

CHAPTER 21 SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS)

SECTION 21.1: SCOPE

This Chapter 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 Chapter or by a system that has been permitted by *MPCA*.

SECTION 21.2 JURISDICTION

This Chapter shall include all lands of the *County* except for cities or towns that administer a Subsurface Sewage Treatment System (*SSTS*) program by Ordinance within their jurisdiction, which is at least as strict as this Chapter. The *Department* shall keep a current list of local jurisdictions within the *County* administering a *SSTS* program.

SECTION 21.3 ADMINISTRATION

21.3.1 COUNTY

The Dodge County Environmental Services Department shall administer the *SSTS* program and all provisions of this Chapter. The *County* shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the *SSTS* program.

A. SEPTIC PERMITTING

A Qualified Employee of the *Department* or licensed inspection business authorized by Dodge County shall review and process the Septic Permit application in accordance with the provisions of Section 18.17 of this Ordinance.

B. SOIL VERIFICATION

A Qualified Employee of the *Department* or licensed inspection business authorized by Dodge County shall perform a soil verification of periodically saturated soil or bedrock at the proposed soil and dispersal site. The soil verification must be performed in the portion of the soil treatment area anticipated to have the most limiting conditions. The designer shall contact the *Department* or its authorized agent to vary the most restrictive boring of the designer's field evaluation. If there is a dispute between the two verifying inspectors, the disputing parties must follow the dispute resolution procedure described in 7082.0700, Subp.5.

C. SSTS INSPECTIONS

A *Qualified Employee* of the *Department* or licensed inspection business authorized by Dodge County may perform various SSTS compliance inspections to periodically assure that the requirements of this Chapter and Minnesota Rules Chapter 7080-7083 are met.

All inspections shall be documented on a form approved by the *Department*.

D. RECORD RETENTION

The *Department* shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance required, *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 the system.

E. STATE NOTIFICATION OF SSTS VIOLATIONS

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 of any sewage removal by a licensed pumper that is performed in violation of the provisions of this Chapter.

F. ANNUAL REPORTING

The *Department* shall provide an annual report of SSTS permitting activities to the *MPCA* by the date specified by the *MPCA*.

G. 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 material through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance and management.

H. EXISTING SSTS

In order to meet water quality goals, the *County Board* may, from time to time, adopt by resolution programs to accelerate SSTS compliance. The resolution may identify specific geographic areas, timelines for compliance, establish incentives, target specific system types, and may include such other provisions as necessary to accomplish the goals

21.3.2 STATE OF MINNESOTA

Where a single *SSTS* or group of *SSTS* under single ownership within one-half mile of each other, having a design flow greater than 10,000 gallons per day, the owners 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 of facilities licensed or otherwise regulated by the *State* shall conform to the requirements of this Chapter.

21.3.3 CITIES AND TOWNSHIPS

Any jurisdiction within the *County* that regulates *SSTS* must comply with the standards and requirements of this Chapter. The standards of the jurisdiction may be administratively and technically more restrictive than this Chapter.

21.3.4 FEDERAL JURISDICTION

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.

SECTION 21.4 SSTS STANDARDS

21.4.1 STANDARDS ADOPTED BY REFERENCE

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

21.4.2 DETERMINATION OF HYDRAULIC LOADING RATE AND SSTS SIZING

Table IX ("Loading Rates for Determining Bottom Absorption Area and Absorption Ratios Using Detailed Soil Descriptions" and Table IXa ("Loading Rates for Determining Bottom Absorption Area and Absorption Ratios Using Percolation Tests") from Minnesota Rules, Chapter 7080.2150, Subp.3 (E) shall be used to determine the hydraulic loading rate and infiltration area for all *SSTS* permitted under this Chapter.

