



Introduction to Organizational Structures Used to Manage Individual, Cluster and Community Wastewater Treatment Systems

Community owned and/or managed wastewater treatment systems are infrastructure, as are roads, power lines and other components of a community. An organized community structure such as a township or sanitary district must be responsible for operating, monitoring, maintaining and paying for these infrastructures. Communities requesting public funding must have a legal entity in place that can levy for funds and own or hold permanent access easement rights before they are eligible for funding.

In most rural areas, the manager for an individual system is the homeowner. For multi-home systems and some individual systems in designated areas, a responsible management entity with the legal authority and administrative capabilities is needed to provide the necessary services, and be accountable. These legal organizational structures form the “community structure” for the systems. More organizational structures are including individual onsite systems in their management areas.

This document is designed to assist communities in exploring their options for organizational structures specific to wastewater treatment. Some factors to consider when deciding on an organizational structure include community population, geographic size of the area, local government(s) involved, local leadership-both elected and volunteer, property owner involvement, time constraints and available funds. Many of these organizational structures are dynamic in nature and can change over time to meet the changing needs of the community.

See the end of this publication for a list of agencies that can help communities form one of the options listed here. The State Statutes listed below in the first column are available from the Minnesota State Legislature web site. See the links section on page 6 for the web address.

Updated 8/2006

Structure	Functions, Description	Advantages	Limitations/Challenges	Information & Assistance	Who has authority?
Sanitary District: M.S. Chapter 115 (115.18 – 115.37) (M.S. = Minnesota State Statute)	<ul style="list-style-type: none"> • Used for the process of treating and disposing of domestic sewage, garbage and industrial wastes. • Creates another layer of government; may overlay townships and counties. • The most powerful and independent organizational structure. • Process begins with petition to MN Pollution Control Agency; includes public meetings and hearings. 	<ul style="list-style-type: none"> • Allows a combo of tax levy, revenue collections, and assessments. Example – 20% levy, 50% revenues, 30% assessments, or any configuration. • Can implement ordinances, issue general obligation bonds, have tax authority, may apply for grants and loans, bills residents and makes collections of debts. • Can manage wastewater in a large area. • Enable entity to look at the “big picture” of a large area in a variety of issues – not just wastewater. • Management usually provided by licensed staff and local volunteers. • May be town, city, county, or combo. • Independent unit of government. • May cross political boundaries. • Can cover large land area. 	<ul style="list-style-type: none"> • Can cover a large geographic area – but cannot be an entire city (may be an entire county or township). • Requires a higher degree of financial and time commitments to organize; formation process is complex. • Boundaries are not flexible. Must re-do process to expand. • Requires licensed, skilled managers and committed volunteers to serve on Board. • When districts cover large geographic areas there are usually more residents; takes more time to achieve consensus. • Must prove need for district as part of the petition; requires start-up funds. • All municipalities must agree on appointments of all board members. • Adds to government structures in area. 	<ul style="list-style-type: none"> • MN Pollution Control Agency • Attorney or consultant 	<ul style="list-style-type: none"> • Managed by appointed Board of Managers that represents all local government units (LGUs) involved. • MPCA or LGU issues permits.
Water and Sewer District: M.S. Chapter 116A	<ul style="list-style-type: none"> • Can be used for drinking water and wastewater. • May cross political boundaries. • Three methods to create: 1) a petition of at least 50% of landowners or 2) county 	<ul style="list-style-type: none"> • Can cover large geographic areas. • Enable entity to look at the “big picture” • Ability to plan for long-term changes. • Easier to expand (by resolution or court order) than Chapter 115 Districts. • Can include any area in a county not organized into cities; cities can request 	<ul style="list-style-type: none"> • Cannot be created in the 7 county metro area –the Metropolitan Council is a district, and only one can be in place. • Requires a higher degree of financial and time commitments; formation process is complex. • When districts cover large geographic 	<ul style="list-style-type: none"> • MN Pollution Control Agency • Attorney or consultant 	<ul style="list-style-type: none"> • County Commissioners appoint Sewer Commission to manage; includes reps from all LGUs

