

ORDINANCE 23 - 4

AN ORDINANCE AMENDING AND REENACTING CHAPTER 3400 OF THE OLMSTED COUNTY CODE OF ORDINANCES RELATED TO REGULATIONS OF SUBSURFACE SEWAGE TREATMENT SYSTEMS IN THE COUNTY



Olmsted County Code of Ordinances

Chapter 3400

OLMSTED COUNTY SUBSURFACE SEWAGE TREATMENT SYSTEMS ORDINANCE

Olmsted County, MN

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3400. SUBSURFACE SEWAGE TREATMENT SYSTEMS ORDINANCE OLMSTED COUNTY

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 Olmsted 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. 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; and repealing Public Health Regulation Number 41 and all amendments thereto,
6. Provisions for enforcement of these requirements, and
7. Penalties for failure to comply with these provisions.

3401. PURPOSE AND AUTHORITY

3401.01 PURPOSE AND INTENT

3401.0101 Short Title

This ordinance shall be known as the County of Olmsted, Minnesota, Subsurface Sewage Treatment Systems Ordinance and cited as the SSTS Ordinance.

3401.0102 Purpose and Intent

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.

This ordinance is enacted for the following purposes:

1. To establish minimum requirements for the regulation of ISTS and MSTs for the treatment and dispersal of sewage within the applicable jurisdiction of the County;
2. To protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances;
3. To serve the best interests of the County's citizens by protecting the County's health, safety, general welfare, and natural resources.
4. To protect lakes, rivers and streams, wetlands, and groundwater in Olmsted County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
5. To regulate proper SSTS construction, reconstruction, repair and maintenance.
6. To prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
7. To establish minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance.
8. To prevent contamination and, if contamination is discovered, to identify and control its consequences and to abate its source and migration.
9. To provide for appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
10. To provide for the proper management and disposal of septage and other products of SSTS maintenance.
11. To provide for 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.

3401.02 AUTHORITY

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

3401.03 SCOPE AND JURISDICTION

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.

This Ordinance shall apply in all areas of Olmsted County, whether incorporated or unincorporated. The ordinance provides the minimum standards and regulations applicable to subsurface sewage treatment systems. A municipality (city or township) within Olmsted County that adopts an ordinance addressing subsurface sewage treatment systems shall ensure that such ordinance is consistent with and at least as restrictive as this Ordinance and shall provide for its enforcement in a manner consistent with this Ordinance. Where a municipality (city or township) has passed an ordinance to regulate and enforce in an equivalent or more restrictive manner, the Director shall coordinate regulation and enforcement with that municipality.

3402. DEFINITIONS

The following words and phrases shall have the meanings ascribed to them in this Article. If not specifically defined in this Chapter, 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. Terms defined in MR 7080.1100 and 7081.0020 that do not appear in this chapter are adopted by reference.

Authorized Representative: An employee or agent of the Planning Department, as that term is defined in the Environmental Services Administration Ordinance.

Bedrock: Geologic layers of which greater than 50 percent of the volume consists of weathered or unweathered in place consolidated rock or rock fragments. Bedrock consists of igneous, metamorphic and sedimentary rock.

Citation: An order to a responsible party to appear at the County Violation Bureau to enter a plea of 1) not guilty and request a court hearing, or 2) guilty and pay a fine established by the courts for violation of environmental and public health protection ordinance.

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: An 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: Olmsted County, Minnesota.

County Board: The Olmsted County Board of Commissioners.

Department: The Olmsted County Planning Department.

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

Director: The Director of the Planning Department, and their respective designees operating under authority of the County Board to administer environmental programs and services for Olmsted County.

Flood Fringe: That portion of Special Flood Hazard Area Subject to Inundation by the 1% Annual Chance Flood as identified by FEMA and outside of the floodway. For the purposes of this ordinance the flood fringe also includes flood prone soils as identified and designated as the Flood Plain District in the Olmsted County Zoning Ordinance (Section 9.00).

Flood Plain: The Special Flood Hazard Area Subject to Inundation by the 1% Annual Chance Flood as identified by FEMA and flood prone soils as identified in the Olmsted County Zoning Ordinance.

Floodway: The channel of a stream or river plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.

Groundwater Protection: Removal, dilution, digestion, or other treatment sufficient to prevent contamination of groundwater from bacteria and viruses, nitrates and other chemical contaminants, and other sources of contaminants generated in sewage. Seepage pits, cesspools, drywells, leaching pits, or other pits are considered to fail to protect groundwater; as is an SSTS with less than the required vertical separation distance, described in as provided in 3406., SSTS Standards, ; or an SSTS lacking either a nitrate removal system or the necessary lot area to provide for dilution of nitrates sufficient to reduce nitrate contamination to the level of the drinking water standard over the area of the lot; or 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 Section 5 hereof.

Imminent Hazard: An actual or potential immediate threat to the health, safety, or well being of humans or livestock, or environmental degradation.

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 this ordinance and MR 7083.

ISTS: a subsurface sewage treatment system or part thereof, as set forth in Minnesota Statutes, sections [115.03](#) and [115.55](#), that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade that are designed to receive a sewage design flow of 5,000 gallons per day or less. ISTS also includes all holding tanks that are designed to receive a design flow of 10,000 gallons per day or less; sewage collection systems and associated tanks that discharge into ISTS treatment and dispersal components; and privies. ISTS does not include those components defined as plumbing under Minnesota Rules, Chapter 4715.

