

ORDINANCE NO. 2014-14

AN ORDINANCE AMENDING CHAPTER 15 TO REMOVE REGULATIONS FOR INDIVIDUAL SEWAGE TREATMENT SYSTEMS WITH REFERENCES IN CHAPTERS 1, 12, 15 AND THE SCHEDULE OF CIVIL FINES FOR ADMINISTRATIVE OFFENSES AS THE CITY TRANSFERS ENFORCEMENT AUTHORITY TO HENNEPIN COUNTY, AND MISCELLANEOUS AMENDMENTS FOR PUBLIC NUISANCES AND WELLS.

The City Council of the City of Bloomington hereby ordains:

Section 1. That Chapter 1 of the City Code is hereby amended by deleting those words that are in ~~strike through~~ font contained in brackets [] and adding those words that are underlined, to read as follows:

PART II

THE CODE

CHAPTER 1

INTERPRETATION AND ENFORCEMENT OF THE CITY CODE

ARTICLE II. CIVIL HEARING PROCESS

SEC. 1.11. CITY CODE PROVISIONS THAT ARE ADMINISTRATIVE OFFENSES.

A violation of the following provisions of the City Code shall be an administrative offense that may be subject to the administrative mediation and hearing process of this Article.

- (35) [~~Chapter 15, Article VIII, Plumbing, Division C. Individual Sewage Treatment Systems;~~RESERVED.

Section 2. That Chapter 12 of the City Code is hereby amended by deleting those words that are in ~~strike through~~ font contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 12

PUBLIC PEACE AND SAFETY

ARTICLE II. NUISANCE CONDUCT AND CONDITIONS

DIVISION A. PUBLIC NUISANCE PROPERTY CONDITIONS

SEC. 12.03. PROPERTY CONDITIONS CONSTITUTING A PUBLIC NUISANCE.

The following property conditions are declared to be nuisances affecting public peace, welfare and safety ("Public Nuisance"):

- (20) An unsecured hole or opening caused by improperly abandoned cistern, well pit, [~~sewage treatment system,~~ unused or non-maintained swimming pool, foundation, mine shaft or tunnel, or

any other hole or opening in the ground of sufficient size or depth to pose a danger to the public or an attractive nuisance.

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SEC. 12.04. DECLARATION OF PUBLIC NUISANCE AND ABATEMENT ORDER.

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- (f) Notice that unless the Public Nuisance condition is abated or removed in accordance with the terms of the Abatement Order, the City may, in its discretion have the Public Nuisance abated or removed at the expense of the owner under the provisions of Minn. Stat. §145A.[0]08, this City Code, or other applicable law and that the cost thereof will constitute a charge against the Private Property which shall be collected in the manner of a tax.

Section 3. That Chapter 15 of the City Code is hereby amended by deleting those words that are in ~~strike through~~ font contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 15

BUILDINGS AND STRUCTURES

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ARTICLE VIII. PLUMBING

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Division C. [~~Individual Sewage Treatment Systems~~]RESERVED.

SEC. 15.146. [~~PURPOSE AND FINDINGS.~~]RESERVED.

- [(a) The Bloomington City Council makes the following findings regarding the need to regulate individual sewage treatment systems located in the City:
 - (1) ~~Individual sewage treatment systems have the potential to contaminate ground surfaces, ground water, and surface water, impairing the health and welfare of the community.~~
 - (2) ~~The improper location, design, use, and maintenance of individual sewage treatment systems can result in the discharge of untreated or inadequately treated sewage into the environment.~~
 - (3) ~~Minimum state and local standards governing the construction and maintenance of individual sewage treatment systems can minimize the health and environmental risks associated with such systems, thereby promoting the general health, safety and welfare.~~
 - (4) ~~Adequate and safe methods of individual sewage disposal can promote the general health and welfare of the community.~~
- (b) ~~In light of these findings and the authority granted in Minnesota Statutes Section 115.55, subdivisions 2 and 7, the City Council enacts the following provisions regulating individual sewage treatment systems in the City.]~~

SEC. 15.147. [~~DEFINITIONS.~~]RESERVED.

