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DAKOTA COUNTY ORDINANCE NO. 113
SUBSURFACE SEWAGE TREATMENT SYSTEMS

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DAKOTA COUNTY

ORDINANCE NO. 113

SUBSURFACE SEWAGE TREATMENT SYSTEMS

SECTION 1.00 PURPOSE, INTENT, AND AUTHORITY

1.01 PURPOSE.

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

1.02 INTENT.

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

B. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, 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 to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.

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

1.03 AUTHORITY.

This ordinance is adopted pursuant to Minn. Stats. Chs. 115, 145A, 375, Minn. Stats. §§ 394.26 - 394.27 or successor statutes, and Minn. R. Chs. 7080, 7081, and 7082, or successor rules.

SECTION 2.00 DEFINITIONS

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section. Unless specifically defined herein, terms used in this ordinance shall have the same definition as provided in Minn. Stats. § 115.55 and Minn. R. Chs. 7080, 7081, 7082, and 7083 and if not defined there, shall have common usage meaning. For

purposes of this ordinance, the words "must" and "shall" are mandatory and not permissive unless a different definition appears in this ordinance.

2.01 "AS BUILTS" means "record drawings" as defined below.

2.02 **"BUSINESS DAYS"** means weekdays Monday through Friday, except (a) state or federal holidays and (b) holidays established by the County Board.

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

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

2.05 "COUNTY" means Dakota County, Minnesota, which also acts as the Dakota County Board of Health pursuant to Minn. Stats. Ch. 145A.

2.06 "COUNTY BOARD" means the Dakota County Board of Commissioners.

2.07 "DEPARTMENT" means the Environmental Resources Department (or its successor) of the Dakota County Physical Development Division, its staff and designated agents.

2.08 "DESIGN FLOW" means the daily volume of wastewater for which an onsite/cluster system is designed to treat and discharge.

2.09 "FAILURE TO PROTECT GROUNDWATER" means a SSTS that does not protect groundwater such as a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance described in Minn. R. 7080.1500, subps. 4(D) and 4(E); and a system not abandoned in accordance with Minn. R. 7080.2500. The determination of the threat to groundwater for other conditions must be made by a qualified employee or a licensed inspection business.

2.10 "IMMINENT THREAT TO PUBLIC HEALTH AND SAFETY" means 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; sewage tanks with unsecured, damaged, or weak maintenance access covers; or any other situation with the potential to immediately and adversely affect or threaten public health or safety. The determination of protectiveness for other conditions must be made by a qualified employee inspector or a licensed inspection business.

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

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

2.13 “MANAGEMENT PLAN” means a plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.

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

2.15 "MPCA" means the Minnesota Pollution Control Agency.

2.16 "MSTS" means a midsized subsurface sewage treatment system as defined in Minn. R. 7081.0020, subp. 4.

2.17 "MUNICIPALITY" means any incorporated city or township within the boundaries of Dakota County, Minnesota.

2.18 “NOTICE OF NONCOMPLIANCE” means a written document issued by the department notifying a system owner that the owner’s onsite/cluster treatment system has been observed to be noncompliant with the requirements of this ordinance.

2.19 "PERSON" means any human being, any municipality or other governmental or political subdivision, or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity.

2.20 “QUALIFIED EMPLOYEE” means 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.

2.21"RECORD DRAWINGS• means a set of drawings which reasonably 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. Record drawings were previously known as "as builts."

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

2.23 "SSTS” means a subsurface sewage treatment system as defined in Minn. R. 7080.1100, subp. 82.

2.24 "SHORELAND/FLOODPLAIN AREA" means those areas covered by Dakota County Ordinance 50, Shoreland and Floodplain Management.

2.25 "STATE" means the State of Minnesota.

2.26 "TREATMENT LEVEL• means treatment system performance levels as defined in Minn. R. 7083.4030, Table Ill for testing of proprietary treatment products.

2.27 "TYPE I **SYSTEM"** means an SSTS designed according to Minn. R. 7080.2200 through Minn. R. 7080.2240, as may be amended.

2.28 "TYPE II **SYSTEM"** means an SSTS designed according to Minn. R. parts 7080.2250 to 7080.2290, as may be amended.

2.29 "TYPE Ill **SYSTEM"** means an SSTS designed according to Minn. R. 7080.2300, as may be amended.

2.30 "TYPE IV SYSTEM" means an SSTS designed according to Minn. R. 7080.2350, as may be amended.