Industrial Waste: Sewage containing waste from activities other than sanitary waste from industrial activities including, but not limited to, the following uses defined in the 2012 North American Industry Classification System (NAICS):

- 11 Agriculture, Forestry, Fishing and Hunting
- 21 Mining, Quarrying, and Oil and Gas Extraction
- 22 Utilities
- 23 Construction
- 31-33 Manufacturing
- 42 Wholesale Trade
- 44-45 Retail Trade
- 48-49 Transportation and Warehousing
- 51 Information
- 52 Finance and Insurance
- 53 Real Estate and Rental and Leasing
- 54 Professional, Scientific, and Technical Services
- 55 Management of Companies and Enterprises
- 56 Administrative and Support and Waste Management and Remediation Services
- 61 Educational Services

62	Health Care and Social Assistance
71	Arts, Entertainment, and Recreation
72	Accommodation and Food Services
81	Other Services (except Public Administration)
92	Public Administration

License: Authorization to conduct business services that may be limited to a specific period of time, specific person, and/or a specific site in Olmsted County.

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. MSTS also includes sewage collection systems and associated tanks that discharge into MSTS treatment or dispersal components. MSTS does not include those components defined as plumbing under MR Chapter 4715.

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.

Owner: Any person or persons having a legal interest in real or personal property or any person in possession or control of real or personal property including, but not limited to, mortgages, contract for deed vendees, and contract for deed vendors.

Permit: A certificate, approval, registration, or similar form of permission that may be limited to a specific site and/or a specific period of time to establish a use, construct a structure or operate a specific business, structure, or vehicle.

Person: A firm, association, organization, partnership, trust, company, corporation, municipality, agency, or an individual.

Privy: An aboveground structure with an underground cavity meeting the requirements of part 7080.2280 that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing and gray water. A privy also means a non-dwelling structure containing a toilet waste treatment device.

Qualified Employee: An employee or contractor of the state, Olmsted County, 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.

Single Family Residential Dwelling: A building containing only one dwelling unit.

Sink Hole: A natural depression in the land surface, especially in limestone, where surface waters or a stream may flow underground into a crevice, passage or cave.

SSTS: For the purposes of this ordinance a subsurface sewage treatment system Includes ISTS and MSTs.

State: The State of Minnesota.

Structure: A combination of materials forming a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water.

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

1. SSTS constructed in shoreland areas where land adjacent to the public waters has been designated and delineated as shoreland by local ordinance as approved by the Department of Natural Resources;
2. SSTS constructed in wellhead protection areas regulated under Minnesota Statutes, chapter 103I; and
3. SSTS serving food, beverage, and lodging establishments that are required to obtain a license under Minnesota Statutes, section 157.16, subdivision 1, including

manufactured home parks and recreational camping areas licensed according to Minnesota Statutes, chapter 327.

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

Type I System: A system designed according to MN Rules parts 7080.2200 to 7080.2240.

Type II System: A system designed according to MN Rules parts 7082.2270 to 7080.2290.

Type III System: A system that deviates from the requirements of MN Rule parts 7080.2210 to 7080.2240.

Type IV System: A system designed according to MN Rules part 7080.2350.

Type V System: A system designed according to MN Rules parts 7080.2400.

Vertical Separation: The term as used herein, is as described in M.R. 7080.2150, Subp. 3 (C-D), unless a different distance separation expressed in feet is used in connection with the term.

Wetland: As defined in Minnesota Rules Chapter 8420.0111 Definitions, Subp. 72 or as amended.

3403. GENERAL PROVISIONS, ADMINISTRATION AND ENFORCEMENT

3403. 01 ADMINISTRATION

The Director shall administer the SSTS program and all provisions of this Ordinance. The Director shall ensure that qualified employees (see definition) administer and operate the SSTS program.

3403.02 STATE OF MINNESOTA

Where a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners 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.

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

3403.03 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.

3403.04 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.

3403.06 ADMINISTRATION OF THE ORDINANCE

The provisions of the Olmsted County Administrative Enforcement and Appeals Procedure Ordinance found at Chapter 4000 of the Olmsted County Code of Ordinances, as amended, shall apply to the administration and enforcement of this Ordinance.

3403.07 INTERPRETATION AND APPLICATION

1. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements to protect public health, safety, and welfare.
2. Where the conditions imposed by any provision of this ordinance are either more restrictive than comparable provisions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements shall prevail.
3. Except as specifically provide in this ordinance, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used for any purpose or in any manner which is not in conformity with this ordinance.

3403.08 VALIDITY

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision, shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

3403.09 FEES

There shall be fees established by items of the Ordinance as established from time to

time by resolution of the County Board of Olmsted County.

3403.10 VIOLATIONS

3403.1001 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.

3403.1002 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:

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

3403.1003 Issuance of Citations

As specified herein, individuals occupying the designated County positions are authorized to issue citations for a petty misdemeanor or misdemeanor violation of this ordinance consistent with the terms of the County's Citation Ordinance Resolution 96-7, and amended in Resolution 98-59.

1. Zoning Administrator
2. Code Enforcement Officer

3403.1004 Additional Authority

Except as otherwise provided by statute, only a peace officer and a part-time peace officer may take a person into custody as permitted by Minn. Stat. §629.34.

