

SUBSURFACE SEWAGE TREATMENT SYSTEM (SSTS) ORDINANCE

BLUE EARTH COUNTY
Minnesota

Chapter 6, Article V

FINAL DRAFT

To be heard at public hearing and brought to the County Board for consideration March 2, 2010

**SSTS Program Ordinance
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BLUE EARTH COUNTY
CHAPTER 6, ARTICLE V
SUBSURFACE SEWAGE TREATMENT SYSTEMS

This Article authorizes and provides for sewage treatment and soil dispersal in unsewered areas of the County. It establishes:

1. Minimum standards for and regulation of individual sewage treatment systems (ISTS) and mid-sized Subsurface Sewage Treatment Systems (MSTS) (collectively referred to as Subsurface Sewage Treatment Systems - SSTS) in unsewered incorporated and unincorporated areas of Blue Earth County incorporating by reference minimum standards established by Minnesota Statutes and administrative rules of the Minnesota Pollution Control Agency,
2. Standards for upgrade, repair, replacement, or abandonment of SSTS,
3. Standards which promote the health, safety and welfare of the public as reflected in Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the County Comprehensive Land Use Plan, the County Water Management Plan, the County Zoning and Shoreland Ordinance.
4. Requirements for issuing permits for installation, alteration, repair or expansion of SSTS,
5. Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan,
6. Provisions for enforcement of these requirements, and
7. Penalties for failure to comply with these provisions,

DIVISION 1 PURPOSE AND AUTHORITY

DIVISION 1, SECTION 1.0 PURPOSE AND INTENT

1.01 Purpose

The purpose of this ordinance is to establish minimum requirements for regulation of SSTS for the treatment and subsurface dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and reduce or prevent the development of public nuisances. It is intended to serve the best interests of the County's citizens by protecting its health, safety, general welfare, and natural resources.

1.02 Intent

It is intended by Blue Earth County that this Ordinance will promote the following:

- A. The protection of lakes, rivers and streams, wetlands, and groundwater in Blue Earth County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County .
- B. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants into surface water or groundwater, thereby protecting the degradation of surface water and groundwater quality.

- C. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance, thus preventing contamination into surface water or groundwater. If contamination is discovered, identification, control and the abatement of its source will be taken to prevent migration.
- D. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
- E. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

DIVISION 1, SECTION 2.0 AUTHORITY

This Ordinance is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Sections 145A.01 through 145A.08; Minnesota Statutes, Section 375.51; or successor statutes, and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082;, or successor rules.

DIVISION 1, SECTION 3.0 EFFECTIVE DATE

The provisions set forth in this Ordinance shall become effective on _____, 2010.

DIVISION 2 DEFINITIONS

The following words and phrases shall have the meanings ascribed to them in this Article. If not specifically defined in this Article, terms used in this Ordinance shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this Ordinance, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

Authorized Representative: An employee or agent of Blue Earth County.

Bedrock: Geologic layers of which greater than 50 percent by volume consist of weathered or unweathered in-place consolidated rock or rock fragments. Bedrock consists of igneous, metamorphic and sedimentary rock. Bedrock includes sandstone formations such as the St. Peter or Jordan that may be semi-consolidated state.

Cesspool: An underground pit, receptacle, or seepage tank that receives sewage directly from a building sewer and leaches sewage into the surrounding soil, bedrock, or other soil materials.

Class V Injection Well: A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving multiple dwellings or dwelling units or 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. EPA registration is required on all Class V injection wells. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

Cluster System: A SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a subsurface treatment and dispersal system located on an acceptable site near the dwellings or buildings. All cluster systems serving multiple dwellings are also classified as EPA Class V injection wells.

County: Blue Earth County, Minnesota.

County Board: The Blue Earth County Board of Commissioners.

Department: The Blue Earth County Environmental Services Department.

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

Domestic Strength Waste: waste typical of a residential source with average influent concentrations no greater than: BOD₅ 170 mg/l, TSS 60mg/l and Oil & Grease 25 mg/l or effluent values equal to or less than treatment level C.

Failure to Protect Groundwater: At a minimum, a seepage pit, drywell, leaching pit, or other pit receiving septic tank effluent; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Sub. 4 D and E; and a system not abandoned in accordance with part 7080.2500 are considered to be an SSTS that does not protect groundwater.

Imminent Threat to Public Health or Safety: 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; a cesspool; or sewage tanks with unsecured, damaged, or weak maintenance access covers are considered to be an imminent threat to public health or safety.

ISTS: An individual sewage treatment system having a design flow of no more than 5,000 gallons per day.

Industrial Waste: Sewage containing waste from activities other than sanitary waste from industrial activities including, but not limited to, the following uses defined under the Standard Industrial Classification (SIC) Codes established by the U.S. Office of Management and Budget.

SIC CODE(S)	INDUSTRY CATEGORY
753-7549	Automotive Repairs and Services
7231,7241	Beauty Shops, Barber Shops
7211-7219	Laundry Cleaning and Garment Services
4011-4581	Transportation (Maintenance only)
8062-8069	Hospitals
2000-3999	Manufacturing
2000-2099	Food Products
2100-2199	Tobacco Products
2400-2499	Lumber and Wood Products, except Furniture
2500-2599	Furniture and Fixtures
2600-2699	Paper and Allied Products
2700-2799	Printing, Publishing, and Allied Industries
2800-2899	Chemicals and Allied Products
2900-2999	Petroleum Refining and Related Industries
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3200-3299	Stone, Clay, Glass, and Concrete Products
3300-3399	Primary Metal Industries
3400-3499	Fabricated Metal Products (except Machinery, and Transportation Equipment
3500-3599	Industrial and Commercial Machinery and Computer Equipment
3700-3799	Transportation Equipment
3800-3899	Measuring, Analyzing, and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks
3900-3999	Miscellaneous Manufacturing Industries

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

Management Plan: 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: The repair or replacement of an existing damaged or faulty component or part located in an SSTS that will return the SSTS to its original operable condition. The repair shall not alter the original area, dimensions, design, specifications, wastewater/sewage source(s) or concept of the SSTS.

MSTS: A mid-sized 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: A written document issued by the Department notifying a system owner that the owner's SSTS has been observed to be noncompliant with the requirements of this Ordinance.

MPCA: Minnesota Pollution Control Agency.

Other Establishment: Any public or private structure other than a dwelling or a portion of a dwelling used for any business purpose that generates sewage that discharges to a SSTS.

Qualified Employee: An employee of the state or a local unit of government, 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.

Record Drawings: 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.

Restrictive Layer: Layer in the soil treatment system area as shown by redoximorphic features, altered structure, bed rock, or a geologic aquifer formation.

Sewage: 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.

Shoreland: The land located within the following distances from public waters:

- A. 1000 feet from normal high water mark of a lake, pond, or flowage; and
- B. 300 feet from a river or stream; or
- C. The landward extension of a designated floodplain, whichever is greater

SSTS: Subsurface sewage treatment system; Including an ISTS, MSTS or LSTS.

State: The State of Minnesota.

Transfer of Property: The act of a party by which the title of property is conveyed from one person to another. The sale and every other method, direct or indirect, of disposing or parting with property, or with an interest therein, or with the possession thereof, absolutely or conditionally, voluntarily, by or without judicial proceeding as a conveyance, sale, gift, or otherwise.

Treatment Level: Treatment system performance levels defined in Minnesota Rules, Chapter 7083.4030 which include the following:

Level A: $cBOD_5 \leq 15$ mg/L; $TSS \leq 15$ mg/L; fecal coliforms $\leq 1,000/100$ mL.

