

## CHAPTER 13-500 - ON-SITE SEWAGE TREATMENT SYSTEM REGULATIONS<sup>[3]</sup>

Footnotes:

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**Editor's note**— Ord. No. [2144](#), §§ 1, 2, adopted Aug. 18, 2015, repealed the former Ch. 13-500, §§ 13-501—13-516 and enacted a new Ch. 13-500, §§ 13-501—13-519 as set out herein. The former 13-500 pertained to similar subject matter and derived from Ord. No. 1812, 8/19/03; Ord. No. 1720, 12/05/00.

### 13-501 - Purpose, Applicability, and Authority.

- (1) The improper location, design, installation, use, and maintenance of subsurface sewage treatment systems (SSTS) adversely affect the public health, safety, and general welfare by discharge of inadequately treated sewage to the ground surface, surface waters, and ground waters.

It is the intent of this Chapter to establish clear, reliable and cost-effective technical standards and criteria for the proper siting, design, construction, installation, operation, maintenance, repair, reconstruction, inspection, enforcement and regulation of new and continued uses of subsurface waste treatment systems and devices.

(Ord. No. [2144](#), 8-18-15)

### 13-502 - Definitions.

The following definitions apply to this Chapter of this Code in addition to the definitions contained in Minnesota Rules Chapters 7080 through 7083.

- (1) "Baffle" means a device installed in a septic tank for proper operation of the tank and to provide maximum retention of solids, and includes vented sanitary tees and submerged pipes in addition to those devices that are normally called baffles.
- (2) "Contaminant" means any physical, chemical, biological, or radiological substance or material in water which tends to degrade the environment by contributing toxicity, constituting a hazard or otherwise impairing its usefulness.
- (3) "Contamination" means the presence of certain infections or toxic agents or certain hazardous characteristics capable of causing disease or other harm.
- (4) "Failed or Failing Individual Sewage Treatment System" means any SSTS that discharged sewage to a seepage pit, privy, cesspool, drywell or leaching pit and any system with less than the required vertical separation distance define in MN Rules 7080.1500.
- (5) "Groundwater or Ground Water" means subsurface water in the vadose (unsaturated) and perched (saturated) zones occurring naturally in soil and rock formations, whether or not capable of yielding such water to wells, and shall specifically mean that subsurface water present in the saturated zone defined by perched, free, or confined ground water surface.
- (6) "Imminent Threat to Public Health or Safety" means situations with the potential to immediately and adversely impact or threaten public health or safety. At a minimum any, ground surface or surface water discharges of sewage or sewage effluent into storm water drains, ditches or other drainage systems and any system causing sewage backup into a dwelling or other establishment. In addition, any SSTS systems with unsecured, weak, or damaged maintenance access covers or electrical wiring shall constitute an imminent threat.

- (7) "Pollutant" means a contaminant whose form concentration or other attribute in an environmental medium such as soil or water, exceeds established, acceptable criteria and standards prescribed by the Minnesota Pollution Control Agency and, therefore, may be capable of causing disease injury or death in humans, animals or plants, contribution to the risk thereof, otherwise degrading the environment or creating a public nuisance.
- (8) "Public Nuisance, or Public Health Nuisance" as defined in Minn. Stat. Ch. 145A, as amended, and shall be restricted in this Chapter to those conditions in which wastes, wastewaters, sewage septage, sludge and other releases or related activities contribute to the annoyance or endangerment of persons or the degradation of the environment and which require appropriate preventory, control or abatement to resolve.
- (9) "Subsurface sewage treatment system (hereafter known as SSTS)" means either an individual subsurface sewage treatment system as defined in subpart 45 or a midsized subsurface sewage treatment system as defined in part 7080.0020, subpart 4, as applicable.
- (10) "Water Table" means the highest elevation in the soil where all voids are filled with water, as evidenced by presence of water or soil mottling or other information.

(Ord. No. [2144](#), 8-18-15)

#### 13-503 - Administration.

Standards for the installation, maintenance and repair of SSTS are as established herein. Adoption of Minnesota Pollution Control Agency rules 7080 and 7081 and any subsequent amendments thereto in the most current editions are hereby adopted by reference and shall be part of this Chapter as if set forth herein.

