

RESERVED FOR RECORDING:

SUBSURFACE SEWAGE TREATMENT SYSTEM (SSTS) ORDINANCE #46

CITY OF COHASSET, MINNESOTA

EFFECTIVE DATE: 7/14/2011

Return to: City of Cohasset  
Attn: Zoning  
305 NW 1<sup>st</sup> Avenue  
Cohasset, MN 55721

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# City of Cohasset

## AN ORDINANCE ESTABLISHING PROCEDURES FOR REGULATING STANDARDS FOR SUBSURFACE SEWAGE TREATMENT SYSTEMS

WHEREAS, this Ordinance shall be known, cited, and referred to as the Subsurface Sewage Treatment System (SSTS) Ordinance for the City of Cohasset (City), Minnesota, except as referred to herein, where it shall be identified as “this Ordinance”; and

WHEREAS, any premises used for human occupancy shall be provided with an adequate method of sewage disposal to be maintained in accordance with acceptable practices; and

WHEREAS, The City of Cohasset Zoning Department (ZD) shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the City shall revise and update this Ordinance as necessary. The City shall employ qualified employees or retain under contract a designated certified individual (DCI) to administer and operate the SSTS program; and

WHEREAS, this Ordinance regulates the siting, design, installation, alteration, operation, maintenance, monitoring, and management of all individual and midsized subsurface sewage treatment systems (collectively referred to as “SSTS”), including but not necessarily limited to cluster or community SSTS, privies, soil dispersal, and septage disposal, in the City of Cohasset; and

WHEREAS, this Ordinance establishes requirements for issuing permits for installation, alteration, repair, or expansion of SSTS; and

WHEREAS, this Ordinance establishes requirements for all SSTS permitted under the revised Minn. Rules, Chpts. 7080-7081 to be operated under approved management plans; and

WHEREAS, this Ordinance establishes standards for upgrade, repair, replacement, or abandonment of SSTS; and

WHEREAS, this Ordinance establishes penalties for failure to comply with these provisions; and

WHEREAS, this Ordinance establishes provisions for enforcement of these requirements; and

WHEREAS, this Ordinance promotes the health, safety, and welfare of the public pursuant to the Minn. Stats. 115.55, 145A.05, 462.16, and 462.351-462.365 and in furtherance of the City of Cohasset Comprehensive Plan and the City of Cohasset Zoning Ordinance; and

WHEREAS, after conducting a public hearing, the Cohasset City Council recommends the following ordinance.

NOW, THEREFORE, BE IT RESOLVED, the Cohasset City Council ordains:

## **ARTICLE 1 AUTHORITY, JURISDICTION, OBJECTIVES, AND ADMINISTRATION**

### **Section 1.1 Authority**

- 1.1.1 This Ordinance is adopted by the City Council and accepted by the MPCA pursuant to the authority granted under Minn. Stat. Chaps. 115 and 145A and Minn. Rules, Chaps. 7080-7083, as amended.
- 1.1.2 This Ordinance is enacted pursuant to Minn. Stat. Chaps. 115, 145A, 375, and 394, specifically Minn. Stats. 115.55, 145A.05, 462.16, and 462.351-462.365.
- 1.1.3 The provisions of this Ordinance shall be considered minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
- 1.1.4 If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this Ordinance shall not be affected and shall remain in full force.
- 1.1.5 This Ordinance replaces section 10.075 subdivisions A-G of the Land Use Controls Ordinance # 24 for the City of Cohasset, Minnesota, originally adopted by the City Council and effective on or about March 29, 1993, and all subsequent amendments and revisions. All other ordinances that are inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
- 1.1.6 It is not intended by this Ordinance to repeal, abrogate, or impair any other existing City ordinances, easements, covenants, or deed restrictions; however, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

### **Section 1.2 Jurisdiction**

- 1.2.1 The jurisdiction of this Ordinance shall include all lands of the City that are not connected to a municipal sewage disposal system.

### **Section 1.3 Objectives**

Given the extensive resources and numerous supplies of surface water and groundwater and their susceptibility to contamination, regulation of proper SSTS construction, replacement, repair, maintenance, and proper septage disposal is essential to prevent the entry and migration of contaminants, thereby ensuring the non-degradation of surface water or ground water and ensuring that all sewage generated in the City is treated in a MPCA-permitted facility or in an SSTS that meets the requirements of this Ordinance adopted under Minn. Rules, Chaps. 7080 and 7081 and to ensure all the following:

- 1.3.1 All sewage generated in unsewered areas of the City of Cohasset 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;
- 1.3.2 The protection of the City's lakes, wetlands, rivers and streams, and supplies of groundwater essential to the promotion of public health, safety, and welfare in harmony with the promotion of its socio-economic growth;

- 1.3.3 The provision of establishing minimum standards for SSTS placement, design, construction, replacement, repair, and maintenance which will prevent the entry and migration of contamination and, if contamination is discovered, to identify and control its consequences and abate its source and migration;
- 1.3.4 The provision of establishing minimum standards for septage removal, transport, treatment, and disposal;
- 1.3.5 The proper utilization of privies; and
- 1.3.6 The prevention and control of water-borne disease, lake degradation, groundwater-related hazards, and public nuisance conditions through plan reviews, inspections, SSTS surveys, and complaint investigation, as well as through positive actions such as technical assistance and public education.

#### **Section 1.4 Administration**

##### **1.4.1 Administration by the City.**

- A. The City shall employ a qualified employee or retain under contract a DCI to administer and operate the SSTS program.
- B. The City shall revise and update the Ordinance as necessary at appropriate times.
- C. The Zoning Official or authorized representative shall administer the SSTS program and all provisions of this Ordinance which include the following duties and responsibilities:
  1. Inspect new construction or replacement of SSTS in the City of Cohasset to issue certificates of compliance or notices of noncompliance where appropriate, except as otherwise provided in this Ordinance;
  2. Review and issue all SSTS permits as required by this Ordinance;
  3. Investigate complaints regarding sewage, SSTS, and septage disposal;
  4. Issue cease and desist orders and notices of violation pursuant to this Ordinance;
  5. Report unresolved violations of this Ordinance to the City Attorney;
  6. Maintain proper records of SSTS inspections, construction, replacements, and repairs; and
  7. Submit annual reports to the MPCA in accordance with Minn. Rule 7082.0040, subpart 5;
  8. Oversee the activities of any subordinate sewer district that may be created to manage a wastewater plan.
  9. The ZD will maintain records of the following documents:
    - a. Complaints on noncompliance;
    - b. Compliance inspections, including notices;
    - c. Site evaluations;
    - d. Applications and required information;
    - e. Variance requests and determinations;
    - f. Issued permits;
    - g. Certificates of Compliance;
    - h. Enforcement proceedings;
    - i. Design records; and
    - j. As-built plans and specifications.

