

SECTION 23 – SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE (SSTS)

A. Section One - Purpose

The purpose of the Subsurface Sewage Treatment System Ordinance shall be to provide minimum standards for and regulation of Subsurface Sewage Treatment Systems (SSTS) including the proper location, design, construction, maintenance, modification, permitting and inspection within Faribault County. This Ordinance outlines the responsibility of Faribault County and property owners as it pertains to SSTS and provides for the payment of fees, suspension and revocation of permits, and penalties for failure to comply. A properly functioning SSTS provides treatment and prevents contamination of surface and ground water by human sewage, household and commercial waste.

Faribault County's goal is to protect public health and safety, and prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes Chapter 115 and 145A and Minnesota Rules Chapters 7080, 7081, 7082, and 7083 as amended that may pertain to sewage and wastewater treatment.

Faribault County requires any persons, businesses, firms, or corporations providing designs, performing installations, performing inspections, or providing maintenance to possess an appropriate and valid license or licenses issued by the State of Minnesota unless exempted by Section 23 of the Faribault County Zoning Ordinance.

B. Section Two – Definitions

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and facilitate the most reasonable application of the Ordinance.

Applicant - Individual or entity applying for a permit under Section 23

As-Built - Drawings and documentation specifying the final in-place location, size, and type of system components.

Certificate of Compliance - A document, written after a compliance inspection, certifying that a system is in compliance with applicable requirements at the time of the inspection.

Class V - Any SSTS regardless of size that receives any amount of industrial or commercial wastewater; or any SSTS that receives solely sanitary waste from multiple family residences or a non-residential establishment and has a capacity to serve twenty (20) or more persons per day.

County Board - The Faribault County Board of Commissioners

Compliance Inspection - An evaluation, investigation, inspection, or other such process for the purpose of issuing a Certificate of Compliance or Notice of Noncompliance.

Department - The Faribault County Planning and Zoning Department, or other entity designated by the County Board to administer and implement the SSTS program.

Failing - Systems that fail to meet groundwater separation requirements, or have not received proper maintenance.

ISTS – Individual Sewage Treatment System

ITPHS - Imminent Threat to Public Health or Safety

MPCA - Minnesota Pollution Control Agency

MSTS - Midsize Sewage Treatment System

NPDES - National Pollution Discharge Elimination System

Ordinance - Refers to Section 23 of the Faribault County Zoning Ordinance

- Permittee** - Person who is named on a permit issued pursuant to local ordinance
- Scum** - Layer of soap, grease and undigested food, which forms in the upper layer of a properly functioning septic tank.
- Septage** - Solids and liquids removed from an SSTS
- Sludge** - Layer of heavy material, in the lower level of the tank that cannot be broken down by the bacteria.
- Structural Improvement** - An improvement to a property that requires a permit to alter a structure's height and/or footprint including the building of a new structure.
- SSTS** - Subsurface Sewage Treatment System

C. Section Three – Permits

No person, business, firm, or corporation shall construct, install, alter, extend, or repair an SSTS in Faribault County without first obtaining a permit from the Department or local permitting authority for each specific construction, installation, alteration, or extension. Such permits shall expire twelve (12) months after the date received. Extensions may be allowed upon approval by the Department. Permits are not transferable as to person or place.

A copy of the approved permit shall be kept available at the work site until such work is completed by the permittee and approved by the Department.

1. Application Requirements

The permit application furnished to the Department shall contain the following information:

- a. Name, address, and telephone number of applicant and property owner.
- b. Township, section, and quarter section of property.
- c. 911 address of property.
- d. Current site evaluation. Soils observations reviewed by the Department are valid for the duration of the permit or a maximum of twenty-four (24) months.
- e. Newly developed sites must identify a viable alternate SSTS location in addition to a proposed primary location.
- f. Approved inspection form for existing SSTS being replaced or modified on building site.
- g. If site is within an incorporated area the Department will notify the appropriate city administration.
- h. Additional information required by the Department to ensure compliance of this Ordinance, Chapter 7080 and Chapter 7081.

2. Application Not Required

Permits shall not be required for the following:

- a. Repair or replacement of pumps, floats, or other electrical devices.
- b. Repair or replacement of baffles in septic or pump tanks.
- c. Maintenance of septic tanks, pump tanks, or effluent filters.
- d. Repair or replacement of manholes and/or risers on septic tanks, and pump tanks.
- e. Repair actions upon approval by the Department that meets Chapter 7080 and Chapter 7081.

