

AGENDA  
CITY COUNCIL  
CITY OF WOODLAND



MONDAY, SEPTEMBER 8, 2014  
7:00 P.M.

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE
2. ROLL CALL  

Mayor Doak, Council Members Carlson, Massie, Newberry, and Rich
3. CONSENT AGENDA  

All matters listed under the Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no special discussion of these items unless a Council member or citizen so requests, in which event the item will be removed from the Consent Agenda and will be considered separately under New Business.

  - A. Minutes of the August 14, 2014 Regular City Council meeting
  - B. Consideration of an Alteration Permit Extension for John and Lynn O'Neil at 2650 Maplewood Circle East
4. PUBLIC COMMENT  

Individuals may address the City Council about any item not contained on the regular agenda. Comments should be limited to five (5) minutes. The Council may ask questions for clarification purposes, but will take no official action on items discussed with the exception of referral to staff or with the agreement of the Council may be scheduled on the current or future agenda.
5. PUBLIC HEARINGS  
  - A. Public Hearing on a request for variances of Ordinance Section 900.09, minimum required lake yard setback to construct a new single family structure which would encroach into the east and west lake yard setback, a variance of Ordinance Section 900.09, minimum required lake yard setback to reconstruct a non-conforming boathouse which would encroach into the minimum required lake yard setback and variances of Ordinance Section 900.17 (4)(a) maximum grade alteration, to exceed the maximum permitted grade alteration of three feet on multiple locations around the house foundation for Streeter & Associates for the property located at 2400 Cedar Point Drive.
6. NEW BUSINESS  
  - A. First Reading of an Ordinance No. O06-2014 Amending Chapter 7, Section 705 - Subsurface Sewage Treatment Systems (SSTS).

- B. Discussion relating to the City's recycling program
- C. Discussion concerning a homeowner questionnaire letter for the Lake Marion property owners
- D. Consideration of Resolution No. 34-2014 adopting a policy relating to fire hydrant maintenance inspections and repairs
- E. Resolution No. 33-2014 authorizing entering into an agreement between the City of Woodland and Metro West Inspections for septic system inspection services
- F. Resolution 32-2015 approving the 2015 Lake Minnetonka Communications Commission Budget
- G. Items pertaining to the 2015 Preliminary Budget and Levy
  - 1. Resolution No. 30-2014 Adopting the 2015 Preliminary Budget
  - 2. Resolution No. 31-2014 Adopting the 2015 Preliminary Levy
- 7. OLD BUSINESS
- 8. MAYOR'S REPORT
- 9. COUNCIL REPORTS
  - A. Newberry – Ordinances, Septic Ordinance, and Inspections
  - B. Rich – Roads, Signs, Trees, and Website
  - C. Carlson – Finance, Enterprise Fund, Intergovernmental Relations, and MCWD
  - D. Massie – Public Safety and Deer Management
- 10. ACCOUNTS PAYABLE
- 11. TREASURER'S REPORT
- 12. ADJOURNMENT

- 15 minutes will be allotted for public comment. If the full 15 minutes is not needed, the Council will continue with the agenda
- The next City Council meeting will be held on October 13, 2014.

**Consent Agenda 3. A.**

MINUTES  
CITY COUNCIL  
CITY OF WOODLAND  
THURSDAY, AUGUST 14, 2014

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

2. ROLL CALL

Council Present: Mayor Doak, Council Members Carlson, Massie, and Rich. Council Member Newberry arrived at 7:25 p.m.

Staff Present: Kathryne McCullum, City Clerk

3. CONSENT AGENDA

A. Minutes of the July 14, 2014 Regular City Council meeting

Carlson moved, seconded by Rich to approve the July 14, 2014 minutes as presented. Motion carried 4-0

4. PUBLIC COMMENT - NONE

5. PUBLIC HEARINGS – NONE

6. NEW BUSINESS

A. Continued discussion regarding a request from Richard Henry, 17960 Shavers Lane, relating to exceptions to the City of Woodland Noise Ordinance Section 455 and Nuisance Ordinance Section 415. Mr. Henry was not in attendance.

Mayor Doak explained the request for the Council Members, noting that Mr. Henry had attended the July meeting to request an exception to the City's ordinance. Specifically, Mr. Henry indicated that his daughter's wedding reception would have live music and may go until 2:00 a.m. which is past the 10:00 p.m. noise restriction.

It was noted that Mr. Henry had stated he would be making the same request to the cities of Deephaven and Minnetonka but no information had been provided regarding any response from those cities.

Mayor Doak requested input from the Council. The Council Members agreed that the noise ordinance should not be revised and no exception should be provided. Mayor Doak indicated that he had spoken with Council Member Newberry who although not present at the beginning of the Council meeting, wished to convey his opinion that the ordinance should not be amended. The Council Members agreed that there are alternatives for residents who may wish to have parties at their homes, such as moving the party inside the house at 10:00 p.m. By consensus, the Council decided to not move forward with any revisions to the ordinance.

- B. Introduction of an Ordinance No. O06-2014 amending Chapter 7, Section 705 relating to Subsurface Sewage Treatment Systems (SSTS).

This item was taken out of order on the agenda and considered later in the meeting.

- C. Consideration of Resolution No. 29-2014 concerning the addition of Policy No. 3-3 relating to showcase events

Mayor Doak stated that the City Council had reviewed and discussed this item at its July meeting. He reiterated that the new policy stresses to applicants that they are required to comply with existing City ordinances. All Council Members agreed.