1.4.2 Administration by state agencies.

- A. Any SSTS requiring approval by the state shall also comply with all local codes and this Ordinance.
- B. State agencies have the following responsibilities in administration of SSTS:
  - 1. The MPCA shall issue State Disposal System (SDS) permits for any onsite SSTS or group of SSTS that are located on adjacent properties under single ownership that are designed to treat an average design flow greater than 10,000 gallons per day or has a measured daily flow equal to or greater than 10,000 gallons per day for a consecutive seven-day period. The owner or owners shall make application for and obtain the SDS permit. For dwellings including apartments, townhouses, resort units, rental cabins, and condominiums, the sum of the flows from all existing and proposed sources under single management or ownership will be used to determine the need for an SDS permit.
  - 2. SSTS serving establishments or facilities licensed or otherwise regulated by the state including, but not limited to, campgrounds, resorts, manufactured home parks, and eating and drinking establishments, shall conform to state and local requirements.
  - 3. The MPCA shall issue area-wide permits as provided for in Minn. Stat. 115.58.
  - 4. The MPCA shall issue NPDES permits for SSTS that are approved for surface discharge. Without the issuance of an NPDES permit, surface discharge is prohibited.
  - 5. Plans and specifications must receive appropriate state and local approval before construction is initiated under an approved permit.

**ARTICLE 2 GENERAL STANDARDS FOR ALL SSTS**

**Section 2.1 General**

- 1 The City of Cohasset hereby adopts by reference Minn. Rules, Chapt. 7080-7083, in their entirety as now constituted and from time to time amended.
- 2.1.2 All provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted, except as explicitly set forth in Section 3.2.

**Section 2.2 Dispute Resolution**

If a dispute arises between two or more DCIs regarding the depth to periodic saturation or other technical situation, and the DCIs cannot resolve the dispute among themselves, the ZD will take into consideration all information and opinions rendered and make a final written judgment that shall be conveyed to the disputants. ZD's determination is final, unless it is overturned by the Board of Adjustment upon a timely appeal made to that Board in writing in accordance with the procedures and time limits allowed in the Zoning Ordinance for the appeal of orders and decisions made by administrative officials.

**Section 2.3 Design Requirements**

- 2.3.1 Any public or private supply of water for domestic purposes must conform to the Minnesota Department of Health standards for water quality. The separation distance from a well to an SSTS shall be as specified in Minn. Rule 4725.4450, as amended.
- 2.3.2 Location and installation of the SSTS and each part thereof shall be such that with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance or endanger the safety

of any domestic water supply. In determining a suitable location of the SSTS, consideration shall be given to the size and shape of the parcel, slope of natural and finished grade, soil permeability, depth of ground water, geology, proximity to existing or future water supplies, accessibility for maintenance, and possible SSTS expansion.

- 2.3.3 The parcel shall be sufficient to permit installation of the SSTS in accordance with all of the following requirements and those set forth in the Zoning Ordinance.
- A. Parcels created after 01/23/1996 shall have a minimum of two soil dispersal areas which can support Type I or Rapidly Permeable Soils systems. The two identified soil dispersal areas shall be located on the parcels they are intended to serve, unless the parcel is approved by the City as part of a cluster system;
  - B. Soil dispersal areas shall be sized according to the hydraulic loading rates set forth in Minn. Rule 7080.2150 Subp. 3 (E), Table IX if using detailed soil descriptions or Table IXa if using percolation tests; and
  - C. The landowner shall be responsible to preserve and protect designated soil dispersal areas from compaction, building, or other activities that could conceivably limit the use of the sites for sewage treatment.
- 2.3.4 SSTS shall be designed to receive all sewage from the dwelling, building, or other establishment served, including laundry waste and basement floor drainage. Footing or roof drainage shall not enter any part of the SSTS. Where the construction of additional bedrooms, the installation of mechanical equipment, or other factors likely to affect the operation of the SSTS can be reasonably anticipated, the installation of a SSTS adequate for such anticipated need shall be required.
- 2.5 Sewage tanks and soil dispersal systems of SSTS shall be setback from the ordinary high water level (OHWL) in accordance with the classifications of Public Waters as set forth in the Zoning Ordinance.

#### **Section 2.4 Inspection and Compliance Requirements**

- 2.4.1 Access to Premises and Records. Upon the request of the Zoning Official or authorized representative the permittee 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.
- 2.4.2 Interference Prohibited. No person shall hinder or otherwise interfere with the Zoning Official or authorized representative in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the Zoning Official or authorized representative shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.
- 2.4.3 Tank Watertightness. When required by the Zoning Official, a sewage tank shall be filled with liquid to the lids for a sufficient period of time to demonstrate the tank and risers are watertight.

#### **Section 2.5 Sale or Transfer of Property Requirements**

- 2.5.1 A seller must disclose information about the status and location of the SSTS on the property or serving the property in writing and in accordance with Minn. Stat. 115.55 subd. 6 for any agreement to sell or transfer real property after 08/31/1994.

- 2.5.2 Owners of Class V injection wells, as defined in Code of Federal regulations, title 40, part 144, must submit inventory information to the EPA and MPCA, and must also disclose their information during property transfers.
- 2.5.3 The sale or transfer of property on which a dwelling is located or a parcel on which a structure is required to have an SSTS shall not be transferred unless the parties to the transaction comply with one of the following:
- A. The seller shall provide a Certificate of Compliance completed by a qualified employee or an inspector to the buyer and the ZD at or before the closing date.
  - B. If the seller fails to provide a Certificate of Compliance, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a complying SSTS. The security shall be placed in an escrow with a licensed real estate closing agent, licensed attorney, or federal or state chartered financial institution. The amount escrowed shall be equal to 150-percent of a written estimate to install a complying SSTS provided by an installer, or the amount escrowed shall be equal to 110-percent of the written contract price for the installation of a complying SSTS provided by an installer. After a complying SSTS has been installed and a Certificate of Compliance issued, the ZD shall provide the escrow agent a copy of the Certificate of Compliance.
  - C. In the event the seller does not provide a Certificate of Compliance or an escrow deposit, the seller and buyer may establish a written agreement or contract to repair, replace, or upgrade the existing SSTS according to the terms of this Ordinance and Minn. Rules, Chapt. 7080 – 7082. After a complying SSTS has been installed, a Certificate of Compliance shall be issued.
  - D. The following points of sale transactions are exempt from point of sale certification requirements:
    - 1. The affected parcel is without buildings or contains no dwelling or other buildings with plumbing fixtures;
    - 2. The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minn. Stat. 272.115 subd. 1;
    - 3. The transfer is a foreclosure or tax forfeiture;
    - 4. The sale or transfer completes a contract for deed or purchase agreement entered into prior to April 1, 1996. This subsection applies only to the original vendor and vendee on such a contract;
    - 5. Any dwelling or other buildings that are connected exclusively to a municipal sewage treatment system; or
    - 7. Any dwellings or other buildings that are connected exclusively to an approved sewage treatment facility other than a SSTS.

## **ARTICLE 3 PERMITS AND VARIANCES**

### **Section 3.1 Permittee Responsibilities**

- 3.1.1 The permittee for a permit under this Ordinance shall assume all responsibility for any adverse effects created pursuant to permits granted under this Ordinance;
- 3.1.2 The permittee shall assume all responsibility to ensure that all improvements shall comply with the appropriate setbacks from their property boundaries;
- 3.1.3 The permittee shall not be absolved of obtaining any other required permits upon the issuance of any

permit or variance under the provisions of this Ordinance;

- 1.4 The permittee shall preserve and protect sites from compaction, building, or other activities that could conceivably limit the use of the sites for sewage treatment;
- 3.1.5 The permittee may appeal the ZD's decision to deny a permit in accordance with the Zoning Ordinance; and
- 3.1.6 The permittee shall post the permit card on the property in such a location and manner that the permit card is visible and available for inspection until construction is completed and certified.

