



Public Works / Environmental Services
1105 8th Avenue NE,
Austin, Minnesota 55912
Phone: 507-437-7718 Fax: 507-437-7609

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**Proposed changes to
Mower County Subsurface Sewage Treatment (SSTS) Ordinance
for Public Notice:**

(new words are underlined, deleted words are ~~struck through~~)

[Current Ordinance](#) under Departments/Environmental Services/Ordinances

NEW, addition:

Section 1.16 PRIORITY AREAS:

Priority areas will be established annually with a list (and map) available for review at the Department with the goal of identifying properties with the highest risk of failing systems and/or impact to waters. First priority will be established for properties serviced by a septic system with an unknown construction age followed by proximity to sensitive features and/or impaired waters. Subsequent priority will be set by overall system age and proximity to sensitive features.

NEW, additions to Section 1.17 Definitions:

NEW CONSTRUCTION: New construction refers to the construction of a dwelling on a property that previously has not had any residential structures or the construction of a new dwelling on a property that once had residential use which has lapsed for more than one year (ex. a non-conforming density standard per the Zoning Ordinance). This does not refer to the replacement of a new dwelling within one year of the removal of the previous dwelling.

PRIORITY AREAS: Priority areas are set annually by the Department for areas that are at the highest risk for noncompliant septic systems and impacts to waters using measures such as septic system age and proximity to sensitive features. Priority Areas are subject to compliance inspections in accordance with Section 4.02.

Modification Section 1.17 Definitions:

TYPE III SYSTEM: An ISTS that uses soil to treat sewage but does not meet the size or distribution requirements for a standard Type I system. Type III systems are designed for use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system. TYPE III systems shall meet requirements set forth in Minn. Rules, Chapter 7080.2300.

Generally these type of systems may be used on lots or parcels that are too small to accommodate a standard TYPE I system; the soils do not have a minimum of 12 inches of separation to the restrictive layer to accommodate a TYPE I system; or the soils have been compacted, disturbed or have problematic characteristics so the soils are not suitable to sustain a standard TYPE I system. Sites with problematic soil characteristics or do not have the minimum of 12 inches of soil separation to the restrictive layer may be subject to premature failure in comparison to a standard TYPE I septic systems.

Mower County ~~will allow the use of~~ ~~shall not encourage the use of~~ TYPE III systems for new construction on undeveloped sites or existing new lots (created after January 23, 1996) that cannot accommodate a TYPE I system. Existing subdivisions remain subject to the provisions of that subdivision, meaning, if lot size was reduced (per the required size in the applicable Zoning District's "Lot and Siting Requirements", those provisions hold. ~~An applicant may attempt to seek relief from those provisions through variance/appeal with the Board of Adjustment.~~

Section 4.02 Compliance Inspections Required, Item 4 When Obtaining Land Use Permits, item:

~~b. In non-Shoreland Overlay Areas: Non-shoreland areas will be subject to a SSTS compliance inspection when the SSTS is 20 years old or greater any time a zoning permit, variance or conditional use permit is required for improvement to or use of the property. Minor Structures that are exempted from Zoning Permit are also exempted from the COC requirement~~

Note: Shoreland and Nonconforming lot inspection requirements (Section 4.02, items 4a-d) remain in place.

Section 4.02 Compliance Inspections Required, Item 5 Compliance Inspection by Age or Priority:

a. The Department shall require a compliance inspection when a property is determined to be in a priority area. Priority Areas are set by system construction age and proximity to sensitive features (Section 1.16, Definitions).

Section 4.07, item 3C: ...escrow account for Land Use Permits is non-refundable if the SSTS is not inspected by ~~July~~ June 1st...

Section 4.09 Compliance Inspections & COC for Land Use Permit:

1. The landowner(s) shall be the responsible party for obtaining and submitting a Certificate of Compliance for an existing SSTS when applying for a conditional use permit, zoning permit or variance as indicated by Section 4.02. This requirement does not apply to Minor Structures subject to Zoning Review. This requirement does not apply to an application for a land alteration permit in a shoreland overlay area.
2. A Certificate of Compliance, septic permit, or proof of Escrow Account, as required in Section 4.06 or 4.07, as applicable to the time of year, shall be received by the Department before a zoning permit, conditional use permit, or variance is accepted by the Department for processing as indicated in Section 4.02.
3. If the existing SSTS is non-compliant, or if the existing system is inadequately designed for the proposed use being requested by a zoning permit, conditional use permit or variance request; repair, upgrade or replacement of the SSTS shall be required. See also #4 next.
4. When requesting a zoning permit for structures or conditional use permit for which a SSTS is supporting is being repaired, replaced or upgraded; the SSTS application, including the design and/or any

other documents required by the Department, shall be submitted along with the zoning permit application.