- [(a) **Local Definitions.** The following words and terms when used in this Division shall have the following meanings unless the context clearly indicates otherwise:
 - Health Authority** ~~the Board of Health or its designated agent.~~
 - Issuing Authority** ~~the City of Bloomington Environmental Health Division.~~
 - Person** ~~one or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the state; or any other organization.~~
- (b) **State Definitions Incorporated.** The definitions in Minnesota Rule 7080.0020 are incorporated by reference into this Division and shall govern the provisions herein.]

~~SEC. 15.148. [PROHIBITION OF ISSUANCE OF BUILDING PERMITS OR VARIANCES FOR NONCOMPLIANT SYSTEMS.]RESERVED.~~

~~[Pursuant to Minnesota Statutes Section 115.55, subdivision 5, the City shall not issue a building permit or variance for the addition of a bedroom on property served by an individual sewage treatment system unless the system is in compliance with the applicable state and local requirements, as evidenced by a Certificate of Compliance issued pursuant to Section 15.158.05 of this Code and state law. The City may temporarily waive the Certificate of Compliance requirement for a building permit or variance for which application is made during the period from November 1 to April 30, provided that an inspection of the system is performed by the following June 1 and the applicant submits a Certificate of Compliance by the following September 30. A variance shall not be issued for new construction unless a permit for new construction has received preliminary approval and includes a construction schedule.]~~

~~SEC. 15.149. [MINIMUM TECHNICAL STANDARDS AND CRITERIA FOR INDIVIDUAL SEWAGE TREATMENT SYSTEMS.]RESERVED.~~

- ~~[(a) **Failing Systems Prohibited.** All existing individual sewage treatment systems located in the City shall not be a "failing system" as defined in state law.~~
- ~~[(b) **Technical Standards.** All newly constructed or replaced individual sewage treatment systems shall meet the technical standards and criteria defined in state law and this Division of the City Code.~~
- ~~[(c) **Compliance Criteria Incorporated by Reference.** The Compliance Criteria in Minnesota Rule 7080.0060 is incorporated into this Division by reference.~~
- ~~[(d) **Duty to Upgrade, Replace or Discontinue.** Individual sewage treatment systems not in compliance shall be upgraded, replaced, repaired in compliance with state law, or discontinued within five (5) years of Notice of Noncompliance issued pursuant to Section 15.158.05 and state law. If a compliance inspection indicates that a system presents an imminent threat to public health or safety as defined in Minnesota law, the owner must eliminate the immediate hazard within ten (10) calendar days and upgrade, replace, or discontinue use of the system within the current construction season, or within ten (10) months, whichever is less.]~~

~~SEC. 15.150. [PROHIBITIONS IN STATE LAW INCORPORATED.]RESERVED.~~

~~[The prohibitions of Minnesota Rule 7080.0065 are incorporated into this Division by reference.]~~

~~SEC. 15.151. [SITE EVALUATION REQUIREMENTS IN STATE LAW INCORPORATED.]RESERVED.~~

~~[The site evaluation provisions of Minnesota Rule 7080.0110 are incorporated into this Division by reference.]~~

~~SEC. 15.152. [BUILDING SEWER PROVISIONS IN STATE LAW INCORPORATED.]RESERVED.~~

~~[The provisions governing building sewers in Minnesota Rule 7080.0120 are incorporated into this Division by reference.]~~

~~SEC. 15.153. [DESIGN FLOW PROVISIONS IN STATE LAW INCORPORATED.]RESERVED.~~

~~[The Sewage Flow Determination for Dwellings and Other Establishments in Minnesota Rule 7080.0125 are incorporated into this Division by reference.]~~

~~SEC. 15.154. [SEWAGE TANK PROVISIONS IN STATE LAW INCORPORATED.]RESERVED.~~

~~[The provisions governing sewage tanks in Minnesota Rule 7080.0130 are incorporated into this Division by reference.]~~

