

Version 11/8/12

Sewer
Availability
Charge

Procedure Manual
January 2013



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Sewer Availability Charge (SAC) Procedure Manual

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1. MCES CONTACT LIST FOR SAC QUESTIONS


www.metrocouncil.org, search word "SAC"

SAC Program Administration


Customer Community reporting forms and procedures; General SAC policies and procedures

	E-mail	Phone/Fax
 Jessie Nye, SAC Program Administrator	jessica.nye@metc.state.mn.us	(651) 602-1378 (651) 602-1030 fax

Determinations (Non-Residential); SAC criteria; Use of Determination Application forms

	E-mail	Phone/Fax
 Karon Cappaert, SAC Program Technical Specialist	karon.cappaert@metc.state.mn.us	(651) 602-1118 (651) 602-1030 fax


Determination Reviews

 Kelly Barnebey, SAC Assistant	kelly.barnebey@metc.state.mn.us	(651) 602-1421 (651) 602-1030 fax
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*Contact for submittal requirements,
ordering additional forms & manuals, and
Determination status*


MCES Industrial Waste

Industrial discharges; Capacity Demand permit reviews; Contaminated groundwater

	E-mail	Phone
 Paul Neubauer, Environmental Scientist	paul.neubauer@metc.state.mn.us	(651) 602-4720

MCES Finance

SAC policy and authority

	E-mail	Phone
 Jason Willett, Director, MCES Finance & Energy Management	jason.willett@metc.state.mn.us	(651) 602-1196

2. DEFINITIONS

Add-on Service Charge: Previous name for what now is called the Temporary Capacity Charge.

Apartment: A suite of rooms designed as a residence and generally located in a multi-Dwelling Unit building. A qualifying discounted Apartment is a building with 4 or more Dwelling Units with no plumbing for individual laundry facilities in any of the units.

Assigned SAC Baseline: A number calculated by Metropolitan Council Environmental Services (MCES) for each Permitted Industrial User that represents the total previously paid or allotted wastewater discharge capacity for the wastewater flow from each permitted Site. Note that Assigned SAC Baseline is not the same as a SAC Credit. The Assigned SAC Baseline is only used for Permitted Industrial User's Capacity Demand Review concerning its Industrial Wastewater. Any remodel, addition or new building built on an Industrial Property follows the SAC rules as listed in Section 5.2.1.

Baseline: Used for Industrial Properties only, the Baseline was the flow documented at the end of 1991 if the Industrial Wastewater was discharged into the Metropolitan Disposal System (MDS) in 1991 under a permit issued by MCES (then known as Metropolitan Waste Control Commission (MWCC)). Industrial Wastewater discharged under a permit issued by MCES is referred to in these procedures as a "permitted" use.

Campus: A specific contiguous geographic location that can be identified by a particular address, or addresses, or property identification description(s) with a single owner. It may be an entire Campus of buildings such as a corporate Campus, college/university, fairgrounds or Permitted Industrial User. MCES approves all SAC designations as Campus properties. (Note: malls, retail centers, multi-tenant buildings are not considered Campuses.)

Capacity Demand: The maximum potential capacity that the public sewers must be prepared to serve. For Commercial Properties, the demand is determined by the criteria in Appendix A. For Permitted Industrial Users', the demand is individually determined based on discharge volume.

Capacity Demand Review: Every permit renewal cycle (three or five years depending on the type of Industrial Permit) MCES reviews Permitted Industrial Users and compares their current discharge volume (Capacity Demand) with their Assigned SAC Baseline. If a Permitted Industrial User whose discharge exceeds their Assigned SAC Baseline does not reduce its water discharge, additional SAC is assessed against the Customer Community (Community) within which the Permitted Industrial User is located.

Commercial Property: Any property connected either directly or indirectly to the MDS that is not considered a Residential or Industrial Property per MCES definitions. This includes governmental and institutions, such as schools, hospitals, churches, etc.

Community Review: An audit-like review by MCES of a Community's SAC records and payments. SAC training of Community staff is also available upon request. MCES reviews all Community's SAC records and payments at least once every three years.

Community-Wide Credit: A SAC Credit that the Community uses anywhere within the Community to offset current SAC payments that would otherwise be due.

Comprehensive Plan: The Comprehensive Plan and all plan amendments of each Community described in Minnesota Statutes 473.858 to 473.862.

Condominium: A multi-Dwelling Unit building in which the units are individually owned.

Continuous Demand: A potential Non-Conforming Credit benefit to a Community which allows use of wastewater capacity on a Site even without payment of SAC for the Site, if and where it can be shown that the demand has been in continuous use for 10 years or more. See Section 5.2.2.4.

Credit: A SAC Credit is an MCES measurement of sewer capacity (in SAC units) that has been or is being permanently freed up within the jurisdiction of a Community.

Customer Communities (Community): Any one, group, or all of the cities, townships, domestic dependent nations and authorized building authorities served by the Metropolitan Disposal System (MDS). This was previously known as “Local Government Unit.”

Demolition: A Demolition (for SAC purposes) occurs when a building or structure is torn down, destroyed or moved off Site. To preserve the potential for SAC Credits on the Site, the Demolition Declaration (Form SAC-D) is required; See Section 5.5.5.

Determination: The computation of SAC unit(s) required for a property (usually based on building plans). A Determination should be completed by MCES or the Community when a modification is made to the use of the property or a New Use occurs on the property.

Determination Letter: If MCES completes a Determination review, a letter will be sent to the Community and a copy to the Determination submittal applicant that states the SAC units to be paid by the Community to MCES. (The Community will determine the charge property/business owners pay through Local SAC.)

Direct Connection Fee: When private entities are permitted to directly connect to an MCES interceptor or other facility, a fee may be required to cover the engineering and administration of the connection. This Direct Connection Fee is separate from SAC that is levied against the Community for *capacity* requirements.

Dwelling Unit: A building (or portion thereof) designated as a Residence for a single family.

Full-Time Equivalent (FTE): Hours of regular employment in a year divided by 2080. This is limited to employees as defined by the IRS. Contractors of any type are not considered employees.

Good Faith: Good Faith is usually demonstrated by fulfilling the expected roles and responsibilities of the Community that are listed in Section 4.2, including but not limited to: 1) filing SAC reports on time (without repeated errors); 2) resolving Community Review findings within 60 days of the date of the Community Review letter; and 3) following through on commitments to MCES staff to improve Community SAC practices and procedures.

Grandparent: A potential Non-Conforming Credit benefit to a Community which allows use of wastewater capacity on a Site even without payment of SAC for the Site, if and where it can be shown that the demand had been in existence when SAC started (1973, with evidence from 1968-1978). See Section 5.2.2.4.

Industrial Property: Any property that is discharging Industrial Wastewater either directly or indirectly to the MDS. Note that many businesses commonly termed “industries” are not Industrial Properties for SAC purposes. MCES considers these to be Commercial Properties. MCES will make the final Determination regarding Industrial Property classifications consistent with its Waste Discharge Rules.

Industrial Wastewater: Any solid, liquid or gaseous wastes, excluding domestic waste, resulting from any industrial, manufacturing, Commercial, institutional or business activity, or from the development, recovery, or processing of a natural resource. Any waste that is transported by a liquid waste hauler and disposed into public sewers is Industrial Wastewater. Any Leachate,

contaminated groundwater, or surface water, with the exception of Inflow and Infiltration disposed into public sewers, is Industrial Wastewater.

Inflow and Infiltration (I/I): Infiltration is clear groundwater that seeps into sewer pipes through cracks or joints in the pipes and inflow typically originates from a single point, i.e. sump pumps, foundation drains, or storm water entering openings in the sewer access covers. MCES design standards allow for a certain amount of I/I; the remainder is excess I/I that reduces the capacity of the MDS and is subject to surcharge by MCES. See www.metrocouncil.org/environment/ProjectTeams/I-I-Home.htm for more information.

Leachate: Liquid that has originated within or has percolated through refuse or through the protective cover of a landfill.

Local Government Unit: See “Customer Community.”

Local SAC: The actual total fee paid by or for the property or business owners to the Community, which may include Metropolitan Council SAC passed on by the Community and any local add-on charges. These fees vary widely between Communities and could add *substantially* to the total SAC costs of a property or business owner.

Long Continuous Demand: See “Continuous Demand.”

Look-Back Period (LBP): This definition was used between 2010-2012, but is no longer used. The LBP was the period of time prior to a Determination that MCES looked at demand to determine applicable Credits when a SAC Determination occurred. The LBP was the seven full years prior to the new SAC Determination or permit issuance and that part of the current year up to the Determination or permit issuance. For example, if a permit was issued in July 2012, the LBP would have gone back to January 1, 2005 (seven calendar years plus the portion of the year 2012).

Maximum Demand: For Residential Properties this is 1 SAC unit = 274 gallons per day of capacity availability.

For Commercial Properties it is the highest Capacity Demand in SAC units, based on for the actual SAC paid for the site at any time, however less any SAC Credits removed from the Site by the Community. In addition, two unpaid Non-Conforming situations are recognized as establishing the demand (for possible Credit) on a Site. These Non-Conforming situations are: Grandparented capacity from around 1973 when SAC began (between 1968-1978) and a Long Continuous Demand on a Site. In a Grandparent situation it is also possible that a Community removed some Credits, reducing the capacity recognized for a Site.

For Industrial Properties it is the Assigned SAC Baseline which is the highest recognized demand determined during a Capacity Demand Review or a special review that resulted in additional SAC being paid after the most recent Capacity Demand Review.

Metropolitan Area: The seven county Metropolitan Area over which the Council has statutory jurisdiction pursuant to Minnesota Statutes section 473.121, as may be amended from time to time. Hanover and Rockford (in Hennepin County), New Prague (in Scott County), and Northfield (in Dakota County) are currently excluded from the Metropolitan Area.

Metropolitan Council Environmental Services (MCES): The division of the Metropolitan Council (Council) responsible for the regional wastewater conveyance and treatment operations, industrial wastewater management, water quality monitoring and water supply planning.

Metropolitan Disposal System (MDS): All facilities (e.g. pipes, meters, lift stations or wastewater treatment plants) that are part of MCES’ sewer service area and owned by the Council. These are

generally the wastewater treatment plants and related conveyance systems in the Metropolitan Area.

Net Credit: This is a SAC Credit, based on SAC previously paid, over the amount needed on a Site being redeveloped. At a communities' option, these are allowed to be accumulated throughout the Community (Community-Wide Credits) or retained for the future use on the Site from which they are derived (Site-Specific). Note that no Net Credits are derived from Non-Conforming Continuous Demand (i.e. where SAC was not paid). Net Credit from Non-Conforming Grandparent Demand is allowed to be retained for future use on the Site but only for 5 years after a redetermination first uncovers the Grandparent situation.

Net SAC: The gross SAC Determination charge for the use being permitted less any applicable Credits. Net SAC units are rounded to the nearest whole number (i.e. 2.49 is rounded to 2, while 2.50 is rounded to 3).

New Use: The redevelopment of a property for a different use, as evidenced by a building permit or other type of permit issued by a Community or certain other official governmental actions, subject to MCES approval. Previously approved other official actions and the evidence presented to MCES have included: 1) expenses to pave a Site as a parking lot; 2) a resolution by a Community to designate a Site as park land; 3) approval as a right-of-way for a road; 4) evidence that the Site is unbuildable under local government codes; 5) zoning and Comprehensive Plan changes for a Site that limit the future use; and 6) water-use restrictions that limit the use of the property approved by Community Council resolution or Community Ordinance.

Non-Conforming Credit: Either a Continuous Demand or Grandparent Credit.

Permitted Industrial User: Any user of the MDS who discharges Industrial Wastewater is subject to MCES permitting requirements. The user shall complete an Industrial Discharge Permit application or Industrial Wastewater Survey, as required by MCES.