21.4.3 AMENDMENTS TO THE ADOPTED STANDARDS

A. SPECIFIC COUNTY LIMITATIONS AND STANDARDS

- I. Unlicensed owners are prohibited from constructing a pressurized *SSTS*.
- II. Only Type I, Type II, Type III and Type IV *SSTS* are allowed.
- III. A compliance inspection of an *existing system* is required at the time of property transfer. If the system is issued a “*notice of noncompliance*”, the system must be installed, or an escrow account set up before the property is transferred.
- IV. When replacing, in whole or in part, an existing dwelling, the size of the system must be in compliance with *MPCA* sizing requirements.
- V. When adding a *bedroom* to an existing dwelling the size of the system must be in compliance with *MPCA* sizing requirements.
- VI. A compliance inspection of the *existing system* is required when living space of 120 square feet or greater is added to a dwelling. If the system is issued a “*notice of noncompliance*”, the system must be upgraded according in accordance with the time frames identified in Section 21.9 of this Chapter.
- VII. Dodge County does not allow *holding tanks* for seasonal dwellings. All dwellings are required to have a *SSTS* with a drainfield installed.
- VIII. All new or *replacement dwellings* shall be sized on a classification I *design flow*. A dwelling *design flow* classification II may be allowed with conditions and approval by the *Department*.
- IX. *Existing systems* serving a dwelling(s) must meet sizing requirements of Minnesota Rules Chapter 7080.1850 and 7080.1860 for the number of *bedrooms*
- X. *Existing systems* serving *other establishments* must meet sizing requirements of Minnesota Rules Chapter 7080.1880 and 7081.0130.
- XI. All *replacement dwellings* shall have a secondary soil dispersal site identified in the septic system design.

21.4.4 VARIANCES

A. DODGE COUNTY ZONING ORDINANCE

Variance from local standards identified in the Dodge County Zoning Ordinance shall be administered in accordance with Section 18.11 of this Ordinance.

B. STATE STANDARDS AND REQUIREMENTS

Variations from the standards and requirements of the State of Minnesota must be approved by the affected State Agency.

SECTION 21.5 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.

Per Section 21.4.3.A.I, Dodge County limits the license exemption set forth in Minnesota Rules Chapter 7083.0700 by not allowing unlicensed owners to construct a pressurized *SSTS*. Dodge County may require any person seeking any exemption listed in 7083.0700 to attend *MPCA* certified *SSTS* construction training and/or sign and have on record at the *Department* an agreement indemnifying the *County* against claims due to the failure of the landowner to comply with any provision of this Chapter.

SECTION 21.6 LIABILITY

Any liability or responsibility shall not be imposed upon the *Department* or Agency or any of its officials, employees, or other contract agent 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.

SECTION 21.7 PROHIBITIONS

21.7.1 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 Chapter 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 (NPDES)* system program by the *MPCA*.

21.7.2 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 Chapter.

21.7.3 DISCHARGE OF HAZARDOUS OR DELETERIOUS MATERIALS

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

SECTION 21.8 GENERAL REQUIREMENTS

21.8.1 RETROACTIVITY

A. ALL SSTS

Except as explicitly set forth in Section 21.8.1.B below, all provisions of this Chapter shall apply to any SSTS regardless of the date it was originally permitted.

B. 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.

C. SSTS ON LOTS CREATED AFTER JANUARY 23RD, 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, rapidly permeable soils, mounds and at-grade systems (Type 1 Systems) as described in Minnesota Rules, Chapters 7080.2200 through 7080.230 or site conditions described in 7081.0270, Subp. 3 through 7.

21.8.2 SSTS IN FLOODPLAINS

SSTS shall not be located in a *floodway* and wherever possible, location within any part of a *floodplain* must be avoided. If no option exists to located the SSTS outside of a *floodplain*, location within the *flood fringe* is allowed if the requirements in Minnesota Rules, Chapter 7080.2270, as amended, and Chapter 15 of this Ordinance.

21.8.3 HOLDING TANKS

Holding tanks may be allowed:

- A. As replacement for an existing failing SSTS where no other viable option for a *subsurface sewage treatment system*

exists.