~~SEC. 15.155. [DISTRIBUTION OF EFFLUENT PROVISIONS IN STATE LAW INCORPORATED.]RESERVED.~~

~~[The effluent distribution provisions in Minnesota Rule 7080.0150 are incorporated into this Division by reference.]~~

~~SEC. 15.156. [DOSING OF EFFLUENT PROVISIONS IN STATE LAW INCORPORATED.]RESERVED.~~

~~[The effluent dosing provisions in Minnesota Rule 7080.0160 are incorporated into this Division by reference.]~~

SEC. 15.157. ~~[FINAL TREATMENT AND DISPOSAL PROVISIONS IN STATE LAW INCORPORATED.]RESERVED.~~

~~[The final treatment and disposal provisions in Minnesota Rule 7080.0170 are incorporated into this Division by reference.]~~

SEC. 15.158. ~~[MAINTENANCE OF INDIVIDUAL SEWAGE TREATMENT SYSTEMS PROVISIONS IN STATE LAW INCORPORATED.]RESERVED.~~

~~[The maintenance provisions in Minnesota Rule 7080.0175 are incorporated into this Division by reference.]~~

SEC. 15.158.01. ~~[SYSTEM ABANDONMENT PROVISIONS IN STATE LAW INCORPORATED.]RESERVED.~~

~~[The system abandonment provisions in Minnesota Rule 7080.0176 are incorporated into this Division by reference.]~~

SEC. 15.158.02. ~~[STATE LICENSE REQUIRED.]RESERVED.~~

~~[A state license applicable to the type of work being performed is required for any person who conducts work to site evaluate, design, install, maintain, pump, or inspect all or part of an individual sewage treatment system pursuant to Minnesota Rule 7080.0700, unless specifically exempt under the Rule.]~~

SEC. 15.158.03. ~~[CITY PERMIT PROGRAM FOR INDIVIDUAL SEWAGE TREATMENT SYSTEM.]RESERVED.~~

- ~~[(a) **City Permit Required.** A City permit is required for all new construction of an individual sewage treatment system, the maintenance or pumping of, the replacement or repair thereof.~~
- ~~[(b) **City Permit Application.** An application for a permit under this Section shall be made on a form supplied by the Issuing Authority and shall request the following information:
 - ~~(1) The name and address of the applicant;~~
 - ~~(2) The property on which the individual sewage treatment system is to be constructed or replaced;~~
 - ~~(3) The name and address of the owner of the property;~~
 - ~~(4) A complete site evaluation report;~~
 - ~~(5) A complete design summary and drawing of the proposed individual sewage treatment system;~~
 - ~~(6) Complete construction information applicable to the system proposed;~~
 - ~~(7) A certified statement from the person who conducted the site evaluation, design, and construction information provided; and~~
 - ~~(8) Other information the Issuing Authority may require to process the application.~~~~
- ~~[(c) **Amended Application.** In the event of a change in the application information which served as the basis for issuing a permit under this Section, the permittee shall file with the Issuing Authority an amended application for reapproval prior to initiating any construction. The amended application shall detail the changed conditions for approval or denial by the permitting authority.~~
- ~~[(d) **Approval Process.** The application for a permit under this Section shall be submitted to the Issuing Authority. The "qualified employee", as defined in state law, shall review the application and exhibits to determine whether the proposed system will meet all applicable requirements in state law and this Division of the City Code.~~
- ~~[(e) **Preliminary Approval.** If the system meets all applicable requirements under this Code and state law, the qualified employee may issue a preliminary approval of the permit. Construction shall not commence until preliminary approval is granted.~~
- ~~[(f) **Denial of Permit.** If the system does not meet all applicable requirements under this Code and state law, the qualified employee shall deny the permit to the applicant.~~
- ~~[(g) **Final Approval.** Final approval is evidenced by issuance of a Certificate of Compliance pursuant to state law and this Code.~~
- ~~[(h) **Recordkeeping.** The Issuing Authority shall maintain copies of all certificates of compliance, notices of noncompliance, permit applications, permits issued, enforcement proceedings, variance requests, and any other documents indicating action taken with regard to an individual sewage~~

treatment system. The Issuing Authority shall make such records available to the Commissioner of the Pollution Control Agency pursuant to state law. Permit files shall include the following: the site evaluation records, including the items identified in Minnesota Rule 7080.0110; design records including calculations and summaries for all system component sizing; and as built.

