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MEMORANDUM

Date: June 12, 2024
To: Sherburne County Townships
From: Mitch Glines, Sherburne County Senior Planner
Subject: Proposed Amendment to Zoning Ord. Sec.17.5 Subsurface Sewage Treatment System (SSTS)

This memo will provide you with a quick explanation of a proposed amendment to Section 17.5 of the Sherburne County Zoning Ordinance (Subsurface Sewage Treatment System - SSTS).

SSTS Draft Ordinance Summary:

The Planning and Zoning Department is starting the process of updating the County Zoning Ordinance in light of the completion of the Comprehensive Land Use Plan. We are starting this process by updating State mandated ordinances such as Shoreland, Floodplain and Subsurface Sewage Treatment System (SSTS).

The Sherburne County SSTS came into effect in 2011. The county administers the SSTS program for all the townships excluding Becker Township and Baldwin Township. The county also administers the SSTS program for the cities of Big Lake, Clear Lake and Princeton. This will be a complete rewrite of the SSTS Ordinance.

Notable Changes:

- Section 17.5 adopted in 2011. No changes since that time.
- More concise verbiage throughout the section providing consistency with MN Rule 7080-7083.
- Clarity in verbiage for compliance inspection program (Subd 8).
- New and clearer verbiage on inspections of new and replacement systems and also for transfer of properties.

Next Steps:

Attached to this memo you will find the draft ordinance. Our plan is to introduce this ordinance to the Planning Advisory Commission on June 20, 2024 then hold the public hearing for its formal review on July 18, 2024. Following the July public hearing, staff will bring the recommendations from the Planning Advisory Commission to be heard by the County Board of Commissioners on August 6, 2024. If any Town Board or Cities wish to comment, they are welcome to join us at the public hearing or return the enclosed comment form to my attention mitch.glines@co.sherburne.mn.us



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Township Comment Form

Please return to mitch.glines@co.sherburne.mn.us

Date: _____

Township: _____

Proposed Ordinance: Subsurface Sewage Treatment System (SSTS)

Question for Town Board: Does the Town Board agree with the proposed ordinance?

Yes

No

Changes Needed (please specify)

Comments or Questions: _____

SECTION 17.5 – SUBSURFACE SEWAGE TREATMENT SYSTEM PROGRAM

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SECTION 17.5- SUBSURFACE SEWAGE TREATMENT SYSTEM PROGRAM

The County Board of Sherburne County, Minnesota does ordain:

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

1. Minimum standards for and regulation of individual sewage treatment systems (ISTS) and mid-sized Subsurface Sewage Treatment Systems (MSTS) (collectively referred to as SSTS) in the County of Sherburne, incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency.
2. Requirements for issuing permits for installation, alteration, repair, or expansion of SSTS.
3. Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan.
4. Standards for upgrade, repair, replacement, or abandonment of SSTS.
5. Penalties for failure to comply with these provisions.
6. Provisions for enforcement of these requirements.
7. Standards which promote the health, safety and welfare of the public as reflected in Minnesota Statutes §103F, §103G, §115.55, 145A.05, 375.51, 394.21-394.37 and 471.82 along with the applicable Minnesota Rules, Sherburne County Comprehensive Plan, Sherburne County Shoreland Ordinance, Sherburne County Flood Plain Ordinance, and Zoning Ordinance.

SUBDIVISION 1.0 Purpose and Intent

1.1 Purpose

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

1.2 Intent

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

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

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

1.3 **Authority**

This Section is adopted pursuant to Minnesota Statutes §115.55, 145A.01 through 145.08, 375.51 or successor statutes, and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082, Chapter 7083, or successor rules.

1.4 **Effective Date**

The provisions set forth in this Section shall become effective on August ___ 2024

SUBDIVISION 2.0 Definitions

The following words and phrases shall have the meanings ascribed to them in this subdivision. If not specifically defined in this subdivision, terms used in this Section 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 Section, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

- 2.111 **As-built:** Drawings and documentation specifying the final in-place location, elevation, size and type of all system components. These records identify the results of materials testing and describe conditions during construction. Information provided must be verified by a certified statement.
- 2.112 **Bedroom:** A room that is designed or used for sleeping or a room or area of a dwelling that has a minimum floor area of 70 square feet with access gained from the living area or living area hallway.
- 2.113 **Board of Adjustments:** A board established by county ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statutes, sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls.

