



## Legislation Text

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**File #:** Ord 17-4, **Version:** 1

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Repealing Chapter 50 of the Saint Paul Legislative Code pertaining to Individual Sewage Treatment Systems in its entirety and replacing it with new Chapter 50 language pertaining to Subsurface Sewage Treatment Systems. (To be withdrawn.)

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

### SECTION 1

Chapter 50 of the Saint Paul Legislative Code is hereby repealed in its entirety and replaced with the following:

#### **Chapter 50. SUBSURFACE SEWAGE TREATMENT SYSTEMS**

##### **Sec. 50.01. - Short title.**

This chapter shall be known and referred to as the Subsurface Sewage Treatment Systems (SSTS) ordinance.

##### **Sec. 50.02. - Introduction.**

This is an ordinance authorizing and providing for sewage treatment and soil dispersal in unsewered areas of the city. 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 the City of Saint Paul, Incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency (MPCA),

(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 and operating permit when applicable,

(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, the City Comprehensive Plan and the City Zoning Ordinances.

**Sec. 50.03. - 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 City of Saint Paul 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 City's citizens by protecting its health, safety, general welfare, and natural resources.

**Sec. 50.04. - Intent.**

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

(1) The protection of lakes, rivers and streams, wetlands, and groundwater in Saint Paul essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the City;

(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 and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration;

(4) The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities; and

(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.

**Sec. 50.05. - 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, Chapter 7083; or successor rules.

**Sec. 50.06. - Effective Date.**

The provisions set forth in this Ordinance shall become effective thirty (30) days following passage, approval and publication.

**Sec. 50.07. - Definitions.**

The following words and phrases shall have the meanings ascribed to them in this Chapter. If not specifically defined in this Chapter, 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. The following additional definitions shall apply to this Chapter:

*As-built drawings* - Revised set of drawing submitted by a contractor upon completion of a project or a particular job. They reflect all changes made in the specifications and working drawings during the construction process, and show the exact dimensions, geometry, and location of all elements of the work completed under the contract.

*Authorized Representative.* An employee or agent of the City of St. Paul, Department of Safety and Inspections.

*Building Official.* The head of the building inspection division of the Department or his or her designee, certified and licensed by the MPCA as competent in the inspection of individual sewage treatment systems.

*Class V Injection Well.* A shallow well used to place a variety of fluids directly below the land surface, which includes large-capacity septic systems disposing of sanitary waste through a septic tank and are used by multiple dwellings, business establishments, communities, and regional business establishments for the injection of wastes. Systems serving single families and non-residential systems serving less than 20 persons are not included. 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).

*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.

*City.* Saint Paul, Minnesota.

Department. The Department of Safety and Inspections.

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

Flood Plain. The channel or beds and the areas adjoining a wetland, watercourse or lake which a regional flood may have or could hereafter cover. Floodplain areas within the City shall include any area adjoining a watercourse or water basin that have been or may be covered by a regional flood.

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 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 Sec. 50.18.

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 Sec. 50.18.

Individual subsurface sewage treatment system or ISTS. A subsurface sewage treatment system or part thereof, as set forth in Minnesota Statutes, sections 115.03 and 115.55, that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade that are designed to receive a sewage design flow of 5,000 gallons per day or less.

ISTS also includes all holding tanks that are designed to receive a design flow of 10,000 gallons per day or less; sewage collection systems and associated tanks that discharge into ISTS treatment and dispersal components; and privies. ISTS does not include those components defined as plumbing under the Minnesota Plumbing Code, chapter 4714, except for a building sewer connected to a subsurface sewage treatment system.

## **SEE ATTACHMENT #1 - (SECTION 50.07 -DEFINITIONS CONTINUED - INDUSTRIAL WASTE)**

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

Management Plan. A plan that requires the periodic examination, adjustment, testing, and other operational requirements to meet system performance expectations, including a planned course of action in the event a system does not meet performance expectations.

MDH. Minnesota Department of Health.

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.

Midsized subsurface sewage treatment system or MSTs. A subsurface sewage treatment system, or part thereof, as set forth in Minnesota Statutes, sections 115.03 and 115.55, that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade and that is designed to receive sewage design flow of greater than 5,000 gallons per day to 10,000 gallons per day.