Level B: $cBOD_5 \leq 25$ mg/L; $TSS \leq 30$ mg/L; fecal coliforms $\leq 10,000/100$ mL.

Level C: $BOD_5 \leq 170$ mg/L, $cBOD_5 \leq 125$ mg/L; $TSS \leq 60$ mg/L; Oil & Grease 25 mg/L.

Type I System: An ISTS that follows a standard trench, bed, at-grade, mound, or graywater system design in accordance with Minnesota Rules, Chapter 7080.2200 through 7080.2240.

Type II System: An ISTS with acceptable modifications or a sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots with rapidly permeable soils, lots in floodplains, and lots using privies or holding tanks.

Type III System: An ISTS that uses soil to treat sewage but does not meet the tank, size or distribution requirements for a Type I system. Type III systems are designed for use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

Type IV System: An ISTS, having an approved pretreatment device and incorporating pressure distribution and timed dosing

Type V System: An ISTS, with a custom engineered design, which does not meet the prescriptive designs for Types I-IV. Type V systems must meet the public health and safety standards of 7080.1500 and accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and any other relevant soil, site, and wastewater characteristics, such that groundwater contamination is prevented.

DIVISION 3 GENERAL PROVISIONS

DIVISION 3, SECTION 1.0 SCOPE

This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction; including, but not necessarily limited to, individual SSTS and cluster or community SSTS, privy vaults, holding tanks, and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be properly 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.

DIVISION 3, SECTION 2.0 JURISDICTION

The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas or sanitary sewer districts that are served by municipal sewer or areas that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their jurisdiction, which is at least as strict as this Ordinance and has been approved by the County. The Department shall keep a current list of local jurisdictions within the County administering a SSTS program.

DIVISION 3, SECTION 3.0 ADMINISTRATIVE REQUIREMENTS

3.01 COUNTY ADMINISTRATION

The County Environmental Services Department shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County shall review, revise and update this Ordinance as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

3.02 STATE OF MINNESOTA

Where a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a State Disposal System (SDS) permit from the MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a SDS permit is required.

SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance.

3.03 CITIES AND TOWNSHIPS

Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance. The standards and ordinance of any other jurisdiction may not be administratively or technically less restrictive than this Ordinance

DIVISION 3, SECTION 4.0 VALIDITY

The validity of any part of this Ordinance shall not be affected by the invalidity of any other parts of this Ordinance where the part can be given effect irrespective of any invalid part or parts.

DIVISION 3, SECTION 5.0 LIABILITY

Any liability or responsibility shall not be imposed upon the department or agency or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any onsite SSTS regulated under this rule by reason of standards, requirements, or inspections authorized hereunder. This protection should be provided only against claims where the County employees or its agents act under the authorities expressly given to the County by Statutes or adopted ordinances. If County employees or its agents assume authorities not expressly assigned to the County, the courts might not extend the limits of liability to include such actions.

DIVISION 4 GENERAL REQUIREMENTS

DIVISION 4, SECTION 1.0 RETROACTIVITY

1.01 All SSTS

Except as explicitly set forth in Division 4, Section 1.02, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

1.02 Existing Permits

Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership, whichever is earlier.

1.03 SSTS on Lots Created Before January 23, 1996

All lots, created prior to January 23, 1996, must have a minimum of one soil treatment and disposal area that can support a Type I system as described in Minnesota Rules, Chapters 7080. 2200 through 7080.2230 or site conditions described in 7081.0270, Sub. 3 through 7.

1.04 SSTS on Lots Created After January 23, 1996

All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support Type I systems as described in Minnesota Rules, Chapters 7080. 2200 through 7080.2230 or site conditions described in 7081.0270, Sub. 3 through 7. The area must be based on a minimum design flow of 600 gallons per day or the equivalent to a 4 bedroom Class I house.

1.05 Existing SSTS without Permits of Record

Existing SSTS with no permits of record shall require a compliance inspection prior to the issuance of any permit pertaining to the property to determine status of the system and timeline for the system to be brought into compliance with the requirements of this Ordinance.

DIVISION 4, SECTION 2.0 UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT

2.01 SSTS Capacity Expansions

- A. Expansion of an existing SSTS must include any system upgrades necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of expansion.
- B. All system upgrades for any system size increase must be completed within one year of any building permit increasing the size of the dwelling.

2.02 Requirements within other permits

- A. Any noncompliant system must be upgraded prior to or in conjunction with any variance, conditional use or building permit to be issued.
- B. The owner must, prior to receipt of a building permit increasing the number of bedrooms in a dwelling; submit a compliance inspection for any existing portion to be used and a design for all portions of system size increase and upgrade of all portions of the SSTS to the standards of this ordinance.

2.03 Failure to Protect Groundwater

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within

twenty-four (24) months of the date of inspection.. Any deviations in timeframe from this provision of this ordinance must be by written resolution from the County Board.

2.04 Imminent Threat to Public Health or Safety

An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten (10) months of the date of inspection, or within a shorter time frame as stipulated by additional written correspondence from the County.

2.05 Abandonment

Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rules, Chapter 7080.2500.

2.06 Property Owner Responsibility

All costs associated with the repair, replacement, or abandonment of a failing/noncompliant SSTS shall be the responsibility of the property owner or as otherwise provided for in a written, notarized agreement between two parties.

2.07 SSTS Upgrade Required

An SSTS on properties sold or transferred to new owners, shall be repaired, replaced, or upgraded as determined by a compliance inspection, records search, or other means acceptable to the Department that are conducted prior to ownership transfers. The determination of responsible party to repair, replace, or upgrade the system should proceed in a manner that does not needlessly delay or otherwise interfere with the property sale transaction. If repair, replacement, or upgrade is not done or formally agreed upon at time of sale, the responsibility of upgrade is solely the responsibility of the buyer. Delay in requirements to repair, replace or upgrade will not occur due to dispute of liability.

DIVISION 4, SECTION 3.0 SSTS IN FLOODPLAINS

SSTS shall not be located in a floodway as defined in Minnesota Rules, Chapter 7080.1100 Subp. 34 and wherever possible, location within any part of a floodplain as defined in Minnesota Rules, Chapter 7080.1100 Subp. 33 should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe as defined in Minnesota Rules, Chapter 7080.1100 Subp. 32 is allowed if the requirements in Minnesota Rules, Chapter 7080.2270 and all relevant local requirements are met.

DIVISION 4, SECTION 4.0 CLASS V INJECTION WELLS

All owners of new or replacement SSTS that are classified as EPA Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit a SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all EPA Class V injection wells as part of the property transfer disclosure process.

DIVISION 4, SECTION 5.0 SSTS PRACTITIONER LICENSING

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, 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.

A homeowner (defined as an owner of and residing as primary residence in the home in question) may construct a SSTS which is to treat wastewater solely from their own dwelling or seasonal dwelling if:

1. A site evaluation and a Type I, Type II or Type III system design are obtained from an appropriately licensed practitioner and
2. They have attended an MPCA approved SSTS installation/construction training course and
3. They sign an agreement indemnifying the County against claims due to the failure of the owner to comply with the provisions of this ordinance, expense for corrective actions, or responsibility for any improper construction practices resulting in necessary repairs or reconstruction.

DIVISION 4, SECTION 6.0 PROHIBITIONS

6.01 Occupancy or Use of a Building without a Compliant SSTS

It is unlawful for any person to maintain, occupy, or use any building intended for habitation or any structure with sewage generating devices, or any business to operate that is not serviced by a SSTS that disposes of sewage in a manner that complies with the provisions of this Ordinance.

