

SECTION 5.10 SANITATION – SUBSURFACE SEWAGE TREATMENT SYSTEMS

This is a section 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** 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; and
6. Provisions for enforcement of these requirements.
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, and the **City Code**, including the Shoreland Ordinance.

A. Title, Purpose, Intent, and Authority

1. Title, Purpose, and Intent.
 - a. Title.
 - (1.) This section shall be known, cited, and referred to as the “**City of Alexandria** Subsurface Sewage Treatments System Ordinance.” When referred to herein, it shall be known as “this Ordinance.”
 - b. Purpose.
 - (1.) The purpose of this Ordinance is to establish minimum requirements for regulation of SSTS for the treatment and dispersal of sewage within the jurisdiction, to protect public health and safety, groundwater quality, and to prevent or eliminate the

development of public nuisances. It is intended to serve the best interest 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** essential to the promotion of the public health, safety, welfare, socioeconomic growth and development of the county in perpetuity.

(2.) The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.

(3.) The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.

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

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

2. Authority.

a. This Ordinance is adopted pursuant to Minnesota Statutes, Chapters 115, 145A, 375, or successor statutes, and Minnesota Rules, Chapters 7080, 7081, 7082, or successor rules.

B. General Provisions

1. Scope.

a. 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 limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the **City** shall be treated and dispersed by an approved SSTS that is sited, designed,

installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.

2. Jurisdiction.

a. The jurisdiction of this Ordinance shall include all lands within the **City**.

3. Administration

a. **City**

(1.) The **Building Department**, hereafter referred to as “Department,” shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the **City** shall review, revise, and 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.

(1.) When a single SSTS or group of SSTSs under single ownership within one-half (.5) mile of each other have a design flow greater than ten thousand (10,000) gallons per day, the owner or owners shall make application for and obtain a state disposal system permit from the MPCA in accordance with Minnesota Rules, Chapter 7001. If the measured daily flows for a consecutive seven-day period exceed ten thousand (10,000) gallons per day, a state disposal system permit is required.

(2.) A state disposal system permit is also required for any SSTS or group of SSTSs that the MPCA commissioner determine has the potential or an increased potential to cause adverse public health or environmental impacts if not regulated under a state permit. Conditions for these permits include systems in environmentally sensitive areas, unsubstantiated or unexpected flow volumes, and systems requiring exceptional operation, monitoring, and management. (Minnesota Rules, Chapter 7081.0040, subp. 1(C)).

C. General Requirements

1. Retroactivity.

a. All SSTS.

(1.) Except as provided in Section b., Existing permits, below, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

b. Existing permits.

(1.) Unexpired permits, which were issued prior to the effective date of this Ordinance, 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 1, 1996.

(1.) All lots created after January 1, 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 Minn. R. Chs. 7080.2200 through 7080.2230; or successor rules, and must have site conditions as described in Minn. R. Ch. 7081.0270, Subpart 3 through 7; or successor rules. The two (2) identified soil treatment and dispersal areas shall be located on the lots they are intended to serve, unless the soil treatment and dispersal areas are approved by the **City** as part of a cluster SSTS. If a cluster SSTS is utilized, then all the lots within the plat shall be part of the cluster SSTS, unless otherwise approved by the Department.

2. Upgrade, Repair, Replacement, and Abandonment.

a. SSTS capacity expansions

(1.) Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the provisions of this Ordinance. For parcels with multiple SSTS, the upgrades shall be limited to the system that is adding capacity.

b. Failure to protect groundwater.

(1.) An SSTS that is determined not to be protective of groundwater in accordance with Minn. R. Ch. 7080.1500, Subp. 4(B), shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within two (2) years of receipt of a notice of noncompliance.

c. Imminent threat to public health or safety.

(1.) An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minn. R. Ch. 7080.1500, Subp. 4(A), shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten (10) months of receipt of a notice of noncompliance.

d. Abandonment.

- (1.) Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Section E., SSTS Permitting, below, and Minn. R. Ch. 7080.2500.
3. SSTS in Floodplains.
 - a. SSTS for new construction shall not be located within any part of the General Floodplain District. Locating a replacement SSTS for an existing structure within the General Floodplain District should be avoided. If no option exists to locate a SSTS outside of the General Floodplain District, location within the District may be permitted if the requirement of Minn. R. Ch. 7080.2270, and all requirements of this Ordinance are met.
4. Class V Injection Wells.
 - a. 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 United States Environmental Protection Agency and the MPCA. Owners are also required to identify all Class V injection wells in property transfer disclosures. Class V motor vehicle waste disposal wells and large capacity cesspools are specifically prohibited (*See* 40 C.F.R. Parts 144 and 146).
5. SSTS Practitioner Licensing.
 - a. 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 the MPCA in accordance with Minn. R. Ch. 7083; or successor rules, except as exempted in Minn. R. Ch. 7083.0700; or successor rules.
6. Prohibitions.
 - a. Sewage discharge to ground surface or surface water.
 - (1.) It is unlawful for any person to willfully discharge raw or partially treated wastewater/sewage to the ground surface or into any surface water, unless permitted by the MPCA under the National Pollutant Discharge Elimination System program.
 - b. Sewage discharge to a well or boring.

