

CHAPTER 7**PUBLIC AND PRIVATE UTILITIES****720. INDIVIDUAL SEWAGE TREATMENT STANDARDS**

Section 720.01. Purpose, Authority, and Intent. This section establishes minimum requirements for Individual Sewage Treatment Systems (ISTS) and Mid-sized Subsurface Sewage Treatment Systems (MSTS) (collectively Subsurface Sewage Treatment Systems, or “SSTS”) pursuant to Minnesota Statutes, Sections 115.55, 145A.01 through 145A.08, and 375.51 and Minnesota Rules, Chapters 7081, 7081, and 7082 and successor statutes and rules. The section is intended to protect the lakes, rivers, streams, wetlands and groundwater of the City of Medina in order to promote the public health, safety and welfare.

Section 720.03. Standards Adopted by Reference. The City hereby adopts by reference Minnesota Rules, Chapters 7080, 7081, and 7082 in their entirety as now constituted and as they may be amended from time to time. Adoption of such Rules shall not supersede the City’s right or ability to adopt local standards as permitted by Minnesota Statutes or Rules.

Section 720.05. Determination of Hydraulic Loading Rate and SSTS Sizing. Table IX 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 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” from Minnesota Rules 7080.2150, Subp. 3(E) and herein adopted by reference shall both be used to size SSTS infiltration areas using the larger sizing factor of the two for SSTS design.

Section 720.07. General Provisions Required by State Rules.

Subd. 1. Technical Standards. Except as explicitly modified in this section, the technical standards and criteria in Minnesota Rules 7080.1017 to 7080.2400 and Minnesota Rules 7081.0110 to 7081.0290 are hereby specifically adopted.

Subd. 2. Surface discharge prohibited. Surface discharge of sewage from SSTS is prohibited unless a national pollution discharge elimination system permit is issued by the Minnesota Pollution Control Agency (MPCA).

Subd. 3. Proper sewage treatment required. All sewage generated in areas of the City not served by municipal sanitary sewer shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Section or by a system that has been permitted by the MPCA.

Subd. 4. Licensing. No person shall engage in site evaluation, inspection, design, installation, construction, alternation, extension, repair, maintenance, or pumping of SSTS without an

appropriate and valid license issued by MPCA in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700.

Subd. 5. Two sites required for all new lots. All lots created after January 23, 1996 shall include a minimum of two soil treatment and dispersal areas that support systems as described in Minnesota Rules, Chapter 7080.2200 to 7080.2230 or site conditions described in Minnesota Rules, Chapter 7081.0270, subp. 3 to subp. 7.

Subd. 6. SSTS Abandonment. Any SSTS, or part thereof, which will no longer be used shall be abandoned consistent with the requirements of Minnesota Rules, Chapter 7080.2500.

Subd. 7. Management Plans Required. All new or replacement SSTS shall require a Management Plan consistent with the requirements of Minnesota Rules, Chapter 7080.0600, Subp. 1.

Subd. 8. Removal of Solids Every Three Years. All systems which are not operated under an Operating Permit or a Management Plan as described herein shall be assessed at least one time every three years to determine the need to remove solids from septic tanks. Solids shall be removed if necessary based on Minnesota Rules, Chapter 7080.2450.

Subd. 9. 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 by the federal government to submit SSTS inventory information to the United States Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

Subd. 10. Bedroom Additions. The City shall not issue a building permit or variance for a bedroom addition on property served by a system unless the SSTS is in compliance with applicable requirements, as evidenced by a certificate of compliance. A local unit of government is authorized to temporarily waive the certificate of compliance requirement in this item for a bedroom addition permit for which application is made during the period from November 1 to April 30, provided a compliance inspection of the system is performed by the following June 1 and the applicant submits a certificate of compliance by the following September 30.

Subd. 11. SSTS in Floodplains. SSTS shall not be located in a floodway and wherever possible, location 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 in Minnesota Rules, Chapter 7080.2270 and all relevant local requirements are met.

Section 720.09. Deviations from Adopted Standards and More Restrictive Standards.

Subd. 1. Minnesota Rules, Chapter 7080.1930 is modified by requiring at least two septic tanks with a minimum capacity of 1,000 gallons each.