- B. As a temporary use falling between the dates of November 15 to June 1 of the following year for new residential construction completed when an approved Septic Permit is on file with the *County* and the ground is frozen or the soil is above the plastic limit not allowing the full soil treatment and dispersal system to be installed.
- C. As a temporary mitigation method for SSTS that pose an *imminent threat to public health and safety* while the system is in the process of being upgraded.
- D. For-non-dwellings that have intermittent or very low water use.
- E. Holding Tank Provisions
 - I. *Holding tanks* shall be installed in accordance with Minnesota Rules Section 7080.2290
 - II. Owners of *holding tanks* shall provide to the *Department* a copy of 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. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, Section 115.56, Subdivision 3, paragraph (b), clause (3).

21.8.4 TYPE IV SSTS

- A. Type IV SSTS may be allowed:
 - I. As a replacement for an existing failing SSTS where a Type I or Type III SSTS are not viable options for treatment of sewage.
 - II. For commercial or industrial buildings with a flow greater than 2500 gallons per day.

- B. Type IV SSTS provisions:
 - I. Type IV systems shall be designed and installed in accordance with Minnesota Rules Chapter 7080.2350, or successor;
 - II. An operation permit is required for the discharge of sewage to the Type IV system in accordance with Sections 18.18 of this Ordinance;
 - III. Permit applicants of a Type IV system shall obtain a monitoring contract with a licensed service provider prior to the installation of the system.

SECTION 21.9 UPGRADE, REPAIR, & REPLACEMENT

21.9.1 SSTS CAPACITY OF 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 Chapter at the time of expansion.

21.9.2 FAILURE TO PROTECT GROUNDWATER

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules Chapter 7080.1500, Subp.4.B, shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Chapter within two (2) years of the receipt of a *notice of noncompliance*.

21.9.3 IMMINENT THREAT TO PUBLIC HEALTH OR SAFETY

An SSTS that is determined to be an *imminent threat to public health and safety (ITPH)* in accordance with Minnesota Rules Chapter 7080.1500, Subp. 4.A, shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Chapter within ten (10) months of receipt of a *notice of noncompliance*.

When a discharge to the road right of way is observed during construction within the *road right-of-way (ROW)*. All properties having a direct discharge to the *ROW* will constitute an *ITPH* and will need to be upgraded within 10 months of the notification by the *Department*. The *County* or *Township* will not compensate landowners for required repair or replacement of septic systems that are failing or that are located in the *ROW*.

21.9.4 SSTS EXISTING SYSTEM SIZING

An *existing* SSTS that does not meet sizing requirements as specified in 21.12.2.C.IV shall be considered nonconforming and shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Chapter within two (2) years of the receipt of a notice of

nonconformity.

SECTION 21.10 SSTS PERMITTING

21.10.1 SEPTIC PERMIT REQUIRED

A Septic Permit is required for:

- A. Installation of a new *SSTS*;
- B. Replacement of an existing *SSTS*;
- C. Any repair or replacement of components that will alter the original function of the system;
- D. Change of the treatment capacity of the system;
- E. Change of the location of the system;
- F. Change of the original system's design, layout, or function;
- G. Reconstruction of a soil dispersal area and/or a soils dispersal system;
- H. Replacement of treatment and/or pump tanks.
- I. A *bedroom* addition to the existing dwelling where the *SSTS* does not meet the required *design flow* according to Minnesota Rules 7080.1860, regardless the date of the addition of the *bedroom*.

21.10.2 NO SEPTIC PERMIT REQUIRED

A septic permit is not required for:

- A. Installation or repair of the solid sewer pipe (building sewer) or other mains and collection systems installed in front of the septic or *holding tanks*, unless otherwise required by rule.
- B. Installation or repair of the solid sewer pipe from the septic tank to the first distribution or drop box.
- C. Repair or replacement of pumps, floats, or other electrical devices of the pump.
- D. Repair or replacement of baffles in the septic tank.

