

ORDINANCE NO. 212, THIRD SERIES

**CITY OF ORONO
HENNEPIN COUNTY, MINNESOTA**

**AN ORDINANCE REPEALING AND REPLACING
ORONO CITY CODE OF ORDINANCES TITLE V, CHAPTER 58,
ARTICLE II PERTAINING TO ON-SITE SEWAGE DISPOSAL**

THE CITY COUNCIL OF ORONO ORDAINS:

SECTION 1. Title V, Chapter 58, Article II shall be repealed in its entirety and replaced with the following language:

Division 1. General provisions

Sec. 58-41 Purpose

This ordinance is enacted to provide minimum standards for the regulation of subsurface sewage treatment systems (SSTS) including: proper location, design and construction; necessary modification and reconstruction; operation, maintenance and repair for the purpose of protecting surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; protection of the public's health and safety; and 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 from time to time that may pertain to sewage and wastewater treatment.

A. 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.

B. 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.

Sec. 58-42 Objectives

The principal objectives of this Ordinance are as follows:

A. The protection of Orono's lakes, rivers and streams, wetlands, and groundwater essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the City in perpetuity.

B. 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.

C. 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.

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

E. 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, ISTS surveys and complaint investigation.

Sec. 58-43 Definitions

Class V Injection Well means a shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

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

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

Failure to Protect Groundwater means at 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 MR Chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Section 58-52 hereof.

Health Authority means the City of Orono and its designated agent who shall be a qualified employee or licensee.

Imminent Threat to Public Health and Safety means, at a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a SSTS inspection business licensed pursuant to Section 58-52 hereof.

ISTS means an individual sewage treatment system as defined in Minn. R. 7080.1100, subp. 41.

Malfunction means the partial or complete loss of function of a SSTS component, which requires a corrective action to restore its intended function.

Management Plan means a plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned

course of action to prevent an illegal discharge.

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

MPCA means the Minnesota Pollution Control Agency.

MSTS means a “midsized subsurface sewage treatment system” under single ownership that receives sewage from dwellings or other establishments having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.

Notice of Noncompliance means a written document issued by the City notifying a system owner that the owner’s onsite/cluster treatment system has been observed to be noncompliant with the requirements of this Ordinance.

Qualified Employee means an employee of the state or city of Orono, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual’s employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.

Other Establishment means 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 an individual sewage treatment system.

Owner means 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 an ISTS is responsible for the lawful operation and maintenance of each ISTS.

Record Drawings means a set of drawings which to the fullest extent possible document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system.

Sewage means waste from toilets, bathing, laundry, or culinary activities or operations or floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.

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

Type I System means an ISTS designed according to Minn. R. parts 7080.2200 to 7080.2240, as may be amended from time to time.

Type II System means an ISTS designed according to Minn. R. parts 7080.2250 to 7080.2290, as may be amended from time to time.

Type III System means an ISTS designed according to Minn. R. 7080.2300, as may be amended from time to time.

Type IV System means an ISTS designed according to Minn. R. 7080.2350, as may be amended from time to time.

Type V System means an ISTS designed according to Minn. R. 7080.2400, as may be amended from time to time.

Sec. 58-44. Incorporation by reference

This Ordinance hereby incorporates by reference Minnesota Rules Chapter 7080 and 7081, as may be amended from time to time.

Sec. 58-45. Administration by the health authority

The Health Authority 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 perform 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.

Sec. 58-46. No Guarantee

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.

Division 2: Permitting

Sec. 58-47. Required permits

A permit from the Health Authority is required before any SSTS in Orono's jurisdiction is installed, replaced, abandoned, altered, repaired, rejuvenated or extended 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.

New residence. No building permit shall be issued for any new building that will be connected to an ISTS until a site evaluation and design is approved by the on-site systems manager. The site evaluation must include the identification of both primary and alternate drainfield sites suitable for a minimum of a five-bedroom residence. If the building will be connected to an existing

system, a site evaluation and design must be approved by the city, including the existing system specifications and a future site meeting the provisions of this article.

Sec. 58-48. 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.