### **Section 3.2 Construction Permits**

- 3.2.1 Unexpired Permits. Permits that were issued prior to the effective date of this ordinance shall remain valid under the terms and conditions of the original permit until the original expiration date.
- 3.2.2 Permit Required. No person, firm, or corporation shall install, construct, replace, extend, or alter any SSTS in the City not administered by state agencies as set forth in 1.4.2 without first obtaining a construction permit, hereafter referred to as "permit" in this section, from the ZD as set forth below. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by a DCI, unless the SSTS is constructed by a property owner as set forth in 3.2.11.B. The issuance of permits as requested or issued shall not be construed to represent a guarantee or warranty of the SSTS's operation or effectiveness.
- 3.2.3 Application Requirements.
  - A. A permit application shall be made in writing upon forms furnished by the ZD and shall be signed by the permittee;
  - B. A permit application shall be accompanied by the following information:
    - 1. ISTS design as set forth in Minn. Rule, Chapt. 7080, or MSTTS design as set forth in Minn. Rule, Chapt. 7081;
    - 2. Tank identification information as set forth in Minn. Rule 7080;
    - 3. Management plan as set forth in Section 8.1;
    - 4. Operating permit as set forth in Section 8.2; and
    - 5. Such further information as may be required by the ZD or the Board of Adjustment.
- 3.2.4 Review and Approval.
  - A. If, after consideration of the permit application and management plan, the Zoning Official or authorized representative shall be satisfied that the work contemplated conforms to and complies with the provisions of this Ordinance and the fee as set forth in the Zoning Ordinance has been paid, the Zoning Official or authorized representative shall validate the permit authorizing construction of the SSTS as designed.
  - B. If, after consideration of the permit application, the Zoning Official or authorized representative is satisfied that the work contemplated will not conform to or comply with the provisions of this Ordinance, the Zoning Official or authorized representative shall deny the application for a permit. Notice of such denial shall state the reasons and shall be served on the permittee. The permit application may be revised and resubmitted to the Zoning Official or authorized representative at any

reasonable time for reconsideration.

- 3.2.5 Soils Verification. Prior to the issuance of a Certificate of Compliance, an infield verification of the periodically saturated soil or bedrock and soil texture at the proposed soil treatment and dispersal site must be conducted by a qualified employee or inspector authorized by the City to determine the required vertical separation between the bottom of the soil dispersal system and periodically saturated soil.
- 3.2.6 Expiration. A permit shall be valid for a period of 12 months from date of issue. Satisfactory completion of construction shall be determined by receipt of final record drawings and a Certificate of Compliance both signed by a qualified employee or inspector independent of the owner and the installer verifying that the SSTS construction or installation was completed in reasonable conformance with the approved design.
- 3.2.7 Extensions. An authorized representative may grant up to a six-month extension of the permit if the construction has commenced prior to the original expiration date of the permit.
- 3.2.8 Suspension or Revocation. An authorized representative may suspend or revoke a permit issued under this section for any false statements, misrepresentation of facts on which the permit was issued, or unauthorized changes to the SSTS design that alter the original function of the SSTS, change the treatment capacity of the SSTS, change the location of the SSTS, or otherwise change the original SSTS's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a SSTS may not commence or continue until a valid permit is obtained.
- 3.2.9 Amendments. In the event that significant changes are made to the approved application, the permittee must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for approval or denial. An authorized representative shall complete the review of the amended application within 15 working days of receipt of the amended application.
- 3.2.10 Transferability. During the duration of the permit, it shall be the property owners' responsibility to notify the ZD prior to transferring ownership of the property.
- 3.2.11 Exceptions.
- A. Permits Not Required. A permit or approval is not required for minor repairs including but not limited to:
1. Repairing or replacing pumps;
  2. Repairing electrical malfunctions;
  3. Repairing or replacing tank covers;
  4. Replacing broken pipes or end caps;
  5. Adding soil or seed; or
  6. Other minor repair work.
- B. Owner Can Install and Repair. Property owners may be permitted to construct or repair SSTS on their own property and are exempt from providing proof of a state license. They shall be required to comply with all applicable provisions of this Ordinance.

### **Section 3.3 Variances**

- 3.1 Application. A permittee may request a variance from standards specified in the City ordinances upon submission of the application, fee, and application information as set forth in the Zoning Ordinance. The Zoning Official or authorized representative will then process the application in accordance with the Zoning Ordinance.
- 3.3.2 Approval. If a variance application is made to the Board of Adjustment and it appears that strict enforcement of any provision of the standards would cause unnecessary hardship or that strict conformity to the standards would be unreasonable, impractical, or unfeasible under the circumstances, the Board of Adjustment may permit a variance with conditions that the Board of Adjustment deems necessary to conform to the purpose and intent of this Ordinance, provided that:
- A. The variance is proved necessary to secure rights for the property owners that are enjoyed by other owners in the same area;
  - B. The condition causing the hardship or practical difficulty is unique to that property;
  - C. The granting of the variance will not allow a prohibited use;
  - D. The granting of the variance will not be contrary to the public interest and damaging to the rights of other persons or property values in the vicinity; and
  - E. The property owner would not have reasonable use of the land without the variance.
- 3.3.3 Additional Requirements.
- A. Variances for failing SSTS shall comply with requirements and the construction schedule set forth in Section 10.026B of the Zoning Ordinance.
  - B. Variances to deviate from the design flow requirements and/or to decrease the three feet of vertical separation required beneath the distribution medium and the saturated soil or bedrock must be approved by the MPCA.
  - C. Variance to wells and water supply lines require approval from the Minnesota Department of Health.
- 3.3.4 Expiration. Any variance granted shall automatically expire if the SSTS is not installed within one year of the granting of the variance.
- 3.3.5 Revocation. Any violation of the terms and conditions of a variance issued pursuant to this Ordinance or any violation of any provision of this Ordinance relating to the specific issue of the variance shall result in immediate revocation of the variance.
- 3.3.6 Appeal. An appeal from any order, requirement, decision, or determination of the Board of Adjustment shall be in accordance with its policies and procedures set forth in the Zoning Ordinance.

## **ARTICLE 4 NEW OR REPLACEMENT SSTS**

### **Section 4.1 General**

- 4.1.1 Construction permits are required as set forth in 3.2.2 of this Ordinance.
- 4.1.2 No SSTS shall be placed into operation until a valid Certificate of Compliance has been issued.

- 4.1.3 In addition to the requirements set forth in this Ordinance, MSTs shall comply with Minn. Rule, Chapt. 7081.

## **Section 4.2 Inspection Requirements**

### **4.2.1 Inspections.**

- A. Compliance inspections for construction, replacement, alteration, or repair work on SSTS shall be conducted by a qualified employee or inspector independent of the owner and installer to assure that the requirements of this Ordinance are met. Inspections may also be during construction to determine its conformance with this Ordinance.
- B. The SSTS installation and construction shall be in accordance with the permit requirements and the application design.
- C. The permittee shall notify the Zoning Official or authorized representative prior to covering an SSTS. If any SSTS component is covered before being inspected and approved by the Zoning Official or qualified employee, it shall be uncovered upon the direction of the Zoning Official or qualified employee.
- D. The Zoning Official or qualified employee shall make any indicated inspections or re-inspections within 48 hours after such notice has been given. If a Zoning Official or qualified employee is unable to inspect an SSTS within 48 hours of the notice, the installer may cover the SSTS provided the permittee submits digital photos of the uncovered SSTS and a signed As-Built on forms provided by the ZD within five business days of completing the SSTS. The As-Built shall be of the SSTS prior to covering and include a certified statement and a statement that the work was free from defects.

