

## SECTION 17.5 - SUBSURFACE SEWAGE TREATMENT SYSTEM PROGRAM

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

- 1) Minimum standards for and regulation of individual sewage treatment systems (ISTS) and mid-sized Subsurface Sewage Treatment Systems (MSTS) (collectively referred to as SSTS) in unsewered incorporated and unincorporated areas of Sherburne County that do not administer a separate SSTS Ordinance, incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency;
- 2) Requirements for issuing permits for installation, alteration, repair or expansion of SSTS;
- 3) Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan;
- 4) Standards for upgrade, repair, replacement, or abandonment of SSTS;
- 5) Penalties for failure to comply with these provisions;
- 6) Provisions for enforcement of these requirements, and
- 7) Standards which promote the health, safety and welfare of the public as reflected in Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the County Comprehensive Plan and the County Zoning and Shoreland Ordinance.

Subdivision 1:	Purpose and Authority
Subdivision 2:	Definitions
Subdivision 3:	General Provisions
Subdivision 4:	General Requirements
Subdivision 5:	SSTS Standards
Subdivision 6:	SSTS Permitting
Subdivision 7:	Management Plans
Subdivision 8:	Compliance Management
Subdivision 9:	Enforcement
Subdivision 10:	Record Keeping
Subdivision 11:	Annual Report
Subdivision 12:	Fees
Subdivision 13:	Interpretation
Subdivision 14:	Severability
Subdivision 15:	Abrogation and Greater Restrictions
Subdivision 16:	Ordinance Repealed
Subdivision 17:	Adoption

**Subdivision 1: Purpose and Authority**

**1. Purpose**

The purpose of this section is to establish minimum requirements for regulation of ISTS and MSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of Sherburne County citizens by protecting their health, safety, general welfare, and natural resources.

**2. Intent**

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

- A. The protection of lakes, rivers and streams, wetlands, and groundwater in Sherburne County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County .
- B. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.

- C. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
- D. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
- E. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

### 3. Authority

This section is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Sections 145A.01 through 145A.08; Minnesota Statutes, Section 375.51; or successor statutes, and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082 or successor rules.

#### **Subdivision 2: Definitions**

The following words and phrases shall have the meanings ascribed to them in this Subdivision. If not specifically defined in this Subdivision, 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 County Planning and Zoning Department.

**Board of Adjustment:** A board established by county ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statutes, sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls.

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

**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.

**County:** Sherburne County, Minnesota.

**County Board:** The Sherburne County Board of Commissioners.

**Department:** The Sherburne County Planning and Zoning Department.

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

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

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

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

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

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

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

**MSTS:** A “midsized 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.

**MPCA:** Minnesota Pollution Control Agency

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

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

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

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

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

**State:** The State of Minnesota.

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

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

**Type II System:** An ISTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots with rapidly permeable soils or lots in floodplains and privies or holding tanks.

**Type III System:** An ISTS that uses soil to treat sewage but does not meet the tank, size or distribution requirements for a Type I system. Type III systems are designed for 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.

**Type V System:** An ISTS designed by a professional engineer that does not meet the prescriptive designs for Type I-IV. Type V systems must meet the public health and safety standards of 7080.1500.

### **Subdivision 3: General Provisions**

#### **1. Scope**

This section regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved Type I, Type II, Type III, Type IV or Type V 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.

**2. Jurisdiction**

The jurisdiction of this section shall include all lands of the County except for incorporated and unincorporated areas that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their jurisdiction which is at least as strict as this Ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance. The County Planning and Zoning Department shall keep a current list of local jurisdictions within the County which administer an SSTS program.

**3. Administration**

A. County Administration

The County Planning and Zoning Department shall administer the SSTS program and all provisions of this section. At appropriate times, the County shall review and revise and update this section as necessary. The County shall employ qualified and appropriately certified 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 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 section.

**4. Validity**

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

**5. Liability**

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

## **Subdivision 4            General Requirements**

### **1.     Retroactivity**

#### **A.     All SSTS**

Except as explicitly set forth in Subd 4, Item 1B, all provisions of this section 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 of this section 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.     SSTS on Lots Created After January 23, 1996**

All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds, or at-grade systems as described in Minnesota Rules, Chapters 7080.2200 through 7080.2230 or site conditions described in 7081.0270, Subp. 3 through 7.

#### **D.     Existing SSTS without Permits**

Any existing SSTS with no permit of record that was installed prior to 1996 shall be allowed to continue operation until such time as the system is deemed to be “non-compliant” with any provision of this section.

### **2.     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 section at the time of the expansion.

#### **B.     Failure to Protect Groundwater**

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within (18) months of receipt of a Notice of Noncompliance unless required sooner by other provisions of this section.

