SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE ST. LOUIS COUNTY

Month XX, 2014

COUNTY ORDINANCE NUMBER 61

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ST. LOUIS COUNTY

ORDINANCE NO. 61

SUBSURFACE SEWAGE TREATMENT SYSTEMS

This is an ordinance authorizing and providing for sewage treatment and dispersal into soil in unsewered properties of the County. It establishes:

A. Minimum standards for and regulation of individual sewage treatment systems (ISTS) and mid-sized subsurface sewage treatment systems (MSTS) (collectively referred to as SSTS) in unsewered incorporated and unincorporated areas of St. Louis County incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency,

B. Requirements for issuing permits for installation, alteration, repair or expansion of SSTS,

C. Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan,

D. Standards for upgrade, repair, replacement, or abandonment of SSTS,

E. Penalties for failure to comply with these provisions,

F. Provisions for enforcement of these requirements, and

G. Standards which promote the health, safety and welfare of the public as reflected in Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21 through 394.37, and 471.82, the County Comprehensive Plan and the County Zoning Ordinance 46.

ARTICLE I PURPOSE AND AUTHORITY

ARTICLE I, SECTION 1.0 PURPOSE AND INTENT

1.01 Purpose

The purpose of this ordinance 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.

1.02 Intent

It is intended to serve the best interests of the County's citizens by protecting its health, safety, general welfare, and natural resources by promoting the following:

A. The protection of lakes, rivers and streams, wetlands, groundwater, and lands in St. Louis County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.

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

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

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

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

F. The avoidance of expenses associated with providing central public water and sewer services where such expense may reasonably be avoided.

ARTICLE I, SECTION 2.0 AUTHORITY

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

ARTICLE I, SECTION 3.0 EFFECTIVE DATE

The provisions set forth in this Ordinance shall become effective on (DATE). This Ordinance repeals and replaces St. Louis County Individual Sewage Treatment Systems Ordinance 55.

ARTICLE I, SECTION 4.0 REFERENCE TO RULE CHAPTERS

The County hereby adopts by reference Minnesota Rules, Chapters 7080, 7081, 7082, and 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.

ARTICLE II 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. Also, the words used in the singular include the plural, and the plural includes the singular; the masculine gender includes the feminine gender.

Absorption Area. Absorption Area means the area of Original Soil below a Mound that is designed to absorb sewage tank effluent. The Absorption Area for Trenches, Seepage Beds, and At-grade Systems is the bottom area in contact with the Distribution Medium and the Original Soil designed to absorb sewage tank effluent.

Additive. “Additive” means a chemical, biochemical, or biological substances added to sewage discharged to, or to any effluent of, an SSTS for the intended purpose of altering the performance of any system component. Approved additives include those that are an integral component of a registered treatment product or an engineered treatment process. The use of additives does not fulfill the solids removal requirement of this part or a management plan. Other additives that liquefy or emulsify system solids, or are classified as hazardous, are prohibited.

Agency. "Agency" means the Minnesota Pollution Control Agency.

Alarm Device. "Alarm Device" means a device that alerts a system operator or system owner of a component's status using a visual or audible device. An alarm device can be either on site or remotely located.

Alternative Local Standards. “Alternative Local Standards” means Individual Sewage Treatment System Standards created pursuant to 7082.0050, subp.5.

Applicable Requirements. "Applicable Requirements" means:

A. local ISTS ordinances that comply with parts 7080.2150, Subp. 2, and 7081.0080, Subps. 1 to 5; chapter 7082; and Minnesota Statutes, section 115.55; or

B. in areas without complying ordinances to regulate ISTS, the requirements of this chapter.

Applicant. “Applicant” means a Person who submits an application for a permit for the installation or renovation of a sewage treatment system.

As-built. “As-built” means drawings and documentation provided by the Installer to St. Louis County Environmental Services. An as-built drawing is a drawing of record and shall document the final in place location, size, and type of all major SSTS system components.

At-grade System. "At-grade System" means a pressurized soil treatment and dispersal system where sewage tank effluent is dosed to an absorption bed that is constructed directly on original soil at the ground surface and covered by loamy soil materials.

Authorized Representative. "Authorized Representative" means an employee or agent of the County Environmental Services Department.

Baffle. "Baffle" means a device installed in a septic tank to retain solids and includes, but is not limited to, vented sanitary tees with submerged pipes and effluent screens.

Bedrock. "Bedrock" means geologic layers, of which greater than 50 percent by volume consist of unweathered in-place consolidated rock or rock fragments. Bedrock also means weathered in-place rock which cannot be hand augered or penetrated with a knife blade in a soil pit.

Bedroom. "Bedroom" means, for the sole purpose of estimating design flows from dwellings, an area that is:

A. a room designed or used for sleeping; or
B. 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. Architectural features that affect the use as a bedroom under this item may be considered in making the bedroom determination.

Biochemical Oxygen Demand or BOD. "Biochemical Oxygen Demand" or "BOD" means the measure of the amount of oxygen required by bacteria while stabilizing, digesting, or treating biodegradable organic matter under aerobic conditions over a five-day incubation period, commonly expressed in milligrams per liter (mg/l).

Bluff. "Bluff", as defined in St. Louis County Ordinance 46, means a topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

A. part or all of the feature is located in a shoreland area;
B. the slope rises at least 25 feet above the ordinary high water level of the water body;
C. the grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and,
D. the slope must drain toward the water body.

Bluff Impact Zone. "Bluff Impact Zone", as defined in St. Louis County Ordinance 46, means a bluff and land located within 20 feet from the top of a bluff. An area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff.

Board of Adjustment. "Board of Adjustment", as defined in St. Louis County Ordinance 46, means the Board of Adjustment for St. Louis County, Minnesota, as created by ordinance pursuant to Minnesota Statutes 394.27 and all acts amendatory thereof.

Building Sewer. “Building sewer” means the part of the drainage system which extends from the end of the building drain and conveys its discharge to a subsurface sewage treatment system. Building sewers are regulated under Minnesota Rules, Chapters 4715 and 4725.

Carbonaceous Biochemical Oxygen Demand or CBOD 5. "Carbonaceous Biochemical Oxygen Demand" or "CBOD 5" means the measure of the amount of oxygen required by bacteria while stabilizing, digesting, or treating the organic matter under aerobic conditions over a five-day incubation period while in the presence of a chemical inhibitor to block nitrification. CBOD is commonly expressed in milligrams per liter (mg/l).

Certificate of Compliance. "Certificate of Compliance" means a document issued by the Department after a compliance inspection certifying that an existing or new system is in compliance with applicable requirements at the time of the inspection. For new or replacement systems, a Certificate of Compliance will include an Authorization to Use certifying that the system is in compliance with the requirements of this Ordinance.

Certified Statement. "Certified Statement" means a statement signed by a certified individual, apprentice, or qualified employee under chapter 7083 certifying that the licensed business or qualified employee completed work in accordance with applicable requirements.

Cesspool. "Cesspool" means an underground pit, receptacle, or seepage tank that receives sewage directly from a building sewer and leaches sewage into the surrounding soil, bedrock, or other soil materials. Cesspools include sewage tanks that were designed to be watertight, but subsequently leak below the designed operating depth.

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

Clean Sand. “Clean Sand” means sand for the purpose of Mound construction shall meet the following sieve sizing requirements as referenced in 7080.2220, Subp. 3C.

Cluster System. “Cluster System” means 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.

Commissioner. "Commissioner" means the commissioner of the Pollution Control Agency.

Compliance Inspection. "Compliance Inspection" means an evaluation, investigation, inspection, or other such process for the purpose of issuing a certificate of compliance or notice of noncompliance.

Compliant. “Compliant” means meeting the SSTS treatment, operational, and safety criteria of Minnesota Rules, Chapter 7080.1500.

Contour Loading Rate. "Contour Loading Rate" means the amount of effluent loaded to the soil per the length of the dispersal unit or units along the contour.

County. “County” means St. Louis County, Minnesota.

County Board. “County Board” means the St. Louis County Board of Commissioners.

Department. “Department” means the St. Louis County Environmental Services Department.

Design Flow. “Design Flow” means the daily volume of wastewater for which an SSTS is designed to treat and discharge.

Director. “Director” means the St. Louis County Environmental Services Director.

Distinct. "Distinct" means a soil color that is not faint as described in subpart 29.

Distribution Box. "Distribution Box" means a device intended to distribute sewage tank effluent concurrently and equally by gravity to multiple segments of a soil dispersal system.

Distribution Device. "Distribution Device" means a device used to receive and transfer effluent from supply pipes to distribution pipes or downslope supply pipes, or both. These devices include, but are not limited to, drop boxes, valve boxes, distribution boxes, or manifolds.