6.02 Sewage Discharge to Ground Surface or Surface Water

It is unlawful for any person to construct, maintain, or use any SSTS regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water by any conveyance. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System (NPDES) program by the MPCA.

6.03 Sewage Discharge to a Well or Boring

It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rules, Chapter 4725.2050, or any other excavation in the ground that is not in compliance with this Ordinance.

6.04 Discharge of Hazardous or Deleterious Materials

It is unlawful for any person to discharge into any SSTS regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality. Products containing hazardous waste must not be discharged to a system, other than in normal amounts of household products and cleaners designed for household use. Substances not intended for use in household

cleaning, including but not limited to; solvents, pesticides, flammables, photo finishing chemicals, paint, and dry cleaning chemicals must not be discharged to the system. Other unused products or substances, or unused medicines, must not be discharged to the system solely as a disposal method.

6.05 Floor Drains from Garages

Floor drains from garages servicing dwellings, vehicle maintenance business or any other floor drain that has the potential to introduce hazardous waste into the system, must not be connected to the system.

6.06 Drainage Devices

Footing or roof drainage and chemically treated hot tub or pool water must not be discharged into any part of the system.

6.07 High Strength Waste

Only domestic strength waste shall be discharged to a soil treatment area. Sewage tank effluent with a waste strength higher than domestic strength waste shall be pre-treated to a level equal to or less than domestic strength prior to final treatment and disposal in a soil treatment area.

DIVISION 5 SSTS STANDARDS

DIVISION 5, SECTION 1.0 SYSTEM STANDARDS

The County hereby adopts by reference Minnesota Rules, Chapters 7080 and 7081 in their entirety as now constituted and from time to time amended with the additional standards set forth in this ordinance. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minnesota Statute 115.55.

All systems installed must protect groundwater in a manner that eliminates potential groundwater contamination and reduces impacts of Nitrogen to groundwater. All new lots created after January 23, 1996 must have, at minimum, the ability for two Type I Systems. The use of any other type of systems is considered secondary to these minimum requirements and will not be allowed in place of the Type I system requirements. Permitted new construction must adhere to a Type I system construction. The use of any other Type II - IV system for new home construction may only be granted on issuance of a variance when a hardship can be demonstrated by the applicant and approved by the Department. The use of any other type of system for existing construction repair or replacement will be determined on a case by case basis for the conditions that exist on the site in question.

1.01 Type I Systems

- A.** Type I systems are trenches, beds, atgrades and mounds. Each type of system must be capable of maintaining a depth of 36 inches of unsaturated soil for treatment and be of prescribed size for water absorption.
- B.** Systems must be designed and installed according to Minnesota Rules Chapter 7080.2200-7080.2240 to be considered a Type I system. Systems in soils with a

loading rate less than 0.24 gallons per day per square foot cannot be used for new construction.

C. Must meet all requirements for design, soil, installation, and inspection.

1.02 Type II Systems

A. Type II systems are trenches, beds, atgrades, mounds, holding tanks or privies.

B. For trenches, beds, atgrades, mound type systems, they must be capable of maintaining a depth of 36 inches of unsaturated soil for treatment and be of prescribed size for water use, water absorption in areas of rapidly permeable soil or floodplains.

C. Systems must be designed and installed according to Minnesota Rules Chapter 7080.2260-7080.2290 to be considered a Type II system. Systems in soils with a loading rate less than 0.24 gallons per day per square foot cannot be used for new construction.

D. Holding tanks may be used under the following:

1. Sewage holding tanks may be authorized as a temporary use for existing seasonal cabins or existing year-round dwelling units in instances where a suitable SSTS area is not available to service the structure. In no case shall a construction permit be issued for a new seasonal cabin or new year-round dwelling unit, or for the expansion of a seasonal cabin or dwelling unit, which will be not connected to a septic system consisting of a septic tank and drainfield or other approved subsurface soil absorption system or secondary treatment device complying with this ordinance, or sanitary sewer district.

2. Holding tanks may be authorized for use in accessory structures that are used on an intermittent basis and when connection to a compliant system is not feasible or is impractical due to the limited use of the building.

3. Conditions:

- a. Must meet all requirements for design, permitting, installation, and inspection;
- b. An operating permit is required at all times until the system is either correctly abandoned or connected to a compliant soil treatment area.
- c. The owner is responsible to maintain a valid pumping contract with a licensed septic maintainer. A contract must be presented at the time of permit application and shall be maintained as long as the holding tank is present. All receipts for pumping, including the date pumped, volume removed, method of disposal and water meter readings, must be submitted no less frequently than annually, by January 31 of the following year. Other timeframes may be required.

- d. At the time of property transfer, the new property owner must apply for a continuation of the operating permit and meet the requirements spelled out in the operating permit and provide a current pumping contract.
 - e. A water meter, accessible to be read at time of pumping, shall be installed on the incoming waterline servicing fixtures attached to the holding tank, recorded at time of pumping, to verify the water usage.
- E.** Privies shall only be considered for accessory structures without a water supply
- 1. Pit privies shall not be installed where the bottom of the pit is less than three feet above the saturated soil or bedrock. A vault privy shall be used in areas not meeting the three foot separation.
 - 2. A vault privy shall be constructed in the same manner as sewage tanks in accordance with Minnesota Rules Chapter 7080.1900-7080.1920.
 - 3. Must meet all requirements for design, soil, permitting, installation, and inspection
 - 4. Abandoned pits shall have the solids removed and be filled with clean earthen materials. Removed solids must be handled in accordance to all Local, State and Federal regulations.
- F.** Must meet all requirements for design, soil, permitting, installation, and inspection

1.03 Type III Systems

- A.** Type III systems are trenches, beds, atgrades and mounds. Each type of system must be capable of maintaining a depth of 36 inches of unsaturated soil for treatment.
- B.** Systems must be designed and installed according to Minnesota Rules Chapter 7080.2300 to be considered a Type III system. Systems in soils with a loading rate less than 0.24 gallons per day per square foot cannot be used for new construction.
- C.** For previously developed sites, if the site cannot accommodate a soil treatment and dispersal system sized accordance to Minnesota Rules Chapter 7080.2150, a smaller soil treatment area is allowed to be constructed if it employs flow restriction devices that do not allow loadings in excess of those in Minnesota Rules Chapter 7080.2150.
- D.** Must meet all requirements for design, soil, installation, and inspection.

1.04 Type IV System

- A.** Type IV systems are trenches, beds, atgrades and mounds that have a registered treatment component to change the strength of the waste to be treated by the soil. Each type of system must be capable of maintaining a depth of unsaturated soil relative to the level of treatment and be of prescribed size for water absorption.
- B.** The use of Type IV systems will be considered secondary to any Type I systems that rely solely on soil treatment. Type IV systems may only be used in a manner

- consistent with the County Comprehensive Land Use Plan and the County Water Management Plan in its entirety.
- C. Systems must be designed and installed according to Minnesota Rules Chapter 7080.2350 to be considered a Type IV system. Systems in soils with a loading rate less than 0.24 gallons per day per square foot cannot be used for new construction.
 - D. Type IV systems can be used on previously developed sites only when a Type I, Type II, or Type III soil treatment and dispersal systems cannot be installed.
 - E. Type IV systems may be required due to waste strength where secondary treatment is necessary to utilize soil treatment. These conditions may preclude the use of Type I, II, or III systems. Type IV systems shall be approved for installation with all requirements of 7080.2350 met.
 - F. Type IV Performance Requirements:
 - 1. Non-domestic, “other establishments” may require Type IV systems to obtain at a minimum, domestic strength waste in order to allow for adequate soil treatment.
 - 2. At a minimum, the performance of the entire system must protect underground sources of drinking water according to Minnesota Rules, Chapter 4717 and protect surface waters according to Minnesota Rules, Chapter 7050 (see 7082.0100, Subp. 4.A). All application of Type IV performance based treatment will meet or exceed treatment levels established in 7080.2350 and be proven by routine monitoring, as required in an annual operating permit.
 - G. Must meet all requirements for design, soil, installation, and inspection
 - H. Type IV systems must fulfill all requirements of an operation permit for the system.

