

Certified, Filed and or Recorded on
Apr. 08, 2009 AT 01:08PM

Signed: BW
MARILYN J NOVAK G V I
BENTON COUNTY MINNESOTA
MARILYN J NOVAK
COUNTY RECORDER

BENTON COUNTY ORDINANCE NO. 436

WHEREAS, the Benton County Department of Development instituted proceedings to amend the Benton County Ordinance 185; and,

WHEREAS, on March 17th and 18th, 2009, Notice of Public Hearing and intent to amend Benton County Ordinance was published in the official newspapers of the county; and,

WHEREAS, on April 2, 2009, the Benton County Planning Commission held a public hearing; and,

WHEREAS, on April 7, 2009, the Benton County Board of Commissioners held a public hearing and approved the proposed ordinance amendment; and,

NOW PURSUANT TO THE AUTHORITY VESTED BY MINNESOTA STATUTES SECTION 394.25, THE BENTON COUNTY BOARD OF COMMISSIONERS ORDAINS:

Modify the following portions of Section 9.6 to read as follows:

9.6.3 GENERAL REQUIREMENTS

E. Sewerability Requirements

All newly created lots, vacant lots and/or vacant lot of records shall have a minimum of two Type I septic sites or two Type II septic sites if the site has rapidly permeable soils types 1 or 4. A site without a septic system or a septic system that has not been in operation for more than five years shall be considered a vacant lot.

9.6.4 PROHIBITIONS

D. Discharge of Hazardous/Commercial or Deleterious Materials

It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous, commercial or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

9.6.6 SSTS PERMITTINGA. Permits Required

It is unlawful for any person to construct, install, modify, replace, repair, rejuvenate, remediate, or operate a subsurface sewage treatment system without the appropriate permit from Benton County. The issuing of any subdivision, permit, variance, or conditional use under the provisions of this Ordinance shall not absolve the applicant's responsibility to obtain any other required permit. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by an appropriately certified and/or licensed practitioner(s). A septic permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function as determined by the Department.

C. Permit Application Requirements

Septic permit applications shall be made on forms provided by the Department of Development and signed by the applicant/owner and an appropriately certified practitioner including the practitioner's license number and date of expiration. The applications shall include the Site Evaluation Report as described in Minn. R. 7080.1730, Design Report as described in Minn. R. 7080.2430, a Management Plan as described in Minn. R. 7082.0600. Applications shall be considered incomplete if they are not on the County forms, do not include a management plan and, when applicable, a monitoring plan, mitigation plan, pumping agreement or deed restriction. Applications shall also be considered incomplete if they are not signed by the owner/applicant and designer.

G. Appeal

The applicant may appeal the Department's decision to deny the septic permit in accordance with the County's established policies and appeal procedures in accordance with Section 11.4.7 of the Development Code.

9.6.7 SSTS STANDARDSB. Additional SSTS Design Requirements

In addition to the design requirements contained in Minn. R. Chs. 7080 through 7083, the following more restrictive requirements shall be required for all SSTS designs submitted to the Department.

1. A minimum of two soil borings are required in the primary site; however, if the primary and secondary site do not adjoin each other a minimum of three soil

borings are required. Soil borings must be representative of the soil conditions throughout the absorption area and will be verified by staff.

2. A minimum of one soil boring is required in the secondary site; however, if the primary and secondary site do not adjoin each other a minimum of three soil borings are required. Soil borings must be representative of the soil conditions throughout the absorption area and will be verified by staff.
13. 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, Chapter 7080.2150, Subp. 3(E) are herein adopted by reference and either shall be used to size SSTS infiltration areas for SSTS design.
14. All newly created lots, vacant lots and/or vacant lot of records shall have a minimum of two Type I septic sites or two Type II septic sites if the site has rapidly permeable soils types 1 or 4. A site without a septic system or a septic system that has not been in operation for more than five years shall be considered a vacant lot.

G. Incomplete SSTS Installations due to Winter/Wet Soil Conditions

If the soil treatment system can not be installed due to frost or wet soil conditions and the installer agrees to install the septic tank as a temporary holding tank system, the owner shall submit a holding tank pumping agreement with a PCA licensed maintainer to the Department prior to occupancy. Records of the frequency of pumping shall be kept for the Departments review or request for submission.

