

## ARTICLE 24. SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS)

### SECTION 24.1 PURPOSE, INTENT, AUTHORITY, AND EFFECTIVE DATE

- A. **Purpose.** The purpose of this Article is to establish minimum requirements for regulation of SSTS 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.
- B. **Intent.** It is intended by the County that this Article will promote the following:
1. The protection of lakes, rivers and streams, wetlands, and groundwater in Lyon County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
  2. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
  3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination of natural resources; and if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
  4. The appropriate utilization of privy vaults, holding tanks, and other non-water carried sewage collection and storage facilities.
  5. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.
- C. **Authority.** This Article 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.

- D. **Effective Date.** The provisions set forth in this Article shall become effective after its passage, publication, and recording as provided by law.

## SECTION 24.2 DEFINITIONS

The following words and phrases shall have the meanings ascribed to them in this Article. If not specifically defined in this Article or in Article 4 of this Ordinance, terms used in this Article 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 Article, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

**Agency.** The Minnesota Pollution Control Agency.

**As-built.** Drawings and documentation specifying the final in-place location, elevation, size and type of all system components.

**At-grade system.** A pressurized soil treatment and dispersal system where sewage tank effluent is dosed to an absorption bed that is constructed directly on original soil at the ground surface and covered by loamy soil materials.

**Authorized Representative.** An employee of the Lyon County Planning and Zoning Office who is licensed as a “Qualified Employee”.

**Certificate of Compliance.** A document, written after a compliance inspection, certifying that a system is in compliance with applicable requirements at the time of the inspection.

**Certified Statement.** A statement signed by a certified individual, apprentice, or qualified employee under Minnesota Rules, chapter 7083 certifying that the licensed business or qualified employee completed work in accordance with applicable requirements.

**Cesspool.** An underground pit, receptacle, or seepage tank that receives sewage directly from a building sewer and leaches sewage into the surrounding soil, bedrock, or other soil materials. Cesspools include sewage tanks that were designed to be watertight, but subsequently leak below the designed operating depth.

**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 or any SSTS that receives any amount of industrial or commercial wastewater.

**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.

**Commissioner.** The commissioner of the Minnesota Pollution Control Agency.

**Compliance Inspection.** An evaluation, investigation, inspection, or other such process for the purpose of issuing a certificate of compliance or notice of noncompliance.

**Department.** The Lyon County Planning and Zoning Office.

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

**EPA.** The United States Environmental Protection Agency.

**Existing Systems.** Systems that have been previously inspected and approved by the Department during installation. In addition, all operating systems installed before the adoption of a local permitting and inspection program are considered existing systems.

**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 Minnesota Rules, chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with Minnesota Rules, chapter 7080.2500.

**Greywater.** Sewage that does not contain toilet wastes.

**Greywater System.** A system that receives, treats, and disperses only greywater or other similar system as designated by the commissioner.

**Groundwater.** Water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near-surface unconsolidated sediment or regolith, or in rock formations deeper underground.

**Holding Tank.** A tank for storage of sewage until it can be transported to a point of treatment and dispersal. Holding tanks are considered a septic system tank under Minnesota Statutes, section 115.55.

**Imminent Threat to Public Health and Safety (ITPH).** 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.

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

**LSTS.** A large subsurface sewage treatment system having a design flow of 10,001 gallons per day or greater.

**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.

**Mound System.** A soil treatment and dispersal system designed and installed such that all of the infiltrative surface is installed above grade, using clean sand between the bottom of the infiltrative surface and the original ground elevation, utilizing pressure distribution and capped with suitable soil material to stabilize the surface and encourage vegetative growth.

**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 5,001 gallons per day to a maximum of 10,000 gallons per day.

**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 Article.

**Original Soil.** Naturally occurring soil that has not been cut, filled, moved, smeared, compacted, altered, or manipulated to the degree that the loading rate must be reduced from that associated with natural soil conditions.

**Periodically Saturated Soil.** The highest elevation in the soil that is in a reduced chemical state due to soil pores filled or nearly filled with water causing anaerobic conditions. Periodically saturated soil is determined by the presence of redoximorphic features in conjunction with other established indicators as specified in Minnesota Rules, chapter 7080.1720, subpart 5, items E and F, or determined by other scientifically established technical methods or empirical field measurements acceptable to the permitting authority in consultation with the commissioner.