### **4.2.2 Inspection Reports – Certificates of Compliance and Notices of Noncompliance.**

- A. The ZD shall keep a Certificate of Compliance or Notice of Noncompliance or Notice on file.
- B. A Certificate or Notice must include a signed statement by the inspector identifying the type of SSTS inspected and whether the SSTS is in compliance with Minn. Rules, Chaps. 7080-7082.
- C. Neither the issuance of Certificates or Notices shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such documents signify that the system in question is or has been designed and installed in compliance or noncompliance with the provisions of these standards and regulations.
- D. Certificates of Compliance.
  1. An infield soil verification as set forth in 3.2.5 shall be completed prior to issuance of a Certificate.
  2. Time Frame on Certificates of Compliance
    - a. A Certificate for an existing system shall be valid for three years unless the Zoning Official or authorized representative identifies an imminent threat to public health or safety.
    - b. A Certificate for a new or replacement SSTS shall be valid for five years unless the Zoning Official or authorized representative identifies an imminent threat to public health or safety.
    - c. If the Zoning Official or authorized representative determines that conditions have changed which may effect the status of a SSTS's Certificate, an updated review of a Certificate may be required during this three or five year interim.
- E. Notices of Noncompliance. If the SSTS is determined to be noncompliant with the applicable requirements, the ZD shall keep a Notice of Noncompliance on file and must include a statement specifying the Ordinance provisions with which the SSTS does not comply and why the system must

be upgraded, replaced, or its use discontinued.

## **ARTICLE 5 EXISTING SSTS**

### **Section 5.1 General**

- 5.1.1 Existing SSTS with no permits of record shall require a permit and shall be brought into compliance with the requirements of this Ordinance regardless of the original construction date upon a compliance inspection per Section 5.2.1C.
- 5.1.2 Expansion shall include the necessary upgrades to bring the entire SSTS into compliance with the prevailing provisions of this Ordinance at the time of the expansion.

### **Section 5.2 Inspection Requirements**

#### **5.2.1 Inspections.**

- A. An inspection used to evaluate, investigate, recommend, or another process used to prepare a disclosure statement that is conducted by a party who is not the SSTS owner shall constitute a compliance inspection and shall be conducted in accordance with Minn. Rules, Chapt. 7082 and shall comply with Section 2.5.
- B. Only a qualified employee or inspector independent of the owner and the installer shall inspect an existing SSTS when a compliance inspection is required.
- C. An SSTS shall require a compliance inspection and shall be brought into compliance with this Ordinance when any one of the following conditions occurs:
1. The Zoning Official deems appropriate, such as upon receipt of a complaint or other information of SSTS failure;
  2. Any time the use of a building or the property being served by an existing SSTS is expanded and thereby impacts the performance of the SSTS;
  3. Property is transferred as set forth in Section 2.5; or
  4. A zoning permit or variance is requested for a bedroom addition or dwelling replacement. A Certificate of Compliance shall be submitted to the ZD as follows:
    - a. If a request is received between May 1 and October 31, a Certificate of Compliance is required prior to issuance of permit or variance;
    - b. If a request is received between November 1 and April 30, the City may issue a permit or variance with the requirements that a compliance inspection be completed by the following June 1 and the permittee submits a Certificate of Compliance within 15 days.

#### **5.2.3 Inspection Reports – Certificates of Compliance and Notices of Noncompliance.**

- A. Compliance inspections shall be reported on the inspection report forms provided by the MPCA.
- B. The following conditions must be assessed or verified in accordance with Minn. Rule 7082.0700 subp. 4(B) in order to issue a Certificate:
1. Watertightness assessment of all treatment tanks, including a leakage report;
  2. Vertical separation distance between the bottom of the soil dispersal system and the periodically saturated soil or bedrock, including a vertical separation distance report. This report shall include verifications by two independent parties, which may be a qualified employee or inspector. If there is a dispute resolution between the two verifying inspectors, the disputing parties shall follow the local dispute resolution procedure as set forth in Section 2.2.

- a. SSTS built before 04/01/1996 and not located in shoreland areas or wellhead protection areas or SSTS serving food, beverage, or lodging establishments (SWF) that have at least two feet vertical separation distance from periodically saturated soil or bedrock are considered working SSTS and are not required to be replaced or repaired.
  - b. SSTS built after 03/31/1996 or in shoreland areas or wellhead protection areas or SSTS serving food, beverage, or lodging establishments (SWF) shall be allowed a 15 percent reduction in the required vertical separation as designated in Minn. Rule 7080.1500 subp. 4(D).
3. Sewage backup, surface seepage, or surface discharge including a hydraulic function report.
- C. A Certificate shall be based on the results of the verifications in item B. The Certificate must be signed by a qualified employee or inspector and submitted to the ZD and permittee no later than 15 days after a compliance inspection.
  - D. A Certificate is valid for three years from the date of issuance, unless an inspector finds evidence of noncompliance.
  - E. If a compliance inspection indicates that the SSTS is noncompliant, a Notice of Noncompliance must be signed by an inspector or qualified employee and contain a statement to that effect and must specify what must be done to achieve compliance. A noncompliant SSTS shall be dealt with as set forth in Section 5.5.

### **Section 5.3 Maintenance**

- 5.3.1 Existing systems without a management plan or operating permit must have the treatment tanks inspected no less than every three years to determine if the accumulated solids in the septic tank need to be removed in accordance with Minn. Rule 7080.2450.
- 5.3.2 An operating permit, as set forth in Section 8.2.2, is required upon the transfer of ownership, replacement, any modification, or expansion that requires a permit or following any SSTS enforcement action, unless the land owner is a farmer who is exempt from licensing under Minn. Stat. 115.56 subd.3, paragraph (b), clause 3.

### **Section 5.4 Abandonment**

- 5.4.1 Abandonment shall be completed in accordance with Minn. Rule 7080.2500. An owner's intent to abandon a SSTS does not require prior notification to the ZD. The owner must retain a DCI to abandon all components of the SSTS within 90 calendar days under the following conditions:
  - A. The use of an SSTS or any system component is discontinued as the result of an SSTS repair, modification, or replacement;
  - B. Decommissioning following connection to a municipal or private sewage treatment system or facility; or
  - C. Condemnation or demolition of a building served by the SSTS.
- 5.4.2 Continued use of a treatment tank where the tank is to become an integral part of a replacement SSTS or a cluster system requires the prior written approval of the ZD.
- 5.4.3 SSTS with no intent for future use must be abandoned according to the following guidelines:
  - A. Tank abandonment as set forth in Minn. Rule 7080.2500, subd. 1:
    - 1. All solids and liquids in sewage tanks, cesspools, leaching pits, drywells, seepage pits, vault

privies, and pit privies shall be removed and disposed of by a licensed maintainer as set forth in Minn. Rule 7080.2450;

2. All electrical devices and devices containing mercury must be removed and disposed of in accordance with applicable regulations; and
  3. Abandoned tanks or any other underground cavities must be removed or remain in place and crushed with the remaining cavity filled in with soil or rock material.
- B. Access for future discharge to the SSTS must be permanently denied.
- C. Soil dispersal systems can be abandoned in place or removed. Removal of these systems shall be in accordance with Minn. Rule 7080.2500, subd. 3:
- D. The person or DCI abandoning the SSTS must complete and sign a record of abandonment that states the SSTS was abandoned according to Minn. Rule 7080.2500. The record must be sent to the ZD within 90 days of abandonment and include the following:
1. Owner's name, address, and telephone number;
  2. Property address;
  3. SSTS construction permit and operating permit, if applicable;
  4. The reason/s for abandonment; and
  5. A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposal of any materials or residuals.