Distribution Medium. "Distribution Medium" means the material used to provide void space in a dispersal component, through which effluent flows and is stored prior to infiltration. Distribution media includes, but is not limited to, drainfield rock, polystyrene beads, chambers, and gravelless pipe.

Distribution Pipes. "Distribution Pipes" means perforated pipes that distribute effluent within a distribution medium.

Drop Box. "Drop Box" means a distribution device used for the serial gravity application of sewage tank effluent to a soil dispersal system.

Dwelling. "Dwelling" means any building with provision for living, sanitary, and sleeping facilities.

Effluent Screen. "Effluent Screen" means a device installed on the outlet piping of a septic tank for the purpose of retaining solids of a specific size.

EPA. "EPA" means the United States Environmental Protection Agency.

Failure to Protect Groundwater. “Failure to Protect Groundwater” means a system that is not protective is considered a system failing to protect groundwater. At a minimum, a system that is

failing to protect groundwater is a system that is a seepage pit, cesspool, drywell, leaching pit, or other pit in SWF areas; all cesspools, or seepage pits, drywells, leaching pits, or other pits with less than 12 inches of vertical separation in non-SWF areas; a system with less than the required vertical separation distance described in Article V, Section 2.01, items D and E; and a system not abandoned in accordance with part 7080.2500. A determination of the threat to groundwater quality for other conditions must be made by a qualified employee or licensed inspection business.

Fecal Coliform or FC. "Fecal Coliform" or "FC," for purposes of this chapter, means bacteria common to the digestive systems of humans that are cultured in standard tests. Counts of these organisms are typically used to indicate potential contamination from sewage or to describe a level of disinfection, generally expressed in colonies per 100 mL.

Flood Fringe. "Flood Fringe" means that portion of the floodplain outside the floodway. Flood fringe is synonymous with the term "floodway fringe" used in flood insurance studies.

Floodplain. "Floodplain" means the area covered by a 100-year flood event along lakes, rivers, and streams as published in technical studies by local, state, and federal agencies, or in the absence of these studies, estimates of the 100-year flood boundaries and elevations as developed according to a local unit of government's floodplain or related land use regulations.

Floodway. "Floodway" means the bed of a wetland or lake, the channel of a watercourse, and those portions of the adjoining floodplain that are reasonably required to carry the regional flood discharge.

Food, Beverage or Lodging Establishment. "Food, Beverage, or Lodging Establishment" means an establishment that is required to obtain a license under Minnesota Statutes, Section 157.16, Subdivision 1.

Graywater. "Graywater" means sewage that does not contain toilet wastes.

Holding Tank. "Holding Tank" means a tank for storage of sewage until it can be transported to a point of treatment and dispersal. Holding tanks are considered a septic system tank under Minnesota Statutes, section 115.55.

Immediate Family. "Immediate Family" means a person's grandparent, parent, grandchild, child, siblings, or spouse.

Imminent Threat to Public Health and/or Safety. "Imminent Threat to Public Health and/or Safety" means 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 failing to protect groundwater; 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.

Individual Subsurface Sewage Treatment System or ISTS. "Individual Subsurface Sewage Treatment System" or "ISTS" means 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 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 Chapter 4715.

Industrial Waste. "Industrial Waste" means sewage containing waste from activities other than sanitary waste from industrial activities including, but not limited to, the following uses defined under the Standard Industrial Classification (SIC) Codes established by the U.S. Office of Management and Budget.

SIC CODE(S)	INDUSTRY CATEGORY
753-7549	Automotive Repairs and Services
7231,7241	Beauty Shops, Barber Shops
7211-7219	Laundry Cleaning and Garment Services
4011-4581	Transportation (Maintenance only)
8062-8069	Hospitals
2000-3999	Manufacturing
2000-2099	Food Products
2100-2199	Tobacco Products
2400-2499	Lumber and Wood Products, except Furniture
2500-2599	Furniture and Fixtures
2600-2699	Paper and Allied Products
2700-2799	Printing, Publishing, and Allied Industries
2800-2899	Chemicals and Allied Products
2900-2999	Petroleum Refining and Related Industries
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3200-3299	Stone, Clay, Glass, and Concrete Products
3300-3399	Primary Metal Industries
3400-3499	Fabricated Metal Products (except Machinery, and Transportation Equipment
3500-3599	Industrial and Commercial Machinery and Computer Equipment
3700-3799	Transportation Equipment
3800-3899	Measuring, Analyzing, and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks
3900-3999	Miscellaneous Manufacturing Industries

(AMC)

Lot. "Lot" means a tract of land which is all or part of a block and is identified on a plat as per Minnesota Statutes, Chapter 505.

Malfunction. "Malfunction" means the partial or complete loss of function of a SSTS component, which requires a corrective action to restore its intended function.

Management Plan. "Management Plan" means 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.

Matrix Color. "Matrix Color" means the majority of the color in a soil horizon, as described in the Field Book for Describing and Sampling Soils, which is incorporated by reference in 7080.1100, Subpart 36.

Midsized Subsurface Sewage Treatment System or MSTS. "Midsized Subsurface Sewage Treatment System" or "MSTS" means 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 chapter 4715.

MPCA. "MPCA" means the Minnesota Pollution Control Agency.

Noncompliant. "Noncompliant" means not meeting the treatment, operational, and safety goals of Minnesota Rules, Chapter 7080.1500.

Non-conforming. "Non-conforming" means any existing soil treatment system that has less than the equivalent of 30.6 inches but at least 12 inches of vertical separation between the bottom of the distribution media and saturated soil level or bedrock in SWF areas or less than the equivalent of 24 inches but at least 12 inches of vertical separation between the bottom of the distribution media and saturated soil level or bedrock in non-SWF areas; or any system that discharges sewage to a Seepage Pit, Dry Well or Leaching Pit with at least 12 inches of vertical separation in a non-SWF area; or Individual Sewage Treatment Systems in use that are undersized relative to occupancy; or any system that does not meet minimum required setbacks.

Notice of Imminent Threat to Public Health. "Notice of Imminent Threat to Public Health" means the inspection indicates that the ISTS is discharging to the ground surface, backing up into the structure, or presents any other situation that prohibits system function. This situation must be abated within 10 days and a new system installed within 60 days of the notice unless weather conditions prohibit. In such case, the Administrator may issue a provisional permit for a holding tank or other method of temporary abatement for a period not to exceed 150 days.

If the septic system is deemed an Imminent Threat to Public Health, the Department may verify the condition and the owner of the property will be notified of the violation in writing. The property may be transferred, but the owner must abate the condition in 10 days and a new ISTS installed in 60 days. In the event that weather conditions prohibit the installation within 60 days the Department may issue a provisional permit, under Sec. 5.02 of Ordinance 55, not to exceed 150 days.

Notice of Noncompliance. "Notice of Noncompliance" means a written document issued by the Department based upon a signed inspection by a licensed inspector notifying a system owner that

the owner's onsite/cluster treatment system has been inspected by a certified inspector and determined to be noncompliant with the standards of this Ordinance.

Operating Permit. "Operating Permit" means an ISTS permit that is issued for the construction, installation or use of a system that includes Performance Requirements, time limitations, maintenance requirements, and other conditions as may be required by the Administrator to evaluate and assure adequate system construction, installation, maintenance, or performance.

Original Soil. "Original Soil" means naturally occurring soil that has not been cut, filled, moved, smeared, compacted, altered, or manipulated to the degree that the loading rate must be reduced from that associated with natural soil conditions.

Owner. "Owner" means any person having possession of, control over, or title to property with an ISTS.

Performance Requirements. "Performance Requirements" means requirements and conditions applied to the issuance of an Operating Permit for the purpose of evaluating system performance. Performance factors may include, but are not necessarily limited to fecal coliform, BOD, flow rates and other related factors designated in the Operating Permit.

Periodically Saturated Soil. "Periodically Saturated Soil" means 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 Chapter 7080.1720, subpart 5, items E and F, or determined by other scientifically established technical methods or empirical field measurements acceptable to the permitting authority in consultation with the commissioner.

Permit to Construct. "Permit to Construct" means a permit issued authorizing the construction or installation of an SSTS.

Permit Flow. "Permit Flow" means wastewater volume used to determine the agency issuing the permit and the SSTS license required for system design.

Person. "Person" means an individual, partnership, firm, corporation, or association, or other legal entity, the state, or any other political subdivision thereof or government entity, but not including the County of St Louis.

Point of Sale Inspection. "Point of Sale Inspection" means an inspection conducted at the time of property transfer pursuant to Article VIII, 2.05 of all Individual Sewage Treatment Systems located on real property lying within St Louis County including municipalities.

Privy. "Privy" means an aboveground 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 gray water. A privy also means a nondwelling structure containing a toilet waste treatment device.

