

**SUBSURFACE SEWAGE TREATMENT  
SYSTEM ORDINANCE  
ST. LOUIS COUNTY**

**DRAFT**

COUNTY ORDINANCE NUMBER \_\_\_\_\_

(Effective Date)

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## ST. LOUIS COUNTY

ORDINANCE NO. \_\_\_\_

### SUBSURFACE SEWAGE TREATMENT SYSTEMS

This is an ordinance authorizing and providing for sewage treatment and soil dispersal in unsewered areas of the county. It establishes:

- 1) Minimum standards for and regulation of individual sewage treatment systems (ISTS) and mid-sized Subsurface Sewage Treatment Systems (MSTS) (collectively referred to as SSTS) in unsewered incorporated and unincorporated areas of **St. Louis County** incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency,
- 2) Requirements for issuing permits for installation, alteration, repair or expansion of SSTS,
- 3) Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan,
- 4) Standards for upgrade, repair, replacement, or abandonment of 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, 394.21-394.37, and 471.82, the County Comprehensive Plan and the County Zoning and Shoreland Ordinance.

#### ARTICLE I      PURPOSE AND AUTHORITY

##### ARTICLE I, SECTION 1.0      PURPOSE AND INTENT

###### 1.01      Purpose

The purpose of this ordinance is to establish minimum requirements for regulation of ISTS and MSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and 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.

###### 1.02      Intent

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

- A. The protection of lakes, rivers and streams, wetlands, and groundwater in **St. Louis County** essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County

- B. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
- C. 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.
- D. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
- E. 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.

#### **ARTICLE I, SECTION 2.0 AUTHORITY**

This Ordinance 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, Chapter 7080, Chapter 7081, Chapter 7082;, or successor rules.

#### **ARTICLE I, SECTION 3.0 EFFECTIVE DATE**

The provisions set forth in this Ordinance shall become effective on (DATE).

#### **ARTICLE II DEFINITIONS**

The following words and phrases shall have the meanings ascribed to them in this Article. If not specifically defined in this Article, terms used in this Ordinance shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this Ordinance, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

**As-built:** As-built means drawings and documentation provided by the designer to St. Louis County Environmental Services. As-built drawing shall document the final in place location, size, and type of all SSTS system components.

**Authorized Representative:** An employee or agent of the County Environmental Services Department.

**Advisory Committee (optional):** A committee of SSTS stakeholders appointed by the County Board to advise the St. Louis County Environmental Services Department on issues related to the regulation and practices of SSTS in St. Louis County.

**Board of Adjustment:** Shall mean St. Louis County Board of Adjustment. A board established by county ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order,



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requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statutes, sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls.

**Certificate of Compliance/Authorization to Use:** Certificate of Compliance/Authorization to Use is issued by the Department upon construction of an SSTS for new and replacement systems only, certifying that the system is in compliance with the requirements of this Ordinance.

**Class V Injection Well:** A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

**Clean Sand:** Clean Sand for the purpose of Mound construction shall meet the following sieve sizing requirements as referenced in Article V, Section 2.0 Amendment to The Adopted Standards 2.01 (A).

**Cluster System:** A SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.

**Compliant:** Meeting the SSTS treatment, operational, and safety goals of MN 7080.1500.

**County:** St. Louis County, Minnesota.

**County Board:** The St. Louis County Board of Commissioners.

**Department:** The St. Louis County Environmental Services Department.

**Design Flow:** The daily volume of wastewater for which an SSTS is designed to treat and discharge.

**Environmental Services Director:** Shall be the St. Louis County Environmental Services Director.

**Failure to Protect Groundwater:** At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Section 5 hereof.

**Imminent Threat to Public Health and Safety:** At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches,

or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a SSTS inspection business licensed pursuant to Section 5 hereof.

**ISTS:** An individual sewage treatment system having a design flow of no more than 5,000 gallons per day.

**Industrial Waste:** Sewage containing waste from activities other than sanitary waste from industrial activities including, but not limited to, the following uses defined under the Standard Industrial Classification (SIC) Codes established by the U.S. Office of Management and Budget.

SIC CODE(S)	INDUSTRY CATEGORY
753-7549	Automotive Repairs and Services
7231,7241	Beauty Shops, Barber Shops
7211-7219	Laundry Cleaning and Garment Services
4011-4581	Transportation (Maintenance only)
8062-8069	Hospitals
2000-3999	Manufacturing
2000-2099	Food Products
2100-2199	Tobacco Products
2400-2499	Lumber and Wood Products, except Furniture
2500-2599	Furniture and Fixtures
2600-2699	Paper and Allied Products
2700-2799	Printing, Publishing, and Allied Industries
2800-2899	Chemicals and Allied Products
2900-2999	Petroleum Refining and Related Industries
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3200-3299	Stone, Clay, Glass, and Concrete Products
3300-3399	Primary Metal Industries
3400-3499	Fabricated Metal Products (except Machinery, and Transportation Equipment
3500-3599	Industrial and Commercial Machinery and Computer Equipment
3700-3799	Transportation Equipment
3800-3899	Measuring, Analyzing, and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks
3900-3999	Miscellaneous Manufacturing Industries

**Malfunction:** The partial or complete loss of function of a SSTS component, which requires a corrective action to restore its intended function.

**Management Plan:** A plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.

**Minor Repair:** ~~The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The~~

repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS.

**MSTS:** A “mid-sized subsurface sewage treatment system” under single ownership that receives sewage from dwellings or other establishments having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.

**Noncompliant:** Not meeting the treatment, operational, and safety goals of MN 7080.1500.

**Notice of Noncompliance:** A written document issued by the Department notifying a system owner that the owner’s onsite/cluster treatment system has been observed to be noncompliant with the requirements of this Ordinance.

**MPCA:** Minnesota Pollution Control Agency.

**Operating Permit:** An operating permit is a permit issued by the Department for the purpose of governing the operating, maintenance, and monitoring of an SSTS.

**Qualified Employee:** An employee of the state or a local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual’s employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.

**Record Drawings:** ~~A set of drawings which to the fullest extent possible document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system.~~

**Sewage:** Waste from toilets, bathing, laundry, or culinary activities or operations or floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.

**SSTS:** Subsurface sewage treatment system Including an ISTS, MSTS or LSTS.

**State:** The State of Minnesota.

**Transfer Agreement:** An agreement between buyer and seller which allows the transfer of real property prior to an SSTS Certificate of Compliance Inspection.

**Treatment Level:** Treatment system performance levels defined in Minnesota Rules, Chapter 7083.4030, Table III for testing of proprietary treatment products, which include the following:

Level A:  $cBOD_5 \leq 15$  mg/L;  $TSS \leq 15$  mg/L; fecal coliforms  $\leq 1,000/100$  mL.

Level B:  $cBOD_5 \leq 25$  mg/L;  $TSS \leq 30$  mg/L; fecal coliforms  $\leq 10,000/100$  mL.

Level C:  $cBOD_5 \leq 125$  mg/L;  $TSS \leq 80$  mg/L; fecal coliforms N/A.

**Type I System:** An ISTS that follows a standard trench, bed, at-grade, mound, or graywater system design in accordance with MPCA rules, Minnesota Rules, Chapter 7080.2200 through 7080.2240.

**Type II System:** An ISTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a

standard Type I system. These include systems on lots with rapidly permeable soils or lots in floodplains and privies or holding tanks.

**Type III System:** A custom designed ISTS having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

**Type IV System:** An ISTS, having an approved pretreatment device and incorporating pressure distribution and dosing, that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.

**Type V System:** An ISTS, which is a custom engineered design to accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and other relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented.