## **Section 5.5 Failing SSTS**

- 5.5.1 A SSTS that does not meet the compliance criteria in Minn. Rule 7080.1500 subd. 4 shall be considered failing. A permit is required if the required corrective action is not a minor repair.
- 5.5.2 SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored, or otherwise managed according to the operating permit.
- 5.5.3 A Notice of Noncompliance shall be completed in accordance with 4.2.2.E for new or replacement SSTS or 5.2.3.E for existing SSTS.
- 5.5.4 A failing SSTS shall be upgraded or replaced within twenty-four months after the owner receives a Notice of Noncompliance.
- 5.5.5 An SSTS posing an imminent threat to public health or safety shall be upgraded, replaced, or repaired within 10 months after the owner receives a Notice of Noncompliance.
- 5.5.6 Sewage discharge to surface waters or the ground surface or backup of sewage shall be halted within 10 days of receiving notification.
- 5.5.7 The ZD may give consideration to weather conditions in establishing compliance dates.
- 5.5.8 The permittee shall submit an acceptable replacement plan to the Zoning Official or authorized representative within 40 days after notification by the Zoning Official. The replacement plan shall identify the location and design of the SSTS and a schedule for its replacement. Failure to submit and execute an acceptable Replacement Plan is a violation of this Ordinance.

## **ARTICLE 6 PRIVIES**

New construction or replacement privies must be designed to meet or exceed the requirements set forth in Minn. Rules 7080.2150 and 7080.2280 and shall comply with the structural or sanitation setbacks, whichever is more restrictive, as set forth in the Zoning Ordinance.

## **ARTICLE 7 HOLDING TANKS**

- 7.1.1 Holding tanks with operating permits are allowed as an alternative to a sewage tank and soil dispersal system in the following circumstances:
- A. Where a proper soil treatment area is not available;
  - B. Where water use is low;
  - C. Where there is a need for a temporary disposal method to alleviate an imminent threat to public health or safety; or
  - D. Where there is a need for a temporary disposal method during construction, repair, or replacement of new and existing systems.
- 7.1.2 The owner of a holding tank installed after the effective date of this ordinance shall provide a copy of a valid monitoring and disposal contract executed between owner and a maintainer that guarantees the removal and proper disposal of solids and liquids to the ZD.
- 7.1.3 Holding tanks must follow construction, size, and installation requirements set forth in Minn. Rule 7080.2290; furthermore, an alarm device and regularly scheduled pumping shall be required.

## **ARTICLE 8 SSTS MANAGEMENT**

### **Section 8.1 Management Plan**

- 8.1.1 Before a construction permit is issued for an SSTS, the ZD must review and approve a management plan that shall be provided to the system owner by a designer.
- 8.1.2 If any SSTS modifications are made before or during construction, the ZD shall be notified and the management plan shall be revised and resubmitted at the time of final construction certification.
- 8.1.3 The management plan shall describe how the system will be maintained in accordance with Minn. Rules 7080.2450 and include the following:
- A. Maintenance requirements, including frequency;
  - B. Operation requirements, including which tasks the owner can perform and which tasks a licensed service provider or maintainer must perform;
  - C. Monitoring requirements;
  - D. Requirements that the owner notifies the ZD when the management plan requirements are not being met;
  - E. Disclosure of the location and condition of the additional soil dispersal area on the parcel or serving the residence; and
  - F. Other requirements as determined by the City.

### **Section 8.2 Operating Permit**

- 8.2.1 Sewage shall not be discharged until ZD certifies that said systems were installed in substantial conformance with the approved plans and the operating permit has been issued to the owner.
- 8.2.2 Permit Required. Operating permits are required for all of the following systems that are installed after the effective date of this ordinance to provide for periodic monitoring of nitrogen, phosphorous, and other contaminants:
- A. Holding tanks;
  - B. Systems that use registered treatment products (Type IV);
  - C. Systems based on performance (Type V);
  - D. MSTs with flows of 5,000 to 10,000 gallons per day (Minn. Rules, Chapt. 7081); and
  - E. Any other system deemed by the ZD to require operational oversight.
- 8.2.3 Application Requirements.
- A. Applications shall be made in writing upon forms furnished by ZD, which shall be the Operating Permit upon approval; and
  - B. Applications shall include the following information:
    1. Construction Permit reference number and date of issue;
    2. Maintenance requirements, including frequency of maintenance;
    3. Operational requirements;
    4. Monitoring requirements;
    5. Compliance limits and compliance boundaries;
    6. Reporting frequency;
    7. The permittee shall notify the ZD when permit requirements are not being met, and corrective actions must be taken as directed by the ZD;
    8. Disclosure of the location and condition of the additional soil treatment and dispersal system; and
    9. Stipulation of acceptable and prohibited discharges.
- 8.2.4 Review and Approval.
- A. ZD shall review the management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness.
  - B. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of ZD.
  - C. If the submitted documents fulfill the requirements, ZD shall issue an operating permit within ten working days of receipt of the permit application.
  - D. A temporary permit can be issued if the owner has need to occupy the building before the operating permit can be issued. Said temporary permit shall be limited to only allow the sewage tank as a holding tank until the operating permit is issued.
- 8.2.5 Suspension or Revocation. The ZD 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.
- A. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
  - B. If suspended or revoked, ZD may require that the treatment system be removed from service,

operated as a holding tank, or abandoned in accordance with Section 5.4.

C. ZD may reinstate or renew the operating permit upon the owner taking appropriate corrective actions.

8.2.6 Amendments. Operating permits shall not be required to be amended to reflect changes in this Ordinance, unless an amendment is necessary to eliminate an imminent threat to public health or safety.

8.2.8 Transferring Operating Permits not Allowed. A new owner shall apply for an operating permit in accordance with Section 8.2 of this Ordinance. ZD 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, ZD may require a performance inspection of the treatment system by an inspector.

## **ARTICLE 9 SSTS IN FLOODPLAINS**

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain shall be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minn. Rule 7080.2270, and all relevant local requirements are met.

## **ARTICLE 10 PROHIBITIONS**

10.1.1 Occupancy or Use of a Building without a Compliant SSTS. It is unlawful for any person to maintain, occupy, or use any building intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Ordinance.

10.1.2 Sewage Discharge to Ground Surface or Surface Water. It is unlawful for any person to construct, maintain, or use any SSTS regulated under this Ordinance that results in hand carried graywater, raw sewage, septic tank effluent, or seepage from a soil dispersal system to be discharged to the ground surface, abandoned wells, or bodies of surface water, or into any rock formation the structure of which is not conducive to purification of water by filtration, or into any well or other excavation in the ground which does not apply to the disposal of sewage in accordance with a process approved by the State Board of Health or the MPCA. Any surface discharging system must be permitted under the NPDES program by the MPCA. Without the issuance of an NPDES permit, surface discharge is prohibited.