3. Application Denied

The Department may deny any application for failure to comply with this Ordinance, or other pertinent Ordinances. Written notice stating reason for denial shall be mailed to the applicant, licensed designer, installer, and Faribault County Commissioner of the

district. The permit application may be revised or corrected and resubmitted to the Department.

4. Permit Revoked

The Department may revoke any permit for failure to comply with this Ordinance or other pertinent Ordinances. Written notice stating reason for revocation shall be mailed to the permittee, licensed designer, installer, and Faribault County Commissioner of the district.

Permits can be revoked for, but not limited to, the following reasons:

- a. Permit issued based upon erroneous or inaccurate data supplied by the permittee.
- b. Permit issued based upon erroneous or inaccurate data supplied by the licensed designer.
- c. Unapproved alteration of the design by the permittee, licensed designer, and/or installer.
- d. Alteration of site without prior approval of the Department.
- e. Re-interpretation of rule by MPCA or the Department.

Permits shall be revoked until such time that issues are resolved with the Department.

5. Property Owners Doing Their Own Work

Whenever allowable by this Ordinance, property owners may install their own SSTS on owned property serving as their primary residence providing a licensed designer designs the system. Property owners are prohibited from altering an approved design during installation unless approved by the designer and the Department, any unapproved alterations shall cause the permit to be revoked. The designer is responsible to provide supervision to ensure proper application of their design. Failure to provide supervision shall cause the permit to be revoked until such time that issues are resolved with the Department. The designer shall provide a signed As-Built to the Department upon completion. Property owners doing their own work shall notify the Department before installation of a SSTS and comply with Section 23 of the Faribault County Zoning Ordinance.

6. Fees

- a. The County Board shall establish, by resolution, fees for permits required by this Ordinance.
- b. If SSTS work commenced prior to obtaining the required permit, the fee shall be doubled unless the Department deems work necessary to negate an imminent threat to public health or safety.
- c. Fees are due and payable at the time of permit application.
- d. Fees are non-refundable either in whole or in part unless otherwise authorized by the Department.

D. Section Four – Licensed Designer Responsibility

- a. All SSTS designs shall be in compliance with this Ordinance. Designs submitted to the Department shall be of sufficient detail and to scale as to allow adequate review for compliance by the Department.
- b. New Construction - All SSTS sites shall be identified before construction activities begin and be staked and fenced to prevent construction traffic from altering soil conditions. If construction traffic results in alteration of the soils, a

- revised design and permit application proposing another site shall be submitted to the Department along with the soils data and required fees.
- c. Existing Construction - The primary SSTS site for existing construction shall be adequately marked and fenced to keep the area secure until the system is installed. If traffic results in alteration of the soils, a revised permit application proposing another site must be submitted to the Department along with the required soil data and fees.
 - d. All designs shall comply with Chapter 7080 and Chapter 7081.
 - e. All SSTS designs will be based on MPCA soil texture and structure Table IX values or standard soil sizing values acceptable to the Department.
 - f. Holding tank designs are not allowed for new construction.
 - g. SSTS designs are not allowed in floodplains for new construction.
 - h. Type IV and Type V SSTS designs are allowed only by approval of the Department.
 - i. The licensed designer is responsible to develop operation and maintenance plans for all MSTs and Type IV and V SSTS prior to issuance of a permit.

E. Section Five – Inspection and Installation Requirements

1. Inspection Requirements for Construction, Repair, and Replacement of SSTS.

- a. Inspections for construction, replacement, alteration or repair work on SSTS shall be conducted by the Department.
- b. Access to Premises and Records. Upon the request of the Department, the applicant, permittee or any other person shall allow access at any reasonable time to the affected premises as well as any related records, for the purposes of regulating and enforcing this Ordinance.
- c. Interference Prohibited. No person shall hinder or otherwise interfere with the Department in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the Department shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.
- d. Mound and At-Grade Systems
 1. When tanks are installed
 2. When construction material is delivered
 3. When installation is completed, the installer is required to make an As-Built sketch of the SSTS and keep this record for a minimum of five (5) years.
- e. Rock, gravelless trench, chambered media, and pressurized bed systems
 1. When tanks are installed
 2. After placement of the distribution medium but prior to cover.
 3. When installation is completed, the installer is required to make an As-Built sketch of the SSTS and keep this record for a minimum of five (5) years.
- f. Holding tanks
 1. When tanks are installed
- g. Installation inspections shall be made prior to any work being covered by backfill. Work which is backfilled prior to required inspection may be ordered to be uncovered whenever necessary to determine compliance.
- h. The licensed installer shall be responsible to notify the Department within forty-eight (48) hours before an inspection or re-inspection is requested.