- (i) ~~**Annual Reports to Commissioner.** The Issuing Authority shall submit annual reports to demonstrate enforcement of this Section. The reports shall include a copy of the standard permit and inspection forms used if they are different than agency forms, the name and address of the program administrator, all qualified employees and contracted licensees authorized by the City, the number of permits issued, the number and methods of inspections conducted, the number and type of variances issued, the number and type of alternative and experimental systems, and the monitoring results for experimental systems as specified in Minnesota Rule 7080.0910, subpart 3a. The report shall contain information from the calendar year and shall be received by the Commissioner no later than March 1 of the following year.~~]

SEC. 15.158.04. [INSPECTION PROGRAM FOR INDIVIDUAL SEWAGE TREATMENT SYSTEMS.]RESERVED.

- (a) ~~**Compliance Inspection Required.** A compliance inspection shall be conducted:~~
- (1) ~~to ensure compliance with applicable requirements. Persons conducting compliance inspections for disclosures shall also meet the requirements of Minnesota Rule 7080.0300, subpart 6;~~
 - (2) ~~for an existing system if the City issues permits or variances for the addition of a bedroom on property served by the system. (Inspection and upgrade shall be required prior to issuance of a permit if the system was built prior to May 27, 1989, and the request is made between May 1 and October 31 or is an imminent threat.);~~
 - (3) ~~for all new construction, repair or replacement;~~
 - (4) ~~by a qualified employee or under a license authorized by the City who is independent of the owner and the installer; and~~
 - (5) ~~to reasonably ensure an individual sewage treatment system is in compliance as specified under Minnesota Rule 7080.0060.~~
- (b) ~~**City Inspection Protocol.** The Issuing Authority shall promulgate an inspection protocol if inspections cannot be completed within a timely manner.~~]

SEC. 15.158.05. [CERTIFICATES OF COMPLIANCE AND NOTICES OF NONCOMPLIANCE.]RESERVED.

~~[A Certificate of Compliance or Notice of Noncompliance must be submitted to the Issuing Authority and the owner within thirty (30) days after any compliance inspection. A Certificate of Compliance or Notice of Noncompliance must include a certified statement from the licensee or the qualified employee who conducted the compliance inspection, identify the type of system inspected, and indicate whether the individual sewage treatment system is in compliance with Minnesota Rule 7080.0060. At a minimum, a Notice of Noncompliance must be issued for systems not in compliance with Minnesota Rule 7080.0060. If a compliance inspection indicates that the system presents an imminent threat to public health or safety, as defined in Minnesota Rule 7080.0020, subpart 19a, the notice must also contain a statement to this effect and state that the owner must upgrade, replace, or discontinue use of the system within five (5) months pursuant to Section 15.149(d) of this Code.]~~

SEC. 15.158.06. [STATE VARIANCES.]RESERVED.

~~[Only the governing state agency may issue variances to Minnesota Rules Chapters 4725, 6105 and 6120. Variances to decrease the three feet of vertical separation required beneath the distribution medium and the saturated soil or bedrock must be approved by the commissioner in accordance with Minnesota Rule 7080.0305, subpart 3. The variance request shall be accompanied by items described in Minnesota Rule 7080.0305, subpart 6 as appropriate to the request and must contain:~~

- (1) ~~The specific language in the rule of rules from which the variance is requested;~~
- (2) ~~The reasons why the rule cannot be met;~~
- (3) ~~The alternative measures that will be taken to ensure a comparable degree of protection to public health or the environment if the variance is granted;~~
- (4) ~~The length of time for which the variance is requested;~~

- (5) ~~A statement that the party applying for the variance will comply with the terms of the variance, if granted; and~~
- (6) ~~Other relevant information the commissioner determines necessary to properly evaluate the request for the variance.]~~

SEC. 15.158.07. [OUTLOTS.]RESERVED.