1.05 Type V Systems

- A. Type V systems are trenches, beds, atgrades and mounds that have a registered treatment component to change the strength of the waste to be treated by the soil. Each type of system must be capable of maintaining a depth of unsaturated soil relative to the level of treatment but may not be able to meet all requirements of original soil for the soil treatment and dispersal system.
- B. Type V systems utilizing nonregistered products or loading rates exceeding 7080.2350 will not be approved for installation.
- C. Type V systems can be used on previously developed sites only when, due solely to lot restrictions, a Type I, II, III, or IV soil treatment and dispersal systems cannot be installed. All aspects of a type IV must be followed with the exception of the reuse or partial reuse of an area previously utilized for the soil treatment area.
- D. Type V systems must fulfill all requirements of an operation permit for the system.

1.06 Design Standards

All septic systems must be designed by a licensed septic system designer and approved by the department prior to beginning any construction of the system. The design must incorporate all design standards in Minnesota Rules, Chapters 7080 or 7081.

- A. The minimum design standard for construction shall be a Class I – 2 bedroom single family dwelling, design flow as listed in 7080.1860.
- B. The minimum septic tank design for installation shall consist of one compartmentalized septic tank or two or more individual septic tanks. The pump/dosing tank is not considered to be a septic tank and shall not be considered as one of these tanks.
- C. The soil must be assessed, recorded and submitted with the design for all requirements in Minnesota Rules, Chapters 7080 or 7081. There must be inclusion of soil descriptions, a determination of loading rate and absorption area sizing for approval.
 - 1. Prior to design approval, the soils must be verified by a State certified individual representing the Department.
 - 2. The minimum diameter of a soil probe used to appropriately assess the soil must be 1-1/4 inches. A soil pit may be required to assess soils based on conditions present on a site in question.
- D. Any design for a soil with a loading rate less than or equal to 0.24 gallons per day per square foot must employ pressure distribution utilizing time dosing or employs flow restrictions to limit the loading rate to less than 0.24 gallons per day per square foot into the soil treatment area.

1.07 Installation Standards

All Septic systems must be installed as prescribed in the approved design. Any deviations from design must be evaluated by the designer and approved by the Department. All systems must be installed meeting the standards set forth in Minnesota Rule 7080 and 7081.

- A. In the construction of trenches the bottom of the distribution media must be at a minimum depth of 8 inches or 2 inches greater than the sidewall of rock/slat height/gravelless pipe diameter, which ever is greater. At no time in the construction of a trench system will the final elevation of the distribution portion of the distribution media be equal to or above the original ground surface.
- B. In the construction of beds, the bottom of the distribution media must be at a minimum depth of 6 inches. At no time in the construction of a bed system will the final elevation of the distribution portion of the distribution media be equal to or above the original ground surface.
- C. In the construction of any soil treatment area, in no case shall the bottom of the distribution medium be deeper than 36 inches from final grade.

1.08 Minimum Setback Requirements

All septic systems must conform to all State and Local setbacks as applicable. The location of systems will follow all design and setback requirements as it pertains to structures, property boundaries, topographic features, and property utilities (specifically the utilities of water supply lines or wells). The minimum setback requirements for design and installation are as follows:

- A. The separation distance from a well to any portion of a SSTS shall be as specified in Minnesota Statutes Chapter 103 I, Minn Rules 4725 and 4720 as amended.
- B. The minimum setback distance to any portion of a structure for the septic tanks shall be ten (10) feet.
- C. The minimum setback distance to any portion of a structure for the soil treatment area shall be twenty (20) feet.
- D. The setback distance from any portion of a SSTS to designated lakes, rivers and streams shall be as identified in Blue Earth County Code of Ordinance, Chapter 14, pertaining to Shoreland zoning.
- E. The setback distance for any portion of a SSTS to a wetland shall be fifty (50) feet. A wetland shall mean a natural marsh where waters stand near, at or above the soil surface during 14 or more consecutive days of flooding or ponding, or a water table 12 inches or less below the surface for a duration of at least 8 consecutive days, during a portion of the growing season at a minimum frequency on 5 years in 10.
- F. The setback distance for any portion of a SSTS to any artificial drainage ditch or stormwater retention pond shall be fifty (50) feet.
- G. The setback distance to any non-perforated tile line located below the depth of the soil treatment portion of the system shall be at least ten (10) feet of undisturbed soil between the sidewall of the soil treatment media for trenches or pressure beds or the absorption area for above grade systems.
- H. The setback distance to any perforated tile line located below the depth of the soil treatment portion of the system shall be at least twenty (20) feet of undisturbed soil between the sidewall of the soil treatment media for trenches or pressure beds or the absorption area for above grade systems.
- I. The setback distance for any portion of a SSTS to a bluff (defined in Blue Earth County Code of Ordinance, Chapter 1, Section 14.4) that is not eroding shall be twenty (20) feet.
- J. The setback distance for any portion of a SSTS to a bluff (defined in Blue Earth County Code of Ordinance, Chapter 1, Section 14.4) that is eroding shall be Seventy-five (75) feet.

1.09 Maintenance

All septic systems are required to be maintained in accordance to Minnesota Rules Chapter 7080.2450 and 7081.0290 when applicable.

- A. All septic and holding tanks will be serviced/pumped by an MPCA licensed SSTS maintainer at a minimum of every 36 months regardless of occupancy status. At the time of servicing any flow measuring devices or water meters will be recorded with the date serviced and turned into the County by the January 31st of each year. Submittal of these records is the responsibility of the system owner.
- B. All land application of septage must be done according to all Local, State and Federal rules.

DIVISION 6, COMPLIANCE MANAGEMENT

DIVISION 6, SECTION 1.0 COMPLIANCE MANAGEMENT REQUIRED

Sewage discharged from a dwelling, structure, or other establishment that is not serviced by municipal sewer under permit by the MPCA or EPA must be treated in accordance to applicable requirements and standards of this ordinance.

DIVISION 6, SECTION 2.0 COMPLIANCE INSPECTION PROGRAM

2.01 Department Responsibility

It is the responsibility of the Department, or its agent, to perform various SSTS compliance inspections to assure that the requirements of this Ordinance are met.

- A.** SSTS compliance inspections must be performed:
 - 1. To ensure compliance with applicable State and Local requirements;
 - 2. For all new SSTS construction or system upgrade, repair or replacement;
 - 3. For any expansion or modification to the building(s) sewer that may impact the performance of the system.
- B.** All compliance inspections must be performed and signed by an MPCA licensed inspection business or by a qualified employee of the Department certified as an inspector by the MPCA.
- C.** The Inspector shall be given access to enter a property at any reasonable time to inspect the SSTS system or to assess the validity of any complaints or suspicion of discharge of sewage. As used in this paragraph, “property” does not include the interior of a residence or private building.
- D.** 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.