Qualified Employee. "Qualified Employee" means an employee of the state or a local unit of government, who may perform SSTS site inspections 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.

Renovation. "Renovation" means an activity involving the extension, alteration, modification, or reconstruction of a soil treatment system in whole or in part.

Repair. "Repair" means the repair or replacement of a damaged or faulty component part of an Individual Sewage Treatment System such that completion of such repair will return the system to its original operable condition. The repair shall not alter the original area, dimensions, or concept of the system.

Sanitary Check-off. "Sanitary Check-off" means a record review of the land owner's SSTS generated through the application for a land use permit.

Seasonal. "Seasonal" means Property usage where the property is not the primary residence of the permit holder, is intended for intermittent occupancy, or is in Non-Homestead or Seasonal Residential Recreational tax status.

S**eepage Bed.** "Seepage Bed" means a soil treatment and dispersal system, the absorption width of which is greater than three feet but no greater than 10 feet.

Setback. "Setback" means a separation distance measured horizontally.

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

Shoreland. "Shoreland" means any SSTS within 1,000 feet of a lake or 300 feet of a river.

State. "State" means the State of Minnesota.

Subsurface Sewage Treatment System or SSTS. "Subsurface Sewage Treatment System" or "SSTS" is either an individual subsurface sewage treatment system as defined in subpart 41 or a midsized subsurface sewage treatment system as defined in part 7081.0020, subpart 4, as applicable.

Systems in shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments or SWF. "Systems in shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments" or "SWF" means the following three categories of systems:

A. SSTS constructed in shoreland areas where land adjacent to public waters has been designated and delineated as shoreland by local ordinance as approved by the Department of Natural Resources;

B. SSTS constructed in wellhead protection areas regulated under Minnesota Statutes, chapter 103I; and

C. SSTS serving food, beverage, and lodging establishments that are required to obtain a license under Minnesota Statutes, section 157.16, subdivision 1, including manufactured home parks and recreational camping areas licensed according to Minnesota Statutes, chapter 327.

Transfer Agreement. "Transfer Agreement" means an agreement between buyer and seller which allows the transfer of real property prior to an SSTS Certificate of Compliance Inspection.

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

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

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

Type III System. "Type III System" means a custom designed ISTS having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

Type IV System. "Type IV System" means an ISTS, having an MPCA registered pretreatment device and incorporating pressure distribution and dosing, that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.

Type V System. "Type V System" means an ISTS, which is a custom engineered design to accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and other relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented.

Variance. "Variance" means any modification or relief from this Ordinance and Standards where it is determined that by reason of exceptional circumstances the strict enforcement of the provisions of this Ordinance and Standards would cause unnecessary hardship as defined herein.

Vertical Separation. "Vertical Separation" means the vertical measurement of unsaturated soil or sand between the bottom of the distribution medium and the periodically saturated soil level or bedrock.

ARTICLE III GENERAL PROVISIONS

ARTICLE III, SECTION 1.0 SCOPE

This Ordinance 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; cluster or community SSTS; privy vaults; and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.

ARTICLE III, SECTION 2.0 JURISDICTION

The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their incorporated jurisdiction which is at least as strict as this Ordinance and has been approved by the County. The Department must keep a current list of local jurisdictions within the County administering a SSTS program.

ARTICLE III, SECTION 3.0 ADMINISTRATION

3.01 County Administration

The Department must administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County must review this and revise and update this Ordinance as necessary. The County must employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

3.02 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 must make application for and obtain a State Disposal System permit from MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a State Disposal System permit is required.

SSTS serving establishments or facilities licensed or otherwise regulated by the State must conform to the requirements of this Ordinance.

3.03 Cities and Townships

Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance. If a local jurisdiction chooses to have its own SSTS ordinance the County is required to review and confirm that the ordinance meets the strictness requirement as referenced in Minnesota Rules, Chapter 7082.0040, Subp. 3. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.

ARTICLE III, SECTION 4.0 VALIDITY

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

ARTICLE III, SECTION 5.0 LIABILITY

Any liability or responsibility must 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.

ARTICLE IV GENERAL REQUIREMENTS

ARTICLE IV, SECTION 1.0 RETROACTIVITY

1.01 All SSTS

Except as explicitly set forth in Article IV, Section 1.03, all provisions of this Ordinance must apply to any SSTS regardless of the date it was originally permitted.

1.02 Proximity to Public Sewer

No Individual Sewage Treatment System or other means of sewage or excreta disposal must be maintained or used on property where a public sanitary sewer is located within 200 feet of the property line and hookup is practical. Practicality must be determined by the Department with input from the local unit of government, or if the local unit of government elects to determine practicality, it must be left to the local unit of government.

1.03 Existing Permits

Unexpired permits, which were issued prior to the effective date, or use of products installed prior to their MPCA registration date must remain valid under the terms and conditions of the original permit.

1.04 SSTS on Lots Created After February 22, 1979

All lots created after February 22, 1979 must have a minimum of two Type I, Type III, or Type IV soil treatment and dispersal areas which meets the requirements in Article V, Section 4.

ARTICLE IV, SECTION 2.0 UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT

2.01 SSTS Capacity Expansions

Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.

2.02 Bedroom Additions

The owner is allowed up to 2 years from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system if the following conditions apply:

A. The St. Louis County Planning and Community Development Department, or local zoning authority issues a permit to add a bedroom, and the system is determined to be undersized;

B. A SSTS inspection is triggered by a bedroom addition permit request and the system is determined to be noncompliant or undersized;

C. The SSTS does not comply with Minnesota Rules, Chapter 7080.1500, Subp. 4B;

D. The SSTS is not determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4A.

2.03 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 must be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance and the following requirements:

A. All systems, located in non-SWF areas, with less than 12" of vertical separation must be upgraded or replaced within 24 months. All systems, located within SWF areas must be upgraded or replaced within 12 months.

B. Systems with 12" or more of vertical separation that meets the definition of non-conforming, must be replaced if the system does not pass the Sanitary Checkoff and one or more of the following conditions occur:

1. The applicant applies for a land use permit for a bedroom addition, or as otherwise required by St. Louis County Zoning or township ordinance;

2. The applicant applies for a variance or conditional use permit; or

3. There is an increase of wastewater generation which would impact the performance of the SSTS.

2.04 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 must be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 10 months of receipt of a Notice of Noncompliance.

Additionally, the property owner is required to abate the imminent threat to public health or safety within 10 days of receiving notification from the Department.

2.05 Abandonment

Any SSTS, or any component thereof, which is no longer to be used, must be abandoned in accordance with Minnesota Rules, Chapter 7080.2500.

ARTICLE IV, SECTION 3.0 SSTS IN FLOODPLAINS

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

ARTICLE IV, SECTION 4.0 CLASS V INJECTION WELLS

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

ARTICLE IV, SECTION 5.0 SSTS PROFESSIONAL LICENSING

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

ARTICLE IV, SECTION 5.1 HOMEOWNER EXEMPTION

A property owner installing a SSTS to treat wastewater solely from their own dwelling or a seasonal dwelling may install their own system without a license providing the following conditions are followed:

A. Homeowner exemption will be limited to Type I and Type II systems only and any assistance provided to the system owner in construction of a system under this item must be performed by a licensed installation business,

B. The system must be designed by an individual licensed in accordance with Minnesota Rules, Chapter 7083.0700, Subp. B,

C. The property owner must possess an approved Permit to Construct issued by the Department and schedule a pre-construction inspection with the Department prior to installation, and

D. The property owner must comply with all other provisions of this Ordinance.

ARTICLE IV, SECTION 6.0 PROHIBITIONS

6.01 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.

6.02 Sewage and Wastewater 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 sewage 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.

6.03 Sewage and Wastewater Discharge to a Well or Boring
It is unlawful for any person to discharge sewage or 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 ordinance.

6.04 Discharge of Hazardous or Deleterious Materials
It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

ARTICLE V SSTS STANDARDS

ARTICLE V, SECTION 1.0 STANDARDS ADOPTED BY REFERENCE

The County hereby adopts by reference Minnesota Rules, Chapters 7080, 7081, 7082, and 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.

ARTICLE V, SECTION 2.0 AMENDMENTS TO THE ADOPTED STANDARDS

2.01 List of Adopted Standards

A. The County differs from Minnesota Rules, Chapter 7082.0100, Subp. 3F by adopting Article IV, Section 1.04.

B. The County differs from Minnesota Rules, Chapter 7081.0260, Subpart C by adopting the following: "The pump discharge capacity must be based on the perforation's discharge, with a minimum average head of 2.5 feet for 1/4-inch and 3/16-inch perforations and 5 feet for 1/8-inch perforations."