Subd. 2. Minnesota Rules, Chapter 7080.2100, subp. 2(C) is modified to require a pump tank with a minimum capacity of 1,000 gallons.

Subd. 3. All soil treatment areas shall be protected before, during and after construction on the

lot. The method of protection of the additional soil treatment area shall be approved by the City of Medina Building Official and may include, but is not limited to, snow fencing, permanent fencing and silt fencing.

Subd. 4. No building permit shall be issued for construction on any property if such construction negatively impacts one of the two required soil treatment areas that can accommodate a standard ISTS, unless it can be shown that such treatment area can be replaced upon the property.

Subd. 5. Tanks and soil treatment and dispersal areas shall be setback a minimum of 75 feet from wetlands.

Subd. 6. All SSTS with a pump shall include an alarm within the structure served to warn of failure.

Subd. 7. Holding Tanks.

- (a) Holding tanks in compliance with Minnesota Rules 7080.2290 may only be allowed in the following circumstances:
 - (1) As replacement for existing failing SSTS or for SSTS that pose an imminent threat to public health or safety.
 - (2) For construction on lots existing as of March 26, 2015 where it can be shown conclusively that a SSTS cannot feasibly be installed.
 - (3) For buildings with limited water use, with the exception that dwellings shall not be connected to holding tanks unless meeting (1) or (2) above.
 - (4) For floor drains within a structure.
- (b) In addition to conditions of an Operating Permit as described in this Section, use of holding tanks shall be subject to the following conditions:
 - (1) An alarm shall be installed on the holding tank(s) which indicates when one day's use remains in the tank(s).
 - (2) The owner shall maintain a valid contract with a licensed liquid waste hauler to pump and haul the holding tank to a licensed treatment facility.
 - (3) The pumper shall certify each date the tank is pumped, the volume of the waste removed, the treatment facility to which the waste was discharged, and the water meter reading at the time of pumping. These records shall be maintained by the owner, and shall be provided upon request to the City.
 - (4) Any dwelling served by holding tanks shall require a minimum of two tanks.
 - (5) The owner shall install a remote reading water meter to record indoor water use.
 - (6) The holding tank shall be regularly pumped, no less frequently than bi-weekly or other regular schedule agreed upon with the City.
 - (7) A holding tank that is solely used for floor drains shall not be subject to the requirements of Subd. 7(b) (3)-(6), above.

Subd. 8. Allowed Reduction in the Vertical Separation for Existing System Compliance.

As permitted by Minnesota Rules 7080.1500 Subp. 4, an existing ISTS which was designed and constructed with a three-foot separation distance shall be allowed a maximum of a 15 percent reduction in vertical separation distance to account for settling of sand or soil, normal variations of measurements, and interpretations of the limited layer conditions.

Section 720.11. Imminent Threats to Public Health or Safety.

After an owner receives a notice of noncompliance that states that an SSTS represents an imminent threat to public health or safety as described in Minnesota Rules 7080.1500, subp. 4(A), the property owner shall halt sewage discharge to surface waters or the ground surface or prevent the further backup of sewage within 10 days of receiving notification. The property owner shall upgrade, replace, repair, or discontinued use of the SSTS as soon as practically possible, but in all cases within ten months.

Section 720.13. Systems Failing to Protect Groundwater.

Within three years after an owner receives a notice of noncompliance that states that an SSTS is failing to protect groundwater as described in Minnesota Rules 7080.1500, subp. 4(B), the property owner shall upgrade, replace, repair, or discontinued use of the SSTS.

Section 720.15. Construction Permit. It shall be unlawful for any person to construct, install, modify or replace a SSTS without obtaining a permit from the City.

Subd. 1. Activities requiring a permit. A construction permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

Subd. 2. Activities not requiring a permit. A construction permit is not required for the following minor repairs or replacements of system components that do not alter the original function of the system:

- (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; or
- (d) Repair or replacement of the line from the building to the septic tank.

Subd. 3. Permit Application Requirements. Applications shall be made on forms provided by the City and shall involve the following:

- (a) Site Evaluation Report;
- (b) Detailed soil descriptions within soil treatment areas;
- (c) Two sets of percolation tests for the primary and secondary site;
- (d) Design Report;
- (e) Management Plan; and
- (f) Any other information requested by the City to confirm compliance with relevant regulations and to ensure protection of the public health, safety, and welfare.