10.1.3 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 Minn. Rule 4725.2050 or any other excavation in the ground that is not in compliance with this Ordinance.

10.1.4 Discharge of Hazardous or Deleterious Materials. It is unlawful for any person to discharge hazardous or deleterious material into any SSTS regulated under this Ordinance that adversely affects the groundwater quality or treatment or dispersal performance of the system.

## **ARTICLE 11 SEPTAGE DISPOSAL REQUIREMENTS**

### **Section 11.1 Septage Management**

Septage as defined in Minn. Rules, Chapt. 7080, or successor rules, shall be pumped, managed, and land applied

or disposed of in accordance with applicable state and federal laws, including Environmental Protection Agency rules as found in 40CFR part 503 entitled "Standards for the Use or Disposal of Sewage Sludge", Minnesota Rules, Chapt. 7080, and MPCA Septage and Restaurant Grease Trap Waste Management Guidelines.

### **Section 11.2 Sludge and Scum Disposal**

Sludge and scum removed from an SSTS shall be disposed of as follows:

- 11.2.1 Into a municipal sewage disposal system where practical; or
- 11.2.2 In the absence of a public municipal sewer, at a disposal land spreading site designated by the Minnesota Department of Health, MPCA, or the City provided the site meets all of the following criteria:
  - A. Minimum of 5 acres in area;
  - B. Slopes are not in excess of 6-percent;
  - C. Permeability standards as required by Minn. Rules, Chaps. 7080-7082 for an onsite soil absorption system;
  - D. The septage application shall be located no closer than:
    1. 500 feet from any residence;
    2. 1,000 feet from a municipal well;
    3. 200 feet from private wells;
    4. 600 feet from Rural Residential, Light Industrial, Highway Commercial, Rural Commercial, and Cohasset Industrial Park zoning districts; and
    5. 50 feet from property lines and public road right-of-ways.
  - E. The site shall not be located in a floodplain or shoreland areas.

## **ARTICLE 12 LICENSING REQUIREMENTS**

### **Section 12.1 Inspectors, Designers, Installers, Service Providers, and Maintainers**

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS in the City of Cohasset without an appropriate and valid license and certification issued by the MPCA in accordance with Minn. Rules, Chapt. 7083, except as exempted in 7083.0700.

### **Section 12.2 License Exemptions**

- 12.2.1 An individual who is constructing a system, based on a design approved by the ZD, on land that is owned or leased by the individual and functions solely as a dwelling for that individual based on a design approved by the ZD. The system must be inspected before it is covered by the Zoning Official or qualified employee who will issue a Certificate of Compliance or Notice of Noncompliance.
- 12.2.2 A farmer who pumps sewage waste from a SSTS from a dwelling or other establishment that is owned or leased by the farmer and disposes of those wastes on land that is owned or leased by the farmer in accordance with the land application standards of this Ordinance.
- 12.2.3 A property owner who personally gathers information, evaluates, or investigates the SSTS on or serving the property to provide a disclosure.

## **ARTICLE 13 VIOLATIONS AND ENFORCEMENT**

## Section 13.1 Violations

- 13.1.1 Any person, firm, corporation, or other entity who violates any 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 provision hereof, shall be guilty of a misdemeanor and upon conviction thereof shall be punishable as defined by Minnesota Statutes. Each day that a violation exists shall constitute a separate offense.
- 13.1.2 A Notice of Violation may be issued by ZD for violations of this Ordinance and shall be done as follows:
- A. Cause to Issue a Notice of Violation. Unresolved and separate, recurring or continuing violations of this Ordinance by a property owner, permittee, installer, or other persons, as determined by inspections or investigations shall constitute nonconformance or noncompliance with this Ordinance.
  - B. Serving Notice of Violation. A Notice of Violation shall be served by Certified Mail upon the property owner, permittee, installer or other persons found to be in violation of this Ordinance.
  - C. Contents of a Notice of Violation. A Notice of Violation shall contain the following:
    - 1. Documentation of the findings of fact through inspections or other investigations;
    - 2. A list of the specific violations of this Ordinance;
    - 3. A list of the specific requirements and mandatory time schedule for the correction or removal of said violations; and
    - 4. Specific enforcement actions that will be taken if corrective action is not satisfactorily completed.
- 1.3 Any inspection, installation, design, construction, alteration, or repair of an SSTS or any pumping and disposal of septage conducted in violation of the provisions in this Ordinance shall be cause for notification to the MPCA.

## Section 13.2 Enforcement

- 13.2.1 In the event of a violation or a threatened violation of this Ordinance, the City Council, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations;
- 13.2.2 It shall be the duty of the Cohasset City Attorney to institute such civil action as may be necessary to enforce the provisions of this ordinance;
- 13.2.3 A cease and desist order may be issued when the ZD has probable cause that an activity regulated by this or any other City 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.
- 13.2.4 Costs and Reimbursements. If ZD is required to remove or abate an imminent threat to public health or safety, ZD may recover all costs incurred in removal or abatement in a civil action, including legal fees;

at the discretion of the City Council, the cost of an enforcement action under this Ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.

## **ARTICLE 14        DEFINITIONS**

### **Section 14.1    General Rules**

- 14.1.1 The following words or phrases shall have the meanings ascribed to them in this Article.
- 14.1.2 If not specifically described in this Article, terms used in this Ordinance shall have the same meaning as provided in the Zoning Ordinance or standards adopted by reference.
- 14.1.3 Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning.
- 14.1.4 For purposes of this Ordinance, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

### **Section 14.2    Definitions**

#### **14.2.1        Alarm Device**

A device that alerts a system operator or system owner of a component’s status using a visual or audible device and is located on site or remotely located.

#### **14.2.2        As-Built Drawings**

Drawings and documentation verified by a certified statement that specifies the final in-place location, elevation, size, and type of all system components, identify the results of materials testing, and describe conditions during construction.

#### **14.2.3        Authorized Representative**

An employee or agent of the City of Cohasset Zoning Department.

#### **14.2.4        Bedroom**

For the sole purpose of estimating design flows from dwellings, an area that is:

- A. A room designed or used for sleeping; or
- B. A room or area of a dwelling that has a minimum floor area of 70 square feet with access gained from the living area or living area hallway. Architectural features that affect the use as a bedroom under this definition may be considered in making the bedroom determination.

#### **14.2.5        Board of Adjustment**

The Board of Adjustment of the City of Cohasset, Minnesota, as created by the Zoning Ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public, and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minn. Stats. 462.351 to 462.365 and other duties as required by the official controls.

**14.2.6 Certificate of Compliance**

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

**14.2.7 Certified Statement**

A statement signed by a certified individual, apprentice, or qualified employee under Minn. Rule, Chapt. 7083, certifying that the licensed business or qualified employee completed work in accordance with applicable requirements.

**14.2.8 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 United States Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and 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 and 146).

**14.2.9 Cluster System**

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

**14.2.10 Compliance Inspection**

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

**14.2.11 Conveyance**

The sale and every other method, direct or indirect, of disposing or parting with real property or with an interest therein which requires the filing of a Certificate of Real Estate Value or involves the establishment of a trust.

**14.2.12 City**

The City of Cohasset, Minnesota.

**14.2.13 City Council**

The City Council of the City of Cohasset, Minnesota.