**Vertical Separation:** “Vertical separation” means the vertical measurement of unsaturated soil or sand between the bottom of the distribution medium and the periodically saturated soil level or bedrock.

## ARTICLE III GENERAL PROVISIONS

### ARTICLE III, SECTION 1.0 SCOPE

This Ordinance 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 and 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 Ordinance or by a system that has been permitted by the MMPCA.

### ARTICLE III, SECTION 2.0 JURISDICTION

The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their incorporated jurisdiction, which is at least as strict as this Ordinance and has been approved by the County. The County **Environmental Services Department** shall keep a current list of local jurisdictions within the County administering a SSTS program.

### ARTICLE III, SECTION 3.0 ADMINISTRATION

#### 3.01 COUNTY ADMINISTRATION

The County **Environmental Services** Department shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County shall review this and revise and update this Ordinance as necessary. The County

shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

### **3.02 STATE OF MINNESOTA**

Where a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a State Disposal System permit from MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a State Disposal System permit is required.

SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance.

### **3.03 CITIES AND TOWNSHIPS**

Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance. **If a local jurisdiction chooses to have its own SSTS ordinance the County is required to review and confirm that the ordinance meets the strictness requirement as referenced in 7082.0040, Subp. 3.** The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.

## **ARTICLE III, SECTION 4.0 VALIDITY**

The validity of any part of this Ordinance shall not be affected by the invalidity of any other parts of this Ordinance where the part can be given effect irrespective of any invalid part or parts.

## **ARTICLE III, SECTION 5.0 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.

## **ARTICLE III, SECTION (6.0) ADVISORY COMMITTEE (OPTIONAL)**

### ***Option:***

*Ordinance language is provided here for the option of establishing an advisory committee to advise the County board, department or staff by offering technical advice, evaluating the regulatory program effectiveness periodically to assess whether it is achieving its purpose and goals, and recommending needed program improvements. Numbers or language in parentheses indicates where optional methods might be considered.*

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**6.01 Functions**

*The advisory group shall consult with the County with respect to implementation and administration of this Ordinance and to make recommendations regarding program improvements. The advisory group may provide technical assistance regarding evaluation of treatment technology design and performance, conduct periodic program audits to report on the effectiveness of the rules and their administration with respect to their intent and application, and provide other support where needed in the development and performance of the regulatory program. The focus of the advisory group is to be only on the regulatory program. It is not to advise on specific regulatory actions except as they relate to overall program procedures.*

**6.02 Membership**

*Membership shall consist of representatives from stakeholder groups and citizens as appropriate. The number of committee members shall be at least (5) but no more than (15). County staff shall not be committee members but shall attend all meetings and provide administrative support to the committee.*

**6.03 Appointments and Terms**

*Members shall be appointed by the County Board for (3 year) staggered terms. (Their terms may be renewed.) The members shall serve (with/without) compensation in accordance with County policy. Expenses to attend committee meetings shall be reimbursed by the County according to County's reimbursement procedures and policies.*

**6.04 Administration**

*The committee shall be chaired by a committee member appointed by the committee members for a term not to exceed (3) years. The chair shall be responsible for establishing meeting agenda, meeting dates, and meeting locations. Agenda items shall be determined by the committee and may include any aspect of the program. The County staff shall provide administrative support as needed and requested by the committee chair. The County staff may suggest meeting agenda items.*

**6.05 Meeting Frequency**

*The committee shall meet as often as deemed necessary by the committee chair. At a minimum, the committee shall meet (twice) annually.)*

**ARTICLE IV GENERAL REQUIREMENTS****ARTICLE IV, SECTION 1.0 RETROACTIVITY****1.01 All SSTS**

Except as explicitly set forth in Article IV, Section 1.02, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

### 1.02 Existing Permits

Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership whichever is earlier.

### 1.03 SSTS on Lots Created ~~Before~~ **After January 23, 1996** ~~after February 22, 1979~~

~~All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds, and at-grade systems as described in Minnesota Rules, Chapters 7080.2200 through 7080.2230 or site conditions described in 7081.0270, Subp. 3 through 7.~~ **All lots created after February 22, 1979 must maintain a minimum of two soil treatment and dispersal areas which meet the requirements of this ordinance.**

### ~~1.04 Existing SSTS without Permits~~

~~Existing SSTS with no permits of record shall require a permit and be brought into compliance with the requirements of this Ordinance regardless of the date they were originally constructed.~~

## ARTICLE IV, SECTION 2.0 UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT

### 2.01 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 Ordinance at the time of the expansion.

### 2.02 Bedroom Additions

The owner is allowed ~~5~~ **2** years from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system if the following conditions apply:

- A. ~~The existing system was installed between May 27, 1989 and January 3, 1996;~~ **The St. Louis County Planning and Development Department, or local zoning authority** issues a permit to add a bedroom;
- B. A SSTS inspection is triggered by a bedroom addition permit request;
- C. ~~The existing system was installed between May 27, 1989 and January 3, 1996;~~
- D. The SSTS does not comply with Minnesota Rules, Chapter 7080.1500, Subp. 4.B.;
- E. The SSTS is not determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.A.

### 2.03 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 Ordinance within (18 months) of receipt of a Notice of Noncompliance. following requirements:

- A. All systems with less than 12” of vertical separation must be replaced within 24 months.
- B. Systems with greater than 12” of vertical separation but do not meet the definition of compliant shall be replaced:
  1. When the applicant applies for a land use permit for a bedroom addition, or as otherwise required by St. Louis County Zoning or township ordinance.
  2. At the time of a variance or Planning Commission application.
  3. Or large expansion of use which would impact the SSTS area or replacement area.

### 2.04 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 Ordinance within 10 months of receipt of a Notice of Noncompliance. Additionally, the property owner is required to abate the imminent threat to public health or safety within 10 days of receiving notification from the department.

### 2.05 Abandonment

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

## ARTICLE IV, SECTION 3.0 SSTS IN FLOODPLAINS

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should/shall be avoided. If no option exists to locate a 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.

## ARTICLE IV, SECTION 4.0 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, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.



## **ARTICLE IV, SECTION 5.0 SSTS PRACTITIONER LICENSING**

No person shall engage in site evaluation, inspection, design, installation, construction, alternation, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700.

### **ARTICLE IV, SECTION 5.01 HOMEOWNER EXEMPTION**

An individual who is exempt under 7083.0700 must sign an agreement indemnifying the County against claims due to the failure of the owner to comply with the provisions of this ordinance. The individual must schedule a pre-construction inspection with the department prior to installation.

## **ARTICLE IV, SECTION 6.0 PROHIBITIONS**

### **6.01 Occupancy or Use of a Building without a Compliant SSTS**

It is unlawful for any person to maintain, occupy, or use any building 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 Ordinance.

### **6.02 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 Ordinance 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 program by the MPCA.

### **6.03 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 ordinance.

### **6.04 Discharge of Hazardous or Deleterious Materials**

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

## **ARTICLE V SSTS STANDARDS**

### **ARTICLE V, SECTION 1.0 STANDARDS ADOPTED BY REFERENCE**

The County hereby adopts by reference Minnesota Rules, Chapters 7080 and 7081 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minnesota Statute 115.55.

#### **A. Minnesota Department of Resources Shoreland Rules**

**B. St. Louis County Zoning Ordinance****C. Any township or city land use requirements****ARTICLE V, SECTION 2.0 AMENDMENTS TO THE ADOPTED STANDARDS****2.01 List of Adopted Standards**

- A. For the purpose of this ordinance St. Louis County replaces 7080.2220, Subp. 3C with the following sieve sizing requirements for mound construction.