*Note: some of the descriptors and terms used in this document are subjective to allow comparisons between formats.
No preferences are implied by these statements.*

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	<ul style="list-style-type: none"> resolution process or 3) court order. Requires a Preliminary Survey by a Professional Engineer. Requires public hearings. 	<ul style="list-style-type: none"> via resolution to be included. Can issue bonds. Signing petition grants easement rights. Can be used with a combination of year-round and seasonal homes & businesses. 	<ul style="list-style-type: none"> areas, there are usually more residents; takes more time to achieve consensus. Requires licensed, skilled managers. Needs start up funds to organize by any of the methods, file bonds, appoint an engineer and hold public hearings. 		<ul style="list-style-type: none"> MPCA or LGU issues permits
Subordinate Service District: township M.S. 365A	<ul style="list-style-type: none"> Used for wastewater & other utility services, snowplowing and road services and infrastructure improvements such as curbs & gutters. Created by: petition of 50% plus one property owner, public hearing and resolution by town board. Sometimes called an Environmental Subordinate Service District (ESSD). Township maintains responsibility for District. 	<ul style="list-style-type: none"> Easier to organize because Statute clearly outlines formation (and dissolution) process. Costs borne by those using services via tax levies and service fees. Local residents find own solutions. Management controlled by township. May expand boundaries. Can use generated revenues to pay maintenance costs. 	<ul style="list-style-type: none"> Cannot issue general obligation bonds. Township maintains responsibility. No specific financing mechanism. District may be dissolved with a reverse referendum of at least 25% of property owners and a special election within 30 – 90 days of the petition. Can be dissolved by petition of 75% of property owners if followed by Board decision. Can cover a large area – but cannot be the entire township. When districts cover large geographic areas, there are usually more residents; takes more time to achieve consensus. 	<ul style="list-style-type: none"> MN Association of Townships Attorney or consultant 	<ul style="list-style-type: none"> Township Board of Officers MPCA or LGU issues permits
Subordinate Service District: county M.S. 375B	<ul style="list-style-type: none"> Used for wastewater & other utility services, snowplowing and road services, infrastructure improvements such as curbs & gutters 2 methods to create: <ul style="list-style-type: none"> By county board with a public hearing and resolution, or By petition of at least 10% of voters, public hearing and resolution by the board. County maintains jurisdiction for District. 	<ul style="list-style-type: none"> Can be withdrawn after public hearing. Costs borne by those using services via tax levies, fees and assessments. Local residents find own solutions. Management controlled by the county. Easier to organize; Statute clearly outlines formation (and dissolution) process. 	<ul style="list-style-type: none"> Cannot issue general obligation bonds. Only registered voters have a voice; eliminates most seasonal residents. If created by resolution, may have limited citizen input before forming. Only 10% of voters are needed to create. Can be withdrawn after public hearing & petition by 10% of voters. This puts the county at higher financial risk if a project is started then district is disbanded. Cannot create in the 7 metro counties; the Metropolitan Council is a district. When districts cover large geographic areas, there are usually more residents; takes more time to achieve consensus. 	<ul style="list-style-type: none"> MN Association of Townships Attorney or consultant 	<ul style="list-style-type: none"> County Board of Commissioners MPCA or LGU issues permits
Joint Exercise of Powers M.S. 471.59	<ul style="list-style-type: none"> Agreements between two or more governing entities with similar powers. May be formed by public hearings and agreements. 	<ul style="list-style-type: none"> When working with multiple jurisdictions, Joint Powers provide a process. Used to provide a variety of shared services across political boundaries. 	<ul style="list-style-type: none"> Partners can withdraw by written notice, leaving remaining partners to bear all financial and management obligations. Requires a higher degree of financial and time commitments to organize, 	<ul style="list-style-type: none"> Attorney MN Association of Townships League of 	<ul style="list-style-type: none"> Participating LGUs Managed by a Board comprised of