21.10.3 NEW OR REPLACEMENT DWELLINGS:

- A. All new or *replacement dwellings* shall be sized on a classification I *design flow* as set forth in Minnesota Rules 7080.1860 Table IV or its successor. If the lot area does not permit for a classification I *design flow*, a dwelling *design flow* classification II may be allowed with conditions and approval by the *Department*.
- B. All *replacement dwellings* shall have a secondary soil dispersal site identified in the septic system design.

C. Site Fencing and Staking:

Both the primary and secondary soil dispersal sites shall be fenced or roped prior to applying for a permit to construct an *SSTS*.

- I. The fence shall consist of four-foot high orange construction fence, wooden snow fence, or two strands of weatherproof high-visibility roping attached to posts placed no more than 20 feet apart with either high visibility ribbon at least one-half inch wide tied to the rope no more than 6 feet apart or signs no smaller than 16 inches by 20 inches no more than 20 feet apart, that clearly identify the soil dispersal area and prohibit trespass.
- II. The fencing or roping, stakes, and signs shall be clearly visible at least two feet above surrounding vegetation.
- III. The choice between fencing and roping with signs shall be at the discretion of the designer and property owner and should take into consideration any risk such barrier may present.
- IV. Protection of the primary and secondary sites as described in items I & II must occur prior to submission of a Septic Permit and remain in place until commencement of construction of the septic system soil dispersal primary site.

D. Preservation of secondary or additional sites:

- I. An area which has been identified for future use as an *SSTS* site shall be maintained in its original, natural soil condition so a future *SSTS* or device may be constructed that meets all Ordinance requirements unless a substitute site acceptable to the *Department* can be identified and maintained.
- II. Damage or encroach upon an identified secondary site is prohibited unless a substitute site, acceptable to the *Department* can be identified and maintained. In situations where a site is not available, a *permit* shall not be issued which will result in damage to or encroach upon a possible partial site.

21.10.4 SEPTIC PERMIT REQUIRED TO OBTAIN ZONING PERMIT

For any property on which a Septic Permit is required, a Zoning Permit may not be issued until a complete Septic Permit application is obtained unless the following is applicable;

- A. Any property on which a Septic Permit is required, a Zoning Permit may be issued during frozen ground time between November 15th and April

15th, when an SSTS cannot be designed due to frozen soil conditions; an escrow agreement shall be required to assure the design and installation of a new SSTS.

- I. The security shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law, or federal or state chartered financial institution, listing Dodge County as the Authorized Release Agents and;
- II. A copy of the escrow agreement shall be submitted to the *Department* in order to obtain a Zoning Permit.
- III. The amount escrowed shall be equal to:
 - a. One hundred twenty-five percent (125%) of a written estimate to design and install a complying SSTS provided by a licensed and certified installer; or
 - b. One hundred ten percent (110%) of the written contract price for the design and installation of a complying SSTS provided by a licensed and certified installer.
- IV. A complete Septic Permit application shall be submitted the following June 1. Failure to submit a complete Septic Permit application by June 1 may result in revocation and/or denial of the Zoning Permit.
- V. After a complete Septic Permit application has been accepted by the *Department* the escrow agent must request permission from Dodge County to release the escrow funds.

21.10.5 CONFORMANCE TO PREVAILING REQUIREMENTS

Any activity involving an *existing system* or system component that requires a Septic Permit shall require that the entire system be brought into compliance.

21.10.6 APPLICATION

A complete Septic Permit application shall be submitted on forms provided by the Environmental Services Department.

21.10.7 REVIEW AND APPROVAL

The *Department* shall review and process the Septic Permit application in accordance with the Minnesota Statutes Chapter 15.99. Incomplete applications will not be accepted.

Septic Permit applications that meet the ordinance shall be approved by the *Department* and a written Septic Permit authorizing construction of the SSTS as designed shall be issued.

In the event the applicant makes a significant change to the approved application, the applicant must file an amended application to the *Department* detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for approval or denial.

21.10.8 PERMIT EXPIRATION

The Septic Permit is valid for a period of no more than one year from its date of issuance.