Phased Development: Any area where the Community or developer is formally redeveloping a defined contiguous area with multiple properties over an extended period of time. See rules at 5.4.3.

Phased Development Plans: These plans generally must include: the geographical area being redeveloped; the number, type and location of the properties; number of potential Credits; type of development planned (including identification of buildings expected to include Process Discharge from industrial development); and the expected year of development for each phase/area.

Process Discharge: See *Industrial Wastewater*.

Publicly-Assisted Housing: Publicly-assisted housing or housing that qualifies for public subsidy of rents based on resident's income.

Publicly-Owned Treatment Plant: A wastewater treatment plant owned by the Community that it services. This does not include cluster systems, 201 systems, septic systems of any type, and similar treatment works that are not available to the general public in the service area.

Rebate Program: January 1, 1973, through December 31, 1986, MCES' predecessors collected SAC on all development, even where and when sewer availability was uncertain. During 1987 through 1989, MCES allowed Communities to receive rebates on those properties that were not connected to sanitary sewer on a voluntary basis for these paid but unused SAC.

Residential Property: A property that is used exclusively for permanent human living space, including single family homes, Apartments, attached homes, townhouses, cooperative housing,

Condominiums, and manufactured homes. Does not include motels/hotels, camps, nursing homes, senior housing, or prisons.

Rural Growth Center: The Council's definition of certain Communities outside the traditional urban area, but within the Metropolitan Area, for comprehensive planning purpose.

Sewer Availability Charge (SAC): The MCES charge to Communities, pursuant to M.S. 473.517 subd. (3) for their portion of reserved capacity in the MDS.

Site: A specific, contiguous geographic location that can be identified by a particular address, or addresses, or property identification description(s). It may be a multi-tenant building or retail mall. Multiple buildings on one Site with individual sewer connections are not considered one Site.

Site-Specific Credit: A SAC Credit restricted to future use only for the benefit of the specific Site or Campus for which a Community paid SAC. Demolitions are indicative only of *potential* Credits, not actual Credits.

Temporary Capacity Charge: For Commercial Properties, the Temporary Capacity Charge is an option available to a Community, as a substitute for SAC, when a temporary use of a property occurs for 36 months or less. For Permitted Industrial Users, it is an option in select circumstances. Temporary Capacity Charge is invoiced to, and paid directly by a Permitted Industrial User. It does not commit the Council to providing permanent capacity. Payment of the Temporary Capacity Charge is analogous to a temporary rental of MDS reserved capacity due to the temporary nature of a service.

Waste Discharge Rules: The Council's adopted rules for use of the MDS as authorized by Minnesota Statutes chapter 473, and may be amended from time to time.

Water Treatment Facilities: Any facility (public or private) intending to discharge an Industrial Waste from a water supply system into the MDS. Water Treatment Facilities are subject to SAC for the discharge demand.

3. DESCRIPTION OF THE SAC SYSTEM

The Metropolitan Environmental Services (MCES) Sewer Availability Charge (SAC) is a charge to Customer Communities (Community) for the reserved capacity costs of the Metropolitan Disposal System (MDS). SAC has been levied since 1973 by MCES, and its predecessor agencies, for new Capacity Demand or increased volume use to the MDS. This method for allocating future costs is authorized by Minnesota Statutes section 473.517 subdivision 3. The regional SAC rate is periodically set by Metropolitan Council (Council) action (and is usually increased effective each January 1st).

SAC is assessed based upon the estimated maximum potential daily wastewater flow, which is in turn based upon the usage of individual properties. Single family houses, townhouses, Condominiums, duplex units and most Apartments each equal one SAC per Dwelling Unit. For non-Residential Properties, one SAC unit is defined as 274 gallons of daily wastewater capacity. Commercial Properties are assessed SAC units based on estimated maximum potential daily wastewater proportionate to 274 gallons per day. Industrial Properties are assessed SAC units based on adding two components: 1) Commercial criteria (see Appendix A), and 2) the maximum daily Industrial Wastewater for process flow.

3.1 History of the SAC Program

While SAC has been levied by MCES since 1973, it was not part of the original rate structure of the regional sewer utility. MCES, then called the Metropolitan Sewer Service Board, was created in 1969 by Minnesota Statutes chapter 473C with mandates to provide service for the rapidly growing population in the Metropolitan Area and to clean up the area's rivers and lakes. At the time the law was passed, Communities in the Metropolitan Area struggling to keep up with rapid growth were operating about 35 treatment plants. Many treatment plants served limited local areas and they often caused serious water quality problems in the lakes and rivers which received their effluent. Heavy capital costs were inevitable as the Metropolitan Sewer Service Board needed to expand and improve treatment and collection capacity for the area to serve a population that grew 20 percent in the 1950s and 23 percent in the 1960s.

The question facing the Metropolitan Sewer Service Board in the early days was how to pay for the share of capital projects reserved for future users. Then, as now, the "reserved" share represents excess capacity built into the current capital projects, so that treatment plants and interceptors provide capacity not only for today's population but for the population growth expected over the next 20 to 80 years. This reserved capacity does not include capacity for the amount of allowed Inflow and Infiltration (I/I) (allowed I/I is considered used capacity). However, excess I/I does take up reserved capacity that should be available for growth.

The practice of building reserved capacity is based upon experience and economy. The physical Sites of sewer pipes and treatment plants seldom change, so major land acquisition occurs only once per Site. Further economies of scale in construction make it more cost effective to provide some reserved capacity in these facilities at the time the facility is first built, rather than to make small, frequent expansions in capacity.

In 1971 and 1972, its first two years of operation, the Metropolitan Sewer Service Board allocated the cost of reserved capacity to individual Communities based on each unit's projected demand. However, many Communities, particularly those in the early stages of development, found it difficult, if not impossible, to pay lump-sum charges for reserved capacity. These developing Communities often had neither the population nor the tax base to finance the cost of capacity they would need in future years. It quickly became apparent that an alternative method of paying for reserved capacity had to be developed. Following intensive study and discussion with Communities, the SAC system of paying for reserved capacity was developed and instituted in 1973.

While the SAC system proved acceptable to Communities in the early stages of development, other Communities challenged the SAC system in court. In a District court ruling, later upheld by the Minnesota Supreme Court, the SAC system was found consistent with state law authorizing SAC.

In 1986, the Metropolitan Waste Control Commission (MWCC), predecessor of MCES, again addressed the question of who should pay SAC. Discussions centered on the fact that some Communities had not extended their sewers to all properties for which SAC had been paid. As a result, beginning in January 1987, a new SAC policy exempted SAC for those buildings that did not have sewer service available. Communities would pay SAC for exempted properties when hookup to the MDS became possible. The MWCC also approved a SAC Rebate Program that made rebates available to Communities that paid SAC when buildings were not yet connected directly or indirectly to the interceptor pipes or treatment facilities. The program was optional. If Communities accepted the Rebate Program, they were rebated the amount originally charged for service. Those not receiving rebates could still receive Credit when the buildings were connected to the MDS. Communities had from January 1, 1987, through December 31, 1989 to apply for rebates.

In 2006, the Council adopted new rules for SAC Credits, but after discussion with Communities the effective date of the rules was delayed until January 1, 2010. The two major changes were: 1) Credits for a change of use (e.g. remodeling) to be based on the highest use in a Look-Back Period, instead of the prior Grandparent and SAC payment history; and 2) no Net Credits from redevelopment of a Site allowed (except that approved Phased Development Plans allow a Credit-like reservation for delayed-but-planned development).

In 2010, the Minnesota state legislature amended Minnesota Statute 473.517, subdivision 3 to recognize that occasionally the wastewater reserved capacity fund may not be able to pay the share anticipated, and some of the SAC requirement may need to be temporarily “shifted” from SAC to the municipal wastewater charges. A “SAC shift” was incorporated into 2011 and 2012 rates. This authority will sunset in 2015.

In late 2010, the Council adopted the recommendations of a year-long task force of SAC stakeholders. The full report of the task force is available on line at: www.metrocouncil.org/environment/RatesBilling/SAC_Program.htm

In 2011 recommendations from that Task force that were implemented included a provision to allow a) a new Temporary Capacity Charge as a voluntary (Community choice) and temporary substitute for SAC for temporary wastewater demand, b) a change from two restaurant criteria to one, and c) a change from two daycare facility criteria to one. However, the portion of the recommendation that required legislation was not introduced in 2011 and failed in 2012.

In 2011 an informal SAC work group recommended some improvements in outreach, but did not support the idea of small business loans from MCES or a change in Net Credits that were also discussed. A report is available online.

In 2012 another informal work group did support substantial changes in Credit procedures, including a resumption of generation of Net Credits where SAC was paid (but not for Non-Conforming demand), the implementation of a small business loan program and minor service changes. A report is available online. These changes were adopted, with a modification to allow for 5 years a Site-Specific Credit for unused Non-Conforming Grandparent Demand, by the Council in late 2012 and incorporated herein.

3.1.1 SAC Policy & Rule Changes Pending

The primary recommendation of the 2010 Task Force was to change the methodology used to determine *how much SAC should pay* overall toward wastewater costs, which, while material

financially, will not impact these procedures in this manual. That change may be again pursued legislatively in 2013.

It is expected that in late 2012 or early 2013, that the Council will approve that Community compliance with the SAC policies and procedures be made an explicit requirement of the Council Waste Discharge Rules (WDR). This inclusion in the WDRs is for the purpose of putting all MDS user requirements in one place and is not expected to entail any substantive changes. For SAC matters, the WDR will be subordinate to the SAC policies and procedures.

3.2 SAC Determinations

MCES is a wholesaler of wastewater services for the MDS. MCES collects SAC from, and grants SAC Credit to, Communities. Optionally, the Communities may pass on their SAC costs to property or business owners. Communities are responsible for paying SAC to the Council whether they charge Local SAC or not. Generally, Communities issue permits (building, sewer connection or plumbing permits) or business license indicating that development or redevelopment is occurring and that the demand for sewage service is likely to change. The change in demand triggers a SAC Determination. MCES makes all Determinations for Industrial Properties, while Communities make all Residential Determinations and may make Commercial Determinations based on MCES criteria and guidance. MCES will assist Communities in SAC Determinations or conduct them upon request, and will make the final decisions regarding the correct number of SAC units to assess. SAC Determination Application forms are attached as Appendix B.

3.3 SAC Revenue

SAC revenue collected by MCES is used to finance the reserved capacity portion of the capital costs of the MDS, either directly (“pay-as-you-go” funding) or as debt service payments. The remaining portion of the capital costs, representing currently used capacity, is paid by the Communities through a portion of their monthly municipal wastewater charges. Some think of SAC as paying for a piece of the wastewater infrastructure, making sewer service available, while regular sewer bills pay to treat wastewater for amounts actually measured.

The per-unit SAC to the Community is determined and approved by the Council. The base rate is dependent on various factors, including the annual SAC requirement, the amount of the pay-as-you-go funding anticipated, the SAC reserve balance, and the number of SAC units forecast to be collected.

The 2030 Regional Development Framework and the Water Resources Management Policy Plan allow Rural Growth Centers that meet certain criteria to request that MCES acquire their wastewater treatment plants or build one to provide service to the Rural Growth Center. The Council establishes separate and higher SAC rates for the Rural Growth Centers that choose to be served by the Council’s MDS. These rural SAC rates will be separate from the current SAC that all current (urban) Communities are charged, and will pay for the reserved capacity portion of the debt service for each individual Rural Growth Center as specified in a contract.

3.4 SAC Credits for Previous Use

SAC Credits are for the benefit of the Community only and are generated from a Site when its permanent Capacity Demand changes, that is, when a New Use is established. Property owners or occupants are not charged SAC by MCES and are not the beneficiaries of SAC Credits.