Carlson moved, seconded by Rich to adopt Resolution No. 29-2014 concerning the addition of Policy No. 3-3 relating to showcase events. Motion carried 4-0.

- D. First Reading of an Ordinance No. 08-2014 amending Section 407 relating to backyard chickens

Mayor Doak explained that the Council had discussed this item at its July meeting and all members stated support for the amendments at that time.

Rich moved, seconded by Carlson to adopt Ordinance No. 08-2014 amending Section 407 relating to backyard chickens and to waive the Second Reading. Motion carried 4-0.

- E. Discussion relating to fire hydrant repairs and maintenance

Council Member Carlson presented an overview of the item. She explained the following:

- There are 15 fire hydrants in the Groveland Homeowner Association/Stone Arch Road system.
- Several of the hydrants needed repair due to the lack of routine maintenance.
- Preventative maintenance is needed to deter expensive repairs.
- The City has funds to cover annual preventative maintenance which has been quoted by the City Engineer to be approximately \$750 per year.
- It is best to take a proactive approach for hydrant maintenance to ensure that the hydrants are in working order when needed (public safety) and to save money in the future.

Mayor Doak stated that the budget has funds to ensure that preventative maintenance is performed on an annual basis. He said that a preventative maintenance policy should be developed to ensure the hydrants are in working order at all times. He suggested that he, Council Member Carlson, and staff develop the policy for future City Councils to follow.

- B. Introduction of an Ordinance No. O06-2014 amending Chapter 7, Section 705 relating to Subsurface Sewage Treatment Systems (SSTS).

This item was taken out of order on the agenda.

Council Member Newberry stated that he reviewed the City's ordinance against the ordinance that was approved by the County Board and made necessary revisions based on the County requirements and the City's needs. He noted that The Minnesota Pollution Control Agency reviewed the draft and had several comments that were addressed by the City Engineer.

Councilor Newberry stated that a request was made to the City Engineer to delete Section 705.13, but it had not be deleted. He noted that with that change, the draft is now ready for adoption by the City Council. The Council requested that Section 705.13 be deleted, the ordinance be renumbered, and that the ordinance be placed on the September agenda for First Reading.

- F. 2015 Draft Budget and Levy Discussion

Mayor Doak presented an overview of the draft budget and levy. He stated that there are no elections in 2015 which will reduce spending by \$4,350. He said that there will be an expected increase in estimated non-tax revenue for 2015. Those items will offset the increase in the allocation to the Street Maintenance Fund. As a result the levy would increase less than one percent.

Mayor Doak asked the Council if they believed the levy should be increased from the noted 0.68% to 2% (an additional \$5,000) to provide additional funding in the Street Fund. He stated that the increase would bring the amount added to the Street Fund to \$68,000.

The Council discussed the condition of Breezy Point Road and the need for reconstruction in the area that was flooded and the planned improvements for 2015. It was noted that approximately \$37,000 would be expended for the flood repair in 2014 and this portion of the road would not have any additional improvements in 2015. Council Member Carlson suggested the levy be increased by \$10,000 or 4% at this time to increase the available funds that are needed for the Breezy Point Road repair project in 2015. She noted that the Council could decrease the amount in December if it is found to be too high. The Council agreed with Council Member Carlson's recommendation.

The Council requested that staff revise the draft budget/levy to reflect a 4% increase in the levy and a contribution to the Street Fund of \$73,000 as discussed and place the item on the September agenda for consideration.

7. OLD BUSINESS – NONE

8. MAYOR'S REPORT

Mayor Doak reported the following:

### *Scenic Byway Concept*

Mayor Doak stated that many of the Lakeshore communities decided against participating in the Scenic Byway program. As a result the Scenic Byway program was scrapped in favor of having the various Chambers of Commerce develop a brochure that included points of interest and amenities. That would bolster the marketing for the cities of Excelsior and Wayzata as “destination” cities. Mayor Doak explained that the concept that they are now reviewing includes promotion of historic, cultural, and business interests.

### *Sign Retroreflectivity*

Mayor Doak stated that a comprehensive sign inventory was developed and now the signs need to be inspected for reflectivity. He noted that inspections should be performed on a periodic basis to ensure the signs are in compliance. Mayor Doak stated that some signs need to be removed and replaced with reflective signs and the City needs to log the sign warrantee dates which will assist with the replacement scheduling. Mayor Doak thought that the biggest challenge will be the replacement of the street name signs. He noted that special sign posts that are a breakaway design are required.

### *Lake Marion Setbacks*

Mayor Doak stated that there was a request to increase the setback from 50’ to 100’ on Lake Marion. He noted that there are very few owners that abut Lake Marion and thought that in his opinion the City should obtain unanimous consent from all property owners who abut the Lake, before revising the setback. Mayor Doak suggested that the Council draft a letter to property owners to ask how they feel about increasing the setback. He suggested that the Council consider a setback that inconsistent with the Lake Minnetonka setback of 75’. The Council members agreed that the question to the property owners should state a setback revision from 50’ to 75’ and that a letter should be drafted to the Lake Marion property owners to obtain their input.