2.31 "TYPE V SYSTEM" means an SSTS an ISTS designed according to Minn. R. 7080.2400, as may be amended.

2.32 "QUALIFYING PROPERTY OWNER" means a property owner who meets the requirements to enroll in the voluntary Tax Assessment Program to replace or repair failing septic systems.

2.33 "ZONING BOARD OF ADJUSTMENT" and "ZBA" mean the Zoning Board of Adjustment (ZBA) created by the County Board under County Ordinance 50 pursuant to Minn. Stats. § 394.27.

SECTION 3.00

3.01 SCOPE.

GENERAL PROVISIONS

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 limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the county shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this ordinance or by a system that has been permitted by the MPCA. [Minn. R. 7082.0100, Subp. 3(Q)]

3.02 JURISDICTION.

This ordinance applies to all land area within the county, except within municipalities that administer a SSTS program by ordinance within their jurisdiction that are at least as strict as this ordinance. [Minn. R. 7082.0040, Subp. 2, Minn. R. 7082.0040, Subp. 3]

SECTION 4.00 ADMINISTRATION

4.01 COUNTY.

The 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. [Minn. R. 7082.0040, Subp. 4(A)1] The Zoning Board of Adjustment, as presently established in Dakota County Ordinance No. 50 shall have the power to (1) order the issuance or denial of variances for the provisions of this ordinance; and (2) to hear and decide appeals arising from denials of construction permits and operating permits pursuant to sections 7.02 or 7.04 and permit suspensions and revocations pursuant to sections 12.01, 12.02 or 12.04.

4.02 STATE OF MINNESOTA.

When 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 permit from the MPCA in accordance with Minn. R. Ch. 7001. If the measured daily flows for a consecutive seven-day period exceed 10,000 gallons per day, a state disposal system permit is required. [Minn. R. 7081.0040, Subp. 1(B)]

A state disposal system permit is also required for any SSTS or group of SSTS that the commissioner determines has the potential or an increased potential to cause adverse public health or environmental impacts if not regulated under a state permit. Conditions for these permits include systems in environmentally sensitive areas, unsubstantiated or unexpected flow volumes, and systems requiring exceptional operation, monitoring, and management. [Minn. R. 7081.0040, Subp. 1 (C)]

4.03 CITIES AND TOWNSHIPS.

Any municipality 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. In the event a municipality decides to repeal its SSTS ordinance, it must provide written notice to the county of its intent to do so at least six months prior to taking any formal action to repeal its SSTS ordinance.

SECTION 5.00 GENERAL REQUIREMENTS

5.01 RETROACTIVITY.

A. ALL SSTS. Except as provided in section 5.01 (B), all provisions of this ordinance shall apply to any SSTS regardless of the date it was originally permitted.

B. EXISTING PERMITS. Unexpired permits, which were issued prior to the effective date of this ordinance, shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership.

C. 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 systems as described in Minn. R. parts 7080.2200 through 7080.2230 or site conditions described in Minn. R. 7081.0270, Subps. 3 through 7. [Minn. R. 7082.0100, Subp. 3(F))

5.02 UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT.

A. FAILURE TO PROTECT GROUNDWATER. An SSTS that is determined not be protective of groundwater in accordance with Minn. R. 7080.1500, Subp. 4(B) shall be upgraded, repaired,

replaced or abandoned by the owner in accordance with the provisions of this ordinance within 10 months of receipt of notice of noncompliance from the department. [Minn. R. 7082.0100, Subp. 1(A)]

B. IMMINENT THREAT TO PUBLIC HEALTH OR SAFETY. An SSTS that is determined to be an imminent threat to public health or safety shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this ordinance within 30 days of receipt of notice of noncompliance from the department. [Minn. R. 7082.0100, Subp. 1 (B)]

C. ABANDONMENT. Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with section 8.00 of this ordinance and Minn. R. 7080.2500. [Minn. R. 7082.0100, Subp. 3(B)]

5.03 SSTS IN FLOODPLAINS.

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements of Minn. R. 7080.2270 and all relevant local requirements are met. [Minn. R. 7082.0100, Subp. 3(I)]

5.04 CLASS V INJECTION WELLS.

All owners of new or replacement SSTS that are considered to be Class V injection wells as defined in the Code of Federal Regulations, title 40, part 144, are required to submit SSTS inventory information to the United States Environmental Protection Agency and the MPCA. Owners are also required to identify all Class V injection wells in property transfer disclosures. [Minn. R. 7082.0100, Subp. 3(M)]