(1.) It is unlawful for any person to willfully discharge raw or treated wastewater/sewage into any well or boring as described in Minn. R. Ch. 4725.2050, or any other excavation in the ground that is not in compliance with this Ordinance.

c. Discharge of hazardous or deleterious materials.

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

D. SSTS Standards

1. Standards Adopted by Reference.

a. The **City** hereby adopts and incorporates by this reference MPCA's SSTS Rules in Minn. R. Chs. 7080 and 7081 as amended 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.

2. Amendments to the Adopted Standards.

a. List of various adopted local standards.

(1.) Land application of septage must be done on sites that are filed and approved by the Department prior to the licensed SSTS maintenance business applying septage.

(2.) All new and replacement SSTS systems must establish a relative benchmark. A written description and photo documentation of the benchmark must be submitted to the Department as part of the design.

(3.) Any activity involving an existing system that requires a SSTS construction permit shall require that the entire SSTS system meet Minn. R. Chs. 7080 -7083.

(4.) A Management Plan is required in the Residential Shoreland District when a compliance inspection is needed and no management plan exists.

(5.) All SSTS existing prior to the effective date of this Ordinance that would require an operating permit now shall require an operating permit upon transfer of ownership, replacement, any modification or expansion that requires a permit, compliance inspection or following any SSTS enforcement action.

(6.) All documentation submitted to the Department for evidence of vertical soil separation for existing SSTS shall be completed on forms made available through the University of Minnesota Onsite Sewage Treatment Program, or on an equivalent form. The form shall include, but not be limited to, elevations of the surface grade; dispersal media/soil interface and limiting layers; soil profile as outlined in Minn. R. Ch. 7080.1720, Subpart 5, item A through H; or successor rules; a statement clearly indicating the vertical separation distance; a sketch showing the location of the SSTS; soil observation(s); and a certification statement signed by the licensed professional conducting the observation(s).

(7.) For all new and replacement SSTS designs submitted to the Department for review, documentation shall be provided on the SSTS Professional Worksheets and Forms made available through the University of Minnesota Onsite Sewage Treatment Program, or on an approved equivalent form. The Department may reject any design that does not meet the minimum of the SSTS Professional Worksheets and Forms. Digitally submitted forms are preferred.

(8.) All systems designed for dwellings shall be based upon design flows of a Classification I dwelling. The minimum estimated flow must be sized for a two (2) bedroom dwelling as outlined in Minn. R. Ch. 7080.1860 Table IV; or successor rules.

(9.) A written easement shall be recorded with the deed for any SSTS that is installed on a property held in ownership separate than that of the systems owner.

(10.) Soil verifications shall be conducted according to Section E., 2., a., (5.) (c.), below.

(11.) Licensed/Certified SSTS professional(s) completing a certification of compliance on their own private existing system must have a soil verification conducted by a Qualified Employee of the Department.

(12.) Existing soil dispersal systems that are located under or within a structure or other impermeable surface shall be considered non-complaint and shall be repaired or replaced in accordance with Minn. R. Ch. 7080.1500, Subp. 4(B).

(13.) The owner of a holding tank shall maintain a valid contract with a Licensed SSTS maintenance business to pump and effectively handle the sewage in accordance with all applicable Minnesota Rules. The owner shall also submit to the Department, by January 31st of each calendar year, maintenance records for the previous year's tank maintenance.

- (14.) All property owners and certified SSTS professionals shall ensure all portions of any SSTS placement, design, or construction, meet or exceed any applicable setbacks, including the specified setbacks as listed in Table A, below.
- (15.) Commercial establishments that utilize a private SSTS, and do not have an operating permit shall operate under a standing Certificate of Compliance with the Department. These establishments shall certify the existing SSTS once every three (3) years, or upon the Department finding evidence of noncompliance.
- (16.) In cases where a sewage pipe must cross a waterline, the sewage pipe must be pressure tested to hold five (5) pounds of pressure for fifteen (15) minutes and meet or exceed the standards set forth in Minn. R. Ch. 4715.1710, Subpart 2, item E; or successor rules.
- (17.) New Structures. Sewage tanks for new structures shall not be buried deeper than four (4) feet from final grade, unless the tank manufacturers designed depth for the tank allows the tank to be buried deeper, but not to exceed seven (7) feet from final grade.
- (18.) Existing Structures. Sewage tanks for existing structures cannot exceed the tank manufacturers designed depth for the tank and shall not be buried deeper than seven (7) feet from final grade.
- (19.) All pump tanks and holding tanks must have an electric visual and/or audio alarm device to warn of failure and prevent of overflow.
- (20.) An effluent screen with an alarm must be employed on all new and replacement systems excluding holding tanks.
- (21.) All SSTS shall be located as specified in Table A., Minimum Setback Distances (feet), listed below.
- (22.) A Management Plan is required for any system without a management plan when a property is transferred.
- (23.) The major components of a new or replacement SSTS must be marked (flagged or staked) on site at the time of application for system installation to protect those areas from disturbance and compaction. Major components include but are not limited to tanks and soil treatment area.
- (24.) If any proposed construction or alteration to an existing dwelling requires a **Building Permit** and would increase the design flow to the SSTS, then the system must

be sized to accommodate the increased flow regardless of the compliance status. Design flows shall be calculated in accordance with Minn. R. Ch. 7080.1860.

