

**WESTERN LAKE SUPERIOR SANITARY DISTRICT
ORDINANCE ESTABLISHING STANDARDS
FOR REDUCTION OF INFLOW AND INFILTRATION**

Amended _____, 2017

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Article I: Authority and Purpose.

The Western Lake Superior Sanitary District (“WLSSD”) was established by the Laws of the State of Minnesota as codified in Minn. Stat. Chapter 458D. WLSSD owns and operates a network of interceptor sewers and a regional treatment facility (collectively referred to as the Treatment Works) for the collection and treatment of municipal and industrial wastewater from sources within WLSSD boundaries. To ensure the best use of the Treatment Works, WLSSD regulates and enforces its responsibilities through a series of ordinances, agreements and enforcement mechanisms. The capacity allocation system regulates the distribution of finite Treatment Works capacity among customers. This Ordinance establishes standards for the reduction of Inflow and Infiltration (“I & I”) from municipal wastewater customers through the requirement of the preparation and implementation of I&I ordinances, annual reduction plans and progress reports, elimination of I & I through Sump Pump and Sewer Service Lateral compliance programs for structures and the enforcement of penalties for failure to comply. This Ordinance will protect the health, welfare and safety of the public and the environment by requiring the reduction of I & I, minimizing the risk of overflows in the wastewater conveyance and treatment system.

Article II: Definitions.

- Section 2.1 “*Capacity Allocation Permit*” means the permit issues by WLSSD and signed by a Customer which sets wastewater discharge limits for the Customer.
- Section 2.2 “*Capacity Availability Fee*” means the WLSSD fee for new connections to, and estimated expanded uses of, the WCTS.
- Section 2.3 “*Certificate of I&I Sump Pump Compliance*” means a certificate issued by the Municipal Customer to verify that a building being sold, transferred or otherwise conveyed, or subject to any of the requirements, including a Capacity Availability Fee payment, as provided in Section 7.3, A, is not contributing Inflow and Infiltration, to the WCTS by verification of a properly installed and functioning Sump Pump.
- Section 2.4 “*Customer*” means a municipal or local governmental entity or a state or federal entity, agency or subdivision, which discharges wastewater directly to the WLSSD wastewater conveyance system and is not a wastewater customer of another governmental entity.

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Section 2.5 “Executive Director” means the person occupying the position of Executive Director of WLSSD or the designee of the Executive Director.

Section 2.6 “Inflow and Infiltration” or “I&I” includes infiltration, which is water that seeps or flows into a damaged or leaking portion of the WCTS from the surrounding soil; and inflow, which is unwanted water, such as rainwater or melting snow, which enters the WCTS through a direct connection. I&I describes the overall problem of extra unwanted water contributing to wastewater flows in the WCTS.

Section 2.7, “Level of Service” means the maximum level of sewer conveyance capacity the WLSSD commits to provide a Customer. For Municipal Customers it is expressed as a multiplier of the Municipal Customer’s average dry weather flow to the WLSSD wastewater conveyance system.

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Section 2.8 “MGD” means million gallons per day.

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Section 2.9 “Municipal Customer” or “Customer” means the cities of Duluth, Proctor, Hermantown, Cloquet, Carlton, Scanlon, Rice Lake, and Wrenshall, the townships of Midway, Thomson and Twin Lakes, the Pike Lake Area Wastewater Collection System, the Duluth/North Shore Sanitary District, the Village of Oliver, Wisconsin, the Knife River-Larsmont Sanitary District, and any other governmental entity which discharges wastewater directly to the WLSSD wastewater conveyance system and is not a wastewater customer of another governmental entity.

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Section 2.10 “New Use” means the development or redevelopment of a property for a different residential, business or industrial use evidenced by the requirement of a building permit issued by a Municipal Customer or by other official governmental actions.

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Section 2.11 “Peak Flow” means the highest one hour average flow discharged by a customer within a 24 hour period.

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Section 2.12 “Sewer Connection” means the addition of a new use to a municipal sewer system resulting in the increased discharge of wastewater into this system without extending or altering the existing public sanitary sewer infrastructure.

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Section 2.13 “Sewer Extension” means extending, expanding or altering sanitary sewer mains, trunks, interceptors or other projects that may prepare for future expansions or services, even if no new flow is initially added. This may include increasing the size of an existing pipe or installing additional pumps or larger pumps to increase pumping capacity.

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Section 2.14 *Sewer Service Lateral* or *Service Lateral* means that portion of the WCTS that generally is perpendicular to the sewer main and extends from the municipally owned sewer main and connects to the structure being served.