C. In the case of a dispute resolution, the County differs from Minnesota Rules, Chapter 7082.0700, Subp. 5 by adopting the following requirement:

"In the case of a dispute between:

1. two licensed SSTS businesses, the dispute must be resolved in the following manner:

    a. The two disputing parties must first meet on site in an attempt to resolve differences. If the parties still cannot agree, they must proceed to step 1.b or 1.c.

b. A County SSTS professional must meet on site with the disputing parties in an attempt to resolve the difference.

c. If the disputing parties still do not agree, the parties must obtain the opinion of a:

1. currently licensed Minnesota soil scientist, who is also a certified and licensed SSTS designer or inspector for soil related disputes and independent of, and agreed upon by both parties; or

2. currently certified and licensed SSTS advanced designer for non-soils related disputes and independent of, and agreed upon by both parties.

The opinion of the soil scientist or the advanced designer must settle the dispute and must be the basis for the issuance of a Permit to Construct or the issuance of a Certificate of Compliance or Notice of Noncompliance.

2. a licensed SSTS business and a County SSTS professional, the dispute must be resolved by having the County SSTS professional meet on site with the licensed SSTS business and attempt to resolve the difference. If the parties cannot agree, then the dispute will be resolved by using step 1.c above."

D. The County differs from Minnesota Rules, Chapter 7080.1500, Subp. 4B, by allowing a seepage pit, drywell, leaching pit or other pit with more than 12 inches of vertical separation in non-SWF areas.

E. The County differs from Minnesota Rules, Chapter 7080.1500, Subp. 4D by adopting the following: "A Compliant ISTS built after March 31, 1996, or in an SWF area must have at least 30.6 inches of vertical separation between the bottom of the dispersal system and periodic saturation or bedrock. The 30.6 inches includes a 15 percent reduction to account for settling of sand or soil, normal variation of measurements, and interpretations of the limiting layer conditions, or a vertical separation in compliance with part 7080.2350, subpart 2, Table XI;

A non-conforming ISTS built after March 31, 1996, or in an SWF area has less than the equivalent of 30.6 inches but more than 12 inches of vertical separation between the bottom of the distribution media and saturated soil level or bedrock."

F. The County differs from Minnesota Rules, Chapter 7080.1500, Subp. 4E by adopting the following: "A compliant SSTS built before April 1, 1996, and outside a designated SWF area must have at least two feet of vertical separation between the bottom of the dispersal system and periodic saturation or bedrock.

A non-conforming SSTS built before April 1, 1996, and outside designated SWF areas has less than the equivalent of 24 inches but more than 12 inches of vertical separation between the bottom of the distribution media and saturated soil level or bedrock."

G. For the purpose of this ordinance the County replaces Minnesota Rules, Chapter 7080.1720 Subp.6 A and B with worksheet titled "**Effluent Absorption and Contour Loading Rates for Determining Absorption Area Size and Configuration Using Detailed Soil Descriptions".**

H. The County differs from Minnesota Rules, Chapter 7080.1920 by adding the following: "F. must install an effluent screen with alarm on the outlet of the last septic tank or septic tank chamber."

I. For the purpose of this ordinance, the County does not adopt Minnesota Rules, Chapter 7080.2210, Subp. 3B which allows sidewall absorption area reduction for trenches.

J. The County differs from Minnesota Rules, Chapter 7080.2050 Subp. 4E Table VI: Maximum Number of Perforations Per Pressure Distribution Lateral, by adding rows for 3.5 foot spacing.

K. The County differs from Minnesota Rules, Chapter 7080.2050 Subp. 4G by adopting the following: "Pressure distribution laterals must be spaced no further than 42-inches apart in seepage beds and mound absorption beds, and no further than 24-inches from the outside edge of the bed."

L. The County differs from Minnesota Rules, Chapter 7080.2100 Subp. 4B to read by adopting the following: "The pump discharge capacity must be based on the perforation discharges for a minimum average head of 1) 2.5 feet for 3/16-inch to 1/4-inch perforations and 2) 5.0 feet for 1/8-inch perforations for dwellings and for other establishments. Perforation discharge is determined by the following formula:

$Q = 19.65\ cd^2h^{1/2}$
where: Q = discharge in gallons per minute
c = 0.60 = coefficient of discharge
d = perforation diameter in inches
h = head in feet."

M. The County differs from Minnesota Rules, Chapter 7080.2210 Subp. 4A by adopting the following: "Trenches must be no more than 36-inches wide. Any excavation wider than 36-inches is a seepage bed. A seepage bed must not be wider than 10 feet. Natural, undisturbed soil must exist between multiple trenches and must be at least three feet in width. Multiple seepage beds must be spaced at a minimum of one-half the bed width."

N. The County differs from Minnesota Rules, Chapter 7080.2210.Subp.4D by adopting the following: "The minimum depth of cover over the distribution pipes shall be at least six inches. The maximum depth of cover over the distribution pipes must be no more than 18-inches and preferably no less than 12-inches."

O. The County differs from Minnesota Rules, Chapter 7080.2220 Subp.3A by adopting the following: "The mound distribution media bed area consists of bottom area only and must be calculated by dividing the design flow by 1.0 gallon per square foot per day."

P. For the purpose of this ordinance the County replaces Minnesota Rules, Chapter 7080.2220, Subp. 3C with the following sieve sizing requirements for mound construction:

SIEVE SIZE	PERCENT PASSING SIEVE
3/8 inch	80-100
No. 4	80-100
No. 8	80-100
No. 16	50-85
No. 30	25-60
No. 50	5-30
No. 100	0-10
No. 200	0-5

NOTE: The fine aggregate must not have more than forty-five percent (45%) sand retained between any two consecutive sieves.

NOTE: Discard the #4 and larger aggregate for computation of percent passing the #8 through #200 sieves.

Q. The County differs from Minnesota Rules, Chapter 7080.2220 Subp. 3J by adopting the following: "The original soil mound absorption area must be roughened by backhoe teeth, chisel plow, or other means deemed acceptable to the Department. Discing is allowed if the soil has a texture of sandy loam or coarser. If plowed, furrows must be thrown uphill and there must not be a dead furrow in the original soil mound absorption area. A rubber-tired tractor is allowed for plowing or discing. The use of moldboards, rototilling or pulverizing of the soil is not allowed. The original soil must not be excavated or moved more than one foot from its original location during soil surface preparation."

R. The County differs from Minnesota Rules, Chapter 7080.2220 Subp. 3M by adopting the following: "A minimum of 6 inches of clean sand must be placed in contact with the bottom area of the mound distribution media bed and must be uniformly tapered to cover the entire original soil absorption area. Other sandy materials are allowed to be used outside of this area to complete construction of the mound."

S. The County differs from Minnesota Rules, Chapter 7080.2240 by adding the following: "Subp. 1G. The building sewer for a Graywater system must be no greater than two inches in diameter."

T. The County differs from Minnesota Rules, Chapter 7080.2240 by adding the following: "Subp. 1H. Garbage grinders must not be connected to the drainage system."

U. The County differs from Minnesota Rules, Chapter 7080.2240 by adding the following: "Subp. 1I. Grinder pumps must not be connected to the drainage system."

V. The County differs from Minnesota Rules, Chapter 7080.2240 by adding the following: Subp. 4. In addition to the graywater standards found in Minnesota Rules Section7080.2240, the County will consider graywater recycle and re-use designs which fall outside of the Type I and Type II categories. These systems must be issued an Operating Permit.

The County will consider all design options but at a minimum the design must:

1. Demonstrate an acceptable treatment component, and
2. Not discharge to the ground surface.

The County also recognizes that many graywater options, such as lawn or garden irrigation, are seasonal in nature. These options will require that the residential SSTS be sized to handle all graywater flows during the periods when the graywater system cannot be used."

W. The County differs from Minnesota Rules, Chapter 7080.2280 by adding the following: "Subp. F. Privies must meet all setbacks from surface waters, buildings, property lines, and water supply well distances as required for Soil Treatment Areas."

X. The County differs from Minnesota Rules, Chapter 7080.2280 by adding the following: "Subp. G. When the pit is filled to within one foot of the top, the solids must be removed or a new pit must be constructed. The abandoned pit must be filled with clean earth and slightly mounded to allow for settling. Removed solids must be disposed of by land application."

Y. The County differs from Minnesota Rules, Chapter 7080.2280 by adding the following: "Subp. H. Other treatment devices may be used where reasonable assurance of performance is provided. Other treatment devices must be vented. All electric, gas, and water connections to another treatment device must conform to all local ordinances and codes. Operation and Maintenance of all other treatment devices must follow the manufacturer's recommendations. All materials removed from other treatment devices must be in accordance with Minnesota Rules, Chapter 7080.2450, Subp. 4A.