Sec. 58-49. Permit application

All applications for an 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 Health Authority 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 Health Authority and include information required by sections 7080.1710-7080.2400.
- G. System design with full information including applicable construction information on forms approved by the Health Authority.
- H. The location of two or more designated additional soil treatment areas 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.

Sec. 58-50. 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 Health Authority 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 Health Authority 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 Health Authority 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.

Sec. 58-51. Compliance monitoring

Performance monitoring of a SSTS shall be performed by a licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.

A monitoring report shall be prepared and certified by the licensed service provider. The report shall be submitted to the City on a form provided by the City on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:

- 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.

Sec. 58-52. 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. Property owners that employ a business to perform this work must hire a business that is licensed in accordance with Minn. R. ch. 7083.

Sec. 58-53. Application review and determination

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

Sec. 58-54. Variances

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

- A. Minn. R. 7080.2150, subp. 2.
- B. Minn. R. 7081.0080, subps. 2 to 5
- 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 Health Authority on forms approved by the Health Authority.

Sec. 58-55. 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:
 - a. 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.
 - b. If opinions rendered do not resolve the dispute, all initial and follow-up documents and information generated must be submitted to the Health Authority. The Health Authority 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 it renders.

B. If a documented discrepancy arises on the depth of the periodically saturated soil between an SSTS licensed business and the Health Authority for SSTS design or compliance purposes, all disputing parties shall follow the procedure outlined in this item.

- 1. A representative of the Health Authority 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 Health Authority 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 Health Authority and all other parties involved.

Division 3. Construction inspections

Sec. 58-56. Requirements

Compliance inspections shall be conducted by the Health Authority anytime a SSTS is installed, replaced, abandoned, altered, repaired, rejuvenated, 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 Health Authority, it shall be uncovered if so ordered by the Health Authority. Proposals to alter the permitted construction shall be reviewed and the proposed change accepted by the Health Authority prior to construction. Inspections shall be conducted at least once during the construction that is prior to covering of the ISTS to assure that the system has been constructed per the submitted and approved design.

Sec. 58-57. Inspector

Compliance inspections for construction, replacement, alteration or repair work on SSTS shall be conducted by the Health Authority.

Sec. 58-58. Request for inspection

It shall be the duty of the permittee to notify the Health Authority 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 Health Authority 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.

Sec. 58-59. Access to premises and records

Upon the request of the Health Authority, 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 Health Authority shall have recourse to the remedies provided by law to secure entry. No person shall hinder or otherwise interfere with the Health Authority in the performance of their duties and responsibilities pursuant to the enforcement of this Ordinance. Refusal to allow reasonable access to the Health Authority shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.

Sec. 58-60. Stop work orders

Whenever any SSTS work is being done contrary to the provisions of this Ordinance, the Health Authority 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 Health Authority.

Sec. 58-61. As-builts

As-builts shall be submitted to the Health Authority within five (5) working days of completion of the work on the ISTS on forms provided or approved by the Health Authority. 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 Health Authority may require the uncovering of the system for inspection.

Sec. 58-62. Inspection reports

A Certificate of Compliance or Notice of Noncompliance shall be prepared by the Health Authority following an inspection or review of As-builts submitted in accordance with Section 58-61 . A Certificate of Compliance or Notice of Noncompliance shall include a signed statement by the inspector identifying the type of ISTS 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 Health Authority.

A. Certificates of Compliance issued by the Health Authority 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 Health Authority or licensed inspector identifies the system as an Imminent Threat to Public Health and Safety.

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.

Division 4 Existing systems

Sec. 58-63. Requirements

The Health Authority shall require a compliance inspection on MPCA Compliance Inspection Form of an existing system whenever:

- A. In designated Shoreland Management or Wellhead Protection Areas, an application for any type of building or land use permit is made.
- B. The Health Authority deems a compliance inspection necessary, including, but not limited to, upon receipt of information of a potential ISTS failure or Imminent Threat to Public Health and Safety.
- C. 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 ISTS shall be completed by the following June 1 and the applicant submits a certificate of compliance by the following September 30.
- D. Any addition or remodel of a licensed food, beverage, or lodging establishment or any Other Establishment where the sewage treatment system's designed flow may be effected.
- E. 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.

