

## **SECTION 17. SUBSURFACE SEWAGE TREATMENT SYSTEMS**

### **SUBDIVISION 1. PURPOSE AND AUTHORITY**

- A. This Section authorizes and provides for sewage treatment and soil dispersal in unsewered areas of the county. It establishes:
1. Minimum standards for and regulation of individual subsurface sewage treatment systems (ISTS) and mid-sized subsurface sewage treatment systems (MSTS) (collectively referred to as subsurface sewage treatment systems or SSTS) in unsewered incorporated and unincorporated areas of Le Sueur County incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency (Agency).
  2. Requirements for issuing permits for installation, alteration, repair, or expansion of an SSTS.
  3. Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 through 7083 to be operated under an approved management plan.
  4. Standards for upgrade, repair, replacement, or abandonment of an SSTS.
  5. Penalties for failure to comply with these provisions.
  6. Provisions for enforcement of these requirements, and
  7. Standards which promote the health, safety, and welfare of the public as reflected in Minnesota Statutes, Sections 115.55; 145A.05; 375.51; 394.21 through 394.37; and 471.82 and the Le Sueur County Land Use Plan and Zoning Ordinance.

#### **B. PURPOSE**

The purpose of this Section is to establish minimum requirements for regulation of ISTS and MSTS for the treatment and dispersal of sewage and standards for septage removal, transport, treatment, and disposal within the applicable jurisdiction of the County to protect public health and safety, surface and groundwater quality, and to prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the County's citizens by protecting its health, safety, general welfare, and natural resources.

## C. INTENT

It is intended by the County that this Section will promote the following:

1. The protection of lakes, rivers and streams, wetlands, and groundwater in Le Sueur County essential to the promotion of public health, safety, welfare, socioeconomic growth, and development of the County.
2. The regulation of proper SSTS construction, reconstruction, repair, and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface and groundwater quality.
3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair, and maintenance to prevent contamination, and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
4. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
5. The provision of technical assistance and education, plan review, inspections, SSTS surveys, and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

## D. AUTHORITY

This Section is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Sections 145A.01 through 145A.08; Minnesota Statutes, Section 375.51; or successor statutes; and Minnesota Rules, Chapters 7080 through 7083; or successor rules.

## E. EFFECTIVE DATE

The provisions set forth in this Section shall become effective April 1, 2022.

## **SUBDIVISION 2. GENERAL PROVISIONS**

### A. SCOPE

This Section regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including, but not necessarily limited to, individual SSTS, cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Section or by a system that has been permitted by the Agency.

## B. JURISDICTION

The jurisdiction of this Section shall include all lands of the County except for incorporated areas that administer an SSTS program by Ordinance within their incorporated jurisdiction, which is at least as strict as this Section and has been approved by the County, and the Agency. The Department shall keep a current list of local jurisdictions within the County administering an SSTS program.

## C. ADMINISTRATION

### 1. **County**

The Department shall administer the SSTS program and all provisions of this Section. The County shall review, revise, and update this Section as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

### 2. **State of Minnesota**

- a. The owner or owners of an SSTS must obtain a State Disposal System (SDS) permit from the Agency according to MN Rules, Chapter 7001 when:
  1. A single proposed or existing soil dispersal area receives a flow greater than 10,000 gallons per day, or;
  2. When all proposed and existing SSTS soil dispersal areas that are under common ownership and within one-half mile of each other have a combined flow greater than 10,000 gallons per day. Flow from an SSTS with low impact to potable water is not counted in this sub item.
- b. SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Section.

### 3. **Cities and Townships**

Any jurisdiction within the County that regulates SSTS shall comply with the standards and requirements of this Section. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Section.

## D. VALIDITY

The validity of this Section shall not be affected by any invalid part or parts of this Ordinance.

## E. LIABILITY

Any liability or responsibility shall not be imposed upon the Department or Agency or any of its officials, employees, or other contract agent, its employees, agents, or servants thereof for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster treatment system regulated under this rule by reason of standards, requirements, or inspections authorized hereunder.

### **SUBDIVISION 3. GENERAL REQUIREMENTS**

#### A. RETROACTIVITY

##### 1. **All SSTS**

All provisions of this Section shall apply to any SSTS regardless of the date it was originally permitted.