21.10.9 TRANSFERABILITY

A Septic Permit for a *subsurface sewage treatment system* that is approved but has not yet been installed shall not be transferred to a new owner unless the new owner submits signed Septic Permit application forms and a management plan to the *Department*.

21.10.10 SUSPENSION OR REVOCATION

The *Department* may suspend or revoke a Septic Permit under the Enforcement provisions of Chapter 19.

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 Septic Permit is obtained.

21.10.11 SYSTEM COMPLETION (CERTIFICATE OF COMPLIANCE)

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 licensed inspection business, which is authorized by the *Department* and independent of the owner and the SSTS installer.

SECTION 21.11 SYSTEM MANAGEMENT

21.11.1 MANAGEMENT FOR SSTS PRIOR TO O & M PLAN REQUIREMENTS

SSTS that are not operated under Section 21.11.2 (SSTS Management Plans) or Section 21.11.3 (SSTS Operating Permits) listed below must have treatment

tanks inspected and provide for the removal of solids as needed every three years. All solids and liquids must be removed by pumping from all tanks or compartments when:

- A. The top of the sludge layer is less than 12 inches from the bottom of the outlet baffle or transfer hole; or
- B. The bottom of the scum layer is less than 3 inches above the bottom of the outlet baffle or transfer hole.

Total sludge and scum volume must not be greater than 25 percent of the tanks liquid capacity. (Minnesota Rules Chapter 7080.2450)

21.11.2 SSTS MANAGEMENT PLANS

SSTS Management Plans 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.

A. 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 Septic Permit application for review and approval.

B. REQUIRED CONTENTS OF A MANAGEMENT PLAN

Management plans shall comply with the information requirements of Section 18.19.2 of this Ordinance.

21.11.3 SSTS OPERATING PERMITS

A. SSTS REQUIRING AN OPERATING PERMIT

Sewage shall not discharge to a system requiring an Operating Permit until the Department certifies that the system was installed in conformance with the approved plans, receives the final record drawings, and a valid Operating Permit is issued to the owner.

An Operating Permit shall be required for:

- I. Type IV SSTS;
- II. Midsized Subsurface Sewage Treatment System (MSTS);
- III. Any other system deemed by the *Department* to require

operation and oversight.

B. APPLICATION

An application for an Operating Permit shall be made on forms provided by the Department.

C. SSTS OPERATING PERMIT ADMINISTRATION

SSTS Operating Permits shall be processed and administered in accordance with Section 18.18 of this Ordinance.

D. SSTS OPERATING PERMIT COMPLIANCE MONITORING

An annual Monitoring Report shall be prepared and certified by the licensed inspection business or licensed service provider in accordance with Section 18.18.l of this Ordinance.

The report shall be submitted to the *Department* on a form provided by the *Department* on or before the compliance reporting date stipulated in the Operating Permit.

SECTION 21.12 COMPLIANCE MANAGEMENT

It is the responsibility of the *Department*, or its agent, to perform various SSTS compliance inspections periodically to assure that the requirements of this Chapter and Minnesota Rules Chapter 7080-7083 are met.

21.12.1 COMPLIANCE INSPECTIONS FOR NEW SYSTEMS

- A. All compliance inspections must be performed and signed by a licensed inspection business or *Qualified Employees* certified as inspectors.
- B. The installation and construction of the SSTS shall be in accordance with the permit requirements and application design. Proposals to alter the permitted construction shall be reviewed and the proposed change accepted by the *Department* prior to construction.
- C. The installer or contractor hired by the *permittee* shall notify the *Department* on the **WORK DAY** preceding the day inspection is desired, prior to the completion and covering of the SSTS. If any component is covered before being inspected and approved by the *Department*, it shall be uncovered if directed by the *Department*.
- D. If proper notice to the *Department* is provided and the *Department*

does not appear for an inspection within two hours after the time set, the installer or contractor hired by the *permittee* may complete the installation.