**14.2.14 DCI – Designated Certified Individual**

A “designated certified individual” who is included on the MPCA’s SSTS certification list; is qualified to design, install, maintain, repair, pump, operate, or inspect an SSTS as appropriate with the individual’s qualifications; and is working under a license and subject to the obligations of the license.

**14.2.15 Design Flow**

The daily volume of wastewater for which an onsite or cluster system is designed to treat and discharge as set forth in Minn. Rules 7081.0120 to 7081.0140.

**14.2.16 Designer, Basic or Advanced**

A designated certified individual who is qualified and functions in accordance with Minn. Rule 7083.0740 to conduct the soil descriptions and review other site evaluations and designs by noncertified employees, including verification of field observations, conclusions, design assumptions, and calculations:

- A. A basic designer is qualified to conduct site and soil evaluations, design systems, and write management plans for Type I, II, or III SSTS as described in Minn. Rules 7080.2200 to 7080.2300 serving dwellings or other establishments with a design flow of 2,500 gallons per day or less; and
- B. An advanced designer is qualified to conduct site and soil evaluations, design systems, and write management plans for all sizes and types of SSTS.

#### **14.2.17 Distribution Medium**

The material used to provide void space in a dispersal component, through which effluent flows and is stored prior to infiltration. Distribution media includes, but is not limited to, drainfield rock, polystyrene beads, chambers, and gravelless pipe.

#### **14.2.18 Dwelling**

A residential structure containing one or more dwelling units, including any building, recreational vehicle, travel trailer, or place used or intended to be used by human occupants as a residence and is connected to pressurized water.

#### **14.2.19 Existing Systems**

Systems that have been previously inspected and approved by the local unit of government during installation, including all operating systems installed before the adoption of a local permitting and inspection program.

#### **14.2.20 Failing System**

Any SSTS that discharges sewage to a seepage pit, drywell, or leaching pit and any system with less than three feet of soil or sand between the bottom of the distribution medium and the saturated soil level or bedrock in shoreland areas. Existing septic systems installed prior to 04/01/1996 in nonshoreland areas need not be upgraded if 2 feet of soil separation is provided. In addition, any system posing an imminent threat to public health or safety as defined in Minn. Rules, 7080.1500 subd. 4 as amended, which includes cesspools, shall be considered failing.

#### **14.2.21 Failure to Protect Groundwater**

At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in Minn. Rule, Chapt. 7080.1500 subd. 4 (D) and (E); and a system not abandoned in accordance with Minn. Rule 7080.2500. The determination of the threat to groundwater for other conditions must be made by a qualified employee or an inspector.

#### **14.2.22 Final Record Drawings**

A set of drawings which reasonably 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.

#### **14.2.23 Graywater**

Sewage that does not contain toilet wastes.

#### **14.2.24 Holding Tank**

tank for storage of sewage until it can be transported to a point of approved treatment and dispersal. Holding tanks are considered a septic system tank under Minn. Stat. 115.55.

#### **14.2.25 Imminent Threat to Public Health or Safety**

At a minimum, an 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 hole covers. The determination of protectiveness for other conditions must be made by a qualified employee or inspector.

#### **14.2.26 Incorporation**

The mixing of manure or septage with the topsoil, concurrent with the application or immediately thereafter by means such as disking, plowing, rototilling, injection or other mechanical means.

#### **14.2.27 Inspector**

A designated certified individual who qualified and functions in accordance with Minn. Rule 7083.0750 to assess SSTS compliance.

#### **14.2.28 Installer**

A designated certified individual who is qualified and functions in accordance with Minn. Rule 7083.0760 to install SSTS.

#### **14.2.29 ISTS**

an "individual sewage treatment system" or part thereof, as set forth in Minn. Stats. 115.03 and 115.55, that employs sewage tanks or other treatment devices with the final discharge into 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 includes holding tanks and privies that serve these same facilities. ISTS does not include building sewers or other components regulated under Minn. Rules, Chapt. 4715, or collection systems.

#### **14.2.30 Land Spreading**

The placement of septage or human waste from septic or holding tanks on or incorporation of them into the soil surface.

#### **14.2.31 Land Use Development Application**

The term includes but not limited to application for the following: construction permits, SSTS permits, vegetation alteration permits, topographic alteration permits, or other types of zoning permits, conditional use permits, amendments to this Ordinance, variance from the provisions of an ordinance, and the subdivision of real estate. The applications not considered complete will not be accepted by the ZD unless all fees are paid, preliminary reviews and approval completed, submitted with associated supporting information and documents, and such other information as required by the ZD.

#### **14.2.32 Maintainer**

A designated certified individual who is qualified and functions in accordance with Minn. Rule 7083.0770 to

maintain SSTS, including but not limited to solids removal and septage disposal.

**14.2.33 Management Plan**

A plan that requires the periodic examination, adjustment, testing, and other operational requirements to meet SSTS performance expectations, including a planned course of action in the event an SSTS does not meet performance expectations.

**14.2.34 Minor Repair**

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

**14.2.35 Mottles**

The minority of the variegated colors in a soil horizon, as described in the Field Book for Describing and Sampling Soils, which is incorporated by reference in Minn. Rule 7080.1100 subd. 36.

**14.2.36 MPCA**

The "Minnesota Pollution Control Agency".

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**14.2.37 MSTs – Midsized Sewage Treatment System**

A "midsized sewage treatment system" that is an individual sewage treatment system, or part thereof, as set forth in Minn. Stats. 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 and that is designed to receive sewage from dwellings or other establishments with a design flow of greater than 5,000 gallons per day to 10,000 gallons per day.

**14.2.38 Notice of Noncompliance**

A document written and signed by an inspector after a compliance inspection that gives notice that an ISTS is not in compliance as specified in Minn. Rule 7080.1500.

**14.2.39 NPDES Permit**

A national pollutant discharge elimination system permit issued by the MPCA.

**14.2.40 Ordinary High Water Level (OHWL)**

The boundary of public waters and wetlands that is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominately aquatic to predominantly terrestrial. For watercourses, the OHWL is the elevation of the top of the bank of the channel. For reservoirs and flowages, the OHWL is the operating elevation of the normal summer pool.

**14.2.41 Original Soil**

Naturally occurring soil that has not been cut, filled, moved, smeared, compacted, altered, or manipulated to the degree that the loading rate must be reduced from that associated with natural soil conditions.

**14.2.42 Permittee**

A person who is named on a permit and authorized by a property owner to act on his behalf and shall assume all responsibility to comply with the terms of the permit issued pursuant to this Ordinance.

**14.2.43 Privy**

An aboveground structure with an underground cavity meeting the requirements of Minn. Rule 7080.2280 that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing or graywater.

**14.2.44 Qualified Employee**

A state or local government employee who is certified to design, install, maintain, pump, or inspect SSTS as part of the person's employment duties and has fulfilled the requirements set forth in Minn. Rule 7083.1010.

**14.2.45 SDS**

A "State Disposal System".

**14.2.46 Septage**

Solids and liquids removed from an SSTS including solids and liquids from cesspools, seepage pits, other pits, or similar systems or devices that receive sewage; solids and liquids that are removed from portable, incinerating, composting, holding, or other toilets; waste from Type III marine sanitation devices, as defined in Code of Federal Regulations, title 33, section 159.3; and material that has come into contact with untreated sewage within the past 12 months.