5. When intending to use the existing septic system; documentation verifying that the existing SSTS is adequately sized and currently compliant shall be submitted to the Department before a zoning or conditional use permit can be processed or issued for any: addition or modification which provides for additional bedrooms; a newly constructed replacement dwelling or new or used relocated dwelling is situated on the property; or if there is an overall increase in water use of any land use activity.

Section 4.12 Notice of Noncompliance

A Notice of Noncompliance shall be issued and state which portion of the SSTS is/are non-complying.

Copies of the Notice of Noncompliance shall be provided to the property owner and the Department within fifteen (15) calendar days.

Properties that receive a Notice of Noncompliance that lie within municipal boundaries and where city sewer services are available shall take measures to connect to municipal sewer services and to properly abandon their existing non-compliant SSTS within the time required as provided in this Section 4.13. Relief from connecting to the municipal services may be allowed by the Department if the property owner provides a formal letter from the municipality to the Department that states specific reasons that municipal connection to city sewer services is not available or due to specific issues relating to the municipality cannot be accomplished within the required compliance deadline. This relief shall not be granted to the landowner for issues caused by or related to his/her own actions/or inactions to connect to the municipality when the municipal services are available and accessible within the required time period.

A notice of noncompliance shall be issued to a property serviced by an SSTS with an unknown construction date, which shall be presumed to be failing by Straight-Pipe Act of 2006 (Minn. Stat. §115.55). Upon notice from the County, an imminent public health threat may be abated by the County Board and the Department may recover all costs incurred including documented staff time for enforcement and legal fees.

Section 4.13 Timelines When Receiving A Notice of Non-Compliance:

A Notice of Noncompliance shall indicate whether an imminent health threat exists. The following conditions apply for a Notice of Noncompliance:

- a. An SSTS receiving a Notice of Noncompliance for reason of failure to protect groundwater; the SSTS shall be abandoned, upgraded, replaced, or repaired in compliance with Minnesota Rules Chapter 7080 and this ordinance, as applicable within 18 months from the date of the compliance inspection.
- b. An SSTS posing an imminent threat to health or safety shall either be abandoned, upgraded, replaced, repaired or discharge discontinued within an appropriate time not to exceed ten (10) months from the date of the compliance inspection.

i. In certain cases , as determined by the Department, abatement of a Public Health Nuisance shall be required within 10 days as obligatory under MN Statutes Chapter 145A.04, Subd 8 or as amended.

c. An SSTS with an unknown construction date shall be presumed to be failing by Straight-Pipe Act of 2006 (Minn. Stat. §115.55). Upon written notice from the County a landowner must act within 15 days to challenge the assertion, or it becomes valid and enforceable. See 4.13(b) for timelines to correct an imminent public health threat.

Section 5.03 Additional Soil Treatment Area Requirements

All new lots created after January 23, 1996, shall demonstrate through soil borings, there is a primary and secondary soil treatment area which can support a (standard) TYPE I soil treatment system.

The landowner is responsible for preserving the suitability of the primary and secondary (alternate) site or use as an SSTS soil treatment area in the future.

TYPE III systems shall not be allowed, and shall be prohibited for use on newly created (subdivided) and/or undeveloped lots. Type III systems are not allowed on exiting lots when a Type I system can be accommodated.

Existing subdivisions remain subject to the provisions of that subdivision, meaning, if lot size was reduced (per the required size in the applicable Zoning District's "Lot and Siting Requirements", those provisions hold.

8.10 ABATEMENT

If the Department is required to remove or abate an imminent threat to public health or/and 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 enforcement action under this Section may be assessed and charged against the real property on which the public health nuisance was located.

All costs associated with the inspection, design construction, repair, replacement, alteration or extension of on-site sewage treatment systems shall be the responsibility of the current landowner, unless otherwise provided for in this Section.

Note: Stat 115.55; (s) "Straight-pipe system" means a sewage disposal system that transports raw or partially treated sewage directly to a lake, a stream, a drainage system, or ground surface.