Subd. 4. Installation and Inspection Requirements.

- (a) No changes may be made to the approved design without approval of the amended design.
- (b) All tests and data required by the City inspector shall be provided.
- (c) The installer shall provide an accurate as-built at the time of final inspection.
- (d) The installer shall test any pumps and alarms at the time of final inspection.

Subd. 5. Permit Expiration. A Construction Permit shall be valid for a period of no more than one year from the date of issuance.

Subd. 6. Permit Suspension or Revocation. The City may suspend or revoke a Construction Permit issued under this section for any false statements, misrepresentations of facts on which the Construction Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Construction Permit is obtained.

Section 720.17. Operating Permit.

Subd. 1. Operating Permit Required. An Operating Permit in compliance with Minnesota Rules 7082.0600 subp. 2 shall be required for:

- (a) Type III Systems, as described in Minnesota Rules 7080.2350;
- (b) Type IV Systems, as described in Minnesota Rules 7080.2400;
- (c) MSTs, as described in Minnesota Rules 7081; and
- (d) Holding Tanks.

Subd. 2. Operating Permit Requirements. An Operating Permit shall specify the following, which shall be reviewed by the City and approved only if compliant with relevant regulations:

- (a) Maintenance requirements, including frequency;
- (b) System operational and performance requirements;
- (c) Monitoring requirements;
- (d) Compliance limits and compliance boundaries;
- (e) Reporting frequency;
- (f) Disclosure of the location and condition of the soil treatment and dispersal system, if applicable;
- (g) Stipulation of acceptable and prohibited discharges;
- (h) Executed contract between the owner and a licensed maintenance contractor; and
- (i) A requirement that the permittee notify the City when permit requirements are not met.

Subd. 3. Transfer of Operating Permit.

- (a) The Operating Permit shall be recorded against the title of the subject property and shall bind successors in title for the term of the permit.
- (b) With the exception of a sale as described above, the Operating Permit may not be transferred without prior approval by the City.

Subd. 4. Suspension or Revocation.

- (a) The City 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 or for failure to comply with the terms and conditions of the Operating Permit.
- (b) Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
- (c) If suspended or revoked, the City may require that the treatment system be removed from service, operated as a holding tank, or abandoned.

- (d) At the City's discretion, the Operating Permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

Section 720.19. Resolving Conflicting Inspections and Other Technical Disputes.

Subd. 1. 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 below:

- (a) The disputing parties shall meet at the disputed site in an attempt to resolve differences.
- (b) If this meeting does not resolve the differences, then the parties shall 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.
- (c) If opinions rendered in clause (a) and (b) do not resolve the dispute, all initial and follow-up documents and information generated shall 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.

Subd. 2. If a documented discrepancy arises on the depth of the periodically saturated soil between an SSTS licensed business and the City Building Official for SSTS design or compliance purposes, all disputing parties shall follow the procedure outlined below:

- (a) The Building Official and the licensed business must meet at the disputed site in an attempt to resolve differences.
- (b) If this meeting does not resolve the differences, then the parties shall 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.
- (c) If opinions rendered in clause (a) and (b) do not resolve the dispute, the City Council 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 they render.

Subd. 3. 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.

Section 720.21. Variances.

Subd. 1. City Authority. The City Council shall have the authority only to consider variances from the following standards:

- (a) Provisions of subsection 720.09 of this Section.
- (b) Horizontal setbacks from property lines, rights of way, structures, buildings, and wetlands.

Subd. 2. Variance Procedures.

(a) Any property owner requesting relief from the strict application of the provisions in this Section shall complete and submit an application for variance on a form provided by the City. The variance request shall include, as applicable:

1. A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;
2. A description of the practical difficulty that prevents compliance with the rule;

