned RR. The properties to the north and west of this site are zoned HD-RR-SRD and would therefore qualify for this additional requirement.

In 2005, Link Recreational submitted a landscaping plan which was reviewed and approved for a similar commercial use on this site. The city code requires a "sufficient screening" of the commercial use to adjacent residential properties. The landscaping plan provided in 2005 was either not finished or the landscape material

has died off on the north and northwest side of the property. Staff is recommending the landscaping be updated to conform with the previously approved landscape plan and in response to the City Forester's review (see attachment #1).

Lighting

No changes are being proposed.

Signage

The applicants will be required to meet the sign regulations set forth in city code.

Grading

Staff found that an escrow is still being retained by the city from the previous owner. The escrow was collected in 2005 when a grading permit application was submitted to the city for this site. The city engineer visited the site and provided additional conditions of approval (see attachment #2).

**Conditional
Use Permit
Criteria:**

Reviewing this request requires that all general CUP criteria be examined. For these types of applications, the burden is on the City to show why the use should not be permitted due to impacts that cannot be controlled by reasonable conditions.

1. Effects on the health, safety, morals, convenience, or general welfare of surrounding lands.

This property is currently zoned HD-GB-SRD and has been utilized for commercial purposes (including mining) over three decades. The property directly to the east is also utilized for commercial purposes and the Eagle Point Business Park is approximately 650 feet to the west of this site. The location of the property adjacent to the high volume traffic of I-94 (and Hudson Boulevard) make this a reasonable use of this property.

The properties to the north and west are used for agricultural purposes or a combination of rural and rural type businesses. The applicants are agreeable to providing screening and the required 35 foot buffer needed to physically separate their commercial use from any future residential uses to the North and West.

The property directly to the east is currently used for commercial and has been since at least 1963. This use is permitted and is allowed to continue in perpetuity until either the property owner sells/develops the property for residential (as it is guided) or if the city decides to use eminent domain to purchase the property from the property owner.

Allowing the use proposed by the Cranky Ape company (which is similar to the previous use as boat display and storage) would not negatively affect the health, safety, morals, convenience, or general welfare of the surrounding properties due to the similarity of uses and the proposed buffering/landscaping.

Staff finds that this criterion is met.

2. Traffic & Parking conditions.

The location of this property in proximity to Interstate 94 and the city's original intent of allowing commercial uses on this property allow for the reasonable accommodation of future traffic that could be expected with this type of commercial use.

The 9.95 acre site has ample room for additional parking if it is needed. As it currently stands, there are 86 parking spaces identified as "overflow parking." Because the company focuses on online sales, the amount of traffic expected to the site is less than that of a traditional sales lot.

Staff finds that this criterion is met.

3. Effects on utility and school capacities.

The proposed use for the site would not generate a demand on utilities beyond that expected by the city for a typical commercial property.

No additional school age children will be added to the city through this site to create any further demand on school capacities.

Staff finds this criterion is met.

4. Effect on property values of surrounding lands.

Staff is proposing a condition of approval requiring the applicants comply with the comments made by the City Forester in response to her review of the landscape plan.

Staff finds this criterion is satisfied.

5. Effect of the proposed use on the Comprehensive Plan.

This property is unique in that it is one of just a few properties in a zoning district designed specifically for properties expected to be developed for sewerred residences.

Although this property is guided for residential development in the future, the city made the determination in the creation of the holding district that the uses identified in the previous zoning district (in this case GB) should continue to be allowed – both permitted and conditionally permitted. The holding districts were created to be responsive to the Comprehensive Plan.

For this reason, staff finds this criterion is satisfied.

Conditional Use Permit Conclusions: Based on the above analysis of the review criteria in City Code, staff recommends approval of the CUP request by Cranky Ape to display merchandise outdoors at 9200 Hudson Boulevard.

Resident Concerns: City staff is not aware of any resident concerns regarding this application.

Additional Information: The following text was included in the staff report for the City Council on June 19, 2007 regarding the creation of the holding districts (including for this parcel).

- The goal of each district is to ensure that properties do not subdivide in a manner inconsistent with plans for future development. Met Council would not be supportive of any parcel creation less than twenty (20) acres in size. The main (and generally only) impact of the rezoning will be this limitation on development.
- Establishing the proposed holding districts will provide the city with time necessary (at a minimum one year) to craft the final zoning regulations governing development in the Village and I-94 corridor.
- A majority of the feedback received during the public informational meeting and at the public hearing centered on concerns about currently guided land uses (i.e. commercial instead of residential) and timing for development. No negative feedback was received regarding the proposed holding districts. Staff explained that neither issue is currently relevant to the proposed rezoning of property into holding districts, but that all feedback would be forwarded to the City Council for your consideration.

Conclusion:

The City of Lake Elmo has received a request from the company Cranky Ape to allow the outdoor display of boats and recreational vehicles at 9200 Hudson Boulevard. The company advertises primarily through an online auction website.

Commission Rec: The Planning Commission reviewed the application and held a public hearing at the September 13th, 2010 regular meeting. No one spoke during the public hearing portion of the meeting. The commission recommended approval of the request by majority with the conditions provided by staff. Those dissenting were concerned about the longevity of the commercial use as a conditional use permit runs with the land and this area is guided for future sewerred residences.

Council Options: The City Council has the following options:
A) Approve the conditional use permit request;

B) Deny the conditional use permit request.

C) Table the application and request additional information.

The 60-day review has expired as of September 20th. Staff sent a 60-day extension letter which extends the review date to November 19, 2010.

Staff Rec: Staff is recommending approval of the conditional use permit request for an open sales lot at 9200 Hudson Boulevard based on the reasons stated above with the following condition:

1. Additional landscaping must be added by the applicant to comply with the original landscaping plan approved for the property. A revised landscape plan shall be submitted for review and approval by the Planning Director. No parking or storage of vehicles shall be permitted within the rear portion of the property (north of any buildings on the site) until the landscaping has been installed per the approved plan and be in compliance with the review provided by the City Forester.

Denial Motion To deny the request, you may use the following motion as a guide:

Template: Move to deny the CUP request by the company Cranky Ape for an outdoor sales lot...(please site reasons for the recommendation)

Approval Motion To approve the request, you may use the following motion as a guide:

Template: Move to approve the CUP request by the Cranky Ape company based on the findings provided in the staff report...(or cite your own)
...with the condition outlined in the staff report.

cc: Brian Livingston, Cranky Ape

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

Resolution No. 2010-047

**A RESOLUTION APPROVING THE CONDITIONAL USE PERMIT AMENDMENT
TO ALLOW OUTDOOR SALES LOT AT 9200 HUDSON BOULEVARD**

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Brian Livingston on behalf of Cranky Ape (the "Applicant"), 9200 Hudson Boulevard, has submitted an application to the City of Lake Elmo (the "City") for a Conditional Use Permit to allow the outdoor display of recreational vehicles;

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on August 23, 2010; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated September 21, 2010; and

WHEREAS, the City Council considered said matter at its September 21, 2010, meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the Board of Adjustment makes the following findings:

FINDINGS

- 1) That the procedures for obtaining said Conditional Use Permit and are found in the Lake Elmo Zoning Ordinance, Section 154.018.
- 2) That all the submission requirements of said Section 154.018 have been met by the Applicant.
- 3) That the proposed Conditional Use Permit is for an open sales lot to allow the outdoor display of recreational vehicles at 9200 Hudson Boulevard.
- 4) That the Conditional Use Permit meets the review criteria for Conditional Use Permits (Section 154.018).
 - a. *Effects on the health, safety, morals, convenience, or general welfare of surrounding lands* - The proposed use would not negatively affect the health, safety, morals, convenience, or general welfare of surrounding lands. The proposed outdoor display by Cranky Ape is consistent with the previous use of

the site by the Link Recreational Company which did not create the negative effects listed previously. The property directly to the east is currently used for commercial purposes. The city code requires a physical buffer from the adjacent residentially zoned properties to assist in creating a more harmonious transition between commercial and residential uses.

- b. *Traffic and Parking Conditions* - The site is located along Hudson Boulevard, a frontage road for Interstate 94. The 9.95 acre site has ample room for additional off-street parking, if needed. Currently, 86 overflow parking spaces were identified by the applicants. Because the company focuses on online sales, the amount of traffic expected to the site is less than that of a traditional sales lot.
- c. *Effects on utility and school capacities* - The proposed use would not generate a demand on utilities beyond that expected by the city for a typical commercial property. No additional school aged children will be added to the city at this site to create any further demand on school capacities.
- d. *Effect on property values of surrounding lands* - Because of the 35 foot buffer required and additional landscaping requirements added as a condition of approval, the effect on adjacent property values would be minimal if not non-existent. The properties to the east are used for commercial businesses which would not be impacted by the granting of the CUP requested by Cranky Ape.
- e. *Effect of the proposed use on the Comprehensive Plan* - Until 2007, the property was zoned GB - General Business which allows commercial type uses both outright and by conditional use permit. In 2007, the property was rezoned to HD-GB-SRD, which was a holding district crafted in response to the Comprehensive Plan. The holding district allows the uses both permitted and conditionally permitted in the GB district.

With the following conditions:

- 1) Additional landscaping must be added by the applicant to comply with the original landscaping plan approved for the property. A revised landscape plan shall be submitted for review and approval by the Planning Director. No parking or storage of vehicles shall be permitted within the rear portion of the property (north of any buildings on the site) until the landscaping has been installed per the approved plan and be in compliance with the review provided by the City Forester.

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Conditional Use Permit is granted.

Passed and duly adopted this 21st day of September 2010 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

Bruce A. Messelt, City Administrator

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

Resolution No. 2010-047

**A RESOLUTION DENYING THE CONDITIONAL USE PERMIT AMENDMENT TO
ALLOW AN OUTDOOR SALES LOT AT 9200 HUDSON BOULEVARD**

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Brian Livingston on behalf of Cranky Ape (the “Applicant”), 9200 Hudson Boulevard, has submitted an application to the City of Lake Elmo (the “City”) for a Conditional Use Permit to allow the outdoor display of recreational vehicles;

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on August 23, 2010; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated September 21, 2010; and

WHEREAS, the City Council considered said matter at its September 21, 2010, meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the Board of Adjustment makes the following findings:

FINDINGS

- 1) That the procedures for obtaining said Conditional Use Permit and are found in the Lake Elmo Zoning Ordinance, Section 154.018.
- 2) That all the submission requirements of said Section 154.018 have been met by the Applicant.
- 3) That the proposed Conditional Use Permit is for an open sales lot to allow the outdoor display of recreational vehicles at 9200 Hudson Boulevard.
- 4) That the Conditional Use Permit **does not** meet the review criteria for Conditional Use Permits (Section 154.018).
 - a. *Effects on the health, safety, morals, convenience, or general welfare of surrounding lands* - The proposed use would negatively affect the health, safety, morals, convenience, or general welfare of surrounding lands. The proposed activities proposed by Cranky Ape, while generally consistent with the previous

use of the site by the Link Recreational Company, represents a larger and expanded activity on the site, by further allowing outdoor display of recreational vehicles. The property directly to the east is currently used for commercial purposes. The city code requires a physical buffer from the adjacent residentially zoned properties to assist in creating a more harmonious transition between commercial and residential uses.

- b. *Traffic and Parking Conditions* - The site is located along Hudson Boulevard, a frontage road for Interstate 94. The 9.95 acre site has ample room for additional off-street parking, if needed. Currently, 86 overflow parking spaces were identified by the applicants. Because the company focuses on online sales, the amount of traffic expected to the site is less than that of a traditional sales lot.
- c. *Effects on utility and school capacities* - The proposed use would not generate a demand on utilities beyond that expected by the city for a typical commercial property. No additional school aged children will be added to the city at this site to create any further demand on school capacities.
- d. *Effect on property values of surrounding lands* - Because of the 35 foot buffer required and additional landscaping requirements added as a condition of approval, the effect on adjacent property values would be minimal if not non-existent. The properties to the east are used for commercial businesses which would not be impacted by the granting of the CUP requested by Cranky Ape.
- e. *Effect of the proposed use on the Comprehensive Plan* - The Conditional Use Permit requested is for an outdoor sales lot, which would be ancillary to a commercial use of the property. This property is guided for future sewered residential uses in the 2030 Lake Elmo Comprehensive Plan. Permitting this conditional use allows a commercial use of the property in perpetuity, wherein residential development is identified as the future use.

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Conditional Use Permit is denied.

Passed and duly adopted this 21st day of September 2010 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

Bruce A. Messelt, City Administrator

Kelli Matzek

From: K.D. Widin [kdwidin@comcast.net]
Sent: Wednesday, September 01, 2010 10:18 PM
To: Kelli Matzek; Kyle Klatt
Subject: Kranke - 9200 Hudson Blvd. - Landscaping and Site Screening

Kelli -

I have inspected the former site of Link Recreation at 9200 Hudson Blvd. regarding its proposed similar use by the current applicant. I compared what is planted on the site to the preliminary landscape plan and it bears little resemblance to that plan.

Front: some perennials are left there, with a few shrubs, but the area is weedy with boxelders sprouting here and there. There are some crabapples planted in the medians of the front parking lot, as well as some mugho pines at the back, next to the fence. The front of the building has some shrubs and perennials, which would be o.k. to leave, if cleaned up.

The landscaped areas should be weeded and plants added to fill in gaps. Trees should be pruned, especially of basal trunk sprouts.

West Fenceline: The south 2/3 of this fenceline has adequate screening provided by existing trees. Willows, boxelders, and other woody volunteer plants, should be pruned out of and back from the fence. Areas should be weeded and trimmed.

Northwest corner (top 1/3 of west side and north fenceline): Screening is needed in this area, on both the west and north sides. There are 3 small spruce on the west side which are not doing very well. These should be replaced with a mixture of evergreen and deciduous trees, planted near top of berm, if possible, and still on subject property. On the north side of the property, there are 8 Colo. spruce (6 ft. tall or less) that are in acceptable condition. The preliminary landscape plan for this site shows a good mix of evergreen and deciduous trees and proposed planting locations, which would provide adequate screening. I would recommend that the aspen be replaced with American linden (basswood) and the Scots pine be replaced with "Black Hills" white spruce. There are a few other existing trees in these areas, so the locations of new trees to be added should be field verified and a new planting plan drawn.

Please contact me if you have any questions regarding this inspection and recommendations.

Kathy Widin
Forestry Consultant
City of Lake Elmo



ENGINEERING • ARCHITECTURE • PLANNING

The right time. The right people. The right company.

444 Cedar Street, Suite 1500
Saint Paul, MN 55101

(651) 292-4400
(651) 292-0083 Fax
www.tkda.com

MEMORANDUM

To: Kelly Matzek, City Planner

Reference: Link Recreation Site Review

Copies To: Ryan W. Stempski, P.E.

From: David M. Klocker, EIT *DMK*

Proj. No.: 14575.001

Routing:

Date: August 20, 2010

I performed a site review of the former Link Recreation now CrankyApe.com site on August 20, 2010. My review was based off the plan submittal by Paul Miller Design dated June 27, 2005. The plan included landscaping, grading, storm sewer, and parking lot improvements.

When I arrived I was able to meet the owner, Brian Livingston (507) 263-9234. I let him know that the City needed to review the site to determine what improvements were completed by the previous owner.

The following summarizes my observations of the site:

Landscaping:

- The boulder retaining walls shown on the plan along the boat display and building were installed to plan. However, the plantings located in this area do not generally conform to the layout shown on the plan. The type and quantity are not installed per the plan.
- The proposed trees located west of the parking lot have not been planted per plan.
- The proposed trees located along the north and west lot line had a minimal number of trees planted, a few evergreen trees were visible, but the quantity of trees installed does not match the plan.
- Please note, these are my observations and I would recommend the City Forester make a site review to confirm to what extent the proposed planting plan was followed, if necessary.
- The 6' chain link fence was not installed per plan

Grading:

- The grading of the southerly portion (front of the buildings) of the site is in general conformance with the proposed plan.
- There is a swale graded along the west lot line; however this area is overgrown with weeds.
- The proposed grading improvements located on the northerly portion of the site were not installed per plan. The only pipe observed was the 12" PVC pipe near the north property line.

Parking Areas:

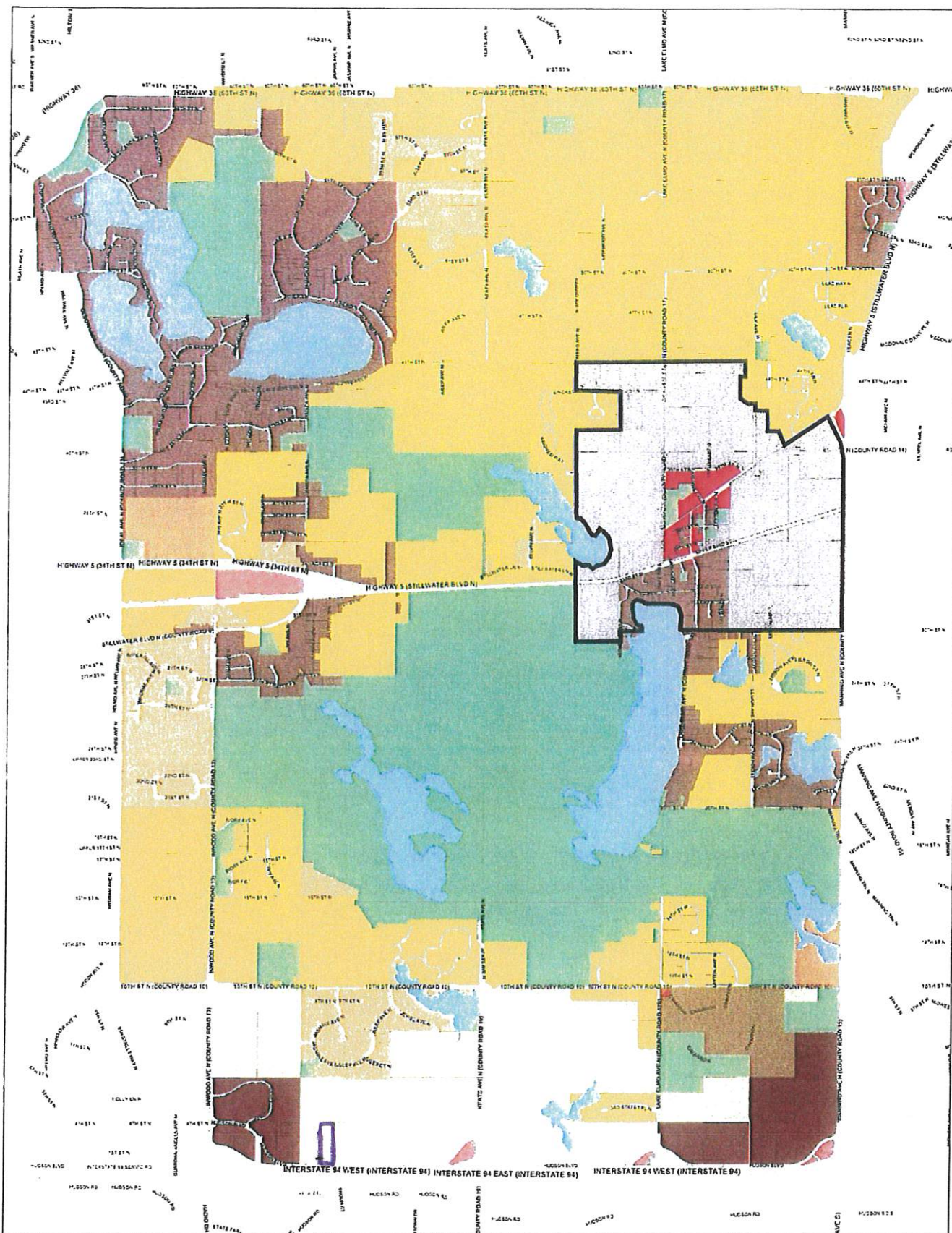
- The bituminous parking area has been installed as shown on the plan with all concrete curb, parking island with lights, etc.
- The Class 5 overflow parking area looks to have been installed, but the area has not been maintained and is overgrown with weeds.

Recommendation:

1. The site should have the landscaping installed as shown on the plan. The installation of the trees along the lot lines is necessary to provide adequate screening to the adjacent properties. Please coordinate the plantings with the City Forester.
2. All exposed soils and eroded areas on the site must be corrected and restored properly.
3. All silt fence should be removed from the site.

I have attached a photo of the northerly portion of the site for reference. If you need more pictures of the site please let me know.

If you have any further questions or need additional information please let me know.



FUTURE LAND USE

Lake Elmo Comprehensive Plan 2005 - 2030

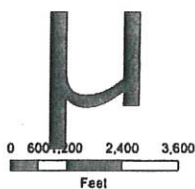
Limitation of Liability

This document is not a legally recorded map or survey and is not intended to be used as one. This map is a compilation of records and information from various state, county, and city offices, and other sources.

Map Date: January 31, 2006

Created By: TKDA

ENGINEERS ARCHITECTS PLANNERS



Land Use

C	RED
BP - 40 Employees/Acre	NC
PF	ROW
RAD - 0.45 DU/Acre	WAT
RAD - 2 DU/Acre	VR
URD - Cimarron	
SRD - 3.5 DU/Acre	
LB Future sewer - 40 Employees/Acre	
LB Non-sewer	

**City of Lake Elmo
DEVELOPMENT APPLICATION FORM**

- | | | |
|---|--|---|
| <input type="checkbox"/> Comprehensive Plan Amendment | <input type="checkbox"/> Variance * (See below) | <input type="checkbox"/> Residential Subdivision Preliminary/Final Plat |
| <input type="checkbox"/> Zoning District Amendment | <input type="checkbox"/> Minor Subdivision | <input type="radio"/> 01 - 10 Lots |
| <input type="checkbox"/> Text Amendment | <input type="checkbox"/> Lot Line Adjustment | <input type="radio"/> 11 - 20 Lots |
| <input type="checkbox"/> Flood Plain C.U.P. Conditional Use Permit | <input type="checkbox"/> Residential Subdivision Sketch/Concept Plan | <input type="radio"/> 21 Lots or More |
| <input checked="" type="checkbox"/> Conditional Use Permit (C.U.P.) | <input type="checkbox"/> Site & Building Plan Review | <input type="checkbox"/> Excavating & Grading Permit |
| | | <input type="checkbox"/> Appeal |
| | | <input type="checkbox"/> PUD |

APPLICANT: CRANKY ADE 6352 320TH ST WAY, CANNON FALLS, MN 55009
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-735-3233 507-263-6102 651-208-1906 507-263-1135
(Home) (Work) (Mobile) (Fax)

FEE OWNER: BRIAN LIVINGSTON 6740 CRACKLEBERRY TRAIL, WOODBURY 55129
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-735-3233 507-263-6102 651-208-1906 507-263-1135
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): 9200 HUDSON BLVD N.
LAKE ELMO, MN 55042. PART OF THE W1/2 - E1/2 - SW1/4 - SW1/4 OF
SECTION 34, TOWNSHIP 29 NORTH, RANGE 21 WEST, CITY OF LAKE ELMO,
WASHINGTON COUNTY, MINNESOTA

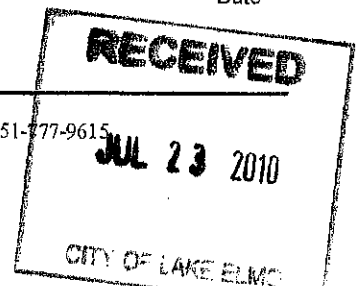
DETAILED REASON FOR REQUEST: OUTDOOR STORAGE & DISPLAY OF BOATS &
RECREATIONAL VEHICLES.

***VARIANCE REQUESTS:** As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

[Signature] 7/22/2010
Signature of Applicant Date

[Signature] 7/22/10
Signature of Applicant Date



blivingsn@crankage.com



Midwest Recreational Clearinghouse

Business Activity Narration



Midwest Recreational Clearinghouse (MRC) has been in business since 2001. The company has warehouses in Arizona, California, Indiana, Georgia, Florida, Minnesota, Nevada, Texas, and Wisconsin. MRC is a re-marketer of insurance repairable and bank-repossessed powersport/recreational equipment. The Crankyape.com website provides these items for purchase by the general public via an online electronic bidding system. Common inventory items found on the auction site include Motor Homes, automobiles, ATVs, snowmobiles, watercraft, and trailers.

The basic business process for MRC involves taking physical possession of an assigned unit and selling it on the CrankyApe.com auction site. The consigning company (typically a bank, insurance company, or registered dealer) will submit an assignment to MRC via telephone or over the internet on our vendor site. MRC will schedule to pick the unit up wherever it is located, and transport it back to our nearest warehouse. The unit is then prepped and displayed for auction/sale.

The auction unit will remain on the CrankyApe.com website for 5-10 days, with a specified date and time that the electronic auction closes. At the time of closing, the unit is deemed sold to the current high bidder. The high bidder then has 3 days to remit payment to MRC's Minnesota location and retrieve the auction unit from the MRC location it is being displayed at.

The available units are displayed at the physical locations and are available for viewing leading up to and during the actual auction.

Kelli Matzek

From: Brian Livingston [blivingston@crankyape.com]
Sent: Tuesday, August 10, 2010 3:45 PM
To: Kelli Matzek
Subject: Visitors & drop off's
Attachments: image001.jpg

Hi Kelli-

It was great meeting you today. We are guessing we get approximately 20-25 visitors per day with 8-10 units arriving daily.

Hopefully that is what you were looking for. I'll take some pictures of our Cannon Falls, MN facility and send them your way.

Thanks

Brian Livingston

Midwest Recreational Clearinghouse, LLC

6352 320Th St Way

Cannon Falls, MN 55009

507-263-6102 office

507-263-9434 fax

651-208-1906 cell

[cid:image003.jpg@01CAA01B.06450C30](#)

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MAYOR & COUNCIL COMMUNICATION

DATE: 9/21/10

REGULAR

ITEM #:

6

MOTION

AGENDA ITEM: 2009 and 2010 Street Improvement Rain Garden Project – Accepting the Quotes and Awarding the Contract

SUBMITTED BY: Ryan Stempiski, Assistant City Engineer

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Jack Griffin, City Engineer
Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The City Council is asked to accept quotes and award a contract for the 2009 and 2010 Street Improvement Rain Garden Project. Bids were received on September 9, 2010. Rusty Schmidt, Washington Conservation District, solicited quotes from five qualified contractors and has prepared the attached recommendation Memorandum dated September 14, 2010.

The recommended motion to act on is as follows:

“Move to Accept the Quotes and Award a Contract to All Weather Services in the amount of \$27,688.75 for the 2009 and 2010 Street Improvement Rain Garden Project per the Washington County Conservation District Recommendation Memorandum dated September 14, 2010.”

BACKGROUND INFORMATION AND STAFF REPORT: TKDA has coordinated with the Washington Conservation District (WCD) to prepare rain garden plans to improve water quality along the 2009 and 2010 Street Improvement Projects. Planting plans were prepared by WCD and approved by the City of Lake Elmo. The 2009 and 2010 Street Improvement Rain Garden Project plan set is available for review at Lake Elmo City Hall.

A total of 14 rain gardens will result from the 2009 and 2010 Street Improvement Rain Garden Project. The project will construct 9 rain gardens along the roads improved in the 2009 Street Improvements. These rain gardens will require the contractor to complete all tasks related to the gardens (grading, soil repair, drantile, concrete curb cuts, mulch, edging, rock retaining walls, planting and restoration). The project will plant and edge 5 rain gardens that have already been graded, mulched, and restored by others in the 2010 Street and Water Quality Improvements.

A Pre-Construction Meeting was held on September 16, 2010, to coordinate the project with the contractor. Notice to proceed will be given if award of contract is given by the City Council. The completion date for the project is October 15, 2010.

All rain gardens will either have a residential maintenance agreement or will be maintain by the City Public Works Department.

FUNDING: The contract for the 2009 and 2010 Street Improvement Rain Garden Project is for an estimated amount of \$27,688.75. Actual quantities paid will be per the unit prices provided for each item. The City of Lake Elmo received a Valley Branch Watershed District (VBWD) Community Grant on April 8, 2010 for up to \$35,000 in matching funds for water quality improvements. The estimated post-bid total qualifying costs for water quality improvements on the 2009 and 2010 Street Improvements is \$54,655.75, resulting in a \$27,327.88 VBWD grant amount. This would leave a remainder of \$360.87 for the City of Lake Elmo to be paid from the Storm Water Utility Fund.

RECOMMENDATION: Based upon the above background information and staff report, it is recommended that the City Council move to approve the motion by undertaking the following action:

“Move to Accept the Quotes and Award a Contract to All Weather Services in the amount of \$27,688.75 for the 2009 and 2010 Street Improvement Rain Garden Project per the Washington County Conservation District Recommendation Memorandum dated September 14, 2010.”

ATTACHMENTS:

1. Washington Conservation District Recommendation Memo dated September 14, 2010
2. Location Maps of the 2009 and 2010 Street Improvement Rain Garden Locations
3. Construction Contract



WASHINGTON CONSERVATION DISTRICT

1380 W FRONTAGE RD
HIGHWAY 36
STILLWATER, MN 55082

651-275-1136 PHONE
651-275-1254 FAX
WWW.MNWCD.ORG

MEMORANDUM

TO: City of Lake Elmo
FROM: Rusty Schmidt, Washington Conservation District
DATE: September 14, 2010
RE: Recommended Lower Responsible Bidder for the Raingardens along the 2009 and 2010 Roadway Improvement Projects

On September 1st, 2010 the WCD in cooperation with the City of Lake Elmo and Valley Branch Watershed District, sent out a proposal for quotes and bids for the 2009 and 2010 Raingarden Roadway Projects. This project is to place 14 gardens along the new roadways within the city limits. The raingardens are to be installed and planted by October 15th, 2010. Construction will include but not limited to curb cuts, grading, edging, mulch, plants, drain tile and compost. Nine gardens are on 2009 roadways and five are on 2010 roadways.

The bids were returned on September 9th, 2010 by 4 pm. Five bids were received with one bid significantly lower than the rest. Three bids were at the design estimate. And one bid was significantly higher than the rest and double the estimate. The low bidder is responsible and has done many projects of similar size and scope. The previous projects have been done competently and successfully. His low bid is due to the lack of work the contractor has for this fall.

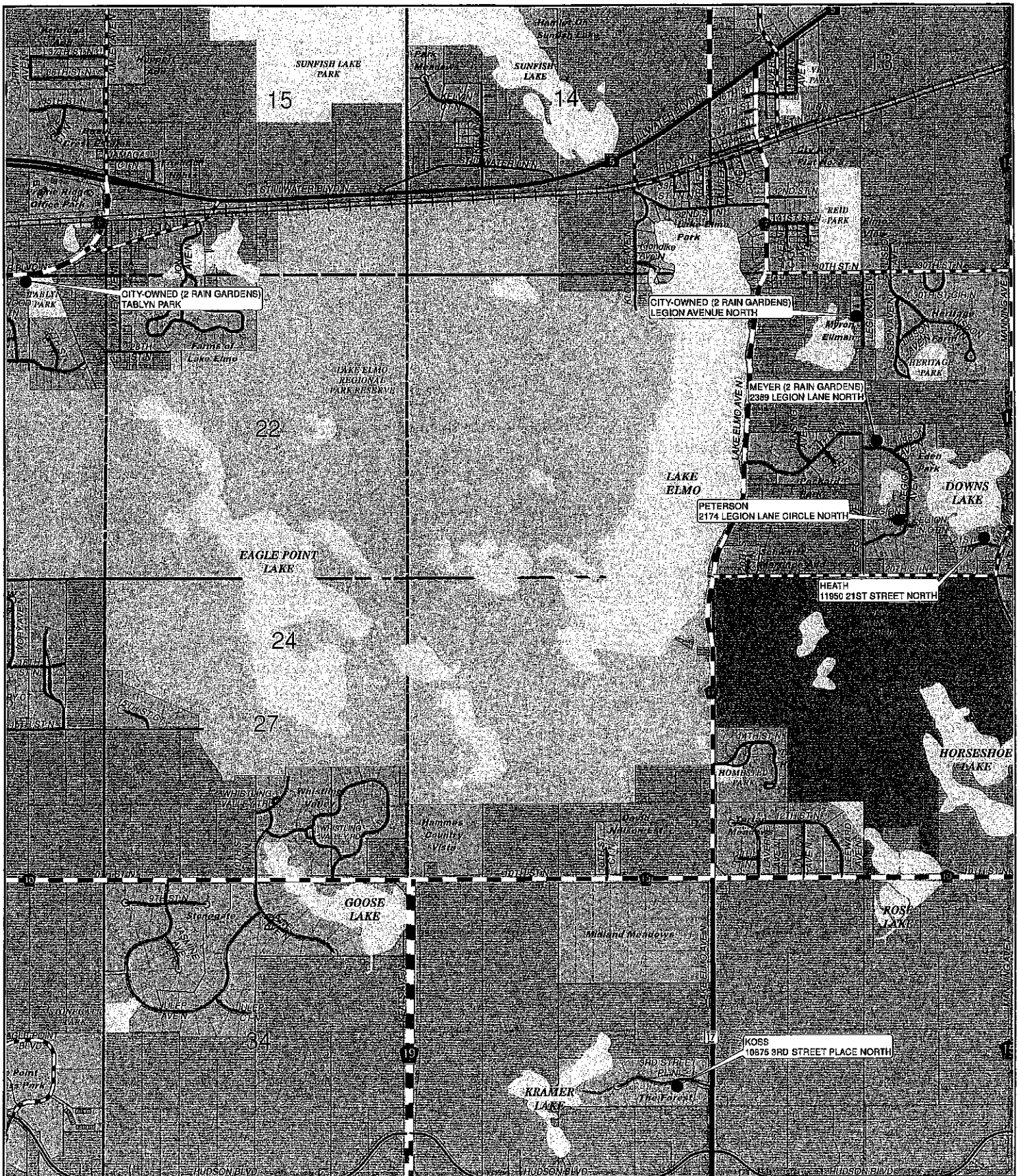
The following are the bid totals:

Landscape Renovations	\$34,530.25
All Weather Services	\$27,688.75
EcoScapes	\$82,241.75
Minn. Native Landscapes	\$33,562.45
St. Croix Valley Landscaping	\$33,343.75

I, Rusty Schmidt, recommend giving the project to the lowest bidder who is All Weather Services of Stillwater.