Z. The County differs from Minnesota Rules, Chapter 7082.0100, Subp. 3F, by adopting the following: "All lots created after February 22, 1979 must have a

minimum of two Type I, Type III, or Type IV soil treatment and dispersal areas which meets the requirements in Article V, Section 4.

2.02 Determination of Hydraulic Loading Rate and SSTS Sizing

A. **Contour Loading Rate -** Above grade systems must be designed with the appropriate contour loading which is based on the soil type, structure, slope and depth to the limiting soil characteristics.

B. To determine appropriate contour loading rate, please refer to the worksheet entitled "**Effluent Absorption and Contour Loading Rates for Determining Absorption Area Size and Configuration Using Detailed Soil Descriptions".**

2.03 Compliance Criteria for Existing SSTS

St. Louis County adopts the compliance criteria for existing SSTS contained in Article VIII, Section 2.04.

2.04 Holding Tanks

1. All holding tanks must be baffled in accordance to Minnesota Rules, Chapter 7080.1960, Items A to G.

2. Holding Tanks shall be allowed for new or existing seasonal development that meet the requirements outlined in Minnesota Rules 7080.2290 and 7082.0100, Subpart 3G.

3. Holding Tanks shall be allowed for existing year round residences that meet the requirements outlined in Minnesota Rules 7080.2290 and 7082.0100, Subpart 3G.

4. All Applications for Holding Tank. Property owners proposing use of a holding tank must submit to the Department a Residential SSTS Application with application fee, design and supporting documents and a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business. Upon approval of the application, the Department will issue the owner a Permit to Construct for the installation of the holding tank. An Operating Permit to use and maintain the holding tank shall be issued upon approval of final inspection. Owners of a holding tank are responsible to meet the conditions of the Operating Permit.

5. Annual Submittal of Records. Upon notice from the Department, property owners shall submit to the Department water usage records for the previous 12 months, pumping records by pumping episode for the previous 12 months, and a copy of a valid contract with a maintenance business licensed under Minnesota Rule 7083.0770.

6. Holding Tank Pumping. Holding tanks may only be pumped by a Maintainer licensed under Minnesota Rule 7083.0770. Upon notice from the Department, Maintainers must submit to the Department annual records of all holding tank pumping activities by pumping episode for the identified property. The Maintainer must identify the dates the tank was pumped, the volume of the liquid waste removed, and the location where the waste was discharged.

7. Operating Permits must be renewed every five years. At the time of renewal, the owner must submit to the Department an Operating Permit renewal application and application fee, water usage records for the previous 12 months, pumping records by pumping episode for the previous 12 months, Holding Tank Inspection Form 5-1 completed by a licensed service provider or maintainer, and a copy of a valid contract with a maintenance business licensed under Minnesota Rule 7083.0770.

8. Failure to properly develop and operate a holding tank is a violation of this Ordinance subject to enforcement action.

9. All holding tanks not currently permitted by the Department shall have 18 months from the date of Ordinance 61 adoption to obtain an Operating Permit without being in violation of this Ordinance. Failure to do so is a violation of this Ordinance.

ARTICLE V, SECTION 3.0 VARIANCES

3.01 Variance Requests

A property owner may request a variance from the standards as specified in this ordinance pursuant to county policies and procedures.

3.02 Affected Agency

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 Agency unless a more restrictive language has been adopted by St. Louis County whereby the variance must be heard by the Board of Adjustment.

3.03 Board of Adjustment

Variances shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance where there are practical difficulties or particular hardship in meeting the strict letter of this Ordinance, excluding the technical standards. Variance requests to deviate from the design flow determination procedures in Minnesota Rules, Chapter 7081.0110 if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day, or to provisions in 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through 5 regarding the vertical separation

required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in 7082.1700, Subp. 4D) must be approved by MPCA. Well setback variances from established SSTS must be heard by the Minnesota Department of Health. SSTS setback variances from established wells must be heard by the Minnesota Department of Health and the St. Louis County Board of Adjustment.

A. Any property owner requesting relief from the strict application of the provisions in this Ordinance must complete and submit an Application for Variance to the Department on a form provided by the Department. The variance request must include, but is not limited to:

    1. A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;
    2. A description of the practical difficulty that prevents compliance with the rule;
    3. The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions; and
    4. Cost considerations only if a reasonable use of the property does not exist under the term of the Ordinance.

B. The appropriate fee must be paid at the time of submittal of the application to receive consideration by the Board of Adjustment.

C. Upon receipt of the variance application, the Department shall decide if a site investigation conducted by the Department will be necessary. After the necessary information has been gathered, the Department shall make a written recommendation to approve or deny the variance to the Board of Adjustment.

D. The Board of Adjustment shall make the final decision after conducting a public hearing. The variance may be granted provided that:

    1. The condition causing the demonstrated practical difficulty is unique to the property and was not caused by the actions of applicant;
    2. The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the vicinity;
    3. The property owner proposes to use the property in a reasonable manner not permitted without the variance;
    4. The granting of the variance would not allow a prohibited use; and
    5. The granting of the variance would be in accordance with this ordinance.

E. In granting a request for a variance, the Board of Adjustment may attach such conditions as it deems necessary to conform to the purpose and intent of this Ordinance.

F. Any violation of the terms and conditions of a variance issued pursuant to this Ordinance, or any violation of any provision of this Ordinance relating to the specific issue of the variance, may result in revocation of the variance.

G. All decisions by the Board of Adjustment in granting Variances or in hearing appeals from any administrative order, requirement, decision, or determination shall be final except any aggrieved Person or Persons, or any Department, Board or Commission of the jurisdiction or of the State shall have the right to appeal within 30 days after receipt of the notice of the decision to the District Court on questions of law and fact.

H. The Board of Adjustment may reverse or affirm wholly or partly, or modify the order, requirement, decision or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a Permit.

ARTICLE V, SECTION 4.0 SSTS ON NEW SUBDIVISION REQUIREMENTS

4.01 Subdivision of Property

Person(s) proposing to subdivide property in St. Louis County must provide in-depth soil/site evaluation information for the purposes of determining long term Subsurface Sewage Treatment System (SSTS) suitability. Specifications are listed below.

A. **Soil Information.**

1. All soil descriptions must meet USDA soil science best practices and terminology. At a minimum such descriptions must contain horizon depths, texture, structure, consistence, redoximorphic features and color. Soil wastewater loading rates, contour loading rates, and delineations of seasonal high water indicators and seasonally saturated soil layers must be made.

2. At a minimum, soil descriptions must be made by a Minnesota Pollution Control Agency SSTS certified Designer. Required soil information must be submitted on forms approved by the Department.

3. Each proposed lot must have an SSTS site evaluation as per Minnesota Rules, Chapters7080.1700 and 7080.1730 including a minimum of one soil pit to a depth of five (5) feet as one of the observations. Soil pits less than this depth may be allowed with prior Department approval. In no case shall the test pits to be less than two feet unless periodically saturated soils or bedrock is encountered. Additional soil pits or borings to delineate the primary and replacement SSTS locations must be completed as per the professional opinion of the site evaluator or as required by the Department.

4. St. Louis County SSTS professionals will be available upon request of the developer or his representative to verify soil information at the time the original soil excavations are dug.

5. Upon request, the developer or their representative must provide to the Department soil pits suitable for the verification of soil information provided in the report.

6. In the event that a more detailed soil analysis is needed, information must be provided by a licensed soil scientist who is also a Minnesota Pollution Control Agency SSTS accredited Designer. The soil scientist must be licensed by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape

Architecture, Geo Science, and Interior Design of the State Department of Commerce.

7. Primary and replacement SSTS locations must be delineated on a scaled map with 10' foot maximum contour increments, along with pit location and identification number.

B. **Site Evaluation.**

All proposed sites for SSTS must, at a minimum, be evaluated as to:

1. Size and shape of the proposed lot(s). This is a scale drawing with 10 foot contours, lot property lines and each lot's proposed acreage.
2. Slope.
3. The existence of wetlands, local surface depressions, rock outcrops, and flood plains.
4. Soil conditions, properties, and permeability.
5. Depth to the highest known periodically saturated zone in the soil profile or bedrock.
6. Surface water flooding probability.

C. **Required SSTS Areas**

New parcels created after the effective date of this ordinance must have two septic system areas that meets the requirements of this Ordinance. All parcels must meet the minimum zoning requirements identified in St. Louis County Zoning Ordinance 46.

