PUBLIC WORKS AND UTILITIES COMMITTEE

12-0177R

RESOLUTION AMENDING GUIDELINES FOR THE PRIVATE SEWER SERVICE GRANT PROGRAM.

CITY PROPOSAL:

RESOLVED, that pursuant to Minnesota Statutes Section 471.342, the Guidelines for the private sewer service grant program approved pursuant to Resolution 10-0600 are hereby amended by substituting therefore those Guidelines on file in the office of the city clerk as Public Document No. _____ which are hereby adopted and approved.

Approved:

Department Director

Approved for presentation to council:

Chief Administrative Officer

Approved as to form:

Attorney

Approved:

Auditor

PW&U/ATTY REA:cjk 3/30/2012

STATEMENT OF PURPOSE: The purpose of this resolution is to approve amendments to the Guidelines for the City's Private Sanitary Sewer Service Grant Program to require the Public Works Department to send notice to the owners of properties to be evaluated in the next six months that they should make sure that their sump pumps, sump pump discharges and down spout discharges are in proper working order, to classify clear water discharges into the sanitary sewer system as low, medium or high, to require only those discharges which are classified as medium or high to be corrected and to allow those properties whose discharges are medium or high which do not have sump pump systems operating the option of installing them and of being re-evaluated. They would also modify the requirements for the volume of water used in a simulated rain event test for infiltration to be determined by the length of the service being tested rather than requiring the same amount of water be used no matter how short or long the service.

CITY OF DULUTH
PRIVATE SEWER SERVICE GRANT PROGRAM
PROGRAM GUIDELINES

Policy and Statement of Purpose

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

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

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

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

of this program on the individuals who will bear a portion of the costs of this necessary work.

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

I. Grant Program Concept.

Pursuant to and subject to the process set forth below the City will determine whether properties are contributing clear, unpolluted water (hereinafter referred to as "I & I") to the City's sanitary sewer mains by virtue of a deteriorated or damaged private sewer service (that portion of the sewer system connecting a private structure with an adjacent City-owned and maintained sewer main, hereinafter referred to as a "Service"). Upon such determination, the City will notify the property owner of this condition and that the property owner or owners (hereinafter referred to as the "Owner") need to repair, replace or reline their Service and will further notify them that, upon completion of such repair, replacement or relining in a satisfactory manner, the City may reimburse Owner, in the form of a grant, for Eighty (80%) percent of their cost of the work up to a maximum grant amount of $4,000. The Owner will be responsible for properly applying for the Grant, and having all inspections of the Work done and for submitting all necessary documentation to the City in order to be entitled to the reimbursement grant.

II. Identification of Properties Eligible for Grants.

1.) The Director of Public Works and Utilities or his or her designee (hereinafter referred to as the "Director") will designate in writing those sanitary sewer drainage basins (hereinafter referred to as "Targeted Basins") where he or she determines there is the most immediate need to implement the Program and which he or she determines will provide the highest return in terms of reductions of I & I for the City's cost of implementing the Program in the designated basin.

2.) Not less than Six (6) Months prior to the commencement of the evaluation process described in this Section II, the Director shall cause a notice to be sent to all Owners of services to be evaluated advising such Owners that they are required to insure that sump pumps on their property are operating properly and that discharge from sump pumps and down spouts are not discharging clear water into or above Services and providing such Owners with a copy of City Code provisions requiring the same.

3~~2~~.) The Director will cause the presence of I & I entering the City's sanitary sewer mains from each of the Services in the Targeted Basin to be identified and evaluated by means of closed circuit television examination performed within the City's mains during actual or simulated wet weather events. Video recordings of examinations will be retained by the Director until at least ninety (90) days after notices are sent to Owners as provided for in Article III Section 1.) below.

4~~3~~.) The Director will cause the Services contributing I & I to the City's sewer mains to be identified based on the flow observed during the examination referenced above, on physical factors affecting the flow such as the duration, intensity and existing ground saturation levels as was as the expertise, experience and judgement of the examiner. The level of such contribution shall be classified as "Low", "Medium" or "High." Services contributing at levels identified as "Medium" or "High"~~so identified or identified~~ are hereinafter referred to as "Identified Services" except as provided for in Subsection 2 of Section III below.