Thank you,
Rusty Schmidt

Rusty Schmidt
Natural Resource Specialist



2009 RAIN GARDEN PROJECT LOCATIONS



- PROPOSED RAIN GARDEN LOCATION
9 TOTAL RAIN GARDENS



Parcels



Subdivisions

City Parks



Golf Course



Lake Elmo Regional Park Reserve

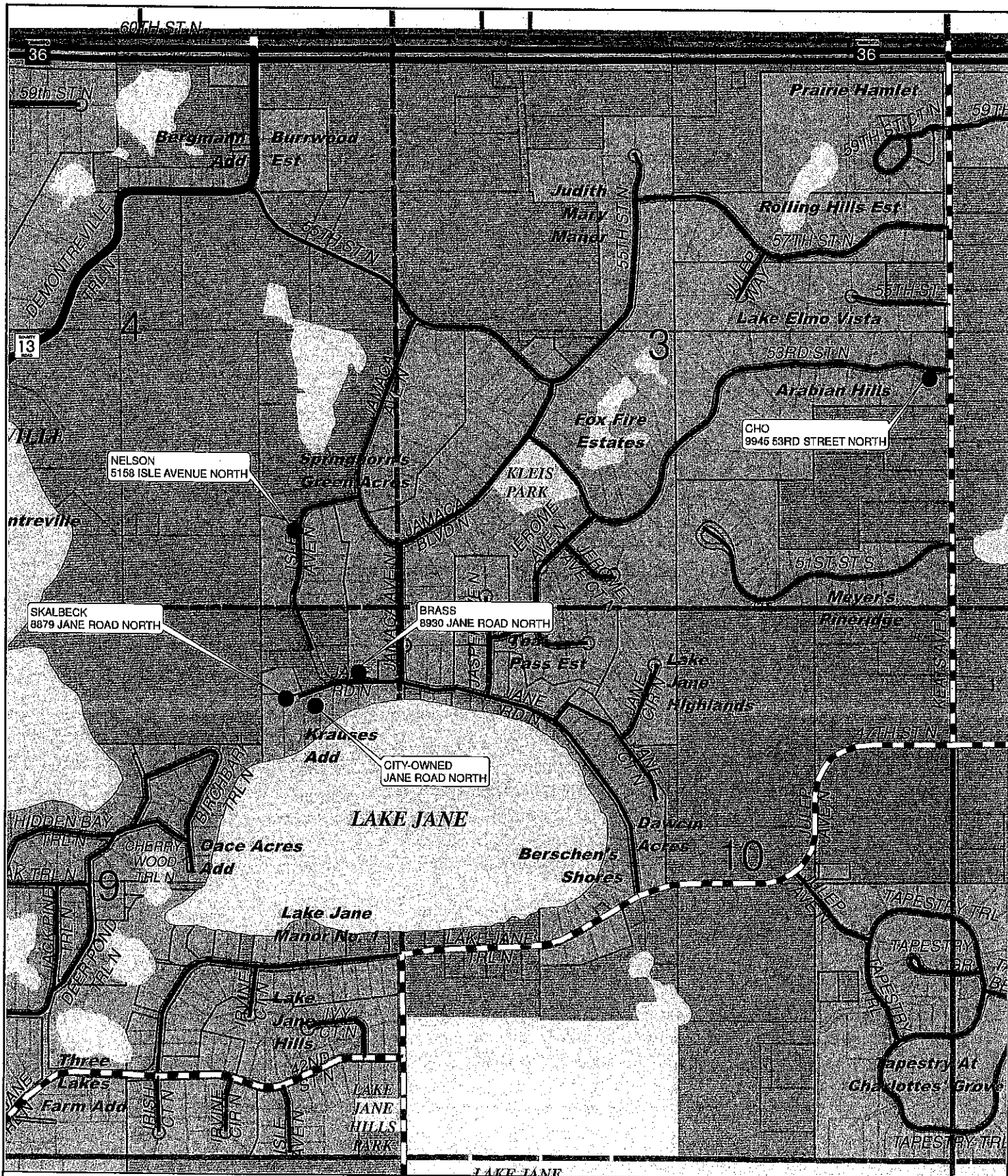
Lakes



1 inch equals 550 feet

TKDA

THE RIGHT PEOPLE. THE RIGHT PEOPLE. THE RIGHT PEOPLE.



2010 RAIN GARDEN PROJECT LOCATIONS



- PROPOSED RAIN GARDEN LOCATION
- 5 TOTAL RAIN GARDENS



Parcels



Subdivisions

City Parks



Golf Course



Lake Elmo Regional
Park Reserve



Lakes



1 inch equals 300 feet

TKDA

THE RIGHT TIME. THE RIGHT PEOPLE. THE RIGHT COMPANY.

State of Minnesota
Washington County

CONSTRUCTION CONTRACT

This Contract, made this 22nd day of **September 2010**, by the City of Lake Elmo, Minnesota (hereinafter called the "Owner") and **All Weather Services**. (hereinafter called the "Contractor").

WITNESSETH that the parties hereto agree as follows:

- (A) The Contractor shall provide all labor, services, materials, equipment and machinery, transportation, tools, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals, including profit and overhead, necessary for the performance, testing, start-up, and completion of the work as described herein:

DESCRIPTION OF WORK:

The scope of work under this contract includes the complete construction of 9 rain gardens, and the planting and edging of 5 rain gardens in accordance with the 2009 and 2010 Street Improvement Raingarden Project Plan Set issued by the City of Lake Elmo and dated September 1, 2010. The complete Plan Set consists of 21 sheets.

The complete construction of 9 rain gardens shall include the grading, soil repair, drain tile, concrete curb cuts, mulch, edging, rock retaining walls, planting and restoration in the locations shown on the plans and as staked in the field. The planting and edging of 5 rain gardens shall include planting and edging in the location shown on the plans and in the areas previously graded, and utilizing the previously constructed curb cuts.

This Construction Contract is intended to provide for a fully completed project and shall be performed by the Contractor for the total estimated price of **\$27,688.75**, based upon the attached Quote Proposal Form. The quantities stated therein are approximate only. Payment will be made for the quantities of work ordered and actually installed complete. Any work items necessary to provide for a fully completed project and not listed as an itemized quantity on the Quote Proposal Form shall be considered incidental to the project work. *However, no work shall be allowed to proceed that will result in additional quantities for payment without the prior written authorization of the City.*

All work shall be completed within the specified time frame and under the terms and conditions provided within this Construction Contract, and in accordance with the "General Conditions" shown in this contract. All Work covered by this Contract shall be fully completed by **October 15, 2010**.

The Owner will make payment for the whole contract upon acceptance by the Owner of all work required hereunder and in compliance with all the terms and conditions of this contract. The Quote Tabulation is attached to this Contract. Actual quantities paid will be per the unit prices provided for each item.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first above written.

(Contractor)

(City of Lake Elmo)

GENERAL CONDITIONS

- I. **CHANGES IN WORK.** - The Owner may at any time, make changes in the drawings and specifications, within the general scope thereof. If such changes cause an increase or decrease in the amount due under this contract or in the time required for its performance, an equitable adjustment will be made, and this contract will be modified accordingly by a "Contract Change Order". No charge for any extra work or material will be allowed unless the same has been ordered on such contract change order by the Owner and the price therefore stated in the order.
- II. **INSPECTION OF WORK.** - All materials and workmanship will be subject to inspection, examination, and test, by the Owner, who will have the right to reject defective material and workmanship or require its correction.
- III. **COMPLETION OF WORK.** - If the Contractor refuses or fails to complete the work within the time specified in paragraph B of this contract, or any extension thereof, the Owner may terminate the Contractor's rights to proceed. In such event the Owner may take over the work and prosecute the same to completion by contract or otherwise, and the Contractor will be liable for any excess cost occasioned the Owner thereby; and the Owner may take possession of and utilize in completing the work such materials and equipment as may be on the site of the work and necessary therefore. If the Owner does not terminate the right of the Contract to proceed, the Contractor will continue the work, in which event, actual damages for delay will be impossible to determine, and in lieu thereof, the Contractor may be required to pay to the Owner the sum of **\$100** as liquidated damages for each calendar day of delay, and the Contractor will be liable for the amount thereof: Provided, however, that the right of the Contractor to proceed will not be terminated because of delays in the completion of the completion of the work due to unforeseeable causes beyond the Contractor's control and without Contractor's fault or negligence.
- IV. **RELEASES.** - Prior to final payment, the Contractor will submit evidence that all payrolls, material bills, and other indebtedness connected with the work have been paid as required by the Owner.
- V. **OBLIGATION TO DISCHARGE LIENS.** - Acceptance by the Owner of the completed work performed by the Contractor and payment therefore by the Owner will not relieve the Contractor of obligation to the Owner (which obligation is hereby acknowledged) to discharge any and all liens for the benefit of subcontractors, laborers, material-person, or any other persons performing labor upon the work or furnishing material or machinery for the work covered by this contract, which have attached to or may subsequently attach to the property, or interest of the Owner.
- VI. **NOTICES AND APPROVAL IN WRITING.** - Any notice, consent, or other act to be given or done hereunder will be valid only if in writing.
- VII. **CLEANING UP.** - The Contractor shall keep the premises free from accumulation of waste material and rubbish and at the completion of the work shall remove from the premises all rubbish, implements and surplus materials.
- VIII. **WARRANTY.** - Contractor warrants and guarantees that title to all work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens. If within one year after completion of the work, any work is found to be defective, Contractor shall promptly, without cost to the Owner, correct such defective work as approved by the Owner.
- IX. **IDEMNIFICATION.** - Contractor shall defend and indemnify the city against claims brought or actions filed against the city or any of its officers, employees or agents for property damage, bodily injury or death to third persons, arising out of or relating to contractors work under the contract.
- X. **WORKERS' COMPENSATION INSURANCE.** - Contractor shall provide a certificate of insurance showing evidence of workers' compensation coverage or provide evidence of qualification as a self-insurer of workers' compensation.
- XI. **LIABILITY INSURANCE REQUIREMENTS.** - A certificate of insurance acceptable to the City shall be filed with the City prior to the commencement of the work. The certificate and the required insurance policies shall contain a provision that the coverage afforded under the contract will not be canceled or allowed to expire until at least 30 days prior written notice has been given to the city.

Contractor shall maintain commercial general liability (CGL), and if necessary commercial umbrella insurance, with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, the general aggregate limit shall be not less than \$2,000,000 and the aggregate limit shall apply on a per-project basis. The CGL

insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and contractually-assumed liability. The city shall be named as an additional insured under the CGL.

Contractor shall maintain automobile liability insurance, and if necessary, umbrella liability insurance with a limit of not less than \$1,000,000 each accident. If such insurance contains a general aggregate limit, the general aggregate limit shall be not less than \$2,000,000. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos.

**QUOTE PROPOSAL FOR
2009 & 2010 STREET IMPROVEMENT RAINGARDEN PROJECT
CITY OF LAKE ELMO, MINNESOTA**

ITEM NO.	ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL AMOUNT
1	MOBILIZATION	LS	1	\$ 300.00	\$ 300.00
2	COMMON EXCAVATION	CY	133	\$ 11.00	\$ 1,463.00
3	CONCRETE CURB CUT AND BITUMINOUS	EA	5	\$ 450.00	\$ 2,250.00
4	4" PERFORATED DRAINTILE	LF	38	\$ 5.00	\$ 190.00
5	CORE DRILL DRAINTILE TO CATCHBASIN AND	LS	1	\$ 350.00	\$ 350.00
6	BULLET EDGER	LF	600	\$ 8.00	\$ 4,800.00
7	BLACK PLASTIC EDGER	LF	360	\$ 3.00	\$ 1,080.00
8	RETAINING WALL - GLACIAL FIELD STONE	TON	5	\$ 150.00	\$ 750.00
9	RIP-RAP - CL. 1 WITH GEOTEXTILE	CY	15	\$ 90.00	\$ 1,350.00
10	COMPOST - MnDOT GRADE 2 LEAF COMPOST	CY	31	\$ 30.00	\$ 930.00
11	MULCH - DOUBLE SHREDDED HARDWOOD	CY	31	\$ 30.00	\$ 930.00
12	MnDOT 350 SEED MIX WITH STRAW BLANKET	SY	24	\$ 4.00	\$ 96.00
13	T.R.M. - 6.5' X 60'	ROLL	1	\$ 200.00	\$ 200.00
14	10" SPIKES	EA	175	\$ 0.25	\$ 43.75
15	SHORT GRASS WOODS EDGE SAVANNA W/ENHANCEMENT AND WOOD FIBER BLANKET	SY	432	\$ 1.00	\$ 432.00
16	PLANTS - PLUGS	EA	658	\$ 4.00	\$ 2,632.00
17	PLANTS - #1 GAL.	EA	423	\$ 12.00	\$ 5,076.00
18	PLANTS - #2 GAL.	EA	94	\$ 22.00	\$ 2,068.00
19	SODDING	SY	916	\$ 3.00	\$ 2,748.00
TOTAL 2009 & 2010 STREET IMPROVEMENT RAINGARDEN PROJECT					\$ 27,688.75



MAYOR & COUNCIL COMMUNICATION

DATE: 9/21/10

REGULAR

ITEM #:

MOTION

7

AGENDA ITEM: 2011 Street and Water Quality Improvements – Authorize the Preparation of the Feasibility Report

SUBMITTED BY: Ryan Stempski, Assistant City Engineer

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Jack Griffin, City Engineer
Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: In accordance with the approved 2009-2013 Street Capital Improvement Program (CIP), the City Council is being asked to proceed with the first step to implement the 2011 Street Improvements, which is to authorize the preparation of a Feasibility Report. The preparation of a feasibility report is required as part of the statutory process for public improvements that are specially assessed, and must be completed before the City Council can take action to order an improvement.

The 2011 Street Improvements include the following street segments (see attached CIP map):

- 10th Street Court North from 10th Street North to North End
- 11th Street North from 10th Street North to 12th Street North
- 12th Street North from Leeward Avenue North to West End
- Laverne Avenue North from 10th Street North to 12th Street North
- Layton Avenue North from 10th Street North to 12th Street North
- Leeward Avenue North from 10th Street North to 12th Street North

It is staff's recommendation to remove the proposed improvement for Kirkwood Lane from the 2011 CIP until staff and Council can further investigate and determine the appropriate improvement process and assessment methodology for residential local gravel roadways. This recommendation is consistent with the removal of 28th Street from the 2010 CIP.

The recommended motion to act on is as follows:

“Move to authorize TKDA to prepare the feasibility report for the 2011 Street and Water Quality Improvements in the amount of \$11,900.”

STAFF REPORT: The study will Report on the feasibility of the improvements and the estimated project costs to reclaim or reconstruct each street segment, depending on the streets existing conditions and findings from a geotechnical investigation. The Report will also provide a proposed assessment amount for each benefitting property.

Similar to the 2010 Street and Water Quality Improvements, staff is also recommending that the 2011 Street Improvements incorporate the investigation of water quality improvement opportunities. The scope of the 2011 Street and Water Quality Improvements Feasibility Report would include the identification of potential rainwater garden sites together with the estimated costs for these amenities, and a completed Valley Branch Watershed District (VBWD) Community Grant application. Staff anticipates continued collaboration on the implementation of the rainwater garden program through the VBWD and Washington County Conservation District.

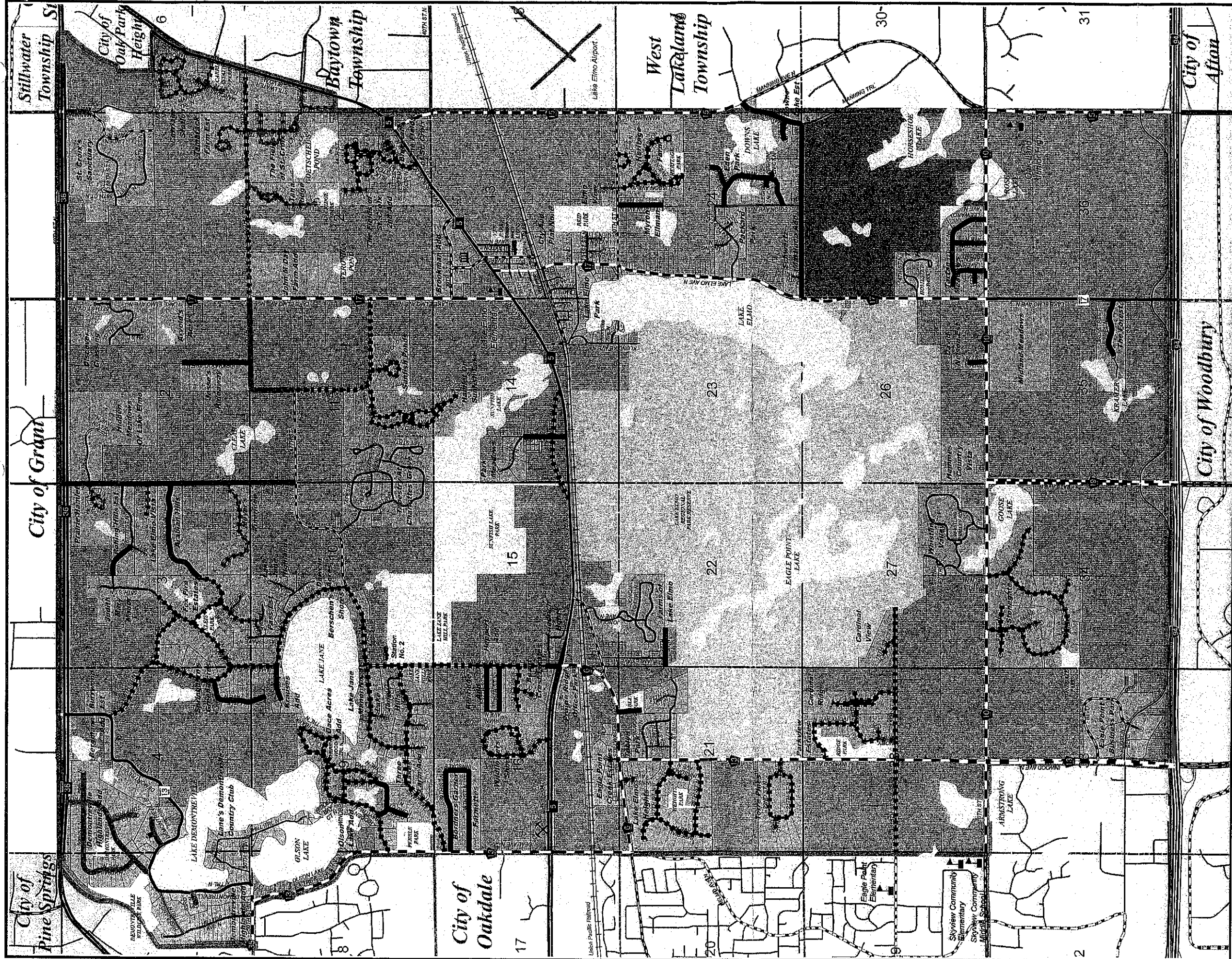
A proposed schedule of the 2011 Street and Water Quality Improvement project is attached. In order to be in a position to accept bids in early spring and potentially gain optimal bidding competitiveness, it is necessary to begin the feasibility report at this time.

RECOMMENDATION: Staff recommends that the Council authorize TKDA to prepare the feasibility report for the 2011 Street and Water Quality Improvements in the amount of \$11,900.

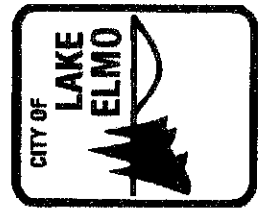
“Move to authorize TKDA to prepare the feasibility report for the 2011 Street and Water Quality Improvements in the amount of \$11,900.”

ATTACHMENTS: (2)

1. Proposed 2009-2013 Street Capital Improvement Program Map
2. 2011 Street and Water Quality Improvements Proposed Project Schedule



5-YEAR STREET CAPITAL IMPROVEMENT PLAN



IMPROVEMENT YEAR	SEALCOAT YEAR
2009	2009
2010	2010
2011	2011
2012	2012
2013	2013



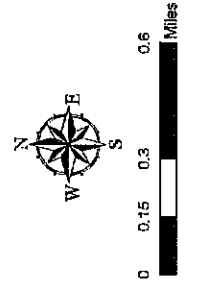
City Hall
3300 Laverne Avenue N
Grand Pine Springs, MN 55117
www.lakeelmo.org

Public Works Building
3445 1st Ave N
55122-3344

Fire Stations
Station No. 1
3310 Laverne Ave N
55117-5008
Station No. 2
4250 Johnson Ave N
55117-5882

Schools

Parcels
Subdivisions
City Parks
Golf Course
Lake Elmo Regional Park Reserve
Park Office
551430-4345
Lakes



Map Date: January 2009
Created By
TKDA
ENGINEERS • ARCHITECTS • PLANNERS

**CITY OF LAKE ELMO
2011 STREET AND WATER QUALITY IMPROVEMENTS
PROPOSED PROJECT SCHEDULE**

September 21, 2010	Council orders TKDA to prepare a Feasibility Report
November 16, 2010	Presentation of Feasibility Report. Council passes resolution receiving Report and calling for Hearing on Improvements to be held December 7, 2011
<i>November 16, 2010</i>	<i>Optional – Council Authorizes design survey services</i>
December 7, 2010	Public Improvement Hearing. Council passes resolution ordering Improvement and preparation of Plans
April 5, 2011	Presentation of Plans and Specifications. Council Approves Plans and Specifications and Orders Advertisement for Bids
April 6, 2011	Placement of Advertisement for Bids –Oakdale-Lake Elmo Review. Publication on April 13 & April 20 – Finance and Commerce. Publication on April 11 & April 18 – Quest CDN. Publication on April 7
May 10, 2011	Receive Contractor bids/review and prepare preliminary assessment roll
May 17, 2011	City Council accepts bids and awards Contract.
May 20, 2011	Process and send out Contract Documents.
June 10, 2011	Receipt of Contractor's Bonds/Legal Review and Issue Notice to Proceed.
June 7, 2011	Conduct Pre-Construction Meeting.
June 8, 2011	Contractor begins work.
August 19, 2011	Substantial Completion of Work
October 1, 2011	Final Completion of Work



MAYOR & COUNCIL COMMUNICATION

DATE: 9/21/10

REGULAR

ITEM #: 8

MOTION

AGENDA ITEM: 2011 Municipal State Aid Street Improvements – Authorize the Preparation of the Feasibility Report

SUBMITTED BY: Ryan Stempski, Assistant City Engineer

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Jack Griffin, City Engineer
Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The City Council is being asked to proceed with the first step to implement the 2011 Municipal State Aid Street Improvements, which is to authorize the preparation of a Feasibility Report. The preparation of a feasibility report is required as part of the statutory process for public improvements that are specially assessed, and must be completed before the City Council can take action to order the improvement. This project may also be fully or partially funded using Municipal State Aid funds. The project would involve improving 50th Street North and Kimbro Avenue North, from 47th Street North to Lake Elmo Avenue.

The recommended motion to act on is as follows:

“Move to authorize TKDA to prepare the feasibility report for the 2011 Municipal State Aid Street Improvements, including 50th Street N and Kimbro Avenue N, from 47th Street N to Lake Elmo Avenue N; in the amount of \$14,900.”

STAFF REPORT: Keats Avenue Street Improvements, from 47th Street N to TH 36, has been programmed as part of the 2011 Street Capital Improvement Plan. Likewise, 50th Street N and Kimbro Avenue N, from 47th Street N to Lake Elmo Avenue, has been programmed as part of the 2012 Street Capital Improvement Plan. In preparation of the 2011 Capital Improvement Planning process, a geotechnical investigation was completed to review the necessary improvements and available construction practices to complete the Keats Avenue Street Improvements in coordination with the Keats Avenue Trunk Watermain project; a high priority capital water system improvement.

From this preliminary investigation it appears that the best value improvement project will be obtained by placing the trunk watermain along the Keats Avenue street corridor through a traditional open-trench installation method and completing a full street reconstruction of Keats Avenue. This results in the lowest overall cost for the trunk watermain improvements and provides the necessary corrective work that is needed for the street. The findings of the geotechnical investigation for Keats Avenue recommend that a street reclamation (a lower cost corrective technique) would not be a good long-term solution.

As a result of this preliminary review and in response to recent resident complaints regarding the poor condition of 50th Street and Kimbro Avenue, staff is recommending that the City Council consider reversing the order of these two MSA routes. The Council may also consider combining both routes in 2011 in an effort to gain a lower overall project cost for both improvements through an economies of scale. In either case, a separate feasibility report is recommended for the MSA and/or Trunk Watermain Improvements, separate from the 2011 Street and Water Quality Improvements project, due to the unique nature of these projects, and the need to address the assessment policies differently.

As a Municipal State-Aid route, MSA funds may be used as one source of project funding. A Feasibility Study is needed to identify improvements for the existing MSA roadway and the estimated project costs to reclaim or reconstruct the roadway, depending on the existing conditions and findings from a geotechnical investigation.

In addition to the street improvements, should the Council proceed with improvements to Keats Avenue, the report will need to detail the different options and costs to install trunk watermain and water service connections along the Keats Avenue corridor. This connection is critical to the integrity of the city-wide water distribution system and has been identified in the Comprehensive Water System Plan and Water System CIP as one of the highest priority water system improvements for the city. The watermain connection is needed from the existing watermain located on 59th Street North in the Hidden Meadows Development to the existing watermain on Tapestry Trail in the Tapestry Development. By making this connection, the City will complete a core part to the City's existing distribution network by providing a loop for the northern tier water system which will provide a more functional and reliable path from Well No. 2 to Elevated Tank No. 2.

The Report will provide a proposed finance plan including City contributions and MSA funding contributions together with a proposed project assessment plan for the benefitting properties. A proposed schedule of the project is attached. In order to be in a position to accept bids in early spring and potentially gain optimal bidding competitiveness, it is necessary to begin the feasibility report at this time.

RECOMMENDATION: Staff recommends that the Council authorize TKDA to prepare the feasibility report for the 2011 Municipal State Aid Street Improvements for 50th Street N and Kimbro Avenue North, in the amount of \$14,900.

“Move to authorize TKDA to prepare the feasibility report for the 2011 Municipal State Aid Street Improvements, including 50th Street N and Kimbro Avenue N; in the amount of \$14,900.”

Alternatively, the City Council may consider no Municipal State Aid Improvements for 2011, thereby making no motion, or consider authorizing the Keats Avenue Street and Trunk Watermain Improvements by acting as follows:

“Move to authorize TKDA to prepare the feasibility report for the Keats Avenue Street and Trunk Watermain Improvements, in the amount of \$15,800.”

Or consider authorizing both the 50th Street N and Kimbro Avenue N MSA Improvements, and the Keats Avenue Street and Trunk Watermain Improvements by acting as follows:

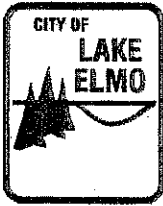
“Move to authorize TKDA to prepare the feasibility report for the 2011 Municipal State Aid Street Improvements, including 50th Street N, Kimbro Avenue N, and Keats Avenue N, and including the Keats Avenue Trunk Watermain improvements; in the amount of \$23,300.”

ATTACHMENTS: (2)

1. Proposed 2009-2013 Street Capital Improvement Program Map
2. 2011 Municipal State Aid Street Improvements – Proposed Project Schedule

**CITY OF LAKE ELMO
2011 MUNICIPAL STATE AID STREET IMPROVEMENTS
PROPOSED PROJECT SCHEDULE**

September 21, 2010	Council orders TKDA to prepare a Feasibility Report
November 16, 2010	Presentation of Feasibility Report. Council passes resolution receiving Report and calling for Hearing on Improvements to be held December 7, 2011
<i>November 16, 2010</i>	<i>Optional – Council Authorizes design survey services</i>
December 7, 2010	Public Improvement Hearing. Council passes resolution ordering Improvement and preparation of Plans
March 11, 2011	Submit Plans for Municipal State Aid Review
April 19, 2011	Presentation of Plans and Specifications. Council Approves Plans and Specifications and Orders Advertisement for Bids
April 20, 2011	Placement of Advertisement for Bids –Oakdale-Lake Elmo Review. Publication on April 27 & May 4 – Finance and Commerce. Publication on April 25 & May 2 – Quest CDN. Publication on April 21
May 24, 2011	Receive Contractor bids/review and prepare preliminary assessment roll
June 7, 2011	City Council accepts bids and awards Contract.
June 8, 2011	Process and send out Contract Documents.
June 24, 2011	Receipt of Contractor's Bonds/Legal Review and Issue Notice to Proceed.
June 27, 2011	Conduct Pre-Construction Meeting.
July 5, 2011	Contractor begins work.
September 23, 2011	Substantial Completion of Work
October 15, 2011	Final Completion of Work



MAYOR & COUNCIL COMMUNICATION

DATE: 9/21/10

REGULAR

ITEM #: 9

MOTION

AGENDA ITEM: I-94 to 30th St. Trunk Sewer Improvements – Authorization to Negotiate Utility Easement for Lift Station Site No. 3

SUBMITTED BY: Jack Griffin, City Engineer

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Ryan Stempski, Assistant City Engineer
Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: The City Council is being asked to authorize the City Administrator, City Attorney and City Engineer to negotiate and acquire approximately 8,000 square feet of permanent utility easement and 8,000 square feet of temporary construction easement to facilitate the construction of the Lift Station for the I-94 to 30th St. Trunk Sewer project to be located on Site No. 3.

The recommended motion to act on is as follows:

“Move to authorize the City Administrator, City Attorney and City Engineer to negotiate and acquire an utility easement from the Elmo View Townhouse Association for the purposes of placing the Lift Station on Site No. 3.”

BACKGROUND INFORMATION AND STAFF REPORT: Staff received direction from the City Council at the August 17, 2010 meeting to finalize the Plans and Specifications and receive contractor bids for the I-94 to 30th St. Trunk Sewer Improvements. As part of this effort, it is necessary for staff to successfully negotiate and acquire both a permanent and temporary easement from the Elmo View Townhouse Association to accommodate the construction of the Lift Station on Site No. 3. Work to be completed in regards to Site No. 3 and the easement acquisition process includes a Wetland Delineation, Soil Borings, Legal Survey and Description, and Appraisal for the permanent and temporary easements.

A meeting was recently held with Elmo View Townhouse Association members to discuss the proposed Lift Station project. See the attached summary memorandum for this meeting, dated September 2, 2010. In July 2008, a similar meeting was held and the Elmo View Townhouse Association expressed that while they are amenable to an easement for the utility pipes, they

were not agreeable to provide an easement for the access roadway. At the September 1, 2010 meeting, the utility easement requirements were presented along with a new preliminary access roadway layout to the lift station site from Lisbon Avenue N (see Exhibits 2 and 3).

At both meetings, the Elmo View Townhouse Association expressed their opinion that Lift Station Site No. 2 would be the preferred alternative for the reasons outlined in the summary memorandum and asked that staff communicate this preference to the City Council. Lift Station Site No. 3 was selected by the City Council in June, 2008 following a detailed presentation on three proposed lift station sites and after receiving a recommendation from the Parks Commission.

RECOMMENDATION: Based upon the above background information and staff report, it is recommended that the City Council move to approve the motion by undertaking the following action:

“Move to authorize the City Administrator, City Attorney and City Engineer to negotiate and acquire an utility easement from the Elmo View Townhouse Association for the purposes of placing the Lift Station on Site No. 3.”

Alternatively, the City Council may reconsider the location of the Lift Station Site by selecting either Site No. 2 or Site No. 1, in which case the acquisition of an utility easement from the Elmo View Townhouse Association will not be necessary.

ATTACHMENTS: (3)

1. Meeting summary memorandum dated September 2, 2010
2. Elmo View Townhouse Association – Easement Acquisition Map
3. Preliminary Lift Station Access Roadway Layout

MEMORANDUM

To: File
Copies To: Bruce Messelt, City Administrator

From: Jack Griffin, City Engineer
Date: September 2, 2010

Reference: City of Lake Elmo
I-94 to 30th Street Infrastructure
LS Site 3 Easement HOA meeting
Proj. No.: 13587.000
Routing:

A meeting was held on September 1, 2010 with the Elmo View Townhome Association at 3020 Lisbon Avenue to discuss the City's desire to acquire 8,000 SF of permanent easement and 8,000 SF of temporary easement to facilitate sanitary sewer, forcemain and watermain pipes from 30th Street to the proposed Lift Station Site No. 3 location on city owned property. The meeting was attended by three of the six owners of the Elmo View Townhome Association and one additional resident from 3075 Lisbon Avenue (see attached sign in sheet). A previous meeting was conducted in July 2008 for the same purposes (see attached summary memo). One Townhome has changed ownership since the July 2008 meeting.

Bruce Messelt, City Administrator introduced himself and provided an overview of the underlying project purpose and the status of the project decisions that have been made to date as well as the decisions that have not yet been made. TKDA presented the summary memo from the July 2008 meeting in order to refresh the conversations that had taken place at that time. TKDA also presented the proposed easement needs and reviewed the easement map and Lift Station Site No. 3 renderings (before and after photos). In addition, TKDA presented a new Lift Station Site No. 3 access driveway plan showing the new access along the north side of the townhome complex running along the south side of the septic drain field fence line.

The following is a summary of the HOA comments of the easement acquisition request. *Comments shown in italics are from the July 2008 meeting with residence concurrence that they remain unchanged:*

1. *The HOA was not in agreement with the city selection of LS Site No. 3 being the most favorable location. Therefore, they were not open to the easement negotiations to facilitate this installation. The HOA indicated that comment No. 1 remains true, however there was an expression of better understanding for the reasons behind the selection of Site No. 3 and a willingness the negotiate for the easement.*
2. *The HOA would prefer that the city place the lift station on Site No. 2 in Reid Park. They felt that the land disturbance and visual presence of the lift station would have far less negative impact at Site No. 2 than for Site No. 3.*
3. *In particular the HOA was strongly opposed to the lift station No. 3 access road that would be constructed over the utility easement. Their concerns were as follows:*
 - ♦ *The visual impact of the access road bisecting the property, creating a physical separation from the adjacent park land (they felt this would greatly devalue their property).*
 - ♦ *The access road would detract from their view of the wetland.*

- ♦ *They were concerned with the general public being on the access road, playing, taking wrong turns assuming it was a park entrance, overflow parking for the Reid Park ballfields, etc.*
 - ♦ *They were concerned with the slope impacts from the access road which would interfere with current land uses such as snow sledding.*
4. *If the city is persistent in Site No. 3 they expressed that they might be open to granting a utility easement without an access road.*
 5. An alternate access road design was presented and found to be an acceptable alternative.
 6. *They expressed a potential interest in connecting to the sewer line, but would need more information regarding costs, etc.* Questions regarding the cost of a sewer hookup were re-iterated and it was expressed that they would like sewer hookups when the time and cost is right.

Attachments:

1. Attendance sign in sheet
2. Elmo View Townhouse Association - Easement Acquisition Map (handout at meeting)
3. Alternative access roadway design and grading plan (handout at meeting)

TKDA

ENGINEERING • ARCHITECTURE • PLANNING

The right time. The right people. The right company.

Project HOA MEETING Proj. No. _____ Sheet _____ of _____
Computations for LS. SITE 3 EASEMENT MEETING By _____ Date 9-1-2010
Chkd _____ Date _____

JACK GRIFFIN LAKE EMMO CITY ENGINEER

651/
292-4552

Jackie Notaro 3020 Lisbon

651-770-0680

Tracy Hinman 3040 Lisbon Ave.