- E. Inspections shall be conducted at least once during the construction of the *SSTS* at such time as to ensure that the system has been constructed per submitted and approved design.
- F. The installer or contractor hired by the *permittee* shall file a signed *As-Built*, including photographs of the system prior to covering, with the *Department* within thirty (30) days from system installation. The *As-Built* shall include a certified statement that the work was installed in accordance with the submitted design and permit conditions and that it was free from defects. The *As-Built* design must be submitted on County Forms available in the *Department*.
- G. The *permittee* or installer, as determined by the *Qualified Employee*, shall be responsible for the correction or elimination of all defects. No *SSTS* shall be placed in service until all defects have been corrected or eliminated. A *certificate of compliance* from the Inspector may be delayed or denied if the *permittee* or installer fails to correct or eliminate all defects as required by the Inspector.
- H. COMPLIANCE DETERMINATION
 - I. A *certificate of compliance (COC)* 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.
 - II. A *notice of noncompliance (NON)* shall be issued by the *Department* if the system was not built in accordance with the applicable requirements as specified in the construction permit.
 - III. The compliance determination document must include a certified statement by the licensed inspector or *Qualified Employee* who conducted the inspection that the *SSTS* is or is not in compliance with the state code and Ordinance requirements.
 - IV. *COC* for new *SSTS* shall remain valid for five (5) years from the date of issue unless the *Department* finds evidence of noncompliance.

21.12.2 COMPLIANCE INSPECTIONS FOR EXISTING SYSTEMS

Compliance inspections of *existing SSTS* shall be reported on the forms provided by *MPCA* and the *Department*. *Existing Systems* that require a compliance inspection must meet *MPCA* sizing requirements.

A. COMPLIANCE INSPECTION REQUIRED

Compliance inspections shall be required:

- I. Prior to adding 120 square feet or more of living space to an existing dwelling, including 4-season porches;
- II. When replacing, in whole or in part, an existing dwelling;
- III. For the addition of a *bedroom* to an existing dwelling;
- IV. When a complaint is filed with the *Department*;
- V. When a discharge to the *road right of way* is observed during construction within the *road right-of-way (ROW)*;
- VI. Prior to the sale or transfer of property.
- VII. Any time there is a change in use of the property being served by an *existing SSTS* which may impact the performance of the system.
- VIII. Any time a permit or *variance* of any type is required for any improvement on, or use of, the property in the Shoreland Overlay District.

B. COMPLIANCE INSPECTIONS – FROZEN GROUND

In those times of the year when the ground is frozen and a compliance inspection cannot be completed, the compliance inspection must be completed by the following June 1 and submitted to the *Department* within 15 days.

Septic systems where a compliance inspection is required prior to property transfer shall adhere to section 21.13 of this Chapter.

Septic systems where a compliance inspection is required to obtain a Zoning Permit shall adhere to 21.10.4 of this Chapter.

C. COMPLIANCE CRITERIA

Compliance of *existing SSTS* shall be reported on forms provided by the

MPCA and the *Department*. To assess compliance the following conditions must be evaluated or verified:

- I. Water tightness assessments of all treatment tanks including a leakage report
- II. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock.

a. SSTS BUILT BEFORE APRIL 1, 1996

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.

b. SSTS BUILT AFTER MARCH 31, 1996

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 of 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 chapter.

The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil 7080.1500, Subp. 4.

- III. Sewage backup, surface seepage or surface discharge including a hydraulic function report.

IV. SIZING

- a. *Existing systems* serving a dwelling(s) must meet sizing requirements of Minnesota Rules 7080.1850 and 7080.1860 for the number of *bedrooms*.

- b. *Existing systems serving other establishments* must meet sizing requirements of Minnesota Rules 7080.1880 and 7081.0130.

D. COMPLIANCE DETERMINATION

I. CERTIFICATE OF COMPLIANCE (COC)

For *existing Systems* determined to be compliant with the septic rules and this Chapter, a *certificate of compliance (COC)* will be issued by a *Qualified Employee* or licensed inspection business on forms provided by the *MPCA* and the *Department*.