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- 2.114 **Class V Injection Well:** A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 and 146).
- 2.115 **Cluster System:** A SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.
- 2.116 **Department:** Sherburne County Planning and Zoning
- 2.117 **Design Flow:** The gallons per day (gpd) of sewage for which an SSTS is designed to treat and discharge.
- 2.118 **Existing Systems:** Systems that have been previously inspected and approved by the local unit of government during installation. In addition, all operating systems installed before the adoption of a local permitting and inspection program are considered existing systems.
- 2.119 **Failure to Protect Groundwater:** At a minimum, a SSTS that does not protect groundwater includes a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in Minnesota Rules Chapter 7080.1500 Subp. 4D 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 an individual licensed pursuant to Section 4.5 of this Section.
- 2.120 **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 hole covers. The determination of protectiveness for other conditions must be made by a SSTS inspection business licensed pursuant to Section 4.5 of this Ordinance.
- 2.121 **ISTS:** Individual subsurface sewage treatment system. A subsurface sewage treatment systems or part thereof, as set forth in Minnesota Statutes, sections 115.03 and 115.55, that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade that are designed to receive a sewage design flow of 5,000 gallons per day or less. ISTS also includes all holding tanks that are designed to receive a design flow of 10,000 gallons per day or less; sewage collection systems and associated tanks that discharge into ISTS treatment and dispersal components; and privies. ISTS does not include those components defined as plumbing under the Minnesota Plumbing code, chapter 4714, except for a building sewer connected to a subsurface sewage treatment system.
- 2.122 **Lot:** A parcel of land in a plat recorded in the office of the county recorder or registrar of title or a parcel of land created and conveyed, using a specific legal description, for a building site

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to be served by an ISTS.

- 2.123 **Malfunction:** The partial or complete loss of function of a SSTS component, which requires a corrective action to restore its intended function.
- 2.124 **Management Plan:** A plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.
- 2.125 **Minor Repair:** The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications, or concept of the SSTS.
- 2.126 **MPCA:** Minnesota Pollution Control Agency.
- 2.127 **MSTS:** A Midsized subsurface sewage treatment system. A subsurface sewage treatment system, or part thereof, as set forth in Minnesota Statutes, sections 115.03 and 115.55, that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade and that is designed to receive sewage design flow of greater than 5,000 gallons per day to 10,000 gallons per day. MSTS also includes sewage collection systems and associated tanks that discharge into MSTS treatment or dispersal components. MSTS does not include those components defined as plumbing under the Minnesota Plumbing Code, chapter 4714, except for a building sewer connected to a subsurface sewage treatment system.
- 2.128 **Notice of Noncompliance:** A document written and signed by a certified inspector after a compliance inspection that gives notice that an ISTS is not in compliance as specified under part 7080.1500.
- 2.129 **Periodically saturated soil:** The highest elevation in the soil that is in a reduced chemical state due to soil pores filled or nearly filled with water causing anaerobic conditions. Periodically saturated soil is determined by the presence of redoximorphic features in conjunction with other established indicators as specified in part 7080.1720, subpart 5, items E and F, or as determined by other scientifically established technical methods or empirical field measurements acceptable to the permitting authority in consultation with the commissioner.
- 2.130 **Privy:** An above ground structure with an underground cavity meeting the requirements of part 7080.2280 that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing and graywater. A privy also means a non-dwelling structure containing a toilet waste treatment device.
- 2.131 **Redoximorphic features:** A color pattern in soil, formed by oxidation and reduction of iron or manganese in saturated soil coupled with their removal, translocation, or accrual, which results in the loss (depletion) or gain (concentration) of mineral compounds compared to the matrix color, or a soil matrix color controlled by the presence of ferrous iron. Also described in part 7080.1720 subpart 5 item E.
- 2.132 **Sewage:** Waste produced by toilets, bathing, laundry or culinary operations or the floor drains associated with these sources, and includes household cleaners, medications, and other constituents in sewage restricted to amounts normally used for domestic purposes.

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2.133 **SSTS:** Subsurface sewage treatment system or SSTS is either an individual subsurface sewage treatment system as defined in 7080.1100 subpart 41 or a midsized subsurface sewage treatment system as defined in part 7081.0020, subpart 4, as applicable.

2.134 **State:** The State of Minnesota.