As of January 1, 2013, SAC Credits are based on the payment of SAC for the Maximum Demand of a use being eliminated on a Site, in SAC units. (See Section 5.2.2.) Non-Conforming (that is, unpaid) Credits are also recognized on a Site in certain circumstances.

Properties for which a Community paid SAC prior to 1987 but were never connected to the MDS and the Community did not participate in the SAC Rebate Program during 1987-1989, are also creditable.

Phased Development Plans that are both formal and reasonable treat an area as a Site for use of Credits (See Section 5.4.3)

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4. ROLES OF MCES AND COMMUNITIES

4.1 MCES

- Performs Determinations for Commercial Properties upon request of the Community. However, MCES prefers that Community staff complete straight-forward SAC Determinations using the SAC criteria as found in Appendix A.
- Performs all Determinations for Industrial Properties and administers a Capacity Demand Review process for Industrial Properties.
- Assists in explaining the SAC program to Community staff or property owners at the request of Community.
- Collects SAC from all Communities connected to the MDS and grants eligible Credits to Communities when a New Use is established.
- Reviews Community SAC records and payments at least once every three years.
- Reserves the right to interpret and change SAC rules, subject to authorizing legislation, case law and Council approval.
- Maintains regional SAC records.
- Sets Metropolitan SAC rates.
- Receives any Community Phased Development Plans and determines adequacy for reservation of potential SAC Credit use on Site.
- Provides Communities SAC training as requested.
- Provides outreach to the private sector about SAC requirements.
- Makes available some SAC information in alternate languages as requested by Communities.

4.2 Community

- Reports all SAC-related activity (including Demolitions) to MCES in accordance with reporting deadlines and procedures.
- Makes Determinations for Residential Properties according to criteria set by MCES.
- Verifies accuracy of MCES Commercial Determinations at final inspection to ensure the proper number of SAC units has been allocated to the property. Notifies MCES if the final building or plumbing plan changed after the Determination was made.
- Assesses Local SAC, as appropriate, within the Community. Building inspection departments generally perform this function, based upon building permits or utility connection permits.
- Informs MCES of any new Industrial Properties for which MCES has not issued permits.
- Usually collects SAC through local SAC collection that may include a fee to cover MCES SAC, in a manner that works best for the Community pursuant to Minnesota Statutes sections 444.075 and 473.521, subdivision 3 or other fund raising authority of the Community. Additional charges may be included in the Local SAC bill (e.g., water availability charges and connection fees). The Council prefers that the MCES SAC charges are identified separately from local fees to avoid the appearance of varying metropolitan SAC among Communities.
- Remits SAC to MCES in a timely manner and according to reporting timelines.
- Keeps and provides Local SAC records, including building permit activity and detail, available for Credit Determinations.
- Cooperates with and resolves all Community Review findings within the stated time frame.

- Determines and implements Community options pertaining to SAC (through ordinance or other mechanisms as appropriate to the Community). The options include: Net Credits availability Community-Wide or limited to Site-Specific, minor transfer requests, participation in small business SAC loan program, and Temporary Capacity Charge use.

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5. SAC RULES

All Community properties discharging or intending to discharge to the MDS are assessed SAC by MCES. There are different rules for different types of properties: i.e., Residential, Commercial and Industrial (see Definitions in Section 2).

5.1 Residential Properties

SAC Determinations for Residential Properties, which are made by the Community, are generally triggered by building, foundation, plumbing, or utility connection permit. Examples include the construction of a house, connecting a house to the central sewer for the first time, increasing the number of Dwelling Units or converting a discounted unit into a full unit. The Community liability for SAC occurs at the time the Community issues the permit or license.

5.1.1 SAC Determination – Residential Properties

5.1.1.1 SAC Assignment

All Residential Properties shall be assigned one SAC unit per Dwelling Unit (unless otherwise noted in Section 5.1.3 Discounts).

5.1.1.2 Remodeling and Additions

Remodeling or additions that change the number of Dwelling Units requires a Determination, which is generally triggered by the building permit for the remodeling or addition.

5.1.1.3 Apartment and Condo Conversions

When a Dwelling Unit changes from a discounted Apartment for SAC purposes to a Condominium or non-discounted Apartment, an additional SAC (20% of the current SAC rate) will be collected. The 20% SAC will be due at the time of permitting or other official governmental knowledge of the change, and at the then current SAC rate.

5.1.2 Discounts

Residential Properties are eligible for certain discounts, as described below:

5.1.2.1 Apartment / Conservation Discount

Property Types	SAC	Requirements	Discount
Apartments with a minimum of 4 units. Those with less than 4 units are not allowed the discount.	One per unit	1) No plumbing for laundry facilities in any unit (generally evidenced by common laundry facilities). - and - 2) Prior written approval from MCES.	20% reduction in base fee Base Fee\$2,435 20% A/C Discount-\$487 A/C Discounted SAC\$1,948

5.1.2.2 Publicly-Assisted Housing / Conservation Discount

Property Types	SAC	Requirements	Discount
Multi-dwelling publicly-assisted housing units with a minimum of 4 units. Those with less than 4 units are not allowed the discount.	One per unit	1) No plumbing for garbage disposals or for dishwashers; 2) Housing owned by a Community or publicly subsidized low income units; - and - 3) Prior written approval from MCES.	25% reduction in base fee (or reduction in discounted fee if the A/C discount discussed above also applies). Base Fee\$2,435 25% PH/C Discount-\$609 Subtotal\$1,826 20% A/C Discount-\$365 PH/C & A/C Discounted SAC ...\$1,461

5.1.3 SAC Credits – Residential Properties

5.1.3.1 Previous Dwelling Units

If the property previously held a Residence, one Credit will be assigned, provided that:

- the building was connected to a central sewer now connected to the MDS;
- SAC was paid for the use on the Site (or where the Non-Conforming Grandparent Demand Credits apply); and
- the Community filed a Demolition report (MCES SAC-D form) with MCES within the required time period.

No Credit will be assigned to Residential Properties:

- where a SAC was paid but rebated to the Community as part of the MCES Rebate Program;
- where no Demolition report was filed with MCES within the required time period (See Section 5.5.5);
- that were not in the SAC program due to the Council's 2000–2003 Inclusionary Housing SAC Waiver Program, or had SAC waived for any other reason;
- where SAC Credits were previously taken off the Site by the Local Government (i.e. Community-Wide Credits generated by this Site were used elsewhere by the Community);
- for which SAC should have been paid but was not (except where the Non-Conforming Long Continuous Demand Credits apply).

Properties that were in discounted categories will receive a discounted Credit.

5.1.3.2 Non-Dwelling Units

If the property was previously classified as Commercial or Industrial and is changing to Residential, or if those facilities paid SAC **and** had a Demolition report filed with MCES, additional Credits may be available to offset the current SAC charge.

5.1.3.3 Credit Examples

The following Residential Property examples are for illustration purposes only:

Example R-1: A single family dwelling is remodeled into a duplex. One SAC is due.

Example R-2: An existing single family home is remodeled into four Apartment units with common laundry facilities and no individual laundry connections in the units. Four SAC units are due at 80% of the SAC rate (to account for the four new Dwelling Units), and one Credit will be issued at 100% of the SAC rate (to account for the removal of the single family home).

Example R-3: A new home is built in Community A, but because Community B owns the local pipe in the street, the sewer fees are due to Community B. As the issuer of the permit, Community A is ultimately responsible for the collection and reporting of the SAC, unless the Communities have a Joint Powers Agreement to the contrary. If Community A is not served directly by MCES and thus not a SAC reporting customer, then Community B is responsible for collecting and reporting SAC because they have allowed the connection to their system.

Example R-4: A discounted Apartment is converted into a Condominium. An additional 20% of the SAC rate is due for each Condominium unit.

5.2 Commercial Properties

A Commercial Property, for SAC purposes, is broadly defined to include any property that is not a Residential or Industrial Property. This includes governmental, institutional, non-profits and some properties that are likely thought of as “industrial” for other purposes (See Definitions in Section 2).

5.2.1 SAC Determination – Commercial Properties

5.2.1.1 Basis

The SAC Determination is based on the Commercial Property's estimated *maximum* wastewater flow potential or Maximum Demand. MCES or Community staff shall use the criteria in Appendix A for determining the SAC units for identified types of Commercial Properties. If a criterion is not listed in Appendix A, MCES engineering will make a reasonable estimation of the SAC to be charged. These criteria are based upon the recommendations and standards developed by the Minnesota Department of Health, building and plumbing code and are supported by actual maximum flow data from similar facilities in the Metropolitan Area. Community officials are encouraged to contact MCES for assistance in any situation they are unsure of or which is not clearly identified in Appendix A.

If a Community has a formal restriction that limits the use on the Site (e.g. a business license that limits outdoor seating to 20 occupants when the area has a maximum potential for 50), the SAC calculation will be based on the restriction. If the restriction is lifted, or no longer enforceable, a redetermination should occur and the additional capacity will then be charged.

5.2.1.2 Minimum Charge

There is a minimum charge of one SAC unit for each new building or connection. Note that this minimum charge is per building, not per business occupying the building. Communities may not assign a minimum charge for each individual business occupying a building.

5.2.1.3 Shell Buildings (Speculative)

The SAC Determination for Commercial Property is based on the New Use of the building. In the case of a shell building that will be occupied by multiple tenants, where the exact use of each space not known, the SAC is determined and collected based on the speculative use of the shell building. SAC is due to MCES when the building is built, regardless if the tenant spaces have been leased. As the tenants occupy the building, the only time that a new SAC Determination has to be made is when the tenant's use changes from the speculative use. Those speculative buildings that are charged with more than one criterion (i.e. speculative 30% office and 70% warehouse) need a SAC Determination for each tenant build-out.

For shell buildings calculated using the fixture unit criteria, fixture rough-ins count towards the total SAC Determination calculation.

5.2.1.4 Multipurpose Areas

For a multipurpose area (or room) the Determination is based on the use that could generate the most demand. For example, a church with removable pews, where the space doubles as a banquet hall, will be charged as a banquet hall.

5.2.1.5 Determinations

A Determination is required whenever there is a change or increase in use or an official acknowledged change in sewer demand (e.g. issuance of a business permit for which SAC has not been paid), whether or not a Demolition is involved. Examples that require a Determination include: a change from retail to restaurant, tenant build-out of a speculative office/warehouse space, most physical changes in the building that requires a building and/or plumbing permit (unless it fits exclusion criteria in 5.2.1.5.4), and any tenant changes that differ from the previous use of the space (as defined for SAC purposes).

Temporary New Uses are assigned SAC units in the same manner as permanent New Uses, unless they qualify for a Temporary Capacity Charge (see Section 5.2.1.11).

When the use of the space is calculated using fixture unit criteria, fixture rough-ins count toward the total SAC Determination calculation. In types of building use that do not use fixture units to calculate

the SAC (e.g. office building or salon) a rough-in for a shower will count towards the total SAC Determination.

When a new tenant moves into a retail shopping center and the use is changed, an updated tenant listing should be supplied to MCES as part of the Determination process. The listing should include a current list of all tenants and suite numbers.

5.2.1.5.1 Determination Submittal

Those that request MCES to complete a Determination will require submission of the MCES Transmittal-A (SAC Determination Application) form and any other form applicable that can be found in Appendix B along with scalable floor plans. The floor plans submitted to MCES must be the same ones submitted to the Community for their review. Scalable, electronic (e.g. PDF) floor plans are preferred.