**Pit.** A hole dug with a backhoe, or an auger no less than 2 inches in diameter, used for soil verification for the purpose of designing subsurface sewage treatment systems.

**Pressure Distribution.** A network of distribution pipes in which effluent is forced through orifices under pressure.

**Privy.** An aboveground structure with an underground cavity meeting the requirements of Minnesota Rules, chapter 7080.2280 that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing and graywater. A privy also means a nondwelling structure containing a toilet waste treatment device.

**Pump Tank.** A tank or separate compartment following the sewage tank that serves as a reservoir for a pump. A separate tank used as a pump tank is considered a septic system tank under Minnesota Statutes, section 115.55, subdivision 1, paragraph (o).

**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.

**Redoximorphic Features.**

- (a) A color pattern in soil, formed by oxidation and reduction of iron or manganese in saturated soil coupled with their removal, translocation, or accrual, which results

in the loss (depletion) or gain (concentration) of mineral compounds compared to the matrix color; or

- (b) A soil matrix color controlled by the presence of ferrous iron. Redoximorphic features are described in Minnesota Rules, chapter 7080.1720, subpart 5, item E.

**SDS.** State Disposal System permit from MPCA.

**Septage.** Solids and liquids removed from an SSTS and includes solids and liquids from cesspools, seepage pits, other pits, or similar systems or devices that receive sewage. Septage also includes solids and liquids that are removed from portable, incinerating, composting, holding, or other toilets.

**Septic Tank.** Any watertight, covered receptacle that is designed and constructed to receive the discharge of sewage from a building sewer or preceding tank, stores liquids for a detention period that provides separation of solids from liquid and digestion of organic matter, and allows the effluent to discharge to a succeeding tank, treatment device, or soil dispersal 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.

**Toilet Waste.** Waste commonly disposed of in toilets, including fecal matter, urine, toilet paper, and water used for flushing.

**Treatment Level.** Treatment system performance levels defined in Minnesota Rules, chapter 7083.4030, Table III as now constituted and from time to time amended.

**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 coliform is prevented.

**Vertical Separation.** The vertical measurement of unsaturated soil or sand between the bottom of the distribution medium and the periodically saturated soil level or bedrock.

**Watertight.** Constructed so that no liquid can get into or out of a device except through designed inlets and outlets.

## SECTION 24.3 GENERAL PROVISIONS

- A. **Scope.** This Article 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 sited, designed, installed, operated, and maintained in accordance with the provisions of this Article or by a system that has been permitted by the MPCA.
- B. **Jurisdiction.** The jurisdiction of this Article 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 Article and has been approved by the MPCA. The Department shall keep a current list of local jurisdictions within the County administering a SSTS program.

## SECTION 24.4 ADMINISTRATION

- A. **County Administration.** The Department shall administer the SSTS program and all provisions of this Article. At appropriate times, the County shall review, revise, and update this Article as necessary. The County shall employ qualified and appropriately licensed professionals to administer and operate the SSTS program.
- B. **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 (SDS) 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 SDS Permit is required. SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Article.
- C. **Cities and Townships.** Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Article. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Article.
- D. **Validity.** Should any section or provisions of this Article be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Article as a whole or any part thereof other than the part so declared to be invalid.
- E. **Liability.** Any liability or responsibility shall not be imposed upon the Department or MPCA 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 SSTS regulated under this article by reason of standards, requirements, or inspections authorized hereunder.

## SECTION 24.5 GENERAL REQUIREMENTS

- A. **Retroactive**
  - 1. All SSTS. Except as set forth in Section 24.5.A.2. of this Article, all provisions of this Article shall apply to any SSTS regardless of the date it was originally permitted.
  - 2. Existing SSTS Permits. Unexpired permits which were issued prior to the

effective date of this article 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.

3. SSTS on Lots Created Before January 23, 1996. 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, or 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.

**B. ▲ Construction Activity**

1. No construction or repair requiring excavation of soil after October 31<sup>st</sup> or before April 15<sup>th</sup> shall be allowed in any portion of the drainfield or soil absorption system, without the permission of a Qualified Employee of the Department.

**C. Upgrade, Repair, Replacement, and Abandonment**

1. SSTS Capacity Expansions. Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Article at the time of the expansion.
2. ▲ Additions to Dwellings. The owner must submit a valid Certificate of Compliance and/or obtain a valid SSTS Septic Permit when a land use permit is issued for a bedroom addition to an existing dwelling.
3. ▲ 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 Article within 12 months of receipt of a Notice of Noncompliance.
4. ▲ Imminent Threat to Public Health or Safety (ITPH). 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 Article within 12 months of receipt of a Notice of Noncompliance.
5. 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 and Section 24.7.D of this Article.