- i. Additional inspections or evaluations may be specified for the repair, replacement of an existing system, or construction of a new system at the time the SSTS permit is issued. These requirements shall be provided by the Department to the permittee at the time the permit is issued.
- j. If the Department is unable to complete an inspection, it shall be the responsibility of the licensed installer to take photographs of each phase of the installation. A Certificate of Compliance will not be issued until the Department has reviewed and approved the installation photographs.
- k. It shall be the responsibility of the licensed installer that the entire system is installed in strict accordance with the design as approved by the Department. If the system is not or cannot be constructed as designed, it shall be the responsibility of the licensed installer to inform the designer and the Department. If proposed changes are approved by the designer and the Department it shall be the responsibility of the licensed installer to submit new or amended designs to the Department before completing construction.
- l. All documentation including As-Built drawings shall be submitted to the Department prior to the issuance of a Certificate of Compliance.
- m. Failure of the Department to inspect the system shall not relieve or lessen the responsibility or liability of any person owning, operating, controlling, monitoring, installing, or repairing any SSTS.

2. Compliance Inspection for Existing SSTS

- a. If an inspection is conducted as part of a compliance inspection and/or the disclosure required by M.S. 115.55, subd. 6, as it may be amended from time to time, such party must be licensed in accordance with MPCA rules and regulations and the Certificate of Compliance or Notice of Noncompliance provided to the property owner and shall be provided to the Department within 30 days of the inspection.
- b. All inspections are required to be submitted on an MPCA/Department approved inspection form.

3. Building and Zoning Permits

- a. All applications for building permits and zoning permits shall submit either a Certificate of Compliance or valid Inspection Form at the time of application for any permit; except in the case of the following:
 - 1. Tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
 - 2. The existing dwelling or other building(s) are not habitable, based upon documentation submitted by the owner(s) to the Department.
 - 3. All dwellings or other buildings with running water are connected to a municipal wastewater or treatment system.
 - 4. Non-Structural improvements to property (ie. Windows, Doors, Siding, Roofing.)
 - 5. Delay of SSTS Construction Form is completed by the landowner, and approved by the Department.

4. Property Transactions

- a. The SSTS Property Transaction Form along with any required attachments shall be provided by the seller to the buyer at or before closing.

- b. If a Certificate of Compliance is required it shall be completed by a licensed inspector and must indicate the SSTS is in compliance with Minnesota Rules Chapter 7080/7081 as amended.
- c. In the event that one of the exemptions listed in Section 5 Subp. 5 of this Ordinance apply, the SSTS Property Transaction Form shall be signed by both parties to the transaction.
- d. The SSTS Property Transaction Form along with any required attachments shall be filed with the Faribault County Auditor.
- e. Owners with systems considered a Class V well, shall submit information to EPA for inventory purposes.

5. Exempt Transactions

The compliance inspection need not be completed if the sale or transfer involves the following circumstances:

- a. Tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures;
- b. The existing dwelling or other building(s) are not habitable, based upon documentation submitted by the owner(s) to the Department;
- c. The transfer is a foreclosure of tax forfeiture;
- d. A refinance of a property;
- e. The sale or transfer completes a Contract for Deed entered into prior to June 19, 2007. This division applies only to the original venter and vendee on such a contract;
- f. All dwellings or other buildings with running water are connected to a municipal wastewater or treatment system.
- g. Any transfer that does not require a Certificate of Real Estate Value (CRV).

6. Follow Up Performance Evaluations

The Department reserves the right to conduct performance evaluations on randomly selected SSTS serving Faribault County to evaluate performance.

- a. Upon request of the Department, the applicant, permittee or any other person shall allow access at any reasonable time to the affected premises as well as any related records.