Sec. 58-64. Inspector

Only a certified inspector from the Health Authority or a licensed inspection business shall conduct an inspection when a compliance inspection is required for an existing SSTS.

Sec. 58-65. Vertical Separation

A. SSTS built after March 31, 1996. A SSTS located in a shoreland area, wellhead protection area, or serving a food, beverage, or lodging establishment as defined under Minn. R. 7080.1100, subp. 84 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 Health Authority, 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.

1. SSTS built after March 31, 1996 located outside shoreland, wellhead protection, or serving food, beverage, or lodging establishments as defined under part 7080.1100, subpart 84, must have at least three (3) feet of vertical separation.

B. SSTS built before April 1, 1996, in areas that are not shoreland, wellhead protection, or serving food, beverage, or lodging establishments SWF areas as defined under part 7080.1100, subpart 84, must have at least two (2) feet of vertical separation.

1. SSTS built before April 1, 1996, in areas that are within shoreland, wellhead protection areas, or serving food, beverage, or lodging establishments as defined under part 7080.1100, subpart 84, must have at least three (3) feet of vertical separation.

Table 1. Vertical separation summarized.

	Within shoreland, well protection, or Food, beverage, or lodging	Outside shoreland, well protection, or not in food, beverage, or lodging
Built before April 1, 1996	3 feet separation, minimum	2 feet separation, minimum
Built after March 31, 1996	3 feet separation, minimum	3 feet separation, minimum

Sec. 58-66. 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 Health Authority within 30 calendar days of inspection.

A. Certificates of compliance Issued by a licensed ISTS Inspector for an existing system shall be valid for three (3) years from the date of the compliance inspection unless the Health Authority or licensed inspector identifies the system as an Imminent Threat to Public Health and Safety .

B. 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:

1. An SSTS determined to be failing to protect groundwater 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 Health Authority, at its discretion, may grant an extension of an additional two (2) years.
2. An SSTS posing an Imminent Threat to Public Health and Safety shall be upgraded, replaced or repaired within 10 months. The Health Authority will give consideration to weather conditions in determining compliance dates. If an SSTS is determined to be a public health nuisance by the Health Authority, the Health Authority 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 Health Authority.

Division 5 Violations

Sec. 58-67. Cause to issue a notice of violation

Noncompliance with this Ordinance by an applicant, permittee, installer or other person, as determined by the Health Authority, shall constitute a violation.

Sec. 58-68. Serving a notice of violation

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

Sec. 58-69. 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.

Sec. 58-70. Notification of MPCA

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

Division 6: Additional standards for health and environmental protection

Section 58-71. Property transaction standards for individual sewage treatment systems.

(a) No owner of a tract of land upon which a dwelling is located, or a tract of land upon which a structure which is required to have an individual sewage treatment system is located, shall sell or transfer to another party said tract of land, unless the following requirements are met:

(1) The seller of any property having an individual sewage treatment system shall have a state licensed inspector complete the Minnesota Pollution Control Agency (MPCA) sewage system compliance inspection form for existing sewage systems in accordance with this article and Minnesota Rules chapter 7080. The exception would be a new septic system installed within the previous five years or a compliance inspection performed by a licensed inspector within the previous three years.

(2) The seller must provide a copy of the completed sewage system disclosure form and the certificate of compliance or notice of non-compliance to any person who signs a purchase agreement. The disclosure form and certificate of compliance or notice of non-compliance inspection form must be provided to the buyer prior to signing the purchase agreement.

(3) The licensed inspector must submit a copy of the certificate of compliance or notice of non-compliance to the city within 15 days of the date of inspection.

(4) If the existing system is found to be out of compliance it must be brought into compliance prior to transfer of the property. If the system is not brought into compliance prior to transfer, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a complying ISTS.

(5) 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 ISTS.

(6) The security shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law or a federal or state chartered financial institution. The amount escrowed shall be equal to 150 percent of a written estimate to install a complying ISTS provided by a licensed and certified installer, or the amount shall be equal to 110 percent of the written contract price for the installation of a complying ISTS provided by a licensed and certified installer. After a complying ISTS has been installed and a certificate of compliance issued, the City of Orono shall provide the escrow agent a copy of the certificate of compliance.