##### 2. **SSTS on Lots Created After January 23, 1996**

All lots created after January 23, 1996 must have a minimum of two (2) soil treatment and dispersal areas that can support Type 1 systems as described in Minnesota Rules, Chapters 7080 through 7083, as amended from time to time.

##### 3. **SSTS on Lots Created After June 1, 2022**

All lots created after June 1, 2022 must have a minimum of two (2) soil treatment and dispersal areas that can support Type 1 systems as described in Minnesota Rules, Chapters 7080 through 7083, as amended from time to time.

In addition, each newly created lot shall be able to support a minimum design shall be based on a four-bedroom, Class I single-family dwelling with an effluent flow of 600 gallons per day. The designated sites and ISTS design shall be capable of accommodating the lot's specific soil conditions, topography and required setbacks

#### B. UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT

##### 1. **SSTS Capacity Expansions**

Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Section at the time of the expansion.

## 2. **Failure to Protect Groundwater**

An SSTS that is determined not to be protective of groundwater, in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4.B, shall be upgraded, repaired, replaced, or abandoned by the owner in accordance with the provisions of this Section within one (1) year of receipt of a Notice of Noncompliance (NONC).

## 3. **Imminent Threat to Public Health or Safety**

An SSTS that is determined to be an imminent threat to public health or safety, in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4A, shall be upgraded, repaired, replaced, or abandoned by the owner in accordance with the provisions of this Section within ten (10) months of receipt of a NONC.

## 4. **Abandonment**

Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned by a licensed installation business and in accordance with Minnesota Rules, Chapter 7080.2500.

### C. SSTS IN FLOODPLAINS

An SSTS shall not be located in a floodway, and wherever possible, location within any part of a floodplain, shall be avoided. If no option exists to locate an SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rules, Chapter 7080.2270 and all relevant local requirements are met.

### D. CLASS V INJECTION WELLS

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, parts 144 and 146, are required by the federal government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR40, part 144. Further, SSTS owners are required to identify all Class V injection wells in property transfer disclosures.

### E. SSTS PRACTITIONER LICENSING

1. No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of an SSTS without an appropriate and valid license issued by the Agency in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700.
  - a. Minnesota Rules, Chapter 7083.0700.B: The County will allow homeowners to install their own systems provided they are non-pressurized systems.

- b. The system shall be inspected by the Department (Pictures, and/or record drawings in lieu of Department inspection shall be prohibited).

## F. PROHIBITIONS

### 1. **Occupancy or Use of a Structure without a Compliant SSTS**

It is unlawful for any person to maintain, occupy, or use any structure intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Section.

### 2. **Sewage Discharge to Ground Surface or Surface Water**

It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Section that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System (NPDES) program by the Agency.

### 3. **Sewage Discharge to a Well or Boring**

It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rules, Chapter 4725.2050, or any other excavation in the ground that is not in compliance with this Section.

### 4. **Discharge of Hazardous Materials**

It is unlawful for any person to discharge into any sewage treatment system regulated under this Section any hazardous material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

## **SUBDIVISION 4. SSTS STANDARDS**

### A. STANDARDS ADOPTED BY REFERENCE

The County hereby adopts by reference Minnesota Rules, Chapters 7080 through 7083 in their entirety as now constituted and as amended from time to time. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minnesota Statute, Section 115.55.

### B. AMENDMENTS TO THE ADOPTED STANDARDS

#### 1. **List of Differences**

- a. New Type V Systems shall not be allowed.