2.02 Property Owner Responsibility

It is the responsibility of the property owner or agent representing the property owner to submit a SSTS compliance inspection as required assuring that the requirements of this Ordinance are met.

- A.** SSTS compliance inspections must be performed:
 - 1. For all types of property transfer, a compliance inspection must be completed and submitted to the Department before time of sale.
 - 2. A compliance inspection or certificate of compliance must be submitted before issuance of any Building Permit, Conditional Use Permit or Variance. If the inspection requires the upgrade or replacement of any portion of the system, a design plan must be submitted to the department to obtain a Building Permit, Conditional Use Permit or Variance. The inspection may be delayed if the permit application is made during the period when a compliance inspection is not able to

be completed due to frozen ground; November 15 to April 15. A compliance inspection must be performed and submitted before the following June 1. The upgrade timeline and submittal of a design, if necessary, will be dictated by the outcome of the inspection.

2.03 New Construction or System Upgrade, Repair or Replacement

A SSTS constructed and inspected meeting all requirements of 7080 and 7081 (where applicable), and all requirements of this ordinance shall be considered compliant.

1. Compliance inspections must be performed on new, replacement upgraded or repaired SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081
2. It is the responsibility of the SSTS owner or the owner's agent to notify the Department two (2) calendar days prior to any permitted work on the SSTS.
3. A certificate of compliance for new SSTS construction or replacement must be issued by the Department once the Department has reasonable assurance that the system was built in accordance with all applicable requirements.
4. The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the Ordinance requirements.
5. Certificates of compliance for new construction or system replacement shall remain valid for five (5) years from the date of final inspection unless the Department finds evidence of noncompliance.
6. If during the construction, a SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner or owner's agent by the inspector, which includes a statement specifying the provisions with which the SSTS does not comply. This will be given within fifteen (15) days of inspection. Any notice of noncompliance must be corrected within 30 days from issuance. No certificates of compliance will be issued until all requirements are satisfied.

2.04 Existing Systems

- A. A compliance inspection or certificate of compliance shall be required when any of the following conditions occur:
 1. When a permit is required to repair, modify, or upgrade an existing SSTS system.
 2. Before issuance of any Building Permit, Conditional Use Permit or Variance, unless an SSTS permit application is made and installation is forthcoming.
 3. Any time there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system. Expansion of use is defined as an addition of a bedroom or conversion of existing space into a bedroom, any additional building connected to an existing SSTS, or any addition of any non residential use. The compliance inspection must include the existing size of system; for both tanks and soil treatment area.

4. At the time of property sale or property transfer (see Division 6, Section 2.08).
 5. Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system.
 6. At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
- B.** Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions must be assessed or verified in accordance with Minnesota Rules, Chapter 7082.0700, Subp. 4(B):
1. Watertightness assessment of all treatment tanks including a leakage report;
 2. Vertical separation distance between the bottom of the soil treatment area and the periodically saturated soil or bedrock including a vertical separation verification report. Systems installed with county soil verification after 1996 are exempt, at the discretion of the inspector, for the vertical separation distance if the soil conditions were observed by two independent qualified individuals;
 3. Sewage backup, surface seepage or surface discharge including a hydraulic function report.
- C.** The certificate of compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the Ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those Ordinance provisions with which the SSTS does not comply. A septic permit application must be submitted to the Department if the required corrective action is not a minor repair prior to initiation of the repair.
- D.** The certificate of compliance or notice of noncompliance must be submitted to the Department no later than thirty (30) calendar days after the date the inspection was performed. The Department shall keep on file all certificates of compliance. The Department will issue a notice of noncompliance to the owner or the owner's agent within sixty (60) calendar days of receipt from the licensed inspection business.
- E.** Certificates of compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless the Department finds evidence of noncompliance.

2.05 Transfer of Properties with Existing SSTS

- A.** Whenever a conveyance of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have an SSTS occurs, the following requirements shall be met:
1. A compliance inspection or certificate of compliance must be on file with the Department prior to the intended sale or transfer of the property.
 2. The compliance inspection must have been performed by a Qualified Employee of the Department or a licensed inspection business following procedures described in Division 6, Section 2.04 of this Ordinance.

3. The seller of the property must disclose, in writing, information about the status and location of all known current and former SSTS's on the property to the buyer on a form acceptable to the Department.
 4. 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 SSTS. The security shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law, or federal or state chartered financial institution. The amount escrowed shall be equal to 150% of a written estimate to install a complying SSTS provided by a licensed and certified installer, or the amount escrowed shall be equal to 110% of the written contract price for the installation of a complying SSTS provided by a licensed and certified installer. After a complying SSTS has been installed and a certificate of compliance issued, the Department shall provide the escrow agent a copy of the certificate of compliance to satisfy the escrow account stipulation.
- B.** The compliance portion of the certificate of compliance need not be completed if the sale or transfer involves the following circumstances:
1. The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
 2. The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this Ordinance. This subsection applies only to the original vendor and vendee on such a contract.
 3. Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment facility; any dwellings or other buildings that are located within the jurisdiction of a County approved agreement requiring exclusive connection to the wastewater treatment system of any municipality; or, any dwellings or other buildings that are connected exclusively to an approved wastewater treatment facility other than an individual sewage treatment system.
- C.** All property conveyances subject to this ordinance occurring during the period between November 15th and April 15th, when SSTS compliance cannot be determined due solely to frozen soil conditions, shall require a winter agreement, which includes an agreement to complete a compliance inspection by the following June 1st by a licensed inspection business and an escrow agreement must be established in accordance with Division 6, Section 2.05 A(4) (above). If upon inspection the SSTS is found to be in compliance, the escrow account may be absolved as the system would not need to be upgraded. If upon inspection the system is found to be noncompliant a permit application must be submitted and the system upgraded within the specified timeframe.
- D.** The responsibility for filing the delayed compliance inspection listed in Division 6, Section 2.05 C (above) shall be determined by the buyer and seller. Buyer and seller shall provide the Department with a signed statement indicating responsibility for completing the compliance portion of the certification and for upgrading a system found to be noncompliant.

- E. 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 noncompliance with the provisions of these standards and regulations.

2.06 Compliance Criteria for Existing SSTS

- A. SSTS built before April 1, 1996 outside of areas designated as Shoreland areas, Wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments, as defined under 7080.1100, Subp. 84, must have at least two feet of vertical separation between the bottom infiltrative surface of the dispersal system and the periodically saturated soil and/or bedrock.
- B. SSTS built after March 31, 1996 or SSTS located in a Shoreland area, Wellhead Protection area, or serving a food, beverage, or lodging establishment, as defined under 7080.1100, Subp. 84, shall have a three-foot vertical separation between the bottom soil infiltrative surface of the dispersal system and the periodically saturated soil and/or bedrock.
- C. Existing systems, built after March 31, 1996, that have no more than a 15 percent reduction in this separation distance (a separation distance to limiting layer no less than 30.5 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance.
- D. The vertical separation measurement verification shall be made immediately outside the area of system influence in similar soil. All aspects of 7080.1500, Subp.4 must be included in the determination of compliance.
- E. If soil verification was completed by the Department and documented on the permit, soil verification may be omitted from the inspection of the system.
- F. An existing drain field system for an existing structure that is not otherwise considered an imminent threat to public health and safety and which was constructed under a permit issued by the Department that verified that the required 36 inch vertical separation existed at the time of installation, need not be upgraded, repaired, or replaced notwithstanding the fact that at the time of a compliance inspection, there appears to be less than the required vertical separation between the system bottom and any limiting layer in areas outside of the system.