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

SUBDIVISION 3.0 General Provisions

3.1 Scope

This Section regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, and privy vaults. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Section or by a system that has been permitted by the MPCA.

3.2 Jurisdiction

The jurisdiction of this Section shall include all lands of the County except for incorporated and unincorporated areas that administer a SSTS program by ordinance within their jurisdiction which is at least as restrictive as the County's. The Sherburne County Planning and Zoning Department shall keep a current list of local jurisdictions within the County, who are administering a SSTS program.

3.3 Administration

3.3.1 **County Administration.** The Sherburne County Planning and Zoning Department shall administer the SSTS program and all provisions of this Section. At appropriate times, the County shall review this and revise and update this Section as necessary. The County shall employ an appropriately licensed professional to administer and operate the SSTS program.

3.3.2 **State of Minnesota.** Where a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a State Disposal System permit from MPCA. For any SSTS that has measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a State Disposal System permit is required. SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Section.

SUBDIVISION 4.0 General Requirements

4.1 Retroactivity

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4.1.1 **All SSTS**

Except as explicitly set forth in Subdivision 4.1.2, all provisions of this Section shall apply to any SSTS regardless of the date it was originally installed.

All lots are required to have three (3) soil borings for both the primary and the secondary soil treatment and dispersal areas.

4.1.2 **Existing Permits**

Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original expiration date.

4.1.3 **SSTS on Lots Created After January 23, 1996**

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

4.2 **Repair, Rejuvenation or Remediation**

4.2.1 **SSTS Capacity Expansions**

Repair, rejuvenation or replacement of an existing SSTS must include system upgrades that are necessary to bring the system into compliance with the provisions of this Section.

4.2.2 **Failure to Protect Groundwater**

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

4.2.3 **Imminent Threat to Public Health or Safety**

An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4A shall be upgraded, repaired, replaced, or abandoned by the owner in accordance with the provisions of this Section within 10 months of receipt of a Notice of Noncompliance. However, the imminent public health threat must be removed within 15-days unless required sooner by other provisions of this Section. This may include but is not limited to the following.

- a. Disconnecting malfunctioning drain fields for the septic tank to function as a holding tank.
- b. Discontinuation of electrical hazards.

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- c. Repair of damaged maintenance hole covers.

4.3 **SSTS In Floodplains**

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain shall be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rules, Chapter 7080.2270 and all local requirements are met.

4.4 **Class V Injection Wells**

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

4.5 **SSTS Practitioner Licensing**

No person shall engage in site evaluation, inspection, design, installation, alteration, extension, repair, maintenance or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700 Subp. A-I.

4.6 **Prohibitions**

4.6.1 **Occupancy or Use of a Building Without a Compliant SSTS**

It is unlawful for any person to maintain, occupy, or use any building with toilet, sink or any other wastewater fixture unless it has a wastewater treatment system that disposes of wastewater in a manner that complies with the provisions of this Section.

4.6.2 **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 Section 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.

4.6.3 **Sewage Discharge to a Well or Boring**

It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rules, Chapter 4725.2050, or any other excavation in the ground that is not in compliance with this Section.

4.6.4 **Discharge of Hazardous or Deleterious Materials**

It is unlawful for any person to discharge into any treatment system regulated under this Section any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or

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groundwater quality. Footing or roof drainage and chemically treated hot tub and pool water must not be discharged into any part of a system. Products containing hazardous chemicals and hazardous waste must not be discharged to a system other than in normal amounts of household products and cleaners designed for household use. Substances not intended for use in household cleaning, including but not limited to solvents, pesticides, flammables, photo finishing chemicals, paint, and dry-cleaning chemicals must not be discharged to the system. Other unused products or substances, or unused medicines, must not be discharged to the system solely as a method of disposal. Floor drains from garages serving dwellings must not be connected to the system.

SUBDIVISION 5.0

SSTS Standards

5.1 Standards Adopted by Reference

The County hereby adopts by reference Minnesota Rules, Chapters 7080 through 7083 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minnesota Statute §115.55.