D. **Parcel Review**

1. Parcels that can be developed with a Type I (Standard Septic System), Type III, or Type IV must have at least two septic system areas that meet the minimum requirements of this Ordinance. Each site must have the capacity to treat and disperse sewage effluent as per 7080.1850, Subp. 2.
2. When the subdivision is recorded the septic system treatment and dispersal areas must be recorded with the deed by filing a Declaration of Restrictions for Sewage Treatment System Sites. The Declaration of Restrictions must include an attached map (Exhibit A) showing the location of the Sewage Treatment Sites.

ARTICLE V, SECTION 5.0 SUBSTANDARD EXISTING PARCELS OF RECORD

5.01 **Parcels** falling short of the minimum Zoning and area requirements established in St. Louis County Ordinance 46 or local zoning ordinances may be permitted provided they meet Section A or Section B below:

A. The lot was a lot of record as of February 22, 1979, is currently undeveloped, has a minimum of one septic area, and all other applicable requirements are met, such as, but not limited to, setbacks and separation distances.

B. The lot is developed, served by a type I-IV ISTS, and there is no proposed significant increase in water that would exceed the treatment capacity of the lot or ISTS. For purposes of this section, a significant increase in water use shall include changing the property from seasonal to year round; adding a bedroom, unkhouse, loft, or by adding large water using fixtures such as a spa type athtub. Converting from a privy to an indoor toilet does not represent a significant increase. Required conditions include:

1. The sanitary system currently serving the lot has been inspected by a licensed SSTS professional and determined to be failing as defined in this Ordinance.
2. There is sufficient area available for corrective measures to be taken. All setback requirements must be met with the exception of shoreline and structure setbacks.

ARTICLE VI SSTS PERMITTING

ARTICLE VI, SECTION 1.0 PERMIT REQUIRED

A Permit to Construct, issued by the Department, is required to construct, install, modify or replace a SSTS. A Certificate of Compliance/Authorization to Use, issued by the Department, is required prior to SSTS operation.

It is unlawful for any person to construct, install, modify or replace a SSTS without the Permit to Construct issued by the Department and it is unlawful for any person to operate a SSTS without a Certificate of Compliance/Authorization to Use issued by the Department. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

ARTICLE VI, SECTION 2.0 SSTS CONSTRUCTION PERMIT

A SSTS construction permit must be obtained by the property owner or an agent of the property owner from the County prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by appropriately certified and/or licensed professional(s).

2.01 Activities Requiring a SSTS Construction Permit

A SSTS construction permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair that alters the original area, dimensions, or concept of the system.

2.02 Activities Not Requiring a Permit

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

2.03 SSTS Construction Permit Required to Obtain Building Permit

For any property on which a SSTS permit is required, approval and issuance of a valid SSTS Construction Permit must be obtained before a building or land use permit may be issued by the Planning and Community Development Department.

2.04 Conformance to Prevailing Requirements

Any activity involving an existing system that requires a SSTS Permit To Construct shall require that the entire system be brought into compliance with this Ordinance.

2.05 Permit Application Requirements

SSTS Permit To Construct application and appropriate fee must be submitted on forms provided by the Department and signed by the applicant and an appropriately certified professional including the professional's certification number and date of expiration. The applications must include the documents listed in items A through G below.

A. Name, mailing address, and telephone number.

B. Property Identification Number and address or other description of property location.

C. Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730

D. Global Positioning System (GPS) coordinates of well location(s), septic tank(s), and drainfield or mound.

E. Design Report as described in Minnesota Rules, Chapter 7080.2430.

F. Soils Information (additional soils information may be required at the discretion of the Director or Authorized Representative. For Soils Disputes, refer to Article V, Section 2.01.C).

G. Management Plan as described in Minnesota Rules, Chapter 7082.0600.

2.06 Application Review and Response

The Department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed.

In the event the applicant makes a significant change, as determined by the Department, to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for approval or denial. The Department shall complete the review of the amended application within (10) working days of receipt of the amended application. If the permit application is incomplete or does not meet the requirements of this ordinance the Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.

2.07 Appeal

The applicant may appeal the Department's decision to deny the SSTS Permit To Construct in accordance with the County's established policies and appeal procedures.

2.08 Permit Expiration

The SSTS Permit To Construct is valid for a period of no more than two years 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 approved design documents by a qualified employee of the Department or a licensed inspection business, which is authorized by the Department and independent of the owner and the SSTS installer.

2.09 Extensions and Renewals

The Department may grant an extension of the SSTS Permit To Construct 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) months, as long as the conditions submitted with the original SSTS Permit To Construct are still valid.)

2.10 Transferability

A SSTS Permit To Construct may transfer to a new owner. The new owner must complete a new SSTS Permit To Construct application in accordance with this section.

2.11 Suspension or Revocation

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

2.12 Posting

The SSTS Construction Permit must be available for inspection until construction is completed and certified.

ARTICLE VI, SECTION 3.0 OPERATING PERMIT

3.01 SSTS Requiring an Operating Permit

An Operating Permit shall be required of all owners of Type II Holding Tanks, Type III systems with less than one foot of soil, or a Type IV or Type V system identified in the table found in Article VI, Section 3.05 and deemed by the Department to require operational oversight. Sewage must not be discharged to any SSTS or MSTS requiring operational oversight until the Department certifies that the SSTS or MSTS was installed in substantial conformance with the approved plans, receives the final As-built, and a valid Operating Permit is issued to the owner.

3.02 Permit Application Requirements

A. Application for an Operating Permit must be made on a form provided by the Department including:

1. Owner name, mailing address, and telephone number
2. SSTS Permit To Construct reference number and date of issue
3. Final As-built of the treatment system
4. Owners of holding tanks must submit a copy of a valid monitoring and disposal contract with a licensed maintenance business prior to final inspection by the Department

B. Monitoring and Disposal Contract

Owners of holding tanks must provide to the Department a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minnesota Rules, Chapter 7082.0100, Subp. 3G.

The Department shall review the As-built, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the Operating Permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue an Operating Permit within (10) working days of receipt of the permit application.

3.03 Operating Permit Terms and Conditions

The Operating Permit must comply with Minnesota Rules, Chapter 7082.0600, Subp. 2B and include the following:

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.

J. Descriptions of acceptable and prohibited discharges.

3.04 Permit Expiration and Renewal

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

Operating Permit Types

Prior System Type	System Type	Minimum Permit Duration Until Renewal	Maximum Permit Duration Until Renewal
Standard	I & II(a)	N.A.	N.A.
Performance System	II(b) (Holding Tank)	5yrs.	5 yrs.
Performance System	III on <12 inches	System Dependent.	System Dependent
Performance System	IV	1 yr.	3 - 5 yrs.
Performance System	V	1 yr.	1-5 yrs.

B. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within in (90) calendar days of the expiration date, the County may require that the system be abandoned in accordance with Article IV, Section 4.0.

C. The Department must notify the holder of an operating permit at 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 must be made on a form provided by the Department including:

1. Applicant name, mailing address and phone number.
2. Reference number of previous owner's operating permit.
3. Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit.
4. Certified treatment system inspection forms signed and/or sealed by a certified maintainer or service provider for holding tanks and a certified service provider for Type IV and V systems, at the discretion of the County.
5. Any revisions made to the operation and maintenance manual.
6. Payment of application review fee as determined by the County.

3.05 Amendments to Existing Permits not Allowed

The County may not amend an existing permit to reflect changes in this Ordinance until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.

3.06 Transfers

The Operating Permit may be transferred. A new owner shall apply for transfer of an Operating Permit in accordance with Article IV, Section 3.02 of this Ordinance. The

Department shall not terminate the current permit until (60) calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require an operation and maintenance inspection of the SSTS certified by a licensed service provider business or qualified employee.

3.07 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 must 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 Article IV, Section 4.0.

D. At the Department's discretion, the Operating Permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

3.08 Compliance Monitoring

A. Performance monitoring of a SSTS must be performed by a licensed inspection business or licensed service provider hired by the holder of the Operating Permit in accordance with the monitoring frequency and parameters stipulated in the permit.

B. A monitoring report must be prepared and certified by the licensed inspection business or licensed service provider. The report must be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the Operating Permit. The report must contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:

1. Owner name and address
2. Operating Permit number
3. Average daily flow since last compliance monitoring report
4. Description of type of maintenance and date performed
5. Description of samples taken (if required), analytical laboratory used, and results of analysis
6. Problems noted with the system and actions proposed or taken to correct them
7. Name, signature, license and license number of the licensed professional who performed the work

ARTICLE VI, SECTION 4.0 ABANDONMENT CERTIFICATION

4.01 Purpose

The purpose of the System Abandonment Certification is to ensure that a SSTS no longer in service is abandoned within a reasonable time following decommissioning and in a

manner that protects public health, safety and welfare. It also terminates all permits associated with the system.

4.02 Abandonment Requirements

A. Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance shall be prohibited.

B. Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Department.

