

SECTION XIV - SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE

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

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

Subdivision 1.0 Purpose and Authority

1.01 Purpose and Intent

- A. 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. It is intended to serve the best interests of the County’s citizens by protecting its health, safety, general welfare, and natural resources.
- B. Intent – It is intended by the County that this Ordinance will promote the following:
 1. The protection of lakes, rivers and streams, wetlands, and groundwater in Yellow Medicine County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
 2. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
 3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
 4. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.

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

1.02 Authority

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

1.03 Effective Date

The provisions set forth in this Ordinance shall become effective on _____.

Subdivision 2.0 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.

Authorized Representative – An employee or agent of Yellow Medicine County.

Board of Adjustment – A board established by county ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statutes, sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls.

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

Cluster System – A SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.

County – Yellow Medicine County, Minnesota

County Board – Yellow Medicine County Board of Commissioners

Department - Yellow Medicine County Zoning Department

Design Flow - The daily volume of wastewater for which an SSTS is designed to treat and discharge.

Failure to Protect Groundwater – At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Subdivision 5 hereof.

Imminent Threat to Public Health and Safety – At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a SSTS inspection business licensed pursuant to Subdivision 5 hereof.

ISTS – An individual sewage treatment system having a design flow of no more than 5,000 gallons per day.

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

Management Plan – A plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.

Minor Repair – The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS.

MPCA – Minnesota Pollution Control Agency

MSTS – A “mid-sized subsurface sewage treatment system” under single ownership that receives sewage from dwellings or other establishments having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.

Notice of Noncompliance – A written document issued by the Department notifying a system owner that the owner’s onsite/cluster treatment system has been observed to be noncompliant with the requirements of this Ordinance.

Qualified Employee – An employee of the state or a local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual’s employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.

Record Drawings – A set of drawings which to the fullest extent possible document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system.

Sewage – 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.

SSTS – Subsurface sewage treatment system including an ISTS, MSTS or LSTS.

State – The State of Minnesota

Treatment Level - Treatment system performance levels defined in Minnesota Rules, Chapter 7083.4030, Table III for testing of proprietary treatment products, which include the following:

Level A: $\text{cBOD}_5 \leq 15 \text{ mg/L}$; $\text{TSS} \leq 15 \text{ mg/L}$; fecal coliforms $\leq 1,000/100 \text{ mL}$.

Level B: $\text{cBOD}_5 \leq 25 \text{ mg/L}$; $\text{TSS} \leq 30 \text{ mg/L}$; fecal coliforms $\leq 10,000/100 \text{ mL}$.

Level C: $\text{cBOD}_5 \leq 125 \text{ mg/L}$; $\text{TSS} \leq 80 \text{ mg/L}$; fecal coliforms N/A.

Type I System – 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 – 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 – 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 – An ISTS, having an approved 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 – 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 relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented.

Subdivision 3.0 General Provisions

3.01 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 and 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.

3.02 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 County Planning and Zoning Office shall keep a current list of local jurisdictions within the County administering a SSTS program.

3.03 Administration

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

3.032 State of Minnesota – Where a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a State Disposal System permit from MPCA. For any SSTS that has 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 shall conform to the requirements of this Ordinance.

3.033 Cities and Townships – Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.

3.04 Validity

The validity of any part of this Ordinance shall 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.

3.05 Liability

Any liability or responsibility shall not be imposed upon the department or agency or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster treatment system regulated under this rule by reason of standards, requirements, or inspections authorized hereunder.

Subdivision 4.0 General Requirements

4.01 Retroactivity

4.011 All SSTS

Except as explicitly set forth in Subdivision IV, Section 4.012, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

4.012 Existing Permits

Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership whichever is earlier.

4.013 SSTS on Lots Created Before January 23, 1996

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

4.02 Upgrade, Repair, Replacement, and Abandonment

4.021 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 expansion.

4.022 Bedroom Additions

The owner is allowed 1 year or one construction season from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system if the SSTS does not comply with Minnesota Rules, Chapter 7080.1500, Subp. 4.B.

4.023 Failure to Protect Groundwater

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

4.024 Imminent Threat to Public Health or Safety

An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 10 months of receipt of a Notice of Noncompliance.

4.025 Abandonment

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

4.03 SSTS In Floodplains

SSTS shall 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.