<u>SIEVE SIZE</u>	<u>PERCENT PASSING SIEVE</u>
3/8 inch	80-100
No. 4	80-100
No. 8	80-100
No. 16	50-85
No. 30	25-60
No. 50	5-30
No. 100	0-10
No. 200	0-3

NOTE: The fine aggregate shall not have more than forty-five percent (45%) sand retained between any two consecutive sieves.

NOTE: Discard the #4 and larger aggregate for computation of percent passing the #8 through #200 sieve.

- B. For the purpose of design flow calculation St. Louis County replaces 7080 Table IV and requires all Type I SSTS's for a dwelling must be designed at 150 gallons per bedroom per day. At a minimum all Type III & IV systems for a dwelling must be designed at 100 gallons per bedroom per day.
- C. For the purpose of treatment and dispersal St. Louis County replaces 7080 Table IX and adopts the following table: Loading rates for determining bottom absorption area for trenches and seepage beds for effluent treatment Level C and absorption ratios for determining mound absorption areas, contour loading rate Table (from Bob Whitmyer)
- D. For the purpose of this ordinance St. Louis County does not adopt 7080.2210, Subp. 3 (B) which allows sidewall absorption area reduction for trenches.
- E. For the purpose of this ordinance St. Louis County replaces the requirement for a minimum of two soil treatment and dispersal areas that support systems as described in parts 7080.2200 to 7080.2230 or site conditions described in part 7081.0270, Subps 3 to 7, with the minimum requirements described in Article IV, Section 1.03.

- F. In the case of a dispute resolution St. Louis County replaces 7082.0700, Subp 5 with the following requirement:

In the case of **two licensed SSTS businesses** the dispute shall be handled in the following manner.

1. The two disputing parties shall first meet on site in an attempt to resolve differences. If the parties still cannot agree they must proceed to step 2 or 3.
2. A St. Louis County SSTS professional shall meet on site with the disputing parties in an attempt to resolve the difference.
3. If the disputing parties still do not agree then the parties must obtain the opinion of a currently registered Minnesota soil scientist, who is both a registered SSTS professional designer or inspector, and independent of, and agreed upon by both parties. The opinion of the soil scientist shall settle the dispute and shall be the basis for the issuance of a Permit to Construct or the issuance of a Certificate of Compliance or Notice of Noncompliance.

In the case of a dispute between a **licensed SSTS business and a St. Louis County SSTS** professional the dispute shall be resolved by using the following steps:

1. The St. Louis County SSTS professional shall meet on site with the licensed business SSTS professional and attempt to resolve the difference. If the parties cannot agree then the dispute will be resolved by using step 3 above.

## **2.02 Determination of Hydraulic Loading Rate and SSTS Sizing**

**Refer to 2.01 C**

## **2.03 Compliance Criteria for Existing SSTS**

SSTS built before April 1, 1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

## **2.04 Holding Tanks**

- A. An Operating Permit is required to maintain a Holding Tank. Holding Tanks may only be installed for seasonal use where standard or Alternative Systems are not feasible.

Where it is physically possible, but not financially practical, the Environmental Service Director or Authorized Representative will make the determination on the feasibility/practicality of a septic system. If a Holding Tank can be issued the property owner must submit a plan from a licensed designer which:

1. designates the future septic system area and replacement area, and
2. the property owner further agrees not to develop the designated SSTS areas.

Holding Tanks may be allowed:

1. as replacements for existing nonconforming systems on existing parcels or lots as of the date of the enactment of these Standards;
2. on existing lots of record for new seasonal development;
3. in cases where a municipal sewer will be available in the near future (within 5 years);
4. for non-dwellings that have intermittent or very low water use;
5. seasonal use is defined as a dwelling which is occupied April through November.

## ARTICLE V, SECTION 3.0 VARIANCES

### 3.01 Variance Requests

A property owner may request a variance from the standards as specified in this ordinance pursuant to county policies and procedures.

### 3.02 Affected Agency

Variations 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.

### 3.03 Board of Adjustment

*The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance where there are practical difficulties or particular hardship in meeting the strict letter of this Ordinance. Variance requests to deviate from the design flow determination procedures in Minnesota Rules, Chapter 7081.0110 if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day, or to provisions in 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through 5 regarding the vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in 7082.1700, Subp. 4D) must be approved by MPCA. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.*

- A. *Any property owner requesting relief from the strict application of the provisions in this Ordinance must complete and submit an Application for Variance to the Department on a form provided by the Department. The variance request must include, as applicable:*

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1. *A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;*
  2. *A description of the hardship that prevents compliance with the rule;*
  3. *The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions;*
  4. *The length of time for which the variance is requested;*
  5. *Cost considerations only if a reasonable use of the property does not exist under the term of the Ordinance; and*
  6. *Other relevant information requested by the Department as necessary to properly evaluate the variance request.*
- B. The appropriate fee shall be paid at the time of submittal of the application to receive consideration by the Board of Adjustment*
- C. Upon receipt of the variance application, the Department shall decide if a site investigation conducted by the Department will be necessary. After the necessary information has been gathered, the Department shall make a written recommendation to approve or deny the variance to the Board of Adjustment.*
- D. The Board of Adjustment shall make the final decision after conducting a public hearing. The variance may be granted provided that:*
1. *The condition causing the demonstrated hardship is unique to the property and was not caused by the actions of applicant;*
  2. *The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the vicinity;*
  3. *The property owner would have no reasonable use of the land without the variance;*
  4. *The granting of the variance would not allow a prohibited use; and*
  5. *The granting of the variance would be in accordance with Minnesota Rules, Chapters 7080, 7081, and 7082.*
- E. In granting a request for a variance, the Board of Adjustment may attach such conditions as it deems necessary to conform to the purpose and intent of this Ordinance.*
- F. Any violation of the terms and conditions of a variance issued pursuant to this Ordinance, or any violation of any provision of this Ordinance relating to the specific issue of the variance, shall result in immediate revocation of the variance.*

*G. Any ~~variance~~ SSTS permit granted shall automatically expire if the system is not installed within ~~one~~ two years of the grant of the variance.*

*H. ~~An appeal from any order, requirement, decision, or determination of the Board of Adjustment in accordance with its policies and procedures.~~*

*H. All decisions by the Board of Adjustment in granting Variances or in hearing appeals from any administrative order, requirement, decision, or determination shall be final except any aggrieved Person or Persons, or any Department, Board or Commission of the jurisdiction or of the State shall have the right to appeal within 30 days after receipt of the notice of the decision to the District Court on questions of law and fact.*

*I. ~~The Board of Adjustment may reverse or affirm wholly or partly, or modify the order, requirement, decision or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a Permit.~~*

## **ARTICLE V, SECTION 4.0 SUBDIVISION REQUIREMENTS**

**4.01** Person(s) proposing to subdivide property in St. Louis County shall provide in-depth soil/site evaluation information for the purposes of determining long term Subsurface Sewage Treatment System (SSTS) suitability. Specifications are listed below.

### **A. Soil Information.**

1. All soil descriptions shall meet USDA soil science best practices and terminology. At a minimum such descriptions shall contain horizon depths, texture, structure, consistence, redoximorphic features and color. Soil wastewater loading rates, contour loading rates, and delineations of seasonal high water indicators and seasonally saturated soil layers shall be made.
2. At a minimum, soil descriptions shall be made by a Minnesota Pollution Control Agency SSTS accredited Designer I. Required soil information shall be submitted on forms approved by the Department.
3. Each proposed lot shall have SSTS sites identified with a minimum of one soil pit to a depth of five (5) feet. Soil pits less than this depth may be allowed with prior Department approval. In no case shall the test pits to be less than two feet unless water table or bedrock is encountered. Additional soil pits or borings to delineate primary and replacement SSTS locations shall be completed as per the professional opinion of the site evaluator or as required by the Department.
4. St. Louis County SSTS professionals will be available upon request of the developer or his representative to verify soil information at the time the original soil excavations are dug. A fee will be charged for this service.
5. Upon request, the developer or their representative shall provide to the Department soil pits suitable for the verification of soil information provided

in the report.