3. The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions;
 4. The length of time for which the variance is requested;
 5. Other relevant information requested by the City as necessary to properly evaluate the variance request; and
 6. The appropriate fee shall be paid at the time of submittal of the application to receive consideration.
- (b) The City Council shall consider the variance request after conducting a public hearing. Notice of the hearing shall be mailed to owners within 1000 feet of the subject property and published in the City's legal newspaper at least 10 days before such hearing.
- (c) The variance may be granted provided that:
1. The granting of the variance is in harmony with the general purposes and intent of this Section, and is in accordance with Minnesota Rules, Chapters 7080, 7081, and 7082.
 2. The City Council determines that the applicant has established that there are practical difficulties in meeting the strict letter of this Section.
 3. The condition causing the demonstrated difficulty is unique to the property and was not caused by the actions of applicant.
 4. The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons in the vicinity; and
- (d) In granting a request for a variance, the City may attach such conditions as it deems necessary to conform to the purpose and intent of this Section and to protect the health, safety, and welfare.
- (e) Any variance granted shall expire if the system is not installed within one year of the grant of the variance, unless the City Council grants an extension. Any violation of the terms and conditions of a variance issued, or any violation of any provision of this Section relating to the specific issue of the variance, shall result in immediate revocation of the variance.

Subd. 3. Variances from State Agencies. Variances that pertain to standards and requirements not specified in Subd. 1 above and pertain to the standards and requirements of the State of Minnesota shall be reviewed and decided by the affected state agency pursuant to the requirements of such agency.

Section 720.23. Enforcement.

Subd. 1. Violation a Crime. Any person, firm, agent, or corporation who violates any of the provisions of this Section, or who fails, neglects, or refuses to comply with the provisions of this Section, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes. Each day that a violation exists shall constitute a separate offense.

Subd. 2. Cease and Desist Orders. Cease and desist orders may be issued when the City 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.

Subd. 3. Public Nuisance. Any imminent threat to public health or safety, failure to protect groundwater, construction of an SSTS without a required permit or after a permit has been suspended or revoked, use of an SSTS without a required operating permit or after a permit has been suspended or revoked or any other violation of the standards of this ordinance or state law constitutes a public nuisance and may be abated in accordance with this section and section 330 of the Medina city code.

Subd. 4. Abatement of Violation. Upon receipt of a notice of a violation of any of the provisions of the Section, the person, firm, agent, or corporation shall correct the violation within a reasonable amount of time or be subject to enforcement described in law and ordinance.

Subd. 5. Costs and Reimbursements.

- (a) If the City is required to abate a public nuisance described in the Section, the City may recover all costs incurred in abatement, including legal fees, in a civil action, including.
- (b) At the discretion of the City Council, all costs incurred by the City to abate a public nuisance under this Section may be collected if unpaid as a service charge through special assessments pursuant to section 330 of the Medina City Code and Minnesota Statutes, section 429.101.

Section 720.25. Severability. If any section, clause, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of law, the remainder of this Section shall not be affected and shall remain in full force.

Section 720.27. Abrogation and Greater Restrictions. It is not intended by this Section to repeal, abrogate, or impair any other existing City ordinance, easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail.

Amendment History of this Section

Previously Amended March 5, 1991 (Ord. 251). Amended Subsection 720.17, requiring minimum soil to be “contiguous.”

Previously Amended April 6, 1992 (Ord. 266). Subsections 720.09, 720.17, 720.37, 720.39, 720.95, and 720.97 were amended regarding evaluations, inspections, and repair of Individual Sewage Disposal Systems.

Previously Amended October 20, 1992 (Ord. 272). Amended Subsection 720.95 regarding Biennial Inspections of Individual Septic Systems.

Previously Amended June 1, 1993 (Ord. 275). Subd. 61 of Subsection 720.07 was amended regarding the definition of “Ordinary High Water Level.”

Adopted February 16, 1999 (Ord. 308a). Previous language in Section 720 was repealed in its entirety and replaced with the wording from Ord. 308a.

Amended February 15, 2000 (Ord. 314). Amended various subsections.

Amended May 16, 2000 (Ord. 318). Subsection 720.06 and Subd. 3 of Subsection 720.03 were added, other portions of the Section were revised.

Amended June 20, 2006 (Ord. 406). Added subsection 720.09 regarding variances, added subd. 5 of subsection 720.07, and added reference to Minnesota Rule 7080.0179 to subsection 720.03.

Amended January 6, 2009 (Ord. 454). Amended various subsections regarding individual sewage treatment standards and added new Section 721, regarding the individual sewage treatment assessment and maintenance program.

Amended March 17, 2015 (Ord. 577). Language deleted in its entirety and replaced with updated language in order to make the regulations consistent with updated State of Minnesota Rules.