MSTs also includes sewage collection systems and associated tanks that discharge into MSTs treatment or dispersal components. MSTs does not include those components defined as plumbing under the Minnesota Plumbing Code, chapter 4714, except for a building sewer connected to a subsurface sewage treatment system.

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.

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 certified with specialty area certifications 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.

Responsible Party. Any one (1) or more of the following:

- (1) Agent;
- (2) Assignee or collector or rents;
- (3) Holder of a contract for deed;
- (4) A mortgagee or vendee in possession;
- (5) Receiver or executor or trustee;
- (6) Lessee;
- (7) Those known to the enforcement officer as having an ownership interest; or
- (8) Other person, firm or corporation exercising apparent control over a property.

Sewage. Waste produced by toilets, bathing, laundry, or culinary operations or the floor drains associated with these sources, and includes household cleaners, medications, and other constituents in sewage restricted to

amounts normally used for domestic purposes.

SSTS. Subsurface sewage treatment system Including an ISTS, MSTS.

State. The State of Minnesota.

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: cBOD5 < 15 mg/L; TSS < 15 mg/L; fecal coliforms < 1,000/100 mL.

Level A-2: cBOD5 < 15 mg/L; TSS < 15 mg/L; fecal coliforms N/A

Level B: cBOD5 < 25 mg/L; TSS < 30 mg/L; fecal coliforms < 10,000/100 mL.

Level B-2: cBOD5 < 25 mg/L; TSS < 30 mg/L; fecal coliforms N/A

Level C: cBOD5 < 125 mg/L; TSS < 60 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. Systems meeting the specifications laid out in sections 7080.2270 through 7080.2290 of the Minnesota Administrative Rules.

Type III System. . Systems meeting the specifications laid out in section 7080.2300 of the Minnesota Administrative Rules.

Type IV System. Systems meeting the specifications laid out in section 7080.2350 of the Minnesota Administrative Rules.

Type V System. Systems meeting the specifications laid out in section 7080.2400 of the Minnesota Administrative Rules.

Unsewered Area. Any area within the City not served by a municipal sanitary sewer collection system permitted by the MPCA.

## **Sec. 50.08 - Scope.**

This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and

management of all SSTS within the City'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 City 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 MPCA.

### **Sec. 50.09 - Jurisdiction.**

The jurisdiction of this Ordinance shall include all property within the City of St. Paul.

### **Sec. 50.10 - Administration.**

(1) The Department shall be responsible for the administration and enforcement of the maintenance provisions of this chapter, including, but not limited to, notifying the owners of SSTS of inspection dates, monitoring the results of maintenance reviews, ensuring that pumping is performed as necessary, keeping on file inspection reports for each individual sewage treatment system, investigating complaints and ordering corrective action necessary to protect the public health, safety and welfare of the community.

(2) The Department shall have the power to:

(a) Require property owners to cease and desist from the use of an SSTS operating in a manner creating a hazard to the public health, safety or welfare; and

(b) Condemn a dwelling as unfit for human habitation where the improper functioning or failure of an individual sewage treatment system constitutes a hazard to the public health, safety or welfare of the occupants of the dwelling. Such action shall be in compliance with the provisions of Chapter 34 of the legislative code.

(3) The Building Official or Qualified Employee shall have the authority to inspect all individual sewage treatment systems. The owner or occupier of property with an individual sewage treatment system shall provide access at reasonable times for the purpose of performing any inspection or review required under this Chapter whenever there is probable cause to believe that a hazard to the public health, safety or welfare exists or when inspections and reviews are required or necessary to insure compliance with the provisions of this Chapter.

(4) 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 the MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period that 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.

### **Sec. 50.11 - Building Official - responsibility.**

The Building Official shall be responsible for administration and enforcement of the design, construction and installation provisions for this chapter for new systems and the replacement and repair of existing systems, including, but not limited to, reviewing and evaluating technical matters relating to system design and installation. The Building Official shall have the power to issue orders to:

- (1) Suspend or revoke permits or stop action upon information indicating that the permit was issued in error or on the basis of incorrect or inadequate information, or that work is not being performed in compliance with the requirements of this chapter; and
- (2) Require the correction of new or existing systems where, following inspection and review, a system is determined to be defective.

#### **Sec. 50.12 - Liability.**

Any liability or responsibility shall not be imposed upon the City, Department, 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 rule by reason of standards, requirements, or inspections authorized hereunder.