4.04 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. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

4.05 SSTS Practitioner 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.

Exception – a property owner who wishes to construct a SSTS, which is to treat wastewater solely from their own dwelling or seasonal dwelling, from the licensing requirement if a site evaluation and a system design are obtained from appropriately licensed practitioners.

4.06 Prohibitions

4.061 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.

4.062 Sewage Discharge to Ground Surface or Surface Water

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

4.063 Sewage Discharge to a Well or Boring

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

4.064 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.

Subdivision 5.0 SSTS Standards

5.01 Standards Adopted by Reference

The County hereby adopts by reference Minnesota Rules, Chapter 7080 and 7081 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minnesota Statute 115.55.

5.02 Amendments to the Adopted Standards

5.021 List of Adopted Standards

The top of the sewage tank may be buried deeper than four feet from final grade for new dwellings with prior approval from the local government unit.

Allow existing SSTS a fifteen (15%) percent reduction in separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics.

5.022 Determination of Hydraulic Loading Rate and SSTS Sizing

Table IX entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions"

5.023 Compliance Criteria for Existing SSTS

SSTS built before April 1, 1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

SSTS built after March 31, 1996 or SSTS located in a Shoreland area, wellhead protection area, or serving a food, beverage, or lodging establishment as defined under 7080.1100, Subp. 84 shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. 7080.1500, Subp. 4

5.024 Holding Tanks

Holding tanks may be used for single family homes and other buildings with limited water use under the following conditions:

- 1) The owner shall install a holding tank in accordance with Minnesota Rules Section 7080.2290

5.03 Variances

5.031 Variance Requests

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

5.032 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.

5.033 Board of Adjustment

The Board of Adjustment shall have the authority to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings. 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.

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. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.

- 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, as applicable:
 1. A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;
 2. A description of the hardship 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;
 4. The length of time for which the variance is requested.

5. Cost considerations only if a reasonable use of the property does not exist under the term of the Ordinance; and
 6. Other relevant information requested by the Department as necessary to properly evaluate the variance request.
- B. The appropriate fee shall be paid at the time of submittal of the application to receive consideration by the Board of Adjustment.
- C. 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 hardship is unique to the property and was not caused by the actions of the 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 would have no reasonable use of the land 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 Minnesota Rules, Chapters 7080, 7081, and 7082.
- D. 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.
- E. 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, shall result in immediate revocation of the variance.
- F. Any variance granted shall automatically expire if the system is not installed within one year of the grant of the variance.
- G. An appeal from any order, requirement, decision, or determination of the Board of Adjustment in accordance with its policies and procedures.

Subdivision 6.0 SSTS Permitting

6.01 Permit Required

It is unlawful for any person to construct, install, modify, replace or operate a SSTS without the appropriate permit from the Yellow Medicine County Zoning Office. 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.

6.02 Construction Permit

A construction permit shall 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 practitioner(s).

6.021 Activities Requiring a Construction Permit

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

6.022 Activities Not Requiring a Permit

A construction permit is not required for the rejuvenation or remediation of SSTS including, minor repairs or replacement of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function, to an existing compliant system.

6.023 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 Department.

6.024 Conformance to Prevailing Requirements

Any activity involving an existing system that required a Construction Permit shall require that the entire system be brought into compliance with this Ordinance.

6.025 Permit Application Requirements

Construction Permit applications shall be made on forms provided by the Zoning Office and signed by the applicant and an appropriately certified practitioner including the practitioner's certification number and date of expiration. The applications shall include the documents listed in items A through E below.

- a. Name, mailing address, 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. Design Report as described in Minnesota Rules, Chapter 7080.2430
- e. Management Plan as described in Minnesota Rules, Chapter 7082.0600.

6.026 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 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. 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.

6.027 Appeal

The applicant may appeal the Departments decision to deny the Construction Permit in accordance with the County's established policies and appeal procedures.

6.028 Permit Expiration

The Construction Permit is valid for a period of no more than one year from its date of issue. Satisfactory completion of construction shall be determined by receipt of final record drawings 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.

6.029 Extensions and Renewals

The Department may grant an extension of the Construction Permit if the construction has commenced prior to the original expiration date of the permit. (The permit may be extended for a period of no more than 6 months.)

6.030 Suspension or Revocation

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

6.03 Operating Permit

6.031 SSTS Requiring an Operating Permit

An Operating Permit shall be required of all owners of new holding tanks or MSTs or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank or MST until the Zoning Office certifies that the MSTs or holding tank was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTs, and a valid Operating Permit is issued to the owner.