3403.1005 Cease and Desist Orders

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

3403.1006 Violations and Appeals.

In the case where a variance from the requirements of this SSTS ordinance is sought or a civil violation of this SSTS ordinance occurs and the alleged violator wishes to appeal the civil notice of violation, the procedures which must be followed shall be governed by the Olmsted County Administrative Enforcement and Appeals Procedure Ordinance set forth in Chapter 4000 of the Olmsted County Code of Ordinances. However, in the case of an application for a variance, a County Hearing Officer serving as a subordinate board or commission pursuant to the County Administrative Enforcement and Appeals Ordinance shall not consider any application for a variance from the applicable Minnesota rules until any review and action required by the Minnesota Pollution Control Agency has been conducted. If the Minnesota Pollution Control Agency denies the requested variance, a County Hearing Officer shall not consider an application for a variance.

3403.1007 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 civil action. The Department and County Attorney may take such actions as may be necessary to enforce the provisions of this ordinance.

3403.1008 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 maintainer that is performed in violation of the provisions of this Ordinance.

3403.1009 Costs and Reimbursement

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 pursuant to Minn. Stat. Section 145A.07. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.

3403.1010 Record Keeping

As required by Minnesota Rules, Chapter 7082.0300, Subp. 4 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.

3403.1011 Dispute Resolution

If a documented discrepancy arises on the depth of the periodically saturated soil or SSTs design or compliance between licensed businesses or between licensed businesses and the department the procedures of Minnesota Rules, Chapter 7082.0700, Subp. 5 must be followed. The department shall make the final judgment and shall render findings of fact, conclusions of law, and findings setting forth the reasons for a final decision.

3404. VARIANCES

3404.01 VARIANCE FROM STANDARDS

An affected property owner or designated representative may request a variance from the standards as specified in this Ordinance pursuant to this Chapter. The Department shall have the authority to grant administrative variances when the purposes and intent of the variance are consistent with this section of the ordinance, the County's Zoning Ordinance, and the County's Water Management Plan. The Department may approve variances from standards and criteria not specifically listed in 3404.02 on a site-by-site basis. No variance shall be granted except under the following circumstances:

1. There are extraordinary conditions or circumstances affecting the property as a result of lot size, layout, shape, topography, soil conditions or other circumstances which the current landowners did not cause or have any control over; and
2. There are characteristics of an individual property that make strict adherence to the requirements of the ordinance difficult, unreasonably expensive, or impractical ; and
3. Variance approval will not adversely affect the health or safety of persons residing or working in the area adjacent to the property 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.

A decision by the Department will be made within fifteen (15) days of the receipt of a complete application.

3404.02 VARIANCES PERTAINING TO OTHER AFFECTED AGENCIES

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 that State Agency. Those variances to standards and requirements that must be determined by the State Agency include:

1. Variances pertaining to well setbacks (wells and water supply lines) are governed by Minn. Rules Chapters 4714, 4720 and 4725 and shall only be approved by the Minnesota Department of Labor and Industry (plumbing code), or Minnesota Department of Health through their variance procedures.

2. 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 must be approved by the MPCA.

3. Variances to provisions in 7080.2150, Subp. 2 through 3 and 7081.0080, Subp. 2 through 5 regarding the vertical separation required beneath the treatment and soil dispersal system and seasonally saturated soil or bedrock from the required three feet of unsaturated soil material, except as provided in 7082.0300, Subp. 3, must be approved by MPCA.

4. Variances to M.S. Chapters 4714, 4720, 4725 and 6120, as amended from time to time.

5. Variances to provisions of M.R. 7080.2150, Subpart 2(A-D) and/or 7082.0100..

6. Variances to the four (4) foot vertical separation where required by ordinance.

7. Variances from other standards of other affected agencies must be granted by the affected agency.

3404.03: SUBMITTAL REQUIREMENTS:

Any property owner requesting relief from the strict application of the provisions in this Ordinance must complete and submit an application 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, if applicable;
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.

3404.04: APPEALS:

The applicant may appeal the Department's decision to deny the variance in accordance with the County's established policies and appeal procedures. The procedure shall be as specified in the County's Administrative Enforcement and Appeals Procedure Ordinance found at Chapter 4000 of the County Code of Ordinances.

3405. GENERAL REQUIREMENTS

3405.01 RETROACTIVITY

3405.0101 All SSTs

Except as explicitly set forth elsewhere in 3405 and 3406, all provisions of this Ordinance shall apply to any SSTs regardless of the date it was originally permitted.

3405.0102 Existing Permits

Unexpired permits (pending) 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.

3405.0103 SSTs on Lots Created After February 19, 1985

All residential lots created after February 19, 1985, 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. All lots, created prior to February 19, 1985, must have a minimum of one soil treatment and disposal area that can support Type I systems as described in Minnesota Rules, Chapters 7080.2200 through 7080.2230 or site conditions described in 7081.270, Sub. 3 through 7. The area must be based on a minimum design flow of 600 gallons per day or the equivalent to a 4-bedroom Class I house. Other land uses must have a minimum of three soil treatment and dispersal areas.

3405.02 UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT

3405.0201 SSTS Capacity Expansion

Expansion of an existing SSTS that includes any system upgrades that are necessary to bring the system, including tanks, into compliance must have the upgrades of the system follow the prevailing provisions of this Ordinance at the time of the expansion. All system upgrades for any system size increase must be completed within twelve (12) months of the required construction permit approval.

3405.0202 Bedroom Additions

The owner is allowed twelve (12) months from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system. The system, including tanks, must be brought into compliance with the provisions of this ordinance. A compliance inspection is required, and the inspection form submitted with the bedroom addition permit application.