2.07 Compliance Criteria for New Construction.

All systems installed, altered, repaired or replaced must be permitted and inspected by a Qualified Employee of the Department.

- A. Necessary inspections and notification timeframes will be set forth in Department policy and will be made available to all contractors or individuals completing work within the jurisdiction of the County.
- B. Certificates of compliance for new systems remain valid for five (5) years unless the Department subsequently identifies the system as noncompliant for failure to comply

with the conditions of the management plan or operating permit, or the system poses an imminent threat to public health and safety.

2.08 SSTS Upgrade Required Determined by Inspection

- A. As the result of any inspection the need to upgrade or replace a system will be determined. All timeframes are based from date of inspection regardless of ownership. The timeframe will be dictated from the original date of inspection regardless of any subsequent inspections.
- B. SSTS on properties sold or transferred to new owners, should be repaired, replaced, or upgraded as determined by a compliance inspection, records search, or other means acceptable to the Department prior to ownership transfers. The determination of need to repair, replace, or upgrade should proceed in a manner that does not needlessly delay or otherwise interfere with the property sale transaction. If repair, replacement, or upgrade is not done or formally agreed upon at time of sale, the responsibility of upgrade is solely the responsibility of the buyer. Delay in requirements to repair, replace or upgrade will not occur due to dispute of liability.
- C. The timeframe to upgrade for a system that is classified as “Failing to protect groundwater” shall be made within two (2) years of the compliance inspection identifying it as such.
- D. The timeframe to expand a system for the purpose of a bedroom addition shall be one year and must be done in conjunction with the building permit.
- E. The timeframe for an upgrade in Shoreland, Wellhead protection area, or Food Beverage or Lodging establishment shall be one (1) year and must be done prior to or in conjunction with any other required Building Permit, Conditional Use Permit or Variance.
- F. The timeframe to upgrade for a system that is classified as an “Imminent threat to public health & safety” must be upgraded, repaired, replaced or discontinued from use within ten (10) months of identification or within a shorter time frame as stipulated by additional written correspondence from the Department.

DIVISION 7 SSTS PERMITTING

DIVISION 7, SECTION 1.0 PERMIT REQUIRED

It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate permit from the Environmental Services Department. The issuing of any permit or variance, under the provisions of this Ordinance shall not absolve the applicant of their responsibility to obtain any other required permit, nor until fulfillment of the installation and inspection of work done under this permit absolve the applicant of any requirements stated in any other permit or condition.

DIVISION 7, SECTION 2.0 NOTICE OF INTENT TO CONSTRUCT OR REPAIR AN SSTS FOR MULTIPLE DWELLINGS OR NON DOMESTIC WASTE

2.01 Purpose

Any owner or owners of any building(s) servicing multiple families or other nondomestic facilities, which has or will have a wastewater discharge requiring a permit under this

Ordinance, shall submit a Notice of Intent to Construct or Repair an SSTS to the Department. The purpose of this Notice is to provide the Department sufficient information to inform the submitter of the performance requirements for the proposed SSTS. This section may be circumvented if a design is only for a single family residential dwelling and is submitted as required in Division 7, Section 3.0 of this Article.

2.02 Required Contents

The owner shall provide the following information on forms available from or acceptable to the Department:

- A.** Owner(s) name and contact information;
- B.** Property tax identification number(s) or address(s) or legal description(s);
- C.** Intended use of the property and buildings;
- D.** Type of wastewater to be treated (e.g., domestic, nondomestic, restaurant, convenience store, industrial, etc.); and
- E.** Projected daily average and projected peak flow volumes of each type or source of wastewater with a specified method of determination.

2.03 Department Response

Within 30 working days of receipt of the Notice of Intent, the Department shall review the notice and determine the specific performance requirements appropriate for the location, nature of the proposed property use, and projected wastewater characteristics in accordance with Division 5 of this Ordinance. The Department shall provide the owner with written preliminary performance, maintenance, monitoring, and reporting requirements for the proposed SSTS.

DIVISION 7, SECTION 3.0. SSTS PERMIT

A SSTS permit shall be obtained from the Department by the property owner or an agent of the property owner prior to the installation, construction, replacement, modification, alteration, repair, or expansion of a SSTS. 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).

3.01 Activities Requiring a SSTS Permit

A SSTS 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 source of waste entering the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, plumbing, layout, or function.

3.02 Activities Not Requiring a SSTS Permit

A SSTS permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the source of waste entering 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.

3.03 SSTS Permit Required to Obtain Subsequent Permit(s)

For any property on which a SSTS permit is required, approval and issuance of a valid SSTS Permit must be obtained before a building or land use permit may be issued by the Department.

3.04 Conformance to Prevailing Requirements

Any activity involving an existing system that requires a SSTS Permit shall require that the entire system be brought into compliance with this Ordinance.

3.05 SSTS Permit Application Requirements

An SSTS permit application shall be made by submitting the required information on appropriate forms approved by the Department. These forms need to be signed by the applicant and/or an appropriately certified professional representing the applicant, including the practitioner's certification number. An application shall include the information / documents listed in items A through F below.

- A. Name, mailing address, telephone number, and optional email address.
- B. Property Identification Number and address or other description of property location.
- C. Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730
- D. Design Report as described in Minnesota Rules, Chapter 7080.2430.
- E. Management Plan as described in Minnesota Rules, Chapter 7082.0600.
- F. An operating permit application if required.

3.06 Application Review and Response

The Department shall review a SSTS permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed. If the permit application is incomplete or does not meet the requirements of this Ordinance the Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for denial.

3.07 Application Amendments

In the event the applicant makes a significant change to an approved application, the applicant must file the detail(s) changed and an amended design for approval prior to initiating or continuing construction, modification, or operation. The Department shall complete the review of the amended application within five (5) working days of receipt of the amended application. If the permit application is incomplete or does not meet the requirements of this Ordinance the Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for denial.

3.08 Expiration

The SSTS permit is valid for a period of one (1) year from its date of issuance. Satisfactory completion of construction shall be determined by receipt of final as-built record and a County compliance report issued by a Qualified Employee of the Department or a licensed inspection business approved by the Department.

3.09 Extensions or Renewals

The Department may grant an extension of the SSTS permit if the construction has commenced prior to the original expiration date of the permit or due to constraints outside the control of the owner or SSTS installer. The permit may be extended for a period of no more than six (6) months. The extension may have conditions to meet or exceed any changes to technical standards and conform to the prevailing rules amended by the MPCA or the County.

3.10 Transferability

A SSTS permit shall not be transferred to a new owner. The new owner must apply for a new SSTS permit in accordance with this section.

3.11 Suspension or Revocation

The Department may suspend or revoke a SSTS permit issued under this section for any false statements, misrepresentations of facts on which the SSTS 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 cease and desist order will be issued with 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, the installation or modification of a treatment system may not commence or continue until the suspension or revocation has been lifted.

DIVISION 8 MANAGEMENT PLANS

DIVISION 8, SECTION 1.0 PURPOSE

The purpose of a Management Plan is to describe how a particular SSTS is intended to be operated and maintained for the life of the system. The approved plan is provided by the certified designer to the system owner when the treatment system is put into operation.