5.05 SSTS LICENSE REQUIRED. [Minn. R. 7082.0100, Subp. 3(A)]

All design, installation, alteration, repair, maintenance, operation, pumping, and inspection activities for SSTS located in the county must be completed by a business licensed by the state under Minn. R. Ch. 7083, an appropriately certified qualified employee, or a person exempted under Minn. R. 7083.0700, Subps. 1(A), (C), (D), (F), (G), (H) and (I). Individuals exempt from a state SSTS license under Minn. R. 7083.0700, Subps. 1(A), (C}, (D), (F), (G), (H) and (I) must follow all applicable local, state, and federal requirements. Property owners that employ a business to perform this work must hire a business that is licensed in accordance with Minn. R. Ch. 7083.

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 the MPCA in accordance with Minn. R. Ch. 7083, except as exempted in Minn. R. 7083.0700, Subps. 1(A), (C), (D), (F), (G), (H) and (I).

5.06 PROHIBITIONS.

A. OCCUPANCY OR USE OF BUILDING WITHOUT A COMPLIANT SSTS. It is unlawful for any person to maintain, occupy, or use any building intended for habitation to dispose of wastewater in a manner that does not comply with the provisions of this ordinance.

B. SEWAGE DISCHARGE TO GROUND SURFACE OR SURFACE WATER. It is unlawful for any person to construct, maintain, or use any wastewater treatment system regulated under this ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted by the MPCA under the National Pollutant Discharge Elimination System program. [Minn. R. 7082.0100, Subp. 3(H)]

C. 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 Minn. R. 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.

D. DISCHARGE OF HAZARDOUS OR DELETERIOUS MATERIALS. It is unlawful for any person to discharge into any treatment system regulated under this ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

5.07 REQUIRED SUBMISSION OF MAINTENANCE REPORTS.

Licensed maintenance businesses must abide by the requirements described in Minn. R. 7083.0770, Subp. 2. All written reports required by Minn. R. 7083.0770, Subp. 2 must be provided to the homeowner and the department within 30 days after any maintenance work is performed.

SECTION 6.00 SSTS STANDARDS

6.01 STANDARDS ADOPTED BY REFERENCE. [Minn. R. 7082.0100, Subp. 3(C)]

Minn. Stats. § 115.55 and Minn. R. Chs. 7080 and 7081 and all other referenced laws and rules, as may be amended, are adopted by reference and made a part of this ordinance.

6.02 AMENDMENTS TO THE ADOPTED STANDARDS.

A DETERMINATION OF HYDRAULIC LOADING RATE AND SSTS SIZING. Table IX from Minnesota Rules, Ch. 7080.2150, Subp. 3(E) entitled “Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions” and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this ordinance.

B. HOLDING TANKS. Holding tanks may be used for the following applications only after it can be shown conclusively by the property owner that a SSTS with a soil dispersal system cannot be feasibly installed:

1. As a replacement for an existing failing SSTS;

2. For an SSTS that poses an imminent threat to public health or safety; or

3. For use with buildings with limited water use.

Upon the department’s determination that the property owner has established that a SSTS with a soil dispersal system cannot be feasibly installed for one of the three applications listed above, under the following conditions:

1) The holding tank shall be installed in accordance with Minn. R. 7080.2290.

2) An operating permit is maintained under section 7.04

C. MINIMUM SEPTIC TANK CAPACITIES All new and replacement septic tanks shall be sized to meet the standards listed in Minn. R. 7080.1930 Subp. 2 to provide for a garbage disposal.

D. SEPTIC AND PUMP TANK BURY DEPTH. All new septic and pumping tanks shall be installed no more than a four (4) foot depth from final grade to the top of the tank as outlined in Minn. R. 7080.2000. A waiver of this requirement may be obtained from the department if the tanks are certified /documented by the manufacturer for the installation depth of the tank.

E. MINIMUM PUMP TANK CAPACITIES. All new and replacement pump tanks shall have a capacity of not less than 1,000 gallons.

F. PROTECT CLEAN-OUT ENDS OF PRESSURE DISTRIBUTION PIPES. Clean-out ends of pressure distribution pipes shall be below grade and enclosed in a protective box to allow access for maintenance.

6.03 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 must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock. The vertical separation measurement shall be made outside the area of system influence in an area of similar soil. (Minn. R. 7082.0100, Subp. 1 (C)].