651-334-5702

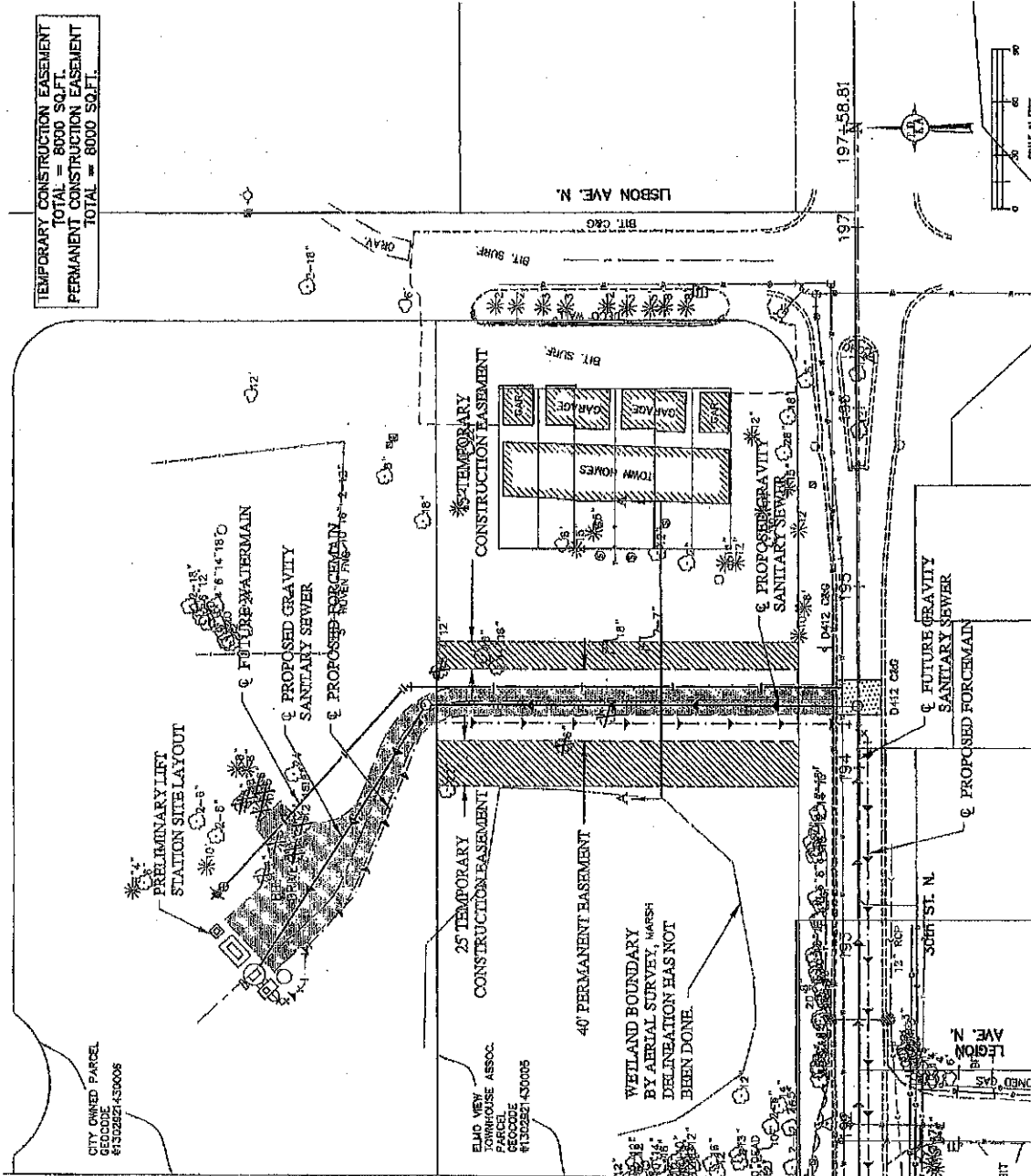
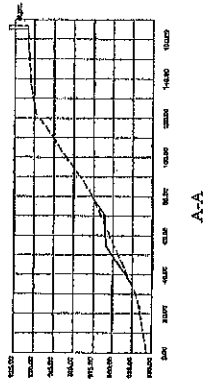
Candy Coppersmith 3075 Lisbon Ave. N.

651-777-3183

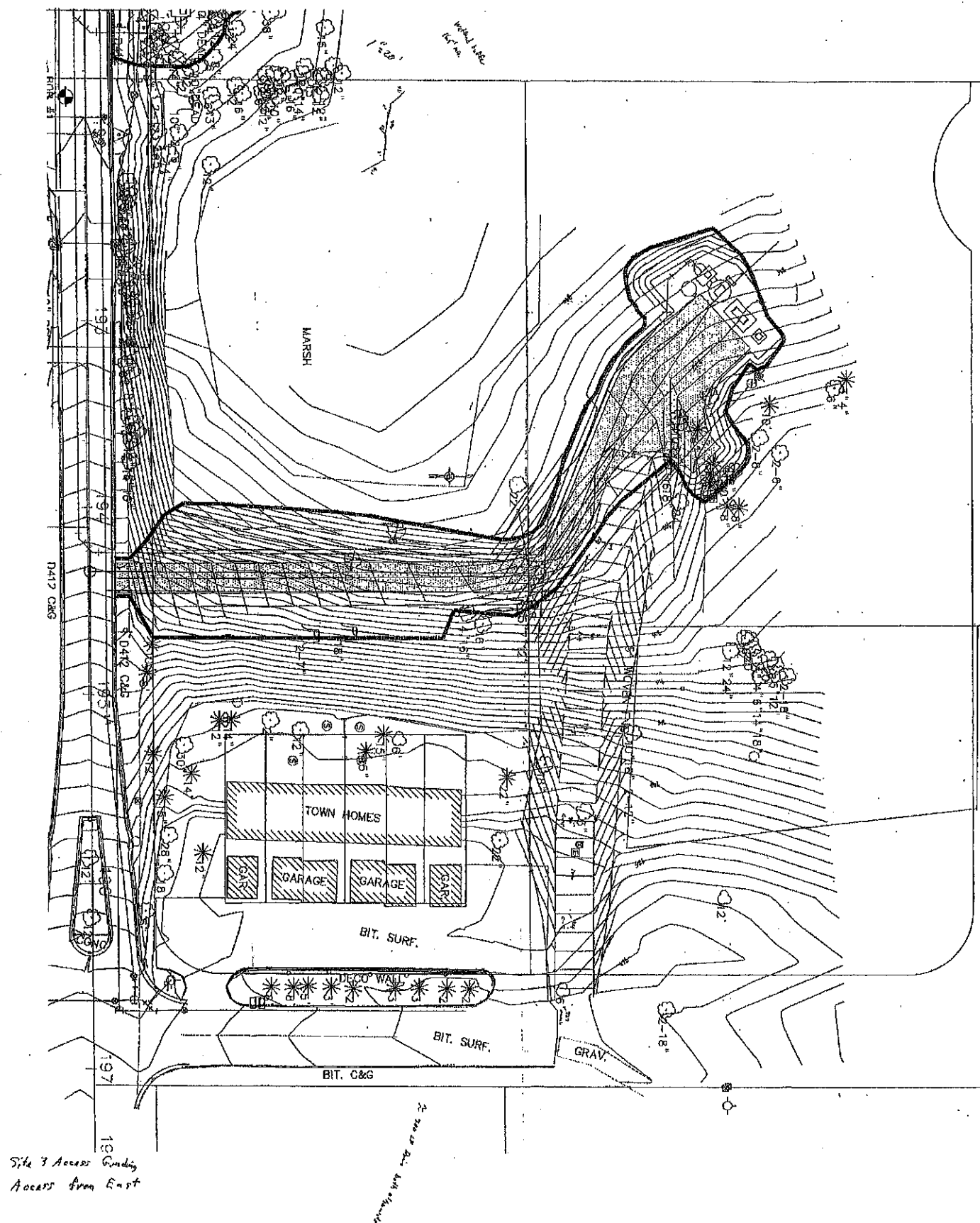
Brian Starkins 3010 Lisbon Ave

651-373-9437

NOTE: PRELIMINARY PLAN -- WETLAND DELINEATION
AND SOIL BORING INFORMATION MAY REQUIRE
SOME MODIFICATIONS.



TEMPORARY CONSTRUCTION EASEMENT
TOTAL = 8000 SQ.FT.
PERMANENT CONSTRUCTION EASEMENT
TOTAL = 8000 SQ.FT.





MAYOR & COUNCIL COMMUNICATION

DATE: 9/21/2010
REGULAR
ITEM #: 10
MOTION *Ordinance 08-029*
Resolution 2010-049

AGENDA ITEM: Adoption of SSTS Ordinance (Subsurface Sewage Treatment System Regulations) and Consideration of an Agreement for SSTS Inspection Services with Washington County

SUBMITTED BY: Planning Commission
Kyle Klatt, Planning Director

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is asked to consider adoption of an ordinance that would amend the City's Individual and Community Waster Water Treatment Systems regulations (Sections 51.001 through 51.007). The proposed ordinance would eliminate most of the existing language and adopt the new Washington County Ordinance pertaining to subsurface sewage treatment systems (SSTS) by reference. In accordance with Minnesota Rules, the City must adopt an ordinance that, at a minimum, is as strict as the new County ordinance within one year from the date of County approval. In this case, the City must revise its regulations to match or exceed the County's regulations by September 23, 2010 or will otherwise be required to abide by the County's ordinance after this date.

Additionally, the City Council is asked to affirmatively consider entering into a contract with Washington County to provide subsurface sewage treatment system inspection services. Staff is recommending that this agreement be put in effect starting October 1, 2010. The recommended motions to act on these items are as follows:

"Move to adopt Ordinance No. 08-029 amending the Lake Elmo Individual and Community Waste Water Treatment Systems Ordinance and adopting Chapter 4 of the Washington County Development Code (Subsurface Sewage Treatment Systems) by reference"

"Move to adopt Resolution 2010-049 authorizing summary publication of Ordinance 08-029"

"Move to authorize execution of an Agreement for Subsurface Sewage Treatment System Inspection Services to contract with Washington County to perform subsurface sewage treatment systems inspection services with the City of Lake Elmo"

BACKGROUND INFORMATION: Based upon the City's review of the County regulations and feedback received from both the Planning Commission and City Council during the initial review of this matter, Staff is recommending the following actions related to the revised County regulations:

- Adopting the County ordinance by reference in its entirety.
- Turning the responsibility for administration and enforcement of the revised SSTS Ordinance over to the County in accordance with the attached agreement.
- Revising the City's Ordinances as appropriate to reflect these actions.

The proposed ordinance revisions that will accomplish these recommendations are attached for review by the City Council. Since the majority of the City's current ordinance deals with the permit review process, which would now be handled by County, a majority of the current language will be eliminated. The only significant addition proposed is a new, more general purpose statement and the actual reference language to adopt the County regulations. The only other sections that will remain as part of the new ordinance will be provisions concerning the City's community septic systems and OP waster water treatment systems (alternative systems), which will remain unique for Lake Elmo.

The City's Ordinances presently include separate sections related to Community Systems and Alternative Treatment Systems (Sections 51.045 and 51.065) that are not proposed to be revised at this time. The County has suggested that the Alternative Waste Disposal System Ordinance not necessary since State Rules now cover these types of systems. It does appear that there are a few provisions specific to Lake Elmo, including regulations concerning setbacks, which will warrant further review and analysis at some point in the future.

STAFF REPORT: In the past, there have been a few provisions in the City's Ordinance that have been more restrictive than the State Rules concerning septic systems. The first two of these exceptions, related to sewage tanks, are no longer necessary since the new County requirements are at least as restrictive as the City's current standards. The other exceptions concerning mound systems and pumping requirements have been left in the draft document, and would still represent a more restrictive standard than allowed under the County's ordinance. The County has provided comments regarding the proposed ordinance, one of which is that a mound system may be a better solution in some instances depending on a site's soil composition.

Staff has left the original draft language concerning mound systems in tact as part of the proposed ordinance. Should the Council agree with the County's recommendation, this language could be removed from the Ordinance.

As part of the proposed Ordinance revisions, the City Engineer is recommending that the City adopt a provision that requires a registered engineer design any system that serves more than two properties. This additional requirement, which is more restrictive than the County Ordinance, would help ensure that any components of a septic system that are located on public property are properly designed.

The City Code provisions that are applicable to this discussion include Chapter 51, Sections 51.001 – 51.007 and 51.045 – 51.066.

Staff has attached a fee schedule provided by the County and comparing the County's SSTS inspection and administrative fees with other counties.

PLANNING COMMISSION REPORT: The Planning Commission was asked to review and comment on the proposed regulations, which were considered at its September 13, 2010 meeting. The main point of discussion for the Commission focused on the provision in the County ordinance concerning failing systems. The Commission debated a more restrictive standard that would have not provided any exceptions to the replacement of a failing system, but ultimately decided that the language as drafted would be acceptable. Staff noted that very few homes in Lake Elmo are going to qualify for an exception if their systems are found to be failing because the City has not typically verified the designer's data with its own field report.

The Commission also discussed how the size of each system is determined, and suggested that the number of bedrooms in a home does not always provide an accurate accounting of the overall usage by a household. The Commission was supportive of the administration of the ordinance being turned over to the County.

RECOMMENDATION: It is recommended that the City Council adopt the following motions to adopt the Washington County Subsurface Sewage Treatment Ordinance (SSTS) by reference and to enter into a contract with the County to provide SSTS inspection services within Lake Elmo:

"Move to adopt Ordinance No. 08-029 amending the Lake Elmo Individual and Community Waste Water Treatment Systems Ordinance and adopting Chapter 4 of the Washington County Development Code (Subsurface Sewage Treatment Systems) by reference"

"Move to adopt Resolution 2010-049 authorizing summary publication of Ordinance 08-029"

"Move to authorize execution of an Agreement for Subsurface Sewage Treatment System Inspection Services to contract with Washington County to perform subsurface sewage treatment systems inspection services with the City of Lake Elmo"

Alternatively, the City May Council may elect to table or deny such recommendations, modify such at tonight's meeting, or remand this item for further preparation, provided specific City Council direction and comment.

ATTACHMENTS:

1. Ordinance No. 08-029 Amending Sections 51.001 through 51.007 of City Code
2. Resolution No. 2010-049 Authorizing Summary Publication
3. Comments from Washington County Public Health Department
4. Agreement for Subsurface Sewage Treatment System Inspection Services
5. Fee Schedule Comparison (from Washington County)
6. Washington County Development Code, Chapter 4: SSTs Regulations

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... Planning Director
- Questions from Council to City or County Staff.....Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for Motions..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on MotionsMayor Facilitates

CITY OF LAKE ELMO

RESOLUTION NO. 2010-049

**RESOLUTION AUTHORIZING PUBLICATION OF
ORDINANCE NO. 08-029 BY TITLE AND SUMMARY**

WHEREAS, the City Council of the city of Lake Elmo has adopted Ordinance No. 08-029, an ordinance to amend the Individual and Community Waster Water Treatment Systems Regulations and adopting the Washington County Subsurface Treatment Ordinance by reference; and

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 Administrator shall cause the following summary of Ordinance No. 08-029 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. 08-029. The ordinance adopts Chapter 4 of the Washington County Development Code entitled "Subsurface Sewage Treatment Systems Regulations" in its entirety by reference. The Ordinance also eliminates the previous provisions concerning the administration of the ordinance and permit review procedures with the expectation that these services will now be provided by Washington County. The Ordinance contains a section for exceptions to the County regulations concerning mound treatment systems, the length of time between inspection and pumping of septic systems, and the certification required for systems serving two or more properties.

The full text of Ordinance No. 08-029 is available for inspection at Lake Elmo city hall during regular business hours.

Mayor Dean Johnston

BE IT FURTHER RESOLVED by the city council of the city of Lake Elmo that the city administrator keep a copy of the ordinance in her office at city hall for public inspection and that she post a full copy of the ordinance in a public place within the city.

Dated: _____, 20__.

Mayor Dean Johnston

ATTEST:

Bruce Messelt
City Administrator

(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.

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

ORDINANCE NO. 08-029

**AN ORDINANCE AMENDING THE INDIVIDUAL AND COMMUNITY
WASTE WATER TREATMENT SYSTEMS REGULATIONS AND
ADOPTING THE WASHINGTON COUNTY SUBSURFACE SEWAGE
TREATMENT ORDINANCE BY REFERENCE**

SECTION 1. The City Council of the City of Lake Elmo hereby ordains that Title V: Public Works; Chapter 51: Individual and Community Waste Water Treatment Systems, Sections 51.001 through 51.007 are amended to read as follows:

**INDIVIDUAL AND COMMUNITY WASTE WATER SUBSURFACE SEWAGE
TREATMENT SYSTEMS**

§ 51.001 INTENT AND PURPOSE.

(A) — Health, safety, and welfare. The purpose of §§ 51.001 et seq. is to protect the health, safety, and welfare of the residents of the community, present and future.

(B) — Contamination of surface/ground water. The purpose of §§ 51.001 et seq. is to regulate the location, design, installation, use, and maintenance of individual and community sewage treatment systems so as to prevent contamination of the surface and ground water within the community.

(C) — Contamination of private water supply wells. The purpose of §§ 51.001 et seq. is to protect the individual water supply wells of the community from contamination by inadequate, improperly designed, located, installed, or maintained individual and community sewage treatment systems.

(D) — Orderly development. The purpose of §§ 51.001 et seq. is to provide for the orderly development of the rural areas of the community which are not served nor planned to be

~~served by central public waste treatment facilities so as to preclude the installation of central public systems.~~

(A) This article is adopted for the purpose of protecting the health, safety and welfare of the residents of the City through regulating the location, design, installation, use and maintenance of individual sewage treatment systems so as to prevent contamination of surface waters and groundwaters.

~~(1997 Code, § 700.02)~~

§ 51.002 RULES. ADOPTION OF COUNTY SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE

(A) Chapter 4 of the Washington County Development Code entitled "Subsurface Sewage Treatment Systems Regulations" as amended is hereby adopted by reference in its entirety as if herein printed in full.

§ 51.003 EXCEPTIONS TO COUNTY ORDINANCE

(A) ~~Application. Minn. Rules, Ch. 7080, as it may be amended from time to time, shall apply except as provided below. The following provisions are adopted separately from the Ordinance reference in the preceding Section and are more restricting than the Chapter 4 of the Washington County Development Code:~~

~~———— (B) ——— Minnesota Rules.~~

~~———— (1) ——— Minn. Rules, part 7080.0130, Sewage Tanks.~~

~~———— (a) ——— All sewage tanks shall be designed assuming that the home or building has a garbage disposal.~~

~~———— (b) ——— Maintenance holes shall be left at finished grade. Lids shall be secured to prevent unauthorized access. A 75-pound lid shall be considered secure.~~

~~(12) Washington County Development Code Chapter 4; Section 6 – Permits; Minn. Rules, part 7080.0170, Final Treatment and Disposal.~~

(a) Mound systems are not allowed as the first disposal site on any lot. Mounds may be used as a replacement to a failed system. Mound systems are not allowed for collector systems in the O.P. zone.

~~(2) Washington County Development Code Chapter 4; Section 22 – Maintenance; Minn. Rules, part 7080.0175, Maintenance.~~

(b) Sewage tanks shall be pumped or inspected by a city-licensed septic pumper, or inspected by a state-certified septic inspector every 2 years. A pumping and/or

inspection report shall be submitted to the city-permitting authority by the pumper or inspector.
~~The city will furnish report forms.~~

(C) OP Waste Water Treatment Systems.

(1) ~~Minn. Rules, part 7080.0300, General.~~ Collector systems in the O.P. zone shall be operated and maintained by ~~the homeowners association~~ a business licensed as a Service Provider in accordance with Minnesota Rules 7083. An operation and maintenance plan shall be prepared by the developer prior to final plat approval. The homeowners association shall be responsible for implementing this plan. Included in this plan shall be both ground water monitoring, and visual inspections. Biannual reports shall be prepared by an ~~I.S.T.S. professional or engineer~~ the Service Provider and submitted to the ~~city-permitting authority~~.

(D) Systems Serving Multiple Properties.

(1) Any system serving two or more properties shall be designed by

(a) A registered professional engineer in the State of Minnesota; or

(b) An Advanced Design business licensed with the Minnesota Pollution Control Agency in accordance with Minnesota Rules, Chapter 7083.

(2) The collection component of the shared system, or any component of the system that is located within an asset of the City, must be designed by a registered professional engineer.

~~(1997 Code, § 700.03)~~

~~(2) Minn. Rules, part 7080.0179, Performance Systems. Minn. Rules, part 7080.0179, is incorporated by reference into the Lake Elmo Municipal Code.
(Ord. 9755, passed 6-20-2000; Am. Ord. 97-180, passed 10-3-2006) Penalty, see § 10.99~~

§ 51.003 GENERALLY.

~~(A) Administration. All individual sewage treatment systems installed subsequent to the adoption of §§ 51.001 et seq. and all alterations, extensions, modifications, or repairs to existing systems irrespective of the date of original installation shall be regulated in accordance with all requirements of §§ 51.001 et seq. Any individual sewage treatment system or component of the system, irrespective of the date of original installation, which is not located, constructed, installed, or maintained in accordance with the provisions of the ordinance shall be so relocated, reconstructed, replaced, or otherwise brought into compliance within 180 days of notice and order to comply by the Zoning Administrator. Existing systems which show evidence of sewage tank effluent discharge to the ground surface, ground or surface waters, or other evidence of failure to adequately treat the sewage tank effluent shall be replaced, reconstructed, or repaired within 90 days of notice and order to comply by the Zoning Administrator.~~

(AB) General requirements- Community Treatment Systems.

~~———— (1) ——— Unlawful connection to community sewage treatment system. It shall be unlawful for any person to connect a building sewer to any community sewage treatment system without first obtaining a permit from the city. The city shall permit new connections and flow increases only if there is additional available capacity in all components of the particular public sewage treatment system being considered. No new connections or flow increases will be permitted during the first 2 years following start-up of each public sewage treatment system.~~

(2) Lawful connections to community sewage treatment systems. New connections will be allowed, with city permit, according to the following conditions.

(a) Where an existing individual sewage treatment system is failing and where the property in question is near the community sewage treatment system, a new connection may be permitted if capacity is available in all components of the community sewage treatment system.

(b) New connection to a community sewage treatment system will not be permitted for new construction, unless the previous structure on which the new construction occurs was previously connected to the existing community sewage treatment system.

(Am. Ord. 97-105, passed 4-2-2002)

(c) The fee for new connections shall be evaluated on a case by case basis. In general the new user shall pay all costs to connect to the system, plus a charge to pay for previously built drainfield areas.

(d) No person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any community sewage treatment system or appurtenance of the system without first obtaining a written permit from the city.

(1997 Code, § 700.04) Penalty, see § 10.99

§ 51.004 ADMINISTRATION.

~~———— (A) ——— Applicability. Sections 51.001 et seq. shall apply and be in effect for the stated purposes within the city.~~

~~———— (B) ——— Enforcement.~~

~~———— (1) ——— The Zoning Administrator shall be responsible for administration and enforcement of §§ 51.001 et seq.~~

~~———— (2) ——— The Zoning Administrator or Administrator's agent shall be qualified and certified by the M.P.C.A. as competent in the design, evaluation, and inspection of individual on-site sewage treatment systems.~~

(C) Board of Adjustment and Appeals.

(1) (a) An aggrieved party may appeal the ~~Zoning Administrator's decision~~ decision by the permitting authority regarding the interpretation or application of the provisions of §§ 51.001 et seq.

(b) Appeals shall be reviewed and determined by the city's Board of Adjustment and Appeals.

(2) Request for variances to the provisions of §§ 51.001 et seq. shall be reviewed pursuant to the procedures and standards contained in the zoning code.

(Am. Ord. 97-124, passed 11-18-2003)

~~(D) Permits. Permits shall be required for sewage treatment systems as follows:~~

~~(1) All new installations of sewage tanks, treatment systems, and components of the sewage tanks or systems;~~

~~(2) All repair, extension, replacement, or modification of existing systems and components;~~

~~(3) Permits shall not be required for normal routine inspection and maintenance of systems;~~

~~(4) No building permit shall be issued for construction, alteration, expansion, or remodeling of any dwelling or other establishment served by an on-site treatment system until the permit required for the treatment has first been issued; and/or~~

~~(5) Where work requiring a permit under §§ 51.001 et seq. has been commenced without first having obtained a permit, work shall be ordered to stop until the permit requirement has been satisfied.~~

~~(E) Inspections. As required to determine compliance with §§ 51.001 et seq., inspections shall be performed by the Zoning Administrator or Administrator's authorized agent under the following circumstances:~~

~~(1) Site inspections to verify and evaluate soil and site conditions and to determine suitability of soils and system design; and/or~~

~~(2) Installation inspections shall be made at each installation, prior to any work having been covered by backfill.~~

~~_____ (a) The applicant shall be responsible to notify the Zoning Administrator a minimum of 24 hours prior to the time work is ready for inspection or reinspection.~~

~~_____ (b) Work which is backfilled prior to the required inspection may be ordered to be uncovered whenever necessary to determine compliance.~~

~~_____ (c) When, upon inspection, any part of the system is determined not to be in compliance with the ordinance, written notice shall be provided by the Zoning Administrator indicating the deficiency and the required corrections.~~

~~_____ (d) Noted deficiencies shall be properly corrected and re-inspected before any other work on the project is continued.~~

~~_____ (e) No system shall be placed or replaced in service until final inspection and approval of the installation.~~

~~_____ (f) The contractor, upon completion of installation, shall file with the Zoning Administrator as-built drawings indicating the location of system components dimensioned from a permanent reference point.~~

~~_____ (g) Operation and maintenance inspections shall be performed by the Zoning Administrator as required to ensure compliance with §§ 51.001 et seq.~~

~~_____ (h) The owner or occupant of a property shall be responsible to provide access at reasonable times to the Zoning Administrator, or Administrator's agent, for the purpose of performing inspections, required under §§ 51.001 et seq.~~

~~_____ (i) Fees for inspections, reinspections, or other services rendered under §§ 51.001 et seq. shall be as set by resolution of the County Board of Commissioners from time to time.~~

~~(1997 Code, § 700.05) Penalty, see § 10.99~~

~~§ 51.005 CERTIFICATION, LICENSES, AND PERMITS.~~

~~_____ (A) Certification. Effective 1-1-1983, any person, firm, or corporation proposing to engage in the business of soil testing, design, construction, installation, or pumping of on-site sewage treatment systems within the jurisdiction of §§ 51.001 et seq., shall be required to provide to the Zoning Administrator proof of certification by the Minnesota Pollution Control Agency.~~

~~_____ (B) Licensing.~~

~~(1) All persons, firms, or corporations proposing to engage in the business of installing, constructing, pumping, or providing maintenance services for on-site sewage treatment systems shall first obtain an annual license to carry on the work within the city.~~

~~(2) Annual licenses shall be in effect from January 1 to December 31 and shall be valid only during the year for which issued.~~

~~(3) License applications shall be submitted to the Zoning Administrator and shall contain the following:~~

~~(a) Name of individual, firm, or corporation seeking license;~~

~~(b) After 1-1-1983, proof of certification by the Minnesota Pollution Control Agency;~~

~~(c) Documentation indicating insurance coverage which shall remain in effect during the license term and non-cancellation provisions which provide a minimum 10-day notice to the Zoning Administrator prior to cancellation, as follows:~~

~~1. Public liability insurance, not less than \$100,000 for injuries including accidental death to any person and subject to the same limit for each person in any amount of not less than \$300,000 on account of any 1 accident;~~

~~2. Property damage insurance, not less than \$50,000 for each accident and not less than \$100,000 aggregated; and/or~~

~~3. Worker's compensation insurance coverage of employees as required by Minnesota Statutes.~~

~~(d) No work shall be under license unless and until required proof of insurance is filed with and approved by the Zoning Administrator;~~

~~(e) The Zoning Administrator may require, or refuse issuance or renewal of, a license for cause as follows:~~

~~1. For installation, construction, alteration, repair, or pumping of any on-site system in violation of §§ 51.001 et seq.;~~

~~2. For failure or refusal to correct defective work cited under the provisions of §§ 51.001 et seq.; and/or~~

~~3. Before any license is refused or revoked, the applicant or licensee shall be granted a hearing before the County Planning Advisory Commission to show cause why the license should not be refused or revoked.~~

~~_____ (f) The annual license fee shall be as established by resolution of the Council.~~

~~_____ (C) Permits.~~

~~_____ (1) No person, firm, or corporation shall install, alter, repair, or extend any individual sewage treatment system in the city without first having obtained a permit from the Zoning Administrator for the specific work, and having paid the fee prescribed for the permit as determined by resolution of the County Board of Commissioners.~~

~~_____ (2) Permit applications shall be made in writing upon forms provided by the Zoning Administrator and shall contain data including, but not limited to, the following:~~

~~_____ (a) Correct legal description of the property on which the proposed work is to take place;~~

~~_____ (b) Site plan, to scale, showing the location of all proposed and existing structures, property lines, water supply wells, terrain features such as bluff lines, water bodies or waterways, buried utilities, easements, and other unique features on the site;~~

~~_____ (c) Soil test data, including soil boring logs, percolation test data with field notes, and location and identification of test area;~~

~~_____ (d) Plans and details of the proposed installation or work, including engineering data when required;~~

~~_____ (e) Building plans showing existing and proposed room arrangement and uses;~~

~~_____ (f) For other than dwellings, calculated or measured water use rates, occupancy, and occupant load; and/or~~

~~_____ (g) Evidence of compliance with state or other jurisdiction regulations where applicable.~~

~~_____ (3) Permits shall be valid upon issuance for a period of 6 months and may be renewed, when no charges are proposed, upon application for renewal and payment of the fee prescribed.~~

~~_____ (4) Permits issued under §§ 51.001 et seq. may be revoked upon written notice of the Zoning Administrator when the permit has been issued based upon erroneous or inaccurate application data.~~

~~(1997 Code, § 700.06) Penalty, see § 10.99~~

§ 51.006 ENFORCEMENT.

~~—— (A) —— It is declared unlawful for any person, firm, or corporation to violate any term or provisions of §§ 51.001 et seq.~~

~~—— (B) —— In the event of a violation or a threatened violation of §§ 51.001 et seq., the Zoning Administrator, in addition to other remedies, may:~~

~~—— (1) —— Request appropriate actions or proceedings to prevent, restrain, correct, or abate the violations or threatened violations; and~~

~~—— (2) —— It shall be the duty of the City Attorney to initiate the action.~~

~~—— (C) —— In the event of a violation of the septic tank pumping required in § 51.006, the Zoning Administrator may, after 10 days mailed notice to the record owner, order the pumping performed and have the cost of the pumping plus 100%, placed as a special assessment against the property and to certify the cost to the County Auditor for collection in the same manner as taxes and special assessments are certified and collected.~~

~~—— (D) —— Any taxpayer of the city may institute mandamus proceedings in district court to compel specific performance by the proper official or officials of any duty required by §§ 51.001 et seq.~~

~~—— (E) —— The Zoning Administrator or other city personnel, bearing proper credentials and identification, shall, at reasonable times, be permitted to enter upon all properties with an individual sewer system for the purpose of inspection, observation, measurement, sampling, and testing in connection with the operation of the individual sanitary sewer system.~~

~~(1997 Code, § 700.07) Penalty, see § 10.99~~

§ 51.007 EFFECTUATION.

~~—— (A) —— It is declared to be the intent that the several provisions of §§ 51.001 et seq. are separable in accordance with the following.~~

~~—— (B) —— (1) —— If any court of competent jurisdiction shall adjudge any provision of §§ 51.001 et seq. to be invalid, the judgment shall not affect any other provision of §§ 51.001 et seq. not specifically included in the judgment.~~

~~—— (2) —— If any court of competent jurisdiction shall adjudge invalid the application of any portion of §§ 51.001 et seq. to a particular property, building, or other structure, the judgment shall not affect the application of the provision to any other property, building, or structure not specifically included in the judgment.~~

~~(1997 Code, § 700.08)~~

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 No. 08-029 was adopted on this 21st day of September 2010, by a vote of ____ Ayes and ____ Nays.

Mayor Dean Johnston

ATTEST:

Bruce Messelt
City Administrator

This Ordinance No 08-029 was published on the ____ day of _____, 2010



September 17, 2010

City of Lake Elmo
c/o Kyle Klatt
3800 Laverne Avenue North
Lake Elmo, MN 55042

PROPOSED SSTS ORDINANCE

The purpose of this correspondence is to offer comments regarding the City of Lake Elmo's proposed ordinances regulating subsurface sewage treatment systems (SSTS). The correspondence will often refer to the Washington County Development Code, Chapter Four, Subsurface Sewage Treatment System Regulations (Washington County Ordinance #179), hereinafter referred to as Chapter Four.

51.003 – EXCEPTIONS TO COUNTY ORDINANCE

51.003 (A)(1)(a)

Mound systems are not allowed as the first disposal site on any lot. Mounds may be used as a replacement to a failed system. Mound systems are not allowed for collector systems in the O.P. zone.

The Department recommends that this language be struck from the city ordinance. Chapter Four classifies mound systems as Type I systems, or "standard" systems. Mound systems are installed successfully throughout Washington County and the State of Minnesota. A properly designed and installed mound system works just as well as a properly designed and installed in-ground system.

51.003 (C) OP Waste Water Treatment Systems

Minnesota Rules, Chapter 7083 now requires that a business licensed as a Service Provider operate and maintain a mid-sized sewage treatment system (MSTS), or collector system. The County recommends the following changes to the language:

Collector systems in the O.P. zone shall be operated and maintained by a business licensed as a Service Provider in accordance with Minnesota Rules, Chapter 7083. ~~the homeowners association.~~ An operation and maintenance plan shall be prepared by the developer prior to final plat approval. The homeowner's association shall be responsible for implementing this plan. Included in this plan shall be groundwater monitoring, and visual inspections. Biannual reports shall be prepared by ~~an I.S.T.S. professional or engineer~~ the Service Provider and submitted to the ~~city~~ permitting authority.

PROFESSIONAL CREDENTIALS

Regarding language for distinction between when an SSTS Advanced Designer can design a system and when a professional engineer is required, the County recommends the following language:

"Any system serving two or more properties shall be designed by:

- 1. A registered professional engineer in the State of Minnesota; or,*
- 2. An Advanced Design business licensed with the Minnesota Pollution Control Agency in accordance with Minnesota Rules, Chapter 7083.*

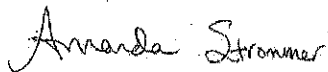
The collection component of the shared system, or any component of the system that is located within an asset of the City, must be designed by a registered professional engineer."

ALTERNATIVE WASTE DISPOSAL SYSTEMS; WETLAND TREATMENT SYSTEMS ORDINANCE

This ordinance is no longer necessary. M.R. Chapter 7081 and Chapter Four will now regulate the design, operation, and maintenance of constructed wetlands. This entire ordinance can be repealed.

If you have any questions or comments please contact Pete Ganzel at 651-430-6676 or Chris LeClair at 651-430-6673.

Sincerely,



Amanda Strommer, Program Manager

CC: Lowell Johnson, Director, Department of Public Health & Environment
Chris LeClair, Sr. Environmental Specialist, Department of Public Health & Environment
Pete Ganzel, Sr. Environmental Specialist, Department of Public Health & Environment

Agreement for Subsurface Sewage Treatment System Inspection Services

This agreement is made and entered into, by and between the County of Washington (hereinafter referred to as the County) and the City of Lake Elmo (Hereinafter referred to as the City).

I. WITNESSETH

WHEREAS, the City wishes to contract with the County to perform subsurface sewage treatment system (SSTS) inspection services within the City's boundaries; and

WHEREAS, the City adopted an Subsurface Sewage Treatment System Regulations Ordinance, hereinafter SSTSRO, regulating subsurface sewage treatment systems which is consistent with or more restrictive than the County's Subsurface Sewage Treatment System Regulations Ordinance #179 (Washington County Development Code Chapter 4), which applies to all areas of the City; and

WHEREAS, the County agrees to provide subsurface sewage treatment system inspection services under the terms and conditions hereinafter set forth; and

WHEREAS, this contract is authorized under Section 471.59 of the Minnesota Statutes.

NOW THEREFORE, it is mutually agreed between the County and City as follows:

II. SCOPE OF SERVICES

County's Responsibilities

1. The County agrees to provide, through its Department of Public Health and Environment, subsurface sewage treatment system inspection services for the City. The County shall provide a Qualified Employee(s), as described in Minn. Rule 7083.1010 and 7083.0020 subp 17.
2. The standards of performance, method of providing subsurface sewage treatment system inspection services, and other matters incident to the performance of services under this Agreement, including personnel to be employed, shall be determined by the County. The City shall be notified in advance of any proposed changes in standards of performance or methods of providing services.
3. The County shall provide the necessary SSTS application review and sewage system plan approval as required by laws, regulations and ordinances, provide all job site inspections of projects under permit, and conduct special inspections as deemed necessary to ensure compliance with the SSTSRO. Services shall include clerical support incidental to the performance of this agreement.