DIVISION 8, SECTION 2.0 MANAGEMENT PLAN REQUIREMENTS

2.01 SSTS Requiring Management Plans

Management Plans are required for all new or replacement SSTS. The Management Plan shall be submitted to the Department as part of the SSTS permit application for review and approval. The Department shall be notified of any system modifications made during construction. The Management Plan shall be revised and resubmitted at the time of final construction certification if any modifications alter the previously submitted plan.

2.02 Required Contents of a Management Plan

Minnesota Rules, Chapter 7082.0600, Subp.1 requires Management Plans include the operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;

A. Monitoring requirements;

B. Maintenance requirements, including maintenance procedures and a schedule for routine maintenance;

- C. Statement that the owner is required to notify the Department when the management plan requirements are not being met, with the reason for deficiency and a corrective action plan;
- D. Disclosure of the location and condition of the additional soil treatment areas on the owner's property or a property serving the owner's residence; and
- E. Any performance component; which shall include a description of the performance system component, how the system functions, equipment specifications, emergency operating procedures in the event of a malfunction, and a troubleshooting guide.

2.03 Requirements for SSTS not Operated under a Management Plan

Minnesota Rules, Chapter 7082.0100, Subp.3.(L) requires the following:

- A. SSTS that are not operated under a Management Plan or Operating Permit must have treatment tanks inspected and provide for the removal of solids, if needed, at a minimum of every three (3) years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

DIVISION 9 OPERATING PERMIT

DIVISION 9, SECTION 1.0 SSTS Requiring an Operating Permit

1.01 SSTS Requiring an Operating Permit

An Operating Permit shall be required of all owners of any type IV, or V system, any MSTs systems, or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank or MSTs until the Department certifies that the MSTs or holding tank was installed in substantial conformance with the approved plans, receives the final as-built record, and a valid Operating Permit is issued to the owner.

1.02 Application Requirements

Minnesota Rules, Chapter 7082.0500, Subp. 2 requires that the local unit of government issue and enforce operating permits for all holding tanks, Type IV or Type V systems, MSTs and any other system deemed by the local unit of government to require operational oversight.

- A. Application for an Operating Permit shall be made on a form provided by the Department and must include the following:
 - 1. Owner name, mailing address, telephone, and email address (optional);
 - 2. SSTS Permit reference number and date of issuance;
 - 3. Final as-built record drawings of the treatment system;
 - 4. A copy of a licensed Service Provider contract to maintain and monitor the condition of all components of a Type IV or V system; and
 - 5. A copy of a valid pumping and disposal contract with a licensed maintenance business.

B. Monitoring and Disposal Contract

1. In accordance with *Minnesota Rules, Chapter 7082.0100, Subp. 3G*, owners of holding tanks shall provide to the Department 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 any illegal discharge. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, section 115.56, subdivision 3, paragraph (b), clause (3).

Individual contracts may be terminated by either the owner or the licensed business, however, a valid contract with a licensed maintenance business shall be required at all times until the holding tank is abandoned.

C. SSTS existing prior to the effective date of this Ordinance

1. All holding tanks, Type IV or Type V systems existing prior to the effective date of this Ordinance shall require an operating permit upon transfer of ownership, replacement, any modification or expansion that requires a permit, or following any SSTS enforcement action.

1.03 Department Response

The Department shall review the record drawings, management plans, maintenance and service contract, and any other pertinent documents as appropriate, for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. Once the submitted documents fulfill the requirements, the Department shall issue an operating permit within fifteen (15) working days of receipt of the complete permit application.

1.04 Terms and Conditions

Minnesota Rules, Chapter 7082.0600, Subp.2.B requires the Operating Permit include the following system performance requirements;

- A. System operating requirements;
- B. Monitoring locations, procedures and recording requirements;
- C. Maintenance requirements and schedules;
- D. Compliance limits and boundaries;
- E. Reporting requirements;
- F. Department notification requirements for non-compliant conditions;
- G. Valid contract between the owner and a licensed maintenance business;
- H. Disclosure, location and condition of acceptable soil treatment and dispersal system site; and
- I. Descriptions of acceptable and prohibited discharges.

1.05 Expiration and Renewal

- A. Operating permits shall be valid for the specific term stated on the permit as determined by the Department.
- B. An operating permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within 90 calendar days of the expiration date, the County may require that the system be abandoned in accordance with Division 10, Section 1.0.
- C. The Department shall notify the holder of an operating permit at least 90 calendar days prior to expiration of the permit. The owner must apply for renewal at least 30 calendar days before the expiration date.
- D. Application shall be made on a form provided by the Department including:
 - 1. Applicant name, mailing address and phone number;
 - 2. Reference number of previous owner's operating permit;
 - 3. Any and all outstanding compliance monitoring reports as required by the operating permit;
 - 4. Certified treatment system inspection signed by a certified advanced inspector, service provider, maintainer, or operator; at the discretion of the Department;
 - 5. Any revisions made to the operation and maintenance manual; and
 - 6. Payment for permit fee.

1.06 Transfer of Ownership

The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with Division 9, Section 1.02 of this Ordinance. The Department shall not terminate the current permit until 90 calendar days after the date of sale unless an imminent threat to public health or safety exists. To consider the new owner's application, the Department may require a performance verification of the treatment system certified by a licensed advanced inspector or Qualified Employee.

1.07 Suspension or Revocation

- A. The Department 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.
- B. Notice of suspension or revocation and the reasons shall be conveyed in writing to the owner.
- C. If suspended or revoked, the Department may require that the treatment system: be inspected, be removed from service, operated as a holding tank until the system is brought into compliance, or abandoned in accordance with Division 10, Section 1.0.
- D. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner completing the appropriate corrective actions.

1.08 Performance Monitoring

- A. Performance monitoring of a SSTS shall be performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
- B. A monitoring report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the Department on a form approved by the Department 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 samples 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, certification number and business license number of the licensed professional who performed the work.

DIVISION 10, SYSTEM ABANDONMENT

DIVISION 10, SECTION 1.0 ABANDONMENT CERTIFICATION

1.01 Purpose

The purpose of the system abandonment certification is to ensure that a treatment system no longer in service is abandoned within a reasonable time following decommissioning and in a manner that protects public health, safety and water quality. It also terminates all permits associated with the system. Documentation of the abandonment is necessary for future development or use of the property as it pertains to public safety.

1.02 Abandonment Requirements

- A. 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 sewage treatment under this Ordinance shall be prohibited.
- B. Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior inspection and written approval by the Department.
- C. An owner of a SSTS must abandon all components of the treatment system not in use within 30 calendar days of a system replacement. Abandonment shall be completed

- in accordance with Minnesota Rules, Chapter 7080.2500. The owner or owner's agent must provide the Department notification two (2) days prior to abandoning a system.
- D.** An MPCA SSTS Abandonment Form certified by the individual or business completing the work shall be submitted to the Department. The report shall include at a minimum:
1. Owner's name and contact information;
 2. Property address;
 3. The reason(s) for abandonment;
 4. A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals; and
 5. Documented location of abandoned system in relation to a steadfast reference point, GPS coordinate, or a drawing to scale representing the former system.

DIVISION 11, VARIANCES

DIVISION 11, SECTION 1.0 VARIANCE REQUESTS

1.01 Variance From Standards

- A.** An affected property owner or designated representative may request a variance from the standards as specified in this Ordinance pursuant to this Article. The Department shall have the authority to grant administrative variances when the purposes and intent of the variance are consistent with this Article, the County's Zoning chapter, and the County's Water Management Plan. The Department may approve variances from standards and criteria not specifically listed on a case-by-case basis. No variance shall be granted except under the following circumstances:
1. There are unique conditions affecting the property as a result of lot size, layout, shape, topography, soil conditions or other circumstances which the current landowners did not cause or have any control over; and
 2. Variance approval will not adversely affect the health or safety of persons residing or working in the area adjacent to the property and will not be materially detrimental to the public welfare or damaging to property or improvements in the area adjacent to the property of the applicant, and that granting of the variance will not adversely impact water quality.