5.2.1.5.2 Determination Letters

MCES will complete Determinations for Commercial Properties upon request of the Community. MCES prefers, and it is likely quicker, if the Community staff complete straight-forward SAC Determinations using the SAC criteria as found in Appendix A. When MCES completes a Determination, a letter will be sent to the Community with a copy to the applicant that states the Net SAC. The Determination Letter will include the name and location of the project, SAC charge and Credit calculations and the Net SAC. Each Determination expires two years from the date of the letter. If the Community permit has not been issued before the Determination Letter expiration date, the Determination Letter is void. Also, if the building plans change in any material way before the Community permit has been issued, the Determination Letter is void and a new Determination must be completed. In all cases, the Community is responsible for verifying accuracy of the Determination at final inspection to ensure the proper number of SAC units have been charged for each property.

5.2.1.5.3 End of Calendar Year Determinations

To pay the previous year's SAC rate, all Determination requests for MCES must be submitted with complete documentation no later than December 21 so MCES has time to complete the Determination. The Community permit or license must be issued no later than December 31. (i.e. To pay the 2013 SAC rate, all Determination requests must be submitted no later than December 21, 2013 and the Community permit or license must be issued no later than December 31, 2013.)

5.2.1.5.4 Exclusions from Determination Requirements

If a property is obtaining a cosmetic remodeling permit, where there is no change of use or size, no SAC Determination is necessary and no SAC will occur. If a property is changing size but not use, additional SAC will be required on the incremental Capacity Demand.

Other examples of projects that do not need a SAC Determination are:

- a building that was originally determined as 100% office and remodels space of less than 2,600 square feet to a meeting room but should be reported with the monthly SAC report on the SAC-C form;
- buildings originally determined as 100% office being remodeled into office or dividing into multiple office spaces;
- buildings originally determined as 100% retail being remodeled into retail or dividing into multiple retail spaces. However note that retail for SAC purposes is not the same as most building code "mercantile" classification (e.g. salons and fitness centers demand more wastewater capacity than a basic retail store);

- a retail building adding a freezer addition to the storage area or freezer displays to the retail area;
- a building originally determined as 100% retail being remodeled into a take-out restaurant or tanning salon. No Determination is necessary but the change of use should be reported with the monthly SAC Activity Report on the SAC-C form.

5.2.1.6 Outdoor Spaces

Peak demand on the MCES wastewater conveyance and treatment facilities is experienced typically during significant wet weather events. During these events, the use of outdoor areas is significantly reduced thereby contributing little or no wastewater to MDS peaks. A 75% reduction is given to certain outdoor spaces for which there is potential for minimal or no use during rain events. This includes driving ranges, golf courses including mini-golf (a club house is not eligible for the reduction), park shelters, outdoor seating areas for food and drink establishments, outdoor pools and water parks, drive-in restaurants and theaters, outdoor tennis courts, and outdoor public areas such as zoo exhibits. This does not include arenas or stadiums which may only delay the event or where they may be used in the rain (e.g. football games). Outdoor areas with structural roofs of any type will only qualify for the discount if, in the discretion of MCES staff, the demand for the space or transit to it (e.g. gazebo) is exposed to weather and will be predominantly reduced during wet weather days.

Note also that these outdoor spaces will only receive discounted Credits when such areas are eliminated.

5.2.1.7 Restaurants

MCES will base the SAC criteria charge for restaurants on criteria as stated in Appendix A. The MCES Affidavit-A form is required to be submitted along with the items stated on the MCES Transmittal-A (SAC Determination Application) form.

5.2.1.7.1 Outdoor Patios

SAC is calculated using the same criteria as inside seating for outdoor seating on patios or sidewalks. For example, if the interior portion is calculated as a restaurant with dining, the outside seating is also calculated as a restaurant with dining and a 75% reduction on the outdoor space is given. If a take-out restaurant has only outdoor seating, that area will be charged as per SAC criteria for restaurant seating (and the outdoor discount would apply). Outdoor areas with structural roofs of any type will only qualify for the discount if in the discretion of MCES staff the demand for the space or transit to it (e.g. gazebo) is exposed to weather and the use will be predominantly reduced during wet weather days.

If the Community restricts food and/or drink from being consumed on the outdoor space and designates the space as “smoking only,” documentation, such as an ordinance or a copy of the business license issued by the Community that states the restriction, may be submitted to MCES. If such documentation is supplied, this outdoor space is excluded from the SAC Determination. If the restriction is removed, or becomes non-enforceable, a redetermination would occur and SAC will be due.

5.2.1.8 Retroactive SAC

MCES will retroactively assess SAC when appropriate Determinations should have, but did not occur. In such a situation, if the Community has a proven record of acting in Good Faith, MCES may, at its discretion, collect SAC at the rate it should have paid (in the prior years), or in special circumstances forego the collection of the retroactive SAC, based on a Community appeal.

5.2.1.9 Determination Appeal

A Community can request an appeal review of a SAC Determination or other matters in these rules. A formal letter must be sent, detailing the facts of the situation and providing supporting documentation, to the MCES Finance Director. After completion of the appeal review and consultation with the Community, a written decision will be sent to the Community. Appeals will not be accepted if sent directly to the Council or MCES by a property or business owner.

5.2.1.10 Fraudulent Declarations

If any fraudulent declarations or plans are discovered, MCES will exercise its discretion and deny appeals and retroactive SAC relief, and, in addition, may apply any other penalties or measures that are permitted by law.

5.2.1.11 Temporary Capacity Charge

A temporary use on a Commercial Property may qualify for a Temporary Capacity Charge *in lieu of* SAC, at the Community's discretion. To qualify for the Temporary Capacity Charge, the temporary use must have a predetermined end date, with a maximum duration of 36 months. (Note: Communities are responsible for determining whether they have authority to, and want to, recover from property owners the amount of the Temporary Capacity Charge paid to MCES by the Community.)

The Temporary Capacity Charge is a one-time charge which the Community must pay to MCES at the time that SAC would ordinarily be paid (usually at the issuance of a building, sewer connection or business permit). The number of Temporary Capacity Charge units to be assessed will be determined in the same manner as SAC units are determined and Credits shall be available in the same manner as SAC Credits would be for a Site. The Temporary Capacity Charge rate is $1/20^{\text{th}}$ of the then current SAC rate per year, and $1/240^{\text{th}}$ per month for partial years.

Example: A school temporarily occupies a strip mall (while permanent facilities are being built). The school enters a lease on the strip mall Site for 26 months. A SAC Determination shows the school use equates to 27 Net SAC units. If the Community chooses the Temporary Capacity Charge approach, the Temporary Capacity Charge will be: 27 units x 26 months x Temporary Capacity Charge rate (current SAC rate/240).

The Temporary Capacity Charge is not considered a commitment of capacity by MCES, rather a rental of the reserve capacity due to the temporary nature of the service. The Temporary Capacity Charge will not be considered a partial SAC payment, nor used to calculate a higher use for future SAC Credit Determinations on the Site. Temporary Capacity Charge payments generate no new SAC Credits. When a permanent use of the Site (that held the temporary use) occurs, any Credit that was used to determine the Temporary Capacity Charge will again be allowed as SAC Credit for the New Use.

A temporary use of a space by the same or subsequent party on a Site that utilized the Temporary Capacity Charge, and that would extend the temporary use beyond the 36 month limit, will not qualify for the Temporary Capacity Charge. In such a situation a new SAC Determination is required and additional SAC may be due from the Community, per regular rules.

5.2.2 SAC Credits – Commercial Properties

5.2.2.1 Credits for Previous Use

All Credits, like the SAC itself, are between MCES and the Community, albeit based on Capacity Demand required at specific Sites. All Commercial Credit Determinations are subject to the review and approval of MCES.

The SAC Credit for a property is based on prior payment of SAC for the Site demand, in SAC units, pursuant to Section 5.2.2.4. If SAC should have been paid but was not, no Credit is allowed for that unpaid SAC (except where the Non-Conforming Long Continuous Demand Credits apply). When a redeveloping property's New Use requires lower wastewater capacity than what was demanded previously, Net Credits will occur where the SAC was paid. If the Credit is from a Non-Conforming Grandparent Demand, any Net Credits will remain Site-Specific for 5 years to allow for the new use's growth. In other words, a property redeveloping at the same or lesser wastewater demand will not generate a SAC liability. If redeveloping at a higher wastewater demand, a SAC payment will be required but for only the capacity increment above the Maximum Demand.

If SAC Credits generated on a Site were used off that Site by the Community, those Credits are no longer available to offset the current SAC charges on the original Site.

Credits do not occur at the time of Demolition or when a business shuts down. These circumstances only establish a *potential* for Credits when a New Use occurs on the Site.

Phased Developments are allowed Credits pursuant to Section 5.4.3.

5.2.2.2 Reporting Requirements

All Demolitions must be reported by January 31 of the year following the calendar year during which the Demolition permit is issued, in order for the prior use to retain eligibility for potential Credit(s) on the property. For example, if a Demolition permit is issued in September 2012, the Demolition must be properly reported to MCES by January 31, 2013. **Monthly reporting of all Demolitions is recommended.** This establishes the potential Credit that may be allowed when a New Use occurs on the Site.

5.2.2.3 No Credit Determination

No SAC Credit will be assigned to Commercial Properties or tenant spaces within properties:

- that were not previously connected to a central sewer now connected to the MDS;
- where a SAC was paid but rebated to the Community as part of the MCES Rebate Program;
- where the building(s) are gone and no Demolition report was filed with MCES within the required time period (see Section 5.5.5);
- that were not in the SAC program due to the Council's 2000-2003 Inclusionary Housing SAC Waiver Program, or had SAC waived for any other reason;
- where SAC Credits were previously moved offsite by the Community (i.e. Community-Wide Credits generated by this Site were used elsewhere by the Community);
- for which a Temporary Capacity Charge was paid in lieu of SAC; or for any other reason
- for which SAC should have paid but was not (except where the Non-Conforming Long Continuous Demand Credits apply).

5.2.2.4 Credit Criteria

For Commercial Properties, where the no-Credit conditions do not apply, prior wastewater demand is calculated by: 1) if SAC was paid then the number of units paid, using the applicable criteria at the time SAC was paid (i.e. the gross SAC units paid is the SAC Credit); or 2) if SAC was not paid a Non-Conforming Credit is available upon community application if and when records are provided for a site which indicates either a) a Grandparented demand on the site in 1973 with evidence from within 5 years +/- of the start of SAC in 1973 or a prior acceptance of Grandparent use for the Site, or b) a Long Continuous Demand from the Site for 10 or more years prior to the current Determination and within 0-3 years of the current Determination.

If documentation is not provided, and MCES has no SAC history but there is information from County website that show the property was built prior to 1973, the Credit will be determined based on a minimal use (warehouse, office, and/or retail). If detailed plans are not available, 80% of gross square footage is used to calculate Credit (this is the assumed usable space). If the square footage is not provided, one Credit per building will be assigned. Communities may not assign a minimum charge for each individual business occupying a building. Alternatively to providing full historical details, MCES may accept a certification of a Community official about the prior use of a Site (with form Affidavit-D).

All Credit Determinations are subject to review and approval of MCES.

No Net Credits are generated by the unused potential Credits from Non-Conforming Long Continuous Demand. Once Grandparent Credits are applied for a Site that redetermination is the basis for future redeterminations not the Demand from 1973 (that is, 1973 grandparenting data is no longer relevant). However, unused Grandparent Credits are reserved for a company's growth on that Site for 5 additional years after the redetermination.

5.2.2.5 Merging or Splitting Properties

If multiple properties are merged into a single legal description, the potential SAC Credit for the newly created parcel is the sum of the individual properties' potential Credit.

If properties are split into multiple parcels, a logical division of the SAC Credit potential will be determined by MCES. The potential SAC Credits will be based on the most detailed development plan available, allocating the original parcel's potential Credits based on either the: 1) expected building use (i.e. retail, office, warehouse, etc.); 2) square footage of the buildings; or 3) lot acreages compared to the original parcel. The potential SAC Credits will be rounded to the nearest whole number on each of the parcels.