### *Fire Lanes*

Mayor Doak explained that a tree fell over one of the City’s fire lanes and he contacted the City Attorney regarding the ownership of the fire lanes. The City Attorney indicated that fire lanes are considered easements. When a tree falls across a fire lane, the City is responsible for the portion that is in the fire lane/easement and the adjacent property owner is responsible for removal of the remainder of the tree. Mayor Doak indicated that the City is only responsible for maintaining clear access through the fire lane.

### *Mail Box – Chowen’s Corner*

Mayor Doak explained that the Postal Service gave notice that it was going to remove the two mailboxes that are currently located at Chowen’s Corner. After complaints by the City of Deephaven, a compromise was reached and only one mailbox will be removed. The Post Office representatives noted that they found justification for keeping one mailbox at that location.

9. COUNCIL REPORTS

- A. Newberry – Ordinances, Septic Ordinance, and Inspections – NONE.
- B. Rich – Roads, Signs, Trees, and Website

Council Member Rich described the City Engineer's estimate for reconstruction of the flooded portion of Breezy Point Road. He stated that the project includes a mill and overlay and raising the road by 6".

The Council agreed that the road should have immediate attention and should be reconstructed as soon as possible. The Council requested that Council Member Rich work with the City Engineer to move forward with the project if the cost is close to the estimate of approximately \$37,000.

It was noted that this portion of the road would not need any additional attention once repaired and would not be included in the 2015 Breezy Point Road project.

- C. Carlson – Finance, Enterprise Fund, Intergovernmental Relations, and MCWD

Council Member Carlson presented brochures regarding winter road maintenance, hiring a snow removal service, and improving lakes, rivers and streams. She asked that the road maintenance and snow removal brochures be forwarded to the City's street maintenance contractor.

Council Member Carlson provided a brief update regarding the firing of Eric Evenson-Marden, the former Minnehaha Creek Watershed District administrator.

- D. Massie – Public Safety and Deer Management

Council Member Massie stated that he met with Mayor Doak regarding the 2014/2015 Deer Management Program. He said that there are three residents who are willing to place traps on their properties.

10. ACCOUNTS PAYABLE

Carlson moved, seconded by Massie to approve the Accounts Payable as presented.  
Motion carried 5-0.

11. TREASURER'S REPORT

Massie moved, seconded by Newberry to approve the Treasurer's Report as presented.  
Motion carried 5-0.

12. ADJOURNMENT

Rich moved, to adjourn the August 14, 2014 meeting. Motion carried by consensus. The meeting adjourned at 8:34 p.m.

ATTEST:

\_\_\_\_\_  
Kathryne A. McCullum, City Clerk

\_\_\_\_\_  
James S. Doak, Mayor



**Agenda Date: 09-08-14**  
**CITY COUNCIL MEMO**  
**O'Neil Alteration Permit Extension**

**Agenda Item:** Consider Alteration Permit Extension, John and Lynn O'Neil, 2650 Maplewood Circle West

**Summary:** The O'Neil's were issue a Permit to Alter an Existing Non-Conforming Structure for the construction of a 1,976 square foot addition onto an existing non-conforming home. The addition maintained the greatest encroachment of two feet, six inches where it attached to the existing non-conforming home and came into compliance with the required setback as it moved southward.

Section 900.06(5) requires that a building permit be obtained within one year of the approval of an alteration permit or the approval expires. The current expiration date on the Council's approval is September 9, 2014. The O'Neil's are requesting that the Council extend the approval date on Resolution 28-2013 (attached) to permit them to obtain the necessary permits in Spring of 2015.

**Council Action:** Potential motion...

1. I move the Council extend the deadline contained in Resolution 28-2013 to \_\_\_\_\_, 2015 to permit John and Lynn O'Neil to obtain a building permit for their approved project. This motion is conditioned that no further extensions will be granted beyond this date and a new application must be submitted for Council consideration in the event of future amendment of the ordinance.

John and Lynn O'Neil

2650 Maplewood Circle West  
Woodland, MN 55391  
917-238-0933  
lynnoneil@me.com

August 8, 2014

Gus Karpas

20225 Cottagewood Rd  
Deephaven, MN 55391  
952-474-4755  
guskarpas@mchsi.com

Gus,

We are writing to request an extension on the variance approval for our home renovation. Our property is located at 2650 Maplewood Circle West in Woodland. The variance was discussed and approved in Fall of 2013. Our renovation plans remain the same but our time frame to start this project has been pushed to Spring of 2015. Thank you so much for this consideration.

Sincerely,

  
John and Lynn O'Neil

**WOODLAND RESOLUTION NO. 28 - 2013**

**IN RE:** The application of John and Lynn O'Neil for an Alteration of a Non-Conforming Structure Permit for the construction of an addition on the front of the home at 2650 Maplewood Circle West, Woodland, Minnesota (PID No. 17-117-22 32 0024).

**LEGAL:** LOT 20 AUD SUBD NO 93 AND THAT PART OF LOT 1 MAPLEWOOD LYING SWLY OF A LINE RUNNING S 76 DEG E MAGNETIC FROM A PT IN SWLY LINE OF LOT 1 DIST 75 FT SELY FROM MOST WLY COR OF LOT 1

**WHEREAS,** the applicants have made application to the City for an Alteration of a Non-Conforming Structure Permit for the construction of an addition on the front of a non-conforming home; and

**WHEREAS,** notice of public hearing was published; notice given to neighboring property owners; and a public hearing held before the City Council to consider the application; and

**WHEREAS,** public comment was taken at the public hearing before the City Council on September 9, 2013; and

**WHEREAS,** the City Council has received the staff report, and considered the application and comments of the applicant and the public.