(25.) Maintainers must submit a copy of the required reporting responsibilities in Minn. R. Ch. 7083.0770, Subp. 2. to the **Building** Department by January 31st of each calendar year for work completed during the previous calendar year.

TABLE A

Minimum Setback Distances (feet)

		Sewage or Holding Tank	Soil Treatment or Absorption area	Building Sewer or Supply Pipes
Water Supply Wells ¹		50	50	50 ²
Water Supply Wells ¹ (less than 50 feet of continuous casing)		50	100	50 ²
Buried water suction pipe ¹		50	50	50 ²
Buried pipe distributing water	10	10 under pressure ¹		10
Buildings ³		10	20	-
Property Lines ⁴		10	10	-
State, County, and Township Road Rights-of-Way		10	10	-

The ordinary high water level of the following types of waterbodies:

Natural Environmental Lakes and Trout Streams		150	150	-
Recreational Development Lakes		75	75	-
General Development Lakes		75	75	-
Transition Rivers		100	100	-
Agriculture and Tributary Rivers		75	75	-
Public drainage systems as defined 50 50 in <i>Minnesota Statutes, section 103E.005, or successor statutes.</i>				-
All public waters protected wetlands 50	50	50 as defined by <i>Minnesota Statutes, section 103G.005, or successor statutes</i>		-
Unprotected wetlands within NES Zoning		50	50	-
All Other Wetlands		25	25	-

¹Setbacks from buried water pipes and water supply wells are governed by *Minn. R. Chs. 4715 and 4725, or successor rules*, respectively.

²If building sewer or supply pipe and water line are schedule forty (40) (or equivalent) and hold five (5) pounds of air pressure for fifteen (15) minutes, the setback can be reduced from fifty (50) to twenty (20) feet. In no case shall a building sewer or supply pipe be installed less than twenty (20) feet from a water supply well.

³For structures other than buildings, these setbacks are allowed to be reduced, if necessary, due to site conditions (as determined by the Department), but in no case shall any part of a SSTS be located under or within the structure or other impermeable surface.

⁴Infringement on property line setbacks may be permitted with the approval of the Department prior to installation of the system.

b. Local standard for determination of hydraulic loading rate and SSTS sizing.

(1.) 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” and 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 Minn. R. Ch. 7080.2150, Subp. 3, item E; or successor rules, and herein adopted by reference shall both be allowed for utilization to size SSTS infiltration areas based on the following criteria:

(a.) Table IX or Table IXa shall be allowed to be utilized by those certified design professionals/licensed design companies that hold an Advanced Designer certification from the MPCA.

(b.) Table IXa shall be utilized by all certified design professionals/licensed design companies that hold a Basic Designer certification from the MPCA.

c. Local compliance criteria for existing SSTS.

(1.) 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 (2) feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

(2.) 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 Minn. R. Ch. 7080.1100, Subp. 84 shall have a three (3)-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 percent (15%) reduction in this separation distance (a separation distance no less than thirty and six tenths (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. Minn. R. Ch. 7080.1500, Subp.4.

(3.) An existing SSTS System installed prior to April 1, 1996, and located in a Shoreland Zoning District shall be considered substandard if the tank capacity does not meet Minn. R. Ch. 7080.1930 and/or the soil dispersal area of the SSTS does not meet the design flows of a Classification I dwelling. Substandard SSTS systems shall be upgraded and reclassified as a Type III system, which requires an operating permit and annual reporting or repaired or replaced in accordance with Minn. R. Ch. 7080.1500, Subp. 4(B). The minimum estimated flow must be sized for a two (2) bedroom dwelling as outlined in Minn. R. Ch. 7080.1860, Table IV; or successor rules.

d. Local standards for holding tanks.

(1.) Undeveloped lots of record on which a holding tank is the only practical means of sewage treatment are unsuitable for residential use.

(2.) Holding tanks may be used as an alternative for existing failing SSTS, or SSTS that pose an imminent threat to public health or safety.

(3.) For vault toilets built in any public facility.

(4.) For residential accessory structures with lavatory facilities where it is not feasible to connect to an existing SSTS on the property.

(5.) For replacement dwellings constructed under Minnesota Statutes, Section 394.36; or successor statutes with a previous existing, permitted holding tank.

(6.) For recreational vehicle dump stations located in a licensed recreational vehicle campground.

(7.) A holding tank designed to service a recreational vehicle may be installed and used on an undeveloped lot of record if:

(a.) A design, completed by a licensed designer, is submitted that states the lot has an acceptable area to accommodate a standard soil treatment system; and

(b.) The designated future soil treatment area is protected from compaction and/or development.

(8.) Note that to qualify as a holding tank, tanks must comply with Minn. R. Ch. 7080.2290, items A through F. Further, all owners of holding tanks shall be issued an

operating permit (Minn. R. Ch. 7082.0600, Subp.2A), which must include the minimum provisions listed in Minn. R. Ch. 7082.0600, Subp.2B, (1) through (8).

(9.) Conditions for holding tanks installed or changes made to holding tanks after the enactment of this Ordinance include:

(a.) Maintain a current operating permit.

(b.) At the time of the final installation inspection, evidence of a water tightness test as described in Minn. R. Ch. 7080.2010, Subp. 3; or successor rules, shall be submitted to the Department.