~~[Pursuant to Minnesota Rule 7080.0305, subpart 4, all lots created after January 23, 1996, shall have a minimum of one (1) additional soil treatment area which can support a standard soil treatment system.]~~

[SEC. 15.158.08. PENALTY.]RESERVED.

~~[Violation of any provision of this Division shall be a misdemeanor. Each day that any violation is continued shall constitute a separate offense.]~~

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Division D. Wells

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SEC. 15.160. PERMITS REQUIRED.

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- (d) The fees for permits obtained under this Section shall be as described in Section 14.03 of this Code. ~~[Pursuant to Minnesota Statutes, Section 1031.112, wells owned or being constructed, reconstructed, sealed, or maintained by a state agency or local unit of government shall be exempt from the fee requirements of this section.]~~
- (e) When "emergency conditions" exist, a dewatering well, monitoring well, or water supply well may be constructed, reconstructed, or sealed, prior to obtaining a permit, in compliance with the following procedures:
 - (1) If the emergency conditions arise during normal business hours, the work may proceed after the City Environmental ~~[Services]~~Health Division is verbally notified and provided with the information required for the applicable permit and authorization from that Division to proceed is received.

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SEC. 15.160.01 REQUIRED INSPECTIONS.

After receiving a well permit, the permittee will notify the City Environmental Health Division at least 24 hours in advance of the start of the permitted work, except in valid emergency situations where the contractor must apply for a permit and give notification the next City business day.

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SEC. 15.164. [VIOLATIONS;]PENALT[Y]IES AND SEVERABILITY.

[Violation of the provisions of this Division shall be a misdemeanor, punishable by a fine not exceeding \$700 and/or imprisonment for a term not exceeding 90 days.]Unless otherwise specifically noted herein, a violation of any provision of this Article of the Code is a misdemeanor under Minnesota law. In addition, the provisions of this Division are subject to enforcement by administrative citations and subject to civil fines pursuant to the Civil Hearing Process set forth in Chapter 1, Article II of this Code, as well as by civil district court action. If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid, such decision will not affect the validity of the remaining portions of this Article. The City Council hereby declares that it would have adopted the Division in each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Division E. [~~Septic or]Sewage [Tank Maintenance]Pumping and Transport~~

SEC. 15.165. RESERVED.

SEC. 15.166. TANKS AND VEHICLES.

No part of the contents of any privy, privy box, or septic tank shall be transported within or through the City unless it is removed and transported by means of an air-tight apparatus, pneumatic or otherwise, so as to prevent the contents from being agitated or exposed to open air in the process of removal or transportation. Any tank, vehicle, or other apparatus used in transporting the contents must be

maintained and operated in such a manner as to avoid the emission of offensive fumes or the spilling or loss of any unsanitary or offensive substance. The name of the licensee or registered trade name shall be in a conspicuous place on the vehicle.

SEC. 15.167. RESERVED.

SEC. 15.168. LOCATION FOR DUMPING CONTENTS.

No person, firm, or corporation shall empty the contents of any privy, privy box, or septic tank into any manhole or other outdoor sewer installation or any public property in the City except at the sewage disposal plant of the City or other authorized sewage disposal plant.

SEC. 15.169. ~~[PERMITS.]RESERVED.~~

- ~~[(a) Permit required — Before providing maintenance services in the form of pumping out or cleaning a septic tank at any premises in the City, the state licensed maintainer shall obtain a permit from the Issuing Authority, which will contain the name of the owner or occupant and the address of the premises.~~
- ~~(b) Permit fee — The fee for each permit shall be \$11.00.~~
- ~~(c) Emergency — In the case of emergency, the state licensed maintainer may render services at any premises in the City without a permit provided a permit is obtained on the next business day of the City.]~~

SEC. 15.170. LOADING AND UNLOADING.