- b. Three (3) feet of vertical separation shall be required for all SSTS.
- c. Systems deemed as failing to protect groundwater shall be updated within one (1) year of receiving a NONC.
- d. Septic designs must be submitted to the Department within thirty (30) calendar days after receipt of NONC.
- e. Request to the Department for a septic inspection or soil verification must be received one (1) calendar day prior to the inspection or, soil verification.
- f. As-built drawings must be submitted to the Department within ten (10) calendar days.
- g. Property transfers with a NONC-Failure to Protect Groundwater shall be updated within one (1) year of the NONC or within one (1) year of the transfer, whichever occurs first.
- h. Property transfers with a NONC-Imminent Threat to Public Health and Safety shall be updated within ten (10) months of the NONC or within ten (10) months of the transfer, whichever comes first.
- i. Prior to property sale or transfer, including the division of land with existing development.
- j. If compliance inspections cannot be performed between November 1 and April 30 due to soil conditions and/or weather conditions for property transfers and/or permit requirements, the compliance inspection is required to be submitted to the Department by the following June 1.
  - 1. If the SSTS is determined not to be protective of groundwater, the landowner shall submit a certificate of compliance by the following September 30<sup>th</sup>.
  - 2. If the SSTS is determined to be an imminent threat to public health or safety, the landowner shall submit a certificate of compliance by the following June 30<sup>th</sup>.
  - 3. Permits and/or variances may be issued by the County during this period in the County's sole discretion.
- k. The Compliance Inspection shall be the responsibility of the landowner.
  - 1. In lieu of a compliance inspection, the landowner shall provide a signed and notarized Waiver to the Department acknowledging that without an inspection the septic system servicing the property is non-compliant and shall be replaced within ten (10) months of the date indicated on the waiver.

- m. The compliance inspection shall be submitted to the Department and to the SSTS owner or the owner's agent, from the certified and licensed inspector, no later than fifteen (15) calendar days from the date the inspection was performed.
- n. In all Zoning Districts, any zoning permits requested shall require a compliance inspection.
- o. A fifty (50) foot setback is required from the top of the drainage ditch or waters of the state, unless otherwise designated.
- p. A seventy-five (75) foot setback from Type 3 through 8 wetlands.
- q. A ten (10) foot setback from a septic tank to a pool.
- r. A twenty (20) foot setback from the absorption area to a pool.
- s. No SSTS shall be constructed within thirty (30) feet from the top or the toe of a bluff. For an existing dwelling, SSTS upgrade tank(s), and/or replacement tank(s), shall be exempt from bluff setback and may be located within the bluff impact zone. Tank(s) shall not be located within the bluff.
- t. Continued use of an existing treatment tank shall be exempt from the required setbacks, provided the following are met:
  - 1. The tank meets tank integrity requirements.
  - 2. Tank integrity documentation shall be submitted by an appropriately certified and/or licensed practitioner.
  - 3. The tank shall not be located under or within a structure or other impermeable surface.
  - 4. The tank shall not be located in a shore impact zone or bluff.
- u. An owner of an SSTS must retain a licensed installation business to abandon all components of the treatment system. Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500.
- v. A report of abandonment certified by the licensed installation business shall be submitted to the Department within fifteen (15) calendar days of completed system abandonment.
- w. In order for a compliance inspection to be complete all components shall be inspected for individual, shared, or cluster SSTS that are located on private, common ownership, or public properties.

- x. The SSTS servicing the sewage generating structure shall be sized appropriately or upgraded when increasing the permitted design flow.
- y. Written approval from the association or all connected landowners of an SSTS shall be submitted to the Department when increasing the permitted design flow.

## 2. **Determination of Hydraulic Loading Rate and SSTS Sizing**

Table IX from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) entitled “Loading Rates for Determining Bottom Absorption Area and Absorption Ratios Using Detail Soil Descriptions” and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this Section.

## 3. **Compliance Criteria for Existing SSTS**

- a. An SSTS built before April 1, 1996, outside of areas designated as shoreland areas, wellhead protection areas, or an SSTS providing sewage treatment for food, beverage, or lodging establishments, must have at least two (2) feet of vertical separation between the bottom of the dispersal system and the periodically saturated soil or bedrock.
- b. An SSTS built after March 31, 1996 or an SSTS located in a shoreland area, wellhead protection area, or serving a food, beverage, or lodging establishment as defined under 7080.1100, Subp. 84 shall have three (3) feet of vertical separation between the bottom of the dispersal system and the periodically saturated soil or bedrock. An existing system may be considered compliant under this Section if there is less than a fifteen (15) percent reduction in vertical separation (a separation distance of no less 30.6 inches) to account for the settling of sand or soil, normal variation of separation distance measurements, and interpretation of limiting layer characteristics.
- c. The vertical separation measurement described above shall be measured outside the area of system influence but in an area of similar soil as required in Minnesota Rules, Chapter 7080.1500, Subp.4.
- d. The SSTS must be operated, meet performance standards, and be managed according to its operating permit, if applicable.
- e. For a compliance inspection to be deemed complete, all components shall be inspected for individual, shared, or cluster SSTS that are located on private, common ownership, or public properties.