(Ord. No. [2144](#), 8-18-15)

#### 13-504 - Design of SSTS.

All new, rebuilt or otherwise modified individual sewage treatment systems located in the City shall be designed by a person licensed by the State as being qualified to design such systems. Proof of such certification shall be provided to the City at the time the design of the SSTS is submitted to the City. The design shall be done in accordance with the applicable chapter requirements of MN Rules 7080.1700 or 7081.0080 and 7081.0230.

Any lot platted after April 1, 1996 shall include an evaluation and space for a second soil treatment area. The design shall be submitted to and approved by the City prior to issuance of any permits for the subject site.

(Ord. No. [2144](#), 8-18-15)

#### 13-505 - Unlawful Facilities and Systems Failing to Protect Ground Water.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. A holding tank with a valid operating permit is allowed if the City finds extenuating circumstances. Any repair rejuvenation or remediation of SSTS shall require design review, approval, permits and inspections as contained in this Chapter. Any failed or failing system that is not protective of ground water, shall be brought into compliance within 18 months after receiving notice from the City.

(Ord. No. [2144](#), 8-18-15)

### 13-506 - Connection to Public Sewer System.

When a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this Chapter at the time of failure of the private sewage system or within one year after sewer service becomes available, whichever occurs first. Failure of a property owner, after written notice by the City to comply with this Section may be deemed a violation of this code. "Owner" shall include the purchaser at any mortgage foreclosure sale, and assigns. After the public sewer is available to a property, no new construction or repair of existing private systems shall be allowed.

(Ord. No. [2144](#), 8-18-15)

### 13-507 - Installation of SSTS.

The installation of an SSTS shall occur only at the location approved by the City. Installation of the system at any other location shall require submission to and approval of revised design and location plans by the City. The system shall only be installed by a person or company licensed by the State as qualified to install such a system. The technical standards contained in MN Rules 7080 and 7081 are in effect in the date of passage of this Chapter.

(Ord. No. [2144](#), 8-18-15)

### 13-508 - Permit Requirements.

No person shall install, repair, or alter an SSTS without first obtaining a permit as provided herein. Application, provided by the City, must be completed in writing prior to issuance of a permit. A Management Plan as defined in Minnesota Rule 7080.1100. Subd. 46 is required for all new and replacement SSTS at the time of application. Permit fees are established by resolution of the City Council.

(Ord. No. [2144](#), 8-18-15)

### 13-509 - SSTS Design.

For any proposed building site, the landowner shall submit a preliminary, and field site evaluation. A minimum of one soil boring, and two percolation test results for the SSTS soil treatment system per MPCA 7080.1710 and 7080.1720 must be submitted. The site analysis must show the existence of adequate land area for the SSTS taking into account seasonably saturated soils, soil types and conditions, topographic features, flooding potential and mandatory setback requirements as dictated by City ordinance and any applicable State and Federal regulations. The evaluation of the soils and the soil boring and percolation tests for the SSTS shall be submitted to the City for review and approval prior to any preliminary or final plat approval or waiver of platting or permit issuance. Failure to provide the information required by this Section shall be grounds for denial of the building and septic permits.

(Ord. No. [2144](#), 8-18-15)

### 13-510 - Shoreland and Flood Plain Regulations.

The design and installation of any SSTS within a designated shoreland or flood plain area shall be in accordance with Chapter 11-1100 of the City Land Use Regulations and any other applicable Federal, State or flood plain regulations.

(Ord. No. [2144](#), 8-18-15)

### 13-511 - Inspection and Testing.

No part of an individual sewage treatment system shall be covered until it has been inspected and approved by the City. If any part of the system is covered before being inspected and approved as herein provided, it shall be uncovered upon the direction of the City. The City shall cause such inspections as necessary to determine compliance with this Chapter. It shall be the responsibility of the permittee to notify the City that the system is ready for inspection. If the integrity of the system is threatened by adverse weather if left open and the City is unable to conduct an inspection, the permittee may, after receiving permission from the City, document compliance with the ordinance by photographic means that show said compliance and submit that evidence to the City prior to final approval being sought.

(Ord. No. [2144](#), 8-18-15)

### 13-512 - Compliance Inspection Required.

An SSTS compliance inspection is required:

- (1) For a new replacement SSTS.
- (2) When altering an existing structure to add a bedroom.
- (3) When a parcel having an existing system undergoes development, subdivision, or split.
- (4) Prior to the transfer of real property.