**D. SSTS in Floodplains**

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

**E. Class V Injection Wells**

1. All owners of 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 (EPA) as described in 40 CFR 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

**F. SSTS Practitioner Licensing**

1. No person shall engage in site evaluation, inspection, design, installation, construction, alteration, 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.
2. ▲Property owners exempted from SSTS licensing requirements under Minnesota Rules, chapter 7083.0700, must comply with the following additional provisions:
  - (a) A property owner must follow all applicable county, state, and federal requirements for permitting and construction of an SSTS.
  - (b) The property owner shall provide a signed agreement to the Department which indemnifies and saves the County holding it harmless from all losses, damages, costs, and charges that may be incurred by the County due to failure of the permittee to conform to and comply with the provisions of this article.

- (c) The licensed design business or certified designer of the SSTS must be present at the site during the compliance inspection conducted by the Department.

## G. Prohibitions

1. **Occupancy or Use of a Building without a Compliant SSTS.** It is unlawful for any person to maintain, occupy, or use any building designed to discharge domestic waste and greywater that disposes of wastewater in a manner that does not comply with the provisions of this Article.
2. **Sewage Discharge to Ground Surface or Surface Water.** It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Article that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System (NPDES) program administered by the MPCA.
3. **Sewage Discharge to a Well or Boring.** It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rules, chapter 4725.2050, or any other excavation in the ground that is not in compliance with this article.
4. **Discharge of Hazardous or Harmful Materials.** It is unlawful for any person to discharge into any treatment system regulated under this Article any hazardous or harmful material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

## SECTION 24.6 SSTS STANDARDS

- A. **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 Statutes Chapter 115.55.
- B. **Amendments to the Adopted Standards**
  1. Determination of Hydraulic Loading Rate and SSTS Sizing

- (a) Tables IX from Minnesota Rules, chapter 7080.2150, Subpart 3(E) entitled “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 Using Detail Soil Descriptions” and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this Article.
- (b) ▲The Department will make the determination whether a backhoe pit will be required for soil verification.

2. Compliance Criteria for Existing SSTS.

- (a) 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.
- (b) ▲ When determining vertical separation distance for existing at-grade or mound systems, a variance reduction of up to five (5) inches will be allowed to account for settling of sand or soil, normal variation of separation distance measurements, and interpretation of limiting layer conditions.
- (c) ▲The vertical separation measurement for (a) and (b) above shall be made outside the area of system influence but in an area of similar soil.

3. ▲Holding Tanks

- (a) Holding tanks may be allowed for other structures (examples, storage buildings and shops) with limited water use:
  - (1) The holding tank shall be installed, operated, maintained, and monitored in accordance with Minnesota Rules and this Article.
  - (2) The owner shall maintain a valid contract with a licensed maintenance business to pump liquids and solids from the holding tank and transport septage to a licensed treatment facility or land apply septage as permitted under this Article prior to overflow or any discharge.

- (b) The holding tank shall be regularly pumped on a schedule agreed upon with the Department. This schedule will be based on the tank's alarm system.

### C. Variances

1. Variance Requests. A property owner may request a variance from the standards as specified in this Article pursuant to Article 26 of this Ordinance.
2. Affected Agency. Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State Agency.
3. Variance Considerations.
  - (a) 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 the Lyon County Comprehensive Plan pursuant to Article 26 of this Article.
  - (b) The Board of Adjustments shall consider applicable rules including but not limited to Minnesota rules, chapters 7080, 7081 and 7082.
  - (c) Wells. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.
  - (d) 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 Article.
  - (e) Any variance granted shall automatically expire if the system is not installed within 18 months of the granting of the variance.

## SECTION 24.7 SSTS PERMITTING

- A. **Septic Permit Required.** It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate septic permit from the Department.

**B. Septic Permit.** A septic permit shall be obtained by the property owner or an agent of the property owner from the Department 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 Article by an appropriately certified and/or licensed business.