#### 4. **Holding Tanks**

- a. Holding tanks shall be installed in accordance with Minnesota Rules. Chapter 7080.2290.
- b. Holding tanks may be allowed for areas only where it can be shown conclusively that a Type 1 SSTS, permitted under this Section, cannot be feasibly installed without a variance.
- c. Holding tanks shall not be allowed for any other wastewater applications except for the following:
  1. Other Establishments, including Recreational Vehicles.
  2. Conforming Accessory Structures.

#### C. **VARIANCES**

##### 1. **Variance Requests**

A landowner may request a variance from the standards as specified in this Ordinance pursuant to county policies and procedures. The standards for the granting of a variance shall be those in this Ordinance, and any additional standards set forth in pertinent statutes and rules of the Agency.

##### 2. **Affected Agency**

The County may only allow variances to the horizontal setbacks set forth below. Variances that pertain to the standards and requirements of the state of Minnesota must be approved by the affected state agency pursuant to the requirements of the state agency. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.

#### D. **SETBACKS**

1. SSTS to structure
  - a. Absorption area 20'
  - b. Tank 10'
2. SSTS to property line 10'
3. SSTS to road Right-Of-Way (ROW) 10'

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|---|------|
| 4. SSTS to Ordinary High Water Level (OHWL)   |      |
| a. <b>Natural Environment (NE) Lake</b>   |      |
| 1. Special Protection (SP) District   | 200' |
| 2. Recreational Residential (RR) District   | 200' |
| 3. Recreational Commercial (RC) District  | 150' |
| b. <b>Recreational Development (RD) Lake</b>  |      |
| 1. Special Protection (SP) District   | 100' |
| 2. Recreational Residential (RR) District   | 75'  |
| 3. Recreational Commercial (RC) District  | 75'  |
| 5. SSTS to Rivers and Streams   | 100' |
| 6. SSTS to drainage ditch or waters of the state  | 50'  |
| 7. SSTS to Type 3 through 8 wetlands  | 75'  |
| 8. SSTS to bluff  | 30'  |
| a. For an existing dwelling, SSTS upgrade tank(s), and/or replacement tank(s):                            |      |
| 1. Shall be exempt from bluff setback.  |      |
| 2. May be located within the bluff impact zone.   |      |
| 3. Shall not be located within the bluff.   |      |
| 9. SSTS to pool   |      |
| a. Absorption area  | 20'  |
| b. Tank   | 10'  |
| 10. SSTS to buried water lines and water supply wells as defined in Minnesota Rules Chapters 4715 & 4725. |      |

**SUBDIVISION 5. SSTS PERMITTING**

**A. PERMIT REQUIRED**

It is unlawful for any person to construct, install, modify, replace, or operate an SSTS without the appropriate permit from the Department. The issuing of any zoning permit, variance, or conditional use permit under the provisions of this Ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

**B. PERMIT**

1. The SSTS owner or owner's agent shall obtain a zoning permit from the Department prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion of an SSTS. The purpose of this permit is to ensure that the proposed activity is sited, designed, and constructed in accordance with the provisions of this Section by appropriately certified and/or licensed practitioner(s).

## **2. Activities Requiring a Permit**

A zoning permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

## **3. Activities Not Requiring a Permit**

A zoning permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

## **4. Permit Required**

An SSTS design must be submitted and approved prior to the issuance of a zoning permit for SSTS activity.

- a. Approved and unpermitted septic system designs shall expire one (1) year from the date of approval. After expiration, all documents shall be returned to the applicant.

## **5. Conformance to Prevailing Requirements**

- a. Any activity involving an existing system that requires a zoning permit shall require that the entire system be brought into compliance with Chapters 7080.1500 Subp. 6 and 7081.0080 Subp. 7 as amended from time to time.
- b. Continued use of an existing treatment tank shall be exempt from the required setbacks provided the following are met:
  1. The tank meets tank integrity requirements.
  2. Tank integrity documentation shall be submitted by an appropriately certified and/or licensed practitioner.
  3. The tank shall not be located under or within a structure or other impermeable surface.
  4. The tank shall not be located in a bluff, bluff impact zone, or shore impact zone.

