

ORDINANCE NO. 934

AN ORDINANCE TO THE MAPLEWOOD MUNICIPAL CODE REGARDING SUBSURFACE SEWAGE TREATMENT SYSTEMS

The Maplewood City Council approves the following addition to the Maplewood Code of Ordinances. This ordinance replaces Chapter 40, Article II, Division 5 (Individual Sanitary Sewer Systems) in its entirety.

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Sec. 40-161. - 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 areas of the City of Maplewood 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,
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 Ordinance.

Sec. 40-162. - TITLE, PURPOSE AND INTENT

(a) Title

The City ordains Division 5 of the City Code the “City of Maplewood Subsurface Sewage Treatment System (SSTS) Ordinance.”

(b) 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 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.

(c) 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 the City of Maplewood 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 against 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.
- (5) The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent or control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

Sec. 40-163. - AUTHORITY

This Ordinance is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Section 145A.05; or successor statutes, and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082, or successor rules.

Sec. 40-164. - EFFECTIVE DATE

The provisions set forth in this Ordinance shall become effective on **September 23, 2013**.

Sec. 40-165. - 40.195 - RESERVED

Sec. 40-196. - DEFINITIONS

The following words and phrases shall have the meanings ascribed to them in this Section. If not specifically defined in this Section, 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.

Authorized Representative: An employee or agent of the City of Maplewood.

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 twenty (20) people. The U.S. 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: City of Maplewood, Minnesota.

City Council: The City of Maplewood City Council.

City Manager: The City Manager of the City of Maplewood, Minnesota.

Department: The City of Maplewood Department designated by the City Manager to administer SSTS.

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

Flood Plain: The channel or beds proper 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 all areas shown as zone A or zone AE on the flood insurance rate map. Refer to the City Floodplain Ordinance for further definitions.

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 Chapter 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Section 40-237 hereof.

Imminent Threat to Public Health and Safety: At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, storm water drains, or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a SSTS inspection business licensed pursuant to Section 5 hereof.

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

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

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

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.

MDH: Minnesota Department of Health

Minor Repair: The repair or replacement of an existing damaged or faulty component/part of a SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS.

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

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 registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.

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

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

SSTS: Subsurface sewage treatment system Including an ISTS or 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 ≤ 80 mg/L; fecal coliforms N/A.

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

Type II System: An ISTS on a lot located in a floodplain, a privy or a holding tank.

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 organisms is prevented.

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

Sec. 40-197. - 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 connected to municipal sanitary sewer when it is available in accordance with the City Sanitary Sewer Ordinance. The City Engineer, or his or her designee, shall determine if municipal sanitary sewer is available.

Sec. 40-198. - JURISDICTION

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

Sec. 40-199. - ADMINISTRATION

(a) CITY ADMINISTRATION

The Department shall administer the SSTS program and all provisions of this

Ordinance. At appropriate times, the City shall review or revise or update this Ordinance as necessary. The City shall employ or retain under contract 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 permit from the MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a State Disposal System permit is required. SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance.

Sec. 40-200. - LIABILITY

Any liability or responsibility shall not be imposed upon the City 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. 40-201. - MEASUREMENT OF DISTANCES

Unless otherwise specified in this division, all distances shall be measured horizontally.

Sec. 40-202. - INTERPRETATION OF CERTAIN ITEMS

For the purposes of this division, certain terms or words used shall be interpreted as follows: The words "shall" and "must" are mandatory; the words "should" and "may" are permissive.

Sec. 40-203. - 40-232 - RESERVED

Sec. 40-233. - RETROACTIVITY

(a) All SSTS

Except as explicitly set forth in Section 40-233(b), all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

(b) 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.

(c) 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 Chapter 7081.0270, Subp. 3 through 7. If an additional soil treatment and dispersal area is available on lots created on or before January 23, 1996, it shall be identified in the site evaluation.

(d) 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. 40-234. - UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT

(a) 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.

(b) 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.

(c) Failure to Protect Groundwater

A 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 three (3) months of receipt of a Notice of Noncompliance. If the Department determines that extenuating circumstances exist, this timeframe may be extended to eighteen (18) months from receipt of a Notice of Noncompliance.