1.02 Variances Pertaining to Other Affected Agencies.

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 that State Agency.

- A.** Variances pertaining to well setbacks are governed by Minn. Rules Chapters 4720 and 4725 and shall only be approved by the Minnesota Department of Health through their variance procedure.

- B.** Variance requests to deviate from the design flow determination procedures in Minnesota Rules, Chapter 7081.0110 if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day, or to provisions in 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through 5 regarding the vertical separation required beneath the treatment and soil dispersal system and seasonally saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in 7082.1700, Subp. 4D) must be approved by MPCA.

DIVISION 12 DISPUTE RESOLUTION

DIVISION 12, SECTION 1.0 Dispute Resolution

1.01 Dispute Process

- A.** The applicant for any permit may contest any or all of the stipulations in a written response by providing relevant and detailed reasons why the Department should reconsider the stipulations.
- B.** If the owner contests the stipulations, the Department shall review the stipulations and inform the owner of its decision in writing within 30 working days. The reasons behind the decision must be clearly documented whether the request is denied or the stipulations are revised.

1.02 Dispute resolution

In the event that there is a dispute between contractors or the Department, the dispute resolution will be as follows:

- A.** If the dispute is between two contractors for design or inspection, the Department ruling will be final as to the interpretation of the limiting layer or other condition in question.
- B.** If the dispute is between a contractor and the Department, the dispute resolution procedure described in 7082.0700, Subp. 5 must be followed.

DIVISION 13 ENFORCEMENT

Enforcement of this ordinance may be through criminal prosecution and/or administrative actions and/or civil judicial action.

Division 13, SECTION 1.0 VIOLATIONS

1.01 Violations are Misdemeanors

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 Statutes. Each day that a violation exists shall constitute a separate offense.

1.02 Administrative Enforcement Actions

A. Notice of Violation

The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Ordinance. The notice of violation shall contain:

1. A statement documenting the findings of fact determined through observations, inspections, or investigations;
2. A list of specific violation(s) of this Ordinance;
3. Specific requirements for correction or removal of the specified violation(s); and
4. A mandatory time schedule for correction, removal and compliance with this ordinance.

B. Cease and Desist Orders

Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other County 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.

1.03 Civil Judicial Enforcement Actions

In the event of a violation or threatened violation of this Ordinance, the County may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations and the County Attorney shall have authority to commence such civil action. The Department and County Attorney may take such actions as may be necessary to enforce the provisions of this Ordinance.

DIVISION 13, SECTION 2.0 NOTIFICATION OF VIOLATION TO OTHER AGENCIES

2.01 General Provisions

In accordance with state law, the Department may notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS that is performed in violation of the provisions of this Ordinance.

2.02 Straight-pipe Act

The Department may notify the MPCA of violations of the Straight-pipe Act of 2006 (Minnesota Statutes 115.55 Subp. 11), in cases involving any system that transports raw or partially settled sewage directly to; a surface water, lake, stream, drainage system, or onto the ground surface.

DIVISION 14 ADMINISTRATION

DIVISION 14 SECTION 1.0 COSTS AND REIMBURSEMENTS

1.01 Property Owner Responsibility

All costs associated with the repair, replacement, or abandonment of a failing/noncompliant SSTS shall be the responsibility of the property owner or as otherwise provided for in a written, notarized agreement between two parties.

1.02 Abatement

If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover all costs incurred in removal or abatement in a civil action, including legal fees; at the discretion of the County Board, the cost of an enforcement action under this Ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.

1.03 ISTS LOAN PROGRAM

A. Statutory Authority and Scope.

Pursuant to Minn. Stats. Ch. 115, this division is adopted to provide for the creation of a public loan program to finance the site evaluation, design, installation and replacement of failing individual sewage treatment systems. It allows local government agencies to lend state funds or their own funds for this purpose.

B. Definitions.

Terms used in this division will be used pursuant to the definitions provided in Minn. Stats. Ch. 115 and MPCA Rules part 7080, as amended, and the County SSTS Ordinance set forth in this Article. If a definition in this division is inconsistent with a definition provided in State Statute or Agency rule, for the purposes of this division, the County's definitions are controlling.

C. Provisions.

- 1.** The establishment of a loan program to assist property owners to replace failing, residential, SSTS in the County.
- 2.** Replacement septic systems shall be constructed in accordance with Minn. Stats. §§ 115.55 and 115.57 and the terms of the County SSTS Ordinance, including, but not limited to the following provisions:
 - a.** All construction, reconstruction and repairs made to failing, individual sewage treatment systems under this ordinance shall be performed by a licensed, subsurface sewage treatment professional contractor.
 - b.** All work performed shall comply with Agency rules adopted pursuant to Minn. Stats. § 115.55, subd. 3, and other applicable County Ordinance requirements including, but not limited to, the Shoreland Ordinance (chapter 14), and the Well Ordinance (chapter 6, Article III).

3. Access to the fund is voluntary. The amount loaned under the program, including accruing interest, shall be a lien against the real property for which the improvement was made and shall be assessed against the real property benefitted, unless the amount is prepaid. Requirements for loan eligibility, details of loan agreements and program operation shall be established by the administrative plan as adopted and approved by County Board resolution. The administrative plan may be amended, as needed.
4. The property owner has the right to prepay the assessment at any time.
5. Administration of the plan shall be the responsibility of the Department. The County Director of Land Records shall be responsible for administration of the lien against the benefitting property.

DIVISION 14, SECTION 2.0 PUBLIC EDUCATION AND OUTREACH

Minnesota Rules, Chapter 7082.0100, Subp.4.(A) requires that programs shall provide directly or indirectly to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.

DIVISION 14, SECTION 3.0 RECORD KEEPING

The County shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the County sorted by licensed installation businesses, and other records relevant to each system according to Minnesota Rules, Chapter 7082.0300, Subp. 4.

DIVISION 14, SECTION 4.0 ANNUAL REPORT

The Department shall provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year as per MPCA reporting requirements in Minnesota Rules, Chapter 7082.0040, Subp.5.

DIVISION 14, SECTION 5.0 FEES

From time to time, the County Board shall establish fees for activities undertaken by the Department pursuant to this Ordinance. Fees shall be due and payable at a time and in a manner to be determined by the Department.

DIVISION 14, SECTION 6.0 INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

DIVISION 14, SECTION 7.0 SEVERABILITY

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

DIVISION 14, SECTION 8.0 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Ordinance to repeal, abrogate, or impair any other existing County Ordinance, easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

DIVISION 14, SECTION 9.0 ORDINANCE REPEALED

The Blue Earth County previous ordinance, Chapter 6 Article IV, for the regulation of Individual Sewage Treatment Systems of the County is hereby repealed.

DIVISION 14, SECTION 10.0 ORDINANCE ADOPTION

The Blue Earth County Subsurface Sewage Treatment Program Ordinance is hereby adopted by Blue Earth County Board of Commissioners on the _____ day of _____, 2010.

Chairperson, Blue Earth County Board of Commissioners

ATTEST:

Dennis McCoy, Blue Earth County Administrator

EFFECTIVE DATE: _____, 2010