(c.) A water meter, accessible to be read at time of pumping, shall be installed on the incoming waterline servicing fixtures attached to the holding tank, recorded at time of pumping, to verify the water usage.

(d.) The owner of a holding tank shall maintain a valid contract with a Licensed SSTS Maintenance Business to pump and effectively handle the sewage in accordance with all applicable Minnesota Rules.

(e.) The owner shall also submit to the Department, by January 31st of each calendar year, maintenance records and flow readings for the previous year's tank maintenance.

(f.) Holding tanks must have an electric visual and/or audio alarm for the prevention of overflow.

(g.) Failure to meet any of the above requirements shall be cause for the operating permit to be revoked and holding tank to be considered non-compliant.

(10.) Holding Tank Installation Requirements. The installation of a holding tank shall occur in accordance with Minn. R. Ch. 7080.2290.

(11.) At the time of property transfer, the new property owner must apply for a continuation of the operating permit and meet the conditions of the operating permit and provide a current pumping contract.

(12.) Storage of septage at a centralized location. Maintenance businesses may store septage until weather and soil conditions are more favorable for the land application of septage, providing the following conditions are met:

(a.) Limit of fifty-thousand (50,000) gallons of septage storage.

- (b.) Storage is limited to the Agricultural Zoning District.
- (c.) SSTS construction permit and operating permit are required.
- (d.) Storage conducted by MPCA-licensed SSTS maintenance business.
- (e.) Tanks and facility must meet requirements for holding tanks following MPCA requirements.
- (f.) If a maintenance business seeks storage on more than one site, the MPCA permit threshold will be evaluated based on the provision of Minn. R. Ch. 7081.0040, Subp. 1(B).
- (g.) Tanks must meet a one hundred (100) foot setback to property lines.

3. Variances.

a. Variance requests.

(1.) A property owner may request a variance from the standards as specified in this Ordinance pursuant to Section VII., Administration, H., Variances.

b. Affected agency.

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

E. SSTS Permitting

1. Permit Required.

a. It is unlawful for any person to construct, install, modify, replace or operate an SSTS without the appropriate permit from the Department. The issuing of any permit, variance, or conditional use shall not absolve the applicant of responsibility to obtain any other required permit. Conducting work on an SSTS without first securing the appropriate permits shall result in the imposition of additional fees, as set forth in the **City's** current fee schedule.

2. SSTS Construction Permit.

a. An SSTS construction permit shall be obtained by the property owner or an agent of the property owner from the **City** prior to the installation, construction, replacement, modification, alteration, and repair or capacity expansion of an 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 an appropriately licensed MPCA practitioner.

(1.) Activities requiring a SSTS construction permit.

(a.) A SSTS construction permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

(2.) Activities not requiring a permit.

(a.) A SSTS construction permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

(3.) SSTS construction permit required to obtain land use permit.

(a.) For any property on which a SSTS construction permit is required, approval and issuance of a valid SSTS Construction Permit must be obtained before a **Building Permit** may be issued by the Department.

(4.) Conformance to prevailing requirements.

(a.) When an SSTS Construction Permit is required for an activity such as a repair, addition or replacement of a component of an existing SSTS that activity shall require the entire system is brought into compliance with this Ordinance.

(5.) SSTS Construction Permit Application Requirements.

(a.) SSTS Construction Permit applications shall be made on forms provided by the Department and signed by the property owner, or their authorized agent. The applications shall include the following information:

i. Name, mailing address, and telephone number of the property owner;

- ii. Parcel Identification Number, property address, and legal description of property location;
- iii. Site Evaluation Report as described in Minn. R. Ch. 7080.1730; or successor rules;
- iv. Design report as described in Minn. R. Ch. 7080.2430; or successor rules;
- v. Management plan and operating permit as described in Minn. R. Ch. 7082.0600; or successor rules;
- vi. **City** soil verification sheet;
- vii. Site relative benchmark which includes:

a). Descriptive location of the benchmark;

b). Elevation of the limiting layers, installed soil treatment area, tank excavation bottom, and the top of the installed tank; and

viii. If applicable, a copy of a recorded easement agreements allowing installation of a SSTS on property held in ownership separate than that of the systems owner.

(b.) Preliminary Design Criteria for SSTS Construction Permit Applications. During the period between December 1st and April 15th, or when a comprehensive SSTS design cannot be determined due to frozen soil conditions, a preliminary SSTS design may be submitted. A preliminary SSTS Construction Permit application shall be made on forms provided by the Department and signed by the property owner, or their authorized agent. A complete SSTS design shall be submitted for review and the issued SSTS Construction Permit amended accordingly prior to any SSTS construction activity. The applications shall include the following information:

- i. Name, mailing address, and telephone number of property owner;
- ii. Property Identification Number, property address, and legal description of the property location;
- iii. Site Evaluation Report as described in Minn. R. Ch. 7080.1730; or successor rules;

iv. A site map and soil descriptions generated from the United States Department of Agriculture Natural Resources Conservation Service web soil survey. <http://websoilsurvey.nrcs.usda.gov/app/>;

v. Proposed management plan and operating permit as described in Minn. R. Ch. 7082.0600; or successor rules; and

vi. If applicable, a copy of a recorded easement agreement allowing installation of a SSTS on property held in ownership separate than that of the systems owner.