6. In the event that a more detailed soil analysis is needed, information shall be provided by a licensed soil scientist who is also a Minnesota Pollution Control Agency ISTS accredited Designer I. The soil scientist must be licensed by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geo Science, and Interior Design of the State Department of Commerce.
7. Primary and replacement ISTS locations shall be delineated on a scaled map with 10' foot maximum contour increments, along with pit location and identification number.

**B. Site Information.** All proposed sites for SSTS shall (at a minimum) be evaluated as to:

1. Size and shape of the proposed lot(s). This is a scale drawing with 10 foot contours, lot property lines and each lot's proposed acreage.
2. Slope
3. The existence of wetlands, local surface depressions, rock outcrops, and flood plains.
4. Soil conditions, properties, and permeability.
5. Depth to the highest known seasonally saturated zone in the soil profile or bedrock.
6. Surface water flooding probability.

**C. Minimum Lots Size Requirements**

New lots created after the effective date of this ordinance must have two septic system areas that meet the requirements of this ordinance. All lots must meet the minimum lot size requirements of this Ordinance or minimum Zoning requirements whichever are greater. The Department shall evaluate the soils and site information to ensure that all lots meet the minimum lot size requirements listed below:

1. Lots that can be developed with a Type I trench, seepage bed or at grade system shall be at least One acre with an average lot width of 150 feet.
2. All other lots shall be at least two acres with an average lot width of 200 feet.
3. Additionally, lots that must be developed with Type IV performance systems shall be two acres with an average lot width of 200 feet and must identify and reserve an additional 12,000 sq.ft of suitable septic system area with the capacity to disperse 600 gallons of effluent/day as determined by a licensed soil scientist described in this section.

## ARTICLE V, SECTION 5 EXISTING LOTS OF RECORD

**5.01** Lots falling short of the minimum lot width and area requirements listed above may be permitted provided they meet all the conditions listed in this Section of A or B below:

**A. The lot is a lot of record as of February 22, 1979.**

1. The lot is in separate ownership from the abutting lands.
2. The lot has septic system and replacement areas and all other applicable requirements such as, but not limited to setbacks and separation distances can be met.
3. The lot meets minimum requirements of St. Louis County Zoning Ordinance 46 or other local zoning ordinance.
4. The proposed installation meets with Departmental approval.

**B. The lot is developed and there is no proposed increase in water use.**

1. The sanitary system currently serving the lot has been inspected by a licensed SSTS professional who has determined that the system does not have at least one foot of vertical separation between the bottom of the distribution medium and the saturated soil level or bedrock; or the system is an Imminent Threat to Public Health or Safety. For the purpose of this section an increase in water use shall mean that there will be more sewage generated on the lot. Examples of increased water use include, but are not limited to, the property use changing from seasonal to year round; going from a privy to indoor plumbing; adding a bedroom, bunkhouse, or loft; or adding large water-using fixtures such as a spa-type bathtub.
2. There is sufficient area available for corrective measures to be taken.
3. The proposed installation meets with departmental approval.

## ARTICLE VI SSTS PERMITTING

### ARTICLE VI, SECTION 1.0 PERMIT REQUIRED

It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate permit Authorization to Construct from the Environmental Services Department, St. Louis County. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

### ARTICLE VI, SECTION 2.0. SSTS CONSTRUCTION PERMIT

A **SSTS** construction permit shall be obtained by the property owner or an agent of the property owner from the County prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and



constructed in accordance with the provisions of this Ordinance by appropriately certified and/or licensed practitioner(s).

### **2.01 Activities Requiring a SSTS Construction Permit**

A **SSTS** construction permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any ~~repair or replacement of a~~ 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.~~

### **2.02 Activities Not Requiring a Permit**

A **SSTS** construction 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.

### **2.03 SSTS Construction Permit Required to Obtain Building Permit**

*For any property on which a SSTS permit is required, approval and issuance of a valid SSTS Construction Permit must be obtained before a building or land use permit may be issued by the Department.*

### **2.04 Conformance to Prevailing Requirements**

*Any activity involving an existing system that requires a **SSTS** Construction Permit shall require that the entire system be brought into compliance with this Ordinance.*

### **2.05 Permit Application Requirements**

**SSTS** Construction Permit applications ~~and appropriate fee~~ shall be ~~made~~ **submitted** on forms provided by the **Environmental Services Department** and signed by the applicant and an appropriately certified practitioner including the practitioner's certification number and date of expiration. The applications shall include the documents listed in items A through ~~E~~ **F** below.

- A. Name, mailing address, ~~and~~ telephone number, ~~and email address.~~
- B. Property Identification Number and address or other description of property location.
- C. Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730
- D. Design Report as described in Minnesota Rules, Chapter 7080.2430.
- E. Additional soils information may be required at the discretion of the Environmental Services Director or Authorized Representative.**
- F. Management Plan as described in Minnesota Rules, Chapter 7082.0600.

### **2.06 Application Review and Response**

The Department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this

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Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for approval or denial. The Department shall complete the review of the amended application within ~~(15)~~ (10) working days of receipt of the amended application. If the permit application is incomplete or does not meet the requirements of this ordinance the Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.

### **2.07 Appeal**

The applicant may appeal the Department's decision to deny the **SSTS** Construction Permit in accordance with the County's established policies and appeal procedures.

### **2.08 Permit Expiration**

The **SSTS** Construction Permit is valid for a period of no more than ~~one~~ two years from its date of issue. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in reasonable conformance with the approved design documents by a qualified employee of the Department or a licensed inspection business, which is authorized by the Department and independent of the owner and the SSTS installer.

### **2.09 Extensions and Renewals**

*The Department may grant an extension of the **SSTS** Construction Permit if the construction has commenced prior to the original expiration date of the permit. (The permit may be extended for a period of no more than ~~(6)~~ (12) months, as long as the conditions submitted with the original **SSTS** Construction Permit are still valid.*

### **2.10 Transferability**

A **SSTS** Construction Permit shall not be transferred to a new owner. The new owner must apply for a new **SSTS** Construction Permit in accordance with this section.

### **2.11 Suspension or Revocation**

The Department may suspend or revoke a **SSTS** Construction Permit issued under this section for any false statements, misrepresentations of facts on which the **SSTS** Construction Permit was issued, or unauthorized changes to the system design that 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. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment

system may not commence or continue until a valid **SSTS** Construction Permit is obtained.

## 2.12 Posting

The **SSTS** Construction Permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

## ARTICLE VI, SECTION 3.0 OPERATING PERMIT

### 3.01 SSTS Requiring an Operating Permit

An Operating Permit shall be required of all owners of new holding tanks or MSTs or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank or MSTs until the **Environmental Services Department** certifies that the MSTs or holding tank was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTs, and a valid Operating Permit is issued to the owner.

### 3.02 Permit Application Requirements

A. Application for an Operating Permit shall be made on a form provided by the **Environmental Services Department** including:

- (1) Owner name, mailing address, **and** telephone, ~~and email address~~
- (2) **SSTS** Construction Permit reference number and date of issue
- (3) Final record drawings of the treatment system
- (4) Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business

B. Monitoring and Disposal Contract

Owners of holding tanks shall provide to the **Environmental Services 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*. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, section 115.56, subdivision 3, paragraph (b), clause (3).