#### **Sec. 50.13 - Retroactivity.**

- (1) All SSTS - Except as explicitly set forth in Sec. 50.15, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.
- (2) 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.
- (3) Two Soil Treatment and Dispersal Areas - 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 as applicable.
- (4) 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.

#### **Sec. 50.14. - 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 Ordinance at the time of the expansion.

(2) Bedroom Additions - A compliance inspection is required prior to issuance of a permit for a bedroom addition. If the system is found to be non-compliant, the owner shall upgrade, repair, or replace the existing system prior to issuance of the permit for the bedroom addition.

(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 Ordinance within 10 months of receipt of a Notice of Noncompliance. The Building Official has the discretion to extend this period to up to 18 months.

(4) 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 3 months of receipt of a Notice of Noncompliance. The Building Official has the discretion to extend this period to up to 10 months.

(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.

#### **Sec. 50.15. - SSTS in floodplains.**

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.

#### **Sec. 50.16 - 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 ("CFR"), title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR 40 part 144. Further, owners are required to identify all Class V Injection Wells in property transfer disclosures.

#### **Sec. 50.17 - SSTS practitioner licensing.**

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.

### **Sec. 50.18 - 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 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.

(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 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.

(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 ordinance.

(4) 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.

### **Sec. 50.19 - Standards adopted by reference.**

The City 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 City's right or ability to adopt local standards that are in compliance with Minnesota Statute 115.55.

### **SEE ATTACHMENT #2 - (SEC. 50.20 - AMENDMENTS TO THE ADOPTED STANDARDS)**

### **Sec. 50.21 - Variance requests.**

A property owner may request a variance from the standards pursuant to City policies and procedures as specified in Chapter 18. The City 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.

### **Sec. 50.22. - SSTS permitting.**

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

**Sec. 50.23. - Construction permit.**

A construction 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 Ordinance by appropriately certified and/or licensed practitioner(s).

(1) Activities requiring a construction permit - A construction 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 permit - A 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.

(3) 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.

(4) Conformance to Prevailing Requirements - Any activity involving an existing system that requires a Construction Permit shall require that the entire system be brought into compliance with this Ordinance.

(5) Permit application requirements - Construction permit applications shall be made on forms provided by the 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 following documents.

(a) The name, mailing address, telephone number, and email address of the property owner.

(b) The property Identification Number, address and legal description of the property location.

(c) The name, contact information and MPCA license number of the SSTS Designer responsible for the system design.

(d) Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730

(e) Design Report as described in Minnesota Rules, Chapter 7080.2430.

(f) Management Plan as described in Minnesota Rules, Chapter 7082.0600.

(g) Any building plans for the existing and proposed system.

(h) Permit fee.

(6) 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 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. 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.

(7) Appeal - The applicant may appeal the Department's decision to deny the Construction Permit in accordance with the City's established policies and appeal procedures.

(8) Permit expiration - The Construction Permit is valid for a period of no more than one year 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.

(9) Extensions and renewals - The Department may grant an extension of the 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) months.

(10) Transferability - A Construction Permit shall not be transferred to a new owner. The new owner must apply for a new Construction Permit in accordance with this section.

(11) Suspension or Revocation - The Department may suspend or revoke a Construction Permit issued under this section for any false statements, misrepresentations of facts on which the 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 Construction Permit is obtained.

(12) Posting - The 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.

## **50.24 - Operating permit.**

(1) SSTS requiring an Operating Permit - An Operating Permit shall be required of all owners of new holding tanks, Type IV Systems, Type V Systems or MSTS, or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to these systems until the Department certifies that the system was installed in substantial conformance with the approved plans, receives the final record drawings of the system, and a valid Operating Permit is issued to the owner.

(2) Permit application requirements:

(a) Application for an Operating Permit shall be made on a form provided by the Department including:

(1) Owner name, mailing address, telephone, and email address;

(2) Construction Permit reference number and date of issue;

(3) Final record drawings of the treatment system; and

(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 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, subd. 3, para. (a), cl. (3).

(c) SSTS existing prior to the effective date of this ordinance - All SSTS existing prior to the effective date of this ordinance shall require an operating permit upon transfer of ownership, replacement, any modification or expansion that requires a permit, or following any SSTS enforcement action.

(3) 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 ten (10) working days of receipt of the permit application.

