

PUBLIC HEALTH, WELFARE AND SANITATION

504 Individual Sewage Treatment Systems

§504.010 PURPOSE, INTENT, APPLICABILITY, AND AUTHORITY

Subd. 1. Purpose. It is the purpose of this ordinance to establish standards for the design, location, construction, operation, and maintenance of Subsurface Sewage Treatment Systems (SSTS).

Subd. 2. Intent. It is the intent of this ordinance to protect public health and safety, ground water quality, and prevent or eliminate the development of public nuisances. The White Bear Lake Subsurface Sewage Treatment System (SSTS) Ordinance is a conventional SSTS ordinance allowing the use of trenches, seepage beds, mounds and at grade systems to safely treat sewage.

Subd. 3. Applicability. This ordinance shall apply to any premises in the City that utilize a subsurface sewage treatment system to treat sewage.

Subd. 4. Authority. This ordinance is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statute, Section 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.

§504.020 STANDARDS ADOPTED

Subd. 1. Minnesota Rules Adopted. Minnesota Administrative Rules Chapters 7080 and 7081, and 7082 that are in effect on the date of passage of this ordinance, relating to subsurface sewage treatment systems, are hereby adopted by reference and made a part of this ordinance as if fully set forth herein.

Subd. 2. Minnesota Rules Amended. The rules, adopted in Section 4.1 are amended as follows: Chapter 7080.2270, 7080.2280, 7080.2350, 7080.2400 are deleted and therefore not adopted by the City of White Bear Lake. This amendment will eliminate the potential for SSTS in flood plain areas, the use of privy vaults, and use of the design provisions for Type IV and Type V subsurface sewage treatment systems. (Ref. Ord. 1093, 6/10/14)

§504.030 DEFINITIONS

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

Compliance: No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface sewage treatment system, except in full compliance with the provisions of this ordinance.

Compliance Inspection: An inspection of an existing system to determine whether the soil

dispersal system, septic tanks or other conditions pose an imminent threat to public health and safety or are failing to protect ground water.

Development: Work that would require the issuance of a building permit for construction of a structure such as a new building, an addition, or an accessory structure. Maintenance and repair of an existing structure shall not be considered development.

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.

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, or specifications of the SSTS.

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.

Shoreland: Land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater.

Transfer or Sale of a Property: A transfer of real estate from one party to another.

§504.040 GENERAL PROVISIONS

Subd. 1. Treatment Required. All sewage generated, in un-sewered areas shall be treated and dispersed by an approved SSTS or a system permitted by the Minnesota Pollution Control Agency. (Ref. Ord. 1093, 6/10/14)

Subd. 2. Administrative Policy and Procedures. The White Bear Lake Building Department shall administer the SSTS program and all provisions of this Ordinance. At appropriate times the city shall review and revise this ordinance as necessary. The city shall employ or retain under contract a qualified employee and appropriately licensed professional to administer and operate the SSTS program.

Subd. 3. Variance Requests. A property owner may request a variance from the

standards as specified in this Ordinance pursuant to the requirements provided in Minnesota State Statutes. The City shall consider the requirements of Minnesota Rules Chapter 7082.0300, subp.2 and 3 when considering such variances. Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State. (Ref. Ord. 1093, 6/10/14)

Subd. 4. 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.

Subd. 5. Violations. Violation of any condition imposed by the city shall be deemed a violation of this ordinance and subject to the penalty provisions set forth in this ordinance.