4. The County shall provide and issue all sewage permits as required by the SSTSRO, existing laws or regulations and shall maintain records of all such permits. If the City requests a copy of a granted permit, the County shall provide a copy to the City within 5 (five) working days.
5. The County shall send a copy of the County's issuance of a certificate of compliance of the sewage system's completion to the City within 10 (ten) working days of the County granting the certificate.
6. In the event of a violation or threatened violation of the SSTSRO or sewage permit the County may pursue the administrative issuance of stop work orders on the installation of the septic system, and/or issue corrective orders, and/or issue notices of non-compliance.
7. The County shall advise the City if a misdemeanor citation is warranted for any violation of a sewage permit or SSTSRO.
8. The County may request appropriate actions or proceedings be brought by the City, to prevent, restrain, correct or abate violations or threatened violations of a sewage permit or SSTSRO.
9. The County will cooperate with the City's officials and/or employees in fulfilling its obligations under this Agreement.

City's Responsibilities:

1. In areas not served by municipal sewer, the City shall not issue a building permit for new dwelling construction and/or for the addition of bedrooms until the County has issued a sewage permit for the new construction and/or addition of bedrooms.
2. The City shall act on all applications for special permits and SSTSRO variance requests.
3. Upon request from the County the City shall issue a stop work order on projects commencing construction prior to the issuance of a sewage permit.
4. The City is responsible for commencing appropriate actions or proceedings to prevent, restrain, correct or abate violations or threatened violations of a sewage permit or SSTSRO and shall represent the County during appeals of the administrative remedies issued by the County.
5. The City may issue misdemeanor citations for violations of the SSTSRO or sewage permit.
6. The City shall not issue a certificate of occupancy for new construction or the addition of bedrooms prior to receipt of the County's certificate of compliance.
7. The City, and its agents and employees, will cooperate and assist the County in the

performance of this Agreement.

8. In the event of County SSTS Ordinance revision, the City shall adopt a revised SSTS Ordinance which is consistent with or more restrictive than the County's revised SSTS Ordinance no more than 12 (twelve) months after the County revised SSTS Ordinance has been adopted.

III. SCHEDULE OF FEES AND CHARGES

1. The County shall establish the schedule of fees for its subsurface sewage treatment system inspection services. The septic permit application and installation fees shall be in accordance with the fee schedule adopted annually by the Washington County Board of Commissioners. The County shall collect, receipt for, disburse, and maintain records for all fees and charges collected incident to the administration of subsurface sewage treatment system inspection and permit services contained herein.
2. Fees and charges shall be due and payable by the applicant upon issuance of the permit and will be collected by the County from the applicant for said permit.
3. The City agrees that in payment for the subsurface sewage treatment system inspection and permit services provided by the County that the County shall retain, out of the fees and charges collected incident to this service, an amount equal to one hundred percent (100%) of all SSTS permit fees.
4. The City shall not assume any liability for the direct payment of any salary, wage, or other compensation to any County employee performing subsurface sewage treatment system inspection services pursuant to this agreement.

IV. GENERAL TERMS AND CONDITIONS

Data Privacy

1. All data collected, created, received, maintained or disseminated for any purposes by the activities of the County because of this Agreement is governed by the Minnesota Government Data Practices Act, Minnesota Chapter 13, as amended, the Minnesota Rules implementing such Act now in force or as adopted, as well as Federal Regulations on data privacy, including but not limited to, the Health Insurance Portability and Accountability Act (HIPAA) where it applies. The City and County agrees to abide by these statutes, rules and regulations and as they may be amended.

Indemnity Clause

2. The City agrees that it will indemnify and hold harmless the County, its officers and

employees, against any and all liability, loss, costs, damages and expenses which the County, its officers or employees may hereafter sustain, incur, or be required to pay arising out of the City's negligent performance or failure to adequately perform its obligations pursuant to this Agreement.

The County agrees that it will indemnify and hold harmless the City, its officers and employees, against any and all liability, loss, costs, damages and expenses which the City, its officers or employees may hereafter sustain, incur, or be required to pay arising out of the County's negligent performance or failure to adequately perform its obligations pursuant to this Agreement.

Insurance

3. The City further agrees that in order to protect itself, as well as the County, under the indemnifications provisions set forth above that it shall at all times during the terms of this Agreement, provide maximum tort liability limits as set forth in Minnesota Statute, Sections 3.736 and 466.04. This provision shall be set as a condition subsequent; failure to abide by this provision shall be deemed a substantial breach of contract.

The County further agrees that in order to protect itself, as well as the City, under the indemnifications provisions set forth above that it shall at all times during the terms of this Agreement, provide maximum tort liability limits as set forth in Minnesota Statute, Section 466.04. This provision shall be set as a condition subsequent; failure to abide by this provision shall be deemed a substantial breach of contract.

Independent Contractor

4. Nothing contained in this Agreement is intended or should be construed as creating the relationship of co-partners or joint ventures between the County and City. No tenure or any rights or benefits, including workers compensation, unemployment insurance, medical care, sick leave, vacation leave, severance pay, PERA, or other benefits available to County employees shall accrue to the City or employees of the City performing services under this Agreement.

Records – Availability and Retention

5. Pursuant to Minnesota Statute 16C.05, Subd 5., the County/City agrees that the County/City, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc. which are pertinent to the accounting practices and procedures of the County/City and involve transactions relating to this agreement. The County/City agrees to maintain these records for a period of six years from the date of termination of this Agreement and make

available as requested.

Nondiscrimination

6. During the performance of this Agreement, the City and County agrees to the following:

No person shall, on the grounds of race, color, religion, age, sex, disability, marital status, public assistance status, criminal record, creed or national origin be excluded from full employment rights, participation in, be denied the benefits of or be otherwise subjected to discrimination under any and all applicable Federal and State laws against discrimination.

Merger and Modification

7. It is understood and agreed that the entire Agreement between the parties is contained here and that this agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter.

Any material alterations, variations, modifications, or waivers of provisions of this Agreement shall be valid only when they have been reduced to writing as an amendment and signed by the parties.

Severability

8. Every section, provision or part of this Agreement is declared severable from every other section, provision or part thereof to the extent that if any sections, provision or part of this Agreement shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision or part thereof.

V. TERM AND EFFECTIVE DATE

1. The effective date of this agreement shall be October 1, 2010, notwithstanding the date of the signatures below.
2. This agreement shall run until December 31, 2012, at which time it will automatically terminate unless it is renewed by official action of both the City and the County prior to the termination date. Notice of either the City's intent or the County's intent not to renew the agreement should be given to the other party ninety (90) days in advance of the December 31, 2012, termination date.

IN WITNESS WHEREOF, the City has caused this agreement to be signed by its Mayor and attested to by its Clerk, and the County of Washington, by order of its Board of County Commissioners, has caused this Agreement to be signed by its Board Chair and attested to by its County Administrator.

City of Lake Elmo, Minnesota

Washington County, Minnesota

By: _____
Mayor

By: _____
Chair, Board of Commissioners

Date: _____

Date: _____

By: _____
City Clerk

By: _____
County Administrator

Approved as to Form:

Assistant Washington County Attorney

[illegible]

WASHINGTON COUNTY DEVELOPMENT CODE**CHAPTER FOUR****SUBSURFACE SEWAGE TREATMENT SYSTEM REGULATIONS**

This chapter shall regulate the location, design, installation, use and maintenance of subsurface sewage treatment systems in all areas of Washington County other than cities and towns that have adopted ordinances that comply with Minnesota Statute 115.55 and are as strict as this Chapter. This chapter is authorized under Minnesota Statute Section 115.55 and 115.56 and Minnesota Statutes Chapter 145A.

SECTION 1. PURPOSE AND INTENT

1.1 This Chapter is adopted for the following purposes:

- (1) To protect the public health, safety, and general welfare by the discharge of adequately treated sewage to the groundwater via the proper location, design, installation, use, and maintenance of individual subsurface sewage treatment systems (ISTS) and midsize subsurface sewage treatment systems (MSTS).
- (2) These environmental protection standards shall be adopted county wide and administered and enforced by the Department or local units of government as directed by Minnesota Rules, Chapter 7082, and Minnesota Statute, Section 115.55.
- (3) This chapter does not regulate systems that do not receive sewage as defined in this chapter. If systems receive both sewage and nonsewage, the requirements of this chapter apply, plus any additional requirements governing the nonsewage portion of the wastewater.
- (4) To provide prescriptive design, construction, and operational standards to reasonably protect surface water and groundwater and promote public health, safety, and general welfare.
- (5) To protect individual water supply wells of the community from contamination by inadequate, improperly designed, located, installed or maintained subsurface sewage treatment systems.
- (6) To provide for the orderly development of areas of the community which are not served by central public wastewater treatment systems and to reduce the need to install central public wastewater treatment systems in areas where they are not now currently planned.
- (7) Technology and products employed in system design shall adequately protect the public health and the environment as determined by Minnesota Rules, Chapter 7083, and be approved for use by the Department or local unit of government.

SECTION 2. DEFINITIONS

- 2.1 **Certain Terms.** For the purposes of this Chapter, certain terms or words used are interpreted as follows: the words "shall" and "must" are mandatory and the words "should" and "may" are permissive. All distances specified in this Chapter are horizontal distances unless otherwise specified.
- 2.2 For the purpose of this Chapter, the certain words and phrases are defined as follows:
- (1) **Absorption area.** "Absorption area" means the parameter that is associated with the hydraulic acceptance of effluent. It is also commonly known as the infiltrative surface. The absorption area for a mound system is the original soil below a mound system that is designed to absorb sewage tank effluent. The absorption area for trenches, seepage beds, and at-grade systems is the soil area in contact with the part of the distribution medium that is designed and loaded to allow absorption of sewage tank effluent. This includes both bottom and sidewall soil contact areas.
 - (2) **Agency.** "Agency" means the Minnesota Pollution Control Agency (MPCA).
 - (3) **Alarm device.** "Alarm device" means a device that alerts a system operator or system owner of a component's status using a visual or audible device. An alarm device can be either on site or remotely located.
 - (4) **Applicable requirements.** "Applicable requirements" means:
 - A. This Chapter; Minnesota Rules, Chapter 7082; and, Minnesota Statutes, section 115.55; or
 - B. In areas of the County without complying ordinances to regulate SSTs, the requirements in this Chapter.
 - (5) **As-builts.** "As-builts" means drawings and documentation specifying the final in-place location, size, and type of all system components. These records identify the results of materials testing and describe the conditions during construction. An as-built also contains a certified statement.
 - (6) **ASTM.** "ASTM" means the American Society for Testing and Materials.
 - (7) **At-grade system.** "At-grade system" means a pressurized soil treatment and dispersal system where sewage tank effluent is dosed to an absorption bed that is constructed directly on original soil at the ground surface and covered by loamy soil materials.
 - (8) **Baffle.** "Baffle" means a device installed in a septic tank to retain solids and includes, but is not limited to, vented sanitary tees with submerged pipes and effluent screens.
 - (9) **Bedrock.** "Bedrock" means geologic layers, of which greater than 50 percent by volume consists of unweathered in-place consolidated rock or rock fragments. Bedrock also means weathered in-place rock which cannot be hand augered or penetrated with a knife blade in a soil pit.
 - (10) **Bedroom.** "Bedroom" means, for the sole purpose of estimating design flows from dwellings, an area that is:
 - A. a room designed or used for sleeping; or

- B. a room or area of a dwelling that has a minimum floor area of 70 square feet with access gained from the living area or living area hallway. Architectural features that affect the use as a bedroom under this item may be considered in making the bedroom determination.
- (11) **Biochemical oxygen demand or BOD.** “Biochemical oxygen demand” or “BOD” means the measure of the amount of oxygen required by bacteria while stabilizing, digesting, or treating biodegradable organic matter under aerobic conditions over a five-day incubation period, commonly expressed in milligrams per liter (mg/L).
- (12) **Building.** “Building” means any structure used or intended for supporting or sheltering any use or occupancy.
- (13) **Building sewer.** “Building sewer” means the part of the drainage system which extends from the end of the building drain and conveys its discharge to a subsurface sewage treatment system.
- (14) **Carbonaceous biochemical oxygen demand or CBOD₅.** “Carbonaceous biochemical oxygen demand” or “CBOD₅” means the measure of the amount of oxygen required by bacteria while stabilizing, digesting, or treating organic matter under aerobic conditions over a five-day incubation period while in the presence of a chemical inhibitor to block nitrification. CBOD₅ is commonly expressed in milligrams per liter (mg/L).
- (15) **Certificate of compliance.** “Certificate of compliance” means a document, written after a compliance inspection, certifying that a system is in compliance with applicable requirements at the time of the inspection.
- (16) **Certified.** “Certified” means an individual is included on the Agency’s SSTS certification list and is qualified to design, install, maintain, repair, pump, operate, or inspect an SSTS as appropriate with the individual’s qualifications. A certified individual who is working under a license is subject to the obligations of the license. Certified individuals were previously known as registered professionals.
- (17) **Certified statement.** “Certified statement” means a statement signed by a certified individual, apprentice, or qualified employee under Minnesota Rules, Chapter 7083 certifying that the licensed business or qualified employee completed the work in accordance with applicable requirements.
- (18) **Cesspool.** “Cesspool” means an underground pit, receptacle, or seepage tank that receives sewage and leaches sewage into the surrounding soil, bedrock, or other soil materials. Cesspools include sewage tanks that were designed to be watertight, but subsequently leak below the designed operating depth.
- (19) **Clean sand.** “Clean sand” means a soil fill material required to be used in mounds. The standards for clean sand are outlined in Section 17.3 (10).
- (20) **Commissioner.** “Commissioner” means the commissioner of the Minnesota Pollution Control Agency.
- (21) **Compliance inspection.** “Compliance inspection” means an evaluation, investigation, inspection, or other such process for the purpose of issuing a certificate of compliance or notice of noncompliance.
- (22) **Contour Loading Rate.** “Contour Loading Rate” is the amount of effluent loaded to the soil per length of the dispersal unit or units along the single hillslope along the contour. The

contour loading rate is determined on the relationship between the vertical and horizontal water movement in soil and is based on the permeability difference between the absorption area and any deeper horizons, the depth between the absorption area and the change in permeability; and the land slope.

- (23) **Department.** "Department" means the Washington County Department of Public Health and Environment.
- (24) **DNR.** "DNR" means the Minnesota Department of Natural Resources.
- (25) **Disinfection.** "Disinfection" means the process of destroying or inactivating pathogenic microorganisms in sewage to render them noninfectious.
- (26) **Distinct.** "Distinct" means a soil color that is not faint as described in Section 2.2 (39).
- (27) **Distribution box.** "Distribution box" means a device intended to distribute sewage tank effluent concurrently and equally by gravity to multiple segments of a soil dispersal system.
- (28) **Distribution device.** "Distribution device" means a device used to receive and transfer effluent from supply pipes to distribution pipes or downslope supply pipes, or both. These devices include, but are not limited to, drop boxes, valve boxes, distribution boxes, or manifolds.
- (29) **Distribution medium.** "Distribution medium" means the material used to provide void space in a dispersal component, through which effluent flows and is stored prior to infiltration. Distribution media includes, but is not limited to, drainfield rock, polystyrene beads, chambers, and gravelless pipe.
- (30) **Distribution pipes.** "Distribution pipes" means perforated pipes that distribute effluent within a distribution medium.
- (31) **Domestic waste.** "Domestic waste" means liquid waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources, and includes household cleaners, medications, and other constituents in sewage restricted to amounts normally used for domestic purposes. Domestic waste has a biochemical oxygen demand of 175 mg/L or less, a total suspended solids level of 65 mg/L or less, an oil and grease concentration of 25 mg/L or less and no hazardous wastes. Animal waste and commercial or industrial waste are not considered domestic waste.
- (32) **Drip dispersal system.** "Drip dispersal system" means a small diameter pressurized wastewater distribution system in which the treated effluent is distributed under pressure to the infiltrative surface via drip tubing and enters the receiving environment.
- (33) **Drop box.** "Drop box" means a distribution device used for the serial gravity application of sewage tank effluent to a soil dispersal system.
- (34) **Dwelling.** "Dwelling" means any building with provision for living, sanitary, and sleeping facilities.
- (35) **Effluent screen.** "Effluent screen" means a device installed on the outlet piping of a septic tank for the purpose of retaining solids of a specific size.
- (36) **EPA.** "EPA" means the United States Environmental Protection Agency.

- (37) **Even Distribution.** “Even Distribution” means a method that, upon activation of the SSTS, reliably distributes effluent over the entire required absorption area.
- (38) **Existing system.** “Existing system” means a system that has been previously inspected and approved by the Department or local unit of government during installation. In addition, all operating systems installed before the adoption of this Chapter are considered existing systems.
- (39) **Faint.** “Faint” means a soil color:
- A. with the same hue as another soil color but that varies from the other color by two or less units of value and not more than one unit of chroma;
 - B. that differs from another soil color by one hue and by one or less units of value and not more than one unit of chroma; or
 - C. that differs from another soil color by two units of hue with the same value or chroma.
- (40) **Fecal coliform or FC.** “Fecal coliform” or “FC”, for the purposes of this Chapter, means bacteria common to the digestive systems of humans that are cultured in standard tests. Counts of these organisms are typically used to indicate potential contamination from sewage or to describe a level of disinfection, generally expressed in colonies per 100 mL.
- (41) **Fine Sand.** “Fine sand” means a soil texture, as described in the Field Book for Describing and Sampling Soils, which is incorporated by reference in Section 2.2 (46) where more than 50 percent of the sand has a particle size range of 0.05 millimeters, sieve size of 270, to 0.25 millimeters, sieve size 60.
- (42) **Flood fringe.** “Flood fringe” means that portion of the floodplain outside of the floodway. Flood fringe is in the Flood Insurance Study for Washington County and identified on the Flood Boundary and Floodway Maps as floodway fringe.
- (43) **Floodplain.** “Floodplain” means the area covered by a 100-year flood event along lakes, rivers, and streams as published in technical studies by local, state, and federal agencies, or in the absence of these studies, estimates of the 100-year flood boundaries and elevations as developed according to Washington County.
- (44) **Floodway.** “Floodway” means the bed of a wetland or lake, the channel of a watercourse, and those portions of the adjoining floodplain that are reasonably required to carry the regional flood discharge.
- (45) **Flow measurement.** “Flow measurement” means any method to accurately measure water or sewage flow, including, but not limited to, water meters, event counters, running time clocks, or electronically controlled dosing.
- (46) **Geomorphic description.** “Geomorphic description” means the identification of the landscape, landform, and surface morphometry of the proposed area of the soil treatment and dispersal system as described in the Field Book for Describing and Sampling Soils: Version 2.0 (2002), developed by the National Soil Survey Center and Natural Resources Conservation Service of the United States Department of Agriculture. The field book is incorporated by reference, is not subject to frequent change, and is available through the Minitex interlibrary loan system.

- (47) **Graywater.** "Graywater" means sewage that does not contain toilet wastes. Liquid wastes from a dwelling or other establishment produced by bathing, laundry, culinary operation, and from floor drains associated with these sources are considered graywater.
- (48) **Graywater system.** "Graywater system" means a system that receives, treats, and disperses only graywater or other similar system as designated by the commissioner.
- (49) **Groundwater mound.** "Groundwater mound" means the rise in height of the periodically saturated soil or regional water table caused by the addition of sewage effluent from a subsurface sewage treatment system into the soil.
- (50) **Hazardous waste.** "Hazardous waste" means any substance that, when discarded, meets the definition of hazardous waste in Minnesota Statutes, section 116.06, subdivision 11, Minnesota Rules 7045, or Washington County Ordinance No. 166.
- (51) **Holding tank.** "Holding tank" means a tank for storage of sewage until it can be transported to a point of treatment and dispersal. Holding tanks are considered a septic system tank under Minnesota Statutes, section 115.55.
- (52) **Individual subsurface sewage treatment system or ISTS.** "Individual subsurface sewage treatment system" or "ISTS" means an individual sewage treatment system or part thereof, as set forth in Minnesota Statutes, sections 115.03 and 115.55, that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade that are designed to receive a sewage design flow of 5,000 gallons per day or less. ISTS includes the holding tanks and privies, but does not include any pump tanks used in a sewage collection system. ISTS does not include building sewers or other components regulated under Minnesota Rules, Chapter 4715, or sewage collection systems.
- (53) **Inner wellhead management zone.** "Inner wellhead management zone" means the drinking water supply management area for a public water supply well that does not have a delineated wellhead protection area approved by the Department of Health under Minnesota Rules, Chapter 4720, section 4720.5330.
- (54) **Invert.** "Invert" means the lowest point of a channel inside a pipe.
- (55) **Imminent Threat to Public Health or Safety.** "Imminent Threat to Public Health or Safety" means an ISTS which discharges sewage or sewage effluent to the ground surface, drainage system, ditches, or storm water drains or directly to surface water; or causes a reoccurring sewage backup into a dwelling or other establishment; or has an electrical hazard; or includes a sewage tank with an unsecured, damaged or weak maintenance hole cover; or an ISTS that has received hazardous waste, or other safety or health hazard as determined by those authorized in Minnesota Rules Chapter 7083
- (56) **ISTS Failing to Protect Groundwater.** "ISTS Failing to Protect Groundwater" means a seepage pit, cesspool, drywell, leaching pit or other pit; or an ISTS that has less than the required vertical separation distance as described in Section 4.3 (4) & (5); or an ISTS not abandoned in accordance with Section 23; or any other threat to groundwater quality as determined by those authorized in Minnesota Rules, Chapter 7083.
- (57) **Liquid capacity.** "Liquid capacity" means the liquid volume of a sewage tank below the invert of the outlet pipe or, for holding tanks and pump tanks, the liquid volume below the invert of the inlet.

- (58) **Long-term sewage treatment.** "Long-term sewage treatment" shall mean enough space on a lot for two Type I or Type II soil treatment and dispersal areas.
- (59) **Lot.** "Lot" means a parcel of land designated by metes and bounds, registered land survey, plat or other means, and which description is either recorded in the Office of the Washington County Recorder or Registrar of Titles or used by the County Treasurer or County Assessor to separate such parcel from other lands for tax purposes.
- (60) **Management plan.** "Management plan" means a plan that requires the periodic examination, adjustment, testing, and other operational requirements to meet system performance expectations, including a planned course of action in the event a system does not meet performance expectations.
- (61) **Matrix.** "Matrix" means the majority of the color in a soil horizon, as described in the Field Book for Describing and Sampling Soils, which is incorporated by reference in Section 2.2 (46).
- (62) **Midsized subsurface sewage treatment system or MSTs.** "Midsized subsurface sewage treatment system" or "MSTS" means an individual sewage treatment system, or part thereof, as set forth in Minnesota Statutes, sections 115.03 and 115.55, that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade and that is designed to receive sewage from dwellings or other establishments with a design flow of greater than 5,000 gallons per day to 10,000 gallons per day. Design flows must be determined by Section 12.7. MSTs also includes on-lot septic tanks, holding tanks, and privies, but does not include any pump tanks used in a sewage collection system. MSTs does not include those components defined as plumbing under Minnesota Rules, Chapter 4715 or sewage collection systems.
- (63) **Mottles.** "Mottles" means the minority of the variegated colors in a soil horizon, as described in the Field Book for Describing and Sampling Soils, which is incorporated by reference in Section 2.2 (46).
- (64) **Mound system.** "Mound system" means a soil treatment and dispersal system designed and installed such that all of the infiltrative surface is installed above grade, using clean sand between the bottom of the infiltrative surface and the original ground elevation, utilizing pressure distribution and capped with suitable soil material to stabilize the surface and encourage vegetative growth.
- (65) **MPCA.** "MPCA" means the Minnesota Pollution Control Agency.
- (66) **NPDES permit.** "NPDES permit" means a National Pollutant Discharge Elimination System permit issued by the MPCA.
- (67) **New construction.** "New construction" means installing or constructing a new ISTS or altering, extending, or adding capacity to an existing system.
- (68) **Notice of noncompliance.** "Notice of noncompliance" means a document written and signed by a certified inspector after a compliance inspection that gives notice that an ISTS is not in compliance with this Chapter.
- (69) **O&G.** "O&G" means oil and grease, a component of sewage typically originating from foodstuffs such as animal fats or vegetable oils or consisting of compounds of alcohol or glycerol with fatty acids such as soaps and lotions, typically expressed in mg/L (also known as FOG, or fats, oil and grease).

- (70) **Ordinary high water level.** "Ordinary high water level" means the boundary of water basins, watercourses, public waters, and public waters wetlands, and:
- A. the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
 - B. for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
 - C. for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- (71) **Original soil.** "Original soil" means naturally occurring soil that has not been cut, filled, moved, smeared, compacted, altered, or manipulated to the degree that the loading rate must be reduced from that associated with natural soil conditions.
- (72) **Other establishment.** "Other establishment" means any public or private structure other than a dwelling that generates sewage that discharges into an ISTS or MSTs.
- (73) **Other pit.** "Other pit" means any pit or other device designed to leach sewage effluent that is greater than 30 inches in height or has a bottom area loading rate of sewage greater than two gallons per square foot per day.
- (74) **Owner.** "Owner" means any person having possession of, control over, or title to property with an ISTS.
- (75) **Parent material.** "Parent material" means the unconsolidated and chemically weathered geologic mineral or organic matter from which soils are developed by soil forming processes.
- (76) **Percolation rate.** "Percolation rate" means the rate of a drop of water infiltrating into a test hole as specified in Section 9.7 (2).
- (77) **Periodically saturated soil.** "Periodically saturated soil" means the highest elevation in the soil that is in a reduced chemical state due to soil pores filled or nearly filled with water causing anaerobic conditions. Periodically saturated soil is determined by the presence of redoximorphic features in conjunction with other established indicators as specified in Section 9.6 (5) or (6), or determined by other scientifically established technical methods or empirical field measurements acceptable to the local unit of government in consultation with the Department or the commissioner.
- (78) **Permit.** "Permit" means a building, construction, sanitary, planning, zoning or other such permit issued for new construction, replacement, repair, alteration or extension of a subsurface sewage treatment system. Permit also means a permit issued for the addition of a bedroom or bathroom on property served by a subsurface sewage treatment system.
- (79) **Permittee.** "Permittee" means a person who is named on a permit issued pursuant to these regulations.
- (80) **Plastic limit.** "Plastic limit" means a soil moisture content above which manipulation will cause compaction or smearing. The plastic limit can be measured by American Society for Testing and

Materials, Standard Test Methods for Liquid Limit, Plastic Limit, and Plasticity Index of Soils, ASTM D4318 (2005). The standard is incorporated by reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change.

- (81) **Pressure distribution.** "Pressure distribution" means a network of distribution pipes in which effluent is forced through orifices under pressure.
- (82) **Privy.** "Privy" means an aboveground structure with an underground cavity meeting the requirements of Section 18.4 that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing and graywater. A privy also means a nondwelling structure containing a toilet waste treatment device.
- (83) **Proprietary product.** "Proprietary product" means a sewage treatment or distribution technology, method, or material subject to a patent or trademark.
- (84) **Public domain technology.** "Public domain technology" means a sewage treatment or distribution technology, method, or material not subject to a patent or trademark.
- (85) **Public waters.** "Public waters" means any public waters or wetlands defined in Minnesota Statutes, section 103G.005, subdivision 15, or identified as public waters or wetlands by the inventory prepared according to Minnesota Statutes, section 103G.201.
- (86) **Pump tank.** "Pump tank" means a tank or separate compartment following the sewage tank that serves as a reservoir for a pump. A separate tank used as a pump tank is considered a septic system tank under Minnesota Statutes, section 115.55, subdivision 1, paragraph (o).
- (87) **Redoximorphic features.** "Redoximorphic features" means:
 - A. a color pattern in soil, formed by oxidation and reduction of iron and manganese in saturated soil coupled with their removal, translocation, or accrual, which results in the loss (depletion) or gain (concentration) of mineral compounds compared to the matrix color; or
 - B. a soil matrix color controlled by the presence of ferrous iron. Redoximorphic features are described in Section 9.6 (5).
- (88) **Replacement.** "Replacement" means the removal or discontinued use of any major portion of an ISTS and reinstallation of that portion of the system, such as reinstallation of a new sewage tank, holding tank, pump tank, privy, or soil dispersal system.
- (89) **SDS permit.** "SDS permit" means a State Disposal System permit issued by the MPCA.
- (90) **Sand.** "Sand" means a sand soil texture, as described in the Field Book for Describing and Sampling Soils, which is incorporated by reference in Section 2.2 (46).
- (91) **Seepage bed.** "Seepage bed" means a soil treatment and dispersal system, the absorption width of which is greater than three feet but no greater than 25 feet.
- (92) **Seepage pit.** "Seepage pit" means an underground pit that receives sewage tank effluent and from which the liquid seeps into the surrounding soil.
- (93) **Septage.** "Septage" means solids and liquids removed from an SSTS and includes solids and liquids from cesspools, seepage pits, other pits, or similar systems or devices that receive sewage.

Septage also includes solids and liquids that are removed from portable, incinerating, composting, holding, or other toilets. Waste from Type III marine sanitation devices, as defined in Code of Federal Regulations, title 33, section 159.3, and material that has come into contact with untreated sewage within the past 12 months is also considered septage.

- (94) **Septic tank.** "Septic tank" means any watertight, covered receptacle that is designed and constructed to receive the discharge of sewage from a building sewer or preceding tank, stores liquids for a detention period that provides separation of solids from liquid and digestion of organic matter, and allows the effluent to discharge to a succeeding tank, treatment device, or soil dispersal area.
- (95) **Serial distribution.** "Serial distribution" means distribution of sewage tank effluent by gravity flow that progressively loads one section of a soil treatment and dispersal system to a predetermined level before overflowing to the succeeding section and does not place a dynamic head on the lower section of the soil treatment and dispersal system. The distribution medium is allowed to serve as a conveyance medium to the next section.
- (96) **Setback.** "Setback" means a separation distance measured horizontally.
- (97) **Sewage.** "Sewage" means waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources, and includes household cleaners, medications, and other constituents in sewage restricted to amounts normally used for domestic purposes.
- (98) **Sewage flow.** "Sewage flow" means flow as determined by measurement of actual water measurement; or, if actual measurements are not available, by the best available data provided.
- (99) **Sewage tank.** "Sewage tank" means a receptacle used in the containment or treatment of sewage and includes, but is not limited to, septic tanks, aerobic tanks, pump tanks, and holding tanks. Requirements for sewage tanks are described in Section 13 of this Chapter. Sewage tanks are considered a septic system in Minnesota Statutes, section 115.55, subdivision 1, paragraph (o).
- (100) **Sewage tank effluent.** "Sewage tank effluent" means the liquid that flows from a septic tank or other treatment device.
- (101) **Site.** "Site" means the area required for the proper location of the soil treatment system.
- (102) **Slope.** "Slope" means the vertical rise or fall divided by the horizontal distance, expressed as a percentage.
- (103) **Soil dispersal area.** "Soil dispersal area" means the area required for the soil dispersal system, including space between individual units or zones.
- (104) **Soil dispersal system.** "Soil dispersal system" means a system where sewage effluent is dispersed into the soil for treatment by absorption and filtration and includes, but is not limited to, trenches, seepage beds, at-grade systems, mound systems and drip dispersal systems.
- (105) **Soil texture.** "Soil texture" means the soil particle size classification and particle size distribution as specified in the Field Book for Describing and Sampling Soils, incorporated by reference in Section 2.2 (46).
- (106) **Subsoil.** "Subsoil" means a soil layer that has a moist color value of 3.5 or greater and has undergone weathering and soil formation processes.

- (107) **Subsurface sewage treatment system or SSTS.** “Subsurface sewage treatment system” or “SSTS” is either an individual subsurface sewage treatment system as defined in Section 2.2 (52) or a mid-sized subsurface sewage treatment system as defined in Section 2.2 (62), as applicable.
- (108) **Supply pipe.** “Supply pipe” means a nonperforated pipe, the purpose of which is to transport sewage tank effluent.
- (109) **Systems in shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments, or SWF.** “Systems in shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments”, or “SWF”, means the following three categories:
- A. SSTS constructed in shoreland areas where land adjacent to public waters has been designated and delineated as shoreland in Chapter Six of the Washington County Development Code;
 - B. SSTS constructed in wellhead protection areas regulated under Minnesota Statute, chapter 103I; and
 - C. SSTS serving food, beverage, and lodging establishments that are required to obtain a license under Minnesota Statutes, section 157.16, subdivision 1, and Washington County Ordinance No. 145 or 146, and includes manufactured home parks and recreational camping areas licensed according to Minnesota Statutes, chapter 327 and Washington County Ordinance No. 147.
- (110) **TN.** “TN” means total nitrogen, which is the measure of the complete nitrogen content in wastewater, including nitrate (NO_3^-), nitrite (NO_2^-), ammonia (NH_3), and organic nitrogen, expressed as mg/L.
- (111) **TP.** “TP” means total phosphorus, which is the sum of all forms of phosphorus in effluent, expressed in mg/L.
- (112) **Ten-year flood.** “Ten-year flood” means the flood which can be expected to occur, on an average, of once in ten years, or the elevation to which flood waters have a ten percent chance of rising in any given year.
- (113) **Toilet waste.** “Toilet waste” means waste commonly disposed of in toilets, including fecal matter, urine, toilet paper, and water used for flushing.
- (114) **Toilet waste treatment devices.** “Toilet waste treatment devices” means other toilet waste apparatuses including incinerating, composting, biological, chemical, recirculating, or holding toilets or portable restrooms.
- (115) **Topsoil.** “Topsoil” means the natural, in-place organically enriched soil layer with a color value of less than 3.5.
- (116) **Topsoil borrow.** “Topsoil borrow” means a loamy soil material having:
- A. less than five percent material larger than two millimeters, No. 10 sieve;
 - B. no material larger than 2.5 centimeters;

- C. a moist color value of less than 3.5; and,
 - D. adequate nutrients and pH to sustain healthy plant growth.
- (117) **Total suspended solids or TSS.** "Total suspended solids" or "TSS" means solids that are in suspension in water and that are removable by laboratory filtering, expressed as mg/L.
- (118) **Trench.** "Trench" means a soil treatment and dispersal system, the absorption width of which is 36 inches or less.
- (119) **Valve box.** "Valve box" means a watertight structure designed for alternate distribution of sewage tank effluent to segments of a soil treatment system.
- (120) **Vertical separation.** "Vertical separation" means the vertical measurement of unsaturated soil or sand between the bottom of the distribution medium and the periodically saturated soil level or bedrock.
- (121) **Watertight.** "Watertight" means constructed so that no liquid can get into or out of a device except through designed inlets and outlets.
- (122) **Well capture zone.** "Well capture zone" means the surface and subsurface area that supplies water to a water supply well.
- (123) **Wellhead protection area.** "Wellhead protection area" means the surface and subsurface area surrounding a well or well field that supplies a public water system, through which contaminants are likely to move toward and reach the well field as regulated under Minnesota Rules, Chapter 4720. For the purposes of this chapter, wellhead protection area is that area bounded by the drinking water supply management area as regulated under Minnesota Rules, Chapter 4720.