(c.) Soil Verification Process. A soil verification, as described in Minn. R. Ch. 7082.0500, Subp. 3, item A, and Ch. 7082.0700, Subp. 4, item B (2); or successor rules, shall be conducted as follows:

i. New designs.

a). Soil verifications shall be conducted by a Qualified Employee, or a Qualified Contract Inspector hired by the **City** for all new/replacement SSTS designs/installations.

b). Soil verifications are to be completed prior to the application of an SSTS permit. Design contractors shall arrange a meeting time with the Department to meet at the site and complete the soil verification. A twenty-four (24) hour notice by the contractor to the Department is required.

c). Soil pits are the preferred method of observation, with appropriate access into, and out of, the pit provided by the contractor. If soil pits cannot be completed, then manual auguring of soil samples may be allowed. Other accommodations will be considered on an as-needed basis, with extended completion timeframes subject to Department availability.

d). Upon completion of soil verifications, a copy of the verification form will be given to the designer and a copy retained by the Department. The original copy of the verification form shall be submitted as part of the SSTS design for permit review. If the verification form does not accompany the design submittal, and the Department copy cannot be located, the design will not be accepted. This soil verification can be used as one of the three (3) soil observations per site as required by Minn. R. Ch. 7080.1720, Subp. 4; or successor rules.

e). A fee established by resolution of the **City Council** for the soil verification will be charged in addition to the cost of the SSTS Construction Permit application fee, and both will be due at the time of permit application. Multiple verification fees shall be charged for multiple trips to a single site if the multiple verifications are due to system relocations, contractor changes, or other conditions caused by the property owner or authorized representative.

f). The design contractor is responsible for all utility locates, time arrangements, and actual excavation/boring activities.

g). All property owners and Certified SSTS Professionals shall ensure all portions of any SSTS placement, design, or construction meet or exceed the specified setbacks as listed in Table A, Section D., SSTS Standards, above.

ii. Existing systems.

a). A total of two (2) soil observations shall be required for existing SSTS compliance certifications unless lifetime verification has been completed. The soil observation shall be completed in an area that is anticipated to have the most limiting soil conditions and shall be conducted outside the area of influence and along the same contour.

b). Lifetime verifications may be used to verify the soils for the life of the system. A lifetime verification is completed by an independent, private, licensed professional and the Department prior to certification of an existing SSTS. A total of two (2) soil observations shall be required. The soil observation shall be completed in an area that is anticipated to have the most limiting soil conditions and shall be conducted outside the area of influence and along the same contour. Only soils verified on or after January 1, 2010, will qualify for lifetime verification.

c). A fee established by resolution of the **City Council** for the Lifetime Verification will be charged.

iii. If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all disputing parties must follow the dispute resolution procedure described in Minn. R. Ch. 7082.0700, Subp. 5.

(6.) Application review and response.

(a.) The Department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation. The Department shall complete the review within fifteen (15) days of receipt of a complete application. If the permit application is incomplete, or does not meet the requirements of this Ordinance, the Department shall deny the application. A notice of denial shall be provided to the applicant, stating the reason(s) for the denial.

(7.) Design change to application or permit.

(a.) In the event a significant change is proposed to be made to an approved application, the applicant or his agent must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification or operation. The proposed changes must be approved by the signature of the licensed designer who completed the design for the application.

(8.) Appeal.

(a.) The applicant may appeal the Departments decision to deny the SSTS Construction Permit in accordance with the **City's** established policies and appeal procedures.

(9.) Permit expiration.

(a.) An SSTS 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 a Qualified Employee of the Department or a Qualified Contract Inspector and shall include an as-built drawing and a signed certification that the construction or installation of the system was completed in conformance with the approved design documents.

(10.) Extension and renewals.

(a.) The Department may grant an extension of the SSTS Construction Permit if the construction has commenced prior to the original expiration date of the permit. The permit may be extended for a period of no more than one (1) additional year.

(11.) Suspension or revocation.

(a.) The Department may suspend or revoke a SSTS Construction Permit issued under this section for any false statements, misrepresentations of facts on which the SSTS Construction Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid SSTS Construction Permit is obtained.

3. Operating Permit.

a. SSTS requiring and operating permit.

(1.) An operating permit is required for all new holding tanks, Type III, Type IV, Type V, Commercial Establishments, and MSTS. Sewage shall not be discharged to a holding tank or MSTS until the department certifies that the holding tank or MSTS 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. Owners of existing SSTS that are not operated under a management plan must inspect and remove solids from septic tanks as necessary but in no case less frequently than every three (3) years.

b. Operating permit application requirement.

(1.) Application for an operating permit shall be made on a form provided by the Department and shall include the following information:

(a.) Property owner name, mailing address, and telephone number.

(b.) SSTS Construction Permit reference number and date of issue.

(c.) Final as-built drawings of the SSTS.

(d.) Owners of holding tanks must submit and keep current, a copy of a valid executed monitoring and disposal contract with a licensed maintenance business. Any change due to property ownership or contractor listed on the monitoring and disposal contract shall require the current property owners to obtain a valid executed monitoring and disposal contract with a licensed maintenance business.

(e.) Payment of application fee.

(2.) Monitoring and disposal contract.