Subd. 6. Evaluation, System Design, Construction, Inspection, and Servicing. Site evaluation, and system design, construction, permit issuance and inspection, system operation and servicing shall be performed by Minnesota Pollution Control Agency licensed SSTS businesses or qualified employees of local governments or persons exempt from licensing in Minnesota Administrative Rules 7083.0700. (Ref. Ord. 1093, 6/10/14)

Subd. 7. Two Soil Treatment and Dispersal Areas. For lots platted after January 23, 1996 a design shall evaluate and locate space for a second soil treatment area. (Ref. Ord. 1093, 6/10/14)

Subd. 8. Determination of Hydraulic Loading Rate and SSTS Sizing. Table IX or IXa of Minnesota Rules, Chapter 7080.2150, Subp.3(E) shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this Ordinance. (Ref. Ord. 1093, 6/10/14)

Subd. 9. Compliance Inspection Required. An SSTS compliance inspection is required:

- a.) For a new, replacement or expansion of existing subsurface sewage treatment systems (SSTS).
- b.) When altering an existing structure to add a bedroom. (Ref. Ord. 1093, 6/10/14)
- c.) When the transfer or sale of a property served by a subsurface sewage treatment system occurs.
- d.) When a parcel having an existing system undergoes development, subdivision, or lot split, or a change of use. Development shall include construction projects that would require the issuance of a building permit for construction of a structure such as a new building, an addition, or an accessory structure. Maintenance and repair of an existing structure shall not be considered development.
- e.) When a property owner responsible for a parcel served by a subsurface sewage treatment system fails to maintain the system. A subsurface sewage treatment system shall be considered maintained when kept in compliance with Chapter 7080.2450, which requires that the owner of a subsurface sewage treatment system shall regularly, but in no case less frequently than once every three

years, have the septic tanks assessed and pumped if necessary. Septic tank assessment shall be provided by a MPCA licensed professional.

- f.) Whenever a property located in the Shoreland Area requires a permit or variance of any type for any improvement on, or use of, the property. This language is consistent with the Minnesota Department of Natural Resources Shoreland Management Rule Chapter 6120.
- g.) At any time as required by this ordinance or the Building Official deems appropriate such as upon receipt of a complaint or notice of a system malfunction.

Subd. 10. Imminent Public Health and Safety Threat; Failing System; and Surface Discharge.

- a.) The SSTS must be protective of public health and safety. A subsurface sewage treatment system that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4A shall immediately abate the threat according to instructions by the Department. The SSTS shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance in accordance with a schedule established by the Department, which schedule will not exceed 3 months. (Ref. Ord. 1093, 6/10/14)
- b.) A failing system, an SSTS that is not protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4.B, shall be brought into compliance by means of upgrade, repair, replacement or abandonment within 6 months after receiving notice from the Building Official. (Ref. Ord. 1093, 6/10/14)
- c.) An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System. (Ref. Ord. 1093, 6/10/14)

Subd. 11. Conflict Resolution. Disputes involving documented discrepancies on the depth of the periodically saturated soil for SSTS design or compliance purposes shall be resolved according to Minnesota Rules, Chapter 7082.0700 Subp.5, by obtaining a judgment from a qualified employee of the local permitting authority. (Ref. Ord. 1093, 6/10/14)

Subd. 12. Septic Tank Maintenance. The owner of a sewage tank, or tanks, shall regularly, but not less frequently than every three years (unless otherwise approved by the Department due to limited use), inspect the tank(s) and measure the accumulations of sludge, and scum. If the system is pumped, measurement is not needed. The owner shall remove and sanitarily dispose of septage whenever the top of the sludge layer is less than 12 inches below the bottom of the outlet baffle or the bottom of the scum layer is less than 3 inches above the bottom of the outlet baffle. Removal of septage shall include complete removal of scum and sludge. (Ref. Ord. 1093, 6/10/14)

Subd. 13. Non-Complying Systems. Existing systems which are non-complying, but not an imminent health or safety threat, failing, or discharging to surface, may continue in use so long as the use is not changed or expanded. If the use changes or is expanded, the non-complying elements of the existing system must be brought into compliance.

Subd. 14. Non-Complying Work. New individual sewage treatment system construction that is non-compliant, or other work on a system that is non-compliant, must be brought into compliance with this ordinance in accordance with a schedule established by the Department, which schedule will not exceed seven days unless the Department finds extenuating circumstances.