3405.0203 Other Property Improvements

Any non-compliant system must be upgraded prior to or in conjunction with the following applications that may affect the performance of the SSTS as determined by the Department:

1. zoning variance,
2. conditional use or
3. building permit.

The owner is permitted twelve (12) months from the date of issuance of a building permit following other approval to upgrade, repair, replace or abandon an existing system.

3405.0204 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 ten (10) months of receipt of a Notice of Noncompliance.

3405.0205 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 and B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten (10) months of receipt of a Notice of Noncompliance. The property owner shall cease all discharge to the ground surface, surface water, karst features or wells within 10 days of notification.

3405.03 SSTS IN FLOODPLAINS

SSTS shall not be located in a Floodplain as defined herein for development within a platted subdivision after the date of adoption of this ordinance. Existing parcels developed or subdivided prior to the date of this ordinance must avoid placement of an SSTS in the floodplain unless no option exists to locate the SSTS outside of the floodplain. The SSTS shall not be located in the Floodway and may only be located in the Flood Fringe or Flood Prone areas. The SSTS must comply with all elements of Minnesota Rules, Chapter 7080.2270. (NOTE: Fill for an SSTS within a Flood Fringe or Flood Plain districts requires the approval of a conditional use permit under the zoning ordinance.)

3405.04 CLASS V INJECTION WELLS

All owners of new or replacement SSTS that are 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. Permits must be secured from the Environmental Protection Agency.

3405.05 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.

3405.06 PROHIBITIONS

3405.0601 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 complies with the provisions of this Ordinance.

3405.0602 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.

3405.0603 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.

3405.0604 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. Products containing hazardous waste must not be discharged to a system, other than in normal amounts of household products and cleaners designed for household use. Substances not intended for use in household cleaning, including but not limited to; solvents, pesticides, flammables, photo finishing chemicals, paint, and dry cleaning chemicals must not be discharged to the system. Other unused products or substances, or unused medicines, must not be discharged to the system solely as a disposal method.

3405.0605 Floor Drains from Garages

Floor drains from garages servicing dwellings, vehicle maintenance business or any other floor drain that has the potential to introduce hazardous waste into the system, must not be connected to the SSTs. (Refer to 3406.0201)

3405.0606 Drainage Devices

Footing or roof drainage and chemically treated hot tub or pool water must not be discharged into any part of the SSTs.

3405.0607 High Strength Waste

Only domestic strength waste shall be discharged to a soil treatment area. Sewage tank effluent with a waste strength higher than domestic strength waste shall be pre-treated to a level equal to or less than domestic strength prior to final treatment and disposal in a soil treatment area.

3406. SSTS STANDARDS

3406.01 STANDARDS ADOPTED BY REFERENCE

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

3406.02 AMENDMENTS TO THE ADOPTED STANDARDS

3406.0201 List of Adopted Standards

The following standards supercede the standards set forth in Minnesota Rules 7080-7083 by being more restrictive than the state rules.

1. There shall be a minimum vertical separation for all new and replacement SSTS based on criteria of subparts A. to C.
 - A. The vertical separation shall be a minimum of three (3) feet as defined herein.
 - B. SSTS within platted subdivisions and unplatted properties of two acres of less within the "Suburban Development Area" as designated on the Olmsted County General Land Use Plan shall be required to be designed and constructed with a pressure distribution dispersal system or meet a minimum vertical separation of four (4) feet as defined herein.
 - C. A minimum of five soil observations for design is required. If any of the observations show limiting features within five feet or less vertical separation in the support area additional borings may be required as determined by the department. All soil observations must extend to at least four (4) feet or to bedrock whichever is encountered first.
2. All site evaluation; septic system design and soils classification shall be completed by a licensed Soils Scientist, Professional Engineer, Hydrologist, or Geologist, with a Minnesota licensed professional that has completed the requirements of Minnesota Rules Chapter 7083.0740, Design License. A person with an Advanced Designers License by completing the requirements of Minnesota Rules Chapter 7083.0740 and 7083.0750, Design License may also conduct site evaluations, septic system design and soils classification.
3. All SSTS must meet or exceed state standards for plumbing, well, wetland, public waters, shoreland and (natural) sink hole setbacks for new, existing, and systems inspected for compliance under Section 3409.0101B.

State and Local Setbacks	Soil Treatment System	Septic Tank
Wetland	50'	25'
Sink Hole	50'	50'
Well (with <50' casing, etc.)	100'	50'
Well (other)	50'	50'
Streams, rivers or lakes by class	75', 100', 150' by class	75', 100', 150' by class

Property Line, buried water under pressure	10'	10'
Building	20'	10'
Top of Bluff as defined in the zoning ordinance	30'	30'

MN Rule References: Plumbing 4714, Wells 4725, Rivers 6105, Shoreline 6120

4. Homeowners may choose to run garage floor drains "to daylight", which means that the floor drain effluent would discharge onto the ground surface outside the garage. This would only be allowed if the following conditions are met:

- A. Local Government Approval through permit review for the garage
- B. The floor drain must be an un-trapped drain with solid pipe approved by MN Rule 4714
- C. No commercial or industrial use of the garage
- D. No discharge into public waters or other surface water, or surface depressions which lead to surface water (such as ditches, sinkholes, or wetlands)
- E. Discharge water shall not cross property lines.