### 3.03 Department Response

The Department shall review the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted

documents fulfill the requirements, the Department shall issue an operating permit within (10) working days of receipt of the permit application.

### 3.04 Operating Permit Terms and Conditions

The Operating Permit shall include the following (*see Minnesota Rules, Chapter 7082.0600, Subp.2.B*):

- A. System performance requirements
- B. System operating requirements
- C. Monitoring locations, procedures and recording requirements
- D. Maintenance requirements and schedules
- E. Compliance limits and boundaries
- F. Reporting requirements
- G. Department notification requirements for non-compliant conditions
- H. Valid contract between the owner and a licensed maintenance business
- I. Disclosure, location and condition of acceptable soil treatment and dispersal system site.
- J. Descriptions of acceptable and prohibited discharges.

### 3.05 Permit Expiration and Renewal

- A. Operating Permits shall be valid for the specific term stated on the permit as determined by the Department.

Prior System Type	System Type	Minimum Duration	Maximum Duration
Standard	I & II(a)	N.A.	N.A.
Performance System	II(b) (Holding Tank)	1 yr.	5 yrs.
Performance System	III	N.A.	N.A.
Performance System	IV	1 yr.	3- 5 yrs.
Performance System	V	1 yr.	1 yr.

- B. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within in (90) calendar days of the expiration date, the County may require that the system be abandoned in accordance with Article IV, Section 4.0.
- C. The Department shall notify the holder of an operating permit at least (90) calendar days prior to expiration of the permit. The Owner must apply for renewal at least (30) calendar days before the expiration date.
- D. Application shall be made on a form provided by the Department including:

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- (1) Applicant name, mailing address and phone number.
  - (2) Reference number of previous owner's operating permit.
  - (3) Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit.
  - (4) Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the County.
  - (5) Any revisions made to the operation and maintenance manual.
  - (6) Payment of application review fee as determined by the County.

### **3.06 Amendments to Existing Permits not Allowed**

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

### **3.07 Transfers**

The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with Article IV, Section 3.02 of this Ordinance. The Department shall not terminate the current permit until (60) calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.

### **3.08 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 revocation and the reasons for revocation shall be conveyed in writing to the owner.
- C. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with Article IV, Section 4.0.
- D. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

### **3.09 Compliance Monitoring**

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

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- B. A monitoring report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the Department on a form provided by 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) Owner name and address
  - (2) Operating Permit number
  - (3) Average daily flow since last compliance monitoring report
  - (4) Description of type of maintenance and date performed
  - (5) Description of samples taken (if required), analytical laboratory used, and results of analyses
  - (6) Problems noted with the system and actions proposed or taken to correct them
  - (7) Name, signature, license and license number of the licensed professional who performed the work

## **ARTICLE VI, SECTION 4.0 ABANDONMENT CERTIFICATION**

### **4.01 Purpose**

The purpose of the System 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.

### **4.02 Abandonment Requirements**

- A. Whenever the use of a 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 building served by the system, further use of the system or any system component for any purpose under this Ordinance 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 the prior written approval of the Department.
- C. An owner of an SSTS must retain a licensed installation business to abandon all components of the treatment system within (60) calendar days **of any condition as described in Section A.** ~~of a system.~~ Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500. No prior notification of the Department of an owner's intent to abandon a system is necessary.

- D. A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:
- (1) Owner's name and contact information
  - (2) Property address
  - (3) System construction permit and operating permit
  - (4) The reason(s) for abandonment
  - (5) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

#### **4.03 Abandonment Certificate**

Upon receipt of an abandonment report and its determination that the SSTS has been abandoned according to the requirements of this Ordinance, the Department shall issue an abandonment certificate. If the abandonment is not completed according the requirements of this ordinance the County shall notify the owner of the SSTS of the deficiencies, which shall be corrected within (30) calendar days of the notice.

## **ARTICLE VII MANAGEMENT PLANS**

### **ARTICLE VII, SECTION 1.0 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 system owner when the treatment system is commissioned.

### **ARTICLE VII, SECTION 2.0 MANAGEMENT PLAN REQUIREMENTS**

#### **2.01 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 construction permit application 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

#### **2.02 Required Contents of a Management Plan**

Management plans shall include (*Minnesota Rules, Chapter 7082.0600, Subp.1*):

- A. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
- B. Monitoring requirements;
- C. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;

- D. Statement that the owner is required to notify the Department when the management plan requirements are not being met;
  - E. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.
  - F. Other requirements as determined by the Department.
- 2.03 Requirements for Systems not Operated under a Management Plan**  
(Minnesota Rules, Chapter 7082.0100, Subp. 3.(L))

SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

## ARTICLE VIII COMPLIANCE MANAGEMENT

### ARTICLE VIII, SECTION 1.0 PUBLIC EDUCATION OUTREACH

Programs shall be provided by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.

### ARTICLE VIII, SECTION 2.0 COMPLIANCE INSPECTION PROGRAM

#### 2.01 General Requirements

- A. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
- B. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building. ~~The Department shall notify the owner of the Department's intent to inspect the SSTS least (2) days in advance of the intended inspection.~~
- C. 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.

#### 2.02 Department Responsibility

It is the responsibility of the Department, or its agent, to perform various SSTS compliance inspections periodically to assure that the requirements of this Ordinance are met.

- A. SSTS compliance inspections must be performed:
  - (1) To ensure compliance with applicable requirements;



- (2) ~~To ensure system compliance before issuance of a permit for addition of a bedroom unless the permit application is made during the period of November 1 to April 30, provided a compliance inspection is performed before the following June 1 and the applicant submits a certificate of compliance by the following September 30;~~
- (2) For all new SSTS construction or replacement;
- (3) ~~For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement, if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minnesota Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.~~

### 2.03 New Construction or Replacement

- A. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081. SSTS found not to be in compliance with 7080.1500, Subp. 4A or 7081.0080, Subp. 3 must be repaired or replaced ~~within ten months or as directed under Minnesota Statutes, Chapter 145A~~ SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
- B. It is the responsibility of the SSTS owner or the owner's agent to notify the Department (2) calendar days prior to any permitted work on the SSTS.
- C. **Unless specifically approved by the Department no portion of the system shall be covered or put into use until the department has issued the Certificate of Compliance/Authorization to Use.**
- D. A Certificate of Compliance/**Authorization to Use** for new SSTS construction or replacement, which shall be valid for (five) years, shall be issued by the Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the **SSTS** construction permit.
- E. The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.
- F. ~~The certificate of compliance or notice of noncompliance~~ **MPCA Compliance Inspection Form** must be submitted to the Department no later than ~~(15)~~ **(30)**

calendar days after the date the inspection was performed. The Department shall ~~deliver~~ **issue** the certificate of compliance or notice of noncompliance to the owner or the owner's agent within ~~(15)~~ **(10)** calendar days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificated of compliance has been issued.

- G. Certificates of compliance for new construction or replacement shall remain valid for (5) years from the date of issue unless the Department finds evidence of noncompliance.

## 2.04 Existing Systems

- A. Compliance inspections shall be required when any of the following conditions occur:

- (1) When a construction permit is required to repair, modify, or upgrade an existing system;
- (2) Any time there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
- (3) Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
- (4) At the time of property sale or transfer (see Article VIII, Section 2.04).**
- ~~(5) At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.~~

- B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified:

- (1) Watertightness assessment of all treatment tanks including a leakage report;
- (2) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including a vertical separation verification report;
- (3) Sewage backup, surface seepage, or surface discharge including a hydraulic function report.