I. Holding Tanks

Holding tanks for new residential dwellings are prohibited. Holding tanks may be allowed for replacement SSTS systems only if a drainfield cannot be installed. The final determination of the need for a holding tank shall be made by the Department. It is the responsibility of the designer to contact the Department before releasing the holding tank design to the applicant.

1. If a holding tank is permitted by the Department, the property owner shall:
 - a. Provide to the Department a holding tank maintenance agreement with the application; and
 - b. Maintain receipts of all maintenance performed. These records are to be available for submission and/or review by the Department.

- c. The holding tank shall have a minimum capacity of at least 1,500 gallons or an amount equal to 400 gallons multiplied by the number of bedrooms in the dwelling which the tank will serve, whichever is greater.
- d. An operating permit shall be required.

K. Bedroom Addition

A bedroom addition requires the submission of a compliance inspection and septic design for the addition of the bedroom. The owner is required to sign an agreement that within 1 year from the date of issuance of a bedroom addition permit; that the owner will upgrade, repair, replace or abandon an existing system. If the following conditions apply the owner is allowed 5 years to upgrade, repair, replace or abandon an existing system:

1. The Department of Development or local building inspector issues a permit to add a bedroom;
2. A SSTS inspection is triggered by a bedroom addition permit request;
3. The existing system was installed between May 27, 1989 and January 3, 1996;
4. The SSTS does not comply with Minn. R. 7080.1500, subp. 4(b).;
5. The SSTS is not determined to be an imminent threat to public health or safety in accordance with Minn. R. 7080.1500, subp. 4(a).

L. Reporting

Type III, Type IV, Type V and other establishments that are required to install water meters or event counters shall take readings everyday for the first 30 days that the system is in operation and once a month thereafter. The readings shall be submitted to the County on the form provided by the County by the following January 30th. After reviewing the readings the Department may request additional readings to be conducted or indicate that additional readings are no longer required to be submitted. Failure to submit the required readings shall be deemed a violation of the management plan. An agreement signed by the applicant shall be submitted with the application acknowledging these requirements.

9.6.8 OPERATING PERMITS

A. SSTS Requiring an Operating Permit

1. An operating permit shall be required of all owners of new holding tanks, Type IV systems, Type V systems, lodging (excluding bed and breakfast facilities unless served of a Type IV or V system), food and beverage facilities or MSTs. Sewage shall not be discharged to a holding tank or MSTs until the Department

of Development certifies that the MSTS or holding tank was installed in conformance with the approved plans, receives the final record drawings of the MSTS, and a valid operating permit is issued to the owner.

B. Compliance Monitoring Type IV Systems, Type V Systems, Food and Beverage Facilities or MSTS

3. Type IV systems, Type V systems, food and beverage facilities or MSTS operating permits shall expire on January 30th. The owner of the operating permit shall apply for renewal of their operating permit by December 30th. The operating permit renewal period shall be determined by the County.

C. Holding Tanks

Owners of holding tanks shall provide to the Department of Development a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge. This requirement is waived if the owner is a farmer who is exempt from licensing. The owner of the operating permit shall apply for renewal of their operating permit by December 30th.

9.6.9 MANAGEMENT PLANS

A. SSTS Requiring Management Plans

Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the septic permit application for review and approval. The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

9.6.15 VARIANCES

A. Variance Requests

A property owner may request a variance pursuant to county policies and procedures as stated in Section 11.5 of the Development Code. Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected state agency pursuant to the requirements of the state agency.

9.6.16 ENFORCEMENT

A. Cause to Issue a Notice of Violation

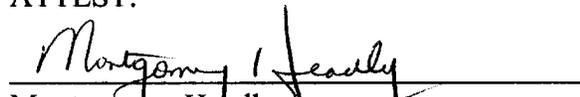
Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Law. Each day that a violation exists shall constitute a separate offense. In the event of a violation of this Ordinance, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

Approved and adopted by the Benton County Board of Commissioners this 7th day of April in the year of 2009.

Upon enactment, this ordinance shall be effective upon publication as provided by law.


James J. McMahon Sr., Chair
Benton County Board of Commissioners

ATTEST:


Montgomery Headley
Benton County Administrator