III. Notice to Owners.

1.) At a time deemed appropriate by the Director after any Identified Service has been identified, the Director will cause a written "I/I Private Sewer Service Notice to Correct" (hereinafter referred to as the "Notice") to be sent to the Owner of the property served by the Identified Service by depositing the Notice in the U.S. Mail, postage prepaid, as hereinafter provided for. For the purposes of this notice, the Owner shall be deemed to be the person or persons identified as such on the information on file in the office of the St. Louis County Recorder and the address of the Owner shall be deemed to be the address shown on such records.

2.) If the property served by the Identified Service is not equipped with a sump pump, the Owner may apply to City for assistance under City's standard I & I Reduction Program and, upon approval of their application, promptly disconnect their footings drains from the Identified Service and install a sump pump in accordance with City requirements. Upon completion of such work, the City shall cause the subject Identified Service to be re-evaluated as provided for in Section II above, and if the Identified Service no longer qualifies as an Identified Service as described in Section II above, it shall no longer be so identified and no further action shall be taken under this Section. If the evaluation establishes that the Service at issue continues to be an Identified Service, the Director shall proceed as hereinafter provided for.

3~~2~~.) The Notice referred to in Article II Section 1). above shall include the following:

a.) The name and address of the Owner.

b.) The address of the property served by the Identified Service.

c.) Notification that the Identified Service has been determined to be allowing I & I to enter the City's sanitary sewer mains and that the Identified Service must be repaired, replaced or relined (hereinafter referred to as the "Work").

d.) Notification that the Work must be completed on or before a specified date, ninety (90) days from the date of the Notice, and setting forth the consequences of failure to complete the Work within the time specified.

e.) Notification that the Owner is eligible for participation in the Program to defray a portion of the cost of the Work.

f.) Notification that the video recording which identifies the Owner's Identified Service is available for review upon arrangement with the Director and providing

the name and telephone number of the person who the Owner should contact to make such arrangements.

g.) Notification that the Owner may appeal the Notice to the Duluth Public Utilities Commission (the DPUC) by submitting a written appeal to the DPUC at the address specified in the Notice within thirty (30) days of the date of the Notice as provided for in Section IV below.

IV. Appeals

Any Owner disputing the facts supporting the Notice may appeal from the Notice within thirty (30) days of the Notice as provided for in this Section. The appeal shall specify in writing all grounds for the appeal and all facts supporting the appeal. In addition, it shall be accompanied by an appeals fee provided for in Section 31-8 of the Duluth City Code, 1959, as amended. Failure to file an appeal within thirty (30) days of the date of the Notice or to accompany such appeal with the appeals fee, where required, shall constitute a waiver of the right to appeal the Notice.

1.) Grounds for Appeal

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

a.) That the appealing Owner is not responsible for the subject Identified Service.

b.) That the Identified Service is not contributing significant I & I to the City's sanitary sewer system.

c.) That the Identified Service is no longer contributing I & I to the City's sanitary sewer system due to removal of a direct connection thereto.

2.) Testing Process under Section 1.) b.) above

Any appellant appealing based on the grounds for appeal set forth in subparagraph b.) of Paragraph 1.) above, shall, at the time of filing his or her appeal, elect to proceed under on of the two testing procedures set forth in this Section 3, subject to the provisions of Subparagraph g.) of Paragraph 6.) below and shall have paid the appropriate fee. The two testing methods from which appellant may select shall be as follows:

a.) Wet Weather Simulation Test as provided for in Section 4.) below.

b.) Lateral Air Test Test as provided for in Section 6.) below.