5.2.2.6 Credit Examples

The following Commercial Property examples are for illustration purposes only:

Example C-1 (basic Credit): A 15-SAC restaurant is demolished (and properly reported) in 2012 and a 20-SAC office building is built on the Site in 2014. Five SAC would be payable in 2014 when the new permit is issued for the 20-SAC office.

Example C-2 (Net Credits): A 20-SAC functioning office building is demolished (and properly reported) in 2012. A 15-SAC restaurant is built on the Site in 2014. No additional SAC would be due. 5 Net Credits would be allowed to be designated by the Community as Community-Wide or Site-Specific if the original 20 SAC were paid. If the original 20 SAC were Grandparent Credits, the 5 Net Credits would be designated as Site-Specific for up to 5 years.

Example C-3 (no Determination needed): A 4-SAC retail tenant space was vacated in 2009 and in 2013 another similar retail tenant occupies the same space. No SAC would need to be paid and no Determination is required since there is no change of use.

Example C-4 (Long Continuous Demand Credits): 4 SAC were paid for a retail tenant space and was remodeled in 2001 into a 6-SAC salon. Two SAC were due for the 2001 change of use but were inadvertently not collected. In 2014, the existing salon goes out of business and a 6-SAC restaurant takes the space and remodels, causing a redetermination. The SAC Credits will include the 2 Non-Conforming Long Continuous Demand Credits if the Community can show the salon went into the space in 2001 since that demand was in existence for 10 years or more. No SAC would be due.

Example C-5 (no Continuous Demand): In example C-4, if the 6-SAC salon business sat vacant since 2009, the Long Continuous Demand Credits cannot be applied, and 2 SAC are due for the restaurant.

Example C-6 (Grandparent Credit): In 2013, a Site is redetermined for the first time since it was built in 1970 per County records. Original building plans are not available but based on assessed description, it was a 22-SAC warehouse in 1970. The new use is a restaurant, which requires 10 SAC. The Non-Conforming Grandparent Credit will eliminate the charge and the remaining Net Credit of 12 SAC stay Site-Specific for up to 5 years.

Example C-7 (unused Grandparent Credit): Using example C-6, in 2017 the 10-SAC restaurant comes in for another redetermination for an expansion to 15 total SAC units for the restaurant. No additional SAC will be due as the 12 remaining Grandparent Credits were kept on Site. However, if this expansion occurs in 2019, 5 additional SAC would be due as the Site-Specific Credits would have expired in 2018.

Example C-8 (existing Site-Specific Credits): In 2001, a 14-SAC office/warehouse building was remodeled into a 13-SAC office/warehouse building and the Community left the one unused Credit as Site-Specific. This Credit will be available to offset future charges but still only on this Site.

Example C-9 (federal properties): A post office is built and connected to the central sewer without a local building permit. SAC is due per the same criteria as other Commercial Properties as defined in Appendix A and is due to MCES when the sewer is connected.

Example C-10 (outdoor seats): A new restaurant was built in 2008 with 80 indoors seats and 16 outdoor seats; 12 SAC were paid as there was no outdoor discount at the time. In 2013, the restaurant adds 16 outdoor seats. No additional SAC are due as the entire restaurant will be evaluated using the current criteria (which includes the discount). The new Determination would be 8 SAC for the 80 indoor seats and 0.80 SAC for the 32 outdoor seats for a total of 9 SAC. Since 12 SAC were paid no additional SAC would be due.

Example C-11 (SAC when served by a different Community): A new office building is built in Community A, but because Community B owns the local pipe in the street, the sewer fees are due to Community B. As the issuer of the permit, Community A is ultimately responsible for the collection and reporting of the SAC, unless the Communities have a Joint Powers Agreement to the contrary. If Community A is not served directly by MCES and thus not a SAC reporting customer, then Community B is responsible for collecting and reporting SAC because they have allowed the connection to their system.

5.3 Industrial Properties

Industrial has a special meaning for SAC purposes. Many businesses commonly referred to as “industrial” are Commercial Properties for SAC purposes. (See Definitions in Section 2).

5.3.1 SAC Determination – Industrial Properties

5.3.1.1 Determinations

MCES makes all Industrial Determinations. Permitted Industrial Users must contact MCES whenever a Determination is needed. The Community should inform MCES of any substantial wastewater-producing industries for permitting evaluation, including municipal Water Treatment Facilities.

5.3.1.2 Basis for Determinations

Initial Determinations for Industrial Properties are derived by adding two components: 1) Commercial criteria (see Appendix A), and 2) the normal maximum Industrial Wastewater for process flow.

5.3.1.3 Determinations

For the non-Process Discharge portion Determinations are required pursuant to the Commercial criteria described in Section 5.2.1 for building permits and changes in use (i.e. additions, remodels,

and expansions are subject to Commercial rules). Assigned SAC Baselines are not “Credits” to offset Commercial SAC charges.

For the Process Discharge portion, a Capacity Demand Review of Permitted Industrial Users is done at least every three or five years (depending on the type of Industrial permit) to account for process flow changes (e.g., the flow was significantly increased by a change such as expanding the work day or increasing the rate of the process, but no building permit was issued).

Community liability for SAC occurs when the Capacity Demand Review indicates that the discharge volume of a Permitted Industrial User exceeds the Assigned SAC Baseline for the property. SAC liability incurred as a result of a Capacity Demand Review may be paid by the Community at any time prior to permit renewal, but always at the SAC rate in effect at the time of payment.

5.3.1.4 Assigned SAC Baselines

MCES Permitted Industrial Users shall have their Process Discharge demand reviewed for SAC purposes every three or five years (depending on the type of Industrial Permit). Their Process Discharge demand will be compared with their Assigned SAC Baseline. Any capacity utilized above their current Assigned SAC Baseline will incur a potential SAC liability for the Community in which the Permitted Industrial User is located. No Credits will be issued for the unused capacity below their Assigned SAC Baseline, but that capacity remains available to the Community for that Permitted Industrial User in the future.

5.3.1.5 Transfer of Assigned SAC Baseline

An Assigned SAC Baseline is set for a specific MCES permit and Permitted Industrial User. An Assigned SAC Baseline in continuous use under a MCES Industrial Discharge Permit will continue to provide capacity to the Community. However, the Assigned SAC Baseline is not transferable unless: 1) the MCES permit is transferred to the new owner *and* 2) other conditions are met pursuant to 5.3.1.5.2.

5.3.1.5.1 Assigned SAC Baseline is Non-Transferable

If the MCES permit is terminated due to any reason (e.g. a company closing; process changes or process discontinuation make the permit unnecessary; or a sale or merger of the company) the Assigned SAC Baseline is lost. If the company inadvertently loses its MCES permit but stays in continuous operation, and the Community appeals, the Site *may* be granted the old Assigned SAC Baseline from the old permit if, in the discretion of the MCES Finance Director, the company and the Community has acted in Good Faith in the matter. If the Assigned SAC Baseline for a Site is lost, the Community liability for the new business may still have available Credits pursuant to Section 5.3.2.

5.3.1.5.2 Assigned SAC Baseline Transferable

If the business ownership of a Permitted Industrial User changes due to a sale, reorganization after bankruptcy or merger and the MCES permit and the industrial process is maintained, the Assigned SAC Baseline may remain with the MCES permit. For the MCES Assigned SAC Baseline to transfer, the sale must be legally defined as the sale of the entire business. If the sale is assets only, where the new owner does not assume all liabilities of the prior business, the Assigned SAC Baseline is lost. If lost, any Credit for the New Use of the Site will be pursuant to Section 5.3.2.

5.3.1.6 Landfills Connected to MDS

Landfills experience a shorter-term peak in wastewater flow as active cells generate Leachate followed by decreasing wastewater flow until the landfill is closed, permanently capped and Leachate generation stops. The time period from start-up to closure/capping can vary, but generally is less than 20 years. The peak period will typically last 3-5 years. Once a landfill is closed, the land is not suitable for redevelopment due to the unstable nature of the fill material.

Due to the unique life-cycle of a landfill, an industrial Temporary Capacity Charge – which is not considered a form of SAC - is assessed by MCES to the Permitted Industrial User for which the connected landfill resides. All connected landfills must be permitted by MCES.

5.3.2 SAC Credits – Industrial Properties

5.3.2.1 Credits in General

All Credits, like the SAC itself, are between MCES and the Community, albeit based on demand required by the specific Site or properties. All Industrial Property Credit Determinations based on process flow are subject to the review and approval of MCES. Credit for the capacity previously used on a Site occurs only when a New Use is established on the Site or when permanent process changes reduce the capacity needed for the Site. Credits cannot be taken at the time of Demolition or when a business shuts down until a New Use occurs and is reported to MCES.

5.3.2.2 No Credit Determination

No SAC Credit will be assigned for Industrial Properties or tenant spaces within properties:

- that were not previously connected to a central sewer now connected to the MDS;
- where a SAC was paid but rebated to the Community as part of the MCES Rebate Program;
- where the building(s) are gone and no Demolition report was filed with MCES within the required time period (see Section 5.5.5);
- that were not in the SAC program due to the Council's 2000–2003 Inclusionary Housing SAC Waiver Program, or had SAC waived for any other reason;
- where SAC Credits were previously taken by the Community (i.e. Community-Wide Credits generated by this Site were used elsewhere by the Community);
- for which a Temporary Capacity Charge was paid in lieu of SAC; or for any other reason
- for which SAC should have paid but was not (except where the Non-Conforming Long Continuous Demand Credits apply).

5.3.2.3 Credit Criteria

For Industrial Properties, where the above no-Credit conditions do not apply, Credit for prior wastewater demand is available and calculated using Commercial Credit Criteria (as stated in Section 5.2.2.1.) for buildings and measured flow for process flows.. All such Credit Determinations are subject to review and approval of MCES.

5.3.2.3.1 Permanent Process Changes

A Permitted Industrial User making **permanent** changes that require less wastewater capacity for process flows may work with the Community to claim a Net Credit from the Site (limited to where SAC was actually paid). The Community must request such a Credit. Such Credits do not include the reduction of flow based on temporary conditions where the company could move some valves or other changes that do not require building permits and quickly ramp up production again (e.g. if sales pick up).

To qualify as a permanent process change, a specific Industrial process that results in the discharge of a known operating day volume of Industrial Wastewater into the MDS must be **permanently terminated**, and one of the following conditions must exist:

- The equipment utilized for the specific Industrial process is permanently dismantled, demolished, and/or removed from the Industrial Property; or
- The equipment utilized for the specific Industrial process, or the entire building that encompasses the process, is permanently disconnected from all utilities and all raw material

and/or component feed devices, and is substantially rendered permanently unusable for its previous purpose.

This information must be disclosed to MCES within 30 days after the end of the calendar year in which the change(s) occurred. MCES will review, on a case-by-case basis, all claims for SAC Credits based on a permanent process change. MCES reserves the right to inspect the Industrial Property to determine if conditions necessary to allow SAC Credits for a claimed permanent process change exist. Further, the criteria and provisions specified in this manual apply only to Industrial Properties that will continue to operate. If an Industrial Property ends its business activity, then Commercial Property SAC Credit provisions apply.

At such time Credits are made available to the Community involved, and the Community uses them Community-Wide, the SAC units assigned to the Industrial Property will be reduced by the corresponding number. Any future increases in use of the MDS at the Industrial Property will be subject to SAC payment requirements in accordance with applicable policies and rules, at the SAC rate in effect at the time of payment. Note: that Assigned SAC Baseline over the potential SAC Credits (SAC paid) is not eligible for Community-Wide Credits at any time.