5. Multi-Family Residential, Commercial, or Industrial Development:

A. Within Urban Service Areas: Proposed new or expanded multi-family residential, commercial, or industrial developments that generate sewage wastes, that are located in a zoning district allowing such uses as of September 11, 2003 and that are located within planned urban service areas as identified in the Olmsted County General Land Use Plan shall, where feasible, connect to the municipal sewage collection system associated with the urban service area, or to another publicly owned system properly operated in accordance with MPCA permits if no municipal system is in place. Where the operator of the municipal sewage collection system states in writing that service is feasible and available within two years, connection to that system shall be required unless otherwise authorized by the Director. Where the operator of the public sewage collection system states in writing that service is not feasible or is not available within two years, the Director shall require a utility connection agreement with the applicable sewer authority as a condition of approval of the permit.

B. Outside Urban Service Areas: Proposed new or expanded residential, commercial, or industrial developments that generate domestic type sewage waste only and that are located outside planned urban service areas shall be provided with on-site sewage treatment or disposal in compliance with this ordinance and state regulations. The permitting authority shall verify the location of the SSTS as inside or outside a designated urban service area.

6. Privies not connected to an approved registered tank shall not be an accepted form of sewage treatment and shall not be constructed in Olmsted County. Such

systems shall be considered a failure to protect groundwater.

7. Within City Limits: All applicants for an SSTS located within city limits must secure any required approvals for a new or replacement SSTS from the city or township prior to securing a permit from the Department.

3406.03 Determination of Hydraulic Loading Rate and SSTS Sizing

Table IX entitled "Loading Rates for Determining Bottom Absorption Area and Absorption Ratios for Using Detailed Soil Descriptions" from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) and herein adopted by reference shall be used to size SSTS infiltration areas. Table IXa entitled "Loading Rates For Determining Bottom Absorption Area and Absorption Ratios Using Percolation Tests" for Minnesota Rules, Chapter 7080.2150, Subp. 3(E) and herein adopted by reference shall be used to size SSTS infiltration areas in problematic sites as determined by the Department.

Section 16. Section 3406.04 of the Olmsted County Code of Ordinances is hereby amended and reenacted to read as follows:

3406.04 Compliance Criteria for Existing SSTS

To be in compliance an existing SSTS must meet the provision of this part consistent with or more restrictive, as noted herein, than Minnesota Rules, Chapter 7080.1500, Subp. 4. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil.

1. SSTS Within SWF Areas: SSTS must have at least three (3) feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

2. SSTS Outside of SWF Areas: A system constructed before April 1, 1996, that is in compliance with Chapter 7080.1500, Subp. 4 and has at least two feet of soil separation need not be upgraded, repaired, or replaced, or its use discontinued.

3. A system constructed after April 1, 1996, that is in compliance with Chapter 7080.1500, Subp. 4 must have three feet (3) feet of vertical separation between the bottom of the dispersal system and the seasonal saturation or bedrock. A 15 percent reduction in the vertical separation distance as specified in MR 7080.1500, Subp. 4(D). This provision does not apply to 3406.04(1) or (2) above.

3406.05 Holding Tanks

3406.0501 Holding tanks may be used for single family homes and other buildings with limited water use as follows:

1. Sewage holding tanks may be authorized as a temporary use for existing seasonal cabins or existing year-round dwelling units in instances where a suitable SSTS area is not available to service the structure.

2. Holding tanks may be authorized for use in accessory structures that are used on an intermittent basis and when connection to a compliant system is not feasible or is impractical due to the limited use of the building, or,

3. For new construction on a legal lot of record existing at the time of enactment of the ordinance and only where it can be shown conclusively that a Type I-V SSTS exclusive of holding tanks permitted under this Ordinance cannot be feasibly installed.

4. Holding tanks may be authorized for use for non-domestic waste where the holding tank is connected to a flammable waste trap that is constructed to meet or exceed the standards of the Minnesota Building Code currently in force. A permit shall be required for the holding tank.

3406.0502 The owner must meet the following conditions:

1. The owner shall meet all requirements for design, permitting, installation, and inspection and must install a holding tank in accordance with Minnesota Rules Section 7080.2290.

2. A site evaluation conducted by a licensed designer must be submitted for review as part of the submittal requirements.

3. The owner shall install a remote reading water meter to continuously record indoor water use.

4. The owner shall maintain a valid contract with a licensed maintainer to pump and haul the holding tank to a permitted treatment facility or approved land application site(s).

5. The holding tank shall be regularly pumped, no less frequently than the schedule requires in the operating permit.

6. The licensed maintainer shall certify each date the tank is pumped, the volume of the liquid waste removed, the treatment facility or land application site to which the waste was discharged, and the water meter reading at the time of pumping and report to the Department that the holding tank is pumped less frequently than bi-weekly or other schedule agreed upon with the Department.

Failure to meet these requirements will result in penalties.

3407. SSTS PERMITTING

3407.01 PERMIT REQUIRED

It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate permit from the Department as specified in this chapter. 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.

Section 18. Section 3407.02 of the Olmsted County Code of Ordinances is hereby amended and reenacted to read as follows:

3407.02 SSTS CONSTRUCTION PERMIT

A SSTS construction permit shall be obtained by the property owner or an agent of the property owner from the Department prior to any work on a new or existing system. The purpose of this permit is to ensure that the proposed SSTS construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by appropriately certified and/or licensed practitioner(s).