**NOW, THEREFORE,** the City Council of the City of Woodland, Minnesota does hereby make the following:

**FINDINGS OF FACT**

1. That the real property located at 2650 Maplewood Circle West, Woodland, Minnesota (PID No. 17-117-22 32 0024) is a single lot of record located within the R-1 Single Family District. This property is used for single family residential purposes.

2. The applicant submitted application for a permit to alter an existing non-conforming structure for the construction of an addition on the front of the home. The proposal would connect a one thousand, nine hundred and seventy-six square foot addition on a portion of the existing home which encroaches two feet, six inches into the required fifty foot front yard setback. The proposed addition would become compliant with the required front yard setback as it moves southward.
  - Section 900.06(1) of the City Ordinances permits the alteration of non-conforming structures provided the alteration would not extend into the required setbacks by any distance greater than the existing main building.
3. The proposed alterations comply with the remaining setback requirements outlined in Section 900.09(4).
4. Ordinance Section 900.13(1) permits a maximum structure height of thirty-five feet as measured by Ordinance Section 900.02(19), which requires the measurement be based on the grade of the lot on June 14, 2010. The addition complies with the ordinance requirements.
5. Section 900.10 of the ordinance permits maximum structure coverage of 10% of the lot area and 25% total impervious surface area. The proposal complies with the ordinance requirements.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Woodland, Minnesota:

***FINDINGS BASED ON THE REVIEW AND APPROVAL PROCESS IN SECTION 900.14 OF THE ORDINANCE:***

1. Councilmember Newberry moved that the council accept the recommendation of staff and **approve** the application of John and Lynn O'Neil for a Permit for the Alteration of a Non-Conforming Structure for the construction of a 1,976 square foot addition onto an existing non-conforming home. The proposed addition will maintain the greatest encroachment of two feet, six inches where it attaches to the existing non-conforming home and will come into

compliance with the required setback as the addition moves southward. The motion is based on the following findings:

(a) The alteration maintains or enhances the general character and welfare of the community; (b) the magnitude and extent of the proposed alteration is consistent with the surrounding area; (c) there is no negative impact on the use and enjoyment of surrounding properties or other properties in the community; (d) there is a need for the proposed alteration in order to permit the adequate use of the property; (e) there is reasonable separation between the proposed alteration and structures on adjoining properties; (f) there would be no effect on the light and visibility available to the adjoining properties; (g) there is sufficient screening on the subject property to screen the proposed alteration; (h) the proposal would not have a negative impact on property value on the subject property or surrounding properties; (i) there are no concerns related to fire safety; (j) there are no alternate locations on the property for the proposed alteration which would not require a variance; (k) the shape of the lot creates a unique situation where alteration of the home must take place on the front of the structure otherwise a variance would be required; and (l) the existing/proposed front yard encroachment is two feet, six inches. The angle of the proposed addition is such that it will come into compliance with the required setback as it moves to the south.

Councilmember Massie seconded the motion. Motion carried 4-0.

ADOPTED THIS 9<sup>th</sup> DAY OF SEPTEMBER, 2013 BY THE CITY COUNCIL OF WOODLAND, MINNESOTA.



Chris W. Rich, Mayor Pro Tem

ATTEST:



Shelley J. Souers, City Clerk



CITY COUNCIL  
CITY OF WOODLAND  
MEETING OF SEPTEMBER 8, 2014

**Agenda Item 6. A.**

TO: Honorable Mayor and Members of the City Council

FROM: Kathryn McCullum, City Clerk

**New Business**

SUBJECT: First Reading of an Ordinance No. O06-2014 Amending Chapter 7,  
Section 705 - Individual Sewage Treatment Systems (ISTS).

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**Background**

The Minnesota Pollution Control Agency (MPCA) completed an update to Minnesota rules governing Subsurface Sewage Treatment Systems (SSTS) in 2008 and 2011. In March, 2014, the Hennepin County Board adopted an updated ordinance (No. 19) that complies with the State Statute.

Over the last several months, Council Member Newberry reviewed the City's ordinance against the ordinance that was approved by the County Board and made necessary revisions based on the County requirements and the City's needs.

Subsequent to Council Member Newberry's review, the Minnesota Pollution Control Agency reviewed the draft and made several comments. The draft was then forwarded to the City Engineer and the MPCA items were addressed. However, Council Member Newberry indicated that Section 705.13 was to be deleted by the City Engineer and it still appeared on the draft. The Council Members agreed that Section 705.13 (a) should be deleted. The Council asked that the item be placed on the September agenda for consideration.

**Recommendation**

Hold the First Reading of Ordinance No. O06-2014 amending Chapter 7, Section 705 - Individual Sewage Treatment Systems (ISTS).

City ordinance requires that every ordinance have two readings prior to adoption. The Council may elect to waive the second reading of the ordinance by majority vote. If the second reading is not waived the ordinance will be placed on the October agenda.

CITY OF WOODLAND  
HENNEPIN COUNTY, MINNESOTA  
AN ORDINANCE NO. 006-2014 AMENDING CHAPTER 7, SECTION 705 OF  
THE CITY OF WOODLAND'S CODE OF ORDINANCES

THE CITY OF WOODLAND, MINNESOTA ORDAINS:

Section 1. Repeal. Ordinance Chapter 7, Section 705, Individual Sewage Treatment Systems, of the Woodland City Code is hereby repealed in its entirety.