SECTION 3 ADMINISTRATION

- 3.1 This chapter shall apply and be in effect in all areas in Washington County other than cities and towns that have adopted ordinances that comply with Minnesota Statute Section 115.55, Minnesota Rules, Chapter 7082, and are as strict as this Chapter. Pursuant to Chapter One, the Washington County Department of Public Health and Environment shall be the Administrator of these regulations.
- 3.2 SSTS must be designed, constructed and operated according to this Chapter, except as modified through a local ordinance in compliance with Minnesota Rules, Chapter 7082, Minnesota Statutes, section 115.55, and this Chapter.
- 3.3 SSTS, including both ISTS and MSTS, must be designed, installed, inspected, pumped, serviced, and operated by licensed businesses and certified individuals meeting the qualifications in Minnesota Rules 7083.0700 to 7083.2040 and any other applicable state or local requirements.
- 3.4 SSTS that are designed to receive sewage or nonsewage from a two family dwelling or greater or receive sewage or nonsewage from another establishment that serves more than 20 persons per day, are regulated by the United States Environmental Protection Agency as Class V injection wells under Code of Federal Regulations, title 40, parts 144 and 146. Code of Federal Regulations, title 40, parts 144 and 146, prescribe additional design regulations applicable to certain systems designed under this Chapter. In addition, single family dwellings that receive nonsewage wastewater are regulated by these federal regulations. All systems that receive hazardous wastes are regulated by the United States Environmental Protection Agency as Class IV injection wells. Disposal of hazardous waste must be according to state and federal regulations. The owner or owner's agent of a new or replacement system classified as a Class V injection wells shall submit to the commissioner of the MPCA and the United States Environmental Protection Agency the inventory information specified in Code of Federal Regulations, title 40, section 144.26. All Class V injection wells must be identified as such in property transfer disclosures.
- 3.5 If the Department finds that by reason of exceptional circumstances, the strict enforcement of any provisions of this Chapter would cause undue hardship or that strict conformity with the standards would be unreasonable, impractical, or not feasible under the circumstances, the Department may permit modifications in individual cases based on conditions it may prescribe for prevention, control or abatement of pollution. The Department or local unit of government cannot issue variances for Sections 4.1, 4.7, 4.9, 4.10, and Sections 16.2 (1) through Section 16.2 (4). The Department or local unit of government can grant a variance for Section 4.9 (4) (A) for replacement MSTS serving existing dwellings or other establishments..
- 3.6 Consistent with the procedures in Chapter One, Section 6.1 (1), the Washington County Board of Adjustment and Appeals shall hear and decide appeals of any order, decision or determination made by the department regarding the enforcement of this Chapter. Appeals of any administrative decision or determination may be filed by any person, county department, or township.
- 3.7 Consistent with the procedures in Chapter One, Section 6.1 (2), the Washington County Board of Adjustment and Appeals shall hear and decide all requests for variance to the requirements of this Chapter.
- 3.8 All subsurface sewage treatment systems installed subsequent to the adoption of this Chapter and all alterations, extensions, modifications or repairs to existing systems irrespective of the date of original installation shall be regulated in accordance with all requirements of this Chapter.
- 3.9 All MSTS must be designed and operated according to this Chapter. All MSTS must be designed, installed, inspected, pumped and operated by licensed businesses meeting the qualifications of Minnesota Rules, Chapter 7083. All MSTS must conform to applicable state statutes and rules. All septage generated from

MSTS must be treated and dispersed to applicable standards for septage in Code of Federal Regulations, title 40, part 503, and any local requirements.

- 3.10 Any new or existing system which discharges to surface waters or the ground surface must obtain either an NPDES or an SDS permit from the MPCA and shall comply with all NPDES or SDS requirements.
- 3.11 MSTS must conform to all applicable state statutes and rules. MSTS serving establishments licensed or regulated by the State of Minnesota, or MSTS owned by the State of Minnesota, must conform to this Chapter.
- 3.12 Any SSTS requiring approval from the State of Minnesota shall also comply with all requirements of this Chapter, and all local codes and ordinances.
- 3.13 Where work requiring a permit under this Chapter has commenced without first having obtained such permit, work shall be ordered to stop by the Department until all required permits have been approved and issued.
- 3.14 To enforce this Chapter, the Department or its authorized agent may enter a building, property, or a place where there is reason to suspect that a system is failing to protect groundwater or an imminent threat to public health and safety.
- 3.15 Fees for permits, operating permits, inspections, or other services rendered under this Chapter shall be established by the Washington County Board of Commissioners.

SECTION 4 COMPLIANCE CRITERIA

- 4.1 **Treatment required.** Sewage discharged from a dwelling or other establishment that is not served by a system issued a permit containing effluent and discharge limits or specific monitoring requirements by the Department or Agency must be treated according to applicable requirements.
- 4.2 **Compliance criteria for new construction.** An SSTS regulated under a current permit is considered compliant if it meets the applicable requirements of Section 16 to Section 21.
- 4.3 **Compliance criteria for existing systems.** To be in compliance, an existing SSTS must meet the provisions of this subpart.
- (1) The SSTS must be protective of public health and safety. A system that is not protective is considered an imminent threat to public health or safety. At a minimum, a system that is an imminent threat to public health or safety is a cesspool, seepage pit, drywell or leaching pit, a system with discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; systems that cause a reoccurring sewage backup into a dwelling or other establishment; systems with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance hole covers. A determination of protectiveness for other conditions must be made by a qualified employee of the Department or licensed inspection business.
 - (2) The SSTS must be protective of groundwater. A system that is not protective is considered a system failing to protect groundwater. At a minimum, a system that is failing to protect groundwater is a system that is a seepage pit, cesspool, drywell, leaching pit, or other pit; a system with less than the required vertical separation distance described in Section 4.3 (4) and Section 4.3 (5) of this Section; and a system not abandoned in accordance with Section 23. A determination of the threat to groundwater quality for other conditions must be made by a qualified employee of the Department or local unit of government or licensed inspection business.
 - (3) The SSTS must be operated, meet performance standards, and be managed according to its operating permit.
 - (4) SSTS built after March 31, 1996, or in an SWF area as defined in Section 2.2 (109), shall have a three (3) foot vertical separation. No more than a fifteen (15) percent reduction in the vertical separation distance is allowed to account for settling of sand or soil, normal variation of measurements, and interpretations of the limiting layer conditions.
 - (5) SSTS built before April 1, 1996, in areas that are not SWF areas as defined in Section 2.2 (109), must have at least two (2) feet of vertical separation.
 - (6) The vertical separation measurement for Section 4.3 (4) and Section 4.3 (5) shall be measured outside of the area of system influence in an area of similar soil and on the same contour elevation.
 - (7) An existing system which is found to be an imminent threat to public health and safety by either a qualified employees of the Department, local unit of government, or a licensed inspection business, is hereby declared to be a public health nuisance and shall be repaired, upgraded, replaced or its use discontinued within thirty (30) days of notice and order to comply by the Department. Any further discharge of effluent must be stopped immediately (by such methods as reducing or stopping all water use or pumping the tank as necessary) until such time as the system is corrected.

- (8) Any existing system which is found to be failing to protect groundwater shall be replaced or otherwise brought into compliance within ninety (90) days of notice and order to comply by the Department.
 - (9) An existing system that is not otherwise considered an imminent threat to public health and safety and which was constructed under a permit issued by the Department, or other local unit of government that verified that the required vertical separation existed at the time of installation, need not be upgraded, repaired, replaced, or its use discontinued notwithstanding the fact that at the time of a compliance inspection, there appears to be less than the required vertical separation between the system bottom and any limiting layer.
- 4.4 **Compliance criteria for systems with a flow of greater than 2,500 gallons per day.** In addition to the requirements under Section 4.3, systems designed under Section 16.4 must demonstrate that the additional nutrient reduction component required under those items is in place and functioning.
- 4.5 **Compliance criteria for systems receiving replacement components.** Components of an existing system that result in the system being in noncompliance must be repaired or replaced according to this Chapter. The repaired or replacement components must meet technical standards and criteria of this Chapter. The remaining components of the existing system must result in the system being in compliance with Section 4.3. If a compliant existing sewage tank is to be used with the design of the new soil dispersal system, the tank must also be baffled and be watertight.
- 4.6 New construction, replacement, or existing MSTs designed under this Chapter are considered conforming if they meet the requirements of this Chapter. Existing MSTs constructed before the effective date of this Chapter are considered conforming if they meet the requirements of this Section, except for Section 4.9 (4) and Section 4.9 (5).
- 4.7 To be in compliance, all MSTs must:
- (1) have treatment processes and devices that do not allow sewage or sewage effluent contact with humans, insects, or vermin;
 - (2) disperse sewage effluent into our soil or sand below final grade, with the effluent remaining below final grade;
 - (3) not discharge to drainage tile, the ground surface, or surface water or back up sewage into dwellings or other establishments;
 - (4) treat and disperse sewage effluent in a safe manner, including protection from physical injury and harm; and
 - (5) not have received hazardous material.
- 4.8 MSTs must be considered an imminent threat to public health and safety for noncompliance with Section 4.7 and any other condition that poses an imminent threat as determined by a qualified employee of the Department or licensed MSTs inspection business.
- 4.9 To be in compliance, all MSTs must:
- (1) maintain a zone of unsaturated soil between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock during loading of effluent, as described in Section 16.5 (9).

- (2) not be seepage pits, cesspools, drywells, leaching pits, sewage tanks, and treatment vessels that observably leak below the designated operating depth;
- (3) not allow viable fecal organisms to contaminate underground waters or zones of seasonal saturation;
- (4) employ nitrogen reduction processes that reduce nitrogen contribution to groundwater as determined:
 - (A) if the discharge from an MSTS will impact water quality of an aquifer, as defined in Minnesota Rules, Chapter 4725.0100, subpart 21, the effluent from an MSTS, in combination with the effective recharge to the groundwater, must not exceed a concentration of total nitrogen of 10 mg/L or greater at the property boundary or nearest receptor, which is closest; or
 - (B) if the discharge from an MSTS will not impact water quality of an aquifer, as defined in Minnesota Rules, Chapter 4725.0100, subpart 21, best management practices developed by the Commissioner to mitigate water quality impacts to groundwater must be employed; and
- (5) not exceed a groundwater discharge of phosphorus to a surface water that exceeds the phosphorus standard to the receiving water.

4.10 To be in compliance, all MSTS must meet the following requirements:

- (1) All methods and devices used to treat and disperse sewage must be designed to conform to all applicable federal, state and local regulations.
- (2) Systems no longer in use must be abandoned according to Section 23.

4.11 To be in compliance, MSTS must meet performance standards and be operated and managed according to its operating permit and management plan, as described in Section 22.1. To be in compliance, an MSTS designed before the effective date of this Chapter must be operated according to applicable requirements in Section 22.

4.12 Components of existing MSTS that cause non-compliance must be repaired or replaced. The repaired or replaced components must meet technical standards and criteria of this Chapter. The remaining components must comply with Section 4.1 to Section 4.10, including Section 4.9 (4), if constructed after the effective date of this Chapter.

4.13 MSTS in compliance with this Chapter shall be issued a certificate of compliance. MSTS found not in compliance with this Chapter shall be issued a notice of noncompliance.

4.14 MSTS issued a notice of noncompliance based on the criteria in Sections 4.7 and 4.8 shall be repaired or replaced within 30 days or as directed by Minnesota Statutes, Chapter 145A, whichever is more restrictive.

4.15 MSTS issued a notice of noncompliance based on criteria in Section 4.9 or Section 4.10 shall be repaired or replaced according to this chapter.

4.16 Systems issued a notice of non-compliance based on criteria in Section 4.11 must immediately be maintained, monitored, or managed according to the operating permit.

SECTION 5 ACCEPTABLE AND PROHIBITED DISCHARGES

- 5.1 This Chapter provides design standards for SSTS that receive sewage. If an SSTS receives both sewage and nonsewage, the requirements of this chapter and requirements governing the nonsewage portion of the water apply.
- 5.2 Footing or roof drainage and chemically treated hot tub and pool water must not be discharged into any part of the system.
- 5.3 Products containing hazardous waste must not be discharged to a system, other than in normal amounts of household products and cleaners designed for household use. Substances not intended for use in household cleaning, including but not limited to, solvents, pesticides, flammables, photo finishing chemicals, paint, and dry-cleaning chemicals must not be discharged to the system. Other unused products or substances, or unused medicines, must not be discharged to the system solely as a disposal method.
- 5.4 Floor drains from garages serving dwellings, vehicle maintenance businesses, or any other floor drain that has the potential to introduce hazardous waste into the system, must not be connected to the system.
- 5.5 Only domestic waste shall be discharged to a soil dispersal and treatment area. Sewage tank effluent with a waste strength higher than domestic waste shall be pre-treated to a level equal to or less than domestic waste prior to final treatment and disposal in a soil treatment and dispersal area.

SECTION 6 PERMITS

- 6.1 No construction shall be allowed by any local unit of government until the permit required for the subsurface sewage treatment system has been issued.
- 6.2 No additions, enlargements, improvements, or remodeling involving fifty (50) percent or more of the structure, or alterations that would affect the water use, such as bedrooms, bathrooms or additions to living space (excluding such areas as screen porches, entry ways, decks, attics, patios, nonhabitable storage space) shall be allowed until the subsurface sewage treatment system has been determined to be both adequate and conforming or a permit for a new treatment system has first been issued.
- 6.3 Permits shall be required for subsurface sewage treatment systems as follows:
- (1) All new installations of sewage tanks, soil dispersal and treatment areas, and components thereof;
 - (2) All repair, extension, replacement or modification of existing systems and components; or
 - (3) Any change in use of a facility served by a subsurface sewage treatment system.
- 6.4 Permits shall not be required for normal routine inspection and maintenance of approved individual subsurface sewage treatment systems that do not require an operating permit.
- 6.5 Permit applications shall be made in writing on forms provided by the Department and shall contain data, including, but not limited to, to be considered a completed permit application:
- (1) Correct legal description of the property, including Property Identification Number or GEO Code;
 - (2) Site plan, drawn to scale, showing the location of all proposed and existing structures, property lines, water supply wells within 100 feet, terrain features, such as blufflines, water bodies or water ways, buried utilities, easements, and other unique features of the site;
 - (3) Soil test data, including soil boring logs, percolation test data with field notes (where required) and location and identification of test area.
 - (4) Plans and details of the proposed installation of work, including engineering data and final design.
 - (5) Building plans showing existing and proposed room arrangement and uses.
 - (6) For other than dwellings, calculated or measured water use rates, occupancy and occupant load.
 - (7) In certain cases, a property survey may be required identifying property characteristics and including such items as elevations, contour lines, normal high water marks, and ten (10) year and one hundred (100) year flood elevations.
 - (8) Evidence of compliance with state or other jurisdiction regulations where applicable.
 - (9) A management plan for the proposed system, as described in Section 22.1.
- 6.6 No permit will be issued until a detailed system design is submitted for the current proposed construction, including site plan, a management plan and at least one current soil boring if there is reason to believe soil conditions have been altered since the original soil testing.

- 6.7 Permits shall be valid upon issuance and shall continue for a period of one (1) year. After one (1) year, the permit may be renewed if no changes are proposed. Such renewal shall require reapplication and payment of the established fee.
- 6.8 Permits issued under this Chapter may be revoked upon written notice by the department when such permit has been issued based on erroneous or inaccurate data supplied by the applicant or erroneous interpretation of the law by a building official.

SECTION 7 OPERATING PERMITS

- 7.1 Operating permits are required for the following systems:
- (1) Type III Systems
 - (2) Type IV Systems
 - (3) Type V Systems
 - (4) All MSTs
 - (5) Holding tanks as described in Section 18.5.
 - (6) Food, Beverage and Lodging Establishments that discharge high-strength waste to the soil treatment area.
 - (7) Hazardous Waste Generators with subsurface sewage treatment systems.
- 7.2 Operating permits will be issued by the Department or the local unit of government.
- 7.3 Operating permits must include:
- (1) Maintenance requirements, including frequency of maintenance.
 - (2) Operational requirements.
 - (3) Compliance limits and boundaries.
 - (4) Reporting frequency.
 - (5) A requirement that the permittee notify the Department or local unit of government when permit requirements are not met. Corrective actions must be taken as directed by the Department of local unit of government.
 - (6) Disclosure of the location and condition of the additional soil treatment and dispersal system; and
 - (7) A stipulation of acceptable and prohibited discharges.

SECTION 8 INSPECTIONS

- 8.1 Inspections as required to determine compliance with this Chapter shall be performed by the Department or its authorized agent under the following circumstances:
- (1) Site inspections to verify and evaluate soil and site conditions and to determine the suitability of soils and system design prior to permit issuance.
 - (2) Necessary investigation to determine compliance of existing systems at the time of remodeling, alteration or additions.
 - (3) For all new SSTs construction or replacement.
 - (4) Mound systems require a minimum of three construction inspections:
 - (A) When the original soil under the mound has been roughened, but prior to placement of the sand fill. Enough of the proposed sand fill must be present to be viewed.
 - (B) After placement of rock and piping, but prior to cover.
 - (C) When the mound is completed.
- 8.2 Installation inspections shall be made by the Department prior to any work having been covered by backfill.
- 8.3 The licensed installation business shall be responsible to notify the Department a minimum of twenty-four (24) hours prior to the time work is ready for inspection or reinspection.
- 8.4 Work which is backfilled prior to a required inspection may be ordered to be uncovered whenever necessary to determine compliance.
- 8.5 If upon inspection any part of the system is determined not to be in compliance with this Chapter, written notice shall be provided by the Department indicating the deficiency and the required corrections. Noted deficiencies shall be properly corrected and reinspected before any other work on the project is continued.
- 8.6 No system shall be placed or replaced in service until a final inspection has been completed and the system installation has been approved.
- 8.7 The owner or occupant of a property shall be responsible to provide access at a reasonable time to the Department or its authorized agent for the purpose of performing inspections required under this Chapter.
- 8.8 The Contractor, upon completion of installation, shall file with the Department as-built drawings indicating the location of system components dimensioned from a permanent reference point.
- 8.9 If an inspection is conducted as a part of preparation of the disclosure required by Minnesota Statutes 115.55, subd. 6 and such inspection is conducted by a party who is not the property owner, such party must be licensed in accordance with MPCA rules and regulations and the notice of compliance or noncompliance provided to the property owner must also be provided to Washington County within thirty (30) days of the inspection.
- 8.10 Compliance Inspections must be conducted:
- (1) to ensure compliance with applicable requirements;

- (2) prior to the transfer of any real property, unless the age of the system is less than 5 years.
 - (3) to ensure compliance before issuance of a permit for the addition of a bedroom on property served by an SSTS;
 - (4) for all new construction or replacement;
 - (5) by a qualified employee or licensed inspection business, authorized by the Department or local unit of government, who is independent of the owner and the installer; and
 - (6) for an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure if conducted by a party who is not the system owner. The disclosure action constitutes a compliance inspection and must be conducted according to Minnesota Rules, Chapter 7082;
 - (7) when deemed necessary by the Department to ascertain the compliance of an existing system.
- 8.11 A licensed inspection business that inspects an existing SSTS is allowed to subsequently design and install a new SSTS for that property, provided the inspection business is also licensed to design and install. A licensed inspection business working on behalf of the Department or local unit of government must not design or install a system if there is likelihood that the inspector or business will be responsible for permitting or inspecting the system or system site. A person working for or on behalf of the Department or local unit of government is not allowed to use the person's position to solicit for private business gain.
- 8.12 An appropriately licensed SSTS business may inspect an existing system which they installed once it has been independently inspected.
- 8.13 Certificate of compliance; notice of noncompliance.
- (1) SSTS in compliance with applicable requirements must be issued a certificate of compliance and systems found not in compliance must be issued a notice of noncompliance. SSTS not in compliance with Section 4.3 (1) or Section 4.7 must be repaired or replaced within 30 days or as directed under Minnesota Statutes, chapter 145A. Systems out of compliance with other applicable requirements must be repaired or replaced according to local ordinance requirements. Systems issued a notice of noncompliance for operational or monitoring deficiencies must immediately be maintained, monitored, or managed according to the operating permit.
 - (2) The initial certificate of compliance must be issued if reasonable assurance is evident that the system was built according to applicable requirements as specified in the construction permit.
 - (3) The certificate of compliance for new construction and replacement must include the vertical separation distance report described in Section 8.14 (2)(B), and the management plan developed under Section 22.1. All certificates of compliance and notices of noncompliance for new construction and replacement must include property and property owner identification, date of inspection, system components, system location (dimensioned or drawn to scale), well setback distance, field check of soil conditions, SWF, as defined under part Section 2.2 (109), designations as applicable, and Class V designation as applicable.
 - (4) A certificate of compliance or notice of noncompliance for new construction or replacement must be signed by a qualified employee certified as an inspector who is authorized by the Department or local unit of government. The certificate of compliance or notice of noncompliance for new construction and replacement must be submitted to the owner or owner's agent within 15 days.

- (5) A certificate of compliance or notice of noncompliance must include a certified statement from the qualified employee who conducted the compliance inspection and indicate whether the SSTS is in compliance with this Chapter.
- (6) If a compliance inspection indicates that the system is not in compliance with applicable requirements, the notice must contain a statement to this effect.
- (7) Certificates of compliance for new construction or a replacement system remain valid for five years from the date of issuance unless the Department or local unit of government finds evidence of noncompliance.

8.14 Certificate of compliance; notice of noncompliance; existing systems.

- (1) The agency's existing SSTS inspection report forms shall be used for existing system compliance inspections.
- (2) An inspection for existing SSTS must verify the conditions in subitems (A) to (C).
 - (A) Sewage tanks must be assessed for leakage below the operating depth. A leakage report must be completed that includes the method or methods used to make the assessment. The assessment must be made by either a licensed SSTS business, except a design business, or a qualified employee with an SSTS certification, except as a designer. A passing report is valid for three years unless the certified individual has reason to believe that a new inspection is to be conducted and the tank is found not to be watertight.
 - (B) The vertical separation distance from the bottom of the soil dispersal system and the periodically saturated soil or bedrock must be verified. This verification must be achieved by either conducting soil borings or by prior verifications by two independent parties. The soil borings used for system design or previous inspections qualify as a verification. A vertical separation distance report must be completed that includes the method or methods used to make the assessment and includes any previous soil borings. The assessment must be made by either a licensed inspection or design business or a qualified employee inspector with jurisdiction. If the verification separation report consists of verifications by two independent parties, a subsequent verification is not required unless the inspector has reason to believe a noncompliant condition exists.
 - (C) Sewage backup, surface seeping, or surface discharge from the system must be determined. A hydraulic function report must be completed that includes the method or methods used to make the assessment. The assessment must be made by either a licensed inspection business or a qualified employee with an inspector certification. A passing report is valid until a new inspection is requested or if the hydraulic performance is believed to have changed.
- (3) A certificate of compliance for an existing system compliance inspection shall be based on the results of the verifications in item 2. The certificate of compliance for an existing system compliance inspection must be signed by a licensed inspection business or a qualified employee certified as an inspector. The certificate or notice for an existing system compliance inspection must be submitted to the Department or local unit of government with jurisdiction and the property owner or owner's agent no later than 15 days after a compliance inspection. The completed form must also be submitted to the owner or owner's agent. The certificate of compliance for an existing system compliance inspection is valid for three years from the date of issuance, even if one of the supporting reports expires before the three-year period, unless an inspector finds evidence of noncompliance.

- (4) If a compliance inspection for an existing system indicates that the system is noncompliant, the notice must be signed by a licensed inspection business or qualified employee certified as an inspector and contain a statement to that effect and specify what must be done to achieve compliance.

8.15 Periodically saturated soil disagreements.

- (1) If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all disputing parties must follow the procedure outlined in this subpart.
- (2) One or more of the methods in units (A) to (C) must be employed.
 - (A) Obtain an opinion from a qualified employee of the Department or local permitting authority with jurisdiction, if the Department or local permitting authority is willing to provide an opinion.
 - (B) Obtain an opinion from an SSTS technical evaluation committee, if a committee has been developed for this purpose and is available and willing to render an opinion. The committee must be created in cooperation with the commissioner.
 - (C) Obtain an opinion from a Minnesota licensed professional soil scientist who is a certified SSTS designer or inspector and who is independent of, and agreed upon by, both parties.
 - (D) If options under Section 8.15 (2)(A) or Section 8.15 (2)(B) are not viable, an opinion must be rendered under Section 8.15 (2)(C).
- (3) If opinions rendered in items Section 8.15 (1) or Section 8.15 (2) do not resolve the dispute, all initial and follow-up documents and information generated must be submitted to the Department or local unit of government. The Department or local unit of government shall take into consideration all information and opinions rendered and make a final judgment. The Department or local unit of government shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions it renders.
- (4) If a documented discrepancy arises on the depth of the periodically saturated soil between an SSTS licensed business and the Department or local unit of government for SSTS design or compliance purposes, all disputing parties shall follow the procedure outlined in this item.
 - (A) The Department or local unit of government and the licensed business must meet at the disputed site in an attempt to resolve differences.
 - (B) If the provision in Section 8.15 (4)(A) does not resolve differences, then one or more of the methods in Section 8.15 (2)(B) or Section 8.15 (2)(C), are allowed to be employed.
 - (C) If opinions in Section 8.15 (4)(B) are not sought or do not resolve the dispute, the Department or local unit of government shall take into consideration all information and opinions rendered and make a final judgment. The Department or local unit of government shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions they render.
- (5) Upon resolution of a dispute, amendments to initial disputed documents containing the resolution shall be made and submitted to the Department or local unit of government and all other parties involved.

SECTION 9 SITE EVALUATION AND SOIL TESTING

- 9.1 Site evaluations consisting of preliminary and field evaluations according to parts this Section must be conducted for all proposed sites for SSTs, including both ISTS and MSTs. The site evaluation is considered the first phase of an SSTs design.
- 9.2 A preliminary evaluation for individual subsurface sewage treatment systems shall consist of determination, location, or existence of the following items:
- (1) Design flow for the dwelling, dwellings, or other establishments.
 - (2) Proposed or existing:
 - (A) Water supply wells within 100 feet of the proposed SSTs;
 - (B) Existing and proposed buildings or improvements on the lot; and
 - (C) Buried water supply pipes within 50 feet of the proposed system.
 - (3) Easements on the lot.
 - (4) The ordinary high water level of public waters, if adjacent to the lot.
 - (5) Floodplain designation and flooding elevation from published data or data that is acceptable to and approved by the Department or local unit of government or the DNR, if applicable.
 - (6) Property lines.
 - (7) All required setbacks from the system.
 - (8) The soil characteristics at the proposed soil treatment and dispersal areas as obtained by the soil survey report, including the soil map, map units, landscape position, parent material, flooding potential, slope range, periodically saturated soil level, depth to bedrock, texture, color, depth to redoximorphic features, and structure and consistence of soil horizons.
 - (9) A geocode or property identification number.
 - (10) Names of property owners.
 - (11) The inner wellhead management zone or wellhead protection area of a public water supply, if applicable.
- 9.3 A field evaluation for an individual subsurface sewage treatment system shall consist of the following items:
- (1) Lot lines shall be confirmed in the field using the most recent document source. Lot improvements, required setbacks, and easements must be identified.
 - (2) The following surface features must be described:
 - (A) The percent and direction of the slope of the proposed system location.

- (B) Vegetation types.
- (C) Any evidence of cut or filled areas or disturbed or compacted soil.
- (D) The flooding or run-on potential.
- (E) A geomorphic description.

- 9.4 For subdivision or lot approval testing, enough soil observations must be conducted to assure that suitable soil exists for each lot for long-term sewage treatment outlining an area with enough space on the lot for two soil treatment and dispersal areas. This tested area must be at least 10,000 square feet. Percolation tests are not required for subdivision or lot approval testing unless the permeability cannot be estimated or there is reason to believe the soil is not original or has been disturbed.
- 9.5 Complete soil testing on each individual lot must be conducted prior to permit issuance independent of any prior subdivision or lot approval testing. For permit issuance, a minimum of four (4) soil observations outlining an area of 5,000 square feet are required. At least one soil observation must be performed in the portion of the soil treatment area anticipated to have the most limiting conditions. Larger areas may be required where conditions of use, soils, topography, or vegetation require. Soil observations must comply with the following requirements:
- (1) The soil observation must be conducted within or on the borders of the proposed site;
 - (2) The soil observations must be performed in an exposed pit or by hand augering or probing. The use of flight augers is not allowed.
 - (3) The soil observation method must allow observation of the different soil horizons that constitute the soil profile and, if determining the loading rate by use of Table IX in Minnesota Rules, Chapter 7080.2150¹ undisturbed soil structure must be observed.
 - (4) Soil observations must be conducted prior to any required percolation tests to determine whether the soils are suitable to warrant percolation tests and, if suitable, at what depth percolation tests shall be conducted.
 - (5) The minimum depth of the soil observations must be to the periodically saturated layer, to the bedrock, or three feet below the proposed depth of the system, whichever is less.
- 9.6 Each soil profile observed at the proposed soil treatment and dispersal area must be evaluated under adequate light conditions with the soil in a moist unfrozen state for the characteristics in items (1) through (8):
- (1) The depth of each soil horizon measured from the ground surface. Soil horizons are differentiated by changes in texture, color, redoximorphic features, bedrock, structure, consistence, and any other characteristics that affects water movement or treatment of effluent.
 - (2) A description of all soil colors for each horizon according to the Munsell Soil Color Charts, Revised Edition, Munsell Color Corporation (1992), or equivalent. The color charts are incorporated by reference, are available through the Minitex interlibrary loan system, and are not subject to frequent change.

- (3) A description of the soil texture, and structure using the United States Department of Agriculture (USDA) soil classification system as specified in the Field Book for Describing and Sampling Soils, which is incorporated by reference under Section 2.2 (46).
- (4) Depth to bedrock.
- (5) Depth to periodically saturated soil for new construction or replacement as determined by redoximorphic features and other indicators, as determined in subitems (A) to (C):
 - (A) In subsoil and parent material, redoximorphic features include:
 - (i) Distinct redoximorphic iron accumulation or distinct redoximorphic iron depletions;
 - (ii) A gleyed or depleted soil matrix or redoximorphic mottles having a color chroma of two or less or a depleted matrix or redoximorphic mottles having a color hue of 5Y and a chroma of three or less; or
 - (iii) Faint redoximorphic concentrations or faint redoximorphic depletions in subsoil or parent material with a hue of 7.5YR or redder.
 - (B) In lower topsoil layers that are deeper than 12 inches from the surface and are immediately followed in depth by a periodically saturated horizon, redoximorphic features include:
 - (i) Soil colors with a redoximorphic chroma of two or less; or
 - (ii) Redoximorphic accumulations or depletions.
 - (C) In the upper 12 inches of the topsoil layer immediately below which occurs a periodically saturated horizon, the depth of seasonal saturation is determined by indicators in units (i) to (v):
 - (i) Soil colors with a chroma of zero;
 - (ii) Organic soil textures or mineral soil textures with an organic modifier;
 - (iii) Dominance of hydrophytic vegetation;
 - (iv) The soil treatment area at or near the elevation of the ordinary high water level of a surface water or in a concave hill slope position; or
 - (v) Redoximorphic accumulations or depletions.
- (6) Depth to periodically saturated soil for all existing systems, determined by redoximorphic features in item (5), except subitems (B), unit (i), and (C), units (i), (iii), and (iv), as measured outside the area of the system influence in an area of similar soil.
- (7) Depth of standing water in the soil observation excavation, measured from the soil surface, if observed.

- (8) Any other soil characteristics that needs to be described to design a system, such as hardpans or restrictive layers. These other characteristics must be classified according to the Field Book for Describing and Sampling Soils, which is incorporated by reference under Section 2.2 (46).

9.7 The effluent loading and absorption area size must be determined by either item (1) or (2).

- (1) The loading rate based on an examination of soil texture, undisturbed structure, and consistence at the most limiting layer within 12 inches below the proposed absorption area using the United States Department of Agriculture (USDA) soil classification system as specified in the Field Book for Describing and Sampling Soils, which is incorporated by reference under Section 2.2 (46); or
- (2) The loading rate based on the percolation procedure described in subitems (A) to (H).
- (A) Each test hole must be six to eight inches in diameter, have vertical sides, and be located at the depth of the proposed soil absorption area. For mounds and at-grade systems, the bottom of each test hole must be in the upper 12 inches of the original soil. For trenches and seepage beds, the bottom of each test hole shall be at the depth of the absorption area;
- (B) Soil texture descriptions for percolation test holes must note the depths from the ground surface where texture changes occur;
- (C) The bottom and sides of the hole must be carefully scratched to remove any smearing and to provide a natural soil surface into which water penetrates. The scarification must not result in the hole having a diameter of greater than eight inches;
- (D) All loose material must be removed from the bottom of the test hole and two inches of one-fourth to three-fourths inch gravel or clean sand must be added to protect the bottom from scouring;
- (E) The hole must be carefully filled with clear water to a minimum depth of 12 inches from the bottom of the test hole and maintained for no less than four hours for saturation to occur. The soil must then be allowed to swell for at least 16, but no more than 30, hours. In sandy soils, the saturation and swelling procedure is not required and the test is allowed to proceed if the initial filling of the hole with 12 inches of water seeps away in less than ten minutes;
- (F) In sandy soils, water depth must be adjusted to eight inches over the soil at the bottom of the test hole. From a fixed reference point, the drop in water level must be measured in inches to the nearest 1/16 inch at approximately ten-minute intervals. A measurement is also allowed to be made by determining the time it takes for the water level to drop one inch from an eight inch reference point. If eight inches of water seeps away in less than ten minutes, a shorter interval between measurements must be used, but water depth must not exceed eight inches. The test must continue until three consecutive percolation rate measurements do not vary by more than ten percent. In other soils, the water depth must be adjusted to eight inches over the soil at the bottom of the test hole. From a fixed reference point, the drop in water level must be measured in inches to the nearest 1/16 inch at approximately 30-minute intervals and refilled between measurements to maintain an eight inch starting head. If water seeps away in less than 30 minutes, a shorter time interval between measurements must be used, but water depth must not exceed eight inches. The test must continue until three consecutive percolation rate measurements do not vary by more than ten percent. The percolation rate is also allowed to be determined by observing the time it takes the water level to drop one inch from an eight-inch reference point if a constant water depth of at least eight inches has been maintained for at least four hours prior to the measurement;

- (G) The time interval must be divided in minutes by the drop in water level in inches to obtain the percolation rate in minutes per inch. The percolation rates that are within the ten percent provision determined for each test hole must be averaged to determine the final percolation rate for that hole. The slowest final percolation rate for all holes within the soil dispersal area must be used for design; and
- (H) A percolation test must not be run where frost exists within 12 inches of the bottom of the percolation test hole.

9.8 A written report on the site evaluation for an individual subsurface sewage treatment system must be prepared and include the following:

- (1) Preliminary and field evaluation results from Sections 9.2 through 9.6.
- (2) Dates of preliminary and field evaluations.
- (3) A map drawn to scale or dimension, with a north arrow, and including:
 - (A) horizontal and vertical reference points of the proposed soil treatment and dispersal areas, soil observations, percolation tests, and pertinent distance from the proposed SSTS to all required setbacks, lot improvements, easements, ordinary high water mark of public waters, property lines, and direction and percent slope.
 - (B) the location of any unsuitable, disturbed, or compacted areas.
 - (C) the access route for system maintenance.
- (4) The estimated depth of periodically saturated soil layer, bedrock, or flood elevation, if appropriate.
- (5) The proposed elevation of the bottom of the soil treatment and dispersal system.
- (6) Anticipated construction related issues.
- (7) The name, address, telephone number, and certified statement of the individual conducting the site evaluation.
- (8) An assessment of how known or reasonably foreseeable land use changes are expected to affect system performance, including, but not limited to, changes in drainage patterns, increased impervious surfaces, and proximity of new water supply wells.
- (9) A narrative explaining any difficulties encountered during the site evaluation, including, but not limited to, identifying and interpreting soil and landform features and how the difficulties were resolved.
- (10) A notation of any differences between observed soil characteristics and those identified in the soil survey report.