(Ord. No. [2144](#), 8-18-15)

### 13-513 - Maintenance and Operating Regulations of New and Existing SSTS.

- (1) Operating Permit. An operating permit shall be required of all owners of new holding tanks, Type IV and Type V systems: MSTs and other SSTS that the department has determined requires operational oversight. Owners of Class V wells shall submit inventory information to the U.S. Department of Environmental Protection Agency (EPA) and Class V wells shall be identified as such in property transfers.
- (2) SSTS Maintenance. The owner of a sewage tank or tanks, shall regularly, but not less frequently than every three years inspect and measure the accumulations of sludge, and scum. If the tank(s) is pumped, no measurement is needed. All sewage generated by such shall be disposed in accordance with MN Rules 7080 and 7081 standards. Upon successful completion of SSTS maintenance per the applicable maintenance plan for the system or under per MN Rules 7080.2450, the licensed pumper/inspector shall submit a sewage system maintenance log sheet to the City's Inspection Division within 30 days with the appropriate recording fee. The log sheet must be completed in its entirety and all information recorded must be verified in writing by the signature and date of the licensed pumper/inspector completing the maintenance. The log sheet must also state the condition of and work done on the following. A paid invoice from a licensed pumper detailing the required information shall also be accepted when submitted by the property owner or owners agent.
  - (a) The sewage of a septic tank(s) has been thoroughly pumped by a license pumper to remove all solids and scum in accordance with the requirements of Minnesota Rules Chapter 7080. EXCEPTION: Pumping is not required if a licensed pumper or licensed private inspector determines that accumulated sludge and scum layers do not exceed the levels required for pumping per Minnesota Rules Chapter 7080.
  - (b) An SSTS evaluation shall be completed by the licensed pumper/inspector verifying that the baffles and tank(s) are in working order and in substantial compliance with Minnesota Rules Chapter 7080 and if there is any evidence of SSTS surface discharge or failure.

(Ord. No. [2144](#), 8-18-15)

13-514 - System Abandonment.

All systems shall be abandoned in accordance with Minnesota Rules Chapter 7080.2500 Septage and waste mixed with septage including all solids and liquids shall be removed and disposed of in accordance with Minnesota Rules Chapter 7080.2450 subpart (6).

Access for future discharge to the system shall be permanently denied accordance with Minnesota Rules 7080.2500.

(Ord. No. [2144](#), 8-18-15)

13-515 - Schedule for Initial Permits.

The owner of any SSTS within the City shall obtain an operational permit at the time the system is put into service, and shall maintain said maintenance plan or operational permit under the conditions of Section 13-511 of this Chapter, until use of the SSTS has been abandoned or terminated.

(Ord. No. [2144](#), 8-18-15)

13-516 - Systems Causing Imminent Threat to Public Health or Safety.

The owner of any SSTS defined as causing an imminent threat to public health or safety shall immediately replace modify or reconstruct the SSTS in conformance with MPCA rule 7080. Any repair rejuvenation or remediation of SSTS shall require design review, approval, permits and inspections as contained in this Chapter. A holding tank with a valid operating permit is allowed if the City finds extenuating circumstances apply. SSTS permitted under the National Pollution Discharge Elimination System are exemption from this Section.

(Ord. No. [2144](#), 8-18-15)

13-517 - Violation and Penalties.

- (1) Misdemeanor. Any person who fails to comply with the provisions of this Chapter may be charged with a misdemeanor and upon conviction, shall be punished as provided by law. A separate offense shall be deemed committed each day during or upon which a violation occurs or continues.
- (2) Civil action/injunctive relief. In the event of a violation or threat of violation of this Chapter, the City may institute appropriate civil or administrative actions or proceedings to include actions seeking damages, declaratory relief, or injunctive relief to prevent, restrain, correct, or abate such violations or threatened violations, and the Building Official in conjunction with the City Attorney is authorized to institute such action.

(Ord. No. [2144](#), 8-18-15)

13-518 - Conflict Resolution.

If a documented discrepancy arises on the depth of the periodically saturated soil between licensed SSTS businesses, the dispute resolution procedures outlined in Minnesota Rules 7082.0700, Subp. 5 must be followed.

(Ord. No. [2144](#), 8-18-15)

13-519 - Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any permit, right or registration issued under this Chapter or any portion of this Chapter is illegal or unenforceable, then any such permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right or registration, respectively, except for conditions relating to the term of the permit and the right of termination. If a permit, right or registration shall be considered a revocable permit as provided herein, the permittee must acknowledge the authority of the City Council to issue such revocable permit and the power to revoke it.

(Ord. No. [2144](#), 8-18-15)