Section 2. Addition. The following ordinance language is added to the City of Woodland Code of Ordinances as Chapter 7, Section 705, Subsurface Sewage Treatment Systems:

**SECTION 705 SUBSURFACE SEWAGE TREATMENT SYSTEMS**

705.01 Purpose. This ordinance is enacted to provide minimum standards for the regulation of subsurface sewage treatment systems (SSTS) including: their proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair for the purpose of protecting surface water and groundwater from contamination by human sewage and waterborne household wastes; the protection of the public's health and safety; and the elimination and prevention of the development of public nuisances, pursuant to the authority granted under Minn. Stat. Chapters 115 and 145A and Minnesota Rules Chapter 7080, 7081 and 7082 as amended that may pertain to sewage and wastewater treatment. All sewage generated in unsewered areas of the City 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.

Sewage discharge to ground surface or surface water. It is unlawful for any person to construct, maintain, or use any wastewater treatment 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 by the MPCA under the National Pollutant Discharge Elimination System program.

705.02 Objectives. The principal objectives of this Ordinance are as follows:

Subd. 1. The protection of lakes, wetlands, and groundwater essential to the promotion of public health, safety, welfare.

Subd. 2. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby ensuring the non-degradation of surface water and groundwater.

Subd. 3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.

Subd. 4. The appropriate utilization of privy vaults and other non-water carried SSTS.

Subd. 5. The prevention and control of water-borne disease, lake degradation, groundwater related hazards, and public nuisance conditions through technical assistance and education, plan reviews, inspections, SSTS surveys and complaint investigation.

705.03 Definitions.

Subd. 1. "City". The City of Woodland and its designated agent who shall be a qualified employee or licensee.

Subd. 2. SSTS. Subsurface Sewage Treatment System as defined in Minn. R. 7080.1100, subp. 82.

Subd. 3. ISTS. An individual sewage treatment system as defined in Minn. R. 7080.1100, subp. 41.

Subd. 4. MSTS. A Midsized Subsurface Sewage Treatment System as defined in Minn. R. 7081.0020, subp. 3.

Subd. 5. Other Establishment. Any private or public structure, other than a dwelling, that generates sewage having characteristics other than residential-type waste or has an average waste flow greater than 2,000 gallons per day and discharges to a SSTS.

Subd. 6. "Owner". The fee owner(s) and, if applicable, the contract-for-deed purchaser. Ownership interests shall be determined by reference to the records of Hennepin County. The owner of each lot served by a SSTS is responsible for the lawful operation and maintenance of each SSTS.

Subd. 7 System Types.

- (a) Type I system. A SSTS designed according to Minn. R. parts 7080.2200 to 7080.2240, as may be amended.
- (b) Type II system. A SSTS designed according to Minn. R. parts 7080.2250 to 7080.2290, as may be amended.
- (c) Type III system. A SSTS designed according to Minn. R. 7080.2300, as may be amended.
- (d) Type IV system. A SSTS designed according to Minn. R. 7080.2350, as may be amended.
- (e) Type V system. A SSTS designed according to Minn. R. 7080.2400, as may be amended.

705.04 Standards Incorporated by Reference. This Ordinance hereby incorporates by reference Minnesota Rules Chapter 7080 and 7081, as may be amended.

705.05 Administration by the City.

Subd. 1. The City shall have the following duties and responsibilities:

- (a) To review all applications for SSTS.
- (b) To issue all required permits.
- (c) To conduct construction inspections and to perform all necessary tests to determine its conformance with this Ordinance.

- (d) To investigate complaints regarding SSTS.
- (e) To conduct compliance inspections and to issue Certificates of Compliance or Notices of Noncompliance where appropriate.
- (f) To issue Stop Work Orders and Notices of Violation pursuant to this Ordinance.
- (g) To take complaints to the Municipal or County Attorney for violations of this Ordinance.
- (h) To maintain proper records for SSTS including site evaluation records, design records including calculations and summaries for all system component sizings and as-builts, complaints on noncompliance, compliance inspections, site evaluations, applications and exhibits, variance requests, issued permits, Certificates of Compliance, and enforcement proceedings.
- (i) To submit annual reports to the MPCA to demonstrate enforcement of this Ordinance per Chapter 7082.0040 Subpart 5.

Subd. 2. Neither the issuance of permits, Certificates of Compliance nor 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 provision of these standards and regulations.

#### 705.06 Permitting.

Subd. 1 Required Permits. A permit from the City is required before any SSTS in the City is installed, replaced, abandoned, altered, repaired, rejuvenated or extended, or if the addition of a bedroom to an existing home is proposed. Installation, replacement, alteration, repair, or extension of a SSTS or the addition of a bedroom to an existing home shall not begin prior to the receipt of a permit from the City for each specific installation, replacement, alteration, repair or extension pursuant to this Ordinance. Such permits are not transferable as to person or place. Such permits shall expire 12 months after date of issuance. Upon request of an inspector, permits shall be provided by the permittee at the time of inspection.

Subd. 2. Permits Not Required. Permits shall not be required for the following activities:

- (a) Repair or replacement of pumps, floats or other electrical devices of the pump.
- (b) Repair or replacement of baffles in the septic tank.
- (c) Installation or repair of inspection pipes and manhole covers.
- (d) Repair or replacement of the line from the building to the septic tank.
- (e) Repair or replacement of the line from the septic tank or pump chamber to the distribution box or lines.