Subd. 15. Floodplain. An SSTS shall not be located in a floodway or floodplain. Location within the flood fringe is permitted provided that the design complies with this ordinance and all of the rules and statutes incorporated by reference. (Ref. Ord. 1093, 6/10/14)

Subd. 16. Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency. (Ref. Ord. 1093, 6/10/14)

§504.050 PROHIBITIONS

Subd. 1. Occupancy or Use of a Building without a Compliant SSTS. It is unlawful for any person to maintain, occupy, or use any building intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Ordinance.

Subd. 2. Sewage Discharge to Ground Surface or Surface Water. It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

§504.060 COMPLIANCE INSPECTION CRITERIA

Subd. 1. Soil Treatment Separation.

Any SSTS built before April 1, 1996 outside of areas designated as shoreland areas and wellhead protection areas shall have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock. (Ref. Ord. 1093, 6/10/14)

Any 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. (Ref. Ord. 1093, 6/10/14)

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 Ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. 7080.1500, Subp.4. (Ref. Ord. 1093, 6/10/14)

Subd. 2. Holding Tanks. Holding tanks may be allowed for the following applications; as replacement to a failing existing system, an SSTS that poses an imminent threat to public health and safety, or for an existing lot in which an SSTS cannot feasibly be installed and the Building

Department finds extenuating circumstances. The owner of holding tanks installed after the effective date of this ordinance shall provide the Building Department with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents. (Ref. Ord. 1093, 6/10/14)

Subd. 3. System Abandonment. An SSTS, or component thereof, that is no longer intended to be used must be abandoned in accordance with the adopted standards of this ordinance. (Ref. Ord. 1093, 6/10/14)

§504.070 PERMITS

Subd. 1. Permit Required. No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any subsurface sewage treatment system without first obtaining a permit for such work from the Building Department. No person shall construct, alter, extend, convert, or modify any structure that is or will utilize subsurface sewage treatment system without first obtaining a permit. (Ref. Ord. 1093, 6/10/14)

Subd. 2. Licensed Personnel. All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees or persons exempt from licensing. Permit applications shall be submitted by the person doing the individual subsurface sewage treatment system construction on forms provided by the Building Department and accompanied by required site and design data, and permit fees. (Ref. Ord. 1093, 6/10/14)

Subd. 3. Inspection Required. No part of an individual sewage treatment system shall be covered until it has been inspected and approved by the Building Department. 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 Department. The Building Department shall cause such inspections as are necessary to determine compliance with this ordinance. It shall be the responsibility of the permit applicant to notify the Building Department that the system is ready for inspection.

Subd. 4. SSTS Management. Permits for new and replacement SSTS shall include a management plan detailing a schedule for septic tank maintenance. A maintenance schedule shall be required of all owners of new holding tanks and SSTS that the Building Department has determined require operational oversight. (Ref. Ord. 1093, 6/10/14)

Subd. 5. Minor Repairs. A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components, or otherwise change the original system's design, layout, or function.

Subd. 6. Operating Permit. An operating permit shall be required for all owners of new MSTs or any other SSTS that the Building Department has determined requires operational oversight. Application for an operating permit shall be made on a form provided by the Building Department. (Ref. Ord. 1093, 6/10/14)

§504.080 VIOLATIONS AND PENALTIES

Subd. 1. Misdemeanor. Any person who fails to comply with the provisions of this ordinance may be charged with a misdemeanor and upon conviction thereof, shall be punished therefore, as provided by law. A separate offense shall be deemed committed upon each day

during or on which a violation occurs or continues.

Subd. 2. Injunctive Relief. In the event of a violation or a threat of violation of this ordinance, the Building Department may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations or threatened violations; and the City Attorney may institute a civil action.

Subd. 3. Civil Action. In the event of a violation of this ordinance, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations, or threatened violations, and the City Attorney may institute such action.

§504.090 EFFECTIVE DATE

This shall be effective immediately upon passage by the City Council. Passed June 10, 2014.

(Ref. Ord. 14-6-1093/6-10-14)