- C. The Certificate of Compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A **SSTS** construction permit application must be submitted to the Department if the required corrective action is not a minor repair.

- D. The ~~certificate of compliance or notice of noncompliance~~ **MPCA Compliance Inspection Form** must be submitted to the Department no later than ~~(15)~~ **(30)** calendar days after the date the inspection was performed. The Department shall ~~deliver~~ **issue** the certificate of compliance or notice of noncompliance to the owner or the owner's agent within ~~(15)~~ **(10)** calendar days of receipt from the licensed inspection business.
- E. Certificates of compliance for existing SSTS shall remain valid for (three) years from the date of issue unless the Department finds evidence of noncompliance.

## 2.05 Transfer of Properties

- A. Whenever a conveyance of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have an SSTS occurs, the following requirements shall be met:
- (1) A compliance inspection has been performed and a Certificate of Compliance has been issued by the Department within (three) years for SSTS older than five years or within (five) years if the system is less than five years old prior to the intended sale or transfer of the property, unless evidence is found identifying an Imminent Threat to Public Health and Safety.
  - (2) The compliance inspection must have been performed by a qualified employee of the Department or a licensed inspection business following procedures described in Article VIII, Section 2.03 of this ordinance.
  - (3) The seller of the property must disclose in writing information about the status and location of all known SSTS on the property to the buyer on a form acceptable to the Department.
  - (4) **In the case of an Operating Permit, the permit must be renewed in the name of the buyer.**
  - (5) **If the seller fails to provide a Certificate of Compliance, or if a compliance inspection indicates a Notice of Noncompliance or if the seller is unable to complete a compliance inspection due to frozen soil conditions, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a complying SSTS must be provided.** The security shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law, or federal or state chartered financial institution. The amount escrowed shall be equal to ~~(150%)~~ **(110%)** of a written estimate to install a complying SSTS provided by a licensed and certified installer, ~~or the amount escrowed shall be equal to (110%) of the written contract price for the installation of a complying SSTS provided by a licensed and certified installer.~~ **The escrow agreement shall list St. Louis County as having the "release authority" of the escrow monies which shall not be released until a Certificate of Compliance is issued by the Department. A copy of the escrow agreement and written**

**estimate must be submitted to the Department.** After a complying SSTS has been installed and a Certificate of Compliance issued, the Department shall provide the escrow agent a copy of the Certificate of Compliance.

- B. The compliance portion of the Certificate of Compliance need not be completed if the sale or transfer involves the following circumstances:
- (1) **The SSTS has a valid Certificate of Compliance. A Certificate of compliance is valid for five years for new SSTS installations, and for three years for an existing SSTS.**
  - (2) **A signed disclosure statement is presented indicating that no SSTS exists nor is one required on the property (e.g. There are not structures on the property); or that the property is served only by any of the permitted system(s) listed below:**
    - A privy
    - A primitive system e.g. a non-pressurized graywater system.
  - (3) **Court actions including wills, probate actions, divorce, estate settlements or other such situations.**
  - (4) **Government sales to the lease holder.**
  - (5) **Immediate and extended family transactions i.e. members of one's family by blood, marriage or adoption.**
  - (6) **The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.**
  - (7) **The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, subdivision 1.**
  - (8) **The transfer is a foreclosure or tax forfeiture.**
  - (9) **The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this Ordinance. This subsection applies only to the original vendor and vendee on such a contract.**
  - (10) **Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment system; any dwellings or other buildings that are located within the jurisdiction of a County approved agreement requiring exclusive connection to the wastewater treatment system of any municipality; or, any dwellings or other buildings that are connected exclusively to an approved wastewater treatment facility other than an individual sewage treatment system.**
- C. All property conveyances subject to this ordinance occurring during the period between November 15th and April 15th, when SSTS compliance cannot be determined due to frozen soil conditions, shall require a ~~winter agreement,~~ **Transfer Agreement** which includes ~~an application for an SSTS permit and an agreement to complete a compliance inspection by the following June 1st by a licensed inspection business. If upon inspection the SSTS is found to be in compliance, the permit fee will be refunded.~~ **If upon inspection the system is found to be non-compliant and having less than 12" of unsaturated soil, or is an Imminent Threat to Public Health or Safety as defined in Article IV,**

**Sections 2.03 and 2.04**, an escrow agreement must be established in accordance with section 2.04 A(4-5), above, and the system upgraded.

- D. The responsibility for filing the completed compliance portion of the ~~Certificate of Compliance~~ **Inspection Form** under section 2.04 A, above, or for upgrading a system found to be non-compliant shall be determined by the buyer and seller. Buyer and seller shall provide the Department with a signed ~~statement~~ **Transfer Agreement** indicating responsibility for completing the compliance portion of the Certification and for upgrading a system found to be non-conforming **under Article IV, Section 2.03 and 2.04**.
- E. Neither the issuance of permits, certificates of compliance, or notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.
- F. Failure to comply with the requirements of this subdivision does not impair the validity of the deed.**

## **ARTICLE IX ENFORCEMENT**

### **ARTICLE IX, SECTION 1.0 ORDINANCE VIOLATIONS**

#### **1.01—Cause to Issue a Notice of Violation**

~~Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, 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.~~

#### **1.02—Notice of Violation**

~~The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Ordinance. The notice of violation shall contain:~~

- ~~A. A statement documenting the findings of fact determined through observations, inspections, or investigations;~~
- ~~B. A list of specific violation(s) of this Ordinance~~
- ~~C. Specific requirements for correction or removal of the specified violation(s);~~
- ~~D. A mandatory time schedule for correction, removal and compliance with this ordinance.~~

**1.03—Issuance of Citations**

~~A. As specified herein, individuals occupying the designated County positions are authorized to issue citations in lieu of arrest or continued detention for a petty misdemeanor or misdemeanor violation of this ordinance.~~

- ~~(1) Zoning Administrator~~
- ~~(2) Building Inspector~~
- ~~(3) Sanitarian~~
- ~~(4) Code Enforcement Officer~~
- ~~(5) Qualified Employee~~

**B. Additional Authority**

~~Except as otherwise provided by statute, only a peace officer and a part-time peace officer may take a person into custody as permitted by Minn. Stat. §629.34.~~

**C. Fines**

~~Fines shall be paid within 30 day. If they are not, they may be assessed along with property taxes to the subject property.~~

**1.04—Cease and Desist Orders**

~~Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other County 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 administrative fees paid, and the cease and desist order lifted.~~

**ARTICLE IX, SECTION 2.0—PROSECUTION**

~~In the event of a violation or threatened violation of this Ordinance, the County may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations and the County Attorney shall have authority to commence such civil action. The Department and County Attorney may take such actions as may be necessary to enforce the provisions of this ordinance.~~

**ARTICLE IX, SECTION 3.0—STATE NOTIFICATION OF VIOLATION**

~~In accordance with state law, the Department shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this Ordinance.~~

**SECTION 4.0 COSTS AND REIMBURSEMENTS**

~~If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover all costs incurred in removal or abatement in a civil~~

~~action, including legal fees; at the discretion of the County Board, the cost of an enforcement action under this ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.~~

For violations of this ordinance, the county may take the following actions: issuance of a warning notice; issuance of a notice of violation, issuance of a citation or complaint; issuance of a cease and desist order; abatement; suspension, summary suspension or revocation of a permit issued under this ordinance; execution of a stipulation agreement; and/or commencement of other civil proceedings.