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

An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the

provisions of this Ordinance within (10) months of receipt of a Notice of Noncompliance unless required sooner by other provisions of this section.

D. 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.

**3. 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.

**4. Class V Injection Wells**

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

**5. 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.

**6. 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 that is provided with a wastewater treatment system that does not comply with the provisions of this section.

B. Sewage Discharge to Ground Surface or Surface Water

It is unlawful for any person to construct, maintain, or use any SSTS system 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.

D. Discharge of Hazardous or Deleterious Materials

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

**Subdivision 5: SSTS Standards**

**1. Standards Adopted by Reference**

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

**2. Amendments to the Adopted Standards**

A. List of Adopted Standards

The following is a list of standards that are stricter than the minimums required under MN.Rules Chapters 7080 through 7082:

- 1) Certificate of Compliance required at time of property transfer. This certificate must be presented when filing the Certificate of Real Estate Value. (Subd 8 Item 2A-1a of this section)
- 2) Certificate of Compliance required to obtain a building permit with the following exception: A new certificate of compliance will not be required if a certificate has been issued within the previous ten (10) years for the SSTS serving the property. (Subd 8 Item 2A-1 and 2 of this section)
- 3) The County will not accept a five (5) foot separation between distribution media and seasonal high water or a limiting layer in lieu of pressure distribution or multiple trenches using serial distribution.

B. Determination of Hydraulic Loading Rate and SSTS Sizing

Either Table IX 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" or Table IXa 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 Percolation Tests" from

Minnesota Rules, Chapter 7080.2150, Subp. 3(E) and herein adopted by reference shall be used to size SSTS infiltration areas.

C. Compliance Criteria for Existing SSTS

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

SSTS built after March 31, 1996 or SSTS located in a Shoreland area, wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under 7080.1100, Subp. 84 shall have 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 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 section. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. 7080.1500, Subp.4

D. Holding Tanks

A holding tank may be allowed for the following applications:

1. As a replacement for an existing failing SSTS if it is determined by a licensed designer and the Zoning Department that an SSTS permitted under this section cannot be feasibly installed;
2. As a sewage disposal system for an existing seasonal property;
3. As a receptacle for a flammable waste trap;
4. As a receptacle for other non-residential waste.

\* A holding tank will not be allowed for a new house, nor may an existing residence with a holding tank be expanded to include additional sleeping areas.

**3. Variances**

A property owner may request a variance from the standards specified in this section pursuant to Section 18, Subdivision 3 of the Sherburne County Zoning Ordinance, or its successors.

Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to requirements of the State Agency.

**Subdivision 6 SSTS Permitting****1. Permit Required**

It is unlawful for any person to construct, install, modify, replace, or operate an SSTS without the appropriate permit from the Sherburne County Planning and Zoning Department. The issuing of any permit or variance under the provisions of this section shall not absolve the applicant of responsibility to obtain any other required permit.

**2. Construction Permit****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 repair or replacement of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

**C. Permit Application Requirements**

Construction Permit applications shall be made on forms provided by the Planning and Zoning Department and signed by the applicant and/or an appropriately licensed practitioner and include the practitioner's license number and date of expiration. The applications shall include the documents listed in items A through E below.

1. Name, mailing address, telephone number.
2. Property Identification Number and address or other description of property location.
3. Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730
4. Design Report as described in Minnesota Rules, Chapter 7080.2430.
5. Management Plan as described in Minnesota Rules, Chapter 7082.0600.

**D. 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

section, 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 section the Department shall deny the application.

E. Appeal

The applicant may appeal the Department's decision to deny the construction permit in accordance with the County's established policies and appeal procedures as stated in the Sherburne County Zoning Ordinance, Section 18, Subd 3, Item 6A.

F. 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 by a qualified employee of the Department that the construction or installation of the system was completed in reasonable conformance with the approved design documents.

G. 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.

H. 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.

I. 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.

### 3. Operating Permit

#### A. SSTS Requiring an Operating Permit

An operating permit shall be required of all owners of new holding tanks, Type IV or Type V systems, MSTS or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank or MSTS until the Planning and Zoning Department certifies that the MSTS or holding tank was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTS, and a valid operating permit is issued to the owner, as specified in Minnesota Rules, Chapter 7082.0600, Subp.2.

#### B. Permit Application Requirements

1. Application for an operating permit shall be made on a form provided by the Planning and Zoning Department including:

- a) Owner name, mailing address, telephone;
- 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 monitoring and disposal contract with a licensed maintenance business.

2. Monitoring and Disposal Contract

Owners of holding tanks installed after the effective date of this ordinance shall provide to the Planning and Zoning 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).