3.) Appeals Testing Process

The following process shall be followed where an appellant chooses one of the Testing Processes specified in Paragraph 3 above:

a.) Upon receipt of such an appeal, the DPUC shall cause a copy of said appeal to be sent to the Director.

b.) As soon thereafter as is reasonably practical, subject to work schedules, available person power, weather conditions, soil conditions and other practical limitations as determined by the Director, the Director shall cause to be effectuated the Testing Process chosen by the Appellant

c.) If the Wet Weather Simulation Test as described in Paragarph 5 below is chosen by the Owner, the Director shall make reasonable efforts to notify the Owner of

the property served by the Identified Service in advance of the date and time of the Test.

d.) After completion of any testing procedure, the City staff person on site will attempt to contact the appellant to verify whether they still wish to continue their appeal.

e.) If the appeal is to be continued, a copy of the test results with be forwarded to the DPUC, an appeal date will be scheduled and notice of the date, time and place where the appeal will be heard will be mailed to the appellant at least ten (10) days prior to the date of the hearing

f.) At the hearing the Department shall present evidence supporting the Director's determination and the Appellant may present such evidence as is relevant to the grounds for his or her appeal. If the DPUC determines that the Identified Service is contributing significant I & I to the City's sanitary sewer system, the Owner's appeal shall be denied and the City may proceed with the process established by ordinance and these Guidelines; the Owner will remain eligible for a grant under this Program. If the DPUC determines that the Identified Service is not contributing significant I & I to the City's sanitary sewer system as defined herein, the City shall return the appeals fee, the Notice shall be withdrawn, the service in question shall no longer be deemed to be an Identified Service and Owner shall have not further obligation to repair, replace or reline the previously-denominated Identified Service unless and until subsequent testing of said lateral line reveals a change in the condition of such line.

4.) Wet Weather Simulation Test Process:

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

a.) The Water Quality Specialist (WQS) assigned to the project will obtain the customer file and review the original CCTV video (if this is determined to be a re-televising of the homeowner's private sewer line.)

b.) In either the Appeal or volunteer instance, the WQS will contact the homeowner and:

1. Explain the process to them
2. Obtain their permission to enter their property
3. Schedule the process so that the homeowner can be available to view the process (if they so choose)

c.) On the day of the appointment the WQS will act as the jobsite lead worker. They will always be the "primary contact" with the homeowner.

d.) The WQS will inform the owner of the presence of the CCTV crew and explain the process again. They will let the homeowner know that they are invited to review the actual video recording of their sewer line if they so desire.

e.) The "crew" will consist of the following:

1. One "hydraulic rodder and 2 utility operators
2. One CCTV Truck and 1 utility operator
3. One WQS

* Hydraulic rodder is a combination catch basin sewer cleaning machine that has a~~1500 gallon~~ water tank for clean water used to clean pipes and to flood simulate.

f.) Once the crew is onsite and the homeowner has been alerted the following process will be followed:

(1) CCTV operator will place the camera in the WCTS and locate the homeowners sewer line before the water is turned on to observe the service line in a normal condition

(a) The upstream manhole should be accessed if at all possible

(b) The operator must make sure that the cable footage is zeroed out to ten foot mark (tape on cable must be in the center of the manhole)

(c) The operator must ensure that the date sequence on the film is correct.

(2) The crew operating the hydraulic rodder will place the "soaker hose" over the homeowners sewer line. The hose shall be placed no closer than 4 to 5 feet from the building foundation

g.) Once the WQS has confirmed the above, they will authorize the simulation process to begin and let the homeowners know that they have started the process.

h.) The video recording sequence must be:

(1) Dry video (prior to soaking):

(a) from several feet above the Wye

(b) pointing into the Wye

(3) to a point clearly below the Wye

(2) Wet video:

(a) from several feet above the Wye

(b) pointing into the Wye

(c) to a point clearly below the Wye

i.) Soaking will consist of a maximum of thirty (30) gallons ~~2 truck loads (3,000 gallons)~~ of water for each lineal foot of the Identified Service run through a modified 2 ½" fire hose with holes drilled into it (soaker hose) over a period~~for up to maximum~~ of 1 hour or until the flow of clear water appears and continues flowing from the service connection The WQS will monitor this operation and determine when to cease the flood simulation.

j.) Once the WQS has confirmed clear water flow present, the CCTV operator will make sure that they have 2 to 3 minutes of film clearly showing the flow

k.) Upon completion of the video recording process and prior to leaving the site (should the homeowner not have chosen to watch the process), the WQS will attempt to make contact with the homeowner in person and inform them of the results of the process. If unable to make contact with the homeowner in person,

the WQS will either call the homeowner or send a letter with the results.