### **1.01 WARNING NOTICE.**

The department may issue a warning notice to any person alleged to have committed a violation of this ordinance. A warning notice shall serve to place the person on notice that compliance with specified ordinance requirements must occur to avoid additional enforcement actions. Service of the warning notice shall be made by first class mail or by personal service. The warning notice shall contain:

- A. A list of violations, including the ordinance section(s), rule(s), or statute(s) violated, the factual basis for the violations and the date(s) of the violations.
- B. The specific actions required to be taken by the person to correct the violations and the timeframes within which the corrections are required to be made.
- C. A general description of the additional administrative and judicial enforcement actions that could be pursued by the department if the alleged violations are not satisfactorily corrected.

### **1.02 NOTICE OF VIOLATION (NOV).**

The department may issue a notice of violation (NOV) to any person alleged to have committed a violation of this ordinance. A NOV shall serve to place the person on notice that compliance with specified ordinance requirements must occur to avoid additional enforcement actions. Service of the NOV shall be made by certified mail or by personal service. The notice of violation shall contain:

- A. Findings of fact with corresponding conclusions of law, which describe the alleged violations and the corresponding ordinance section(s), statute(s), and/or rule(s) which are allegedly violated.
- B. Orders for corrective actions, which describe specifically how each alleged violation must be corrected and the timeframes within which the corrections are required to be made.
- C. Notice of further action, which describes in general terms, the additional administrative and judicial enforcement actions that could be pursued by the department if the alleged violations are not satisfactorily corrected.

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### 1.03 CITATIONS.

Any person who fails to comply with the provisions of this ordinance is guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

An authorized representative of the department shall have the power to issue citations for violations of this ordinance, but shall not be permitted to physically arrest or take into custody any violator.

- A. Issuance of the Citation. Citations shall be issued to the person alleged to have committed the violation (alleged violator) either by personal service or by certified mail. In the case of a public, private, or municipal corporation, the citation shall be issued to any officer or agent with express or implied authorization to accept such issuance.
- B. Notice of Citation. Citations shall be made out in quadruplicate (4). One copy shall be issued to the alleged violator; one copy shall be filed with the department; one copy shall be filed with the St. Louis County Attorney's Office; and one copy shall be filed with the St. Louis County District Court, First Judicial District.
- C. Form of Citation. Citations shall be on such form(s) as approved by the department and shall contain at least the following:
1. The name and address of the alleged violator and when known, the owner or person in charge of the premises at which the violation occurred;
  2. The date, time (if known) and place of violation;
  3. A short description of the violation followed by reference to the section of this ordinance violated;
  4. The name of the person issuing the citation;
  5. The date, time, and place at which the alleged violator shall appear in court and notice that if such person does not appear a warrant may be issued for such person's arrest; and
  6. Such other information as the court may specify.
- D. Court Appearance. The alleged violator shall appear at the place and on the date and time specified in the citation and either:
1. Plead guilty to the citation and meet the requirements of the sentence imposed by the court; or
  2. Plead not guilty to the citation and schedule a court date for further hearing or trial.



- E. Failure to Appear on the Citation. If the alleged violator does not appear at the place and on the date and time specified on the citation, the court may issue a warrant for the person's arrest.
- F. Complaint. A complaint may be issued in lieu of a citation as determined by the St. Louis County Attorney's Office.
- G. Aiding and Abetting. As set forth in Minn. Stat. § 609.05, a person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime. A person liable for such crime is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended. A person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons that purpose and makes a reasonable effort to prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed.

A person liable under this section may be charged with and convicted of the crime although the person who directly committed the crime has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act, or if the person is a juvenile who has not been found delinquent for the act. For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.

#### **1.04 ABATEMENT.**

If a SSTS constitutes a public health nuisance, the department may enter the property and abate the nuisance and recover the costs of the same from the property owner through the following procedures:

- A. **ABATEMENT NOTICE.** The department shall serve an abatement notice on the property owner or occupant.
1. **Contents of Abatement Notice.** An abatement notice shall include the following:
    - a. Notice that there is a SSTS located on the property and that it constitutes a public health nuisance.
    - b. Notice that the property owner must abate the public health nuisance within a specified time period not to exceed 10 calendar days in order to avoid any liability for the costs of inspection and abatement that the county may incur.
    - c. Notice that if the property owner fails to abate the public health nuisance within the specified timeframe, the department or its agent intends to enter the property and commence abatement of the public health nuisance and

assess the costs of inspection and abatement against the real property on which the nuisance is located.

2. **Service.** The abatement notice must be served on a property owner by certified mail or personal service. Service by certified mail shall be deemed complete upon mailing. If the property owner is unknown or absent and has no known representative upon whom notice can be served, the department shall post a written or printed notice on the property stating that, unless the public health nuisance is abated within a period not longer than 10 days, the department will have the nuisance abated at the expense of the owner.

**B. ABATEMENT BY THE COUNTY.** In the event a property owner does not abate the public health nuisance, the department may expend funds necessary to abate the nuisance in accordance with the St. Louis County Bid Grant and Contracting Policy.

**C. ASSESSMENT OF ABATEMENT COSTS.**

1. The costs of an enforcement action under this section may be assessed and charged against the real property on which the public health nuisance was located.
2. The department shall keep a record of the enforcement and abatement costs and report all work done for which assessments are to be made, stating and certifying the description of the real property, lots or parcels involved and the amount assessable to each to the county auditor.
3. The county auditor shall extend the cost so assessed and charged on the tax roll of the county against the real property on which the enforcement action was taken.

### **1.05 CEASE AND DESIST ORDERS.**

Cease and desist orders may be issued when the department has probable cause that an activity regulated by this or any other county 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, it shall not be resumed until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

### **1.06 STIPULATION AGREEMENT.**

The department and a person alleged to have violated provisions of this ordinance may voluntarily enter into a stipulation agreement whereby the parties to the agreement: identify conditions on the property that require corrective action; agree on the corrective actions that must be performed by the person; and agree on the timeframes in which the corrective actions must be completed. If the person fails to fulfill the requirements of the agreement, the county may seek

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compliance with the terms of the agreement through a court of competent jurisdiction or pursue other enforcement action allowed by this ordinance.

#### **1.07 SUSPENSION AND REVOCATION OF PERMIT.**

The department may suspend or revoke a permit for violations of this ordinance in accordance with Section 2.00 below. The department may issue a summary suspension of a permit for violations of this ordinance in accordance with Section 2.02 below.

#### **1.08 COMMENCEMENT OF CIVIL COURT ACTION.**

In the event of a violation or threat of violation of this ordinance, the county board may institute appropriate civil actions or proceedings in any court of competent jurisdiction requesting injunctive relief to prevent, restrain, correct or abate such violations or threatened violations. The county may recover all costs, including reasonable attorney's fees, incurred for enforcement of this ordinance.

### **ARTICLE IX, SECTION 2.00 PERMIT SUSPENSION AND REVOCATION**

#### **2.01 SUSPENSION.**

- A. Any permit required under this ordinance may be suspended by the department for violation of any provision of this ordinance. Upon written notice to the permittee, said permit may be suspended by the department for a period not longer than 60 days or until the violation is corrected, whichever is shorter.
- B. Such suspension shall not occur earlier than 10 county working days after written notice of suspension has been served on the permittee, or if a hearing is requested, until written notice of the county board action has been served on the permittee. Notice to the permittee shall be made by personal service or by certified mail to the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Such written notice of suspension shall contain the effective date of the suspension, the nature of the violation(s) constituting the basis for the suspension, the facts which support the conclusion that the violation(s) occurred, and a statement that if the permittee desires to appeal, the permittee must file a written request for an appeal hearing with the county board within 10 county working days of the service of the suspension notice, exclusive of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and served on the county board by personal service or certified mail with a copy to the department within 10 county working days of service of the suspension notice, exclusive of the day of service. Following timely service of a request for hearing, the county board shall set a time and place for the hearing pursuant to Section 3.00.
- C. If said suspension is upheld and the permittee has not demonstrated within the 60 day time period that the provisions of the ordinance have been complied with, the department may serve notice of continued suspension for up to an additional 60 days or initiate revocation procedures.