(a.) Owners of holding tanks shall provide 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 Minn. R. Ch. 7082.0100, Subpart 3, item G; or successor rules. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, Section 115.56, Subdivision 2, Paragraph (b), Clause (3); or successor statutes. The owner must hold a valid contract with a licensed maintenance business at all times until such time the holding tank is abandoned or the property sold.

(3.) SSTS existing prior to the effective date of this Ordinance.

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

c. Application review.

(1.) The **Building Official** shall review the complete application, 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 **Building Official**. If the submitted application and documents fulfill the requirements, the director shall issue an operating permit within fifteen (15) working days of receipt of the complete permit application.

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 the acceptable soil treatment and dispersal system site.

(10.) Descriptions of acceptable and prohibited discharges.

e. Permit expiration and renewal.

(1.) Operating permits issued in conjunction with a new SSTS Construction Permit shall have an initial five (5) year timeframe of compliance. Renewal operating permits and all other operating permits issued shall be valid for a three (3) year time frame.

(2.) An operating permit must be renewed when one of the following conditions exists: expiration of an existing operating permit, transfer of ownership, replacement, any modification or expansion that requires a permit, or following any SSTS enforcement action. Renewal of an operating permit must occur within thirty (30) days of 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) days of the expiration date, the **City** may require that the system be abandoned in accordance with paragraph 4., Abandonment Certification, below.

(3.) The Department shall notify the holder of an operating permit at least ninety (90) calendar days prior to expiration of the permit. The Owner must apply for renewal at least thirty (30) calendar days before the expiration date.

(4.) Application shall be made on a form provided by the Department and shall include:

(a.) Property owner name, mailing address, and phone number.

(b.) Reference number of expired operating permit.

(c.) Any and all outstanding Compliance Monitoring Reports as required by the operating permit.

(d.) Certified SSTS inspection signed by a certified designer, maintenance contractor, or operator.

(e.) Any revisions made to the operation and maintenance manual.

(f.) Payment of application fee.

f. Amendments to existing operating permits not allowed.

(1.) 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.

(1.) The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with paragraph 3., Operating Permit, paragraph b., above. 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 compliance inspection of the treatment system.

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 paragraph 4., Abandonment Certification, below.

(4.) Failure to follow the conditions of the operating permit or management procedures prescribed in the management plan shall result in the systems being deemed noncompliant by the **City**.

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

i. Performance monitoring.

(1.) Performance monitoring of a SSTS shall be performed by an appropriately licensed professional 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 an appropriately licensed professional. 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 and address.

(b.) Operating Permit number.

- (c.) Average daily flow since last compliance monitoring report.
- (d.) Description of type of maintenance at date performed.
- (e.) Description of samples taken (if required), analytical laboratory used, and results of analyses. Include a statement that the results are within a defined parameter.
- (f.) Problems noted with the system and actions proposed or taken to correct them.
- (g.) A clear description of process used to determine compliance including the use of sampling and field verification.
- (h.) Name, signature, license and license number of the licensed professional who performed the work.

4. Abandonment Certification.

a. Purpose.

(1.) 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 abandon all components of the treatment system not in use within five (5) calendar days of a system replacement. Abandonment shall be completed in accordance with Minn. R. Chs. 7080.2500. The owner or owner's agent must provide the Department notification two (2) days prior to abandoning a system.

(4.) Abandonment's must be certified and shall be completed by either of the following methods within five (5) days of a new SSTS system construction:

(a.) A licensed SSTS business may abandon all components of the discontinued SSTS. Abandonment shall be completed in accordance with Minn. R. Ch. 7080.2500; or successor rules. An abandonment report shall be submitted to the Department. The report shall include:

- i. Property owner's name and contact information.
- ii. Property address.
- iii. SSTS Construction Permit and operating permit reference numbers.
- iv. The reason(s) for abandonment.
- v. A brief description of the abandonment methods used, description of the system components removed or abandoned in place and final disposal method for any materials or residuals.

(b.) An owner of an SSTS may abandon all components of the discontinued SSTS by personally performing the required work. Abandonment shall be completed in accordance with Minn. R. Ch. 7080.2500; or successor rules. Prior notification of the Department of an owner's intent to abandon a system is necessary, and the Department shall conduct an abandonment inspection.

c. Abandonment approval

(1.) Upon receipt of an abandonment report, the **Building Official** shall determine if the SSTS has been abandoned according to the requirements of this Ordinance. If the abandonment is not completed according to the requirements of this Ordinance, the **Building Official** shall notify the owner of the SSTS of the deficiencies, which shall be corrected within thirty (30) calendar days of the notice. Once the abandonment is completed according to the requirements of the Ordinance, the **Building Official** shall approve the report and place into the **City** records.

F. Management Plan

1. Purpose

a. 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 a certified designer to the system owner when the SSTS has been designed and submitted to the Department for a SSTS Construction Permit.

2. Management Plan Requirements.

a. SSTS requiring management plans:

(1.) Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the SSTS construction permit application for review and approval. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

(2.) Management plans shall be required for any existing system requiring a permit for a repair, modification, or expansion and for any system without a management plan when a property is transferred.

(3.) Systems in the Residential Shoreland District shall not be considered compliant unless they have a valid management plan.

b. 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.) Any performance component; which shall include a description of the performance system component, how the system functions, equipment specifications, emergency operating procedures in the event of a malfunction, and a troubleshooting guide.