(d) Imminent Threat to Public Health or Safety

A 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 three (3) months of receipt of a Notice of Noncompliance. If the Department determines that extenuating circumstances exist, this timeframe may be extended to ten (10) months from receipt of a Notice of Noncompliance.

(e) 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. 40-235. - SSTS IN FLOODPLAINS

SSTS shall not be located in a floodplain.

Sec. 40-236. - 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 CFR40, Part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

Sec. 40-237. - 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. 40-238. - PROHIBITIONS

(a) 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 in an unsewered area that is not provided with a wastewater treatment system that disposes of wastewater in a manner that complies with the provisions of this Ordinance.

(b) 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.

(c) 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.

(d) Discharge of Hazardous or Deleterious Materials

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

Sec. 40-239. - 40-269 - RESERVED

Sec. 40-270. - 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.

Sec. 40-271. - AMENDMENTS TO THE ADOPTED STANDARDS

(a) Determination of Hydraulic Loading Rate and SSTS Sizing

Table IX from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) entitled "Loading Rates for Determining Bottom Absorption Area 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 Ordinance.

(b) Compliance Criteria for Existing SSTS

SSTS built after March 31, 1996 or existing SSTS located in a Shoreland area, existing wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under Minnesota Rules, Chapter 7080.1100, Subp. 84 shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a fifteen (15) percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer

characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. Minnesota Rules, Chapter 7080.1500, Subp.4.

(c) Holding Tanks

Sewage holding tanks may be considered for installation on previously developed sites, as a temporary method for periods of up to one (1) year, during which time measures are being taken to provide municipal sewer service or the installation of an approved system as provided in this Ordinance. Holding tanks may be considered on a permanent basis for nonresidential, low -water use establishments generating less than one hundred fifty (150) gallons per day of waste, subject to approval by the department and the issuance of a certificate of compliance. Holding tanks may also be considered for floor drains for vehicle parking areas and existing facilities potentially generating hazardous waste.

(d) Setbacks

The following setback requirements are in addition to the setbacks required in Table VII in Minnesota Rules Chapter 7080.2150.F:

Table VII: Minimum setback distances (feet)		
Feature	Sewage tank, holding tank, or sealed privy	Absorption area or unsealed privy
Above-ground swimming pools	10	10
In-ground swimming pools	10	20
Shoreland Blufflines (18% slope)	20	20

The following setback requirements are in addition to the setbacks required in Table II Minnesota Rules Chapter 7081.0270 Subpart 2:

Table II: Minimum setback distances (feet)		
Feature	Sewage tank, holding tank, or sealed privy	Absorption area or unsealed privy
Above-ground swimming pools	10	10
In-ground swimming pools	10	20
Shoreland Blufflines (18% slope)	20	20

Variances to building setbacks included in Minnesota Rules, Chapter 7080 and 7081 may only be considered through the normal City variance process. Variances to shoreland setbacks may be considered through the Shoreland Ordinance. Variances to well and water line setbacks are governed by the MDH.

(e) Licensed Professional Engineer Required

The design of SSTS regulated under Minnesota Rules, Chapter 7081 shall be completed by a licensed Minnesota Professional Engineer, who is also licensed by the MPCA as an Advanced Designer.

Sec. 40-272. - VARIANCE REQUESTS

A property owner may request a variance from the standards as specified in this Ordinance pursuant to the requirements provided in Minnesota State Statutes. The City shall consider the requirements of Minnesota Rules Chapter 7082.0300, subp. 2 and 3 when considering such variances. 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. 40-273. - 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. 40-274. - 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).

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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 documents listed in items 1 through 8 below.

- (1) The correct address and legal description of the property where the proposed work is to take place.
- (2) The name and contact information (mailing address, telephone number, and e-mail address) of the property owner.
- (3) The name, contact information, and MPCA License Number of the SSTS Designer responsible for the system design.
- (4) Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730 and on the Department's permit application.
- (5) Design Report as described in Minnesota Rules, Chapter 7080.2430 and on the Department's permit application.
- (6) Building Plans for the existing and proposed system.
- (7) Management Plan as described in Minnesota Rules, Chapter 7082.0600.
- (8) Permit fee.

(f) 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 contact the Department prior to initiating or continuing construction, modification, or operation to determine whether an amended application will be necessary, as determined by the Department. If determined necessary, the applicant shall 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.