1. **Activities Requiring a Septic Permit.** A septic permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.
2. **Activities Not Requiring a Septic Permit.** A septic permit is not required for minor repair or replacement 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.
3. **▲Septic Permit Required to Obtain Land Use Permit.** For any new construction, addition or alteration of an existing structure for which a SSTS permit is required, approval and issuance of a valid SSTS Septic Permit must be obtained.
4. **▲Conformance to Prevailing Requirements.** Any activity involving an existing system that requires a Septic Permit, shall require that the entire system be brought into compliance with this Article.
5. **Septic Permit Application Requirements.** Septic Permit applications shall be made on forms provided by the Department and shall include the following information:
  - (a) Name, mailing address, and telephone number of the property owner.
  - (b) Property Identification Number, address, and legal description of the property.
  - (c) Site Evaluation Report as described in Minnesota Rules, chapter 7080.1730

- (d) Design Report as described in Minnesota Rules, chapter 7080.2430.
  - (e) Management Plan as described in Minnesota Rules, chapter 7082.0600.
  - (f) Name, mailing address, telephone number, and SSTS license number of the system designer and system installer.
  - (g) Any other information requested by the Department that is pertinent to the application.
6. Application Review and Response. The Department shall review a septic permit application and supporting documents within 15 business days of the receipt of a complete application.
- (a) Upon satisfaction that the proposed plan and design information conform to the provisions of this Article, the Department shall issue a septic permit authorizing construction of the SSTS as designed.
  - (b) In the event there is a significant change to the approved application, the designer must file an amended application to the Department detailing the changed conditions for review and approval or denial prior to initiating or continuing construction, modification, or operation. The Department shall complete the review of the amended application within 15 business days of its receipt.
  - (c) If the permit application is incomplete or does not meet the requirements of this article, the Department shall deny the application. A written notice of denial shall be provided to the applicant, which must state the reason for the denial.
7. Appeal. The applicant may appeal the Departments decision to deny the Septic Permit pursuant to Article 26, Section 26.3 of this Ordinance.
8. Permit Expiration. The Septic Permit is valid for a period of one year from its date of issue. Satisfactory completion of construction shall be determined following a final inspection by the Department. After the final inspection, a Certificate of Compliance will be issued to the property owner by the Department, if the construction or installation of the system was completed in reasonable conformance with the approved design.

9. Transferability. A Septic Permit shall not be transferred to a new owner. The new owner must apply for a new Septic Permit in accordance with this Article.
10. Suspension or Revocation. The Department may suspend or revoke a Septic Permit issued under this article for any false statements, misrepresentations of facts on which the Septic 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 Septic Permit is obtained.
11. Posting. The Septic Permit shall be posted on the property such that the septic permit is visible and available for inspection until construction is completed and certified.

**C. OPERATING PERMIT**

1. SSTS Requiring an Operating Permit. An Operating Permit shall be required of all owners of new holding tanks or MSTs, or Type IV or V, 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 Department issues a Certificate of Compliance certifying that the MSTs or holding tank was installed in substantial conformance with the approved design plans, and a valid Operating Permit is issued to the owner.
2. Operating Permit Application Requirements. Application for an Operating Permit shall be made on a form provided by the Department, which shall include the following:
  - (a) Name, mailing address, and telephone number of the property owner
  - (b) Property Identification number, address and legal description of the property
  - (c) Septic Permit number and date of issue

- (d) Final as-built drawings of the treatment system
  - (e) Owners of holding tanks must submit to the Department a copy of a valid executed monitoring and disposal contract with 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, chapter 115.56, subdivision 2, paragraph (b), clause (3). The owner must hold a valid contract with a licensed maintenance business at all times until such time the holding tank is abandoned or the property sold.
  - (f) Any other information requested by the Department that is pertinent to the application.
3. Department Review and Approval. The Department shall review the design drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness within 15 business days of their receipt. If any deficiencies are identified, the operating permit shall be denied. A written notice of the denial shall be sent by mail to the applicant stating all deficiencies that need to be corrected to the satisfaction of the Department prior to the issuance of an operating permit. If the submitted documents fulfill the requirements, the Department shall issue an operating permit within 10 business days of receipt of the permit application.
4. Operating Permit Terms and Conditions. The Operating Permit shall include the following:
- (a) System operating requirements
  - (b) System monitoring requirements
  - (c) System maintenance requirements including maintenance schedule
  - (d) System Compliance limits and boundaries
  - (e) Reporting schedule
  - (f) Department notification requirements for non-compliant conditions