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		<ul style="list-style-type: none"> Many counties have experience with Joint Powers, so comfortable with the process; can make it a more time-efficient process. 	<ul style="list-style-type: none"> manage; formation process is complex. Cannot issue general obligation bonds. Each partner must adopt their own ordinances; may not have uniform enforcement. Can affect partners' ability to finance other projects. No ordinance writing, taxing authorities. A change in Board members may change project scope. 	MN Cities	member representatives
Incorporation or Annexation Authority M.S. 115.50 & 444.075	<ul style="list-style-type: none"> M.S. 115.50 gives towns the ability to collect & treat wastewater. 444.075 addresses towns, cities and counties authority in wastewater systems. 	<ul style="list-style-type: none"> Increased local services available, including wastewater treatment. Sometimes able to retain rural community character if desired. Management provided by municipality. Can be cost effective – adds to existing structure. 	<ul style="list-style-type: none"> Lose autonomy and character of rural community; become part of town/urban environment. Fees for services usually increase. 	<ul style="list-style-type: none"> MN Dept. of Administration MN Association of Townships League of MN Cities 	<ul style="list-style-type: none"> New or annexing municipality
City Special Service Districts M.S. 428A	<ul style="list-style-type: none"> Provides increased services or infrastructure to defined areas of the city; only those in that defined district pay. Formed by petition of 25% or more of property owners or by ordinance. 	<ul style="list-style-type: none"> Option for cities to provide management services to areas of the city not connected to municipal wastewater treatment. Those using the services pay via property taxes or service charges. Bonds may be issued. Allows cities to extend services outside of municipal areas with annexation. 	<ul style="list-style-type: none"> Needs special legislation to establish after 2009; currently may be formed by ordinance. Can be vetoed by 35% of the property owners. Most have been implemented to date to provide services to shopping areas, safety, signage; not typically used for wastewater treatment. 	<ul style="list-style-type: none"> MN Dept. of Administration MN Association of Townships League of MN Cities 	<ul style="list-style-type: none"> The city has jurisdiction; supported by an advisory board.
Water Quality Cooperative M.S. 115.58 & M.S. 308A	<ul style="list-style-type: none"> Utilizes a utility cooperative for financing or refinancing construction, operation and maintenance of wastewater treatment systems. 	<ul style="list-style-type: none"> Formed to own, install and provide management services for individual and/or cluster wastewater treatment systems. Provides management services. May enter into contracts, issue bonds, secure financing and have power of eminent domain. 	<ul style="list-style-type: none"> Agencies have limited experience to help new groups organize. Process to establish is very involved and includes steps with several agencies. This affects the amount of time and financial commitments needed to complete the process. 	<ul style="list-style-type: none"> MN Pollution Control Agency 	<ul style="list-style-type: none"> Cooperative Board of Directors. MPCA issues permits.
Watershed District M.S. 103D	<ul style="list-style-type: none"> Local units of government formed to solve water related problems and practice water conservation. Flood control is a common use. 	<ul style="list-style-type: none"> Local unit of government. Managed by elected Board of Managers. Formed by a petition to Board of Water and Soil Resources. Focus is usually on broad water quality issues – not just wastewater; gives a wider perspective on issues. 	<ul style="list-style-type: none"> Process involves public hearings and notices; increasing time, financial commitments needed. Focus is usually on broad water quality issues – not just wastewater management. As a result, community may not focus on wastewater issues. 	<ul style="list-style-type: none"> MN Board of Water and Soil Resources 	<ul style="list-style-type: none"> Board of Managers appointed by the organizational structure involved.