The *Department* shall reject any compliance inspection submitted to it that does not provide the required compliance information, is not completed by a licensed inspection business or is deficient in certified statements, corrective measure procedures, and/or required signatures

- a. The *COC* must be submitted to the *Department*, the person requesting the compliance report, and any other governing authority no later than (15) calendar days after the date the inspection was performed.
- b. *COCs* completed for *existing systems* shall remain valid for (three) years from the date of issue unless the *Department* finds evidence of noncompliance.

II. NOTICE OF NONCOMPLIANCE (NON)

For *existing systems* determined to be noncompliant with the septic rules and this Ordinance, a *notice of noncompliance (NON)* will be issued by a *Qualified Employee* or licensed inspection business on forms provided by the *MPCA* and the *Department*.

The *Department* shall reject any compliance inspection that does not provide the required compliance information, is not completed by a licensed inspection business or is deficient in certified statements, corrective measure procedures, and/or required signatures

- a. The *NON* must include a statement specifying the Ordinance provision and state rule with which the *SSTS* does not comply

- b. The *NON* must be submitted to the *Department*, the person requesting the compliance report, and any other governing authority no later than (15) calendar days after the date the inspection was performed.
- c. *Existing Systems* receiving a *NON* shall be upgraded, repaired or replaced under the applicable timeframes in Section 21.9 of this Chapter.

III. WAIVER OF EXISTING SYSTEM INSPECTION

For *existing Systems* determined to be noncompliant with the septic rules and this Ordinance, a *notice of noncompliance (NON)* will be issued by a *Qualified Employee* on forms provided by the *MPCA* and the *Department*.

The *Department* may waive an *existing system* compliance inspection required under Section 21.12.2.A of this Chapter, if the owner of the real property served by an *existing SSTS*;

- a. acknowledges (self-fails) in writing to the *Qualified Employee* that the current *existing SSTS* does not meet State Code and/or local Ordinance requirements, is an *imminent threat to public health and safety*, and;
- b. further acknowledges that a new system installation or proper abandonment of the *existing system* will be achieved within 10 months from the date of the signed acknowledgment, and;
- c. allows the *Qualified Employee* to verify whether or not the system is classified as a straightpipe under Minnesota Statute 115.55 Subp. 11.

SECTION 21.13 TRANSFER OF PROPERTIES

- A. Whenever a 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 shall be met.
 - I. A compliance inspection must be conducted prior to the sale or transfer of any property.
 - II. The Seller and/or Seller's Authorized Agent shall retain a licensed inspection business to conduct the compliance inspection in accordance with the procedures described in

Section 21.12.2 of this Chapter. If the Seller and/or Seller's Authorized Agent fails to meet this requirement, the system will be deemed an *imminent public health threat and safety*, and must be replaced within 10 months of the date of property transfer.

- III. A compliance inspection submitted to Dodge County after a property transfer has occurred (an after the fact compliance inspection) shall be valid from the date on which the property transfer occurred. Timeframe for system replacement due to noncompliance is based on the date of property transfer and not the date the compliance inspection occurred.

IV. DISCLOSURE AND RESPONSIBILITY

- a. The findings of the compliance inspection must be disclosed at the time of sale or transfer of title or property on a *Sewage Disclosure Form* provided by the *Department*. The *Sewage Disclosure Form* must be completed and submitted to the *Department* at the time of sale or *transfer of property*.
- b. If the *Sewage Disclosure Form* reveals that the SSTS is failing, a *Sewage Responsibility Form*, provided by the *Department*, must be signed by the seller and buyer prior to the sale or transfer of title of the property. The *Sewage Responsibility Form* must be completed and submitted to the *Department* at the time of sale or *transfer of property*.

V. ESCROW

If the seller fails to provide a *certificate of compliance*, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation and inspection of a complying SSTS.