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## 2.02 SUMMARY SUSPENSION.

- A. If the department finds that an imminent threat to the environment or to public health, safety or welfare requires emergency action and incorporates a finding to that effect in its order, summary suspension of a permit may be ordered by the department upon notification to the St. Louis County Attorney's Office. Written notice of such summary suspension shall be made by personal service or by certified mail on the permittee at the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Alternatively, the department may post copies of the notice of summary suspension of the permit on the property for which the permit was issued. Said posting shall constitute the notice required under this section.
- B. The written notice shall state the effective date of the summary suspension, the nature of the violation(s) requiring emergency action, the facts which support the conclusion that the violation(s) occurred and a statement that if the permittee desires to appeal, the permittee must file a request for an appeal hearing with the county board within 10 county working days of service or posting of the suspension notice, exclusion of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and served on the county board by personal service or by certified mail with a copy to the department within 10 county working days of service or posting of the suspension notice, exclusive of the day of service. Following timely service of a request for a hearing, the county board shall set a time and place for the hearing pursuant to Section 3.00.
- C. The summary suspension shall not be stayed pending an appeal to the county board or an informal review by the department head, but shall be subject to dismissal upon a favorable re-inspection by the department or favorable appeal to the county board.

## 2.03 SUSPENSION RE-INSPECTIONS.

Upon written notification from the permittee that all violations for which a suspension or summary suspension was invoked have been corrected, the department shall re-inspect the system, device, site or activity within a reasonable length of time, but in no case more than three county working days after receipt of the notice from the permittee. If the department finds upon re-inspection that the violations constituting the grounds for the suspension have been corrected or removed, the department shall immediately dismiss the suspension by written notice to the permittee, served personally or by certified mail on the permittee at the address designated in the permutation application, with a copy to the St. Louis County Attorney's Office.

## 2.04 REVOCATION.

- A. Any permit granted pursuant to this ordinance may be revoked by the department for violation of any provision of this ordinance.

- B. Revocation shall not occur earlier than 10 county working days from the time that written notice of revocation from the department is served on the permittee, or if a hearing is requested, until written notice of the county board's action has been served on the permittee. The notice of revocation to the permittee shall be made by personal service or by certified mail to the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation(s) constituting the basis for the revocation, the facts which support the conclusion that the violation(s) occurred and a statement that if the permittee desires to appeal, the permittee must file a request for an appeal hearing with the county board within 10 county working days of service of the revocation notice, exclusive of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and served on the county board by personal service or by certified mail with a copy to the department within 10 county working days of service of the revocation notice, exclusive of the day of service. Following timely service of a request for a hearing, the county board shall set a time and a place for the hearing to be held pursuant to Section 3.00.

**ARTICLE IX, SECTION 3.00 HEARINGS**

Hearings requested under this ordinance shall be held before the county board, or a hearing examiner as provided below, and shall be open to the public.

- A. **TIMEFRAME FOR HEARING.** Unless an extension of time is requested by the appellant in writing directed to the chair of the county board and is granted, the hearing will be held no later than 45 calendar days after the date of service of request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than 90 calendar days after the date of service of request for a hearing, exclusive of the date of such service.
- B. **NOTICE OF HEARING.** The county board shall mail notice of the hearing to the appellant, with a copy to the department and the St. Louis County Attorney's Office, at least 15 county working days prior to the hearing. Such notice shall include:
1. A statement of time, place, and nature of the hearing.
  2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
  3. A reference to the particular section of the ordinance and rules involved.
- C. **HEARING EXAMINER.** The county board may by resolution appoint an individual, to be known as the hearing examiner, to conduct the hearing and to make findings of fact, conclusions and recommendations to the county board. The hearing examiner shall submit the findings of fact,

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conclusions and recommendations to the county board in a written report and the county board may adopt, modify or reject the report.

- D. **CONDUCT OF THE HEARING.** The appellant and the department may be represented by counsel. The department, the appellant, and additional parties, as determined by the county board or hearing examiner, in that order, shall present evidence. All testimony shall be sworn under oath. All parties shall have full opportunity to respond to and present evidence, cross-examine witnesses, and present argument. The county board or hearing examiner may also examine witnesses.
- E. **BURDEN OF PROOF.** The department shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by substantive law, and all findings of fact, conclusions, and decisions by the county board shall be based on evidence presented and matters officially noticed.
- F. **ADMISSION OF EVIDENCE.** All evidence that possesses probative value, including hearsay, may be admitted if it is the type of evidence on which prudent persons are accustomed to rely in the conduct of their serious affairs. Evidence that is incompetent, irrelevant, immaterial or unduly repetitious may be excluded. The hearing shall be confined to matters raised in the department's written notice of suspension, summary suspension, revocation, or denial of a permit, or in the written request for a hearing.
- G. **PRE-HEARING CONFERENCE.** At the written request of any party, or upon motion of the county board or hearing examiner, a pre-hearing conference shall be held. The pre-hearing conference shall be conducted by the hearing examiner, if the county board has chosen to use one, or by a designated representative of the county board. The pre-hearing conference shall be held no later than five county working days before the hearing. The purpose of the pre-hearing conference is to:
1. Clarify the issues to be determined at the hearing.
  2. Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party. The hearing examiner or county board's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction.
  3. Provide an opportunity for discovery of the full name and address of all witnesses who will be called at the hearing and a brief description of the facts and opinions to which each is expected to testify. If the names and addresses are not known, the party shall describe them thoroughly by job duties and involvement with the facts at issue.
  4. If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party

advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:

- a. The evidence was not known to the party at the time of the pre-hearing conference; or
- b. The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.

H. **FAILURE TO APPEAR.** If the appellant fails to appear at the hearing, appellant shall forfeit any right to a hearing before the county board or hearing examiner. Appellant's failure to appear shall also be deemed as a waiver of appellant's right to appeal the department's decision and the department's decision shall stand.

I. **APPEAL OF COUNTY BOARD DECISION.** Any appellant aggrieved by the decision of the county board may appeal that decision to any court with appropriate jurisdiction.

## **ARTICLE X RECORD KEEPING**

The County shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the county sorted by licensed installation businesses, and other records relevant to each system.

## **ARTICLE XI ANNUAL REPORT**

The department shall provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.

## **ARTICLE XII FEES**

From time to time, the County Board shall 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.

## **ARTICLE XIII INTERPRETATION**

In their interpretation and application, the provisions of this Ordinance 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.

## **ARTICLE XIV SEVERABILITY**

If any section, clause, provision, or portion of this ordinance 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.

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**ARTICLE XV ABROGATION AND GREATER RESTRICTIONS**

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

**ARTICLE XVI ORDINANCE REPEALED**

The **St. Louis County** previous ordinance for the regulation of Individual Sewage Treatment Systems of the County is hereby repealed.

**ARTICLE XVII ADOPTION**

The **St. Louis County** Subsurface Sewage Treatment Program Ordinance is hereby adopted by **St. Louis** County Board of Commissioners on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Chairperson, **St. Louis** County Board of Commissioners

ATTEST:

\_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_, 20\_\_