3407.0201 Activities Requiring a SSTS Construction Permit

A SSTS construction permit is required for installation of a:

1. new SSTS, or
2. for replacement of an existing SSTS, or
3. 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,
4. tank replacement,
5. reconstruction of a soil dispersal area and/or a soils dispersal system.

3407.0202 Activities Not Requiring a SSTS Permit

A SSTS construction permit is not required for minor repairs or replacements 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. Examples of minor repairs include but are not limited to: replacement of the pump, floats, alarm, inspection pipes or caps, maintenance hole risers, or tank baffles.

3407.0203 SSTS Construction Permit Required to Obtain Building Permit

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

3407.0204 Conformance to Prevailing Requirements

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

3407.0205 SSTS Construction Permit Application Requirements

SSTS construction permit applications shall be made on forms provided by the Department 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 current information and documentation listed in items 1 through 12 below.

1. Name, mailing address, telephone number, and email address of the owner;
2. Name and contact information of the contractor and system designer and practitioner's certification number;
3. Property Identification Number and address or other description of property location;
4. Detailed site plan;
5. Intended use of the property and buildings;
6. Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730;
7. Site Preliminary Evaluation as described in Minnesota Rules, Chapter 7080.1710;
8. Design Report as described in Minnesota Rules, Chapter 7080.2430;
10. Management Plan as described in Minnesota Rules, Chapter 7082.0600.
11. Verification of sand gradation, sand depth and scarification, and approved drainfield rock, where applicable
12. Operating permit and plan where required.

3407.0206 SSTS Construction Permit Application Review and Response

The Department shall review a SSTS construction permit application and supporting documents that are determined to be complete under this Ordinance. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department

shall issue a written permit within fifteen (15) days of completed application for single family dwellings, or thirty (30) days for other residential and non-residential waste, authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved SSTS construction permit application, the applicant must file an amended SSTS construction permit application detailing the changed conditions for approval prior to initiating or continuing SSTS construction, modification, or operation for approval or denial. The Department shall complete the review of the amended SSTS construction permit application within (15) fifteen working days of receipt of the amended SSTS construction permit application. If the SSTS construction permit application is incomplete or does not meet the requirements of this ordinance the Department shall deny the SSTS construction application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.

Compliance inspections are a required element of the application review and Department response. Refer to 3409.0101.

3407.0207 Appeal

The applicant may appeal the Department's decision to deny the SSTS construction permit in accordance with the County's established policies and appeal procedures. The procedure shall be as specified in the County's Administrative Enforcement and Appeals Procedure Ordinance, found at Chapter 4000 of the County Code of Ordinances.

3407.0208 Permit Expiration

The SSTS construction permit is valid for a period of no more than (1) 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.

3407.0209 Extensions

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

3407.0210 Transferability

A SSTS construction permit shall not be transferred to a new owner. The new owner must apply for a new Construction Permit in accordance with this section.

3407.0211 Suspension or Revocation

The Department may suspend or revoke a SSTS 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 SSTS construction permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid SSTS construction permit is obtained.

3407.0212 Soils and SSTS Design Expiration

The permitting authority shall confirm the date of the soils report and SSTS design. Submittal material for a new system must be dated no later than 2009. SSTS design dated 2008 or older must be shown to comply with the current state rules for soils and design. This provision does not apply to previously approved and installed SSTS.

3407.03 OPERATING PERMIT

3407.0301 SSTS Requiring an Operating Permit

An Operating Permit shall be required of all owners of new holding tanks, MSTs, Type IV or Type V systems, multi-family residential uses (two or more attached units), commercial and industrial uses described in this section, or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank, Type IV or V systems, MSTs, multi-family residential use (two or more attached units) system, or system serving commercial and industrial uses described in this section until the Department certifies that the SSTS was installed in substantial conformance with the approved plans, receives the final record drawings of the system, and a valid Operating Permit is issued to the owner.

Commercial and industrial uses that meet or exceed these criteria must have an operating permit.

1. Those uses that generate "industrial waste" as defined in this ordinance.
2. Those uses with waste concentrations identified in MR 7081.0130, Subp. 2.
3. Commercial and industrial uses with design flows of 2,500 gallons/day or more.

3407.0302 Permit Application Requirements

1. Application Form: Application for an Operating Permit shall be made on a form provided by the Department and must include:

- A. Owner name, mailing address, telephone, and email address
- B. Construction Permit reference number and date of issue

- C. Final record drawings of the treatment system
- D. Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business

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

3. SSTS existing prior to the effective date of this ordinance. SSTS identified in 3407.0301 existing prior to the effective date of this ordinance that do not have an approved operating permit shall be required to obtain an operating permit upon transfer of ownership, replacement, any modification or expansion that requires a permit, or following any SSTS enforcement action.

4. Operating permits will be required for all SSTS serving three or more residential units and commonly referred to as cluster systems, constructed prior to the adoption of this ordinance that are not operated under an existing operating permit. The owner shall obtain an operating permit within three (3) years of the adoption of this ordinance.

3407.0303 Department Response

The Department shall review the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue an operating permit within fifteen (15) working days of receipt of the permit application.

3407.0304 Operating Permit Terms and Conditions

The Operating Permit shall include the following system performance requirements:

- 1. System operating requirements
- 2. Monitoring locations, procedures and recording requirements
- 3. Maintenance requirements and schedules
- 4. Compliance limits and boundaries
- 5. Reporting requirements

6. Department notification requirements for non-compliant conditions
7. Valid contract between the owner and a licensed maintenance business
8. Disclosure, location and condition of acceptable soil treatment and dispersal system site.
9. Descriptions of acceptable and prohibited discharges.