(g) 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.

(h) 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 six (6) months.

(i) 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.

(j) 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 as determined by the Department, 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.

(k) 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.

Sec. 40-275. - OPERATING PERMIT

(a) SSTS Requiring an Operating Permit

An Operating Permit shall be required of all owners of new holding tanks, Type IV Systems, Type V Systems, 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.

(b) Permit Application Requirements

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

- a. Owner name, mailing address, telephone, and email address
- b. Construction Permit reference number and date of issue
- c. Final record drawings of the treatment system
- d. Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business

(2) 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, subdivision 3, paragraph (b), clause (3).

(3) 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.

(c) 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.

(d) Operating Permit Terms and Conditions

The Operating Permit shall include the following:

- (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
- (10) Descriptions of acceptable and prohibited discharges

(e) Permit Expiration and Renewal

- (1) Operating Permits shall be valid for the specific term stated on the permit as determined by the Department.
- (2) 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 40-277.
- (3) Application shall be made on a form provided by the Department including:
 - a. Applicant name, mailing address, telephone number, and e-mail address.
 - b. Reference number of previous owner's operating permit.
 - c. Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit.
 - d. Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the

discretion of the City.

- e. Any revisions made to the operation and maintenance manual.
- f. Payment of application review fee as determined by the City.

(f) 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.

(g) Transfers

The Operating Permit may not be transferred. A new owner shall apply for an Operating Permit in accordance with Section 40-275 of this Ordinance. The Department shall not terminate the current permit until sixty (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.

(h) Suspension or Revocation

- (1) 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.
- (2) Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
- (3) 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 40-276.
- (4) At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

(i) Compliance Monitoring

- (1) 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.

(2) 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:

- a. Owner name, mailing address, telephone number, and e-mail address.
- b. Operating Permit number
- c. Average daily flow since last compliance monitoring report
- d. Description of type of maintenance and date performed
- e. Description of samples taken (if required), analytical laboratory used, and results of analyses
- f. Problems noted with the system and actions proposed or taken to correct them
- g. Name, signature, license and license number of the licensed professional who performed the work

Sec. 40-276. - ABANDONMENT CERTIFICATION

(a) 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.

(b) Abandonment Requirements

(1) 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.

- (2) 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.
- (3) An owner of a SSTS must retain a licensed installation business to abandon all components of the treatment system within sixty (60) calendar days of discontinued use. 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.
- (4) A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:
 - a. Owner's name, mailing address, telephone number, and e-mail address.
 - b. Property address
 - c. System construction permit and operating permit
 - d. The reason(s) for abandonment
 - e. 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.

(c) Abandonment Certificate

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

Sec. 40-277. - MANAGEMENT PLANS

(a) PURPOSE

The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to

be provided by the certified designer to the system owner when the treatment system is commissioned.

(b) 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

(c) Required Contents of a Management Plan

Management plans shall include:

- (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) A description of the system and each component;
- (7) A description of how the system functions;
- (8) A site plan of the system;
- (9) Equipment specifications;
- (10) Emergency operating procedures in the event of a malfunction;
- (11) A troubleshooting guide

(d) 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 if needed every three years. Solids must be removed when their accumulation meets the limit

described in Minnesota Rules, Chapter 7080.2450. System owners shall be required to submit a MPCA Septic Tank Maintenance Reporting Form to the Department every three (3) years.

Sec. 40-278. - 40-309 - RESERVED

Sec. 40-310. - COMPLIANCE INSPECTION PROGRAM

(a) 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.

(1) SSTS compliance inspections must be performed:

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

(2) All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.

- (3) 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 two (2) days in advance of the intended inspection.
- (4) 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.

(b) New Construction or Replacement

- (1) Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081.
- (2) It is the responsibility of the SSTS owner or the owner's agent to notify the Department two (2) calendar days prior to any permitted work on the SSTS.
- (3) 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 whenever necessary to determine compliance.
- (4) 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 reinspection.
- (5) 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.
- (6) Noted deficiencies shall be properly corrected and reinspected before any other work on the project is continued.
- (7) SSTS found not to be in compliance with Minnesota Rules, Chapter 7080.1500, Subp. 4A or Chapter 7081.0080, Subp. 3 must be repaired or replaced within ten (10) months.