Sec. 58-72. Siting of an SSTS

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

A. SSTS in flood plains. No permit shall be issued for SSTS 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 of Minn. R. 7080.2270 and all relevant local requirements are met.

B. 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.

C. 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:

1. As a replacement for an existing failing SSTS;
2. For an SSTS that poses an Imminent Threat to Public Health and Safety; or
3. For use with buildings with limited water use.

D. 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 and Absorption Ratios Using Detailed Soil Descriptions” and

Table IXa from Minn. R. 7080.2150, subp. 3(E) entitled “Loading Rates for Determining Bottom Absorption Area” Using Percolation Tests” 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.

Sec. 58-73. Maintenance report

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 Health Authority within 30 days after any maintenance work is performed.

A. Systems Not Operated Under A Management Plan. Owners of SSTS that are not operated under a management plan or operating permit must inspect treatment tanks and remove solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minn. R. 7080.2450.

Sec. 58-74. - Special provisions for Lake Minnetonka Islands.

All lots, properties, buildings and structures on Big Island, Mahpiyata Island and Deering Island, Lake Minnetonka, shall be provided with SSTS's which comply with the requirements of this article, as amended by the following special provisions and specific exceptions pertaining to island properties:

- (1) *Systems not required.* Vacant property or property used solely for one-family seasonal recreational use of land without structures, or with accessory structures only, as permitted in the RS zoning district, need not be provided with an SSTS, provided that, at any time such property is actually in use by one or more persons for overnight or longer stays, an approved marine toilet or portable holding tank toilet shall be available on the property or within a watercraft docked or moored at the property.
- (2) *SSTS required.* Each building or structure within the RS zoning district must be connected to an ISTS according to the provisions of this article as follows:
 - a. For each principal dwelling.
 - b. For each dwelling on a property containing two or more dwellings pursuant to a private guest cabin conditional use permit.
 - c. For each seasonal dwelling over 800 square feet in floor area.

- d. For any dwelling or building which has water plumbed inside and has a sink, toilet, tub or other plumbing fixture.
- (3) *Alternative SSTS permitted.* Outhouses, incinerating devices, composting devices or small portable holding tank toilets are permitted as follows:
- a. Seasonal dwellings of less than 800 square feet in floor area.
 - b. Seasonal recreational use of land without structures, or with accessory structures only.
 - c. Any other permitted or conditional use only upon approval of a variance issued by the council.
 - d. Outhouses shall be constructed in accordance with Minnesota Rules chapter 7080, except that sealed vault type outhouses shall not be permitted.
 - e. Existing outhouses not conforming to any or all of the above requirements shall be abandoned, filled in and the superstructure removed within ten months of notification that a noncompliant system exists.
 - f. Island septic systems are exempt from the five bedroom minimum sizing standards for new construction and may be sized for actual water use.

Division 7. Enforcement

Sec. 58-75. Violation, False Statement

Any person, firm, corporation or other entity who violates any of the provisions of this Ordinance or who makes any false statement on a Certificate of Compliance, shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both, as defined by law. Each day in violation may constitute a separate violation.

Sec. 58-76. Other Remedies

In the event of a violation of this Ordinance, in addition to other remedies, the County or Municipal Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.

Division 8. Fees

The Orono City Council shall from time to time establish fees for activities undertaken by the Health Authority pursuant to this Ordinance. Fees shall be due and payable at a time and in a manner to be determined by the Health Authority.

Division 9. Severability

If a provision or application of this Ordinance is held invalid, that invalidity shall not affect the validity of other provisions or applications of this Ordinance.

SECTION 2. EFFECTIVE DATE: This ordinance shall take effect immediately upon its passage and publication.

ADOPTED this 13th day of Aug., 2018 on a vote of 5 ayes and 0 nays by the City Council of Orono, Minnesota.

ATTEST:



Anna Carlson, City Clerk



Dennis Walsh, Mayor

Ordinance published in The Laker and The Pioneer newspaper the week of Aug. 18th, 2018.