## **6. Monitoring and Disposal Contract**

- a. Owners of holding tanks shall provide to the Department a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minnesota Rules, Chapter 7082.0100, Subp. 3G.
  1. This requirement is waived if the SSTS owner is a farmer who is exempt from licensing under Minnesota Statutes, section 115.56, subdivision 2, paragraph (b), clause (3).

## **7. Permit Requirements for ISTS**

- a. A permit application shall be submitted to the Department.
- b. Owner name, mailing address, telephone number, and email address.
- c. Property Identification Number and address or other description of property location.
- d. Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730.
- e. Design Report as described in Minnesota Rules, Chapter 7080.2430.
- f. Management Plan as described in Minnesota Rules, Chapter 7082.0600.
- g. The SSTS servicing the sewage generating structure shall be sized appropriately or upgraded when increasing the permitted design flow.
- h. Written approval from the Association or all connected landowners of an SSTS shall be submitted to the Department when increasing the permitted design flow.
- i. Additional information as deemed necessary by the Department.

## **8. Permit Requirements for MSTs**

- a. A permit application shall be submitted to the Department.
- b. Owner name, mailing address, telephone number, and email address.
- c. Property Identification Number and address or other description of property location.
- d. Soil and Site Report as described in Minnesota Rules, Chapter 7081.0200.
- e. Groundwater Investigation as described in Minnesota Rules, Chapter 7081.0210.

- f. Design Report as described in Minnesota Rules, Chapter 7081.0270, Subp. 11.
- g. Operation and Maintenance Plan as described in Minnesota Rules, Chapter 7080.2450 and Chapter 7081.0290.
- h. Management Plan as described in Minnesota Rules, Chapter 7082.0600.
- i. The SSTS servicing the sewage generating structure shall be sized appropriately or upgraded when increasing the permitted design flow.
- j. Written approval from the Association or all connected landowners of an SSTS shall be submitted to the Department when increasing the permitted design flow.
- k. Additional information as deemed necessary by the Department.

## **9. Application Review and Response**

- a. The Department shall review the permit application and supporting documents.
- b. Upon satisfaction that the proposed work will conform to the provisions of this Section, the SSTS owner or owner's agent shall obtain a zoning permit authorizing construction of the SSTS as designed.
- c. In the event the designer makes a significant change to the approved design documentation, the designer must file an amended documentation detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for approval or denial.
  - 1. Upon satisfaction that the amended design will conform to the provisions of this Section, the SSTS owner or owner's agent shall obtain a new zoning permit authorizing construction of the SSTS as designed.
- d. If the design, is incomplete or does not meet the requirements of this Section, the Department shall deny the design. A notice of denial shall be provided to the designer, which must state the reason for the denial.

## **10. Appeal**

The SSTS owner or designer may appeal the Department's decision to deny the permit in accordance with the County's established policies and appeal procedures.

## C. OPERATING PERMIT

### 1. SSTS Requiring an Operating Permit

- a. An operating permit shall be required of all owners of new MSTs, Type IV, or any other system deemed by the Department to require operational oversight.
- b. An operating permit shall be required of all owners of existing MSTs, Type IV, or any other system deemed by the Department to require operational oversight upon the following:
  1. Transfer of ownership.
  2. Any replacement, modification or expansion requiring a zoning permit.
  3. Following any SSTS enforcement action.
- c. The SSTS owner shall be responsible for the operating permit.

### 2. Operating Permit Application Requirements

- a. Application for an operating permit shall be made as provided by the Department including:
  1. SSTS owner name, mailing address, and telephone number.
  2. Property Identification Number.
  3. Permit reference number and date of issuance.
  4. Record drawings.

### 3. Department Response

If the submitted documents fulfill the requirements, the Department shall issue an operating permit.

### 4. Operating Permit Terms and Conditions

The operating permit shall comply with Minnesota Rules, Chapter 7082.0600, Subp.2.

## **5. Operating Permit Expiration and Renewal**

- a. Operating permits shall be valid for three (3) years from the date of Certificate of Compliance.
- b. An operating permit must be renewed prior to its expiration. Failure to renew the operating permit prior to its expiration may result in the issuance of a Notice of Noncompliance.
- c. Application shall be made as provided by the Department.