**14.2.47 Septic Tank**

Any watertight, covered receptacle that is designed and constructed to receive the discharge of sewage from a building sewer or preceding tank, stores liquids for a detention period that provides separation of solids from liquids and digestion of organic matter, and allows the effluent to discharge to a succeeding tank, treatment device, or soil dispersal system.

**14.2.48 Service Provider**

A designated certified individual who is qualified and functions in accordance with Minn. Rule 7083.0780 to service the SSTS, including but not limited to, measurement of solids accumulated, identifying problems with SSTS and its components, evaluating SSTS for leakage, and cleaning supply pipes and distribution pipes.

**14.2.49 Sewage**

Waste produced by toilets, bathing, laundry, or culinary operations or the floor drains associated with these sources, and includes household cleaners, medications, and other constituents in sewage restricted to amounts normally used for domestic purposes.

**14.2.50 Shoreland Area**

Land located within the following distances from public waters:

- A. 1,000 feet from the Ordinary High Water Level of a lake, pond, or flowage;
- B. 300 feet from a river or stream or the landward extend of a floodplain designated by the Zoning Ordinance on a river or stream, whichever is greater;
- D. 500 feet from the Ordinary High Water Level of the Mississippi River (Scenic Class).

**14.2.51 Soil Dispersal System**

Also called “drainfield”; an area where sewage effluent is dispersed into the soil for treatment by absorption and filtration and includes, but is not limited to, trenches, seepage beds, at-grade systems, mound systems, and drip dispersal systems.

**14.2.52 SSTS**

A “subsurface sewage treatment system” that is either an individual subsurface sewage treatment system as defined in Minn. Rule 7080.1100 subd. 41 or a mid-sized subsurface sewage treatment system as defined in Minn. Rule 7081.0020 subd. 4, as applicable.

**14.2.53 State**

The State of Minnesota.

**14.2.54 SWF (Shoreland, Wellhead, Food)**

“Systems in shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments” as defined in Minn. Rule 7080.1100 subd. 84.

**14.2.55 Toilet Waste Treatment Devices**

Other toilet waste apparatuses including incinerating, composting, biological, chemical, recirculating, or holding toilets or portable restrooms.

**14.2.56 Transfer of Property**

The act of a party by which the title to property is conveyed from one person to another, where such transfer would require the filing of a Certificate of Real Estate Value (CRV). In the case of a contract for deed, the transfer is upon the filing of the initial contract for deed.

**14.2.57 Treatment Level**

Treatment system performance levels defined in Minn. Rules, Chapt. 7083.4030, Table III, for testing of proprietary treatment products, which include the following:

- A. Level A: cBOD  $\leq$  15 mg/L; TSS  $\leq$  15 mg/L; fecal coliforms  $\leq$  1,000/100 mL.
- B. Level B: cBOD  $\leq$  25 mg/L; TSS  $\leq$  30 mg/L; fecal coliforms  $\leq$  10,000/100 mL.
- C. Level C: cBOD  $\leq$  125 mg/L; TSS  $\leq$  80 mg/L; fecal coliforms N/A.

**14.2.58 Type I System**

An individual subsurface sewage treatment system that is designed according to Minn. Rules 7080.2200 to 7080.2240, which include standards for trenches, seepage beds, mounds, at grades, and graywater systems.

**14.2.59 Type II System**

An individual subsurface sewage treatment system with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system that is designed according to Minn. Rules 7080.2260 to 7080.2290, which include standards for SSTS in rapidly permeable soils, SSTS in floodplain areas, privies, and holding tanks.

**14.2.60 Type III System**

A custom-designed individual subsurface sewage treatment system with acceptable flow restriction devices to allow its use on a parcel that cannot accommodate a standard Type I soil dispersal system and is designed

according to Minn. Rule 7080.2300.

**14.2.61 Type IV System**

An individual subsurface sewage treatment system with an approved pretreatment device and incorporating pressure distribution and dosing that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed and designed according to Minn. Rule 7080.2350.

**14.2.62 Type V System**

An individual subsurface sewage treatment system that is custom engineered to accommodate a site taking into account pretreatment effluent quality loading rates, loading methods, groundwater mounding, and other soil and relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented and is designed according to Minn. Rule 7080.2400.

**14.2.63 Vertical Separation**

The vertical measurement of unsaturated soil or sand between the bottom of the distribution medium and the periodically saturated soil level or bedrock.

**14.2.64 Zoning Official**

The director of the planning and zoning office of the City of Cohasset, Minnesota.

**14.2.65 ZD**

The City of Cohasset "Zoning Department".

**14.2.66 Zoning Ordinance**

The City of Cohasset Zoning Ordinance, as amended.

**ARTICLE 15 VALIDITY AND LIABILITY**

**Section 15.1 Validity**

The validity of any part of this Ordinance shall not be affected by the invalidity of any other parts of this Ordinance where the part can be given effect irrespective of any invalid parts or parts.

**Section 15.2 Liability**

Any liability or responsibility shall not be imposed upon the ZD or MPCA or any of its official, employees, or other contracted 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.

**ARTICLE 16 FEE SCHEDULE**

**Section 16.1 Fees**

16.1.1 The City Council has established fees for zoning activities undertaken by the ZD and are set forth in the Zoning Fee Schedule.

16.1.2 Fees shall be due and payable at a time and in a manner to be determined by the ZD.

16.1.3 The schedule of fees may be altered or amended by the City Council resolution.

#### **ARTICLE 17 EFFECTIVE DATE**

This Ordinance shall take effect and be in force immediately after its adoption and publication. The Zoning Official is hereby authorized and directed to publish this Ordinance in summary form.

#### Record of Dates:

Effective Date of Original Subsurface Sewage Treatment System requirements within section 10.075 of the Cohasset Land Use Controls Ordinance #24: March/29/1993.

Section 10.075 of the Cohasset Land Use Controls Ordinance #24 replaced 8-27-97.

Section 10.075 of the Cohasset Land Use Controls Ordinance #24 replaced 8-14-11.

Ordinance #46 adopted 6/28/2011

Ordinance #46 published 7/13/2011

Effective date of Ordinance #46: 7-14-11

Resolution #2011-17

SIGNATURE PAGE

Effective Date of Ordinance #46: 7-14-2011

Notice of the public hearing before the City Council was duly published in the official newspaper of the City on 6/15/11. Pursuant to such notice, the City Council officially held a public hearing on 6/28/11 relative to the establishment of Ordinance #46.

After said hearing, the City Council unanimously adopted Ordinance #46, to be in conformance with the Minnesota Pollution Control Agency (MPCA) 7080 – 7083 Rules which included deleting/amending Sections to be modified in accordance with the Conventional Program Model SSTS Ordinance for Local Units of Government. Publication of the summary was published in the official newspaper of the City on 7/13/2011. The effective date of the SSTS Ordinance #46 is 7/14/2011.

Attested:

Greg Hagy, Mayor,

Darla Frink, Deputy City Clerk

Certified as a complete and accurate copy of the Subsurface Sewage Treatment System Ordinance #46 of the City of Cohasset, Minnesota.

Jeff Walker, Itasca County Auditor/Treasurer

I hereby certify that the within instrument was filed in this office on record as document # \_\_\_\_\_ on this \_\_\_\_\_ Day of \_\_\_\_\_ 2011, at \_\_\_\_\_ o'clock \_\_\_\_ M.

Attested: Linda Nielsen, Itasca County Recorder