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Lake Improvement District M.S. 103B.501 – 103B.581	<ul style="list-style-type: none"> Focus is on improved water quality in surface waters on a watershed basis. Created by: 1) resolution to county board, or 2) petition to county board or 3) a petition to DNR, all followed by public hearings. 	<ul style="list-style-type: none"> May use a Joint Powers Agreement if crosses county boundaries. County board may issue any combination of service charges, special assessments, obligations, and taxes. 	<ul style="list-style-type: none"> Cannot levy for funds. Created by a minority of residents. Typically not used for wastewater. County remains the legal entity. County board must agree to provide management services. All county residents – if in specified area or not – may be liable for debts incurred. 	<ul style="list-style-type: none"> MN Dept of Natural Resources 	<ul style="list-style-type: none"> County Board appoints a Board of Directors
Lake or Homeowner Association M.S. 505	<ul style="list-style-type: none"> Often created for a new subdivision, often mandatory membership via the covenants. Lake Associations have a goal of improving water quality. 	<ul style="list-style-type: none"> Already an organized group. Communication structure already established, such as newsletters. Some start up funds usually available. Can play a strong role in education of residents. Valuable in identifying needs. 	<ul style="list-style-type: none"> Cannot levy for funds. Have no enforcement ability – operate on covenants and agreements. Fee collections and rule enforcement challenging due to informal agreements and covenants. Not accountable to a government entity. 	<ul style="list-style-type: none"> MN Waters Association Attorney 	<ul style="list-style-type: none"> No legal jurisdiction Managed by a Board elected by the membership
Watershed Management Organization (WMO) M.S. 103B.205	<ul style="list-style-type: none"> WMOs participate in water planning, implementation and the effects on water quality. 	<ul style="list-style-type: none"> Citizen participation in water planning and its effect on the water quality in an urban growth area. Allows metro areas to look at water quality issues as a whole. 	<ul style="list-style-type: none"> Must be within the Minneapolis/St. Paul metro area. Cannot levy for funds. 	<ul style="list-style-type: none"> MN Board of Water and Soil Resources 	<ul style="list-style-type: none"> WMO board BWSR

Possible Management Providers. Most of the organizational structures listed above need to provide management services, administrative oversight and bear the fiscal responsibilities. Listed here are some of the options for management. Community choices may be limited by the qualifications for a manager as dictated by the system selected. The board or LGU with authority for the organizational structure is responsible for providing the administrative oversight and fiscal responsibilities, unless someone has been hired to do these tasks.

- ISTS service provider – contract directly with a licensed septic service provider. Most usually provide maintenance services only; not oversight or fiscal management.
- Product vendor – often the system manufacturer provides management – especially with “alternative” systems, but usually only with their product. The organizational structure still needs someone to handle other required management activities. These businesses only provide maintenance services.
- Utility company/cooperative – many rural electric associations are entering the management arena. Most hire licensed pumpers, inspectors or other professionals to do the inspections and pumping; the utility handles billing and collections, so can provide fiscal management.
- Hire a mid-size system operator – An individual or midsize system operator; usually do not provide oversight or fiscal responsibility. MPCA is establishing a new category of licensed septic professionals to operate mid-level systems (This will be effective under the MPCA 7080 code revisions due to be implemented in early 2007).
- Hire a large system operator – licensed by MPCA to provide maintenance services.

Combination of service providers. (Example: hire a utility to handle billings, hire an inspector/pumper to maintain ISTS and cluster systems. Or – the District handles billings and hires the septic professionals for maintenance; other configurations as appropriate.)