## **6. Amendments to Existing Operating Permits**

The Department may not amend an existing operating permit to reflect changes in this Section until the operating permit term has expired and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.

## **7. Transfers**

The operating permit may be transferred to the new landowner.

## **8. Suspension or Revocation**

- a. The Department may suspend or revoke any operating permit issued under this Section for any false statements or misrepresentations of facts on which the operating permit was issued.
- b. Notice of suspension or revocation and the reasons for revocation shall be conveyed in writing to the SSTS owner.
- c. If suspended or revoked, the Department will issue a Notice of Noncompliance.
- d. At the Department's discretion, the operating permit may be reissued upon the SSTS owner taking appropriate corrective actions.

## **9. Compliance Monitoring**

- a. Performance monitoring of an SSTS shall be performed by a licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.

- b. A monitoring report shall be prepared and certified by a licensed service provider. The report shall be submitted to the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
  1. SSTS owner name, mailing address, and telephone number.
  2. Property Identification Number.
  3. Operating permit number.
  4. Average daily flow since last compliance monitoring report.
  5. Description of type of maintenance and date performed.
  6. If required, analytical laboratory used and results of analyses.
  7. Problems noted with the system and actions proposed or taken to correct them.
  8. Name, signature, and certification and license number of the licensed professional who performed the work.

#### D. ABANDONMENT CERTIFICATION

##### 1. Purpose

The purpose of the abandonment certification is to ensure that a treatment system no longer in service is abandoned within a reasonable time following decommissioning and in a manner that protects public health, safety, and water quality. It also terminates all permits associated with the system.

##### 2. Abandonment Requirements

- a. Whenever the use of an SSTS or any system component is discontinued as the result of a system repair, modification, replacement, or decommissioning following connection to a municipal or private sanitary sewer or condemnation or demolition of a structure served by the system, further use of the system or any system component for any purpose under this Section, shall be prohibited.
- b. Continued use of a treatment tank, where the tank is to become an integral part of a replacement system or a sanitary sewer system, requires a written statement by an appropriately certified and/or licensed practitioner.

- c. An owner of an SSTS must retain a licensed installation business to abandon all components of the treatment system. Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500.
- d. A report of abandonment certified by the licensed installation business shall be submitted to the Department within fifteen (15) calendar days of completed system abandonment.

### 3. **Certificate of Abandonment**

The Department shall keep on file a copy of the Certificate of Abandonment as submitted by a licensed installation business.

## **SUBDIVISION 6. MANAGEMENT PLANS**

### A. PURPOSE

The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the SSTS owner when the treatment system is designed.

### B. MANAGEMENT PLAN REQUIREMENTS

#### 1. **SSTS Requiring Management Plans**

Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the permit for review and approval. The Department shall be notified of any system modifications made during construction, and the management plan revised and resubmitted at the time of final construction certification.

#### 2. **Required Contents of a Management Plan**

- a. Management Plans shall contain all the information required by Minnesota Rules, Chapter 7082.0600, Subp.1.
- b. Other requirements as determined by the Department.

#### 3. **Requirements for Systems Not Operated under a Management Plan** as described in Minnesota Rules, Chapter 7082.0100, Subp. 3.(L).

- a. SSTS that are not operated under a management plan or operating permit must have their treatment tanks inspected and provide for the removal of solids accumulation at least once every three (3) years as described in Minnesota Rules, Chapter 7080.2450.

## **SUBDIVISION 7. COMPLIANCE INSPECTION PROGRAM**

### **A. COMPLIANCE INSPECTION**

- 1. SSTS compliance inspections must be performed:**
  - a. To ensure compliance with applicable requirements.
  - b. Prior to issuance of any zoning permit.
  - c. For all new SSTS construction replacement.
  - d. Upon receipt of a variance and/or conditional use permit application.
  - e. When a zoning permit is required to repair, modify, or upgrade an existing system.
  - f. Any time there is a change in use of the property and/or expansion of the structure being served by an existing SSTS, which may impact the performance of the system.
  - g. Prior to property sale or transfer, including the division of land with existing development.
  - h. At any time as required by this Section or when the Department deems appropriate, such as upon receipt of a complaint or other notice of a system malfunction.
2. It shall constitute a compliance inspection when a party who is not the SSTS owner conducts an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement. This process shall be conducted in accordance with Minnesota Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by the Agency.