3407.0305 Permit Expiration and Renewal

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

2. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within in (90) calendar days of the expiration date, the County may require that the system be abandoned in accordance with 3405.0205 Abandonment and 3407.04.

3. The Department shall notify the holder of an operating permit at least (90) calendar days prior to expiration of the permit. The Owner must apply for renewal at least (30) calendar days before the expiration date.

4. Application shall be made on a form provided by the Department including:

- A. Applicant name, mailing address and phone number.
- B. Reference number of previous owner's operating permit.
- C. Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit.
- D. Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the County.
- E. Any revisions made to the operation and maintenance manual.
- F. Payment of application review fee as determined by the County.

3407.0306 Amendments to Existing Permits not allowed

The County may not amend an existing permit to reflect changes in this Ordinance until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an Imminent Threat to Public Health or Safety.

3407.0307 Transfer of Ownership

The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with 3407.03 of this Ordinance. The Department shall not terminate the current permit until (60) calendar days after the date of sale unless an Imminent Threat to Public Health and Safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.

3407.0308 Suspension or Revocation

1. The Department may suspend or revoke any operating permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.
2. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
3. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with 3405.0205 and 3407.04.
4. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

3407.0309 Compliance Monitoring

1. Performance monitoring of a SSTS shall be performed by an appropriately licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
2. A monitoring report shall be prepared and certified by the appropriately licensed service provider. 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. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
 - A. Owner name and address
 - B. Operating Permit number
 - C. Average daily flow since last compliance monitoring report
 - D. Description of type of maintenance and date performed
 - E. Description of samples taken (if required), analytical laboratory used, and results of analyses

- F. Problems noted with the system and actions proposed or taken to correct them
- G. Name, signature, license and license number of the licensed professional who performed the work

3407.04 ABANDONMENT CERTIFICATION

3407.0401 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. Any SSTS, including privies, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rules, Chapter 7080.2500.

3407.0402 Abandonment Requirements

1. 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.

2. 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.

3. An owner of an SSTS must retain a licensed installation business to abandon all components of the treatment system within (60) calendar days of a system replacement. 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.

4. A report of abandonment certified by the licensed installation business shall be submitted to the Department within 90 days of the abandonment. The report shall include:

- A. Owner's name and contact information
- B. Property address
- C. System construction permit and operating permit
- D. The reason(s) for abandonment

- E. A description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

3407.0403 Abandonment Certificate

Upon receipt of an abandonment report and its determination that the SSTS has been abandoned according to the requirements of this Ordinance, the Department shall retain a copy of the report for the property(s) affected by the abandonment.

3408. MANAGEMENT PLANS

3408.01 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.

3408.02 MANAGEMENT PLAN REQUIREMENTS

3408.0201 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. Management plans shall be submitted for existing systems at the time of:

1. Property transfer;
2. Issuance of a permit for SSTS repairs or upgrade.

3408.0202 Required Contents of a Management Plan

Management plans shall include (Minnesota Rules, Chapter 7082.0600, Subp.1):

1. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
2. Monitoring requirements;
3. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
4. Statement that the owner is required to notify the Department when the management plan requirements are not being met;

5. 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.
6. Other requirements as determined by the Department including:
 - A. a description of the system and each component, and how the system functions,
 - B. a plot plan of the system,
 - C. equipment specifications, emergency operating procedures in the event of a malfunction, and;
 - D. a troubleshooting guide.

3408.0203 Requirements for Systems not operated under a Management Plan (Minnesota Rules, Chapter 7082.0100, Subp. 3.(L))

SSTS that are not operated under a management plan or operating permit must have treatment tanks assessed and provide for the removal of solids if needed every three years (as described in MR 7080.2450, Subp. 2). Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

3409. COMPLIANCE MANAGEMENT

3409.01 COMPLIANCE INSPECTION PROGRAM

It is the responsibility of the Department, or an appropriately licensed business, to perform various SSTS compliance inspections periodically to assure that the requirements of this Ordinance are met as required by the following subsections.

1. SSTS compliance inspections must be performed:
 - A. To ensure compliance with applicable requirements;
 - B. To ensure system compliance before issuance of a permit for addition of a bedroom unless the permit application is made during the period of November 15 to April 30, provided a compliance inspection is performed before the following June 1 and the applicant submits a certificate of compliance within 15 days after the compliance inspection is completed;
 - C. For all new SSTS construction or replacement;
 - D. 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.

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

3. SSTS found not in compliance must be issued a notice of noncompliance. SSTS not in compliance with part 7080.1500, Subp. 4, item A, or 7081.0080, Subp. 3, must be repaired or replaced within ten (10) months or as directed under Minnesota Statutes, chapter 145A, or as required under 3409.0101B1. Systems out of compliance with other applicable requirement must be repaired or replaced according to this ordinance. Systems issued a notice of noncompliance for operational or monitoring deficiencies must immediately be maintained, monitored, or managed according to the operating permit. (MR 7082.0700, Subp. 3A)

3409.0101A Department Responsibility for New Construction or Replacement

1. The department must as part of the SSTS construction permit conduct compliance inspections of the site, construction and installation of the SSTS. Inspections shall be to determine compliance with the standards of this ordinance and state rules including vertical separation and compliance with the approved design of the SSTS.