5.2 Amendments to the Adopted Standards

5.2.1 List of Adopted Standards

- A. Certificate of Compliance required at time of property transfer. This certificate must be presented when filing the Certificate of Real Estate Value. (Subdivision 8.1.5 of this Section)
- B. Certificate of Compliance required to obtain a building permit with the following exception: A new certificate of compliance will not be required if a certificate has been issued within the previous ten (10) years for the SSTS serving the property. (Subdivision 8.1.4 of this Section)
- C. The County will not accept a five (5) foot separation between distribution media and seasonal high water or a limiting layer in lieu of pressure distribution or multiple trenches using serial distribution.

5.2.2 Determination of Hydraulic Loading Rate and SSTS Sizing

SSTS system absorption areas and mound absorption ratios must be sized according to Table IX or IXa from Minnesota Rule 7080.2150, subp. 3(E).

5.2.3 Compliance Criteria for Existing SSTS

SSTS built before April 1, 1996, and **are not** (1) constructed in shoreland area, (2) located in a wellhead protection area, or (3) providing sewage

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treatment for food, beverage, or lodging establishments that are required to obtain a license under Minnesota Statutes § 157.16, including manufactured home parks and recreational camping areas licensed according to Minnesota Statutes chapter 327, must have at least two feet of vertical separation between the bottom of the distribution medium and periodically saturated soil level or bedrock.

SSTS built after March 31, 1996, or SSTS that **are** (1) constructed in a shoreland area, (2) constructed in a wellhead protection area, or (3) providing sewage treatment for food, beverage, or lodging establishments that are required to obtain a license under Minnesota Statutes § 157.16, including manufactured home parks and recreational camping areas licensed according to Minnesota Statutes chapter 327, must have a three-foot vertical separation between the bottom of the distribution medium and the periodically saturated soil level or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Section. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil as provided in Minnesota Rule 7080.1500, Subp. 4.

5.2.4 **Holding Tanks**

A. Holding tanks may be allowed for any of the following applications:

- i. As a replacement for an existing failing holding tank if it is determined by a licensed designer and the Planning and Zoning Administrator that a Type I, III or V permitted under this Section cannot be feasibly installed.
- ii. As a sewage disposal system for an existing property without heat.
- iii. Accessory buildings with limited water use.
- iv. As temporary disposal method to alleviate an imminent threat to public health or during construction, repair, or replacement of new and existing systems.

B. Holding tanks shall not be allowed for a new home, nor may an existing residence with a holding tank be expanded to include additional sleeping areas.

C. Holding tanks may only be used under the following conditions:

- i. The owner shall install a holding tank in accordance with Minnesota Rules Section 7080.2290; and

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- ii. The owner shall maintain a valid contract with a licensed maintainer to pump and dispose of septage.

D. Monitoring and Disposal Contract:

When applying for a permit application, owners of holding tanks shall provide to the inspector or the County a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minnesota Rules, Chapter 7082.0100, Subp. 3G.

5.2.5 **Privies**

Privies are permitted provided they meet vertical separation and vault guidelines depicted in MN State Rules 7080.2150 and 7080.2280.

5.3 **Variances**

5.3.1 **Variance Requests**

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

5.3.2 **Minnesota Department of Health**

Variances to required setback from wells must be approved by the MN Department of Health.

5.3.3 **Board of Adjustment**

- A. Any property owner requesting relief from the strict application of the provisions in this Section must complete and submit an application for variance to the Board. The variance request must include, as applicable:
 - i. A statement identifying the specific provision or provisions in the section from which the variance is requested;
 - ii. A description of the hardship that prevents compliance with the rule.
 - iii. The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions;
 - iv. The length of time for which the variance is requested;
 - v. Cost considerations only if a reasonable use of the

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property does not exist under the term of this Section; and

- vi. Other relevant information requested by the Board as necessary to properly evaluate the variance requested.
- B. The appropriate fee shall be paid at the time of submittal of the application.
- C. In granting a request for a variance, the Board may attach such conditions as it deems necessary to conform to the purpose and intent of this Section.
- D. Any violation of the terms and conditions of a variance issued pursuant to this Section, or any violation of any provision of this Section relating to the specific issue of the variance, shall result in immediate revocation of the variance.
- E. Any variance granted shall automatically expire if the system is not installed within one year of the grant of the variance.

SUBDIVISION 6.0 SSTS Permitting

6.1 Permit Required

It is unlawful for any person to construct, install, modify, or replace a SSTS without the appropriate permit from the Department. The issuing of any permit, variance, or conditional use under the provisions of this Section shall not absolve the applicant of responsibility to obtain any other required permit.