7. Faribault County Loan Program

- a. The Faribault County Board, by resolution, may establish policy for inspection of SSTS involving Faribault County's Loan Program. These inspections must be performed under policy guidelines and include review of pumping records.

8. Fees for Inspection

- a. The Faribault County Board may establish, by resolution, fees for inspection required by this Ordinance.

F. Section Six – Failing and Non-Compliant Systems

- 1. All septic systems not in compliance with this Ordinance and MPCA Chapter 7080 and 7081 shall be brought into compliance prior to issuance of any permit or variance related to the site unless listed as exempt in Section 5 Subp. 5 of this Ordinance.

2. Identified non-compliant systems shall be brought into compliance within ten (10) months of identification.
3. Identified ITPHS systems shall be brought into compliance within ten (10) months of identification.
4. Discharge of sewage without NPDES permit issued by MPCA will be considered an ITPHS and is prohibited.
5. Publicly owned sewer systems shall be utilized when available.
6. Systems identified by Transfer of Property shall be brought into compliance within ten (10) months except in the case of an exempt transaction, see Section 5, Subp. 5.
7. All septic systems not in compliance with this Ordinance and MPCA Chapter 7080 and 7081 shall be upgraded within five (5) years of June 19, 2007 to conform to the provisions hereof and MPCA Chapter 7080 and 7081.
8. Systems located within municipalities not in compliance with this Ordinance, 7080 or 7081 shall be brought into compliance within five (5) years of June 19, 2007 unless municipality has more stringent requirements or timetables for compliance.

G. Section Seven – Maintenance

1. Pumping
 - a. The owner of any SSTS shall have their septic tank or tanks properly cleaned at least once every three (3) years or sooner, if necessary, in order to prevent the sludge from reaching any point closer than twelve (12) inches from the bottom of the outlet baffle, or the scum from reaching a point closer than three (3) inches above the bottom of the outlet baffle.
 - b. Maintenance of septic tanks or pump tanks should only be done by an MPCA licensed professional.
 - c. Homeowners may only maintain septic tanks or pump tanks on owned homesteaded property that serves as their primary residence, doesn't include a business that provides services to the general public, and can be applied on owned property and applied at a safe and agronomic rate.
 - d. Pumping records must be maintained by the owner of the system. The owner may choose to have the records maintained by the Department but the owner retains the responsibility of providing records to the Department.
2. Repair and Maintenance
 - a. The owner of any SSTS shall be responsible to repair and maintain in accordance to Minnesota Chapter 7080/7081 as amended.
 - b. Repairs are not allowed on Non-Compliant SSTS.
 - c. Written management plans may be required for new and replacement SSTS by the department.
3. Removal of Septage
 - a. All septage removed from septic tanks, holding tanks, and pumping chambers shall be removed from the site in sealed containers and shall be disposed of in accordance with state, federal, and local requirements.
 - b. Handling and disposal of septage shall meet Chapter 40 Code of Federal Regulations pt.503, as amended.
 - c. Land application of septage shall meet setback requirements identified in the Faribault County Feedlot Ordinance for the application of manure, as amended.

- d. Septage may be disposed of in a municipal sewage treatment plant only with the authorization of the plant operator. The government entity owning such a plant may also require a permit or other written authorization before disposal of septage at their facility.

H. Section Eight-Abandonment / Removal of SSTS

1. Abandonment or removal of all SSTS shall be in accordance with 7080/7081.
2. Owners of SSTS to be removed shall notify the department.

I. Section Nine – Setback Variances

An affected property owner or designated representative may request a setback variance from the specific requirements of this Ordinance. The Department shall have the authority to grant variances when the purposes and intent of the variance are consistent with this Ordinance, Faribault County's Zoning Ordinance and the Faribault County Comprehensive Local Water Management Plan.

1. No variance shall be granted except under the following circumstances:
 - a. That there are unique conditions affecting the property as a result of lot size, layout, shape, topography, soil conditions or other circumstances which the landowners have no control of.
 - b. Variance approval shall not adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or damaging to property or improvements in the area adjacent to the property of the applicant, and that granting of the Variance will not adversely impact water quality.
 - c. Variances pertaining to well setbacks are governed by MN Rules Chapter 4720 and 4715 and may only be approved by the Minnesota Department of Health.