9.9 Applicants for subsurface sewage treatment system permits, site approvals or subdivision approvals will be required to submit soil test data from soil borings and percolation tests, or soil pits, for each proposed site or installation. The minimum testing shall be that necessary to verify suitable conditions for two complete soil dispersal and treatment areas.

- 9.10 All soil testing shall be conducted in accordance with the requirements of this Chapter and shall be conducted by appropriately licensed businesses and certified individuals in accordance with Minnesota Rules, Chapter 7083.
- 9.11 Prior to and during construction or lot improvements, the proposed initial and replacement soil treatment and dispersal areas shall be protected from disturbance, compaction, or other damage by use of stakes and silt fence or snow fence.
- 9.12 Underground utilities must be located before soil observations are undertaken. Required safety precautions must be taken before entering soil observation pits.
- 9.13 Where soil tests require a mound, testing and design must clearly show suitable area for installation of two (2) complete mounds. Where site conditions are such that the only backup mound will likely be disturbed, the Department, at its discretion, may require both mounds to be constructed at once.
- 9.14 Designs for new construction or replacement SSTS must comply with all applicable requirements and any other applicable codes, rules, and laws.

SECTION 10 MSTs SITE EVALUATION AND SOIL TESTING

- 10.1 Soil and site evaluations must be conducted for MSTs design. The evaluations must be conducted according to this Section and Section 9 of this Chapter. Evaluations must identify and delineate an initial and replacement soil treatment and dispersal area with appropriate system boundaries.
- 10.2 A preliminary evaluation for mid-sized subsurface sewage treatment systems shall consist of determining:
- (1) The design flow and anticipated effluent concentrations of biochemical oxygen demand, total suspended solids, and fats, oils, and grease, and inputs of non-domestic waste.
 - (2) Whether the location of water supply wells impacts the location of the system due to setback constraints.
 - (3) Whether building improvements will be within 50 feet of the proposed soil treatment and dispersal area.
 - (4) Whether buried water supply pipes will be within 50 feet of the proposed system.
 - (5) Whether easements will be within 50 feet of the proposed system.
 - (6) Whether the ordinary high water level of public waters will be within 500 feet of the proposed soil treatment and dispersal area and if so, a preliminary assessment of phosphorus impacts to the surface water.
 - (7) Whether the system will be located in a floodplain and the system location in relation to the 100-year flooding elevation from published data if available or data that is acceptable to the Department or local unit of government.
 - (8) The required setbacks from the proposed soil treatment and dispersal system.
 - (9) The soil survey information on the proposed soil dispersal area, including the soil map, map units, landscape position, parent material, flooding potential, slope range, periodically saturated soil level, depth to bedrock, texture, color, and structure of soil horizons, and permeability of soil horizons.
 - (10) A geocode or property identification number.
 - (11) The names of the property owners; and
 - (12) The location of the system on a United States Geological Survey quadrangle map of the proposed soil treatment and dispersal area and the area within one mile.
- 10.3 Before conducting a field evaluation, the designer shall confer with the Department or local unit of government to determine the requirements and scope of the evaluation, dependent upon system size, soil conditions, and other applicable factors. At a minimum, the requirements in this Section must be met:
- (1) Property lines must be confirmed in the field using the most recent document source. Site improvements, required setbacks, and easements must be identified, located, and marked.
 - (2) A general evaluation and description of the proposed soil dispersal area, including a general geomorphic description, current land use, and past land use, if known, must be provided.

- (3) The following surface features must be identified and described:
 - (A) The dominant vegetation.
 - (B) Evidence of disturbed or compacted soil or flooding or run-on potential.
 - (C) Landscape position, including landform, slope gradient, slope direction, and surface morphometry as described in the Field Book for Describing and Sampling Soils Version 2.0, September 2002, developed by the National Soil Survey Center and Natural Resources Conservation Service of the United States Department of Agriculture. The field book is incorporated by reference, is not subject to frequent change, and is available through the Minitex interlibrary loan system.
- 10.4 The required number of soil pits to adequately characterize the soil on the proposed site must be determined by the professional judgment of the designer as based on the size of the area, consistency of the soil, and approved by the Department or local unit of government.
- 10.5 The qualifying soil observation pits to be used for the MSTTS design must be located on or near the borders of the proposed soil treatment and dispersal area. Soil observation pits must be dug outside the soil dispersal area, if possible. The soil must be observed and described to a depth of at least three feet below the proposed depth of the system. Other soil observation pits are allowed to supplement the required soil observation pit information.
- 10.6 Underground utilities must be located before soil observations are undertaken. Required safety precautions must be taken before entering soil observation pits.
- 10.7 The following soil observations must be made:
 - (1) The soil properties and features described in items (A) to (M) must be described according to the Field Book for Describing and Sampling Soils, which is incorporated by reference under Section 2.2 (46).
 - (A) Matrix soil color.
 - (B) Soil features that have different colors from the matrix color, including, but not limited to, clay films, organic stains, silt coats, nodules, and concretions.
 - (C) Abundance, size, color, and contrast of redoximorphic features.
 - (D) Soil texture, with modifiers.
 - (E) Grade, size, and shape of soil structure.
 - (F) Moist soil consistence.
 - (G) Abundance and size of rock fragments.
 - (H) Abundance and size of roots.
 - (I) Horizon boundary conditions.
 - (J) Parent materials.

- (K) Pores, quantity and size.
 - (L) Quantity of boulders and tree stumps affecting construction.
 - (M) Any other characteristics of feature that affects permeability of the soil or treatment of sewage effluent.
- (2) The depth to bedrock, if encountered, must be determined by the requirements in Section 2.2 (9).
 - (3) The elevation of standing water evident in any soil pit must be identified.
 - (4) The soil must not be described when frozen, at improper moisture content, or under poor light conditions.
- 10.8 Hydraulic conductivity testing of the soil must be employed, along with a determination of the soil's texture, structure and consistence, to determine the loading rate of effluent in the soil. The frequency of observations and measurements must be determined by the professional judgment of the designer, dependent on the variation in soil conditions and the system size, with the frequency of the observations and measurements approved by the Department or local unit of government.
- 10.9 All field soil information gathered must be compared with soil survey information. Any discrepancies shall be identified.
- 10.10 Site and soil information gathered in Section 10.2 through Section 10.9 must be interpreted for suitability for MSTs siting, design, and construction, with consideration of the following:
- (1) Surface features impacts from precipitation, run-on, and interflow or any other item that could have potential to adversely impact the ability of the soil to accept water.
 - (2) Cultural features, including, but not limited to, setbacks and easements.
 - (3) Site conditions affecting system layout, distribution system requirements, and constructability.
 - (4) Layers of coarse soil textures that affect treatment.
 - (5) Disturbed, compacted, cut-filled, or other unnatural condition, if present.
 - (6) The uniformity of the soil over the site.
 - (7) Future surrounding land use changes.
 - (8) Soil sizing factor or loading rate.
 - (9) An approximation of the rise in groundwater from system operations as determined by a groundwater mounding assessment. A narrative evaluation of the accuracy of the approximation must be provided. The approximation must be related to the requirements in Section 16.5 (7).
- 10.11 Systems proposed to be located in flood fringes must determine feasibility of relocating the system outside the floodplain.

- 10.12 The limiting layer in the soil shall be determined based on the depth of bedrock or periodically saturated soil if encountered. The depth of periodically saturated soil shall be determined according to Section 9.6 (5), and the depth to bedrock shall be as defined in Section 2.2 (9).
- 10.13 The proposed soil treatment and dispersal areas shall be protected from disturbance, compaction, or other damage by use of stakes and silt fence or snow fence.
- 10.14 All information gathered in Section 10.2 through Section 10.12 must be submitted for review and approved by the Department or local unit of government prior to final design. The submittal must also contain:
- (1) A map of the proposed soil dispersal area, drawn to scale, showing:
 - (A) Features with a setback within 150 feet of the system.
 - (B) Easements within 50 feet of the system.
 - (C) Floodplains, wetlands, and surface waters, within 100 feet of the system.
 - (D) Location and elevation of all soil pits, borings, and hydraulic tests.
 - (E) Two-foot contour lines.
 - (2) Dates and weather conditions during the field evaluations.
 - (3) Elevations of the periodically saturated soil or bedrock.
 - (4) Proposed depths of the system bottom.
 - (5) Proposed soil loading rate.
 - (6) System site boundaries.
 - (7) Anticipated construction related issues.
 - (8) The name, address, telephone number, and certified statement of the individual conducting the site evaluation.
 - (9) A narrative explaining any difficulties encountered during the site evaluation, including, but not limited to, identifying and interpreting soil and landform features and how the difficulties were resolved.

SECTION 11 GROUNDWATER INVESTIGATION

- 11.1 A preliminary groundwater assessment for nitrogen impacts to aquifers must be conducted for all proposed MSTs according to this Section.
- 11.2 The following information must be ascertained from the best available information:
- (1) The size of the soil dispersal system, proposed loading rate, and system geometry.
 - (2) The geocode(s) or parcel identification number(s) of the parcel(s) where the proposed soil dispersal area is to be located.
 - (3) Any anticipated discharges from nondomestic sources to the proposed MSTs.
 - (4) The location of the MSTs on a United States Geological Survey quadrangle topographic map, including the area within a one-mile radius of the proposed soil treatment system.
 - (5) A determination of the general geology, periodic soil saturation, regional groundwater setting, and aquifers used for water supply and a description of the general site hydrology characteristics, including, but not limited to, identification and estimated depth measurements to geologic units and aquifers, and identification of groundwater confining strata.
 - (6) A determination whether the proposed system is in a drinking water supply management area, inner wellhead management zone, source water protection area, groundwater sensitive area, or a special well construction area.
 - (7) An assessment of all water supply wells within a 300-foot radius of the proposed soil treatment area with a minimum assessment of well locations and casing depths from well construction log records. If no records exist, the well locations and casing depths must be estimated.
 - (8) A determination or estimation of groundwater flow direction
 - (9) An assessment of pathogenic organism, nitrogen, and phosphorus impacts from the system.
- 11.3 The designer must consult with the Department or local unit of government to determine whether the Department or local unit of government will require a field or further groundwater investigation and, if so, the extent of the investigation. The field or further investigation must be conducted if information gained in Section 11.2 indicates that a proposed system is a potential contaminant threat to a regional water table, an aquifer, water supply well(s), or surface waters. The threats of concern include, but are not limited to, fecal organism contamination, nitrate contamination, or phosphorus impacts to surface waters.
- 11.4 The designer must consult with the Department or local unit of government to determine if the Department or local unit of government will require effluent or groundwater monitoring and, if so, the extent of the monitoring. Monitoring must be conducted if information gained in Section 11.2 and 11.3 indicates that a proposed system is a potential contaminant threat to a regional water table, an aquifer, or a water supply well or impacts surface waters. The groundwater mound height must be monitored under all MSTs during operation.
- 11.5 The information gathered in this part must be used to estimate or measure if the system adequately protects the groundwater and surface water as prescribed in part Section 4.9. The interpretation must include an evaluation of whether contaminant plumes will intersect water supply well capture zones.

- 11.6 All information required in this part must be submitted for review and approval of the Department or local unit of government prior to final design, including all applicable information delineated on a map.

SECTION 12. SEWAGE FLOW DETERMINATION

- 12.1 Completion of tasks outlined in Section 12 to Section 21 is considered the second phase of SSTS design.
- 12.2 The estimated design flow for any dwelling must provide for at least two (2) bedrooms. For multiple or multifamily dwellings, the design flow consists of the sum of the design flows for each individual unit.
- 12.3 The estimated design flow for dwellings is based on Table I, which is based on calculating the number of bedrooms by 150 gallons per day.

Table I

Number of Bedrooms	Gallons Per Day
2	300
3	450
4	600
5	750
6	900

- 12.4 The design flow for MSTS serving existing dwellings is determined by the following calculation in conjunction with Section 12.3:

Total flow from the ten highest flow dwellings + (total flow from the remaining dwellings X 0.45)

- 12.5 For new housing developments, the developer shall determine and restrict the total number of bedrooms for the development and determine the design flow by multiplying the total number of bedrooms by 110 gallons per day. If the ultimate development of phased or segmented growth meets or exceeds 10,000 gallons per day, the initial system or systems and all subsequent systems require a state disposal system permit.
- 12.6 If construction of additional dwellings or bedrooms, installation of water-using devices, or other factors likely to increase the flow volumes can be reasonably anticipated, the SSTS must be designed to accommodate the additional capacity as determined by the Department or local unit of government.
- 12.7 Design sewage flow for other establishments are determined by methods in item (1) or (2):
- (1) The design flow of sewage for MSTS serving other establishments is estimated using Table II.
 - (2) The measured design flow of sewage for MSTS serving other establishments is determined by averaging the measured daily flows for a consecutive seven-day period in which the establishment is at maximum capacity or use.

Table II – Estimated Design Sewage Flow from Other Establishments

Dwelling Units (also see outdoor recreation)	Unit	Design Flow (gallons/day/unit)
Hotel or luxury hotel	Guest	55
	Square Foot	0.28
Motel	Guest	38
	Square Foot	0.33
Rooming House	Resident	45
	Add for each non-resident meal	3.3
Daycare (no meals)	Child	19
Daycare (with meals)	Child	23
Dormitory	Person	43
Labor Camp	Person	18
Labor Camp, semi permanent	Person	50
Commercial/Industrial	Unit	Design Flow (gallons/day/unit)
Retail Store	Square Foot	0.13
	Customer	3.8
	Toilet	590
Shopping Center	Employee	11.5
	Square Foot	0.15
	Parking Space	2.5
Office	Employees/8-Hour Shift	18
	Square Foot	0.18
Medical Office*	Square Foot	1.1
	Practitioner	275
	Patient	8
Industrial Building	Employees/8-Hour Shift	17.5
	Employees/8-Hour Shift with Showers	25
Laundromat	Machine	635
	Load	52.5
	Square Foot	2.6
Barber Shop	Chair	68
Beauty Salon	Station	285
Flea Market	Nonfood vendor/space	15
	Limited food vendor/space	25
	With food vendor/space	50
Eating and Drinking Establishments	Unit	Design Flow (gallons/day/unit)
Restaurant (does not include bar or lounge)	Meal without alcoholic drinks	3.5
	Meal with alcoholic drinks (open 16 hours or less)	8
	Seat (open 16 hours or less)	30
	Seat (open more than 16 hours)	50
	Seat (open 16 hours or less, single service articles)	20
	Seat (open more than 16 hours, single service articles)	35
Restaurant – short order	Customer	7
Restaurant – drive-in	Car Space	30

Eating and Drinking Establishments	Unit	Design Flow (gallons/day/unit)
Restaurant – carry out, including caterers	Square Foot	0.5
Institution Meals	Meal	5.0
Food Outlet	Square Foot	0.2
Dining Hall	Meal	8.5
Coffee Shop	Customer	7
Cafeteria	Customer	2.5
Bar or lounge (no meals)	Customer	4.5
	Seat	36
Entertainment Establishments	Unit	Design Flow (gallons/day/unit)
Drive-in Theater	Car Stall	5
Theater/Auditorium	Seat	4.5
Bowling Alley	Alley	185
Country Club	Member (no meals)	22
	Member (with meals and showers)	118
	Member (resident)	86
Fairground and Other Similar Gatherings	Visitor	1.5
Stadium	Seat	5
Dance Hall	Person	6
Health Club/Gym	Member	35
Outdoor Recreation and Related Lodging Facilities	Unit	Design Flow (gallons/day/unit)
Campground	Person with hook-up	36
	Site with hook-up	100
	Site without hook-up, with central bath	62
	Site to be served by dump station	14.5
Permanent Mobile Home	Mobile Home	225
Camp, day without meals	Person	20
Camp, day and night with meals	Person	45
Resort/Lodge Hotel	Person	62
Cabin, resort	Person	50
Retail Resort Store	Customer	4
Park or Swimming Pool	Guest	10
Visitor Center	Visitor	13
Transportation	Unit	Design Flow (gallons/day/unit)
Gas Station/Convenience Store	Customer	3.5
Service Station*	Customer	11
	Service Bay	50
	Toilet	250
	Square Foot	0.25
Car wash*(does not include car wash water)	Square Foot	5
Airport, Bus Station, Rail Depot	Passenger	5
	Square Foot	5
	Restroom	565

Institutional	Unit	Design Flow (gallons/day/unit)
Hospital*	Bed	220
Mental Health Hospital*	Bed	147
Prison or Jail	Inmate	140
Nursing Home, other adult congregate living	Resident	125
Other Public Institution	Person	105
School (no gym, no cafeteria, and no showers)	Student	14
School (with cafeteria, no gym, and no showers)	Student	18
School (with cafeteria, gym, and showers)	Student	27.5
School (boarding)	Student	95
Church	Seat	4
	Add for each meal prepared	5
Assembly Hall	Seat	4
Miscellaneous	Unit	Design Flow (gallons/day/unit)
Public Lavatory	User	5
Public Shower	Shower Taken	11

* Waste other than sewage is only allowed to be discharged into the system if the waste is suitable to be discharged to groundwater.

- 12.8 Unless otherwise noted in Table II, the flow values do not include flows generated by employees. A flow value of 15 gallons per employee per eight hour shift must be added to the flow amount for determining the design flow for other establishments.
- 12.9 Design flow determination for establishments not listed in Table II shall be determined by the base available information and approved by the Department or by the local unit of government.
- 12.10 The measured flow of sewage for existing other establishments may be used to modify estimated flow values determined in this part if the length and frequency of the measured flow accurately represents the annual average water use, along with the peak weekly and daily water use.
- 12.11 The design flow for MSTs must also include 200 gallons of infiltration and inflow per inch of collection pipe diameter per mile per day with a minimum pipe diameter of two inches to be used for the calculation. Flow values are allowed to be further increased if the system employs treatment devices that are exposed to atmospheric conditions that will infiltrate precipitation. Flow estimates as calculated in this Chapter shall not be relied upon for the design of collection systems.
- 12.12 If concentrations of biochemical oxygen demand, total suspended solids, and oil and grease from the sewage are expected to be higher than 175 mg/L, 65 mg/L, or 25 mg/L, respectively, an estimated or measured average concentration must be determined and be acceptable to the Department or local unit of government. System design must account for concentrations of these constituents so as to not cause internal system malfunction, such as, but not limited to, clogging of pipes, orifices, treatment devices, or media.

SECTION 13 SEWAGE TANKS

- 13.1 Sewage tanks serving SSTS must meet or exceed the applicable requirements of this Section unless otherwise approved by a Minnesota licensed professional engineer and approved by the Department or the local unit of government.
- 13.2 Tanks, fittings, risers, and apertures must:
- (1) Be capable of supporting long-term vertical loads for the conditions in which the tank will be placed. These loads include, but are not limited to, saturated soil load, based on 130 pounds per cubic foot.
 - (2) Be capable of withstanding a lateral load for the conditions the tank will be placed.
 - (3) With proper maintenance and venting, not be subject to failure due to corrosion and degradation from sewage or sewage gases, including risers and maintenance hole covers.
 - (4) Be structurally capable of withstanding exposure and stresses from freezing conditions.
- 13.3 Poured in place concrete tanks must be designed to meet each requirement in Section 13.2, and be designed by a Minnesota licensed professional engineer.
- 13.4 Septic tanks must:
- (1) Have a liquid depth of at least 30 inches. Any liquid depth that is greater than 84 inches must not be used when calculating the septic tank liquid capacity.
 - (2) Have a minimum of six feet between the inlet and outlet of the tank, rather than between compartments, or have a minimum of six feet from the inlet of the first tank to the outlet of the last tank in series.
 - (3) If site conditions warrant, the inlet and outlet are allowed to be located on walls that are not opposite each other along axis of the maximum dimension; however, the requirements of Section 13.4 (2) must be met.
 - (4) Have an inlet invert at least two inches above the outlet invert.
 - (5) Have a reserve or storage space between the liquid surface and the top of the inlet and outlet baffles of not less than eight inches or 100 gallons, whichever is greater.
- 13.5 For dwellings, there shall be two (2) septic tanks in series with the liquid capacity based on the number of bedrooms in the dwelling; such tanks shall be as large as the capacities in Table III. The only exception to this requirement is for the upgrade of an existing compliant system if the primary tank capacity is met and there is no garbage disposal or sewage pump. System replacement shall require two (2) tanks in series.

Table III – Minimum Septic Tank Capacity

Number of Bedrooms	Tank 1	Tank 2
Two or less	1,000	500
Three	1,000	1,000
Four to Five	1,500	1,000
Six to Seven	2,000	1,000
Eight to Nine	2,500	1,250
Ten or More	Septic tank shall be sized as an MSTS with the second tank in series being at least 50 percent of the capacity of the first tank	
Multiple Family Dwelling containing two or more units	Size shall be the sum of the individual dwelling unit requirements.	

- 13.6 An effluent screen with an alarm must be installed on the outlet of the last tank in series.
- 13.7 Septic tanks must be connected in series. Each tank or compartment must contain at least 25 percent of the required total liquid capacity. The first tank must be equal to or larger than any subsequent tank in the series.
- 13.8 Septic tank liquid capacity prior to other treatment devices must accord with the manufacturer's requirements, accepted engineering principles, or as identified in the product registration recommended standards and criteria.
- 13.9 If septic tanks are compartmentalized, (1) to (5) of this Section apply:
- (1) When septic tanks are divided into compartments, the volume of the first compartment must be equal to or larger than any succeeding compartments. Each compartment must contain at least 25 percent of the total required liquid capacity and have an inside horizontal dimension of at least 24 inches.
 - (2) Flow between compartments can be achieved by an unbaffled transfer hole with a minimum size of 50 square inches located in the clarified liquid zone or a minimum of 12-square inch transfer hole located above the clarified liquid zone that is baffled according to Section 13.11. The final compartment of a tank that employs a transfer hole in the clarified zone shall not be used as a pump tank.
 - (3) Septic tanks must have at least a two-inch drop between the invert of the inlet to the invert of the outlet. No liquid level drop is required between two compartments.
 - (4) Adequate venting must be provided between compartments by baffles or by an opening of at least 12 square inches near the top of the compartment wall.
 - (5) All compartmental walls must be designed to withstand the weight of the effluent against an empty compartment.
- 13.10 All septic tanks must be baffled according to (1) to (7) of this Section. Effluent screens are allowed to be substituted for outlet baffles.
- (1) Baffles must be installed at each inlet and outlet of septic tanks. Outlet baffles are required on compartment walls if the transfer hole is at the liquid level.

- (2) Baffles must be resistant to corrosion or decay. Inlet baffles must not restrict the movement of solids.
 - (3) Baffles must be integrally cast with the tank or affixed at the top and bottom with connectors that are not subject to corrosion or decay. Baffles for fiberglass reinforced polyester tanks are allowed to be either resin bonded or secured with suitable structural adhesive. Sanitary tees used as baffles must be affixed to the inlet or outlet pipes with a permanent waterproof adhesive.
 - (4) The inlet baffle must extend at least six inches, but not more than 20 percent of the total liquid depth, below the liquid surface and at least six inches above the liquid surface.
 - (5) The outlet baffle and any baffles between compartments must extend below the liquid surface a distance equal to 40 percent of the liquid depth, except that the penetration of the indicated baffles or sanitary tees for horizontal cylindrical tanks must be 35 percent of the total liquid depth. They must also extend above the liquid surface as required in Section 13.10 (4).
 - (6) There must be at least one inch between the underside of the top of the tank and the highest point of the inlet and outlet baffles.
 - (7) The nearest point on the inlet baffles other than sanitary tees must be no less than 6 inches and no more than 12 inches from the end of the inlet pipe. The nearest point on the outlet baffle, other than sanitary tees, must not be closer than 6 inches and no more than 12 inches from the beginning of the outlet pipe of the baffle. Sanitary tees used as inlet or outlet baffles must be at least 4 inches in diameter.
- 13.11 Septic tanks shall have a minimum of two maintenance holes with a minimum diameter of 20 inches (least dimension). One maintenance hole must be over the outlet device (baffles or screen). Another maintenance hole must be either above the inlet device, or near the center of the tank, and facilitate pumping without interference. Enough maintenance holes must be provided so access can be gained within six feet of all walls for solids removal of each compartment. Six-inch inspection pipes shall be provided over any baffles that do not have access maintenance holes.
- 13.12 All maintenance hole risers must extend through the tank cover above final grade.
- 13.13 Covers for maintenance holes must:
- (1) Be secured by being locked, being bolted or screwed, having a weight of at least 95 pounds, or other methods approved by the Department or local unit of government. Covers shall also be leak resistant; and be designed so the cover cannot be slid or flipped, which could allow unauthorized access to the tank.
 - (2) Have a written and graphic label warning of the hazardous conditions inside the tank.
 - (3) Be capable of withstanding a load that the cover is anticipated to receive.
 - (4) Be made of a material suitable for outdoor use and resistant to ultraviolet degradation.
- 13.14 A secondary method to control unauthorized access must be provided.
- 13.15 All precast reinforced concrete sewage tanks must be constructed to meet the requirements of this chapter. Information on best practices for tank construction is found in the National Precast Concrete Association's best practices manual, *Precast Concrete On-site Wastewater Tanks* (2005). This manual is incorporated by

reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change. If a conflict exists between the manual and this chapter, this chapter applies.

- 13.16 All fiberglass-reinforced polyester and polyethylene tanks must be constructed to meet the requirements of this chapter. Information on best practices for these tanks is found in the International Association of Plumbing and Mechanical Officials (IAPMO), Material and Property Standard for Prefabricated Septic Tanks, Standard PS 1-2006 (2006). This standard is incorporated by reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change. If conflicts exist between the standard and this chapter, this chapter applies.
- 13.17 Precast reinforced concrete tanks must:
- (1) Have a method to lift the tank for an ultimate load that is four times the working load.
 - (2) Undergo proper curing to achieve a compressive strength of 4,000 pounds per square inch before transport, placement, or use.
 - (3) Have no pipe penetration points or openings in the exterior walls or tank bottom below the tank liquid level, unless designed for a specific operational purpose and approved by the Department or local unit of government.
- 13.18 Fiberglass-reinforced polyester or polyethylene tanks must be protected against deterioration during storage.
- 13.19 Location and installation of tanks:
- (1) Sewage tanks must not be placed in areas that prohibit the removal of solids and liquids from the tank according to Section 22.
 - (2) Sewage tanks must be set back as specified in Table V in Section 16.
 - (3) The top of sewage tanks must not be buried deeper than four feet from final grade for new dwellings, or the tank manufacturer's maximum designed depth for the tank. The minimum depth of soil cover over the insulation on the top of the tank is six inches.
 - (4) Sewage tanks must not be placed in floodways, drainageways, or swales. Upslope drainage must be diverted away from the location of all tanks. A tank's final cover must be crowned or sloped to shed surface water.
 - (5) Sewage tanks must not be placed in areas subject to vehicular traffic unless engineered for the anticipated load.
 - (6) Sewage tanks must be placed on firm and evenly compacted soil and with the soil level in all directions. The bottom shall be excavated in a manner so the vertical load is borne by the tank walls and not the tank bottom. If the bottom of the tank excavation contains rocks, bedding material must be used according to manufacturer's instructions. The soil beneath the tank must be capable of bearing the weight of the tank and its contents.
 - (7) Sewage tanks and risers must be installed according to manufacturer's requirements and in a structurally sound and watertight fashion.

- (8) If the top of a sewage tank is to be less than two feet from final grade, the lid of the tank must be insulated to an R-value of ten. Maintenance hole covers must be insulated to an R-value of ten. All insulating materials must be resistant to water absorption.
- (9) Sewage tanks placed below the level of the periodically saturated soil must employ a method to protect against flotation under periodic saturated soil conditions when the tank is empty.
- (10) Connections between the concrete tank and the building sewer or supply pipe must meet the requirements of American Society for Testing and Materials, Standard Specification for Resilient Connectors Between Reinforced Concrete Manhole Structures, Pipes, and Laterals, ASTM C923 (2002), or equivalent. The standard is incorporated by reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change.
- (11) Joints of concrete tanks, concrete tank lids, and concrete risers must be sealed using a bonding compound that meets American Society for Testing and Materials, Standard Specification for Joints for Concrete Pipe, Manholes, and Precast Box Sections Using Preformed Flexible Joint Sealants, ASTM C990 (2003). The standard is incorporated by reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change.

13.20 All septic tanks must be assessed in accordance with Minnesota Rules, Chapter 7080.2010.

13.21 Tanks must be identified in accordance with the following:

- (1) Sewage tanks must be marked near the outlet with:
 - (A) The manufacturer's name.
 - (B) The model number.
 - (C) The liquid capacity.
 - (D) The date of manufacture.
 - (E) The maximum depth of burial.
- (2) The tank manufacturer or manufacturer's agent shall provide the information in Section 13.20 to the installer in writing.
- (3) The tank inlet or outlet must be clearly marked.
- (4) The installer shall submit the information in Section 13.20 with the as-built drawing.

13.22 Sewage tanks must meet the requirements in parts 7080.1910 to 7080.2020² by February 4, 2011. Tanks produced and installed prior to February 4, 2011 must meet the requirements of Minnesota Rules 2005, part 7080.0130.

Sewage Tanks for MSTs

13.23 All holding or treatment tanks or vessels, including lined vessels and grease interceptors serving MSTs, must conform to the applicable requirements of this Section, except as modified in Section 13.23 through 13.27, or as designed by a professional engineer and approved by the Department or local unit of government.

- 13.24 Septic tank capacity for MSTs or Other Establishments shall be determined by:
- (1) Total septic tank liquid capacity for a common tank serving multiple dwellings under gravity flow to the common tank is determined by multiplying the design flow by 3.0.
 - (2) Total septic tank liquid capacity for a common tank serving multiple dwellings under pressure flow to the common tank is determined by multiplying the design flow by 4.0.
 - (3) Common multiple septic tanks must be connected in series. Individual tanks connected in series or any compartment of a tank must have a capacity of more than one-fourth of the required total liquid capacity.
 - (4) For MSTs that have individual septic tanks at each dwelling, the individual tanks must meet the requirements of Section 13.5.
 - (5) Total septic tank liquid capacity prior to other treatment devices shall be according to manufacturer's requirements or accepted standards.
 - (6) Holding tanks serving Other Establishments must provide storage of at least five times the design flow.
 - (7) Effluent screens must be used on the outlet baffle on the final septic tank or pressure filters must be used in the pump tank if common tanks are employed in series. Alarms must be employed on tanks equipped with effluent screens. Lint filters are recommended if the sewage contains laundry waste.
- 13.25 For common septic tanks, the liquid depth of septic tanks to determine liquid capacity must be no greater than 84 inches. The length-to-width ratio and the length-to-depth ratio must facilitate settling of solids.
- 13.26 For common septic tanks, the space in the tank between the liquid surface and the top of the inlet and outlet baffles must not be less than 20 percent of the total required liquid capacity.
- 13.27 All tanks used for MSTs must be tested for watertightness in accordance with Minnesota Rules, Chapter 7080.2010, Subp. (3). The test shall be conducted to include the watertightness of all connections and risers.
- 13.28 Liners used as watertight barriers for treatment devices must be designed and constructed according to liner requirements developed by the Commissioner of the Minnesota Pollution Control Agency. If conflicts exist between this Chapter and those requirements, this Chapter applies. Compacted soil liners must not be used as watertight barriers for treatment devices. Liners must be tested and must hold water without loss for 24 hours after being filled to the top of the liner.
- 13.29 A commercial or institutional food preparation facility such as, but not limited to, a restaurant, cafeteria, or institutional kitchen, served by a system regulated under this Chapter, the system design for which was submitted to the Department or local unit of government after the effective date of this Chapter, shall install an external grease interceptor, unless other grease control measures are taken and approved by the Department or local unit of government.

SECTION 14 DISTRIBUTION OF EFFLUENT

- 14.1 Distribution of effluent for SSTS must meet or exceed the requirements of this Section and Minnesota Rules, Chapter 7080.2050³.
- 14.2 The supply pipe extending from the septic tank to the undisturbed soil beyond the tank excavation must meet the strength requirements of American Society for Testing and Materials (ASTM), Schedule 40 Pipe, contained in Standard Specifications for Poly(Vinyl Chloride)(PVC) Plastic Pipe, Schedule 40, 80, 120, ASTM D1785 (2006). The schedule is incorporated by reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change.
- 14.3 Supply pipes must:
- (1) Be made from materials resistant to breakdown from sewage and soil.
 - (2) Be watertight, including all joints.
 - (3) Be durable throughout the design life.
 - (4) Not deflect, buckle, crush, or longitudinally bend.
 - (5) Be resistant to pressures, fatigue, and strain for the application.
 - (6) Be installed according to American Society for Testing and Materials, Standard Practice for Underground Installation of Thermoplastic Pipe for Sewers and Other Gravity-Flow Applications, ASTM D2321 (2005). The standard is incorporated by reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change.
 - (7) Be designed, installed, and protected to minimize the danger of freezing in the pipe.
 - (8) Not be closer than six inches from final grade. Pipes susceptible to freezing shall be insulated.
 - (9) Be setback from the water supply wells and water service pipes according to Minnesota Rules, Chapters 4715 and 4725.
- 14.4 The minimum slope for gravity supply pipes is one percent (1/8-inch per linear foot). There is no maximum slope. Pipe restraints must be used for slopes greater than 20 percent or where fluid velocities in the pipe exceed 15 feet per second. For pressure systems, a minimum slope of one percent for drainback or other frost protection measures must be employed.
- 14.5 Access to each supply pipe must be provided for cleanout. The access point must be accessible from final grade.
- 14.6 Gravity Distribution
- (1) Serial distribution must be used to distribute effluent to individual trenches in a soil treatment and dispersal system. If the necessary elevation differences between trenches for serial distribution cannot be achieved by natural topography or by varying the excavation depths, parallel distribution can be used. Serial distribution must not create a pressure head on trenches at lower elevations.
 - (2) If drop boxes are used for serial distribution, Subitems (A) to (F) apply.

- (A) The drop box must be watertight and constructed of durable materials not subject to corrosion or decay.
 - (B) The invert of the inlet supply pipe must be at least one inch higher than the invert of the outlet supply pipe to the next drop box.
 - (C) The invert of the outlet supply pipe to the next drop box must be no greater than two inches higher than the crown of the distribution pipe serving the trench in which the box is located.
 - (D) When sewage tank effluent is delivered to the drop box by a pump, the pump discharge must be directed against a wall or side of the box on which there is no outlet or directed against a deflection wall, baffle, or other energy dissipater. The discharge rate into the drop box must not result in surfacing of sewage from the drop box. The supply pipe must drain after the pump shuts off.
 - (E) The drop box must be covered by a minimum of six inches of soil. If the top of the box is deeper than six inches, access must be provided above, at, or within six inches of finished grade.
 - (F) The drop box must be placed on firm and settled soil.
- (3) If valve boxes are used, all requirements in Section 14.6 (2) apply.
- (4) Distribution boxes must meet the standards in items (A) to (F).
- (A) The box must be watertight and constructed of durable materials not subject to corrosion or decay.
 - (B) The distribution box must be covered by a minimum of six inches of soil. If the top of the box is deeper than six inches, access must be provided above, at, or within six inches of the finished grade.
 - (C) The inverts of all outlets must be set and maintained at the same elevation.
 - (D) The inlet invert must be either at least one inch above the outlet invert or sloped such that an equivalent elevation above the outlet invert is obtained within the last eight feet of the inlet pipe.
 - (E) Each trench line must be connected separately to the distribution box and must not be subdivided. Distribution boxes must not be connected to one another if each box has distribution pipes.
 - (F) When sewage tank effluent is delivered by pump, a baffle wall must be installed in the distribution box or the pump discharge must be directed against a wall, baffle, side of the box on which there is no outlet, or directed against a deflection wall, baffle, or other energy dissipater. The baffle must be secured to the box and extend at least one inch above the crown of the inlet pipe. The discharge rate into the drop box must not result in surfacing of sewage from the drop box. Pressure must not build up in the box during pump discharge.
- (5) Nonpressurized distribution pipes must meet the requirements of items (1) to (4) below and Section 14.3 (1) and Section 14.3 (3) to Section 14.3 (5).