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

#### D. Permit Expiration and Renewal

1. Operating permits shall be valid for the specific term stated on the permit as determined by the Department.

E. Amendments to Existing Permits Allowed

The County may amend an existing permit if an amendment is necessary to eliminate an imminent threat to public health or safety or at the request of the permit holder, if deemed appropriate by the Planning and Zoning Department.

F. 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 or revocation and the reasons for such action 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 Subd 4 Item 2D.
4. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

G. 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 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 and 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 and license number of the licensed professional who performed the work

**4. System Abandonment**

**A. 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. Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500.

**Subdivision 7: Management Plans**

**1. Management Plan Requirements**

**A. SSTS Requiring Management Plans**

Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the 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.

**B. Required Contents of a Management Plan**

Management plans must include all requirements contained in Minnesota Rules, Chapter 7082.0600, Subp.1(B)

**C. 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 at least every three (3) years and provide for the removal of solids if needed. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

**Subdivision 8: Compliance Management**

**1. Public Education Outreach**

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

## 2. Compliance Inspection Program

### A. Department Responsibility

The Department, or its agents, shall periodically perform various SSTS compliance inspections to determine compliance with this section.

1. A “Certificate of Compliance” must be provided as evidence of meeting the requirements of this ordinance for the following reasons:
  - a) For a property transfer, at the time a Certificate of Real Estate Value (CRV) is filed, unless:
    1. The tract of land is vacant (without buildings) or contains no buildings with plumbing fixtures connected to an SSTS;
    2. The sale of land is exempt from the requirements that a CRV be filed with the County Auditor, as per MN Statute Sec 272.115;
    3. The dwelling unit’s plumbing fixtures are connected to a County or MPCA approved shared community wastewater treatment system.
  - b) When a building permit is applied for unless:
    1. The dwelling unit’s plumbing fixtures are connected to a County or MPCA approved shared community wastewater treatment system;
    2. The building permit application is for a re-roof or re-siding; or for a furnace, fireplace or other mechanical or plumbing repair or replacement;
    3. The building permit application is for handicapped accessibility improvement.

For building permits only, a new certificate of compliance will not be required if a certificate has been issued within the previous ten (10) years for the SSTS serving the property.
  - c) Upon completion of any new or replacement SSTS, before the system is put into service.
  - 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.
  - e) Escrow. For transactions occurring between the time period of December 1 through May 1, the buyer may be allowed to escrow funds to complete a compliance inspection, and if necessary, a



sewer upgrade by no later than June 15. This will only be allowed if the buyer can obtain a signed letter of understanding prior to closing from the Sherburne County Zoning Administrator or his/her appointees.

2. All compliance inspections must be performed and signed by a licensed inspection business or qualified employee certified as an inspector.
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 at least one (1) day 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. 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 or change of use of the building or property being served by an existing SSTS which may impact the performance of the system;
  - c) At any time as required by this Ordinance or when 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, or on other forms acceptable to the Department.
3. The certificate of compliance must include a 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 owner and the Department no later than (15) calendar days after the date the inspection was performed.

C. Dispute Resolution

If a documented discrepancy arises on the depth of periodically saturated soils between SSTS licensed businesses or between an SSTS licensed business and the County, the dispute resolution procedures outlined in Minnesota Rules Chapter 7082.0700, Subp 5 must be followed.

**Subdivision 9: Enforcement**

**1. Violations**

A. Cause to Issue a Notice of Violation

Any person, firm, agent, or corporation who violates any of the provisions of this section, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes.

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

C. Stop Work Orders

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

**2. Prosecution**

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

**3. Costs and Reimbursements**

If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover all costs incurred in removal or abatement in a civil action, including legal fees. At the discretion of the County Board, the cost of an enforcement action under this ordinance may be assessed and charged against the real property on which the imminent threat to public health or safety was located. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.

**Subdivision 10: Record Keeping**

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

**Subdivision 11: Annual Report**

The department shall provide an annual report of SSTS permitting activities as required by MPCA for the previous calendar year.

**Subdivision 12: Fees**

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

**Subdivision 13: Interpretation**

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

**Subdivision 14: Severability**

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

**Subdivision 15: Abrogation and Greater Restrictions**

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

**Subdivision 16: Ordinance Repealed**

Sherburne County Zoning Ordinance, Section 17 General Development Regulations, Subdivision 1 Sewer and Water, for the regulation of Individual Sewage Treatment Systems of the County is hereby repealed.

**Subdivision 17: Adoption**

The Sherburne County Zoning Ordinance, Section 17.5 Subsurface Sewage Treatment Program was adopted by the Sherburne County Board of Commissioners on the 5<sup>th</sup> day of April, 2011.