5.3.2.4 Permitted Industrial User Baseline Determination

If a building's prior use is unknown, 80% of gross square footage is used to calculate Credit using the warehouse criteria. If the building is gone and the square footage is not known, one Credit per building will be assigned. A minimum charge for each individual business within a building is not applicable.

Where the prior use was a MCES Permitted Industrial User, the Assigned SAC Baseline of the old business use for this property may possibly be retained pursuant to Section 5.3.1.5. If the Assigned SAC Baseline is not transferred, the new Baseline will be the prior user's Maximum Demand recognized during their most recent Capacity Demand Review (plus any additional SAC paid since the most recent Capacity Demand Review). This intentionally excludes any growth in demand since the most recent Capacity Demand Review, as that capacity would not have been paid for (i.e. charged SAC).

Creditable SAC is often less than the Assigned SAC Baseline for an Industrial Site, and paid SAC is often less than creditable SAC. Only where SAC was actually paid for a Site, and to the extent of the units paid, is a Net Credit available to the Community.

5.3.2.5 Reporting Requirements

All Demolitions that may impact the Assigned SAC Baseline or creditable SAC must be reported by January 31 following the calendar year during which the Demolition permit was issued or change occurred, in order for the prior use to be eligible for any Credit on the property. For example, if a Demolition permit is issued in September 2012, the Demolition must be reported to MCES by January 31, 2013. **Monthly reporting of all Demolitions is recommended.** This establishes the potential Credit(s) that may be allowed when a New Use occurs on the Site.

5.3.2.6 Merging or Splitting Properties

If multiple properties are merged into a single legal description, the potential SAC Credit for the newly created parcel is the sum of the two individual properties' potential Credit.

If properties are split into multiple parcels, a logical division of the SAC Credit potential will be determined by MCES. The potential SAC Credits will be based on the most detailed development plan available, allocating the original parcel's potential Credits based on either the: 1) expected building use (i.e. retail, office, warehouse, etc.); 2) square feet of the buildings; or 3) lot acreages compared to the original parcel. The potential SAC Credits will be rounded to the nearest whole number on each of the parcels.

5.3.2.7 Credit Examples

The following Industrial property examples are for illustration purposes only:

Example I-1 (Assigned SAC Baseline is greater than SAC paid): 30 SAC has been paid by the Community for a Permitted Industrial User that has an Assigned SAC Baseline of 50 SAC units. The Permitted Industrial User adds a third shift to increase production and a Capacity Demand Review indicates 75 SAC units are needed. The Community would be liable to pay MCES for only the 25 new SAC units. Upon payment by the Community, the Permitted Industrial User would have an Assigned SAC Baseline of 75 SAC units.

Example I-2 (permanent process change): In example I-1 above, the same Permitted Industrial User two years later eliminates a manufacturing process and only needs an Assigned SAC Baseline of 50 SAC units. If the Community submits a Permanent Process Change request to MCES and it is approved, 5 Net Credits will be available from the paid SAC (the amount of paid SAC over the amount needed on the Site). Also, the Industry's Assigned SAC Baseline would be reduced to 50.

Example I-3 (creditable SAC): Using example I-1 above, the Permitted Industrial User with the Assigned SAC Baseline of 75 SAC units closes down and is sold to a commercial developer and the Assigned SAC Baseline is not transferred. Gross Credits available on Site may be a combination of paid SAC plus any additional capacity demonstrated (as Long Continuous Demand Credits) by having been needed in each Capacity Demand Review under the prior permit for at least 10 years. Only the paid SAC (55 in this example) not needed on the Site is available as Net Credits.

5.3.3 Determination Extensions

5.3.3.1 Extensions

Time extensions to implement wastewater reduction measures to reduce SAC liability for the Community in which the Permitted Industrial User is located based on the Capacity Demand Reviews are only considered for Permitted Industrial Users.

5.3.3.2 Requesting Extensions

The Permitted Industrial User must request extensions in writing to MCES (with a copy to the Community in which the Permitted Industrial User is located), including:

- a detailed explanation of the circumstances leading to the request,
- a projected timetable to address the demand difference (between the Assigned SAC Baseline and SAC for the new demand), and
- an agreement to pay SAC to the Community (at the SAC rate in effect at the end of the extension) should the wastewater demand continue to exceed the Assigned SAC Baseline.

5.3.3.3 Review and Approval of Extension Requests

Unless the Community objects, the extension request will be subject to the review and approval of MCES. MCES will notify the Community in which the Permitted Industrial User is located of any approved extension requests.

5.3.3.4 Term of Extension

The total length of the extension shall not exceed 2 years.

5.3.3.5 Temporary Capacity Charge – Industrial Users

For approved extensions longer than a 6 month grace period, the Permitted Industrial User will be assessed a Temporary Capacity Charge for all reported volume discharged above the Assigned SAC Baseline value. Note: The Community of which the Permitted Industrial User is located will also continue to be subject to all other charges assessed by MCES.

5.3.4 SAC Industrial Facility Definitions

5.3.4.1 Industrial Discharge Permits

Industrial discharge permits may be issued to Permitted Industrial Users occupying part of a building, a single building or multiple building properties. The following information provides guidance during the Capacity Demand Review conducted by MCES staff as part of the permit renewal process.

5.3.4.2 Part of a Building

A Permitted Industrial User occupying part of a single building, (e.g. renting a bay in a warehouse or renting a floor in a multi-story building), is required to accurately determine wastewater discharged from its operations. SAC for increases in wastewater demand must be paid by the Community for the Permitted Industrial User - unless there are existing SAC Credits at a different location within the building and the building owner and the Community gives written consent and MCES approves a SAC reassignment within the building. A SAC Determination on the whole building will need to be completed to verify that the Credits exist under current rules and are not in use by any other tenant. MCES will not approve such a reassignment if the Community does not affirmatively request or approve the reassignment.

No portion of the building can have its SAC allocation (potential for Credits) reduced to less than its square footage requirement for its designated use. For example, if an industrial tenant had a SAC calculation of 6 SAC units and vacated a 14,000 square foot warehouse space, only 4 SAC units could be reassigned to another space within the building. Two SAC units would remain to cover the warehouse use of that space. (See Appendix A for our SAC criteria calculations.)

Once Credits are reassigned to a specific space and Permitted Industrial User, those Credits are added to the Assigned SAC Baseline and would remain with that Permitted Industrial User as long as that permit is active. Credits would not be able to be reassigned until the permit is terminated.

5.3.4.3 One Single Building

A Permitted Industrial User occupying an entire building, whether owned or rented, will be responsible to the Community in which the Permitted Industrial User is located for SAC for the total wastewater demand from the building. Assigned SAC Baseline values will be used to determine if a SAC liability to the Community exists.

5.3.4.4 Multiple Buildings

An Industrial discharge permit may be issued for Permitted Industrial Users for the total wastewater demand from a Campus of several buildings within the same Community if the property meets one of the following definitions:

- One parcel of property contains two or more buildings and all buildings must be totally occupied by the Permitted Industrial User,
- Two or more separate parcels of property with contiguous borders and all buildings must be totally occupied by the Permitted Industrial User, or
- Two or more parcels of property that are separated only by a body of water (e.g. stream or river), utility easement or a transportation route (e.g. road, state trail or railroad) and all buildings must be totally occupied by the Permitted Industrial User.

The properties may be owned or rented by the Permitted Industrial User. SAC for increases in wastewater demand must be paid by the Community. Communities, on behalf of Permitted Industrial Users, may be allowed to informally transfer SAC units from one building to another within the Campus to satisfy SAC liabilities resulting from the MCES' Capacity Demand Review. The transfer of Credits is subject to the following conditions:

- Each building on the property must maintain the minimum number of SAC units to match its intended use for that space (See Appendix A for our SAC criteria calculations). If the intended use for that space is less than 1 SAC, a minimum of 1 SAC unit must be maintained on the building,
- Each Credit reassignment must be approved by MCES and by the property owner(s) with a letter of approval from MCES,
- In case of the sale of all or part of the property, MCES will allocate SAC Credits to individual buildings as it deems appropriate (that building would no longer be a part of the Permitted Industrial User's Campus), and
- If another business shares a building with a Permitted Industrial User, Credits are not allowed to be reassigned to another building and that building would no longer be a part of the Permitted Industrial User's Campus).
- Credit reassignments between buildings on a Campus are available for Credit for SAC liability discovered as a result of MCES' Capacity Demand Review. SAC liability as a result of building additions or new construction will be Determined using the Commercial criteria as found in Appendix A.

Note: A Community may not transfer SAC Credits if a Permitted Industrial User moves operations to a new location off the Site except if the transfer has been approved as part of a SAC Credit Transfer as described in Section 5.7.

5.4 Customer Community Credit System

5.4.1 Legal Description

5.4.1.1 No Financial Obligation

SAC Credit is an MCES measurement of sewer capacity (in SAC units) that has been or is permanently freed up within the jurisdiction of a Community, on which MCES will forego future SAC. This does not constitute a financial obligation on the part of MCES. Communities may not barter, sell or otherwise treat SAC Credits as a commodity, except as described in these procedures. MCES will not honor any agreements between Communities and third parties that purport to barter, sell or otherwise treat SAC Credits as a commodity, except as described in these procedures.

5.4.1.2 Sale of Credits Prohibited

Communities may not sell SAC Credits, and SAC Credits may not be exchanged in any manner unless part of an approved SAC Credit Transfer, as described in Section 5.7.

5.4.1.3 Credits and Assigned SAC Baseline are for Informational Purposes

Credits and Assigned SAC Baselines are for the information of MCES and the Community only and imply no benefit of any type whatsoever for particular property owners or any other third parties.

5.4.2 Use of Credits

5.4.2.1 Generation of Credits

As of January 1, 2013, new Net Credits will be generated for Communities where the Credits are not needed on the Site for a New Use and the SAC was actually paid. In addition, Credit may also be assigned for a New Use on a Site up to the demand of the New Use on that Site based on two types of Non-Conforming uses a) a 1973 Grandparented demand on the Site as evidenced by information within 5 years of the start of SAC in 1973 (between 1968-1978) which has not been subsequently reduced, or b) a demonstrated Long Continuous Demand from the Site for 10 or more years prior to the current Determination and within 0-3 years of the current Determination. The greater of SAC paid or either type of Non-Conforming Demand is the max Credit available on the Site.

Only paid SAC may generate Net Credits and be used Community-Wide. If SAC Credits from a Site were previously taken off-Site those Credits are no longer available to offset the current SAC.

5.4.2.2 Existing Community-Wide Credits

All Community-Wide Credits that were generated prior to January 1, 2010, will remain available, until depleted, to the Community for use to offset other SAC at other Sites within the Community. No SAC may be paid to MCES if there are existing Community-Wide Credits that must first be used (i.e. such Credits are required to be used by the Community at the first opportunity.)

5.4.2.3 Existing Site-Specific Credits

Any Site-Specific Credits on MCES books that were generated prior to January 1, 2010, will be honored for use on the specific Site where they were generated. Demolitions reported are not considered Site-Specific Credits, only a potential for Credit. If Site-Specific Credits exist, they must be used to offset SAC payment due to MCES for a New Use on the Site.

5.4.3 Phased Developments

The potential SAC Credits for approved Phased Developments will be available for the full term of an approved MCES Credit Determination and Phased Development Plan (with the MCES Phased Development-A form).

MCES must approve all such Phased Development Credit Determinations but will not withhold approval for reasonable Phased Development Plans. Credits are to be used only in the area of the specific planned development and on a first come-first served basis.

Within a Phased Development area, potential Credits from buildings that continue to be in use must stay on that building's Site and cannot be used elsewhere in the planned development area until the old use is completely discontinued. MCES will keep a running balance.