5.) Lateral Air Test

a.) When an Appellant has filed an appeal and has requested that his or her lateral line be tested by means of a Lateral Air Test as authorized in Subparagraph c.) of Paragraph 3.) above the Appellant shall hire and pay for a plumber licenced as such by the State of Minnesota who has the professional skill, knowedge and equipment to perform such a test, the identity of which shall be subject to the approval of the Director. The Appellant shall arrange for the performance of the test by said plumber at a time and date acceptable to the Director.

b.) At the date and time established for the Test, the Appellant or other person acting on behalf of Appellant shall provide access to the structure served by the subject lateral line sufficient to allow the City's personnel to observe the conduct of the air test. If the Appellant fails or refuses to so make such access available to the City, such Appellant's appeal shall be deemed to be abandoned and City may proceed to enforce the Notice originally provided.

c.) The Appellant shall cause an air test to be conducted on the subject lateral line in a manner complying with the requirements for such tests under the Minnesota State Plumbing Code. The entire lateral line from the point where such line commences under the foundation of the subject structure to the wye-connection to the City's main shall be tested.

d. If necessary to the conduct of the Lateral Air Test and not previously done, the Department will make a grant available to Appellant to assist in the removal of an existing house trap in Appellant's structure under the City's I & I Grant Program Guidelines.

e.) Upon completion of the air test process and prior to leaving the site (should the homeowner not have chosen to watch the process), the City staff person observing the test will attempt to make contact with the Appellant in person and inform them of the results of the process. If unable to make contact with the homeowner in person, the staff person will either call the homeowner or send a letter with the results

f. If as a result of the Lateral Air Test it is determined that the Appellant's Identified Service is not contributing significant amounts of I & I to the sanitary sewer system, the Department will reimburse the Appellant for the reasonable cost of the Lateral Air Test upon presentation to the Department of documentation of the cost thereof up to an amount of the appeals fee paid by Owner.

V. Grant Program

1.) Any Owner desiring to receive a grant under the Program to defray a portion of the cost of the Work shall, with the help of a department Water Quality Specialist, complete and execute an "Application for Private Sewer Service Grant Funds Form", which form shall be developed for this purpose by the Director. Upon completion and execution of the form by the Owner, the Owner or the Specialist shall cause the Form to be transmitted to

the Director for his or her approval.

2.) The above form shall contain at least the following information:
   a.) The name and address of the Owner.
   b.) The address of the property served by the Identified Service.
   c.) A description of the Work to be performed with regard to the Identified Service.

3.) To be eligible for a grant under the Program, footing and foundation drains on the property served by the Identified Service shall have been previously disconnected from the City's sanitary sewer system and a sump pump shall have been installed if necessary or Owner shall commit to the completion of such disconnection and sump pump installation at the same time as the Work is performed. Provided, however, that such disconnection work and sump pump installation shall not be part of the Work under the Program and shall not be available for grant fund reimbursement under the Program.

4.) Upon receipt of the form complying with the requirements of the Program and subject to available funds for the Program, the Director may approve the form and approving funding of a grant as herein provided for for the Work on the Owner's Service. Notice of such approval shall be sent to the Owner in the same manner as the Notice.

5.) Upon receipt of approval of grant funding for the Work from the Director, the Owner may thereafter contract for the construction of the Work.

6.) Upon completion of the Work in accordance with the requirements of Article V below, the Owner, with the assistance of a Department Water Quality Specialist, will complete and execute "Private Sewer Service Payment Form", which, together with such documentation as the Director shall reasonably require, shall be sent to the Director at the address specified on the Payment Form.