6.032 Permit Application Requirements

An application for an Operating Permit shall be made on a form provided by the Zoning Office and must include the following information:

- a. Owner name, mailing address and telephone
- b. Construction Permit reference number and date of issue
- c. Final record drawings of the treatment system
- d. Owners of holding tanks must retain a copy of a valid executed monitoring and disposal contract with a licensed maintenance business

6.04 Abandonment

6.041 Purpose

The purpose of the System Abandonment Certification is to ensure that a treatment system no longer in service is abandoned within a reasonable time following decommissioning and in a manner that protects public health, safety and water quality. It also terminates all permits associated with the system.

6.042 Abandoned 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.

Subdivision 7.0 Management Plans

7.01 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.

7.02 Management Plan Requirements

7.021 SSTS Requiring Management Plans

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

7.022 Required Contents of a Management Plan

Management plans shall include:

- a. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
- b. Monitoring requirements;
- c. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
- d. Statement that the owner is required to notify the Department when the management plan requirements are not being met;
- e. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.

7.23 Requirements for Systems not Operated under a Management Plan

SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

Subdivision 8.0 Compliance Management

8.01 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.

8.02 Compliance Inspection Program

8.021 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.

- A. 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 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 shall be conducted in accordance with Minnesota Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.
- B. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
- C. The Department shall 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. The Department shall notify the owner of the Department’s intent to inspect the SSTS at least two days in advance of the intended inspection.

- D. 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 as a separate and distinct offense.

8.022 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 within ten months or as directed under Minnesota Statutes, Chapter 145A. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
- B. A Certificate of Compliance 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 construction permit.
- C. The Certificate of Compliance must include a certified statement by the certified inspector or 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.
- D. Certificates of compliance for new construction or replacement shall remain valid for five years from the date of issue unless the Department finds evidence of noncompliance.

8.023 Existing Systems

- A. Compliance inspections shall be required when any of the following conditions occur:
 - 1) When a construction permit is required to repair, modify, or upgrade an existing system;
 - 2) Any time there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system, such as the addition of a bedroom.
 - 3) At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.

- B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified:
 - 1) Watertightness 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.
- 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 construction permit application must be submitted to the Department if the required corrective action is not a minor repair.
- D. The certificate of compliance or notice of noncompliance must be submitted to the Department no later than 15 calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 calendar days of receipt from the licensed inspection business.
- 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.
- F. A soil separation compliance assessment must be completed by a licensed inspection business or a qualified employee inspector with jurisdiction. Compliance must be determined either by conducting new soil borings or by prior soil separation documentation made by two independent parties. The soil borings used for system design or previous inspections are allowed to be used. If the soil separation has been determined by two independent parties, a subsequent determination is not required unless requested by the owner or owner's agent.

8.024 Transfer of Properties

- A. No owner or other person acting with legal authority on behalf of an owner of a tract of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have an individual sewage treatment system is located, shall convey to another party said tract of land, unless the following requirements are met:

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

Subdivision 9.0 Enforcement

9.01 Violations

9.011 Cause to Issue a Notice of Violation

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

9.012 Notice of Violation

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

- A. A statement documenting the findings of fact determined through observations, inspections, or investigations;
- B. A list of specific violation(s) of this Ordinance;
- C. Specific requirements for correction or removal of the specified violation(s);
- D. A mandatory time schedule for correction, removal and compliance with this ordinance.

9.02 Prosecution

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

9.03 State Notification of Violation

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

9.04 Costs and Reimbursements

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

Subdivision 10.0 Record Keeping

The County shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the county sorted by licensed installation businesses, and other records relevant to each system.

Subdivision 11.0 Annual Report

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

Subdivision 12.0 Fees

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

Subdivision 13.0 Interpretation

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

Subdivision 14.0 Severability

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

Subdivision 15.0 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 shall prevail. All other Ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

Subdivision 16.0 Ordinance Repealed

The Yellow Medicine County previous ordinance for the regulation of Individual Sewage Treatment Systems of the County is hereby repealed.

Subdivision 17.0 Adoption

The Yellow Medicine County Subsurface Sewage Treatment Program Ordinance is hereby adopted by the Yellow Medicine County Board of Commissioners on the _____ day of _____, 2008

Chairperson, Yellow Medicine County Board of Commissioners

ATTEST:

Effective Date: _____