- (1) Distribution pipes used for gravity distribution must be at least four inches in diameter.
- (2) Distribution pipes used for gravity distribution must have at least one row of holes of no less than one-half inch in diameter spaced no more than 40 inches apart.
- (3) Distribution pipes for gravity distribution must be laid level or on a uniform slope oriented away from the distribution device of no more than four inches per 100 feet.
- (4) Distribution pipes for gravity distribution in seepage beds must be uniformly spaced no more than five feet apart and not more than 30 inches from the side walls of the seepage bed.

14.7 Pressure Distribution

- (1) Pressure distribution must pressurize the entire distribution system and must be used for:
 - (A) Mound systems.
 - (B) At-grade systems.
 - (C) All trenches and seepage beds in accordance with Minnesota Rules, Chapter 7080⁵.
 - (D) All seepage beds with a width greater than 12 feet
 - (E) New construction or replacement systems receiving treatment Level A or Level B effluent, as determined in Minnesota Rules, 7083.4030, Table III.
 - (F) All systems where the distribution network is installed above the original grade.
 - (G) All MSTs.
- (2) Pressurized distribution pipes must conform to the requirements of Section 14.3 (1) and Section 14.3 (3) to Section 14.3 (5).
- (3) Pressure distribution pipes and associated fittings must be properly joined together. The pipe and connections must be able to withstand a pressure of at least 40 pounds per square inch.
- (4) The distribution network must be designed so there is less than a ten percent variance in flow for all perforations.
- (5) Perforations must be no smaller than $\frac{1}{8}$ -inch diameter and no larger than $\frac{1}{4}$ -inch diameter. The number of perforations, perforation spacing, and pipe size for pressure distribution must be in accordance with Table IV below. The friction loss in any individual perforated lateral must not exceed 20 percent of the average pressure head on the perforations.

Table IV – Maximum Number of Perforations Per Lateral

1/4-Inch Holes					
Perforation Spacing	Pipe Diameter (Inches)				
	1	1 1/4	1 1/2	2	3
2.0	10	13	18	30	60
2.5	8	12	16	28	54
3.0	8	12	16	25	52
7/32-Inch Holes					
Perforation Spacing	Pipe Diameter (Inches)				
	1	1 1/4	1 1/2	2	3
2.0	11	16	21	34	68
2.5	10	14	20	32	64
3.0	9	14	19	30	60
3/16-Inch Holes					
Perforation Spacing	Pipe Diameter (Inches)				
	1	1 1/4	1 1/2	2	3
2.0	12	18	26	46	87
2.5	12	17	24	40	80
3.0	12	16	22	37	75
1/8-Inch Holes					
Perforation Spacing	Pipe Diameter (Inches)				
	1	1 1/4	1 1/2	2	3
2.0	21	33	44	74	149
2.5	20	30	41	69	135
3.0	20	29	38	64	128

- (6) Perforation holes must be drilled straight into the pipe and not at an angle. Pressurized distribution laterals must be installed level. Perforation holes must be free of burrs. Holes must be spaced no more than three feet apart. A method to introduce air into the pipe after dosing must be provided. The pipes must completely drain after the pump turns off.
- (7) Pressure distribution laterals must be spaced no further than 36 inches apart in seepage beds and mound absorption beds, and no further than 24 inches from the outside edge of the bed.
- (8) Pressure distribution laterals must be connected to a header or manifold pipe that is of a diameter such that the friction loss in the header or manifold will be no greater than five percent of the average head at the perforations. The header or manifold pipe must be connected to the supply pipe from the pump.
- (9) Perforated laterals must not be installed closer than 12 inches from the edges of the absorption bed and perforated laterals must terminate no closer than 12 inches from the ends of the absorption bed.
- (10) Pressure distribution cleanouts must be provided to check the system for proper operation and cleaning of plugged perforations. Cleanouts must be accessible from final grade.
- (11) Existing systems with gravity distribution which are retrofitted with an advanced treatment device meeting treatment level A or B in Minnesota Rules 7083.4030, must monitor the system to determine the presence of even distribution over the absorption area. If even distribution is not occurring, pressure distribution must be employed.

- 14.8 For MSTs, distribution of effluent into a soil treatment and dispersal area must comply with all parts of Section 14.
- 14.9 MSTs must be designed by a registered professional engineer and approved by the Department or local unit of government.
- 14.10 MSTs must employ pressure distribution.
- 14.11 The distribution system for MSTs must be designed to dose and rest zones in accordance with operational requirements.

SECTION 15 DOSING OF EFFLUENT

- 15.1 When pumping or dosing is necessary, it must comply with this Section.
- 15.2 Pump tanks shall meet or exceed the requirements of Section 13.2, Sections 13.11 through Section 13.20. All dosing chambers must be vented. Pump tanks shall have a maintenance hole with a minimum diameter of 20 inches (least dimension) which allows access and removal of any plumbing or other device. These maintenance holes shall meet or exceed the requirements of Section 13.12 and Section 13.13 of this Chapter.
- 15.3 The pump, pump controls, and pump discharge line must be installed to allow access for servicing or replacement without entering the pump tank.
- 15.4 The pump tank must either include:
- (1) An alternating two-pump system; or
 - (2) Have a minimum total capacity of:
 - (A) 500 gallons for design flows of 600 gallons per day or less; or
 - (B) 100 percent of the design flow for design flow values of greater than 600 gallons per day.
 - (3) MSTs and Other Establishments must include an alternating two-pump system and have a minimum capacity of 50 percent of the design flow.
- 15.5 An SSTs with a pump must employ an alarm device to warn of failure.
- 15.6 The inlet of pumps must be elevated at least four inches from the bottom of the pump tank or protected in some other manner to prevent the pump from drawing excessive settled solids.
- 15.7 Electrical installations must comply with applicable laws and ordinances including the most current codes, rules, and regulations of public authorities having jurisdiction and with Minnesota Rule, Chapter 1315.0200, which incorporates the National Electrical Code.
- 15.8 If a pump is used to lift effluent into a gravity distribution system, the following apply:
- (1) The pump must discharge at least 10 gallons per minute but no more than 45 gallons per minute.
 - (2) The pump must be constructed and fitted with sound, durable, and corrosion-resistant materials.
 - (3) The pump must have sufficient dynamic head for both the elevation difference and friction loss.
- 15.9 Pumps used for pressure distribution must meet the following requirements:
- (1) Pumps must be constructed and fitted with sound, durable, and corrosion-resistant materials.
 - (2) The pump discharge capacity must be based on the perforation discharges for a minimum average head of:
 - (A) 1.0 foot for ¼-inch and 3/16-inch perforations for dwellings;

- (B) 2.0 feet for 1/8-inch perforations for dwellings
 - (C) 2.0 feet for 1/4-inch and 3/16-inch perforations for MSTs and other establishments; and,
 - (D) 5.0 feet for 1/8-inch perforations for MSTs and other establishments.
- (3) Perforation discharge is determined by the following formula:

$$Q = 19.65 cd^2h^{1/2}$$

Where: Q = Discharge in Gallons Per Minute (GPM)
c = 0.6- = coefficient of discharge
d = perforation diameter in inches
h = head in feet

- 15.10 The pump discharge head must be at least five feet greater than the head required to overcome pipe friction losses and the elevation difference between the pump and the distribution device.
- 15.11 The quantity of effluent delivered for each pump cycle must be no greater than 25 percent of the design flow and at least five times the volume of the distribution pipes plus one volume of the supply pipe.

SECTION 16 TREATMENT AND DISPERSAL

- 16.1 Treatment and dispersal of all sewage for new construction or replacement SSTS must in compliance with this Section and Section 17 to Section 21.
- 16.2 All new construction or replacement SSTS must be designed to meet or exceed the following provisions:
- (1) All treatment and dispersal methods must be designed to conform to all applicable federal, state, and local regulations.
 - (2) Treatment and dispersal processes must prevent sewage or sewage effluent contact with humans, insects, or vermin.
 - (3) Treatment and dispersal of sewage or sewage effluent must be in a safe manner that adequately protects from physical injury or harm.
 - (4) An unsaturated zone in the soil must be maintained between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock during loading of effluent.
 - (5) Soil treatment and dispersal systems must not be designed in floodways. Soil treatment and dispersal systems installed in flood fringes must meet the requirements of Section 18.3. All soil treatment systems located in areas subject to excessive run-on must have a diversion constructed upslope from the system.
 - (6) SSTS components must be setback in accordance with Table V.
 - (7) No component of an SSTS is allowed to be located under or within the structure or other impermeable surface.
 - (8) Flow measurement must be employed for all single family dwellings and other establishments with a pump tank, all single family dwellings with a Type III, IV, V systems, and all multi-family dwellings.

Table V – Minimum Setback Distances (Feet)

Feature	Sewage Tank	Soil Treatment and Dispersal Area
Water supply wells less than 50 feet deep and not encountering at least 10 feet of impervious material	50	100
Any other water supply well or buried suction pipe	50	50
Buried pipe distributing water under pressure	10	10
Occupied buildings and buildings with basements or crawl spaces	10	20
Non-occupied structures	5	10
Property lines	10	10
Above ground and in-ground swimming pools	10	10
The Ordinary High Water Mark of:		
Natural Environment Lakes and Streams	150	150
Recreational Development Lakes and Streams	75	75
General Development Lakes and Streams	75	75
All unclassified waters	75	75
St. Croix River-Rural Districts	150	150
St. Croix River-Urban Districts	100	100
Blufflines:		
St. Croix River Blufflines	40	40
Shoreland Blufflines	20	20

16.3 The following items are required for specific designs as determined in Section 17 to Section 21.

- (1) Employ components registered under Minnesota Rules 7083.4070 and 7083.4080 that are installed, used and operated according to the conditions placed on the registration.
- (2) Employee structural components and joint sealants that meet or exceed the system's expected design life.
- (3) For acceptable treatment of septic tank effluent by soil, the soil treatment and dispersal systems must meet the following requirements:
 - (A) A minimum three-foot vertical soil treatment and dispersal zone shall be designed below the distribution media that meets the following criteria:
 - (i) The zone must be above the periodically saturated soil and bedrock. The zone must be continuous and not be interrupted by seasonal zones of saturation.
 - (ii) Any soil layers with a texture group of 1 in Table IX in Minnesota Rules, Chapter 7080.2150¹ must not be credited as part of the necessary three-foot zone.
 - (iii) The entire treatment zone depth must be within seven feet from final grade.
 - (B) The distribution system or media must not place a hydraulic head greater than 30 inches above the bottom of the absorption area.
- (4) The system's absorption area must be in original soil.

- (5) The system's absorption area must be sized according to the Table IX-Loading Rate for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detailed Soil Descriptions as found in Minnesota Rules, Chapter 7080.2150¹, or by using Table VI if not using detailed soil descriptions. Soils with a loading rate less than 0.45 gallons per day per square foot cannot be used in a Type I or Type II system for new construction.

Table VI

Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas using Percolation Tests

Percolation Rate (Minutes Per Inch)	Soil Loading Rate (gpd/ft ²)	Mound Absorption Ratio
<0.1*		
0.1 – 5*	1.20	1
0.1 – 5 (Soil Texture Group 3)	0.6	2
6 – 15	0.78	1.3
16 – 30	0.6	2
31 – 45	0.5	2.4
46 – 60	0.45	2.6
>60**	0.24	5.0

* See Section 18.2 for a system with this type of soil (Type II, Rapidly Permeable Soils Systems)

** Soil with too high a percentage of clay for installation of a Type I, or Type II system. Systems in soils with this Percolation Rate must be a Type III, Type IV or Type V system.

- (6) If drainfield rock medium is employed, a durable, nonwoven geotextile fabric must be used to cover the distribution rock medium. The fabric must be of sufficient strength to undergo installation without rupture. The fabric must permit passage of water without passage of overlying soil material into the rock medium.
- (7) All excavation into the absorption area, or surface preparation of the upper 12 inches of the absorption area, must be in a manner to expose the original soil structure in an unsmeared and uncompacted condition. Excavation is only allowed when the soil moisture content is at or less than the plastic limit and is not frozen or freezing.
- (8) Excavation equipment or other vehicles must not be driven on the excavated or prepared absorption area. Foot traffic on these areas must be minimized and not cause compaction. The exposed areas must be immediately covered with the media or designed coverage materials. If the areas are exposed to direct rainfall, they must be allowed to dry and must be re-prepared according to Section 16.3 (7).
- (9) A minimum of six inches of topsoil borrow shall be placed over the system.
- (10) A close-growing, vigorous vegetative cover must be established over the soil treatment and dispersal system and other vegetatively disturbed areas. The sodding, seeding, or vegetation establishment shall begin immediately after the placement of the topsoil borrow. The soil treatment and dispersal system must be protected from erosion and excessive frost until a vegetative cover is established. The vegetative cover established must not interfere with the hydraulic performance of

the system and shall provide adequate frost and erosion protection. Trees, shrubs, deep-rooted plants, or hydrophytic plants must not be planted on the system.

- 16.4 At a minimum, systems designed under this Chapter with a design flow of greater than 2,500 gallons per day, which impact water quality of an aquifer, as defined in Minnesota Rules, Chapter 4725.0100, subpart 21, must employ best management practices for nitrogen reduction developed by the Commissioner to mitigate water quality impacts to groundwater.
- 16.5 Final treatment and dispersal for MSTTS shall meet the following requirements:
- (1) Final treatment and dispersal must be according to applicable design requirements of this Chapter, except as modified in this Section. Code of Federal Regulations, Title 40, Parts 144 and 146, prescribe additional design regulations applicable to certain systems. At a minimum, flow amounts to be used for the purpose of this Section must be derived from Table II in Section 12 of this Chapter.
 - (2) MSTTS must meet all setbacks in Table V.
 - (3) The site proposed to support the soil treatment and dispersal system must:
 - (A) Have the upper 18 inches of the absorption area:
 - (i) Be original soil.
 - (ii) Have a soil loading rate of greater than zero as listed in Table IX in Minnesota Rules, Chapter 7080.2150¹ or Table VI, in Section 16.3.
 - (iii) Be above the periodically saturated soil or bedrock.
 - (B) Meet the area size requirements in Section 16.5 (5) and Setbacks in Table V.
 - (C) Not be a wetland or floodway.
 - (D) Not be in an area in which surface runoff from precipitation will concentrate (concave hillslope).
 - (E) Allow the system to be placed on contour.
 - (4) Inspection pipes must be located to adequately assess the hydraulic performance of the entire soil dispersal system.
 - (5) Effluent loading rates to the soil shall be no greater than loading rates prescribed in:
 - (A) Table IX in Minnesota Rules, Chapter 7080.2150¹, or Table VI in Section 16.3, if the absorption area receives treatment level C effluent as defined in Minnesota Rules 7083.4030.
 - (B) Table XII in Minnesota Rules, Chapter 7080.2350⁴, or Table X in Section 20.5, if the absorption area receives treatment level A or B effluent in part Minnesota Rules, 7083.4030.
 - (C) Section 21.

- (6) If the absorption area receives effluent as described in Section 16.5 (5)(A), the absorption area shall be increased by 50 percent of the amount derived in Section 16.5 (5)(A), and zoned for dosing and resting.
- (7) The system geometry and lawn area sizing shall be sized to prevent groundwater mounding from violating the unsaturated zone beneath the soil system according to Section 16.5 (8) for proper hydraulic functioning, and for concentration reduction of nitrogen and phosphorus, if applicable.
- (8) Additional set-aside land area of 100 percent of the size determined in Section 16.5 (7) is required for systems whose absorption area receives effluent meeting treatment level A or B in part Minnesota Rules, 7083.4030 or designed in accordance with Section 21. Additional land area of 50 percent of the size determined in Section 16.5 (7) is required for systems whose absorption area receives treatment level C in part Minnesota Rules, 7083.4030. The reserve land area must be identified and protected for future use if necessary. Replacement MSTs proposed on sites that cannot meet this requirement are allowed to be exempted by the Department or local unit of government.
- (9) For treatment of effluent by soil to meet the performance criteria in Section 4.9 (3) of this Chapter, the soil treatment and dispersal systems must meet the requirements below:
 - (A) For soil treatment and dispersal systems that receive treatment level C effluent as described in Minnesota Rules, 7083.4030, the soil treatment zone requirements must meet or exceed the requirements of Section 16.3 (3). The required three-foot vertical separation must be maintained during operation after accounting for groundwater mounding.
 - (B) For soil treatment and dispersal systems that receive treatment level A or B effluent as described in Minnesota Rules, 7083.4030, the soil treatment requirements must meet or exceed the following requirements:
 - (i) A minimum vertical depth of the soil treatment and dispersal zone below the distribution media shall be determined according to Table IX in Section 20, with a minimum vertical separation of two feet. This zone shall meet the following criteria:
 - a. The zone must be above the periodically saturated soil and bedrock. The zone must be continuous and not be interrupted by seasonal zones of saturation.
 - b. Any soil layers with a texture group of 1 in Table IX in Minnesota Rules, Chapter 7080.21 50¹ must not be credited as part of the necessary treatment zone.
 - c. The entire treatment zone depth must be within seven feet from final grade.
 - (ii) The distribution system or media must not place a hydraulic head greater than 30 inches above the bottom of the absorption area.
 - (iii) The system's absorption area must be original soil.
 - (iv) The systems absorption area must be sized according to Section 16.5 (5).

- (C) The minimum vertical separation can be determined by the method described in Section 21 to meet provisions of Section 4.9 (3).
 - (D) An observation well to measure the height of the periodically saturated soil beneath the operating system must be installed and monitored according to the operating permit.
 - (10) MSTs systems must employ nitrogen mitigation methods to achieve compliance with Section 4.9 (4), and must be monitored in accordance with Section 11.4 of this Chapter.
 - (11) Phosphorus mitigation methods must be employed to achieve compliance with Section 4.9 (5), if natural processes are found inadequate.
 - (12) All information required in this Section shall be submitted for review and approval by the Department or local unit of government prior to system construction, including all applicable information delineated on a map.
- 16.6 MSTs construction must be according to applicable construction requirements of this Chapter.
- 16.7 The design standards for new construction or replacement MSTs are provided to meet many of the public health and environmental outcomes in Section 4. In some cases, specific design methods must be employed in addition to the standards provided in this Chapter.
- 16.8 MSTs must not receive storm water or other sources of clean water.
- 16.9 All structural components of the system and sealants must be designed to operate throughout the system's design life.
- 16.10 A flow measure device must be employed on all MSTs.
- 16.11 The system must be designed with sufficient access and ports to monitor the system as applicable.
- 16.12 MSTs must employ components registered under parts 7083.4000 to 7083.4110 or have sufficient regulatory oversight in the operating permit.
- 16.13 The MSTs designer must observe critical periods of the system construction. The designer shall prepare a report of observed construction activities and submit the report to the Department or local unit of government prior to the final inspection.

SECTION 17 TYPE I SYSTEMS

17.1 Systems designed according to this Section are considered Type I Systems. Systems in soils with a loading rate less than 0.45 gallons per day per square foot cannot be used in a Type I system for new construction.

17.2 Trenches and Seepage Beds

- (1) To qualify as a trench or seepage bed system, the system must meet or exceed the following requirements:
 - (A) Employ flow values in Section 12.
 - (B) Meet or exceed applicable technical requirements of Section 13, Section 14, and Section 15.
 - (C) Meet or exceed the requirements of Sections 16.2 and 16.3.
 - (D) Meet the requirements of Section 17.2 (2) to Section 17.2 (15).
- (2) Seepage bed placement must be limited to areas having natural slopes of less than six (6) percent. Absorption areas for seepage beds must not be placed in soils with a texture group of 8 on Table IX in Minnesota Rules, Chapter 7080.2150¹. Seepage beds must not be located in floodplains.
- (3) The trench bottom absorption area is calculated by dividing the design flow by the appropriate soil loading rate in Table IX in Minnesota Rules, Chapter 7080.2150¹ or Table VI.
- (4) If gravity distribution is used in seepage beds, the seepage bed absorption area is calculated by dividing the design flow by the soil loading rate and then multiplying that value by 1.5.
- (5) If pressure distribution is used in seepage beds, the seepage bed absorption area is determined by dividing the design flow by the soil loading rate in Table IX in Minnesota Rules, Chapter 7080.2150¹ or Table VI.
- (6) The minimum sidewall absorption is six (6) inches. The bottom absorption area is allowed to be reduced, for gravity distribution trenches only, by the following:

Sidewall Absorption- Inches	Sizing Equivalent
8-11	7%
12-17	20%
18-23	34%
24	40%

- (7) Trenches must be no more than 36 inches wide. Any excavation wider than 36 inches shall be considered a seepage bed.
- (8) A seepage bed must not be wider than 12 feet if gravity distribution is used.
- (9) A seepage bed must not be wider than 25 feet if pressure distribution is used.
- (10) Natural, undisturbed soil must exist between multiple trenches and seepage beds.

- (11) Multiple seepage beds must be spaced at one-half the bed width. Multiple units must be designed based on contour loading rates as described in Section 2.2 (22) and Section 17.3 (9).
- (12) A vertical inspection pipe at least four inches in diameter must be installed and secured in the distribution medium of every trench and seepage bed. The inspection pipe must be located at an end opposite from where the sewage tank effluent enters the medium. The inspection pipe must have three-eighths inch or larger perforations spaced vertically no more than six inches apart. At least two perforations must be located in the distribution medium. Perforations must not be located above the geotextile cover or wrap. The inspection pipe must extend to the bottom of the distribution medium, be secured, and be capped flush with or above finished grade.
- (13) The top and bottom of the distribution medium must be level along the contour. Sidewalls must be as vertical as practical and not intentionally sloped.
- (14) The minimum depth of soil cover, including topsoil borrow, over the distribution medium is 12 inches.
- (15) Trenches or seepage beds must be backfilled and crowned above finished grade to allow for settling. The top six inches of the backfill must have the same texture as the adjacent soil.

17.3 Mounds

- (1) To qualify as a mound system, the system must meet or exceed the following requirements:
 - (A) Employ flow values in Section 12.
 - (B) Meet or exceed applicable technical requirements of Section 13, Section 14, and Section 15.
 - (C) Meet or exceed the requirements of Sections 16.2 and 16.3.
 - (D) Meet the requirements of Section 17.3 (2) to Section 17.3 (30).

Location of Mounds

- (2) The upper 18 inches of the original soil mound absorption area must have a minimum loading rate of 0.45 gallons per day per square foot and a mound absorption ratio greater than zero, but no more than 2.6 in Table IX in Minnesota Rules, Chapter 7080.2150¹ or Table VI. The upper 18 inches of the absorption area must also be above the periodically saturated soil or bedrock.
- (3) For previously developed sites, the upper 12 inches of the original soil mound absorption area must have a mound absorption ratio of greater than zero in Table IX in Minnesota Rules, Chapter 7080.2150¹ or Table VI. The upper 12 inches of the absorption area must also be above the periodically saturated soil or bedrock.
- (4) Setbacks must be according to Table V. Setbacks must be measured from the original soil absorption area.
- (5) On slopes of one percent or greater and where the original soil mound absorption ratio is 2.6 or greater in Table IX in Minnesota Rules, Chapter 7080.2150¹ or Table VI, mounds must not be

located where the ground surface contour lines that lie directly below the long axis of the distribution media bed represent a swale or draw, unless the contour lines have a radius of curvature greater than 100 feet. In no case shall mounds be placed on slopes greater than 12 percent.

- (6) Mounds must never be located in swales or draws where the radius of curvature of the contour lines is less than 50 feet.

Mound Design and Construction

- (7) The mound distribution media bed area consists of bottom area only and must be calculated by dividing the design flow by 1.0 gallons per square foot per day.
- (8) The mound distribution media bed area must be as long and narrow as practical. Mound distribution media beds must be no wider than ten feet.
- (9) Mound distribution bed length and width must be determined by the contour loading rate, which is the relationship between the vertical and horizontal water movement based on the following soil conditions:
- (A) The permeability difference between the original soil mound absorption area and slower permeability horizons below the original soil mound absorption area.
- (B) The depth between the original soil mound absorption area and the change in permeability described in Subitem (A).
- (C) The land slope.
- (10) Clean sand must be used to elevate the mound distribution media bed and must consist of sound, durable material that conforms to the following requirements:

Sieve Size	Percent Passing
No. 4	95-100
No. 8	80-100
No. 10	0-100
No. 40	0-100
No. 60	0-40
No. 200	0-5

Clean sand must also contain less than three percent deleterious substances and be free of organic impurities.

- (11) The original soil mound absorption area is determined by multiplying the original soil mound absorption length by the original soil mound absorption width. The original soil absorption width is calculated by multiplying the mound distribution media bed width by the mound absorption ratio. The mound absorption ratio of the upper 18 inches of soil for new construction, or 12 inches of soil for previously developed sites, in the proposed original soil mound absorption area shall be determined according to Table IX in Minnesota Rules, Chapter 7080.2150¹ or Table VI.
- (12) The required original soil absorption width for mounds constructed on slopes from zero to one percent must be centered under the mound distribution media bed width. The required original mound soil absorption width constructed on slopes greater than one percent must be measured

downslope from the upslope edge of the mound distribution media bed width and measured in the direction of the original land slope and perpendicular to the original contours.

- (13) The side slopes on the mound must no be steeper than three horizontal units to one vertical unit and shall extend beyond the required absorption area, if necessary.
- (14) Distribution of effluent over the mound distribution media bed must be by level perforated pipe under pressure according to Section 14 and Section 15.
- (15) The supply pipe from the pump to the original soil absorption area must be installed before surface preparation of the original mound soil absorption area. The trench excavated for the supply pipe must be carefully backfilled and compacted to prevent seepage of effluent.
- (16) Vegetation in excess of two inches in length and dead organic debris including leaf mats must be removed from the original soil mound absorption area. Trees must be cut nearly flush with the ground and stumps must not be removed.
- (17) The original soil mound absorption area must be roughened by backhoe teeth, moldboard, or chisel plow. The soil must be roughened to a depth of eight inches. Discing is allowed if the upper eight inches of soil has a texture of sandy loam or coarser. If plowed, furrows must be thrown uphill and there must not be a dead furrow in the original soil mound absorption area. A rubber tired tractor is allowed for plowing or discing. Rototilling or pulverizing the soil is not allowed. The original soil must not be excavated or moved more than one foot from its original location during soil surface preparation.
- (18) All surface preparation must take place when the upper 12 inches of soil has a moisture content of less than the plastic limit and soil conditions allow field testing of soil properties and these properties are maintained throughout the installation.
- (19) Prior to placement of six inches of clean sand, vehicles must not be driven on the original soil mound absorption area before or after the surface preparation is completed. The clean sand must immediately be placed on the prepared surface.
- (20) If rainfall occurs on the prepared surface, the site must be allowed to dry below the plastic limit and roughened as described in Section 17.3 (17).
- (21) The clean sand must be placed by using a construction technique that minimizes compaction. If the clean sand is driven on for construction, a crawler or track-type tractor must be used. At least six inches of sand must be kept beneath equipment to minimize compaction of the prepared surface.
- (22) A minimum of 12 inches of clean sand must be placed in contact with the bottom area of the mound distribution media bed and must be uniformly tapered to cover the entire original soil absorption area. Other sandy materials are allowed to be used outside of this area to complete construction of the mound.
- (23) The top of the clean sand layer upon which the mound distribution media bed is placed must be level in all directions.
- (24) A vertical inspection pipe at least four inches in diameter must be installed and secured at the distribution medium and sand interface. The inspection pipe must have three-eighths inch or larger perforations spaced vertically no more than six inches apart. At least two perforations must be located in the distribution medium. Perforations must not be located above the permeable synthetic

- fabric, if used. The inspection pipe must extend to the bottom of the distribution medium, be secured, and be capped, flush with or above finished grade.
- (25) On slopes of one percent or greater, the upslope edge of the mound absorption bed must be placed on the contour.
 - (26) The sidewalls of the mound absorption bed must be as vertical as practical and not intentionally sloped.
 - (27) A minimum of six inches of sand, sandy loam or loam material must be placed on the top of the mound absorption bed and sloped upwards towards the center of the mound a minimum of ten horizontal units to one vertical unit.
 - (28) Construction vehicles must not be allowed on the distribution media until backfill is placed as described in Section 17.3 (27).
 - (29) A minimum of six inches of topsoil borrow must be placed over the entire mound.
 - (30) A vegetative cover must be established over the entire area of the mound. The mound shall be protected until a vegetative cover is established by use of erosion control. The established vegetative cover shall not interfere with the hydraulic performance of the system and shall provide adequate frost and erosion protection.

17.4 At-Grade Systems

- (1) To qualify as an at-grade system, the system must meet or exceed the following requirements:
 - (A) Employ flow values in Section 12.
 - (B) Meet or exceed applicable technical requirements of Section 13, Section 14, and Section 15.
 - (C) Meet or exceed the requirements of Sections 16.2 and 16.3.
 - (D) Meet the requirements of Section 17.4 (2) to Section 17.4 (14).
- (2) The upper 12 inches of the absorption area must have a loading rate of 0.45 gallons per day per square foot or greater as shown in Table IX in Minnesota Rules, Chapter 7080.2150 or Table VI.
- (3) At-grade systems must not be installed in areas with slopes greater than 12 percent.
- (4) Setbacks must be according to Table V. Setbacks must be measured from the original soil absorption area.

Design and Construction of At-Grade Systems

- (5) The at-grade absorption width must be as long and narrow as practical. The at-grade absorption width must not exceed a width of 15 feet. The at-grade absorption widths must be determined by the contour loading rate, which is the relationship between the vertical and horizontal water movement based on the following soil conditions:

- (A) The permeability difference between the original soil mound absorption area and slower permeability horizons below the original soil mound absorption area.
 - (B) The depth between the original soil mound absorption area and the change in permeability described in Section 17.4 (5)(A).
 - (C) The land slope.
- (6) The minimum at-grade absorption bed width shall be calculated by dividing the contour loading rate by the soil loading rate of the upper 12 inches of soil.
 - (7) The minimum at-grade absorption length must be calculated by dividing the design flow by the soil loading rate found in Table IX in Minnesota Rules, Chapter 7080.2150¹ or Table VI for the upper 12 inches of soil and then dividing that value by the absorption bed width.
 - (8) The at-grade bed absorption width for slopes of one percent or greater does not include any width of the media necessary to support the upslope side of the pipe.

Table VII
At-Grade Contour Loading Rates

Perc Rate (in/pi)	Loading Rate	Soil Texture	Other Characteristics in upper 48 inches	Contour Loading Rate (CPD/ft)
<0.1*	0.00	Coarse Sand	No textural change	6
			Saturated soil <3'	5
			Bedrock <4'	
0.1 to 5.0	1.60	Sand Loamy Sand Fine Sand	No textural change	8
			Layers of other textures	7
			Banding	4
			Saturated soil <3'	5
			Bedrock <4'	5
6 to 15	1.00	Sandy Loam	Strong to moderate structure No textural change	7
			Weak structure	6
			Layers of other textures	
			Platy or massive structure Saturated soil <3' Bedrock <4'	5
16 to 60	0.6-0.78	Loam Silt Loam Silt Clay Loam Sandy Clay Silty Clay	Strong to moderate structure No textural change	6
			Weak structure	5
			Layers of other textures	
			Platy or massive structure Saturated soil <3' Bedrock <4'	4
61 to 120 >120	0.0-0.3	Clay Sandy Clay Silty Clay	Strong to moderate structure No textural change	3
			Weak structure	2
			Layers of other textures	
			Platy or massive structure Saturated soil <3' Bedrock <4'	2

*See Section 18.2 for a system with this type of soil (Type II, Rapidly Permeable Soils Systems)

- (9) At-grade systems must employ pressurized distribution by meeting or exceeding the applicable requirements of Section 14 and Section 15. At-grade systems located on slopes of one percent or greater require only one distribution pipe located on the upslope edge of the distribution media, with the absorption bed width being measured from the distribution pipe to the downslope edge of the media. Multiple distribution pipes are allowed to be used to provide even distribution, if necessary, based on site conditions.

- (10) The upslope edge of an at-grade absorption bed must be installed along the natural contour.
- (11) At-grade materials must be placed using construction techniques that minimize compaction.
- (12) Six inches of loamy or sandy cover material must be installed over the distribution media. Cover must extend at least five feet from the ends of the rock bed and be sloped to divert surface water. Side slopes must not be steeper than four horizontal units to one vertical unit. Six inches of topsoil borrow must be placed on the cover material.
- (13) One vertical inspection pipe of at least four inches in diameter must be installed along the downslope portion of the absorption bed. The inspection pipe must have three-eighths inch or larger perforations spaced vertically no more than six inches apart. Perforations must not exist above the distribution medium. The inspection pipe must extend to the absorption bed and soil interface, be secured, and be capped, flush with or above finished grade.
- (14) A vegetative cover must be established over the entire area of the at-grade. The at-grade shall be protected until a vegetative cover is established by use of erosion control. The established vegetative cover shall not interfere with the hydraulic performance of the system and shall provide adequate frost and erosion protection.

SECTION 18 TYPE II SYSTEMS

18.1 Systems designed according to this Section are considered Type II systems. Systems in soils with a loading rate less than 0.45 gallons per day per square foot cannot be used in a Type II system for new construction.

18.2 Rapidly Permeable Soils

- (1) A system must be designed under this part if the soil in the proposed absorption area, or within three vertical feet of the absorption area, has a soil texture groups of 1 through 3 in Table IX in Minnesota Rules, Chapter 7080.2150¹ or a percolation rate of 0.1 to 5.0 minutes per inch in Table VI. The system must meet or exceed the following requirements:
 - (A) Employ flow values in Section 12.
 - (B) Meet or exceed applicable technical requirements of Section 13, Section 14, and Section 15, except as modified in this part.
 - (C) Meet or exceed the requirements of Sections 17.2 to 17.4.
 - (D) Meet or exceed requirements of Section 16.2 and 16.3, except as modified in this Section.
 - (E) Meet the requirements of Section 18.2 (2) to Section 18.2 (3)
- (2) The distribution media must not be in contact with soils with a texture group of 1 in Table IX in Minnesota Rules, Chapter 7080.2150¹ or a percolation rate of less than 0.1 minutes per inch in Table VI.
- (3) If the distribution media is in contact with soil with soil texture groups 2 or 3 in Table IX in Minnesota Rules, Chapter 7080.2150¹ or a percolation rate of 0.1 to 5.0 minutes per inch in Table VI, the distribution of effluent must comply with Minnesota Rules, Chapter 7080⁶.

18.3 Floodplain Areas

- (1) SSTs must be designed under this part if the system is proposed to be located in a floodplain. A system located in a floodplain must meet or exceed the following requirements:
 - (A) Employ flow values in Section 12.
 - (B) Meet or exceed applicable technical requirements of Section 13, Section 14, and Section 15, except as modified in this part.
 - (C) Meet or exceed the requirements of Sections 17.2 to 17.4.
 - (D) Meet or exceed requirements of Section 16.2 and 16.3, except as modified in this part.
 - (E) Meet the requirements of Section 18.3 (2) to Section 18.3 (11).
- (2) The allowed use of systems in floodplains must be according to state and local floodplain requirements.