Options for Financing Wastewater Treatment Systems for Communities

Option	Functions	Advantages	Challenges	Information
Financing Authorities: Special Assessment M.S. 429	<ul style="list-style-type: none"> Provides financing for sanitary sewer systems, storm sewers, drinking water, roads, curbs & gutters, signs, parks and others. Must be combined with one of the above organizational structures to provide management and pay for maintenance costs. 	<ul style="list-style-type: none"> One of broadest options for financing. Deferrals for Green Acres land. Costs can be included in the bonds. May be created after petition by homeowners and public hearings. Uses direct assessment. Management services can be provided by a utility or other service provider. 	<ul style="list-style-type: none"> Not available for maintenance costs. Deferrals for Green Acres land – fewer to pay assessments. Township is liable for all costs not covered by assessments. (Benefit Test to property owner determines). Green Acres deferrals can limit ability to assess enough funds. Need easements to access septic. 	<ul style="list-style-type: none"> MN Association of Townships Bond attorneys Financial advisors
Financing Authorities: Utility Bonding Authority M.S. 444	<ul style="list-style-type: none"> Financing water, storm and sanitary sewer systems with general obligation bonds which are payable from taxes, assessments or revenues. Must be combined with one of the above structures. May use a utility for management. 	<ul style="list-style-type: none"> Allows combo of tax levy (everyone in the district), assessments (against those affected) & revenues raised (user fees). County creates own formula. Allows counties to collect charges for Watershed Districts from property owners (M.S. 103D.729 & 103D.730). 	<ul style="list-style-type: none"> Must have good support – often those not directly receiving services help pay. 	<ul style="list-style-type: none"> MN Assoc. of Townships Bond attorneys Financial advisors
MN Pollution Control Agency (MPCA)	<ul style="list-style-type: none"> Works in partnership with MN Public Facilities Authority to review and certify wastewater projects for PFA funding. Prepares annual Project Priority List (PPL) to rank projects for PFA funding and consideration by other state and federal financial assistance programs. 	<ul style="list-style-type: none"> New rules for ranking projects closely reflect environmental and public health priorities. Goals: Preserve existing wastewater infrastructure investments. Provide assistance to systems at or near capacity. Address most serious unsewered areas, needs for new and appropriately scoped wastewater facilities. Protects and restores impaired waters. 	<ul style="list-style-type: none"> MPCA issues permits for all surface water discharges and soil based discharges with flows greater than 10,000 gallons per day. 	MN Pollution Control Agency
USDA Rural Development (USDA-RD)	<ul style="list-style-type: none"> Provides funding to rural communities for clean water, efficient wastewater and sewer systems and other essential community infrastructure. Provides loans with up to 40 year terms. Must be on the Project Priority List to qualify. 	<ul style="list-style-type: none"> Loan interest rate depends upon the median household income of the borrower. The rate can be as low as 4.5 percent, and will usually be no higher than commercial bond rates. Repayment is by special assessments, user fees or property taxes. Security is usually a general obligation bond. 	<ul style="list-style-type: none"> Funds are increasingly limited. Advisable to use a grant writer. Repayment plans and interest rates are determined by the median household income; some communities may have higher rates. 	U.S. Department of Agriculture, Rural Development
Minnesota Public Facilities Authority (PFA)	<ul style="list-style-type: none"> Wastewater financing programs: <ul style="list-style-type: none"> State Revolving Fund (SRF) loans (permanent revolving fund, not dependent on appropriations.) Wastewater Infrastructure Fund (WIF) grants and loans. Must be on MPCA's Project Priority List. New Clean Water Legacy funding programs for Small Communities, TMDL and Phosphorus projects. 	<ul style="list-style-type: none"> SRF loans are below market rates, available to eligible borrowers regardless of income. WIF grants can match USDA-RD grants for high priority projects. Coordinates with USDA-RD, others to package multiple funding sources; minimize application requirements. New Small Community program can replace failing septic systems with new publicly owned ISTS and/or MSTs. 	<ul style="list-style-type: none"> Must be local governments able to issue general obligation debt. Loan repayments from user fees and/or special assessments. All eligible project components must be publicly owned. Annual requests for SRF loans exceed lending capacity by 3 to 1. 	MN Public Facilities Authority

Links to the agencies listed in the table:

- League of Minnesota Cities, www.lmnc.org, 651-281-1200 or 1-800-925-1122.
- Minnesota Association of Townships (MAT), www.mntownships.org, 763-497-2330, 800-228-0296, info@mntownships.org.
- Minnesota Board of Water and Soil Resources (BWSR) www.bwsr.state.mn.us, 651-296-3767.
- Minnesota Department of Administration, Board of Boundary Adjustments, www.mba.state.mn.us, 651-284-3383.
- Minnesota Dept of Natural Resources (DNR) www.dnr.state.mn.us/waters/watermgmt_section/lake/index.html. Lake Management, 218-833-8688.
- Minnesota Pollution Control Agency (MPCA), www.pca.state.mn.us/water/wastewater.html#sanitary, 651-282-2663, 800-657-3864.; 520 Lafayette Road, St. Paul, MN. 55155-4194. askpca@pca.state.mn.us. www.pca.state.mn.us/water/wastewater.html.
- Minnesota State Legislature Statutes, Session Laws and Rules www.leg.state.mn.us/leg/statutes.asp, 651-296-2868.
- Minnesota Waters Association, www.minnesotawaters.org, 800-515-5253 or 218-824-5565, lakes@mnlakes.org.
- USDA Rural Development (USDA-RD), www.rurdev.usda.gov/mn/RUSCF/wwdir.htm; 651-602-7800. Rural Development State Office. 375 Jackson Street, St. Paul, MN 55101.

Other agencies available to assist communities with wastewater technical issues, organizing organizational structures and financial matters:

- Minnesota Association of Small Cities, www.maosc.org, 320-275-3130, nanlars@ll.net.
- Minnesota Onsite Wastewater Association (MOWA), www.mostca.org, 651-646-2218; 888-810-4178, ken@MOSTCA.com.
- Minnesota Public Facilities Authority (PFA), www.deed.state.mn.us/Community/assistance/pfa.htm, 800-657-3858. 1st National Bank Building, 332 Minnesota St., Suite E200, St. Paul, MN 55101; jeff.freeman@state.mn.us.
- Minnesota Rural Water Association (MRWA), www.mrwa.com, 218-685-5197, mrwa@mrwa.com.
- Midwest Assistance Program (MAP), www.map-inc.org; 952-758-4334, map@bevcomm.net.
- University of Minnesota Extension Service, www.extension.umn.edu, or <http://septic.umn.edu>, 612-625-9797, 800-322-8642, septic@umn.edu.
Web site walks communities through the process of solving wastewater treatment issues.

Sources:

- Kimmel, Bruce, CIPFA, Springsted Incorporated. 651-223-3021, bkimmel@springsted.com.
- Minnesota Pollution Control Agency, Wastewater Division, www.pca.state.mn.us/water/wastewater.html, 651-282-2663, 800-657-3864.
- Onsite Sewage Treatment Program, University of Minnesota Extension Service web site: <http://septic.umn.edu>.
- *Residential Cluster Development: Fact Sheet Series* (MI-7059). 1998. 1-800-876-8636 or <http://shop.extension.umn.edu>.
- Skala, Mary Frances, Esq., Fryberger, Buchanan, Smith & Frederick, P.A., 218-722-0861 or 800-496-6789; mfskala@fryberger.com.
- *Small Community Wastewater Solutions: A Guide to Making Treatment, Management and Financial Decisions*. BU-07734. University of Minnesota Extension Service, 2002. 1-800-876-8636 or <http://shop.extension.umn.edu>. \$15.00. 2002. This book is an excellent resource for communities working on wastewater treatment issues including why we need to treat wastewater, collecting community data including site evaluations, options for individual and cluster treatment, organizational structures, management options, financing community systems, working with professionals, and how to develop and implement a process in your community.

Reviewers: This document was reviewed by Onsite Sewage Treatment Program team members Dave Gustafson, Sara Christopherson, Laurie Brown, Doug Malchow, Dan Wheeler, Nick Haig, Renee Pardello; Attorney Mary Frances Skala; Bruce Kimmel, CIPFA, Springsted Incorporated; Bill Priebe and Bill Dunn, MPCA; Jeff Freeman, MN PFA.

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