- (g) Valid contract between the owner and a licensed maintenance business
  - (h) Disclosure of the location and condition of the additional soil treatment and dispersal system site.
  - (i) Descriptions of acceptable and prohibited discharges.
5. Operating Permit Expiration and Renewal
- (a) Operating Permits shall be valid for the specific term stated on the permit as determined by the Department. An operating permit shall be renewed in conformance with the application requirements as outlined in this Article.
6. Amendments to Existing Operating Permits not Allowed. The Department may not amend an existing permit to reflect changes in this Article until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.
7. Operating Permit Transfers. The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with Section 24.7.C of this Article. The Department shall not terminate the current permit until 60 calendar days after the date of sale unless an imminent threat to public health or safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspection business.
8. Operating Permit Suspension or Revocation. The Department may suspend or revoke any operating permit issued under this article for any false statements or misrepresentations of facts on which the Operating Permit was issued. Notice of suspension or revocation and the reasons for this action taken shall be conveyed in writing to the owner. 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 Section 24.7.D of this Article. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.
9. Operating Permit 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.

- (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, mailing address, and telephone number
  - (2) Property address and legal description
  - (3) Operating Permit and Septic Permit number.
  - (4) Average daily flow since last compliance monitoring report
  - (5) Description of type of maintenance or repair, and date performed
  - (6) Description of samples taken (if required), analytical laboratory used, and results of analyses
  - (7) Problems noted with the system and actions proposed or taken to correct them
  - (8) A certified statement signed by a licensed inspection business or licensed service provider who performed the work on the system

**D. ABANDONMENT CERTIFICATION**

1. 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, in a manner that protects public health, safety and water quality. It also terminates all permits associated with the system.
2. Abandonment Requirements

- (a) Whenever the use of 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 Article shall be prohibited.
- (b) Continued use of an existing sewage tank where the tank is to become an integral part of a replacement system or sewage treatment system requires certification of the tank by a licensed inspection business that the tank is watertight and in compliance with all applicable SSTS tank standards.
- (c) An owner of a SSTS must retain a licensed business to abandon all components of the treatment system whenever the use of a SSTS or any system component is discontinued. System abandonment shall be completed in accordance with Minnesota Rules, chapter 7080.2500. No prior notification to the Department of an owner's intent to abandon a system is necessary.
- (d) A report of abandonment certified by the licensed business shall be submitted to the Department within 30 calendar days of system abandonment. The report shall include:
  - (1) Owner's name, mailing address, and telephone number
  - (2) Property address
  - (3) System septic permit and operating permit numbers
  - (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.
  - (6) A certified statement from a licensed business that the abandonment was completed in accordance with Minnesota Rules, chapter 7080.2500.

## SECTION 24.8 MANAGEMENT PLANS

- A. **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 septic permit application for review and approval. If the SSTS is modified during construction, the management plan shall be revised and resubmitted to the Department prior to the issuance of a Certificate of Compliance.
- B. **Required Contents of a Management Plan.** Management plans shall include the following:
1. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
  2. Monitoring requirements;
  3. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
  4. Statement that the owner is required to notify the Department when the management plan requirements are not being met;
  5. 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.
  6. Other requirements as determined by the Department.
- C. **Requirements for Existing Systems not Operated under a Management Plan.** Existing 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.

## SECTION 24.9. COMPLIANCE MANAGEMENT

- A. **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.

**B. Compliance Inspection Program**

1. Department Responsibility. It is the responsibility of the Department to perform various SSTS compliance inspections periodically to assure that the requirements of this Article are met.
2. General Requirements.
  - (a) SSTS compliance inspections must be conducted:
    - (1) To ensure compliance with applicable requirements;
    - (2) ▲To ensure system compliance before issuance of a land use permit for a bedroom addition to an existing dwelling;
    - (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.
  - (b) All compliance inspections must be performed and signed by licensed inspection business or qualified employee certified as an inspector.
  - (c) ▲It is the responsibility of the installer to notify the Department at least 2 business days prior to any permitted work on the SSTS. The installer shall confirm the inspection time with the Department the morning of the business day of the scheduled inspection.
  - (d) ▲The installation and construction of the SSTS shall be in accordance with the approved construction permit requirements and design. If any SSTS component is covered before being inspected by the Department, it shall be uncovered upon the direction of the Department. Proposals to alter the design shall be reviewed and approved by the Department prior to construction. An inspection shall be conducted at least once during the construction of the SSTS at such time as to assure that the system

has been constructed per submitted and approved design.