### **B. DEPARTMENT RESPONSIBILITY**

1. It is the responsibility of the Department, or its agent, to perform various SSTS compliance inspections on new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the location of the system, or otherwise change the original system's design, layout, or function to assure that the requirements of this Section are met.
2. The Department shall be given access to enter a property at any reasonable time to inspect the SSTS system. As used in this paragraph, "property" does not include a residence or private structure.

3. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

#### C. NEW CONSTRUCTION OR REPLACEMENT

1. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 through 7083. All compliance inspections must be performed and signed by qualified employees. An SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
2. It is the responsibility of the SSTS owner or the owner's agent to notify the Department, one (1) calendar day prior to soil verification and/or inspection of the SSTS.
3. The Department will conduct up to three (3) inspections during construction of the SSTS at such time to assure that the system has been constructed per submitted and approved design.
  - a. If proper notice is received and the Department does not appear for an inspection within two (2) hours after the time set, the permittee may complete the installation.
  - b. The permittee shall then file a signed record drawing including photographs of the system prior to covering with the Department within ten (10) calendar days that the work was installed in accordance with the submitted design, permit conditions, and that it was free from defects.
4. The SSTS servicing the sewage generating structure shall be sized appropriately or upgraded when increasing the permitted design flow.
5. Completed as-built drawings shall be submitted to the Department within ten (10) calendar days.
6. Soil Verifications-Periodically Saturated Soils Dispute Procedures between a certified licensed business and the Department shall:
  - a. Meet on-site with designer;
  - b. If not resolved, meet on-site with another qualified employee from the Department along with the designer;
  - c. If not resolved, hire a Minnesota licensed professional soil scientist who is a certified SSTS designer or inspector at the landowner's expense to make the final judgment.

7. The Department shall issue a Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) years. The Department must have reasonable assurance that the system was built in accordance with the applicable requirements as specified in the design and permit. The Certificate of Compliance shall become invalid if the Department finds evidence of noncompliance.
8. The Certificate of Compliance must include a certified statement by a certified, licensed inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the Section requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a Notice of Noncompliance shall be issued to the SSTS owner, which includes a statement specifying those Section provisions with which the SSTS does not comply.
9. The Department shall issue the Certificate of Compliance or Notice of Noncompliance to the SSTS owner or the owner's agent within fifteen (15) calendar days of receipt all necessary documentation from the septic installer.

#### D. EXISTING SYSTEMS

1. Compliance inspections shall be required when any of the following conditions occur:
  - a. Prior to issuance of any zoning permit.
  - b. Upon receipt of a variance and/or conditional use permit application.
  - c. When a zoning permit is required to repair, modify, or upgrade an existing system.
  - d. Any time there is a change in use of the property and/or expansion of the structure being served by an existing SSTS, which may impact the performance of the system.
  - e. Prior to property sale or transfer, including the division of land with existing development.
  - f. At any time as required by this Section or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
2. All property conveyances subject to this Section occurring during the period between November 1 and April 30, or when an SSTS compliance cannot be determined due to frozen soil conditions, shall require a compliance inspection by the following June 1 by a licensed inspection business.
  - a. If the SSTS is determined not to be protective of groundwater, the landowner shall submit a certificate of compliance by the following September 30<sup>th</sup>.
  - b. If the SSTS is determined to be an imminent threat to public health or safety, the landowner shall submit a certificate of compliance by the following June 30<sup>th</sup>.