6.2 SSTS Permit

An SSTS Permit must be obtained by the property owner or an agent of the property owner from the Department prior to the installation or construction of an SSTS, or the repair, rejuvenation, modification, remediation, or replacement of a major SSTS component such as the tank or soil treatment area or any other component that alters the original function, design, or layout of the system. 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 Section by appropriately certified and/or licensed practitioner(s).

6.2.1 Activities Not Requiring a Permit

An SSTS permit is not required for the servicing or replacement of minor SSTS components provided that the activity will not change the system's capacity, function, or layout. Minor components may include but are not limited to baffles, risers, manhole lids, inspection pipes, cleanouts, effluent screens, alarms, wiring or pump.

6.2.2 Permit Application Requirements

SSTS permit applications shall be made on forms provided by the

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Department and signed by the applicant and an appropriately certified practitioner including the practitioner's certification number and date of expiration. The applications shall include the documents listed in items A through E below.

- A. Contact information for the designer and property owner.
- B. Parcel identification number and property address or other description of property location.
- C. Site evaluation report as described in Minnesota Rules, Chapter 7080.1730.
- D. Design report as described in Minnesota Rules, Chapter 7080.2430.
- E. Management plan as described in Minnesota Rules, Chapter 7082.0600.

6.2.3 **Application review and Response**

1. The Department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this Section, the Department shall issue a written permit authorizing construction, repair, rejuvenation, or remediation of the SSTS as designed. In the event the applicant makes any change, including but not limited to size, configuration or location to the approved application, the applicant must file an amended application detailing the changed conditions for approval by the Department prior to initiating or continuing construction, repair, rejuvenation, modification, remediation or replacement for approval or denial.
2. Administrative setback(s) may be allowed to non-habitable structures on a case-by-case basis at the discretion of the county Building Official, pursuant to MN Rule 7082.0300 Subp. 3

6.2.4 **Permit Expiration**

The SSTS permit is valid for a period of no more than one year from its date of issue. Satisfactory completion of construction shall be determined by receipt of final As-built and a signed certification that the construction or installation of the system was completed in reasonable conformance with the design documents and approved by the Department.

6.2.5 **Extensions and Renewals**

The Department may grant an extension of the SSTS 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 12

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months.

6.2.6 **Transferability**

An SSTS permit may be transferred to the new owner of the property provided the new owner follows the design and permit as it has been issued and the site and soil conditions have not been altered or otherwise damaged.

6.2.7 **Suspension or Revocation**

The Department may suspend or revoke an SSTS permit issued under this section for any false statements, misrepresentations of facts on which the SSTS permit was issued, or unauthorized changes to the system. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If a permit is suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid SSTS permit is obtained.

6.2.8 **Posting**

The SSTS permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

6.3 **Operating Permit**

6.3.1 **SSTS Requiring an Operating Permit**

An operating permit shall be required of all owners of new holding tanks, Type IV, V, MSTs or any other system deemed by the Department to require operational oversight.

6.3.2 **Operating Permit Application Requirements**

- A. Application for an operating permit shall be made on a form provided by the Department including:
 - i. Owner and applicant contact information,
 - ii. Parcel identification number and property address or other description of property location,
 - iii. SSTS permit reference number and date of issue,
 - iv. Monitoring and Disposal Contract,
 - a. Owners of holding tanks installed after the effective date of this Section shall provide to the Department a copy of a valid monitoring and disposal contract signed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner to prevent illegal discharge in accordance with Minnesota Rule 7082.0100, subp. 3(G) prior to a

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holding tank permit being issued.

b. Final As-built of the SSTS.

6.3.3 **Departments Response**

The Department shall review the As-built drawing, management plan, pumpers agreement, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue an operating permit.

6.3.4 **Operating Permit Terms and Conditions**

The operating permit shall include the following (see Minnesota Rules, Chapter 7082.0600, Subp. 2B):

- A. System performance requirements;
- B. System operating requirements;
- C. Monitoring locations, procedures and recording requirements;
- D. Maintenance requirements and schedules;
- E. Compliance limits and boundaries;
- F. Reporting requirements;
- G. Department notification requirements for non-compliant conditions;
- H. Valid contract between the owner and a licensed maintenance business;
- I. Disclosure, location and condition of acceptable soil treatment and dispersal system site; and
- J. Descriptions of acceptable and prohibited discharges.