(4) Operating Permit terms and conditions -

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

(1) System performance requirements;

(2) System operating requirements;

(3) Monitoring locations, procedures and recording requirements;

(4) Maintenance requirements and schedules;

(5) Compliance limits and boundaries;

(6) Reporting requirements;

(7) Department notification requirements for non-compliant conditions;

(8) Valid contract between the owner and a licensed maintenance business;

(9) Disclosure, location and condition of acceptable soil treatment and dispersal system site; and

(10) Descriptions of acceptable and prohibited discharges.

(5) Permit expiration and renewal -

(a) Operating Permits shall be valid for the specific term stated on the permit as determined by the Department.

(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 ninety (90) calendar days of the expiration date, the City may require that the system be abandoned in accordance with Section 50.26 herein.

(c) Application shall be made on a form provided by the Department including:

(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 City;

(5) Any revisions made to the operation and maintenance manual; and

(6) Payment of application review fee as determined by the City.

(6) Amendments to existing permits not allowed - The City 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.

(7) Transfers - The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with this section. 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.

(8) Suspension or Revocation - 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.

(a) Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.

(b) 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 50.20.

(c) At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

(9) Compliance monitoring -

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

(b) A monitoring report shall be prepared and certified by the 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; and

(7) Name, signature, license and license number of the licensed professional who performed the work.

### **50.25 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 and in a manner that protects public health, safety and water quality. It also terminates all permits associated with the system.

(a) Abandonment requirements - 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 discontinued use. 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 within 90 days of abandonment. 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; and

(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.

(2) 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 in accordance with the requirements of this ordinance the City shall notify the owner of the SSTS of the deficiencies, which shall be corrected within (30) calendar days of the notice.

## **50.26 Management Plans.**

(1) 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.

(2) Management Plan Requirements - 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.

(3) Management plans shall include:

(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) A description of the system and each component;

(g) A description of how the system functions;

(h) A plot plan of the system;

(i) Equipment specifications; and

(j) Emergency operating procedures in the event of a malfunction.

(4) Requirements for systems not operated under a Management Plan - SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids no less than every three years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

### **50.27 Compliance inspection program.**

(1) 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) For all new SSTS construction or replacement; and

(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 businesses or qualified employees certified as inspectors.

(c) 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.

(d) 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) 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 three (3) 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. The Building Official has the discretion to extend this period to up to ten (10) months.

(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) Installation inspections shall be made at each installation, prior to any work having been covered by backfill. Work that is backfilled prior to the required inspection may be ordered to be uncovered wherever necessary to determine compliance.

(d) The licensed installer shall be responsible for notifying the department a minimum of twenty four (24) hours before the time the work is ready for inspection or re-inspection.

(e) When, upon inspection, any part of the system is determined not to be in compliance with this division, written notice shall be provided by the Department indicating the deficiency and the required corrections.

(f) Noted deficiencies shall be properly corrected and re-inspected before any other work on the project is continued.

(g) No system shall be placed or replaced in service until final inspection and approval of the installation.

(h) The installer, upon completion of the installation, shall file with the Department As-built drawings indicating the location of system components dimensioned from a permanent reference point within 30 days.

(i) A minimum of three (3) construction inspections are required for mounds in accordance with the following:

(1) When the original soil under the mound has been roughened, but prior to placement of the clean sand fill. Enough of the proposed sand fill must be present to be viewed;

(2) After placement of rock and piping, but prior to cover; and

(3) Final inspection, when the job has been properly covered and seeded.

(j) SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit.

(k) A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) 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 construction permit.

(l) 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.

(m) The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (15) calendar 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 fifteen (15) calendar days of receipt from the certified inspector.

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

### (3) 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 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; and

(5) At the time of property sale or transfer.

(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; and

(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 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 must be submitted to the Department no later than fifteen (15) calendar 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 fifteen (15) calendar days of receipt from the licensed inspection business.

(e) Certificates of compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless the Department finds evidence of noncompliance.

(4) Periodically Saturated Soil Disagreements - Disputes involving documented discrepancies on the depth of the periodically saturated soil for SSTS design or compliance purposes shall be resolved according to Minnesota Rules, Chapter 7082.0700, subd. 5.

