

7082.0050 GENERAL REQUIREMENTS FOR LOCAL ORDINANCES.**Subpart 1. Adoption of local ordinances.**

A. The regulation of SSTS by local governments must be implemented through an ordinance based on the requirements of this chapter, except that counties are allowed to choose between options described in subpart 3 or 4 and are allowed to adopt alternative local standards according to subpart 5. Cities and towns must adopt the regulatory option used by the county and must be as strict as the county ordinance. Cities and townships are authorized to adopt conventional programs as described in subpart 3 even if the county has adopted a performance program.

B. County ordinances that administer SSTS programs must be updated to the standards of chapters 7080 to 7083 within 24 months of February 4, 2008. City and township ordinances must be updated no more than 12 months after adoption of the county ordinance in which the city or township is located and must comply with the standards of chapters 7080 to 7083 and must be as strict as the applicable county ordinance.

Subp. 2. Review by agency.

A. A copy of all local ordinances regulating SSTS and all future ordinances or amendments must be submitted to the commissioner 30 days prior to adoption, accompanied by a completed ordinance review checklist on a form provided by the commissioner.

B. Local ordinances and programs must be reviewed by the commissioner for compliance with this chapter and to ensure that, based on local circumstances in that jurisdiction, the ordinance adequately protects public health and the environment. The commissioner must complete the ordinance review within six months of receipt. A local unit of government is authorized to implement ordinances during the review process. The commissioner must supply comments on the ordinance to the local unit of government when the review is complete.

Subp. 3. Conventional programs. Each SSTS ordinance must have technical standards. Conventional programs are comprehensive programs that employ ISTS and MSTs technical standards and criteria as specified in chapters 7080 and 7081 and program administrative functions in parts 7082.0100, subparts 1, 2, 3, and 5, and 7082.0300 to 7082.0700.

Subp. 4. Performance programs. A county is authorized to further choose to develop and implement a comprehensive, performance-based program using ISTS and MSTs designs tailored to adequately protect the public health and the environment based on local environmental sensitivity. Performance programs must meet the requirements of the conventional program plus include provisions necessary to implement part 7082.0100, subpart 4.

Subp. 5. **Requirements for alternative local standards.** Counties are authorized to adopt and enforce by ordinance alternative local standards for existing or new construction or replacement of SSTs as part of a conventional program. The alternative local standards must protect public health and the environment as stipulated in Minnesota Statutes, section 115.55, subdivision 7, paragraphs (a) and (b), and must comply with items A to H.

A. Except as provided in items G and H, alternative local standards must not apply to systems in shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments.

B. Alternative local standards must comply with requirements of other applicable state laws or rules or local ordinances.

C. Local SSTs ordinances with alternative local standards for existing systems must include a time period to upgrade, replace, or discontinue use of a noncomplying system. The draft local ordinance, including the alternative local standards, must be submitted to the commissioner for comment before adoption to demonstrate that, based on local circumstances in that jurisdiction, the alternative local standards adequately protect public health and the environment. Possible considerations for justification of the alternative local standard for existing systems include:

- (1) soil separation;
- (2) soil classification;
- (3) vegetation;
- (4) system use;
- (5) localized well placement and construction;
- (6) localized density of systems and wells;
- (7) extent of area to be covered by the alternative local standard;
- (8) groundwater flow patterns; and
- (9) existing natural or artificial drainage systems.

D. In accordance with Minnesota Statutes, section 115.55, subdivision 7, paragraph (b), counties are authorized to adopt alternative local standards that are less restrictive than the agency's rules for new construction or replacement in areas of sustained and projected low population density where conditions render conformance to this chapter difficult or otherwise inappropriate after submitting documentation of the following information and conditions to the commissioner:

- (1) population density of the area covered by the alternative local standard;

- (2) reasons why conformance to this chapter is difficult or otherwise inappropriate;
- (3) a description of the hardship that would result from strict adherence to the agency's rules;
- (4) evidence of sustained and projected low population density;
- (5) evidence that the proposed alternative local standard provides cost-effective and long-term treatment alternatives;
- (6) a map delineating the area of the county to be served by the local standard; and
- (7) applicable justifications under item C.

E. If the draft county SSTS ordinance includes alternative local standards for new construction and replacement, the ordinance must be submitted to the local water planning advisory committee created under Minnesota Statutes, section 103B.321, subdivision 3, and then submitted with justification to the commissioner at least 30 days before adoption for review and comment demonstrating that the ordinance adequately protects public health and the environment.

F. When a county has completed the applicable steps in this subpart, an ordinance containing alternative local standards may be adopted. The county is responsible for developing the processes and procedures necessary to administer the conventional program in addition to the alternative local standards. Processes and procedures must include providing maps to SSTS professionals depicting the areal extent of the alternative local standards, developing inspection procedures to be used to verify compliance with the alternative local standards for both new and existing systems, and developing an addendum to the state's existing system inspection form that reflects the altered compliance standards for the alternative local standards systems in the county, if applicable.

G. A county may adopt alternative local standards for new or replacement residential systems with flow of 2,500 gallons per day or less for systems in shoreland areas regulated under Minnesota Statutes, sections 103F.201 to 103F.221, if the alternative standards are no less stringent than provisions of chapter 7080 that went into effect on April 3, 2006.

H. A county may adopt alternative local standards for new or replacement residential systems with flow of 2,500 gallons per day or less for systems used in connection with food, beverage, and lodging establishments regulated under Minnesota Statutes, chapter 157, if the alternative standards are no less stringent than provisions of chapter 7080 that went into effect on April 3, 2006, except that the waste strength must meet the standards established in part 7080.2150, subpart 3, item K. If additional treatment

of waste is needed to meet the standard in part 7080.2150, subpart 3, item K, the treatment must be in accordance with part 7080.2150, subpart 3, item A.

Statutory Authority: *MS s 14.386; 115.03; 115.55*

History: *32 SR 1413; 35 SR 1353; 37 SR 483*

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