Subd. 3. Permit Application. All applications for a SSTS permit shall include the following information:

- (a) Name and address of property owner.
- (b) Property identification number.

- (c) Legal description of the property.
- (d) SSTS Designer name, address, telephone number and State MPCA license number; (or City qualified employee name and number).
- (e) SSTS Installer name, address, telephone number and MPCA license number.
- (f) Site evaluation report on forms approved by the City.
- (g) System design with full information including applicable construction information on forms approved by the City.
- (h) The location of at least one designated additional soil treatment area that can support system as described in Minn. R. parts 7080.2200 through 7080.2230 or site conditions described in Minn. R. 7081.0270, subs. 3 through 7, on lots created after January 23, 1996.
- (i) A management plan as described in Minn. R. 7082.0600 and this ordinance; and
- (j) Any other information requested pertinent to the process.

Subd. 4. Operating Permit. An operating permit is required for all treatment systems installed under Minn. R. 7080.2290 (holding tanks), Minn. R. 7080.2350-2400 (Type IV & V Systems), and Minn. R. ch. 7081 (MSTS). Sewage shall not be discharged to a treatment system requiring an operating permit until the City certifies that the treatment system was installed in substantial conformance with the approved plans, receives the final record drawings of the SSTS, and a valid operating permit is issued to the owner.

The operating permit shall be valid for twelve months and renewed by the expiration date. The City shall review all required monitoring data submitted from the previous year and the renewal application before approving any subsequent operating permits. An operating permit shall include:

- (a) A detailed description of the operation, maintenance, and monitoring, reporting and compliance limits and boundaries necessary to ensure both continued system performance as designed and protection of public health and the environment for the life of the system;
- (b) A requirement that the person responsible for monitoring notify the City when monitoring plan requirements are not met;
- (c) A disclosure of the location and condition of the additional soil treatment and dispersal system;
- (d) A stipulation of acceptable and prohibited discharges; and
- (e) The signatures of the system designer and owner.

Subd. 5 Operating Permit Compliance Monitoring.

- (a) Performance monitoring of a SSTS with an Operating Permit shall be performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the Operating Permit.

- (b) A monitoring report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of the maintenance and servicing activities performed since the last compliance monitoring report as described below:
1. Owner name and address;
  2. Operating permit number;
  3. Average daily flow since last compliance monitoring report;
  4. Description of type of maintenance and date performed;
  5. Description of sample taken (if required), analytical laboratory used, and results of analyses;
  6. Problems noted with the system and actions proposed or taken to correct them; and
  7. Name, signature, license and license number of the licensed professional who performed the work.

705.07 License requirements. All design, installation, alteration, repair, maintenance, operation, pumping, and inspection activities for SSTS located in the City must be completed by a business licensed by the state under Minn. R. ch. 7083, an appropriately certified qualified employee, or a person exempted under Minn. R. 7083.0700, subps. 1(A), (C), (D), (F), (G), (H) and (I). Individuals exempt from a state SSTS license under Minn. R. 7083.0700, subps. 1(A), (C), (D), (F), (G), (H) and (I) must follow all applicable local, state, and federal requirements.

705.08 Application Review and Determination. If after consideration of the application for a permit, the City determines that the proposed work complies with provision of this Ordinance, the City shall issue a written permit granting preliminary approval authorizing initiation of the work as proposed. If the City determines that the proposed work will not comply with the provisions of this Ordinance, the City shall deny the permit application. The permit application may be revised or corrected and resubmitted to the City for reconsideration.

705.09 Variances. Variances to wells and water supply lines require approval from the Minnesota Department of Health. The City may grant variances to the technical standards and criteria of Minnesota Rules, Chapter 7080 or this Ordinance. However, the City is prohibited from granting variances to:

- (a) Minn. R. 7080.2150, subp. 2.
- (b) Minn. R. 7081.0080, subps. 2 to 5, however, variances may be granted to Minn. R. 7081.0080, subp. 4(D)(1) for the replacement of MSTs serving existing dwellings or other establishments.
- (c) Flow determinations under Minn. R. 7081.0110 if the deviation reduces the average daily flow from more than 10,000 gallons to 10,000 gallons per day or less.

All requests for a variance shall be requested in writing to the City on forms approved by the City.

#### 705.10 Periodically Saturated Soil Disagreements.

- (a) If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all disputing parties must follow the procedure outlined in this subpart.
  - 1. The disputing parties must meet at the disputed site in an attempt to resolve differences.
  - 2. If the provision does not resolve the differences, then
    - (i) Obtain an opinion from a Minnesota licensed professional soil scientist who is a certified SSTS designer or inspector and who is independent of, and agreed upon by, both parties.
    - (ii) If opinions rendered do not resolve the dispute, all initial and follow-up documents and information generated must be submitted to the City. The City shall take into consideration all information and opinions rendered and make a final judgment. The City shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions it renders.
- (b) If a documented discrepancy arises on the depth of the periodically saturated soil between a SSTS licensed business and the City for SSTS design or compliance purposes, all disputing parties shall follow the procedure outlined in this item.
  - 1. A representative of the City and the licensed business must meet at the disputed site in an attempt to resolve differences.
  - 2. If the provision does not resolve differences, then the SSTS licensed business may obtain an opinion from a Minnesota licensed professional soil scientist who is a certified SSTS designer or inspector and who is independent of, and agreed upon by, both parties.
  - 3. If still unresolved, the City shall take into consideration all information and opinions rendered and make a final judgment. The Health Authority shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions they render.
- (c) Upon resolution of a dispute, amendments to initial disputed documents containing the resolution shall be made and submitted to the City and all other parties involved.