7.) Upon approval by the Director of the Payment Form, of the Work and of the required documentation, the Director will cause a disbursement of grant proceeds to be made to the Owner, subject to available funding and to the limitations of Section 8. below. Provided, however, that in the event that the documentation does not establish that contractors performing the Work have been paid, grant fund disbursal may be made jointly to the Owner and to such contractors.

8.) The amount of the grant available under the Program with regard to the Work related to any single Identified Service shall be equal to eighty (80%) of the out-of-pocket costs to the Owner of constructing the Work as approved pursuant to Section 3 of this Article above, up to a maximum grant amount of Four Thousand Dollars ($4,000).

9.) Only costs related to performance of the Work will be eligible for grant funds

reimbursement.

VI Performance of the Work

1.) The Owner shall be responsible for securing or for having secured by Owner's contractor all permits required under the Minnesota State Building Code and ancillary codes adopted by reference and any other required permits and for paying the costs thereof. The cost of such permits shall be the responsibility of the Owner but shall constitute an eligible cost of the Work for the purposes of the grant.

2.) The Owner shall be responsible for having the Work performed by a licensed contractor within the time parameters set forth in the Order and for paying the contractor or contractors performing the Work for the costs thereof. The cost of performing the Work shall be the responsibility of the Owner but shall constitute an eligible cost of the Work for the purposes of the grant.

3.) The Owner and his or her contractor shall be responsible for securing and having performed all inspections necessary to insure that the Work has been performed in accordance with the requirements of the Notice, of the plans for the Work and in conformance with the Minnesota State Building Code and ancillary codes adopted by reference. The cost of such inspections shall be the responsibility of the Owner but shall constitute an eligible cost of the Work for the purposes of the grant. Failure to secure and have performed all such inspections shall be grounds for denying reimbursement under the Program. In addition, the costs, if any, incurred to inspect any work which is covered or obscured prior to the performance of any required inspection shall not be eligible for reimbursement under the Program.

VII Failure to Complete Work–Surcharge.

1.) If any Owner shall fail to complete the Work within Ninety (90) days of transmission of the Notice as provided for in Article III Section 1.) above, a surcharge for noncompliance as provided for in Section 43-12.1 shall be imposed on the Owner as provided for therein.

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

VIII. Voluntary Participation

1.) Any Owner that believes that their Service is contributing I & I to the City's sanitary sewer system who wishes to participate in the Program and is willing pay any unreimbursed costs and to otherwise abide by the terms of the Program may prepare and

execute a "Voluntary Participation Form" on a form approved by the Director.

2.) The Voluntary Participation Form shall contain at least the following:

a.) The name and address of the Owner.
b.) The name and address of any additional addressee, if any.
c.) The address of the property served by the Identified Service.
d.) Owner's agreement to participate in the Program and to be bound by the terms thereof, including agreement that Program grant funds will only be available if the subject Service is found to be contributing I & I to the City's sanitary sewer system and that Owner's ability to participate in the Program will be subject to the approval of the Director.

3.) Upon receipt of a Voluntary Participation Form, the Director may cause the subject Service to be evaluated in the manner provided for in Article II Section 2.) above, subject to his or her determination of allocation of available evaluation resources. Such evaluation shall be made by the City at no cost to the Owner except as provided for in Section 4 below.

4.) Upon a determination by the Director that the subject Service is contributing I & I to the City's sanitary sewer system, subject to available resources, the Director may designate the subject Service to be an Identified Service and upon such designation, said Service and the Owner thereof shall be subject to the terms and conditions of these Guidelines except as follows:
a.) Subparagraphs h.), i.) and j.) of Section 2.) of Article III shall not apply.
b.) Not withstanding Section 8.) of Article IV above, the amount of the grant available to the Owner who is a Voluntary Participant shall be reduced to an amount not to exceed Three Thousand Dollars ($3,000).

5.) In the event that the goals for repair, replacement or lining established in the Consent Decree between the City and the Environmental Protection Agency established for any sanitary sewer basin have been met, such condition shall constitute justification for the decision of the Director to not designate the affected Service as an Identified Service.