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Section 2.15 *“Sump Pump”* is a pump used to remove water that has accumulated in a water collecting sump basin, commonly found in the basement of a structure. The water may enter via the perimeter drains of a basement waterproofing system, funneling into the basin or, if the basement is below the water table level, because of rain or natural ground water.

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Section 2.16 *“Wastewater Collection and Transmission System”* (“WCTS”) means the system for wastewater collection and transmission, including all pipes, force mains, gravity sewer lines, lift stations, pumping stations, and appurtenances owned and operated by WLSSD and the municipally owned portion of the system which collects wastewater from residences and businesses and conveys it to the portion of the system operated by WLSSD.

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Article III: Peak Flow Rate Reduction Requirements.

Section 3.1 Municipal Reduction. All Municipal Customers must take appropriate action to ensure that their Peak Flow is reduced to a level no higher than the Level of Service specified in their Capacity Allocation Permit. If a Municipal Customer has multiple Level of Service points within the Customer’s system, the flow rate will be evaluated for each Level of Service point. A Peak Flow/ Level of Service exceedance occurs if the highest one hour average value of Customer’s flow, as recorded by WLSSD from flow data collected at monitoring locations throughout the WLSSD conveyance system, exceeds the Customer’s applicable Level of Service.

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Article IV: Reporting Requirements

Section 4.1 Any Municipal Customer with a wastewater treatment Capacity Allocation Permit must file the following reports with the Executive Director.

A. Peak Flow/Level of Service Exceedance Report. If a Municipal Customer has a Peak Flow which exceeds the Customer’s Level of Service as defined in Article III, WLSSD will notify the Municipal Customer of the exceedance in writing. Within 30 days of being notified of a Level of Service exceedance by WLSSD, the Municipal Customer must provide a written evaluation of what caused the exceedance, what actions will be taken to correct the exceedance and when these actions will be completed. The written evaluation must provide written verification that the plans and timelines detailed in the Annual Report will eliminate further exceedances from this location.

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If the exceedance is accompanied by a release of wastewater to the environment, then the Municipal Customer must call the Minnesota Duty Officer as soon as possible and complete an Incident Report as described below:

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Incident Report. The incident report must be submitted to WLSSD by the 10th calendar day of the month immediately subsequent to the month that the release occurred. The report must include:

- (a) The Duty Officer report number;
- (b) If the Municipal Customer has been notified by the MPCA that a release sampling report must be filed along with the Duty Officer report, then a copy of the release sampling report must be included with the Incident Report;
- (c) The date and time the release began and ended;
- (d) The location of the release; and
- (e) The estimated volume of the release.

B. Annual I&I Reduction Plan and Progress Report (“Annual Report”). By February 15th of each year each Municipal Customer must submit an Annual Report. This report must include an engineer’s certification and be verified by an authorized representative of the Customer. The Annual Report must contain the following information:

- (a) Detailed documentation of I & I identification and reduction activities carried out during the reporting year and amount of funds expended. This report should identify the roof drain and footing drain disconnections, manhole covers plugged and sealed, cross connections eliminated, service laterals lined, manholes rehabilitated or replaced, a description of sanitary sewer lines rehabilitated or replaced and other reduction activities. This report should also include the linear feet of sanitary sewer televised, smoke test results, flow monitoring information, footing drain inspection reports, and other I & I identification tasks completed. This report must also include a summary of the previous year’s budget for I & I reduction activities, comparing planned expenses to actual expenses and explaining the variance.
- (b) Detailed plans of I & I identification and reduction activities that the municipality will complete during the upcoming calendar year. These plans should include activities, expenditures, timelines and milestones.
- (c) A copy of the most recent version of the Municipal Customer’s sewer ordinance, and a summary of any proposed revisions for the next 12 months. The sewer ordinance must be in conformance with the WLSSD Model Ordinance Regulating the Use of Public and Private Sewers.
- (d) Copies of any information distributed to the public concerning I & I reduction.

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1. . For Municipal Customers not experiencing a Level of Service exceedance in the previous calendar year the

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- (e) A list of Level of Service exceedances and wastewater overflows that occurred within the municipality during the previous calendar year with detailed plans and timelines to correct the exceedances and overflows.
- (f) A quantitative assessment of I & I reduction progress accomplished during the reporting year.
- (a) A summary of any new connections to the public sanitary sewer system including an updated public sanitary sewer system map.
- (b) A summary of key maintenance activities and standards utilized to improve or maintain the integrity of the collection system.
- (g) All information required in Sections 7.2 D and 7.3 E of this Ordinance.