6.3.5 **Operating Permit Expiration and Renewal**

- A. Operating permits shall be valid for the specific term stated on the permit as determined by the Department.
- B. An operating permit must be renewed prior to its expiration. If not renewed, the County may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within 90 calendar days of the expiration date, the Department may require that the system be abandoned in accordance with Minnesota Rule 7080.2500.
- C. The Department shall notify the holder of an operating permit at

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least 90 calendar days prior to expiration of the permit. The Owner must apply for renewal at least 30 calendar days before the expiration date.

- D. Application shall be made to the Department including:
- i. Applicant name, mailing address, email address and phone number;
 - ii. Reference number of previous owner's operating permit;
 - iii. Any and all outstanding Compliance Monitoring Reports as required by the operating permit;
 - iv. Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the Department;
 - v. Any revisions made to the operation and maintenance manual; and
 - vi. Payment of application review fee as determined by the Department.

6.3.6 **Transfers**

The operating permit may be transferred to a new owner of the property. The new owner shall notify the Department of their ownership within 60 days of the sale of a property operated under an operating permit.

6.3.7 **Suspension or Revocation**

- A. 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.
- B. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
- C. 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 SUBDIVISION 4.
- D. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

6.3.8 **Compliance Monitoring**

- A. Performance monitoring of a SSTS shall be performed by properly licensed SSTS service providers hired by the holder of the

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operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.

- B. A monitoring report shall be prepared and certified by properly licensed SSTS service providers. The report shall be submitted to the Department on or before the compliance reporting date provided in the operating permit. The report shall contain a description of all maintenance and serving activities performed since the last compliance monitoring report as described below:
 - i. Owner contact information;
 - ii. Operating permit number;
 - iii. Average daily flow since last compliance monitoring report;
 - iv. Description of type of maintenance and date performed;
 - v. Description of samples taken (if required), analytical laboratory used, and results of analyses;
 - vi. Problems noted with the system and actions proposed or taken to correct them; and
 - vii. Name, signature, license, and license number of the licensed professional who performed the work.

6.4 Abandonment Certification

6.4.1 Purpose

The purpose of the System Abandonment Certification is to ensure that a treatment system with no future intent for use be 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.

6.4.2 Abandonment Requirements

- A. Whenever the use of a SSTS or any system component is discontinued with no future intent of use 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 Section shall be prohibited.
- B. An owner of an SSTS must retain a licensed installation business to abandon all components of the treatment system. Abandonment shall be completed in accordance with Minnesota Rule 7080.2500.

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- C. The MPCA's SSTS Abandonment Reporting Form is required for all SSTS that are abandoned in County and shall be submitted to the Department within 90 days of abandonment.

6.4.3 **Abandonment Certificate**

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

SUBDIVISION 7.0 Management Plans

7.1 **SSTS Requiring Management Plans**

Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the SSTS permit application for review and approval. Modifications are not allowed during construction. A new or updated design is required first. At the time of the new or updated design, the designer must submit the updated management plan (if the design change causes required changes in the management plan).

7.2 **Required Contents of a Management Plan**

Management plans shall include (Minnesota Rules, Chapter 7082.0600, Subp. 1):

- A. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
- B. Monitoring requirements;
- C. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
- D. Statement that the owner is required to notify the Department when the management plan requirements are not being met;
- E. 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; and
- F. Other requirements as determined by the Department.

7.3 **Requirements for Systems not Operated under a Management Plan**

Minnesota Rules Chapter 7082.0100, Subp. 3(L) requires SSTS that are not operated under a management plan or operating permit to have treatment tanks assessed and provide for the removal of solids if needed every three years. Solids must be removed when their

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accumulation meets the limit described in Minnesota Rule 7080.2450.

SUBDIVISION 8.0 Compliance Management

8.1 Compliance Inspection Program

8.1.1 Department's Responsibility

It is the responsibility of the Department to ensure that various compliance inspections are performed as necessary or required.

- A. SSTS compliance inspections must be performed:
 - i. To ensure compliance with applicable requirements.
 - ii. For all new SSTS construction or replacement.
- B. All compliance inspections must be performed and signed by licensed inspection businesses or certified compliance inspectors.

8.1.2 Public Education Outreach

Educational Programs shall be provided by the Department to increase public awareness and knowledge of an 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.