Any building within the approved Phased Development area that is demolished during the Phased Development term can be submitted for an additional Credit Determination evaluation and the potential SAC Credit units will be added to the area's Phased Development Credit balance. As part of the Phased Development, this new Credit will be available in the same time frame as the original Plan submittal. If not used in the area during the Plan, regular Credit rules will apply to the Site.

The Phased Development Plan must be approved by the Community Council or other governmental Community Committee with delegated authority and be consistent with approved Comprehensive Plans for the Community. All items listed on the MCES Phased Development-A form must be submitted which, at a minimum, must be specific about the geographical area involved, the number, type and location of the properties being developed, number of potential Credits, type of development planned and the expected year of development for each phase/area. Phased Development Plans must be reasonable redevelopment initiatives of the Community and not promulgated for the primary purpose of retaining SAC Credits.

5.4.4 Withdrawal from the MCES Service Area

SAC Credits for a withdrawal from the MCES service area will only be available if negotiated with the Council as part of the withdrawal action.

5.5 Community Payments and Reporting

5.5.1 Payments

5.5.1.1 Regular SAC Payments

Each Community is required to pay any SAC due, according to reporting deadlines (Section 5.5.2.1), with the submittal of the MCES SAC-A form and other necessary SAC reporting forms. The SAC rate to be charged is the rate in effect at the time of permit issuance (or business license if no permit

is required for a change of use), and payment by the applicant to the Community, regardless when the permitting process began. In the event that the Community does not attempt or has not been able to collect their Local SAC from the property or business owner and the payment and permit issuance are at different times the higher of the two rates applies. (i.e. if a permit is issued December 2012 but if for some reason the applicant does not pay the Community for the permit until January 2013, then the 2013 (higher) rate applies.

SAC is not to be prepaid in advance of the Community permit issuance.

(Note: SAC may be collected on a foundation permit. However, if the building plans change between the foundation permit and building permit process, a new Determination is required. It is the Community's responsibility to ensure that the final Determination is correct; that is, based on what is actually built.)

The Community is responsible for remitting the SAC within 30 days of the end of the SAC reporting period in which the permit or business license was issued.

To pay the current year's SAC rate, all Determination requests for MCES must be submitted with complete documentation no later than December 21 in order for staff to have time to complete the Determination. The Community permit or license must be issued no later than December 31. (i.e. to pay the 2013 SAC rate, all Determination information must be submitted no later than December 21, 2013 and the Community permit or license must be issued no later than December 31, 2013.)

5.5.1.2 Interest Charges

At the discretion of the MCES Finance Director, MCES may add interest to any unpaid and delinquent SAC balances, as permitted by law.

5.5.1.3 Past Due SAC

When unremitted SAC charges from prior years are discovered (e.g., in a Community Review), the Community must respond in writing within 60 days of the date of the Community Review letter if the Community can provide additional information or has a dispute with any of the findings in order to preserve the Community's legal rights. All undisputed portions of the review findings must be paid within 60 days. In an extraordinary situation, the Community may request more time via a written appeal to the MCES Finance Director. Note: The liability for unpaid SAC is the Community's responsibility regardless of collection of Local SAC from property owners.

5.5.1.3.1 Good Faith Efforts and Use of Earlier SAC Rate

Where the Community has acted in Good Faith in the opinion of the MCES Finance Director, MCES may accept a payment based on an earlier SAC rate and/or without interest accrual. The earlier SAC rate is that rate that was in effect at the time the SAC should have been submitted to MCES. Acceptance of the earlier rate is contingent on payment within 60 days from the date of the Community Review letter (or longer in extenuating circumstances, at the discretion of the MCES Finance Director).

5.5.1.4 Collection of Unpaid SAC

MCES reserves the right to collect any unpaid SAC using any mechanisms provided by law, including the use of a Deficiency Levy as provided in Minnesota Statutes §473.521(4) which requires the County Auditor to levy an ad valorem tax on all properties within the Community.

5.5.1.5 Discount for Prompt Payment

The Community is allowed to retain 1% of the net amount due for current charges to MCES as a discount for prompt payment. However, the Community may not take this discount if all the reporting forms and payments are not remitted to MCES within 30 days of the end of the month (or

quarter if quarterly reporting is approved by MCES). The prompt payment discount is not allowed to be taken on any adjustments or Temporary Capacity Charges made on the SAC report.

5.5.1.6 Payment Deferrals (Pursuant to M.S. 473.517 subd. 6)

5.5.1.6.1 Small Business SAC Loan Program

Beginning January 1, 2013, MCES will make available to Communities a loan program to provide the liquidity to facilitate a Community program for small business loans (where the total Determination for the business is 10 or less SAC units). A Community must execute the standard master loan agreement to participate in this program. Details of the loan program are contained in the agreement, including some options for Communities.

5.5.1.6.2 Rural Growth Center SAC

Pursuant to Council policy, rural growth centers may request to participate in the MDS. Such participation requires a higher Community-specific SAC and may also include payment terms pursuant to a Community-specific agreement.

5.5.1.6.3 Metro-Wide Economic Significance

For issues of Metropolitan Area or statewide economic significance, SAC payments by Communities may be amortized over a period of up to ten years. Payments must include interest and a guarantee of payment by the Community. Contact MCES for further information and list of conditions.

5.5.2 MCES SAC-A Form - Activity Summary Report

The MCES SAC-A form is a summary of information from the supporting Activity Report forms.

5.5.2.1 Reporting Deadline

Communities with a prior-year activity level exceeding 36 SAC units are required to submit the MCES SAC-A form within 30 days of the end of each month. Communities with a prior-year activity level of no more than 36 SAC units and where the previous reports have been submitted by the report deadline may report on a quarterly basis (within 30 days of the end of the quarter) if the Community has received prior approval from MCES. (See Section 5.5.7)

5.5.2.2 No Activity

If there is no SAC activity for the reporting period, the Community may write “no activity” on the form and mail, fax or email it to MCES. In all cases the report must state the name of the Community, the reporting period and year, “no activity”, and the contact name and information. If the Community has any Community-Wide Credits, the amount of Community-Wide Credit should be listed on the report or in the body of the email.

5.5.2.3 Activity Without SAC Due

If there was SAC activity during the month or quarter, even if no SAC was due, the detail must be included in the SAC report on the appropriate forms or other MCES approved formats.

5.5.2.4 Voided Permits

Communities may obtain a Credit of SAC paid to MCES for a permit that has been canceled or voided after fees were paid to MCES. The Community must attach a copy of the permit, marked “void,” to the SAC-A form (and indicate the Credit in the SAC adjustment area of the form). The Credit is in the amount of what was actually paid to MCES. (i.e. If the Community paid \$2,410.65 (2013 SAC rate of \$2,435/unit less 1% prompt payment discount) for a single family dwelling, the amount of the Credit is \$2,410.65.)

5.5.3 MCES SAC-B Form - Residential Detail Report

5.5.3.1 Documentation of New Use Residential Activity

The MCES SAC-B form is required to document all New Use activity for Residential Properties. All Residential activity must be shown on the MCES SAC-A form submittal.

5.5.3.2 Computerized Reporting Standards

For the “New Use” part of this form, the Community may substitute a computerized listing for the required detail, as long as it clearly includes the following information: building permit number, issue date, address, type of Dwelling Unit, and SAC units charged. All Residential activity must still be summarized on the MCES SAC-A form.

5.5.3.3 Requirements for Credits

Credits are available (to be reported in the “Previous Use” part of the form) when a New Use is being established on the Site and the prior use is currently being demolished or was demolished and properly reported to MCES. Even if the Credit will be used right away, current Demolitions must be reported on the MCES SAC-D form. *No Credits are generated until a New Use is declared on this form. Demolitions that occurred in a prior calendar year and have not been correctly reported on the MCES SAC-D form are not eligible for Credits.*

5.5.3.4 Approval for Discounts

Discounts, pursuant to Section 5.1.2, require prior written approval of MCES. This written approval must be attached to the MCES SAC-B form.

5.5.4 MCES SAC-C Form – Commercial Detail Report

5.5.4.1 Documentation of New Use Commercial Activity

The MCES SAC-C form is required to document all New Use and change of use activity for Commercial Properties (including non-profit, governmental and institutional). A SAC Determination Letter may be substituted for this form if it includes an address, building permit number, issue date and pertinent Credit information. All Commercial activity must be shown on the MCES SAC-A form.

5.5.4.2 Requirements for Credits

Credits are available (to be reported in the “Previous Use” part of the form) when a New Use is being established on the Site and the prior use is currently being remodeled, currently being demolished or was demolished and properly reported to MCES. Even if the Credit will be used right away, current Demolitions must be reported on the MCES SAC-D form. *No Credits are generated until a New Use is declared on this form. Demolitions that occurred in a prior calendar year and have not been correctly reported on the MCES SAC-D form are not eligible for Credits.*

5.5.5 MCES SAC-D Form - Demolition Declaration Report

5.5.5.1 Demolished Properties without a New Use

The MCES SAC-D form is required to document all Demolition activity. This form establishes a potential future Credit and is required to be submitted by January 31 of the year following the calendar year in which the Demolition permit is issued. For example, if a Demolition permit is issued in September 2012, the Demolition must be properly reported to MCES by January 31, 2013. Demolitions must be reported to be creditable. If the MCES SAC-D form is not submitted within the required time period, the property is not eligible for a future Credit. **Monthly reporting is recommended.**

5.5.5.2 Valid Report

The MCES SAC-D form is not valid without all columns filled in and the following attachments:

- Commercial Demolitions must be accompanied by the MCES SAC-C form or a SAC Determination Letter;
- Industrial Property Demolitions must be accompanied by a MCES SAC Determination Letter.

5.5.5.3 Credits

Potential Credits are subject to the following:

- Effective January 1, 2013, the SAC Credit for a property is based on SAC payment or Non-Conforming Demand (see Section 5.4.2.1), in SAC units. No Credit will be allowed if the property should have paid SAC but did not (except where the Non-Conforming Long Continuous Demand Credits apply).
- Properties that paid SAC prior to 1987 but were never connected to the MDS, and for which the Community did not participate in the SAC Rebate Program during 1987-1989, the SAC that was paid will continue to be creditable if and when a connection occurs.
- If a discount or a waiver was applied, the Credits will be correspondingly reduced. For example if an Apartment complex received a 20% discount, then the potential Credit is 0.80 SAC for each unit Demolished.
- No Credits are available if the property participated in the Council's 2000-2003 Inclusionary Housing SAC Waiver Program, or for any reason had SAC waived.
- No Credit is allowed if the building was previously not connected to a central sewer.
- No Credit is allowed if the Demolition was done in a prior year and not properly reported.

5.5.5.4 Demolition Permit Required

There must be a Demolition permit or other verifiable documentation to support the Credit claim.

5.5.6 MCES SAC-E Form – Small Business SAC Loan Report

The MCES SAC-E form is to submit information on those businesses that the Community is requesting to participate in the SAC Small Business Loan with MCES.

5.5.7 Quarterly Approval Form

All Communities with a prior-year activity level of no more than 36 SAC units that have submitted the previous year's reports by the report deadline are eligible for quarterly reporting. Those that qualify will receive a "Quarterly Approval" form that must be signed and returned by the end of February to be eligible. This allows the Community the option of reporting monthly or quarterly.

If the Community chooses to report quarterly, but during the year the Community exceeds 36 units, or if the quarterly report is submitted late, the quarterly reporting approval is revoked. The Community must then report on a monthly basis.

5.6 SAC Collection for Community Discharging to the MDS for the First Time

A Community within the Metropolitan Area is required to collect SAC according to the rules in this SAC Procedure Manual beginning at the SAC trigger date described in three different circumstances below.

The Council will make the sole Determination of the applicable date and notify the Community unless such notice is implicit in an acquisition or service agreement. Note that where the trigger date and the related liability occurs on a projected date one-year prior to service, a delay in completion of the project may not change the liability to pay SAC to MCES, at the discretion of MCES.