C. An owner of an SSTS must retain a licensed installation business to abandon all components of the treatment system within (60) calendar days of any condition as described in Section A. Abandonment must be completed in accordance with Minnesota Rules, Chapter 7080.2500. No prior notification of the Department of an owner's intent to abandon a system is necessary.

D. A report of abandonment certified by the licensed installation business must be submitted to the Department. The report must include:

1. Owner's name and contact information
2. Property address
3. System construction permit and operating permit
4. The reason(s) for abandonment
5. A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

4.03 Abandonment Certificate

The St. Louis County SSTS Abandonment Reporting Form must be submitted to the Department within 30 days of system abandonment.

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

ARTICLE VII MANAGEMENT PLANS

ARTICLE VII, SECTION 1.0 PURPOSE

The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.

ARTICLE VII, SECTION 2.0 MANAGEMENT PLAN REQUIREMENTS

2.01 SSTS Requiring Management Plans

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

2.02 Required Contents of a Management Plan

Management plans must 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 consistent with Minnesota Rules, Chapter 7080.2450 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;

F. Other requirements as determined by the Department.

2.03 Requirements for Systems not Operated under a Management Plan

SSTS that are not operated under an approved management plan or operating permit must meet the requirements of Minnesota Rules, Chapter 7080.2450.

ARTICLE VIII COMPLIANCE MANAGEMENT

ARTICLE VIII, SECTION 1.0 PUBLIC EDUCATION OUTREACH

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

ARTICLE VIII, SECTION 2.0 COMPLIANCE INSPECTION PROGRAM

2.01 General Requirements

A. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.

B. The Department must be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building.

C. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

2.02 Department Responsibility

It is the responsibility of the Department, or its agent, to perform various SSTS compliance inspections periodically to assure that the requirements of this Ordinance are met.

SSTS compliance inspections must be performed:

1. To ensure compliance with applicable requirements;
2. To ensure system compliance before issuance of a permit for addition of a bedroom unless the permit application is made during the period of November 1 to April 30, provided a compliance inspection is performed before the following June 1 and the applicant submits a certificate of compliance by the following September 30;
3. For all new SSTS construction or replacement;
4. For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and must be conducted in accordance with Minnesota Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.

2.03 New Construction or Replacement

A. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081. SSTS found not to be in compliance with 7080.1500, Subp. 4A or 7081.0080, Subp. 3 must be repaired or replaced according to the Department's requirements.

B. It is the responsibility of the SSTS owner or the owner's agent to notify the Department (2) calendar days prior to any permitted work on the SSTS.

C. Unless specifically approved by the Department no portion of the system shall be covered or put into use until the Department has issued the Certificate of Compliance/Authorization to Use.

D. The Department shall verify GPS coordinates for well location(s), septic tank(s), and drainfield or mound.

E. A Certificate of Compliance/Authorization to Use for new SSTS construction or replacement, which shall be valid for (five) years, 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 SSTS Permit To Construct. The Department may revoke the Certificate of Compliance if evidence of noncompliance exists.

F. The certificate of compliance must include a certified statement by the qualified employee who conducted the inspection that the SSTS is or is not in compliance with

the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.

G. The Department amended MPCA Compliance Inspection Form must be submitted to the Department no later than (30) calendar days after the date the inspection was performed. The Department must issue the certificate of compliance or notice of noncompliance to the owner or the owner's agent within (10) calendar days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.

2.04 Existing Systems: Sanitary Check-Off

A. Sanitary Check-off. Sanitary Check-off is a record review of the land owner's Individual Sewage Treatment System, as required by St. Louis County Ordinance 46, Article II, Section 5.03 or the applicable Township Zoning Ordinance and during the application for a Land Use Permit. Ordinance 46 requires that a Sanitary Check-off be conducted:

1. When application is made for a Land Use Permit other than the addition of a bedroom on parcels less than 2.5 acres; or
2. When application is made for a Land Use Permit other than the addition of a bedroom on shoreland parcels. Shoreland is defined as within 1,000 feet of a lake or 300 feet of a river.

B. Upon request for a Sanitary Check-off all SSTS records must be reviewed to determine that:

1. An approved SSTS Permit is on file and a final inspection has been completed.
2. The number of bedrooms on the Land Use Application is not greater than the number of bedrooms that the SSTS is sized for and the system is not otherwise undersized.
3. There are no systems deemed non-compliant by the Department under Minnesota Rule 7080.1500 Subpart 4B and 7080.2550.
4. When applicable, adequate ISTS expansion area exists.
5. Any other information that would make the Sanitary Check-off unfavorable.
6. All POS requirements have been met.

2.05 Existing Systems: Compliance Inspections

A. Compliance inspections shall be required when any of the following conditions occur:

1. When there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
2. When there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;

3. When the Department has cause to respond to a credible complaint regarding the status of the SSTS, the Department may require that a compliance inspection be conducted.
4. At the time of property sale or transfer as required by Article VIII, Section 2.07.

B. Compliance inspections of existing SSTS must be conducted by State-licensed inspectors, and must be reported on the inspection report forms approved by the Department. 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; and
4. Any other readily apparent non-compliance with the County Ordinance or State law or rule.

C. The Certificate of Compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A SSTS construction permit application must be submitted to the Department if the required corrective action is not a minor repair.

D. The Compliance Inspection Form must be submitted to the Department no later than (30) calendar days after the date the inspection was performed.

E. Certificates of compliance for existing SSTS shall remain valid for (three) years from the date of issue unless the Department finds evidence of noncompliance.

2.06 Existing Systems: Compliance and System Upgrade and Replacement Criteria

A. All system types.

1. Any system identified as an Imminent Threat to Public Health and/or Safety must be abated within 10 days and repaired, upgraded or replaced within 10 months of the determination.
2. Any system within a SWF area with less than 12 inches of vertical separation is considered non-compliant and must be upgraded or replaced within 12 months of the determination. Any system outside a SWF area with less than 12 inches of vertical separation is considered non-compliant and must be upgraded or replaced within 24 months of the determination.
3. Any system within a SWF area with a leaking or structurally unsound tank or riser, or a system with indications of past tank leakage is considered non-compliant and must be repaired, upgraded or replaced within 12

months of the determination. Any system outside a SWF area with a leaking or structurally unsound tank or riser, or a system with indications of past tank leakage is considered non-compliant and must be repaired, upgraded or replaced within 24 months of the determination.

B. Type I -V systems built before April 1, 1996.

1. Systems in SWF areas with less than the equivalent of 30.6 inches but at least 12 inches of vertical separation between system bottom and saturated soil or bedrock are considered non-conforming and no system upgrade or replacement is required until the addition of a bedroom, an increase in water usage as determined by the Department or as determined by a variance decision.

2. Systems outside of SWF areas with less than the equivalent of 24 inches but at least 12 inches of vertical separation between system bottom and saturated soil or bedrock are considered non-conforming and no system upgrade or replacement is required until the addition of a bedroom, an increase in water usage as determined by the Department, or as determined by a variance decision.

C. Type I – V systems built after April 1, 1996.

1. Systems in SWF areas with less than the equivalent of 30.6 inches but at least 12 inches of vertical separation between system bottom and saturated soil or bedrock are considered non-conforming and no system upgrade or replacement is required until the addition of a bedroom, an increase in water usage as determined by the Department, or as determined by a variance decision.

2. Systems outside of SWF areas with less than 30.6 inches but at least 12 inches of vertical separation between system bottom and saturated soil or bedrock are considered non-conforming and no system upgrade or replacement is required until the addition of a bedroom, an increase in water usage as determined by the Department, or as determined by a variance decision.

2.07 Point of Sale

A. Prior to the sale, transfer, contract for deed, or any other conveyance of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have an SSTS occurs, the following requirements must be met:

1. A compliance inspection has been performed and a Certificate of Compliance has been issued by the Department for a system built within ten (10) years or (three) years for SSTS older than ten (10) years of the intended sale or transfer of the property, unless evidence is found identifying an Imminent Threat to Public Health and Safety.

2. The compliance inspection must have been performed by a licensed inspection business following procedures described in Article VIII, Section 2.03 of this ordinance.

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

4. If the seller fails to provide a Certificate of Compliance, or if a compliance inspection indicates a Notice of Noncompliance for a system identified: a) as an Imminent Threat to Public Health, or b) with less than 12" of vertical separation; or if the seller is unable to complete a compliance inspection due to frozen soil conditions, the seller or buyer must provide sufficient security in the form of an escrow or trust agreement to assure the installation of a complying SSTS. The security must be placed in an escrow or trust with a licensed real estate closer, licensed attorney-at-law, or federal or state chartered financial institution. The amount placed in escrow must be equal to (100%) of a written estimate to install a complying SSTS provided by a licensed and certified installer. The escrow or trust agreement must list the County as having the "release authority" of the monies which shall not be released until a Certificate of Compliance is issued by the Department. A copy of the escrow or trust agreement and written estimate must be submitted to the Department. After a complying SSTS has been installed and a Certificate of Compliance issued, the Department must provide the agent a copy of the Certificate of Compliance.