- (8) No system shall be placed or replaced in service until final inspection and approval of the installation.
- (9) The contractor, 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.
- (10) A minimum of three construction inspections are required for mounds in accordance with the following:
 - a. When the original soil under the mound has been roughened, but prior to placement of the sand fill. Enough of the proposed sand fill must be present to be viewed.
 - b. After placement of rock and piping but prior to cover.
 - c. Final inspection, when the job is completed.
- (11) SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit.
- (12) A Certificate of Compliance for new SSTS construction or replacement 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.
- (13) 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.

- (14) 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. No SSTS shall be placed into operation until a valid certificated of compliance has been issued.
- (15) 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.

(c) Existing Systems

- (1) Compliance inspections shall be required when any of the following conditions occur:
 - a. When a construction permit is required to repair, modify, or upgrade an existing system;
 - b. 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;
 - c. 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;
 - d. 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.
- (2) Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions must be assessed or verified:
 - a. Water-tightness assessment of all treatment tanks including a leakage report;
 - b. 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;

- c. Sewage backup, surface seepage, or surface discharge including a hydraulic function report.

- (3) 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.
- (4) 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.
- (5) 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.

(d) 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, subp. 5.

(e) Transfer of Properties

- (1) Whenever a conveyance of land including a structure that is required to have a SSTS occurs, the following requirements shall be met:
 - a. A compliance inspection shall have been performed and a Certificate of Compliance shall have been submitted to the Department within three (3) years for SSTS older than five years or within five (5) years if the system is less than five years old, prior to the intended sale or transfer of the property, unless

evidence is found identifying the SSTS as an Imminent Threat to Public Health and Safety or Failing to Protect Groundwater.

- b. The compliance inspection must have been performed by a qualified employee of the Department or a licensed inspection business following procedures described in Section 40-310.
 - c. 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.
 - d. 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 installation of a compliant SSTS. 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 one hundred fifty percent (150%) of a written estimate to install a compliant SSTS as provided by a licensed SSTS installer, or the amount escrowed shall be equal to one hundred ten percent (110%) of the written contract price for the installation of a compliant SSTS provided by a licensed SSTS installer. After a compliant SSTS has been installed and a Certificate of Compliance issued, the Department shall provide the escrow agent a copy of the Certificate of Compliance. The escrow may also be used to connect to a municipal sanitary sewer collection system permitted by the MPCA if the Department determines that an extension of the municipal sanitary sewer collection system to serve the property is feasible.
- (2) A Certificate of Compliance is not required if the sale or transfer involves the following circumstances:
- a. The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
 - b. The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, Subdivision 1.

- c. The transfer is a foreclosure or tax forfeiture.
 - d. 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.
 - e. All dwellings or other buildings are served by a municipal sanitary sewer collection system permitted by the MPCA.
- (3) 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 a 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 paragraph (1) d. above, and a compliant SSTS installed within the timeframe outlined in the Notice of Noncompliance.
- (4) The responsibility for completing the compliance inspection under paragraph (1) a. above, or for upgrading a system found to be non-compliant shall be determined by the buyer and seller. Buyer and seller shall provide the Department with a signed statement indicating responsibility for completion of the compliance inspection and for upgrading a system found to be non-compliant.
- (5) The issuance of permits, Certificates of Compliance, or Notices of Noncompliance shall not be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such permits or certificates only represent that the system has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

Sec. 40-311. - 40-341 - RESERVED

Sec. 40-342. - VIOLATIONS

(a) Cause to Issue a Notice of Violation

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

(b) Notice of Violation

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

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

(c) Cease and Desist Orders

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

Sec. 40-343. - PROSECUTION

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

Sec. 40-344. - 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/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this Ordinance. If there is known contamination of groundwater, the City also may notify the MDH for a possible well advisory.

Sec. 40-345. - COSTS AND REIMBURSEMENTS

If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover all costs incurred in removal or abatement in a civil action, including legal fees; at the discretion of the City Council, the cost of an enforcement action under this Ordinance may be assessed against the real property on which the public health nuisance was located.

Sec. 40-346. - 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.

Sec. 40-347. - 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.

Sec. 40-348. - 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.

Sec. 40-349. - 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.

Sec. 40-350. - 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.

Sec. 40-351. - 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.

40-352 - 370 - RESERVED