(7.) Other requirements as determined by the Department.

c. Requirements for systems not operated under a Management Plan.

(1.) Owners of SSTS that are not operated under a management plan or operating permit must have septic tanks inspected and provide for the removal of solids as necessary, but in no case less frequently than every three (3) years. Solids must be removed when their accumulation meets the limit described in Minn. R. Ch. 7080.2450; or successor rules.

d. Required submission of Maintenance Reports.

(1.) Licensed maintenance businesses must abide by the requirements described in Minn. R. Ch. 7083.0770, Subp. 2. All written reports of any noncompliance required by Minn. R. Ch. 7083.0770, Subp. 2 must be provided to the homeowner and the Department within thirty (30) days after any maintenance work is performed.

G. Compliance Management

1. Public Education Outreach.

a. 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 Inspections.

a. Required inspections.

(1.) Inspections must be performed:

(a.) Any time deemed appropriate by the Department to ensure compliance with this Ordinance.

(b.) Prior to issuance of any **Building Permit**, Conditional Use Permit or Variance within all districts, the onsite sewage treatment system must be verified for compliance, with the exception of those buildings in the Agricultural District that are repaired or constructed which are not used for human habitation and do not contain plumbing of any sort. If the inspection requires the upgrade or replacement of any portion of the system, a design must be submitted to the Department and SSTS permit obtained in order to obtain a **Building Permit**, Conditional Use Permit, or Variance. The inspection may be delayed if the permit application is made during the period when a compliance inspection is not able to be completed due to winter conditions. A **Building Permit** may not be able to be issued until a Certificate of Compliance is issued. A compliance inspection must be performed and submitted before the following June 1.

(c.) For all new SSTS construction or replacements.

(d.) Upon the transfer of property ownership.

(e.) 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.

(f.) 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.

(g.) Anytime there is a permit issued in the Shoreland District.

(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 a SSTS. As used in this paragraph, “property” does not include a residence.

(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.

b. Compliance inspection procedure.

(1.) For New SSTS installation, repair, replacement, or modification of existing systems:

(a.) Compliance inspections must be performed on new SSTS installations or repair and replacement of SSTS to determine compliance with Minn. R. Chs. 7080 or 7081. SSTS found not to be in compliance with Minn. R. Ch. 7080.1500, Subp. 4A or Minn. R. Ch. 7081.0080, Subp. 3 must be repaired or replaced within ten (10) months. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored, or otherwise managed according to the operating permit.

(b.) It is the responsibility of the SSTS owner or the owner’s agent to notify the Department one (1) calendar day prior to any permitted work on the SSTS.

(c.) It is the responsibility of the installer to verify the design benchmark elevation of the soil treatment area depth with a laser level for the inspector.

(d.) A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) years, shall be issued by the Department if the Department

determines that the system was built in accordance with the applicable requirements as specified in the zoning Ordinance and SSTS construction permit.

(e.) 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 the completed inspection. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.

(f.) 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.

(g.) The property owner shall be responsible for elimination of defects in the SSTS. No SSTS shall be placed in service until all defects have been corrected, the necessary inspections made and a Certificate of Compliance has been issued by the Department.

(2.) Existing systems.

(a.) Compliance inspections of existing SSTS shall be reported on the Existing SSTS Compliance Inspection Form provided by the Department. The following conditions must be assessed or verified.

- i. Water tightness assessment of all treatment tanks including a leakage report.
- ii. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated Procedure described in soil verification process Section E., 2., a., (5.), (c.), above.
- iii. Sewage backup, surface seepage, or surface discharge, including a hydraulic performance report.
- iv. A Management Plan is required for any system without a management plan when a property is transferred.
- v. Systems in the Residential Shoreland District shall not be considered compliant unless they have a valid management plan.
- vi. All SSTS existing prior to the effective date of this Ordinance that would require an operating permit now shall require an operating permit following a compliance inspection.

vii. Existing soil dispersal systems that are located under or within a structure or other impermeable surface shall be considered non-complaint and shall be repaired or replaced in accordance with Minn. R. Ch. 7080.1500, Subp. 4(B).

viii. An existing SSTS System installed prior to April 1, 1996, and located in a Shoreland Zoning District shall be considered substandard if the tank capacity does not meet Minn. R. Ch. 7080.1930 and/or the soil dispersal area of the SSTS does not meet the design flows of a Classification I dwelling. Substandard systems shall be upgraded and reclassified as a Type III system, which requires an operating permit and annual reporting or repaired or replaced in accordance with Minn. R. Ch. 7080.1500, Subp. 4(B). The minimum estimated flow must be sized for a two (2) bedroom dwelling as outlined in Minn. R. Ch. 7080.1860 Table IV; or successor rules.

(b.) The certificate of compliance must include a certified statement by a Qualified Employee or Licensed Inspector, indicating whether the SSTS is in compliance with the requirements of this Ordinance. If the SSTS is determined not to be in compliance with this Ordinance, a Notice of Noncompliance must be issued and include a statement specifying the provisions in which the SSTS does not comply with this Ordinance.

(c.) The complete inspection report must be submitted to the Department within fifteen (15) days of the inspection.

(d.) 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.

(e.) Continued use of a treatment tank(s) where the tank(s) is/are to become an integral part of a replacement system or a sanitary sewer system requires the existing tank(s) to be inspected by the Department unless the tank(s) is/are currently operated under a valid Certificate of Compliance.