5. Effective June 30, 2014, an escrow or trust agreement shall be required prior to the sale or transfer of property identified in Article VIII, Section 2.07. A. 4.

6. In the case of an Operating Permit, the permit must be renewed in the name of the buyer.

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

1. The SSTS has a valid Certificate of Compliance. A Certificate of compliance is valid for five years for new SSTS installations, and for three years for an existing SSTS.

2. A signed disclosure statement is presented indicating that no SSTS exists nor is one required on the property or that the property is served only by a permitted privy or a hand-carried graywater system.

3. Court rulings for wills, probate actions, divorce, estate settlements.

4. The property transfer is between immediate family members on non-shoreland property and occurs within 5 years of the Ordinance 61 adoption date.

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

6. The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, subdivision 1.

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

8. Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment system; any dwellings or other buildings that are located within the jurisdiction of a County approved agreement requiring exclusive connection to the wastewater treatment system of any municipality; or, any dwellings or other buildings that are connected exclusively to an approved wastewater treatment facility other than an individual sewage treatment system.

C. All property conveyances subject to this ordinance occurring during the period between November 15th and April 15th, when SSTS compliance cannot be determined due to frozen soil conditions, must require a Transfer Agreement which includes an agreement to complete a compliance inspection by the following June 1st by a licensed inspection business. If upon inspection the system is found to be non-compliant and having less than 12” of unsaturated soil, or is an Imminent Threat to Public Health or Safety as defined in Article IV, Sections 2.03 and 2.04, an escrow or trust agreement must be established in accordance with Article VIII, Section 2.05. A.4, above, and the system upgraded.

D. The licensed inspection business must submit the completed version of the Compliance Inspection Form to the Department and property owner within 30 days after any existing system compliance inspection. Buyer and seller must provide the Department with a signed Transfer Agreement indicating responsibility for upgrading a system found to be noncompliant under Article IV, Section 2.03 and 2.04.

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

F. Failure to comply with the requirements of this subdivision does not impair the validity of the deed.

ARTICLE IX REGULATORY COMPLIANCE

ARTICLE IX, SECTION 1.0 VIOLATIONS

1.01 Cause to Issue

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

1.02 Notice of Violation (NOV)

The Department may issue a notice of violation (NOV) to any person alleged to have committed a violation of this ordinance. A NOV shall serve to place the person on notice that compliance with specified ordinance requirements must occur to avoid additional enforcement actions. Service of the NOV must be made by certified mail or by personal service. The notice of violation must contain:

A. Findings of fact with corresponding conclusions of law, which describe the alleged violations and the corresponding ordinance section(s), statute(s), and/or rule(s) which are allegedly violated.

B. Orders for corrective actions, which describe specifically how each alleged violation must be corrected and the timeframes within which the corrections are required to be made.

C. Notice of further action, which describes in general terms, the additional administrative and judicial enforcement actions that could be pursued by the Department if the alleged violations are not satisfactorily corrected.

1.03 Citations

The County Sheriff shall have the power to issue citations for violations of this ordinance.

A. Issuance of the Citation. Citations must be issued to the person alleged to have committed the violation (alleged violator) either by personal service or by certified mail. In the case of a public, private, or municipal corporation, the citation shall be issued to any officer or agent with express or implied authorization to accept such issuance.

B. Notice of Citation. A copy of the citation must be issued to the alleged violator. Additional copies must be provided to the Department; the St. Louis County Attorney's Office; and the St. Louis County District Court, Sixth Judicial District.

C. Form of Citation. Citations must contain at least the following:

1. The name and address of the alleged violator and when known, the owner or person in charge of the premises at which the violation occurred;

2. The date, time (if known) and place of violation;
3. A short description of the violation followed by reference to the section of this ordinance violated;
4. The name of the person issuing the citation;
5. The date, time, and place at which the alleged violator must appear in court and notice that if such person does not appear a warrant may be issued for such person's arrest; and
6. Such other information as the court may specify.

D. Court Appearance. The alleged violator must appear at the place and on the date and time specified in the citation and answer to the charges.

E. Failure to Appear on the Citation. If the alleged violator does not appear at the place and on the date and time specified on the citation, the court may issue a warrant for the person's arrest.

F. Complaint. A complaint may be issued in lieu of a citation as determined by the St. Louis County Attorney's Office.

1.04 Cease and Desist Orders

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

1.05 Suspension and Revocation

The Administrator may by written order suspend or revoke any system permit when he has information indicating the permit has been issued in error or on the basis of incorrect or inadequate information, or that work is either not being performed in compliance with this Ordinance or the system is not being operated in compliance with the provisions/conditions of the permit.

1.06 Commencement of Civil Court Action

In the event of a violation or threat of violation of this ordinance, the Director with approval of County Attorney may institute appropriate civil actions or proceedings in any court of competent jurisdiction requesting injunctive relief to prevent, restrain, correct or abate such violations or threatened violations. The County may recover all costs, including reasonable attorney's fees, incurred for enforcement of this ordinance.

1.07 Abatement

If the Department is required to remove or abate an imminent threat to public health or safety, the Administrator may recover the cost of upgrade, proper closure, restoration, and/or cleanup of pollution occurring as a result of the system failure. Upon certification by the Administrator of the cost incurred, the St. Louis County Auditor shall cause the cleanup assessment to be levied against the property on which the system is locate

ARTICLE IX, SECTION 2.0 STIPULATION AGREEMENTS.

The Department and a person alleged to have violated provisions of this ordinance may voluntarily enter into a stipulation agreement whereby the parties to the agreement: identify conditions on the property that require corrective action; agree on the corrective actions that must be performed by the person; and agree on the timeframes in which the corrective actions must be completed. If the person fails to fulfill the requirements of the agreement, the County may seek compliance with the terms of the agreement through a court of competent jurisdiction or pursue other enforcement action allowed by this ordinance.

ARTICLE IX, SECTION 3.0 STATE NOTIFICATION OF CERTAIN VIOLATIONS

In accordance with state law, the Department must 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 Ordinance.

ARTICLE IX, SECTION 4.0 APPEAL PROCESS

Persons subject to actions being taken under Sections 1.03, 1.04, 1.05, and 1.07 of this section may request review of the Department's action by an appeal panel consisting of two county commissioners, the Sheriff or the Sheriff's designee, the County Attorney or the County Attorney's designee, and the County Auditor or the County Auditor's Designee. Persons requesting such review must file a written appeal of the action with the Director by personal service or certified mail within 10 county working days of service of the action, exclusive of the day of service.

Following timely service of a request for hearing, the Director shall set a time and place for the appeal to be heard. The appeal must be heard by the Appeal Board no later than 45 calendar days after the date of service of request for a hearing, exclusive of the date of such service. The Department shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by substantive law, and all findings of fact, conclusions, and decisions by the appeal board must be based on evidence presented. If the appellant fails to appear at the hearing, appellant shall forfeit any right to a hearing before the county board or hearing examiner. Appellant's failure to appear must also be deemed as a waiver of appellant's right to appeal the Department's decision and the Department's decision shall stand. Any appellant aggrieved by the decision of the board may appeal that decision to any court with appropriate jurisdiction.

Nothing in this appeal process shall relieve a person from the requirement of complying with Article IX, Section 1.05 with respect to timetables for addressing imminent threats to public health and safety.

ARTICLE X RECORD KEEPING

The County must maintain a current record of all permitted systems. The record must 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, 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.

ARTICLE XI 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.

ARTICLE XII FEES

The County Board shall establish fees for activities undertaken by the Department pursuant to this Ordinance on an annual basis. Fees must be due and payable at a time and in a manner to be determined by the Department.

ARTICLE XIII INTERPRETATION

In their interpretation and application, the provisions of this Ordinance must 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.

ARTICLE XIV SEVERABILITY

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

ARTICLE XV ABROGATION AND GREATER RESTRICTIONS

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

ARTICLE XVI ORDINANCE REPEALED

The County's previous ordinance for the regulation of Individual Sewage Treatment Systems, Ordinance 55, is hereby repealed.

ARTICLE XVII ADOPTION

The St. Louis County Subsurface Sewage Treatment Program Ordinance 61 is hereby adopted by St. Louis County Board of Commissioners on the_____ day of _____, 20__.

_____

Chairperson, St. Louis County Board of Commissioners

ATTEST:

_____

EFFECTIVE DATE: _____, 20__