- (3) An SSTS must not be located in a floodway and, whenever possible, placement within any part of the floodplain should be avoided. If no alternative exists, a system is allowed to be placed within the flood fringe if the requirements of Section 18.3 (4) to Section 18.3 (11) are met.
- (4) There must be no inspection pipe or other installed opening from the distribution media to the soil surface.
- (5) An SSTS must be located on the highest feasible area of the lot and must have the location preference over all other improvements, except the water supply well. If the ten-year flood data are available, the bottom of the distribution media must be at least as high as the elevation of the ten-year flood.
- (6) If a pump is used to distribute effluent to the soil treatment and dispersal system, provisions shall be made to prevent the pump from operating when inundated with floodwaters.
- (7) When it is necessary to raise the elevation of the soil treatment system to meet the vertical separation distance requirements, a mound system as specified in Section 17.3 is allowed to be used with the following additional requirements:
 - (A) The elevation of the bottom of the mound bed absorption area must be at least on-half foot above the ten-year flood elevation, if ten-year flood data are available.
 - (B) In no case shall the sand fill for the mound exceed 48 inches below the mound bed absorption area.
 - (C) Inspection pipes must not be installed unless the top of the mound is above the 100-year flood elevation.
 - (D) The placement of clean sand and other fill must be done according to any community adopted floodplain management ordinance.
- (8) When the top of a sewage tank is inundated, the dwelling must cease discharging sewage into it.
- (9) Backflow prevention of liquid into the building when the system is inundated must be provided. If a holding tank is used, the system must be designed to permit rapid diversion of sewage into the holding tank when the system is inundated.
- (10) If a holding tank is used to serve a dwelling, the holding tank's capacity must equal 100 gallons times the number of bedrooms times the number of days between the ten-year stage on the rising limb of the 100-year flood hydrograph and the ten-year stage on the falling limb of the hydrograph, of 1,000 gallons, whichever is greater. The holding tank must be accessible for removal of tank contents under flooded conditions.
- (11) Whenever the water level has risen above the top of a sewage tank, the tank must be pumped to remove all solids and liquids after the flood has receded and before use of the system is resumed.

18.4 Privies

- (1) Privies shall only be considered when there is no water supplied to the dwelling.
- (2) Pit privies shall not be installed where the bottom of the pit is less than three feet above the saturated soil or bedrock. A vault privy shall be used in areas not meeting the three foot separation.

The vault of a vault privy shall be constructed in the same manner as a sewage tank in accordance with Section 13.

- (3) Privies shall be set back from surface waters, buildings, property lines, and water supply wells as prescribed in Table V.
- (4) Pits or vaults shall be of sufficient capacity for the dwelling they serve, but shall have at least 50 cubic feet of capacity. The sides of the pit shall be curbed to prevent cave-in. The privy shall be constructed so as to be easily maintained and it shall be insect proof. The door and seat shall be self-closing. All exterior openings, including vent openings, shall be screened.
- (5) Privies shall be adequately vented.
- (6) When the privy is filled to within one foot of the top of the pit, the solids shall be removed.
- (7) Abandoned pits shall have the solids removed and be filled with clean earth and slightly mounded to allow for settling. Removed solids shall be disposed of in accordance with Section 22.

18.5 Holding Tanks

- (1) Holding tanks may be considered for installation on previously developed sites, as a temporary method for periods of up to 12 months, during which time measures are taken to provide municipal sewer service or the installation of an approved system as provided in this Chapter.
- (2) Holding tanks may be considered on a permanent basis for non-residential, low water use establishments with a sewage flow of 150 gallons per day or less, subject to approval by the Department or local unit of government.
- (3) Holding tanks must be used for floor drains for vehicle parking areas and existing facilities potentially generating hazardous waste.
- (4) To qualify as a holding tank, the system must:
 - (A) Meet or exceed applicable requirements of Section 13.
 - (B) Meet or exceed the applicable requirements of Section 16.2.
 - (C) Meet or exceed the requirements of Section 16.3 (2).
 - (D) Meet the requirements of Section 18.5 (2) to Section 18.5 (10).
- (5) All tanks used as holding tanks must be tested once placed at the final location for watertightness as specified in Minnesota Rules, Chapter 7080.2010.
- (6) A cleanout pipe of at least six inches in diameter must extend to the ground surface and be provided with seals to prevent odor emissions and exclude insects and vermin. A maintenance hole of at least 20 inches in least dimension must extend through the cover to a point within 12 inches, but no closer than six inches, below finished grade. If the maintenance hole is covered with less than six inches of soil, the cover must be secured according the Section 13.13.

- (7) For a dwelling, the minimum size is 1,000 gallons or 400 gallons times the number of bedrooms, whichever is greater. For other establishments, the minimum capacity shall be at least five times the design flow. Tank sizing for floodplain areas must be calculated according to Section 18.3 (10).
- (8) Holding tanks must be located in an area readily accessible to the pump truck under all weather conditions and where accidental spillage during pumping will not create a nuisance and must meet the setback requirements of Table V.
- (9) Holding tanks must have an alarm device to minimize the chance of accidental sewage overflow unless regularly scheduled pumping is used. An alarm device shall identify when the holding tank is at 75 percent capacity.
- (10) A contract for disposal and treatment of the septage shall be maintained by the owner with a licensed Maintainer.

SECTION 19 TYPE III SYSTEMS

- 19.1 A system designed according to this part is considered a Type III system. A system in soils with a loading rate of less than 0.45 gallons per day per square foot may be installed on previously developed sites as a Type III system. The system must:
- (1) Employ design flow values in Section 12.
 - (2) Meet or exceed technical requirements in Section 14.7 (1).
 - (3) Meet or exceed the requirements of Section 16.2.
 - (4) Meet or exceed the requirements of Section 16.3 (1), Section 16.3 (2), Section 16.3 (3), Section 16.3 (7), Section 16.3 (8), and Section 16.3 (9).
 - (5) For previously developed sites, if the site cannot accommodate a soil treatment and dispersal system sized in accordance with Table IX in Minnesota Rules, Chapter 7080.2150¹ or Table VI, a smaller soil treatment and dispersal system is allowed to be constructed if it employs flow restriction devices that do not allow loadings in excess of those in Table IX in Minnesota Rules, Chapter 7080.2150¹ or Table VI.
- 19.2 Absorption areas sized smaller than a Type I system must employ flow restriction devices that do not allow absorption area loadings in excess of those in Table IX in Minnesota Rules, Chapter 7080.2150¹ or Table VI. This provision does not apply to the original soil, clean sand absorption area of a mound system.
- 19.3 Type III systems can be used on previously developed sites only when a Type I or Type II system cannot be installed or is not the most suitable treatment.
- 19.4 Type III systems will not be allowed in areas where a new system or modifications to a new system are not feasible if failure occurs.
- 19.5 Type III systems will be allowed for undeveloped lots only when two Type I or Type II soil treatment and dispersal areas have been identified on the lot, in addition to the area utilized by the Type III soil treatment and dispersal area. The lot must be able to accommodate long-term sewage treatment in addition to the area utilized by the Type III system.
- 19.6 Graywater Systems
- (1) Graywater Systems shall be classified as a Type III system and must meet or exceed the following requirements:
 - (A) Employ 60 percent of the flow values in Section 12.
 - (B) Meet or exceed applicable requirements of Section 13, Section 14, and Section 15, except as modified in this part.
 - (C) Meet or exceed the requirements of Section 17.
 - (D) Meet or exceed the requirements of Section 16.2 and Section 16.3.
 - (E) Meet the requirements of Section 19.6 (2) and Section 19.6 (3).

- (2) Toilet waste must not be discharged to a graywater system.
- (3) The liquid capacity of a graywater septic tank serving a dwelling must be based on the number of bedrooms existing and anticipated in the dwelling served and shall be at least as large as the capacities given in Table VIII.

Table VIII – Minimum Septic Tank Capacity for Graywater Systems

Number of Bedrooms	Tank 1	Tank 2
Two or less	1,000	500
Three	1,000	500
Four to Five	1,000	1,000
Six to Seven	1,000	1,000
Eight to Nine	1,500	1,000
Ten or More	Septic tank shall be sized as: $(2,000 + ((\# \text{ of bedrooms} - 9) \times 150))$.	

SECTION 20 TYPE IV SYSTEMS

- 20.1 A system designed according to this part is considered a Type IV System. The system must:
- (1) Employ design flow values in Section 12.
 - (2) Meet or exceed applicable technical requirements of Section 13, Section 14, and Section 15.
 - (3) Meet or exceed the requirements of Section 16.2.
 - (4) Meet or exceed the requirements of Section 16.3 (1) and Section 16.3 (2).
 - (5) Meet or exceed the requirements of Table IX, and Table XII in Minnesota Rules, Chapter 7080.2350⁴ or Table X.
- 20.2 Type IV systems can be used on previously developed sites only when a Type I or Type II system cannot be installed or is not the most suitable treatment.
- 20.3 Type IV systems will not be allowed in areas where a new system or modifications to a new system are not feasible if failure occurs.
- 20.4 Type IV systems will be allowed for undeveloped lots only when two Type I or Type II soil treatment and dispersal areas have been identified on the lot, in addition to the area utilized by the Type III soil treatment and dispersal area. The lot must be able to accommodate long-term sewage treatment in addition to the area utilized by the Type IV system.

Table IX
TREATMENT COMPONENT PERFORMANCE LEVELS AND METHOD OF DISTRIBUTION BY
TEXTURE GROUP¹

Vertical Separation (inches)	Soil Texture Group Found in Table IX in Minnesota Rules, Chapter 7080.2150		
	1-5	6-9	10-11
12 - 17	Treatment Level A, Pressure Distribution, Timed Dosing		
18 - 23	Treatment Level B, Pressure Distribution, Timed Dosing		Treatment Level B, Pressure Distribution
24 - 36	Treatment Level B, Pressure Distribution, Timed Dosing	Treatment Level B, Pressure Distribution	

¹ The treatment component performance levels correspond with those established for treatment components under the product testing requirements in Table III of Minnesota Rules, 7083.4030.

- 20.5 A Type IV system's absorption area must be sized according to Table XII-Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Meeting Treatment Level A and B and Absorption Ratios for Determining Mound Absorption Areas Using Detailed Soil Descriptions, as found in Minnesota Rules, Chapter 7080.2350⁴, or by using Table X if not using detailed soil descriptions.

Table X

LOADING RATES FOR DETERMINING BOTTOM ABSORPTION AREA FOR TRENCHES AND SEEPAGE BEDS FOR EFFLUENT MEETING TREATMENT LEVELS A AND B AND ABSORPTION RATIOS FOR DETERMINING MOUND ABSORPTION AREAS USING PERCOLATION TESTS.

Percolation Rate (Minutes Per Inch)	Soil Loading Rate (gpd/ft ²)	Mound Absorption Ratio
<0.1*		
0.1 – 5*	1.60	1
0.1 – 5 (Soil Texture Group 3)	1.0	2
6 – 15	1.0	1.3
16 – 30	0.78	2
31 – 45	0.78	2.4
46 – 60	0.6	2.6
>60	0.3	5.0

*See Section 18.2 for a system with this type of soil (Type II, Rapidly Permeable Soils Systems)

SECTION 21 TYPE V SYSTEMS

- 21.1 A system designed according to this part is considered a Type V system. The system must:
- (1) Employ design flow values in Section 12.
 - (2) Meet or exceed the requirements of Section 16.2.
 - (3) Be designed with vertical separation that ensures adequate sewage dispersal and treatment. Design factors to consider include, but are not limited to, effluent quality, loading rates, groundwater mounding if loading rates are in excess of those in Table XII in Minnesota Rules, Chapter 7080.2350⁴ or Table X, loading methods, and soil conditions. SSTS must not contaminate underground waters or zones of periodic saturation with viable fecal organisms.
- 21.2 Type V systems can be used on previously developed sites only when a Type I or Type II system cannot be installed or is not the most suitable treatment.
- 21.3 Type V systems will not be allowed in areas where a new system or modifications to a new system are not feasible if failure occurs.
- 21.4 Type V systems will be allowed for undeveloped lots only when two Type I or Type II soil treatment and dispersal areas have been identified on the lot, in addition to the area utilized by the Type III soil treatment and dispersal area. The lot must be able to accommodate long-term sewage treatment in addition to the area utilized by the Type V system.

SECTION 22 MAINTENANCE

- 22.1 All new and replacement SSTS must be operated in accordance with the management plan submitted, reviewed and approved by the Department or local unit of government. At a minimum, management plans must include the following:
- (1) maintenance requirements, including frequency;
 - (2) operational requirements, including which tasks the owner can perform and which tasks a licensed service provider or maintainer must perform;
 - (3) monitoring requirements;
 - (4) requirements that the owner notify the Department when the management plan requirements are not met;
 - (5) disclosure of the location and condition of the additional soil treatment and dispersal area on the lot or serving that residency; and
 - (6) other requirements determined by the Department.
- 22.2 SSTS and all components must be maintained in compliance with this Chapter and manufacturer requirements.
- 22.3 The owner of an SSTS or the owner's agent shall regularly, but in no case less frequently than every three years:
- (1) Assess whether sewage tanks leak below the designed operating depth and whether sewage tank tops, riser joints, and riser connections leak through visual evidence of major defects.
 - (2) Measure or remove the accumulation of scum, grease, and other floating materials at the top of each septic tank and compartment, along with the sludge, which consists of solids denser than water.
- 22.4 All solids and liquids must be removed by pumping from all tanks or compartments in which the top of the sludge layer is less than 12 inches from the bottom of the outlet baffle or transfer hole or whenever the bottom of the scum layer is less than three inches above the bottom of the outlet baffle or transfer hole. Total sludge and scum volume must not be greater than 25 percent of the tank's liquid capacity.
- 22.5 Removal of accumulated sludge, scum, and liquids from septic tanks and pump tanks must be through the maintenance hole. The removal of solids from any location other than the maintenance hole is not a compliant method of solids removal from a sewage tank, and this method does not fulfill the solids removal requirements of this Section or a management plan. Liquid and solids removal from cleanout pips is allowed for holding tank.
- 22.6 After removal of solids and liquids, from a system installed after the effective date of this Chapter, the system shall be secured as described in Section 13.13. Covers secured by screws shall be refastened in all screw openings.

- 22.7 After removal of solids and liquids from a system installed prior to the effective date of this Chapter covers must:
- (1) Be brought into compliance with Section 13.13 if retrofitted to be brought above the ground surface.
 - (2) Be secured by covering with a minimum of 12 inches of soil.
 - (3) If the cover was currently at or above grade, the system must be secured by a method that was deemed secure prior to the effective date of this Chapter.
- 22.8 Pump tanks must be maintained according to this part. Sludge must be removed if within one inch of the pump intake.
- 22.9 When a privy is filled to one half of its capacity, the solids must be removed. Abandoned pits must have the sewage solids and contaminated soil removed and must be filled with clean earth and slightly mounded to allow for settling. Removed solids shall be disposed of according to Section 22.11.
- 22.10 Additives, which are products added to the sewage or to the system with the intent to lower the accumulated solids in sewage, must not be used as a means to reduce the frequency of proper maintenance and removal of sewage solids from the sewage tanks as specified in this Section. The use of additives does not fulfill the solids removal requirement of this Section or a management plan. Additives that contain hazardous wastes must not be used in an SSTS.
- 22.11 Septage or any waste mixed with septage must be disposed of in accordance with state, federal, or local requirements for septage and other wastes. If septage is disposed of into a sewage or septage treatment facility, a written agreement must be provided between the accepting facility and the maintenance business.
- 22.12 Activities on the current soil dispersal system or the reserve soil dispersal system, as defined in Section 2.2 (58) and described in Section 9.4, that impair the current or future treatment abilities or hydraulic performance of the soil dispersal system are prohibited. This includes, but is not limited to, covering all or part of the soil treatment system with an impermeable surface as determined by the local unit of government.
- 22.13 Any maintenance activity used to increase the acceptance of effluent to a soil treatment and dispersal system must:
- (1) Not be used on a system failing to protect groundwater as defined in Section 4.3 (2), unless the activities meet the requirements of Section 20 or Section 21.
 - (2) Not decrease the separation to the periodically saturated soil or bedrock.
 - (3) Not cause preferential flow from the soil treatment and dispersal system bottom to the periodically saturated soil or bedrock.
 - (4) Be conducted by an appropriately certified qualified employee or an appropriately licensed business as specified in Minnesota Rules, Chapter 7083.0790. Any substance added with the intent to increase the infiltration rate of the soil treatment and dispersal system must not contain hazardous substances.
- 22.14 Licensed maintenance businesses must maintain accurate records of pumping activity in the County and shall report such data annually to the Department on forms provided.

- 22.15 MSTS must be maintained according to this Section.
- 22.16 All external grease interceptors must be routinely inspected to determine the volume of grease present. All external grease interceptors must be properly maintained to prevent clogging of downstream piping and system components.
- 22.17 For all MSTS constructed after the effective date of this Chapter, the designer must complete an operation and maintenance manual and the manual must be submitted to the Department or the local unit of government before system operation. The manual shall include a copy of the plans and specifications, as-built drawings of the system, and information to properly operate the system.
- 22.18 All new MSTS shall be operated under a local operating permit submitted and approved with the design.
- 22.19 All groundwater shall be monitored in accordance with Section 11.
- 22.20 Any operational noncompliance must be immediately corrected and reported by the owner or service provider to the Department or local unit of government.

SECTION 23 SYSTEM ABANDONMENT

- 23.1 All systems with no future intent for use must be abandoned according to this Section. Tank abandonment procedures for sewage tanks, cesspools, leaching pits, drywells, seepage pits, vault privies, pit privies, and distribution devices must meet the requirements of Section 23.1 (1) to Section 23.1 (3).
- (1) All solids and liquids must be removed and disposed of according to Section 22 by a licensed maintenance business.
 - (2) All electrical devices and devices containing mercury must be removed and disposed of according to applicable regulations.
 - (3) Abandoned tanks or any other underground cavities must be removed or remain in place and crushed with the remaining cavity filled with soil or rock material.
 - (4) The removed tank or tank fragments and any soil visually contaminated with sewage shall be disposed in accordance with Section 23.3.
- 23.2 Access for future discharge to the system must be permanently denied.
- 23.3 If soil treatment and dispersal systems are removed, contaminated materials shall be properly handled to prevent human contact. Contaminated materials include distribution media, soil or sand within three feet of the system bottom, distribution pipes, tanks, and contaminated soil around leaky tanks. Contaminated material also includes any soil that received sewage from a surface failure. Contaminated materials must be disposed of according to Section 23.3 (1) to Section 23.3 (2).
- (1) Contaminated materials disposed of offsite must be disposed of according to Section 22.11.
 - (2) If contaminated material is to be spread or used on site within one year of contact with sewage, the material must be placed in an area meeting the soil and setback requirements described in Table V in Section 16 and Section 16.3 (3) of this Chapter and the material must be covered with a minimum of six inches of uncontaminated soil and protected from erosion. After one year following contact with sewage, the material is allowed to be spread in any location meeting the setback requirement of Minnesota Rules, Chapter 4725.4450, covered with a minimum of six inches of uncontaminated soil, and protected from erosion. After one year following contact with sewage, the material is allowed to be used to fill in the abandoned in place sewage tanks.
 - (3) Contaminated pipe, geotextile fabric, or other material must be dried and disposed of in a mixed municipal solid waste landfill.
- 23.4 The person or business abandoning the system must complete and sign a record of abandonment that states the system was abandoned according to this Section. A description of the abandonment procedure must be recorded including a map of the remaining in-place components and location of the components removed. The record must be sent to the Department or local unit of government within 90 days of abandonment.
- 23.5 MSTs no longer in use must be abandoned according to this Section.

SECTION 24 PRODUCT REGISTRATION

- 24.1 All product registration shall be in accordance with Minnesota Rules 7083.4000 to 7083.4120.
- 24.2 Technology and products employed in system design shall adequately protect the public health and the environment as determined by Minnesota Rules, Chapter 7083, and be approved for use by the Department or local unit of government.

SECTION 25 ENFORCEMENT

- 25.1 It is hereby declared unlawful for any person, firm or corporation to violate any term or provision of this Chapter. Violation thereof shall be a misdemeanor. Each day that a violation is allowed to continue shall constitute a separate offense.
- 25.2 In the event of a violation or threatened violation of this Chapter, the Department, in addition to other remedies, may request appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations. In addition, written notice in the form of a license complaint may be made to the Commissioner of the Minnesota Pollution Control Agency.
- 25.3 In cases where a public health nuisance has been determined to exist, the Department may institute enforcement action under the Local Public Health Act, Minnesota Statutes, Chapter 145A and the Washington County Public Health Nuisance Ordinance, Washington County Ordinance No. 165, or subsequent revisions there to.

SECTION 26 SEPARABILITY

- 26.1 It is hereby declared to be the intent that the several provisions of this regulation are separable in accordance with the following:
- (1) If any court of competent jurisdiction shall adjudge any provision of the regulation to be invalid, such judgment shall not affect other provisions of this regulation not specifically included in said judgment.
 - (2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this regulation to a particular property, building or structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

SECTION 27 EFFECTIVE DATE

- 27.1 The regulations contained in this Chapter shall become effective from and after September 23, 2009, after their publication according to law.

APPENDIX A SOIL LOADING RATES FOR LEVEL C TREATMENT

Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas using Detail Soil Descriptions

Texture	Texture Group	Structure		Consistence	Soil Loading Rate (gpd/ft ²)	Mound Absorption Ratio
		Type	Grade			
Coarse Sand*	1	Single Grain	Structureless	Loose	-	1.0
				Weakly Cemented Friable	-	2.0
				Cemented-Firm	-	-
Medium Sand*	2	Single Grain	Structureless	Loose	1.20	1.0
				Weakly Cemented Friable	0.60	2.0
				Cemented-Firm	-	-
Fine Sand	3	Single Grain	Structureless	Loose	0.60	2.0
				Weakly Cemented Friable	0.24	5.0
				Cemented-Firm	-	-
Coarse and Medium Loamy Sand*	4	Single Grain	Structureless	Loose	1.20	1.0
				Weakly Cemented Friable	0.60	2.0
				Cemented-Firm	-	-
Fine and Very Fine Loamy Sand	5	Single Grain	Structureless	Loose	0.60	2.0
				Weakly Cemented Friable	0.24	5.0
				Cemented-Firm	-	-
Coarse and Medium Sandy Loam	6	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	0.45	2.6
				Firm	0.24	5.0
			Moderate or Strong	Very Friable, Friable	0.78	1.3
				Firm	0.45	2.6
		Platy	Weak	Very Friable, Friable	0.45	2.6
				Firm	0.24	5.0
			Moderate or Strong	Very Friable, Friable	0.45	2.6
				Firm	-	-
		Massive	Structureless	Very Friable, Friable	0.24	5.0
				Firm	-	-

**Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for
Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas
using Detail Soil Descriptions**

Texture	Texture Group	Structure		Consistence	Soil Loading Rate (gpd/ft ²)	Mound Absorption Ratio
		Type	Grade			
Fine and Very Fine Sandy Loam	7	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	0.24	5.0
				Firm	0.24	5.0
			Moderate or Strong	Very Friable, Friable	0.60	2.0
				firm	0.24	5.0
		Platy	Weak	Very Friable, Friable	0.24	5.0
				Firm	-	-
			Moderate or Strong	Very Friable, Friable	-	-
				Firm	-	-
		Massive	Structureless	Very Friable, Friable	0.24	5.0
				Firm	-	-
Loam	8	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	0.45	2.6
				Firm	0.24	5.0
			Moderate or Strong	Very Friable, Friable	0.60	2.0
				Firm	0.24	5.0
		Platy	Weak	Very Friable, Friable	0.24	5.0
				Firm	-	-
			Moderate or Strong	Very Friable, Friable	-	-
				Firm	-	-
		Massive	Structureless	Very Friable, Friable	0.24	5.0
				Firm	-	-
Silt Loam	9	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	0.45	2.6
				Firm	0.24	5.0
			Moderate or Strong	Very Friable, Friable	0.50	2.4
				Firm	0.24	5.0
		Platy	Weak	Very Friable, Friable	0.24	5.0
				Firm	-	-
			Moderate or Strong	Very Friable, Friable	-	-
				Firm	-	-
		Massive	Structureless	Very Friable, Friable	0.24	5.0
				Firm	-	-

Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas using Detail Soil Descriptions

Texture	Texture Group	Structure		Consistence	Soil Loading Rate (gpd/ft ²)	Mound Absorption Ratio
		Type	Grade			
Clay Loam, Silty Clay Loam, Sandy Clay Loam	10	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	0.24	5.0
			Moderate or Strong	Firm	-	-
				Very Friable, Friable	0.45	2.6
		Platy	Weak	Firm	0.24	5.0
				Very Friable, Friable	-	-
			Moderate or Strong	Firm	-	-
				Very Friable, Friable	-	-
		Massive	Structureless	Firm	-	-
				Very Friable, Friable	-	-
				Firm	-	-
Clay, Silty Clay, Sandy Clay	11	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	-	-
			Moderate or Strong	Firm	-	-
				Very Friable, Friable	0.24	5.0
		Platy	Weak	Firm	-	-
				Very Friable, Friable	-	-
			Moderate or Strong	Firm	-	-
				Very Friable, Friable	-	-
		Massive	Structureless	Firm	-	-
				Very Friable, Friable	-	-
				Firm	-	-

APPENDIX B SOIL LOADING RATES FOR LEVEL A & B TREATMENT

Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level A and Level B and Absorption Ratios for Determining Mound Absorption Areas using Detail Soil Descriptions

Texture	Texture Group	Structure		Consistence	Soil Loading Rate (gpd/ft ²)	Mound Absorption Ratio
		Type	Grade			
Coarse Sand*	1	Single Grain	Structureless	Loose	-	1.0
				Weakly Cemented Friable	-	2.0
				Cemented-Firm	-	-
Medium Sand*	2	Single Grain	Structureless	Loose	1.60	1.0
				Weakly Cemented Friable	0.78	2.0
				Cemented-Firm	-	-
Fine Sand	3	Single Grain	Structureless	Loose	1.00	2.0
				Weakly Cemented Friable	0.12	2.0
				Cemented-Firm	-	-
Coarse and Medium Loamy Sand*	4	Single Grain	Structureless	Loose	1.60	1.0
				Weakly Cemented Friable	0.78	2.0
				Cemented-Firm	-	-
Fine and Very Fine Loamy Sand	5	Single Grain	Structureless	Loose	1.00	2.0
				Weakly Cemented Friable	0.45	5.0
				Cemented-Firm	-	-
Coarse and Medium Sandy Loam	6	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	0.60	2.6
				Firm	0.45	5.0
			Moderate or Strong	Very Friable, Friable	1.00	1.3
				Firm	0.60	2.6
		Platy	Weak	Very Friable, Friable	0.60	2.6
				Firm	0.45	5.0
			Moderate or Strong	Very Friable, Friable	0.60	2.6
				Firm	-	-
		Massive	Structureless	Very Friable, Friable	0.45	5.0
				Firm	-	-

**Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for
Effluent Treatment Level A and Level B and Absorption Ratios for Determining Mound
Absorption Areas using Detail Soil Descriptions**

Texture	Texture Group	Structure		Consistence	Soil Loading Rate (gpd/ft ²)	Mound Absorption Ratio
		Type	Grade			
Fine and Very Fine Sandy Loam	7	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	0.45	5.0
				Firm	0.45	5.0
			Moderate or Strong	Very Friable, Friable	0.78	2.0
				fim	0.45	5.0
		Platy	Weak	Very Friable, Friable	0.45	5.0
				Firm	0.00	-
			Moderate or Strong	Very Friable, Friable	0.24	-
				Firm	-	-
		Massive	Structureless	Very Friable, Friable	0.45	5.0
				Firm	-	-
Loam	8	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	0.60	2.6
				Firm	0.45	5.0
			Moderate or Strong	Very Friable, Friable	0.78	2.0
				Firm	0.45	5.0
		Platy	Weak	Very Friable, Friable	0.45	5.0
				Firm	-	-
			Moderate or Strong	Very Friable, Friable	0.24	-
				Firm	-	-
		Massive	Structureless	Very Friable, Friable	0.45	5.0
				Firm	-	-
Silt Loam	9	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	0.60	2.6
				Firm	0.45	5.0
			Moderate or Strong	Very Friable, Friable	0.78	2.4
				Firm	0.45	5.0
		Platy	Weak	Very Friable, Friable	0.45	5.0
				Firm	-	-
			Moderate or Strong	Very Friable, Friable	-	-
				Firm	-	-
		Massive	Structureless	Very Friable, Friable	0.30	5.0
				Firm	-	-

Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level A and Level B and Absorption Ratios for Determining Mound Absorption Areas using Detail Soil Descriptions						
Texture	Texture Group	Structure		Consistence	Soil Loading Rate (gpd/ft ²)	Mound Absorption Ratio
		Type	Grade			
Clay Loam, Silty Clay Loam, Sandy Clay Loam	10	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	0.30	5.0
				Firm	-	-
			Moderate or Strong	Very Friable, Friable	0.60	2.6
				Firm	0.30	5.0
		Platy	Weak	Very Friable, Friable	-	-
				Firm	-	-
			Moderate or Strong	Very Friable, Friable	-	-
				Firm	-	-
		Massive	Structureless	Very Friable, Friable	-	-
				Firm	-	-
Clay, Silty Clay, Sandy Clay	11	Prismatic, Blocky, Granular	Weak	Very Friable, Friable	-	-
				Firm	-	-
			Moderate or Strong	Very Friable, Friable	0.30	5.0
				Firm	-	-
		Platy	Weak	Very Friable, Friable	-	-
				Firm	-	-
			Moderate or Strong	Very Friable, Friable	-	-
				Firm	-	-
		Massive	Structureless	Very Friable, Friable	-	-
				Firm	-	-

Footnotes: The Department's interpretation of Chapter Four is as follows:

1. This Department adopted Table IX in Minnesota Rules 7080.2150 as now constituted and from time to time amended.
2. This Department adopted Minnesota Rules 7080.1910 to 7080.2020 as now constituted and from time to time amended.
3. This Department adopted Minnesota Rules 7080.2050 as now constituted and from time to time amended.
4. This Department adopted Table XII in Minnesota Rules 7080.2350 as now constituted and from time to time amended.
5. All trenches and seepage beds in accordance with Minnesota Rules, Chapter 7080.2050, as now constituted and from time to time amended.
6. If the distribution media is in contact with soil with soil texture groups 2 or 3 in Table IX in Minnesota Rules, Chapter 7080.2150¹ or a percolation rate of 0.1 to 5.0 minutes per inch in Table VI, the distribution of effluent must comply with Minnesota Rules, Chapter 7080.2060, as now constituted and from time to time amended.

DATE September 8, 2009

DEPARTMENT Public Health & Environment

MOTION
BY COMMISSIONER Weik

SECONDED BY
COMMISSIONER Kriesel

**RESOLUTION ADOPTING AN AMENDMENT TO THE WASHINGTON COUNTY DEVELOPMENT CODE,
CHAPTER FOUR, SUBSURFACE SEWAGE TREATMENT SYSTEM REGULATIONS**

WHEREAS, the Minnesota Pollution Control Agency (MPCA) revised Minnesota Rules, Chapter 7080, Individual Sewage Treatment System Program, into Minnesota Rules, Chapters 7080 through 7083, Subsurface Sewage Treatment System Program, on February 4, 2008; and

WHEREAS, Minnesota Rules, Chapter 7082, Section 7082.0050, Subpart 1, Paragraph B requires that the County update its ordinance by February 4, 2010; and

WHEREAS, the most recent version of this ordinance is Washington County Ordinance No. 128, Individual Sewage Treatment System Regulations, adopted by the County Board on October 20, 1997; and

WHEREAS, on October 14, 2008, a presentation was made by the Department of Public Health and Environment to the County Board to review proposed changes to the Ordinance; and

WHEREAS, on June 23, 2009, the Washington County Planning Advisory Commission referred the Subsurface Sewage Treatment System Regulations in the form of Chapter Four of the Washington County Development Code to the County Board with their recommendations; and

WHEREAS, on September 8, 2009, the Washington County Board of Commissioners conducted a public hearing to consider adopting Chapter Four of the Washington County Development Code.

NOW, THEREFORE, BE IT RESOLVED, that the Washington County Board of Commissioners hereby adopts Washington County Subsurface Sewage Treatment System Ordinance No. 179 to take effect upon the passage of this resolution and its publication according to law.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that Washington County Ordinance No. 128 is hereby repealed, said repeal to take effect on the date Washington County Ordinance No. 179 becomes effective.

ATTEST:


COUNTY ADMINISTRATOR


CHAIRMAN, COUNTY BOARD

	YES	NO
HEGBERG	<u>X</u>	<u> </u>
KRIESEL	<u>X</u>	<u> </u>
PETERSON	<u>X</u>	<u> </u>
PULKRABEK	<u>X</u>	<u> </u>
WEIK	<u>X</u>	<u> </u>

SSTS MAINTENANCE REPORT

System Location

Address		Telephone Number	
City	State	ZIP	Property ID No./GEO Code
Owner		Pumping Date	
Contractor			
Maintainer	MPCA License No.	Telephone Number	

What was done to the system?

☐ Tank(s) Pumped

☐ Sludge and scum measured.

Do tanks need to be pumped?

☐ Yes ☐ No (If no provide measurements below)

Report Liquid Capacity in Gallons

Tank 1: ☐ Pumped Tank 2: ☐ Pumped

Tank 3: ☐ Pumped Tank 4: ☐ Pumped

Total Gallons Pumped: _____

Visual Inspection (note any problems with the system):

NOTE: This does not serve as a compliance inspection.

Tank Measurements-Use Only if Tank(s) Were NOT Pumped

Tank Length _____ in. ☒ Tank Width _____ in. ☒ Tank Depth _____ in. = Tank Volume (cubic inches) _____

Tank Radius _____ in. ☒ Tank Radius _____ in. ☒ 3.14 = Tank Volume (cubic inches) _____

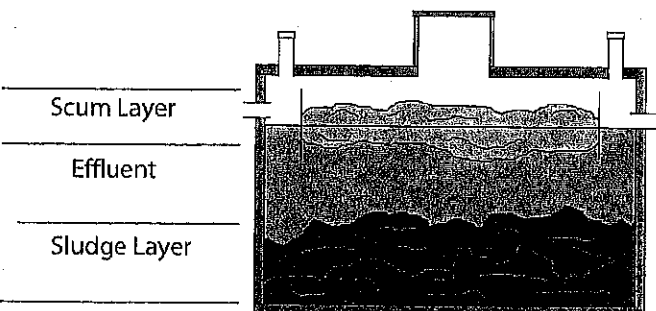
Tank Volume (cu. in.) _____ / 231.01 = Liquid Capacity _____ Gallons / Tank Depth _____ in. = Gallons/Inch _____

Sludge Level _____ in. ☒ Gallons Per Inch _____ = Sludge Volume _____ Gallons

Scum Level _____ in. ☒ Gallons Per Inch _____ = Scum Volume _____ Gallons

Sludge Volume _____ + Scum Volume _____ = Total Sludge and Scum Volume _____ Gallons

Total Sludge and Scum Volume _____ / Liquid Capacity _____ = Percent Sludge and Scum in Tank _____ %



Tank Depth measured from invert of outlet pipe to bottom of tank

*Tanks must be pumped if either of the following conditions exist:
1. The top of the sludge layer is less than 12 inches from the bottom of the outlet baffle; or
2. Total sludge and scum volume is greater than 25 percent of the tank's liquid capacity.

Signature _____

Date _____

Reset Form