Section 4.2 Adequacy of Submittals. WLSSD will review Submittals (Peak Flow/Level of Service Exceedance Report, Incident Report, and Annual Report (collectively referred to as "Submittals")) to determine if the Customer has met all requirements for completeness and responsiveness. The review will be completed within 45 days after Submittal is received by WLSSD. If notified in writing by WLSSD that the Submittal is not complete or responsive, a corrected Submittal must be filed by the Customer within 45 days of the notice.

Article V: Penalties

Section 5.1 Noncompliance. If a Customer fails to file a Submittal within the deadlines established, fails to substantially comply with the I & I reduction activities and timelines set forth in its Submittals, fails to timely comply with any of the requirements in Article VII or is not making substantial progress in reducing its Peak Flow to the limits established in Article III, then the Customer is noncompliant and subject to one or more of the following penalties to be determined in the sole discretion of the Executive Director:

- (a) No extension and/or connections of Customer's sewer lines will be permitted until such time that the Customer is in compliance with the provisions of this Ordinance; or
- (b) Extensions and/or connections of Customer's sewer lines may be limited and subject to the terms or conditions set forth by the Executive Director until Customer is in compliance with the provisions of this Ordinance.
- (c) A civil penalty of up to \$500 per day, beginning on the first day of noncompliance and continuing until the Customer is in compliance with the provisions of this Ordinance.

For Customers, which connect into the WLSSD wastewater conveyance system at more than one point, and thus have multiple Level of Service targets, restrictions under Section 5.1 A and B will only be applied upstream of Level of Service points that are noncompliant under Section

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Deleted: <#>Identify the design and construction standards used by the municipality for construction of sewers and connections. Identify the installation, testing and inspection procedures used by the municipality for new or rehabilitated sewers.¶ <#>As it relates to identifying and setting priorities regarding I & I identification and elimination, please designate sections of your municipality's public wastewater collection areas as sewer basins. ¶ <#>For each designated sewer basin, identify if it receives excessive I & I which may cause the municipality to exceed its Level of Service.¶ <#>Prioritize sewer basins based on need to reduce I & I.¶

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5.1. A failure to file a Submittal causes the Customer's entire conveyance system to be noncompliant.

Section 5.2 Noncompliance Resulting in a Release. If in the sole discretion of the Executive Director a Customer is found to be noncompliant with the terms of this Ordinance and the Customer Peak Flow/Level of Service exceedance as defined by Article III results in a release of wastewater to the environment, then the Executive Director may assess a civil penalty of up to \$1000 for each Peak Flow/ Level of Service exceedance. These penalties are in addition to the penalties set forth in Section 5.1 above. If multiple Customers located upstream of a release location contributed Peak Flow exceeding the Customer's Level of Service as defined in Article III and are noncompliant, then each Customer will be assessed the full penalty.

Section 5.3 Notice and Payment. WLSSD will send written notice to a Customer of a violation, setting forth the date of the violation, approximate time when the violation occurred, Peak Flow at the time of violation, and the amount the Peak Flow exceeding the Level of Service. Prior to the end of the calendar year, WLSSD will notify each Customer which has received a notice of violation that year of the total amount of the penalty due for that year. The penalty shall be paid no later than ninety (90) days from the date of the notice of the total penalty due. Extensions to the payment period may be granted in the sole discretion of the Board, subject to a showing of hardship by the applicant.

Article VI: Variance

Upon written request from a Customer, the Board may in its discretion modify the penalty imposed by the Executive Director under Article V. The Customer must also provide the Board with a written explanation of the reasons supporting the requested variance. The written variance request must be submitted to the Executive Director within thirty (30) days of the date of notice of the total amount of the penalty due for that year under Section 5.3.

Article VII: Sewer Service Lateral and Sump Pump Compliance Programs

Section 7.1. Written Plan. Each Municipal Customer shall provide to the Executive Director by no later than February 15, 2018, a written Plan describing how the Municipal Customer will satisfy the requirements of this Article. This plan can be submitted separately or included as part of the Annual Report reference in Section IV Part B. The written Plan must address both Sump Pump and Sewer Service Lateral inspection and correction. The Executive Director will review the Plan and either approve or reject the Plan. If rejected, the Executive Director will notify the Municipal Customer of the deficiencies in the Plan. An amended Plan must be submitted by the Municipal Customer within 45 days of notice of the deficiency.

Section 7.2. Sewer Service Lateral Compliance Program. Each Municipal Customer must adopt and enforce an effective Sewer Service Lateral inspection and correction program for structures connected to the WCTS, designed to ensure that no building or structure is contributing Inflow and Infiltration to the public wastewater collection system, regardless of the manner in which the I & I is entering the Sewer Service Lateral.