3. Compliance inspections of an existing SSTS shall be documented on the inspection report forms provided by the Agency. Requirements for inspection reports are described in Minnesota Rules, Chapter 7082.0700. Requirements for inspection reports are described in Minnesota Rules, Chapter 7082.0700, Subp. 4(B).
4. Periodically saturated soils dispute procedure between two (2) certified, licensed businesses as described in Minnesota Rules 7082.0700, Subp. 5.
5. SSTS that are determined to have operational or monitoring deficiencies must immediately be maintained, monitored, or otherwise managed according to the operating permit.
6. The SSTS servicing the sewage generating structure shall be sized appropriately or upgraded when increasing the permitted design flow.
7. In lieu of a compliance inspection, the landowner shall provide a signed and notarized Waiver to the Department acknowledging that without an inspection the septic system servicing the property is non-compliant and shall be replaced within ten (10) months of the date indicated on the waiver.
8. The compliance inspection shall be submitted to the Department and to the SSTS owner or the owner's agent, from the certified and licensed inspector, no later than fifteen (15) calendar days from the date the inspection was performed.
  - a. If the SSTS is determined to be compliant, the Certificate of Compliance must include a certified statement by a qualified employee, or a certified and licensed inspection business or individual.
  - b. If the SSTS is determined not to be in compliance with the applicable requirements, a Notice of Noncompliance must include a statement specifying those section provisions with which the SSTS does not comply.
9. Certificates of Compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless the Department finds evidence of noncompliance.

#### E. TRANSFER OF PROPERTIES

1. Whenever a conveyance of land occurs upon which a structure is located that has an existing SSTS, a Compliance Inspection shall be provided by the seller to the buyer at or before the closing date, unless there is a valid Certificate of Compliance on file with the Department.
  - a. Transfer of properties includes the division of land with existing development.

2. The compliance inspection need not be completed if the sale or transfer involves the following circumstances:
  - a. The affected tract of land is without structures or contains no structures with plumbing fixtures.
  - b. The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, Subdivision 1.
  - c. Any structures that are connected exclusively to a municipal wastewater treatment system; any structures that are located within the jurisdiction of the County with an approved agreement requiring exclusive connection to a municipal wastewater treatment system; or, any structures that are connected exclusively to an approved wastewater treatment facility other than an individual sewage treatment system.
3. In lieu of a compliance inspection, the landowner shall provide a signed and notarized Waiver to the Department acknowledging that without an inspection the septic system servicing the property is non-compliant and shall be replaced within ten (10) months of the date indicated on the waiver.
4. The responsibility of upgrading the non-complying SSTS shall be that of the landowner.

## **SUBDIVISION 8. ENFORCEMENT**

### **A. VIOLATIONS**

#### **1. Cause to Issue a Notice of Violation**

Any person, firm, agent, or corporation who violates any of the provisions of this Section, or who fails, neglects, or refuses to comply with the provisions of this Section, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes. Each day that a violation exists shall constitute a separate offense.

#### **2. Notice of Violation**

- a. The Department shall serve, in person or by mail, a Notice of Violation (NOV) to any person determined to be violating provisions of this Section. The NOV shall contain:
  1. A statement documenting the findings of fact determined through observations, inspections, or investigations.
  2. A list of specific violation(s) of this Section.

3. Specific requirements for correction or removal of the specified violation(s).
4. A mandatory time schedule for correction, removal and compliance with this Section.

### 3. Cease and Desist Orders

Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this Section or any other Section of this Ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, the work shall not resume until the reason for the work stoppage has been completely satisfied, any fees paid as deemed necessary by the Department, and the cease and desist order lifted.

## B. PROSECUTION

In the event of a violation or threatened violation of any part of this Section, the County shall enforce the provisions of this Section as provided for and described in this Ordinance.

## C. NOTIFICATION OF VIOLATION

The Department shall notify the Agency of any inspection, installation, design, construction, alteration, or repair of an SSTS by a licensed/certified person or any septage removal by a licensed maintainer that is performed in violation of the provisions of this Section or Minnesota Rules, Chapters 7080 through 7083.

## D. RECORD KEEPING

The County shall maintain current records as described in Minnesota Rules, Chapter 7082.0300, Subp.4.

## E. FEES

From time to time, the County Board shall, by resolution, establish fees for activities undertaken by the Department pursuant to this Ordinance. Fees shall be due and payable at a time and in a manner to be determined by the Department.

## F. INTERPRETATION

In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

## G. SEVERABILITY

If any subdivision, clause, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of law, the remainder of this Ordinance shall not be affected and shall remain in full force.

## H. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Section to repeal, abrogate, or impair any other existing County Ordinance, easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail. All other Sections and/or Ordinances inconsistent with this Section, are hereby repealed to the extent of the inconsistency only.