J. Section Ten – Administration and Enforcement

1. Duties of the Department
 - a. The Department has the authority to administer and enforce this Ordinance.
 - b. The Department's authority includes, but is not limited to, the following:
 1. Inspect new, repaired, or replaced SSTS and septage disposal sites in Faribault County as provided in this Ordinance.
 2. Issue Certificates of Compliance for new, repaired, or replaced systems.
 3. Investigate complaints of violations of this Ordinance including MPCA Chapters 7080/7081.
 4. Recommend that legal proceedings be initiated by the Faribault County Attorney to compel compliance with the provisions of this Ordinance.
 5. Advise, consult and cooperate with the public and other governmental agencies in the furtherance of this Ordinance.

6. Arbitrate any disputes between SSTS professionals, SSTS owners, or any combination of the above.
7. Issue order:
 - a. To suspend or revoke permits issued under this Ordinance;
 - b. To stop actions which constitute a violation of this Ordinance;
 - c. To correct systems determined by the Department to be in a state of failure or determined to be otherwise in violation of this Ordinance;
 - d. To cease and prevent from use any system which is operating in a manner creating a hazard to public health, safety or welfare.
2. Failure of the Department to inspect the system shall not relieve or lessen the responsibility or liability of any person owning, operating, controlling or installing any SSTS.
3. Any appeals of a Department order shall be filed with the Department within thirty (30) days of issuance of the order.
4. Access to Premises and Records – Upon the request of the Department, the applicant, permittee or any other person shall allow access at any reasonable time to the affected premises as well as any related records, for the purpose of regulating and enforcing this Ordinance.
5. Interference Prohibited – No person shall hinder or otherwise interfere with the Department in the performance of duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the Department shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.
6. Penalties
 - a. Responsibility – It is the responsibility of the owner of a failing SSTS to notify the Department and submit a plan for the abatement of the failure to the Department.
 - b. Time Frame – When the Department becomes aware of a failing or ITPHS SSTS, the Department may require the following:
 1. The owner of the SSTS shall respond to the Department within five (5) working days of notification by the Department by submitting a plan for abating the discharge.
 2. The owner of the SSTS shall repair or replace the failing system consistent with this Ordinance and Minn. Rules Chapter 7080/7081, as it may be amended from time to time.
 3. The Department may require that the owner of an ITPHS system pump the septic tank as an interim abatement measure if the Department determines that the failing system is an ITPHS.
 - c. Misdemeanor – Any person who fails to comply with the provisions of this Ordinance is guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
 - d. Stop Work Orders – Whenever any work is being done contrary to the provisions of this Ordinance, the Department may order the work stopped by written notice personally served upon the owner or installer of the SSTS. All activities shall cease and desist until subsequent authorization to proceed is received from the Department.
 - e. Injunctive Relief and Other Remedies – In the event of a violation or a threat of a violation of this Ordinance, Faribault County may institute appropriate actions or proceedings, including injunctive relief, to prevent, restrain, correct

- or abate such violations or threat of violations. The County may recover costs incurred for corrective action in a civil action in any court of competent jurisdiction, and such costs may be certified by court order to the Faribault County Auditor as a special tax against the real property. These and other remedies, as determined appropriate by the county, may be imposed upon the applicant, permittee, installer, or other responsible person either in addition to or separate from other enforcement actions.
- f. After all appeal rights have been used, any septic system that is in violation with the provisions of this Ordinance shall be assessed a \$250.00 per month penalty by the Department.

7. Appeals

- a. Hearing - An appeal from a Department order shall be heard by the Faribault County Board of Adjustment within sixty (60) days from the date of filing the appeal. The Board of Adjustment shall give due notice thereof to the appellant and the officer, from whom the appeal is taken, and to the public and decide the same within ninety (90) days of the hearing.
- b. Stay of Action – An appeal stays all proceeding and furtherance of the action appealed from unless the Board of Adjustment certifies that by reason of the facts stated in the certificate the stay would cause imminent peril to life or property.
- c. Action to Faribault County Board of Adjustment – The Board of Adjustment may reverse or affirm wholly or partly or may modify the order appealed from and to that end shall have all of the power of the officer from whom the appeal was taken. The reasons for the Board of Adjustment’s decision shall be stated in writing.
- d. Fees for the Variance process shall be set annually by the Faribault County Board of Commissioners.