5.6.1 Treatment Plant(s) to be Acquired by MCES

If the service area has an existing treatment plant that is to be acquired by MCES and the SAC liability start is not defined in the agreement, the SAC trigger date shall be the later of: 1) the date of the acquisition agreement or 2) one year prior to the transfer of ownership to the Council.

All properties being serviced by the local treatment plant prior to the SAC trigger date will be Grandparented into the MDS at their demand at the time of the SAC trigger date and the Community will not normally owe SAC for those properties. The only exception to this Grandparenting provision is where the Community debt to be assumed by the Council, pursuant to Minnesota Statutes section 473.511 subdivision 2, is disproportionate to the reserved capacity of the system being acquired. In such a case, at the sole discretion of MCES, SAC will be due to the Council to make up the disproportion.

In order to grant the Grandparent Credits, the Community shall provide an inventory of all addresses being serviced by the local treatment plant (e.g. a current list of all customers currently paying for sewer service from the Community). This inventory should identify Commercial and Industrial users and their current wastewater demand at the SAC trigger date. If the inventory is not provided by the Community to MCES by the SAC trigger date, then the Grandparent Credits shall not be applied.

After the SAC trigger date, SAC shall be collected in compliance with all of the rules in this manual. If a building permit was issued prior to the SAC trigger event so SAC was not collected, but the SAC trigger date occurs prior to actual physical sewer hook-up, SAC must be paid with the hook-up and at the SAC rate in effect at that time.

5.6.2 Treatment Plant(s) Not to be Acquired by MCES

If the new service area has a treatment plant that is not being acquired by the Council, the Council will serve the area through an interceptor. Unless the SAC trigger date is identified in an agreement, the SAC trigger date shall be one year from the time the Council projects that service will be available.

All properties being serviced at the SAC trigger date by a local treatment plant that is being phased out due to the MCES service will normally be Grandparented into the MDS at the demand at the time of the SAC trigger date and the Community will not owe SAC for those properties. In addition, if the Community is acquiring a multi-user (with at least 25 connections) private treatment facilities prior to MCES service startup, those users with established demand at the trigger date will also be Grandparented for SAC purposes (that is, the Community will not pay MCES).

In order to grant the Grandparent Credits, the Community shall provide an inventory of all addresses being serviced by the local treatment plant (e.g. a current list of all customers currently paying for sewer service from the Community). This inventory should identify Commercial and Industrial users and their current wastewater demand at the SAC trigger date. If the inventory is not provided by the Community to MCES by the SAC trigger date, then the grandparent Credits shall not be applied.

After the SAC trigger date, SAC shall be collected in compliance with all of the rules in this manual. If a building permit was issued prior to the SAC trigger event and SAC was not collected, but the SAC trigger date occurs prior to actual physical sewer hook-up, SAC must be paid with the hook-up and at the SAC rate in effect at that time.

5.6.3 Service Area not Previously Served by a Treatment Plant

If the new service area has not been previously served by a treatment plant and will be served by MCES through an interceptor, by a new MCES treatment plant or connected to another Community's sewer trunk line which is connected to the MDS, the SAC trigger date shall be one year from the time the Council projects that service will be available.

After the SAC trigger date, SAC shall be collected in compliance with all of the rules in this manual (e.g. a building or connection permit is issued which either directly or indirectly connects property to the MDS). If a building permit was issued prior to the SAC trigger event and SAC was not collected, but the SAC trigger date occurs prior to actual physical sewer hook-up, SAC must be paid with the hook-up and at the SAC rate in effect at that time.

In this circumstance no Grandparenting of SAC applies (that is, all properties connecting shall accrue a liability for SAC due to MCES).

5.7 SAC Credit Transfers

A SAC Credit transfer allows a transfer of SAC Credits between or within Communities (Major) and between Sites within a Community (Minor).

5.7.1 Requirements for a Major Credit Transfer

Major SAC Credit transfers are allowed in situations where:

- The request originates either from the Community or from the Department of Employee and Economic Development (DEED) for a business DEED determines is of statewide economic significance. (It is expected that if DEED initiates the request, it will contact representatives of the Community which may lose the business prior to, or as part of initial discussions, with the company proposing to move and/or the Community where the transferred Credits may end up);
- The transferring entity is: 1) a standard Permitted Industrial User of MCES (excluding liquid waste haulers, special discharge permittees or general permittees); or 2) any other entity served by the MDS where at least 50 full-time equivalent (FTE) jobs are currently located on the Site to be moved;
- The entity requesting the Credit transfer is not a service or retail company (retail businesses include, but are not limited to: retail shopping stores, restaurants, salon/spas, and repair shops);
- The owner of the business or entity requesting the Credit transfer is the property owner of the existing Site (or has the written consent of the property owner for the Credit transfer);
- MCES reviews and approves the availability of capacity in conveyance (lift stations and interceptor pipes) and treatment facilities for the new Site; and
- Written approval from each Community involved has been received by MCES on approved forms.

5.7.1.1 Determination of Credits Available for a Major Transfer

The number of Credits that may be transferred is at the discretion of the Community representing the existing Site of the business or entity, but limited to the amount potentially available at that Site, or the Community that has a Community-Wide Credit balance, the number of unused Community-Wide Credits. There is a minimum of one SAC unit per building that must be left at the current Site. If all buildings will be demolished as part of this Credit transfer, this minimum requirement does not apply.

5.7.1.1.1 Campus Credits

The allocation of SAC units between buildings that will be retained for those businesses or entities that are considered Campuses for SAC purposes is at the reasonable discretion of MCES.

5.7.1.1.2 Permitted Industrial Users

For Industrial Properties permitted by MCES, the rules for potential SAC Credit availability are stated in Section 5.3.2. Any Assigned SAC Baseline value above the creditable capacity is not transferable.

5.7.1.1.3 Credit Balances from other Communities

Any Community that has a Community-Wide Credit balance must use those Credits to offset the current charges on their SAC activity report. However, booked Community-Wide Credits are available to be transferred to another Community as part of a Major SAC Credit transfer if all of the requirements of section 5.7.1 are met.

5.7.1.2 Implementation of a Major SAC Credit Transfer

5.7.1.2.1 Timing

SAC Credit transfers occur at the point of execution of the required documents by all parties. MCES will notify all parties when this is complete. Once the SAC Credit transfer occurs, these Credits become the reserved capacity for the Community on the future Site for the business or entity. Once the Major SAC Credit transfer occurs, and the MCES Determination Letter for the new Site has been issued, the business or entity has up to 7 years from the date of the Determination Letter to complete the project. If the project does not occur within the 7-year period, the transferred Credits are lost.

5.7.1.2.2 Revocability

If either a building permit for the new Site has been issued or if a New Use has been established on the old Site (the existing Site before the transfer), the Credit transfer is irreversible and irrevocable. Up to that point in time the Credit transfer may be reversed with the agreement of all Communities.

5.7.1.2.3 Use of Credits After the Major Transfer

Once the SAC Credit transfer has occurred, the Credits are usable only on the specific Site (or approved Campus) to which they were transferred. These units will be available only to offset SAC charges for the property related to the business or entity moving to the Site and only for the facilities built at the time of the move (or as a Phased Development).

For Permitted Industrial Users, transferred SAC Credit units are usable only to the amount needed on the future Site for the New Use. If the Permitted Industrial User does not need any of the remaining transferred Credits as determined during the Capacity Demand Reviews the unused Credits are lost. In addition, the Capacity Demand Review will determine if additional SAC are required (beyond the use of all of the transferred Credits) and must be paid.

5.7.1.2.4 Community Reporting

The Communities are responsible for reporting the SAC Credit transfer on the SAC Activity Report. The Community at the current Site is responsible for reporting the SAC Credits being transferred to the future Site. Once the local permit, as stated on the MCES Major Credit Transfer – C2 form, has been issued, the Community at the future Site is required to report the SAC Credit transfer on the next SAC Activity Report to MCES. SAC Credits transferred may only be applied up to the amount needed on the new Site for the New Use.

5.7.1.3 SAC Major Credit Transfer Forms

5.7.1.3.1 MCES Major Credit Transfer–A Form - DEED Checklist

The MCES Major Credit Transfer – A form is a checklist for DEED that includes the minimum requirements for a SAC Credit transfer.

5.7.1.3.2 MCES Major Credit Transfer–B Form - Submittal List

The MCES Major Credit Transfer – B form is a submittal list for the business or entity wishing to transfer available Credits to a new location. The legal owner of the business must sign and date this form.

5.7.1.3.3 MCES Major Credit Transfer–C1 Form - Community Form for the Current Site

The MCES Major Credit Transfer – C1 form is an approval form for the Community representing the current Site. This form states the number of Credits that will be transferred. Only the Community Finance Director or Community Manager has the authority to sign this form.

5.7.1.3.4 MCES Major Credit Transfer–C2 Form - Community Form for the New Site

The MCES Major Credit Transfer – C2 form is an approval form for the Community representing the new Site. This form states what type of local permit will be issued to activate the SAC Determination on the new Site. This includes an acknowledgement that these Credits are only available on the specific Site to which they were transferred. Only the Community Finance Director or Community Manager has the authority to sign this form.

5.7.2 Minor SAC Credit Transfers for Small Businesses

Minor SAC Credit transfers are allowed in situations where:

- The request originates from the Community on the MCES Minor Credit Transfer-D form, which shall include as a minimum: the amount to be transferred, identification of the Credit-to and Credit-from Sites, a statement that the Community is responsible for any disputes between business and property owners at the Sites, and the signature of an official of the Community.
- The transfer is limited to 10 SAC or less.
- The transfer request is not for the benefit of a residential or industrial SAC determination.
- A minimal SAC demand for the Site must be retained (as appropriate for the type of property (retail, office, and/or warehouse). A minimum of 1SAC unit for all stand-alone buildings must be retained at the Site from which SAC is being transferred.

5.8 Community Reviews

5.8.1 Basis for Community Reviews

MCES will review each Community's records at least once every three years to assure conformance and consistency to its SAC rules and procedures.

5.8.2 Records Reviewed

During each review, MCES will only look at the most recent 3 years of building or permit or license activity including, but not limited to:

- New Residential permits;
- Residential addition permits that increase the number of Dwelling Units;
- New Commercial permits;
- Commercial remodel, addition, tenant finish, and build out permits;
- Business licenses that change the use of the space; and
- Demolition permits.

MCES will also review the SAC reports during the review period and verify that the 1% prompt payment discount has been taken correctly.

5.8.3 Community Review Payments and Reporting

5.8.3.1 Past Due SAC

When unremitted SAC charges from prior years are discovered during a Community Review or otherwise, the Community must respond in writing within 60 days from the date of the MCES letter if the Community can provide additional information or has a dispute with any of the findings to preserve the Community's legal rights. All undisputed portions of the findings must be paid within 60 days. In an extraordinary situation, the Community may request more time via a written appeal to the MCES Finance Director.

Note: The liability for unpaid SAC is the Community's responsibility regardless of collection of Local SAC from property or business owners.

5.8.3.2 Good Faith Efforts and Use of Earlier SAC Rate

Where the Community has acted in Good Faith in the opinion of the MCES Finance Director, MCES may accept a payment based on an earlier SAC rate and/or without interest accrual. The earlier SAC rate is that rate that was in effect at the time the SAC should have been submitted to MCES. Acceptance of the earlier rate is contingent on payment within 60 days from the date of the Community Review letter (or longer in extenuating circumstances, at the discretion of the MCES Finance Director).

5.8.3.3 Reporting Community Review Charges

Any amount due to MCES from the Community Review must be submitted in the "adjustment" section on the MCES SAC-A form. The 1% prompt payment discount cannot be taken off any adjustment due.