The security shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law, or federal or state chartered financial institution.

The amount escrowed shall be equal to:

- a. One hundred twenty-five percent (125%) of a written estimate to inspect and install a complying SSTS

provided by a licensed and certified installer; or

- b. One hundred ten percent (110%) of the written contract price for the inspection and installation of a complying SSTS provided by a licensed and certified installer.

After a complying SSTS has been installed and a *certificate of compliance* issued, the escrow agent must request permission from Dodge County to release the escrow funds.

B. ACTIONS THAT DO NOT REQUIRE A COMPLIANCE INSPECTION.

A compliance inspection does not need to be completed under the following conditions:

- I. The affected tract of land is without buildings or contains no dwellings or other building with plumbing fixtures.
- II. The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, or successor.
- III. The property is being refinanced by the owner.
- IV. The sale or transfer is to the seller's spouse or ex-spouse only.
- V. The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of May 1, 2006. This subsection applies only to the original vendor and vendee on such a contract.
- VI. Any dwelling or other buildings that are connected to a municipal wastewater treatment system or are connected to a shared *community system* with operating agreements and monitoring plans. Operating agreements and monitoring plan results for the *community system* must be up to date and in compliance with the *Department*.
- VII. The property has been issued a *certificate of compliance* within the last ten (10) years, and is on file in the *Department*. This provision of the Dodge County Zoning Ordinance in no way infers that a *certificate of compliance* is valid for 10 years; only that another compliance inspection does not need to be performed for the purpose of property transfer during this ten year period. A *certificate of compliance* is

valid for 3 years on existing septic systems and 5 years on new septic systems under State Code. The seller, buyer, financial institution, and/or authorized representative(s) must determine if a compliance inspection should be completed during a property transfer after a valid compliance inspection has expired.

C. PROPERTY TRANSFERS DURING FROZEN GROUND

All property transfers subject to this chapter between November 15th and April 15th, when SSTS compliance cannot be determined due to frozen soil conditions, shall require an escrow agreement to assure the inspection and installation of a new SSTS.

The security shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law, or federal or state chartered financial institution.

The amount escrowed shall be equal to:

- I. One hundred twenty-five percent (125%) of a written estimate to inspect and install a complying SSTS provided by a licensed and certified installer; or
- II. One hundred ten percent (110%) of the written contract price for the inspection and installation of a complying SSTS provided by a licensed and certified installer.

A compliance inspection must be completed by June 1st by a licensed inspection business. If upon inspection the SSTS is found to be in compliance, the *Department* shall provide the escrow agent a copy of the *certificate of compliance* to release the escrow funds.

- D. Neither the issuance of permits, COC, nor NON as requested or issued shall be construed to represent a guarantee or warranty of the systems operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

SECTION 21.14 ABANDONMENT CERTIFICATION

21.14.1 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 protected public health, safety and water quality. It also terminates all permits associated with the system.

21.14.2 ABANDONMENT REQUIREMENTS

- A. Whenever the use of a SSTS or any system component is discontinued for any reason, 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 sixty (60) calendar days of completion of a replacement system. Abandonment shall 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. A COC for the new SSTS will not be issued, nor escrow released, until the Certificate of Abandonment for the old system is received by the *Department*.
- D. A report of abandonment certified by the licensed installation business shall be submitted to the *Department* on the MPCA SSTS Abandonment Form.

SECTION 21.15 ENFORCEMENT

This Chapter shall be enforced in accordance with Chapter 19 of this Ordinance.

SECTION 21.16 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 Chapter.

In accordance with state law, the *Department* shall notify the MPCA of any unlicensed individual or company performing work on an SSTS in which requires MPCA licensure.

SECTION 21.17 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 enforcement action under this Chapter may be assessed and charged against the real property on which the public health

nuisance was located. The County Finance Director shall extend the cost as assessed and charged on the tax roll against said real property.

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 Chapter.

SECTION 21.18 FEES

Fees for the septic program shall be established and amended by the Dodge County Board.