#### 705.11. Construction Inspections

Subd. 1. Requirements. Compliance inspections shall be conducted by the City anytime a SSTS is installed, replaced, altered, repaired, or extended. The installation and construction of the SSTS shall be in accordance with the permit requirements and application design. If any SSTS component is covered before being inspected by the City, it shall be uncovered if so ordered by the City. Proposals to alter the permitted construction shall be reviewed and the proposed change accepted by the City prior to construction. Inspections shall be conducted at least once during the construction that is prior to covering of the SSTS to assure that the system has been constructed per the submitted and approved design.

Subd. 2. Inspector. Compliance inspections for construction, replacement, alteration or repair work on SSTS shall be conducted by the City.

Subd. 3. Request for Inspection. It shall be the duty of the permittee to notify the City of the date and time the inspection is requested at least 24 hours (excluding weekend days and holidays) preceding the requested inspection time. If the permittee provides proper notice as described above and the City does not appear for an inspection within two hours after the time scheduled, the permittee may complete the installation and submit an As-built for the system.

Subd. 4. Access to Premises and Records. Upon the request of the City, the applicant, owner, permittee or any other person shall allow access at any reasonable time to the affected premises as well as any related records, for the purposes of regulating and enforcing this Ordinance. If entry is refused, the City shall have recourse to the remedies provided by law to secure entry. No person shall hinder or otherwise interfere with the City in the performance of their duties and responsibilities pursuant to the enforcement of this Ordinance. Refusal to allow reasonable access to the City shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.

Subd. 5. Stop Work Orders. Whenever any SSTS work is being done contrary to the provisions of this Ordinance, the City may order the work stopped by verbal or written notice served upon the installer or the owner of the land. All installation and construction shall cease and desist until subsequent authorization to proceed is received from the City.

Subd. 6. As-builts. As-builts shall be submitted to the City within five (5) working days of completion of the work on the SSTS on forms provided or approved by the City. The As-built shall include photographs of the system prior to covering and a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects. If an As-built is not submitted, the City may require the uncovering of the system for inspection.

Subd. 7. Inspection Reports. A Certificate of Compliance or Notice of Noncompliance shall be prepared by the City following an inspection or review of As-builts submitted in accordance with Subd. 6. A Certificate of Compliance or Notice of Noncompliance shall include a signed statement by the inspector identifying the type of SSTS inspected and whether the system is in compliance with Minnesota Rules. A copy of the Certificate of Compliance or Notice of Noncompliance shall be provided to the property owner within 30 days of the compliance inspection and a copy kept on file with the City.

- (a) Certificates of Compliance issued by the City for new construction and replacement shall be valid for five (5) years from the date of the compliance inspection or As-built certification unless the City or licensed inspector identifies the system as an Imminent Public Health Threat.
- (b) Notices of Violation may be issued with Notices of Noncompliance when the Health Authority determines that new construction, replacement or repairs are not in compliance with this Ordinance.

#### 705.12 Maintenance Inspections.

Subd. 1. Inspection; classification. For purposes of insuring continued proper use and maintenance of all systems, the City will cause each system to be inspected by and as often as the maintenance inspector deems appropriate, but in all cases at least once every two years. This applies to all systems in the City, including those operated under a management plan. Such maintenance inspections are not performed for the specific purpose of

determining system compliance, as described in Minn. R. 7080.1500, and a certificate of compliance will not be issued as a result of such maintenance inspections. However, if the maintenance inspector determines, based on the maintenance inspection, that a system is non-compliant, the City may issue a certificate of non-compliance.

Subd. 2. Right of Entry. The maintenance inspector shall have the free right of entry onto every property in the City at all reasonable times, for purposes of inspecting its system to determine the need for septic tank maintenance in accordance with Minn. R. 7080.2450. Failure of any party to grant the City access for this purpose shall be grounds to classify any system as not in compliance with this section. The City Attorney will thereafter take such action as is necessary to enable the maintenance inspector to perform the inspection and to enforce all the provisions of this section, Minn. Stat. Chapter 115 and Minn. Rules Chapter 7080 and 7081, and to assess the cost thereof against the property.

Subd. 3. Inspection Report. Within 7 days after the inspection of each system, the maintenance inspector will provide the results of said inspection in writing to the owner of the system, with a copy to the City. The report will contain measurements of the scum, water level and sludge in the septic tank and a statement as to the condition of the baffles in the tank if the system is already in use. The report will include orders for pumping, cleaning or other maintenance as appropriate.

Subd. 4. Pumping. The maintenance inspector will require each septic tank or holding tank to be pumped for the removal of septage whenever measurement of the tank indicates that the top of the sludge layer in the tank or any compartment thereof is less than 12 inches below the bottom of the outlet baffle or whenever the bottom of the scum layer is less than three inches above the bottom of the outlet baffle. Total sludge and scum volume must not be greater than 25% of the tank's liquid capacity. In addition, the maintenance inspector will require all holding tanks to be pumped as frequently as necessary to prevent overflowing, and will require that non-compliant systems be regularly pumped to limit or eliminate effluent discharge until satisfactory repairs have been completed, and a certificate of compliance has been issued. Pumping of tanks must be performed by a licensed maintenance business. Licensed maintenance businesses must abide by the requirements described in Minn. R. 7083.0770, subp. 2. All written reports required by Minn. R. 7083.0770, subp. 2 must be provided to the homeowner and the City within 30 days after any maintenance work is performed.