8.1.3 Inspections of New and Replacement SSTS

- A. Inspections must be performed on new or replacement SSTS by the Department to determine the system was installed according to approved design and in compliance with Minnesota Rules, Chapters 7080 or 7081.
- B. ~~A~~ licensed installer shall submit an as-built for the completion of permitted work within 30 days, provided that prior approval is granted by the Department. The as-built shall certify that all work performed was in compliance with the conditions of the SSTS Construction Permit issued and with the provisions of this Section.
- C. It is the responsibility of the SSTS property owner or the property owner's authorized agent to notify the Department one (1) day prior to any permitted work on the SSTS to schedule an inspection.
- D. A Certificate of Compliance for a new or replacement SSTS shall be issued by the Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.

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8.1.4 Compliance Inspections of Existing SSTS

- A. Compliance inspections for existing SSTS shall be required when any of the following conditions occur:
1. When an SSTS Construction Permit is required to repair, modify, or upgrade an existing SSTS; or
 2. Anytime the Department has reasonable cause to believe a system may not comply with this Section or Minnesota Rules, chapters 7080 through 7082; or successor rules; or
 3. Upon receiving a complaint or other information of a potential SSTS noncompliance; or
 4. To ensure SSTS compliance before the issuance of a Building or any land use approval; or
 5. Upon application for a building permit without the addition of bedrooms, water using devices or other factors likely to affect the operation of the SSTS, conditional use permit, interim use permit, subdivisions, or variance request, if the SSTS is older than ten (10) years; or
 6. Upon application for a Building permit with addition of bedrooms, water using devices or other factors likely to affect the operation of the SSTS, if the SSTS is older than three (3) years; or
 7. Prior to property transfer for SSTS that are older than five (5) years or the certificate of compliance is older than three (3) years except for the exempt transactions set out in Subdivision 8.1.5B of this Section; or
 8. Upon application for a Building or Land Use Permit to build a new dwelling where the existing SSTS on the property is being proposed to serve the dwelling; or
 9. When an Operating Permit is to be renewed; or
 10. 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; or
 11. 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; or
- B. A compliance inspection for an existing SSTS shall be conducted prior to the issuance of any building permit, land

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use permit, conditional use permit, interim use permit, subdivision, or granting or denying of any variance. SSTS found to be in non-compliance must be upgraded as required by this Section. All existing system SSTS compliance inspections required as part of permitting process for a new or replacement SSTS Construction Permit, must be completed prior to issuance of the replacement SSTS Construction Permit. A Certificate of Compliance shall not be granted until all required paperwork is submitted.

- C. Compliance inspections of existing SSTS shall be reported on the current SSTS Compliance Inspection Form provided by MPCA. The following conditions must be assessed or verified:
1. Water tightness assessment of all treatment tanks including a leakage report.
 2. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock, including a vertical separation verification report.
 3. Sewage backup, surface seepage or surface discharge, including a hydraulic function report.
 4. All additional compliance inspection criteria outlined in this Section must be assessed, documented and shall be submitted on appropriate forms provided by the Department as required attachments as indicated on the current System Compliance Inspection form.
- D. All Certificates of Compliance issued for compliance inspections must include a certified statement indicating whether the SSTS is in compliance with the requirements of this Section. If the SSTS is determined not to be in compliance with this Section, a Notice of Noncompliance must be issued and include a statement specifying the provisions in which the SSTS does not comply with this Section. An SSTS Construction Permit application must be submitted to the Department if the required corrective action is not a minor repair.
- E. A Certificate of Compliance or Notice of Noncompliance shall be submitted to the Department and the property owner or the property owner's authorized agent within

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fifteen (15) days of the existing system compliance inspection.

- F. 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 as part of an existing SSTS compliance inspection unless the tank(s) is/are currently operated under a valid Certificate of Compliance.
- G. Continued use of a soil dispersal system, whether in part or in whole, where it is to become an integral part of a replacement system, or a sanitary sewer system requires the existing soils dispersal system to be inspected as part of existing SSTS compliance inspection unless the soil dispersal system is currently operated under a valid Certificate of Compliance.
- H. The Department shall reject any compliance inspection submitted to it that does not provide the required compliance information, is not completed by a licensed inspection business or is deficient in certified statements, corrective measure procedures, signatures and/or required fees.
- I. The Department may waive an existing system compliance inspection required under Subdivision 8.1.4A of this Section, if the owner of the real property served by an existing SSTS acknowledges (self-fails) in writing to the Department that the current existing SSTS does not meet current State and/or local code requirements; and further acknowledges that a new system installation or proper abandoning of the existing system will be achieved within the timeframes established by Subdivision 4.2 of this Section.