2. 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 Installer shall notify the Department at least 24 hours in advance of the intended inspection. The Installer shall confirm the morning of the scheduled inspection.

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

Section 32. Section 3409.0101B of the Olmsted County Code of Ordinances is hereby amended and reenacted to read as follows:

3409.0101B New Construction or Replacement

1. 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 (10) 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.

2. It is the responsibility of the SSTS owner or the owner's agent to notify the Department 24 hours prior to any permitted work on the SSTS. The Department shall conduct on-site inspections that are compliant with MR 7082.0700. The applicant is responsible for preparing the site for inspection including but not limited to staking the

location of the soil treatment area and soil log (borings or test pits) locations prior to inspection and initial construction and grading. (NOTE: Inspections for Type I SSTS may include, but are not limited to: soil verification, pre-rough up (if needed), tank installation, distribution media/pipe installation, and final inspection. Inspection for all other SSTS types will include applicable Type I SSTS inspection, and additional inspections, as determined necessary by the Department.)

3. A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for (5) five years from the date issued, 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 unless the Department finds evidence of noncompliance.

4. 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.

5. The certificate of compliance or notice of noncompliance must be submitted to the owner or owner's agent and the Department no later than (15) calendar days after the date the inspection was performed. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.

3409.0102 Existing Systems

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

- A. When a SSTS construction permit is required to repair, modify, or upgrade an existing system;
- B. 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;
- C. 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;
- D. 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;

2. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA.

3. 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 applicable Minnesota Rules Chapter 7080-7083 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.

4. The certificate of compliance or notice of noncompliance must be submitted to the property owner and the Department no later than (15) calendar days after the date the inspection was performed.

5. Certificates of compliance for existing SSTS shall remain valid for (3) three years from the date of issue unless the Department finds evidence of noncompliance.

3409.0103 Transfer of Properties

1. Whenever sale or transfer of a tract of land occurs upon which a dwelling or a structure that is required to have an SSTS is located, the following requirements shall be met:

- A. A compliance inspection has been performed and a Certificate of Compliance has been submitted to the Department within 3 (three) years for SSTS older than five years or within (five) years if the system is less than five years old prior to the intended sale or transfer of the property unless evidence is found identifying an Imminent Threat to Public Health and Safety. In the event of a finding of Imminent Threat of Public Health and Safety the owner shall comply with Section 3405.0204 and any other applicable provisions of this ordinance.
- B. The compliance inspection must have been performed by a licensed inspection business following procedures described in Section 3409.0103 of this ordinance.
- C. The seller of the property must disclose in writing all information about the status and location of all known ISTS on the property to the buyer on a form acceptable to the Department.
- D. If the seller fails to provide a Certificate of Compliance, the seller, buyer or both parties shall provide sufficient security in the form of an escrow agreement at closing to assure the installation of a complying ISTS. 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 150% of a written estimate to install a complying ISTS provided by a licensed and certified installer, or the amount escrowed shall be equal to 110% of the written contract price for the installation of a complying ISTS provided by a licensed and certified installer. After a complying SSTS

has been installed and a certificate of compliance issued, the Department shall provide the escrow agent a copy of the Certificate of Compliance, and the escrow agent shall pay the escrowed funds to the installer for the ISTS work and return any remaining balance to the seller, unless otherwise agreed in writing by the seller and the buyer.

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

- A. The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
- B. The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, subdivision
- C. The transfer is involuntary as a tax forfeiture.
- D. The sale or transfer completes a recorded contract for deed or purchase agreement entered into prior to the effective date of this Ordinance. However, this subsection applies only to the original vendor and vendee on such a contract.
- E. Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment system; any dwellings or other buildings that are located within the jurisdiction of a County approved agreement requiring exclusive connection to the wastewater treatment system of any municipality; or, any dwellings or other buildings that are connected exclusively to an approved wastewater treatment facility other than an individual sewage treatment system.

3. All property conveyances subject to this ordinance occurring during the period between November 15th and April 15th, when SSTS compliance cannot be determined due to frozen soil conditions, shall require a winter agreement. The agreement once completed shall be recorded with the County Recorder/Registrar of Titles. The agreement shall include the completion of a compliance inspection by the following June 1st by a licensed inspection business. In anticipation of the compliance inspection, an escrow agreement must be established prior to closing and funds placed in escrow for SSTS replacement will be disbursed in accordance with Section 3409.0103, Subd. 1D above. The amount which shall be placed in escrow will be based upon the assumption that the entire SSTS system will be found to be noncompliant and will therefore need to be replaced. If upon inspection the system is subsequently found to compliant, the amount which has been placed in escrow shall be returned to the seller.

4. The responsibility for filing the completed compliance portion of the Certificate of Compliance under 3409.0103(3-4), above, or for upgrading a system found to be non-compliant shall be determined by the buyer and seller. Buyer and seller shall provide the Department with a signed statement indicating responsibility for completing

the compliance portion of the Certification and for upgrading a system found to be non-conforming.

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

3410. 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.

3411. ORDINANCE REPEALED

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

3412. ADOPTION

Effective Date:- The changes to this ordinance shall take effect on September 15, 2023.

Passed and approved this 15th day of September, 2023.

OLMSTED COUNTY BOARD OF COMMISSIONERS

DocuSigned by:
Gregory Wright
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Gregory Wright, Chairperson

DocuSigned by:

ATTEST: *Lisa Morris*
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Lisa Morris-Helmstetler, Deputy Clerk to the County Board

End of Chapter 3400