A. The inspection and correction program must be based on one or more of the following:

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1. *Property Transactions.* A program that ensures through Sewer Service Lateral inspection and correction that upon a change in real property title or property ownership with one or more buildings or structures located thereon, or upon a significant change in use of one or more buildings or structures located thereon, or upon certain modifications to the plumbing system, that no such building or structure is contributing Inflow and Infiltration to the WCTS.

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2. *Annual Inspection.* A program developed by the Municipal Customer to systematically inspect and correct all Sewer Service Laterals by identifying the number and location of inspections to be done each year to verify that no building or structure is contributing Inflow and Infiltration to the WCTS.

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B. The inspection and correction program must be structured so that the compromised Sewer Service Laterals within the jurisdiction of the Municipal Customer are corrected within a reasonable period of time, as determined in the discretion of the Executive Director.

C. The inspection and correction program must include the following components:

1. An annual targeted number of Sewer Service Laterals to be inspected each year and the percentage of the annual target related to the number of Sewer Service Laterals within the jurisdiction of the Municipal Customer.

2. The method used to inspect the Sewer Service Laterals (televising, pressure test, etc.) and the standard to be applied to determine if a Sewer Service Lateral is compliant.

3. The method used by the Municipal Customer to target Sewer Service Laterals for repair (point of sale, during planned municipal road or sewer work, etc.).

4. A description of the enforcement system used by the Municipal Customer to deter noncompliance.

5. A description of the system used by the Municipal Customer to address repairs needed on shared or common Sewer Service Laterals.

D. The following information shall be included in the Annual Report submitted by the Municipal Customer pursuant to Article IV:

1. The number and location by address of inspections conducted, and the number of corrections completed that year.

2. An estimate of the total number of Sewer Service Laterals within the jurisdiction of the Municipal Customer.

3. The total number of Sewer Service Laterals determined to be compromised.

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4. The total number of Sewer Service Laterals certified by the Municipal Customer to be compliant.

Section 7.3. Sump Pump Compliance Program. Each Municipal Customer must adopt and enforce an effective Sump Pump inspection and correction program which must include:

- A. A requirement that the owner of any dwelling structure, commercial building structure or other building or land upon which such buildings are located which are connected to the WCTS, shall obtain a Certificate of Sump Pump I&I Compliance from the Municipal Customer (i) prior to, selling, transferring, or conveying an interest or entering into an agreement to sell, transfer or otherwise convey an interest in such property, or (ii) upon a determination that the owner of a structure with a new or existing connection to the WCTS must pay a Capacity Availability Fee as a result of a New Use or anticipated wastewater flow increase calculated in accordance with the WLSSD Capacity Availability Fee Procedures Manual in effect at the time of the calculation.
- B. That no owner of real estate described in subsection (A) above shall sell, transfer or otherwise convey an interest or enter into an agreement to sell, transfer or otherwise convey an interest in such property without either (i), presenting the prospective purchaser or grantee with a copy of a Certificate of Sump Pump I&I Compliance for the subject property or (ii) entering into an agreement as provided in subsection (D) below.
- C. An inspection process following the requirements and criteria set forth in the WLSSD Model Ordinance - Certificate of Sump Pump Inflow and Infiltration (I&I) Compliance.
- D. A requirement that property inspected and found to have either no sump pump, a sump pump that is not in use, or a sump pump that is malfunctioning or discharging into the WCTS be corrected within 120 days of the transfer of the property pursuant to an agreement between the parties together with the escrow of 125% of the repair costs.
- E. The following information shall be included in the Annual Report submitted by the Municipal Customer pursuant to Article IV:
 - 1. The number and location by address of inspections conducted, and the number of corrections completed that year.
 - 2. The total number of Sump Pumps certified by the Municipal Customer to be compliant.

Section 7.4. Record Retention. The inspection records and all documents relating to the requirements of Article VII shall be retained by the Municipal Customer and available to the Board for a minimum of 7 years and not less than the period required by Minnesota law for public records retention for these documents.

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Deleted: <#>A provision prohibiting the grant of a building permit, or any other permit allowing modification of the structure, or a plumbing permit (with the exception of a permit allowing repair or replacement of the Service Lateral), until the Certificate of I&I Compliance has been issued.¶

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Section 7.5, Enforcement Date. The approved Inflow and Infiltration compliance Plan for each Municipal Customer must be in effect and enforceable no later than February 15, 2019. If the Municipal Customer fails to meet the deadline in this Section, the Municipal Customer is in Noncompliance and subject to the penalties in Article V.

Article VIII: Effective Date

This amended Ordinance is effective the day after its publication.

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Deleted: June 1, 2017. The Municipal Customer must enact the Model Ordinance- Certificate of Inflow and Infiltration (I&I) Compliance, or an ordinance with similar provisions, no later than June 1, 2017.

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