8.1.5 Transfer of Properties

- A. Whenever ownership of land upon which a dwelling is located or a tract of land upon which a structure that is required to have an SSTS is transferred, the following requirements shall be met:
 - 1. A compliance inspection must be performed, and a Certificate of Compliance issued unless one has been issued within the previous three (3) years for an SSTS older than five (5) years or an original Certificate of Compliance is on

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file with the Department for an SSTS less than five (5) years old prior to the transfer of the property, unless evidence is found identifying an Imminent Threat to Public Health and Safety.

2. The seller of the property shall disclose in writing information about the status and location of all known SSTS on the property to the buyer
- B. 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 is a foreclosure or tax forfeiture, i.e. the transaction from the former property owner to the secured entity.
 3. The sale or transfer completes a contract for deed or purchase agreement entered into prior to January 22, 1998. This subsection applies only to the original vendor and vendee on such a contract.
 4. Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment system, permitted by the State of Minnesota under a SDS permit, or permitted by the Department under a valid operating permit with annual reporting requirements.
 5. 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.
 6. 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.
 7. When title to real property is held jointly by a husband and wife and through a divorce decree one of the said parties is removed from the title with the other said party retaining ownership of the property.
- C. All property conveyances subject to this Section occurring during the period between December 1st and April 15th, when

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an SSTS compliance cannot be determined due to frozen soil conditions, shall require a winter escrow agreement, which includes agreement to complete a compliance inspection by the following June 15th. If, upon inspection, the SSTS is found to be non-compliant, the system must be upgraded in accordance with Subdivision 4.2 of this Section.

- D. The responsibility for filing the completed compliance portion of the Certificate of Compliance under Subdivision 8.1.5 of this Ordinance or for upgrading a system found to be non-compliant shall be determined by the seller.
- E. The issuance of a SSTS Construction Permit, Certificates of Compliance or Notices of Noncompliance shall not be construed to represent a guarantee or warranty of an SSTS 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 this Section at a specific point in time.

SUBDIVISION 9.0 Enforcement

9.1 Violations and Prosecution

9.1.1 Cause to Issue a Notice of Violation

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

9.1.2 Notice of Violation

- A. The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this section. The notice of violation shall contain:
 - 1. A statement documenting the findings of fact determined through observations, inspections, or investigations;
 - 2. A list of specific violation(s) of this section;
 - 3. Specific requirements for correction or removal of the specified violation(s);

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4. A mandatory time schedule for correction, removal, and compliance with this Section.

9.1.3 **Stop Work Order**

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

9.2 **Civil Enforcement**

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

9.3 **Cost and Reimbursements**

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

9.4 **State Notification of Violation**

In accordance with state law, the Department shall notify the MPCA of any inspection, installation, design, construction, alteration, or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this Section.

SUBDIVISION 10.0 Record Keeping

The Department shall maintain a 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, as-built drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the county sorted by licensed installation businesses, and other records relevant to each system.

SUBDIVISION 11.0 Dispute Resolution Procedures

In the event of a dispute between two designers or two SSTS inspectors on whether the soil or

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design meets the minimum requirements of the section, procedures outlined under MN Rule 7082.0700 subpart 5; or successor rules shall be followed.

SUBDIVISION 12.0 Annual Report

The Department shall provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.

SUBDIVISION 13.0 Fees

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

SUBDIVISION 14.0 Interpretation

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

SUBDIVISION 15.0 Severability

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

SUBDIVISION 16.0 Abrogation and Greater Restrictions

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

SUBDIVISION 17.0 Ordinance Repealed

Sherburne County Zoning Ordinance, Section 17.5 Subsurface Sewage Treatment Program, for the regulation of Individual Sewage Treatment Systems of the County is hereby repealed.

SUBDIVISION 18.0 Adoption

The Sherburne County Zoning Ordinance, Section 17.5 Subsurface Sewage Treatment Program was adopted by the Sherburne County Board of Commissioners on the _____ day of August 2024.