#### 705.13 Existing Systems.

Subd. 1. Requirements. The City shall require a compliance inspection of an existing system whenever:

- (a) The City deems a compliance inspection necessary, including, but not limited to, upon receipt of information of a potential SSTS failure or Imminent Health Threat.
- (b) An additional bedroom on the property is requested. If a request for an additional bedroom is received between November 1 and April 30, the governing municipality may issue a building permit immediately with the contingent requirement that a compliance inspection of the existing SSTS shall be completed by the following June 1 and the applicant submits a certificate of compliance by the following September 30.

Subd. 2. Inspector. Only the City or Licensed Inspector, shall conduct an inspection when a compliance inspection is required for an existing SSTS.

Subd. 3. SSTS built before April 1, 1996, outside of areas designated as shoreland areas or wellhead protection areas must have at least two feet of vertical separation between the bottom of the soil infiltrative surface and the periodically saturated soil and/or bedrock. The vertical separation measurement shall be made outside the area of system influence in an area of similar soil.

Subd. 4. SSTS built after March 31, 1996, or SSTS located in a shoreland area or wellhead protection area must have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Unless otherwise determined by the City, existing systems that have no more than a 15 percent reduction to the minimum required 36 inch separation distance are considered compliant. (i.e., a separation distance no less than 30.6 inches). This reduction is to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics. The vertical separation measurement shall be made outside the area of system influence in an area of similar soil.

Subd. 5. Abandonment of Existing Systems. 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 is prohibited.

Abandonment shall be completed in accordance with Minn. R. 7080.2500.

Subd. 6. Inspection Reports. A copy of the Certificate of Compliance or Notice of Noncompliance resulting from a compliance inspection shall be provided to the property owner and the City within 30 calendar days of inspection.

Subd. 7. Certificates of Compliance issued by a licensed SSTS Inspector for an existing system shall be valid for three (3) years from the date of the compliance inspection unless the City or licensed inspector identifies the system as an Imminent Public Health Threat.

Subd. 8. A Notice of Noncompliance shall be issued in the following circumstances and the conditions noted in violation of this Ordinance shall be remedied as follows:

- (a) A SSTS determined to be failing shall be upgraded, replaced, or repaired in accord with Minnesota Rules Chapter 7080 or 7081, within three (3) years, or its use is discontinued. The City, at its discretion, may grant an extension of an additional two (2) years.
- (b) A SSTS posing an imminent threat to public health or safety shall be upgraded, replaced or repaired within 10 months. The City will give consideration to weather conditions in determining compliance dates. If a SSTS is determined to be a public health nuisance by the City, the City may order the owner of the SSTS to cease use immediately and not allow use of the SSTS until it is corrected in accordance with the recommendations of the City.

#### 705.14 Violations.

Subd. 1. Cause to Issue a Notice of Violation. Noncompliance with this Ordinance by an applicant, permittee, installer or other person, as determined by the City, shall constitute a violation.

Subd. 2. Serving a Notice of Violation. The City shall serve, in person or by mail, a Notice of Violation upon any person determined to be not in compliance with this Ordinance.

Subd. 3. Contents of a Notice of Violation. A Notice of Violation shall contain the following:

- (a) A statement documenting the findings of fact determined through inspections, reinspection or investigation.
- (b) A list of specific violation or violations of this Ordinance.
- (c) The specific requirements for correction or removal of the specified violation(s).
- (d) A mandatory time schedule for correction, removal and compliance with this Ordinance.

Subd. 4. Notification of MPCA. The City shall in accordance with state law notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed person or any pumping by a licensed pumper performed in violation of the provisions of this Ordinance.

#### 705.15 Additional Standards for Health and Environmental Protection.

Subd. 1. Siting of a SSTS. Notwithstanding any state or federal requirements, the separation distance from a SSTS to a Type 3, 4, 5 or 6 wetland shall be no less than fifty (50) feet.

Subd. 2. SSTS in Flood Plains. No permit shall be issued for SSTS located in a floodway and wherever possible, located within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements of Minn. R. 7080.2270 and all relevant local requirements are met.

705.16 Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V injection wells as defined in the Code of Federal Regulations, title 40, part 144, are required to submit SSTS inventory information to the United States Environmental Protection Agency and the MPCA. Owners are also required to identify all Class V injection wells in property transfer disclosures.

705.17 Holding Tanks. Holding tanks may be used for the following applications only after it can be shown conclusively by the property owner that a SSTS permitted under this ordinance cannot be feasibly installed:

- (a) As a replacement for an existing failing SSTS;
- (b) For a SSTS that poses an imminent threat to public health or safety; or
- (c) For use with buildings with limited water use.

705.18 Determination of Hydraulic Loading Rate and SSTS Sizing. Table IX from Minn. R. 7080.2150, subp. 3(E) entitled Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions and Table IXa from Minn. R. 7080.2150, subp. 3(E) entitled Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests and herein adopted by