- (e) ▲ If the installer provides proper notice as described above and the Department does not appear for an inspection within two hours after the time set for an inspection, the installer may complete the installation if photographs are taken during each phase of the installation process and are submitted to the Department within 15 days of installation completion.
- (f) The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. The Department shall notify the owner of the Department's intent to inspect the SSTS in advance of the intended inspection.
- (g) 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.
- (h) ▲ As-Built drawings shall be submitted to the Department within 15 business days of completion of the work on the SSTS.
- (i) ▲ Neither the issuance of permits, Certificates of Compliance, nor notices of non compliance 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.

### 3. 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 Minnesota Rules, chapter 7080.1500, Subp. 4A or 7081.0080, Subp. 3, must be repaired or replaced within twelve (12) 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) Certificates of Compliance for new SSTS construction or SSTS replacement, shall remain valid for five (5) years, and shall be issued by the Department certifying that the SSTS system was installed in accordance with the applicable requirements as specified in the approved septic design plans.
- (c) 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.
- (d) The certificate of compliance or notice of noncompliance must be submitted to the Department no later than 15 business days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 business days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.

#### 4. Existing Systems

- (a) Compliance inspections shall be required when any of the following conditions occur:
  - (1) When a septic permit is required to repair, modify, or upgrade an existing system;
  - (2) ▲Any time there is a bedroom addition to an existing dwelling;
  - (3) Any time there is a change in use of a building or property being served by an existing SSTS which may impact the performance of the system;
  - (4) At any time as required by this Article or the Department

deems appropriate such as upon receipt of a complaint or other notice of a system malfunction;

- (5) ▲ Any time an operating permit is renewed.
  - (6) ▲ For land transfers that required a Certificate of Real Estate Value (CRV). A Lyon County Sewer Information Data Form must be completed and filed with the Certificate of Real Estate Value (CRV). Said form is valid for 12 months. The compliance inspection report portion of said form need not be completed under the following conditions:
    - a. The land is bare, without buildings.
    - b. The land has buildings, none of which is used as a dwelling or has access to a sewage treatment system. If a buildings site dwelling is restored or reconstructed, the sewage treatment system must be in compliance with the requirements of this Article.
    - c. The building site is abandoned, the dwelling is not in use, and future use within the next twelve (12) months is not contemplated.
    - d. If the property is transferred to a spouse or the value as stated on the Certificate of Real Estate Value (CRV) is less than one thousand dollars (\$1,000.00).
    - e. If a contract for deed is being satisfied that was originally executed before the effective date of the adoption of the Zoning Ordinance.
    - f. Any newly executed contract for deed.
- (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) A water tightness assessment of all sewage 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. A vertical separation report shall include verifications by two independent parties which may be a licensed inspection business, a certified inspector, and/or a Qualified Employee. If there is a dispute between the two verifying inspectors, the disputing parties must follow the dispute resolution procedure described in Minnesota Rules, chapter 7082.0700, Subpart 5;

- (3) The presence of sewage backup, surface seepage, or surface discharge, including a hydraulic function report, which states the methods used to make the assessment.
- (c) The certificate of compliance for an existing SSTS system, must include a certified statement by a licensed inspection business, indicating whether the SSTS is in compliance with all applicable requirements. If the SSTS is determined not to be in compliance, a notice of noncompliance must include a statement specifying those requirements with which the SSTS does not comply.
- (d) The certificate of compliance or notice of noncompliance must be submitted to the Department no later than 15 business days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 business days of receipt from the licensed inspection business.
- (e) Certificates of compliance for existing SSTS shall remain valid for five (5) years from the date of issue unless the Department finds evidence of noncompliance.

## **SECTION 24.10 ENFORCEMENT**

### **A. Violations**

- 1. Cause to Issue a Notice of Violation. Any person, firm, agent, or corporation who violates any of the provisions of this Article, or who fails, neglects, or refuses to comply with the provisions of this Article, 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 Statutes. Each day that a violation exists shall constitute a separate offense.

2. 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 Article. 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 Article.
  - (c) A list of the specific requirements for correction or removal of the specified violation(s);
  - (d) A mandatory time schedule for correction, removal and compliance with this Article.
3. 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 a SSTS by a licensed business or certified individual or any septage removal by a licensed maintenance business or a certified maintainer that is performed in violation of the provisions of this Article.

#### **SECTION 24.11 RECORD KEEPING**

- A. Current Record. 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, and other records or actions relevant to each system.
- B. 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.