- (a) No person shall cause or permit any such vehicle used for septic tank pumping or sewage transportation to stand or remain at or near any public building or residence or upon any street, highway, or other public place for any longer time than is actually required in the loading, conveying, and unloading thereof.
- (b) The unloading of the contents from any vehicle at the sanitary sewage disposal plant shall be between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. ~~[The driver of such vehicle must have evidence in his possession, in the form of a permit, indicating that he has paid the necessary permit fee and that the material to be so deposited has been collected in the City of Bloomington.]~~

SEC. 15.171. ~~[REQUIRED INSPECTIONS.]RESERVED.~~

~~[Upon taking out a permit, the permittee shall be obligated to call in for the following inspections.~~

- ~~(1) Plumbing — rough in and final.~~
- ~~(2) Gas fitting — final unless the work is to be concealed in which case a rough in air test shall also be required.~~
- ~~(3) Septic tank or drainfield — final prior to backfilling and covering.~~
- ~~(4) Well — notification at least 24 hours in advance of the start of the permitted work, except in valid emergency situations where the contractor must apply for a permit and give notification the next city business day.~~
- ~~(5) Septic tank pumping — no inspection required but the state licensed maintainer shall furnish data required by this Division.]~~

SEC. 15.172. RESERVED.

SEC. 15.173. RESERVED.

SEC. 15.174. RESERVED.

SEC. 15.175. ~~[REMOVAL OF INSTALLATIONS.]RESERVED.~~

~~[If upon inspections, any new plumbing installation is found not to be in accordance with the provisions of this Division, it shall be corrected. If after written notice is given to the person installing the work requiring correction, such person neglects or refuses to conform to such order, the Department of Community Development may remove such work and charge the costs thereto to the person installing the same.]~~

SEC. 15.176. ~~[REFUSAL OF PERMIT.]RESERVED.~~

~~[No permit shall be issued to any contractor who has failed or refused to make corrections to previous installation when ordered by the Department of Community Development, and no permits shall be issued to such contractor until the said department has been notified that such corrections have been made.]~~

SEC. 15.177. ~~[TIME TO MAKE CORRECTIONS.]RESERVED.~~

~~[The contractor shall have five days to make corrections when ordered by the Department of Community Development before the penalties provided for in this Division are invoked.]~~

SEC. 15.178. PENALTIES.

Any person violating any of the provisions of this Division shall be guilty of a misdemeanor, and such person shall be guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Division is committed~~[-, continued, or permitted].~~

ARTICLE IX. LICENSES AND PERMITS

Division B. Licenses and Permits; General

SEC. 15.191. ~~[INDIVIDUAL SEWAGE TREATMENT SYSTEMS.]RESERVED.~~

~~[(a) The fee for individual sewage treatment systems, as provided for in Article VIII, Division C of this Chapter, shall be:~~

(1) Residential system	\$150.00
(2) Commercial and industrial system	\$600.00
(3) Septic tank maintenance or pumping	\$11.00
(4) Repair of existing system including tank replacement]	\$50.00

Section 4. That the Schedule of Civil Fines of the City Code is hereby amended by deleting those words that are in ~~strike through~~ font contained in brackets [] and adding those words that are underlined, to read as follows:

**SCHEDULE OF CIVIL FINES
FOR ADMINISTRATIVE OFFENSES UNDER CHAPTER 1,
ARTICLE II OF THE CITY CODE**

ADMINISTRATIVE OFFENSE

FINE

Building Code Violations (Chapter 15)

~~[ISTS Violations (15.146 – 15.158) \$500.00]~~

Passed this 13th day of October, 2014 to take effect on January 1, 2015.



Mayor

ATTEST:

APPROVED:



Secretary to the Council



City Attorney