(f.) Continued use of a soil dispersal system, whether in part or in whole, must have a lifetime soil verification, where it is to become an integral part of a replacement system requires the existing soils dispersal system to be inspected by the Department unless the soil dispersal system is currently operated under a valid Certificate of Compliance.

3. Transfer of Properties.

a. Whenever a conveyance of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have an SSTS occurs, the following requirements shall be met:

(1.) A compliance inspection has been performed and a Certificate of Compliance has been issued by the Department within three (3) years for SSTS older than five (5) years, or within five (5) years if the system is less than five (5) years old prior to the intended sale or transfer of the property, unless evidence is found identifying an Imminent Threat to Public Health and Safety.

(2.) The compliance inspection must have been performed by a qualified employee of the department or a licensed inspection business following procedures described in paragraph 2., b., above.

(3.) The seller of the property must disclose in writing information about the status and location of all known SSTS on the property to the buyer on the form acceptable to the Department.

(4.) If the seller fails to provide a Certificate of Compliance or the system is noncompliant, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a complying SSTS. The security shall be placed in escrow with a licensed and certified agent and meet the following criteria:

(a.) The amount escrowed shall be equal to either seven thousand, five hundred dollars (\$7,500) or one hundred fifty percent (150%) of a written estimate by a licensed and certified installer to install a compliant SSTS, but at no time shall the escrow be less than five thousand dollars (\$5,000).

(b.) The agent shall file with the Department at closing a signed statement on a form provided by the Department, or the form's equal, confirming the escrow of such funds. The statement shall be executed by the buyer and the seller and shall establish responsibility for the costs in excess of the escrow amount and to whom excess monies will be refunded following issuance of a Certification of Compliance and notice of release issued by the Department.

(5.) All property conveyances subject to this Ordinance occurring during winter conditions (snow cover and/or frozen ground), when SSTS compliance cannot be determined, shall require a winter agreement that meets the requirements of paragraph (4.), above. A compliance inspection must be performed and submitted before the following June 1.

(6.) If upon inspection the SSTS is found to be in compliance, the Department will issue a letter to the escrow agent allowing the funds to be immediately released. If upon inspection the system is found to be non-compliant, the system shall be required to be upgraded according to Minnesota Rules, Chs. 7080-7082.

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

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

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

(3.) The transfer is foreclosure, tax forfeiture, or court ordered.

(4.) The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this Ordinance. This subsection applies only to the original vendor and vendee on such contract.

(5.) Any dwellings or other buildings that are connected exclusively to a wastewater treatment system.

(6.) There is an existing Certificate of Compliance less than three (3) years old.

(7.) In the case where a contract for deed is paid off or otherwise satisfied in its entirety and the SSTS servicing the property was certified or replaced at the time the original contract for deed was entered. This exemption only applies to the original vendor and vendee on such a contract for deed.

(8.) When title to real property is held jointly by a husband and wife and one spouse becomes deceased and the only change that occurs is to remove the deceased spouse's name from the title.

c. Neither the issuance of permits, certificates, or notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

4. Conflict of Interest.

a. A licensed inspection business that inspects an existing SSTS is allowed to subsequently design and install a new SSTS for that property provided the inspection business is also licensed to design and install. A licensed inspection business working on behalf of the County must not design or install a system if there is likelihood that the inspector or business will be responsible for permitting or inspecting the system or system site. A person working for or on behalf of the **City** shall not use the person's position to solicit for private business gain. (Minn. R. Ch. 7082.0700, Subp. 2(B)).

H. Enforcement

1. Enforcement of this Ordinance may be through criminal prosecution and/or administrative actions and/or civil judicial action.

2. Violations are Misdemeanors.

a. 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.

3. Administrative Enforcement Actions.

a. Notice of violation.

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

(a.) A statement documenting the findings of fact determined through observations, inspections, or investigations;

(b.) A list of specific violation(s) of this Ordinance;

(c.) Specific requirements for correction or removal of the specified violation(s); and

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

b. Cease and desist orders.

(1.) 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.

4. Civil Judicial Enforcement Actions.

a. 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.

5. Notification of Violations to Other Agencies.

a. General provisions.

(1.) The Department may notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS that is performed in violation of the provisions of this Ordinance.

b. Straight-Pipe Act.

(1.) The Department may notify the MPCA of violations of the Straight-pipe Act of 2006 (Minnesota Statutes, Section 115.55 Subd. 11), in cases involving any system that transports raw or partially settled sewage directly to; a surface water, lake, stream, drainage system, or onto the ground surface.

6. Costs and Reimbursements.

a. Property owner responsibility.

(1.) All costs associated with the repair, replacement, or abandonment of a failing/noncompliant SSTS shall be the responsibility of the property owner or as otherwise provided for in a written, notarized agreement between two parties.

b. Abatement.

(1.) 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 and charged against the real property on which the public health nuisance was located. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.

I. Record Keeping

1. The Department 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 department's jurisdiction sorted by licensed installation businesses, and other records relevant to each system.

J. Annual Report

1. The Department shall provide an annual report of SSTS permitting activities to the MPCA for the previous calendar year. The report must include the information required by Minn. R. Ch. 7082.0040, Subp. 5.