#### (5) 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 (3) years for SSTS older than five (5) years or within five (5) years if the system is less than five (5) 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 this section;

(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; and

(4) If the seller fails to provide a Certificate of Compliance, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the connection to a municipal sanitary sewer collection system or installation of a compliant SSTS in accordance with this subdivision. 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%) of a written estimate to assure connection to a municipal sanitary sewer collection system or installation of a compliant SSTS provided by a licensed and certified installer, or the amount escrowed shall be equal to (110%) of the written contract price to connect to a municipal sanitary sewer collection system or installation of a compliant SSTS provided by a licensed and

certified installer. After connection to a municipal sanitary sewer collection system or installation of a complaint SSTS a Certificate of Compliance issued, the Department shall provide the escrow agent a copy of the Certificate of Compliance. If a public sewer is accessible and the connection is feasible, the escrow must be used to connect to a municipal sanitary sewer collection system permitted by the MPCA.

(b) The compliance portion of the Certificate of Compliance need not be completed if the sale or transfer involves the following circumstances:

(1) The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures;

(2) The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, subdivision 1;

(3) The transfer is a foreclosure or tax forfeiture;

(4) 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; and

(5) 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 City 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, 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, an escrow agreement must be established in accordance with section (a)4, above, and the system upgraded to a public sewer if accessible and the connection is feasible.

(d) The responsibility for filing the completed compliance portion of the Certificate of Compliance under paragraph a(1), 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 indicating responsibility for completing the compliance portion of the Certification and for upgrading a system found to be non-conforming.

(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.

**Section 50.28 - Violations.**

(1) Cause to Issue a Notice of Violation - Any person, firm, agent, corporation or Responsible Party 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.

(2) Notice of Violation - The Department shall cause to be served, 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); and

(d) A mandatory time schedule for correction, removal and compliance with this ordinance.

(3) Stop Work Orders - Stop Work Orders may be issued when the Department has probable cause to believe that an activity regulated by this or any other City Ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a Stop Work Order, the work shall not resume until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the Stop Work Order lifted.

**Section 50.29 - Prosecution.**

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

**Section 50.30- 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 50.31 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 accordance with the provisions of Chapter 45, 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.

**Section 50.32 - Record keeping.**

The City 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 city sorted by licensed installation businesses, and other records relevant to each system.

**Section 50.33 - Annual report.**

The department shall provide an annual report of SSTS permitting activities to MPCA in accordance with the reporting requirements under Minnesota Rules, Chapter 7082.0040 no later than February 1 for the previous calendar year.

**Section 50.34 - Fees.**

From time to time, the City Council 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.

**Section 50.35 - 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 City and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

**Section 50.36 - 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.

**Section 50.37 - Abrogation and greater restrictions.**

It is not intended by this Ordinance to repeal, abrogate, or impair any other existing City 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.

**Section 50.38- Well water testing on lots with individual sewage treatment systems.**

(1) Testing of water from existing wells:

(a) Coliform bacteria and chemical (nitrate) testing of well water shall be conducted for those parcels containing both an individual sewage treatment system and a private water well on the effective date of this chapter. It shall be the responsibility of the property owner to either:

(1) Submit well water samples, using kits from the department of safety and inspections, to the department of safety and inspections or testing and analysis; or

(2) Contract with a laboratory certified by the state office of health for collection, testing and analysis. Testing and analysis shall occur within twelve (12) months of the effective date of this chapter. Test results shall be submitted by the property owner to the Department on forms to be provided by the Department, along with such fee as may be set by the city council. The Department shall then issue a certificate, to be good for two (2) years, to the property owner verifying that the water samples are within the standards set for public health

(b) After the initial coliform bacteria and nitrate testing of water from all existing private wells, coliform bacteria and nitrate testing shall be conducted every two (2) years thereafter as described in subsection (a) (1) above. Within thirty (30) days of the testing, a copy of the test results, on forms to be provided by the department of safety and inspections, shall be submitted by the property owner to the department of safety and inspections, along with such fee as prescribed by the city council. The department of safety and inspections shall then issue a certificate, to be good for two (2) years, to the property owner verifying that the water samples are within the standards set for public health.

(2) Testing of water from wells installed after the effective date of this chapter. Coliform bacteria and nitrate testing of water from all private wells installed after the effective date of this chapter shall be conducted every two (2) years from the date of installation as described in subsection (1)(a) above. Within thirty (30) days of the testing, a copy of the test results, on forms to be provided by the Department, shall be submitted by the property owner to the Department, along with such fee as prescribed by the city council. The Department shall issue a certificate, to be good for two (2) years, to the property owner verifying that the water samples are within the standards set for public health.

SECTION 2

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.