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 Minn. R. 7080.1100, Supb. 84 must have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Unless otherwise determined by the department, existing systems that have no more than a 15 percent reduction to the minimum required 36 inch separation distance are considered compliant. (i.e., a separation distance no less than 30.6 inches). This reduction is to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics. The vertical separation measurement shall be made outside the area of system influence in an area of similar soil.

6.04 HIGHEST STANDARDS PREVAIL.

Where the conditions imposed by a provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by a provision of this ordinance or any other applicable law, ordinance, rule, or regulation, the provision that establishes the higher standard for the promotion and protection of the public health, safety, and general welfare shall prevail.

SECTION 7 .00 SSTS PERMITTING [Minn. R. 7082.0100, Subp. 3{E)]

7.01 PERMITS REQUIRED.

A. PERMIT REQUIRED. It is unlawful for any person to construct, install, modify, or replace a SSTS in the county without the appropriate permit from the department. [Minn. R. 7082.0100, Subp. 3(0)]

B. PERMITTING NOT EXCLUSIVE. The obtaining of a permit shall not be deemed to exclude the necessity of obtaining other appropriate permits or approvals. Compliance with the provisions of this ordinance shall not relieve any person of the need to comply with any and all other applicable rules, regulations, and laws.

7 .02 CONSTRUCTION PERMIT.

A. ACTIVITIES REQUIRING A CONSTRUCITON PERMIT. A construction 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 treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. [Minn. R. 7082.0100, Subp. 3(0)]

B. ACTIVITIES NOT REQUIRING A CONSTRUCTION PERMIT. A construction permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. [Minn. R. 7082.0100, Subp. 3(0)]

C. APPLICATION FOR PERMIT. Permit applications shall be submitted to the department on forms provided by the department. Applicants shall provide all information as required for the administration of this ordinance.

D. CONTENTS OF PERMIT APPLICATION**.** The permit application shall include the following:

1. The names, addresses, and telephone numbers of the applicant and permittee;

2. The property identification number and address or other description of the real property on which the system will be located;

3. A site evaluation report as described in Minn. R. 7080.1730;

4. A design report as described in Minn. R. 7080.2430;

5. The infield verification as described in Minn. R. 7082.0500, Subp. 3(A);

6. A management plan as described in Minn. R. 7082.0600 and section 7.03 of this ordinance; and

7. Copies of any required municipal, county, state, or federal permits or approvals.

E. APPLICATION FEE. The application fee shall accompany the permit application.

F. APPLICATION REVIEW. The department shall review a permit application and supporting documents to determine whether the application is complete. 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 applicant changes the proposed work to be conducted under an approved permit application, the applicant must file an amended application with the department detailing the changed conditions prior to initiating or continuing construction, modification, or operation. The department shall review the amended application and either approve or deny the application.

G. APPROVAL OF PERMIT REQUIRED. The department must review and approve the permit application and management plan before issuing a permit. Construction must not be initiated until the department grants a construction permit.

H. PERMIT EXPIRATION. The construction permit is valid for a period of no more than one year from its date of issue, unless it is extended in accordance with this section or construction has been completed satisfactorily, whichever is shorter. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in substantial conformance to the approved design documents by a qualified employee of the department or a licensed inspection business, which is authorized by the department and independent of the owner and the SSTS installer.

I. EXTENSIONS AND RENEWALS. The department may grant an extension of the construction permit if the construction has commenced prior to the original expiration date of the permit. The permit may be extended for a period of no more than six months.

J. PERMIT NOT TRANSFERABLE. A construction permit shall not be transferable to a new owner. The new owner must apply for a new construction permit in accordance with this section.

K. POSTING. The construction permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

L. CONFLICT OF INTEREST.

1. A licensed inspection business that inspects an existing SSTS is allowed to subsequently design and install a new SSTS for that property provided the inspection business is also licensed to design and install.

2. A licensed inspection business working on behalf of the department must not design or install systems that the business will be responsible for permitting or inspecting as part of its contract with the county. [Minn. R. 7082.0700, Subp. 2(C)]

M. DENIAL AND RIGHT TO APPEAL. If the department denies a permit to an applicant, the applicant shall be notified of such denial in writing. The department shall serve the denial by personal service or by certified mail to the address designated in the permit application. Service by certified mail shall be deemed to be complete upon mailing. The applicant may appeal the permit denial by filing a request for a hearing. The hearing request shall be in writing stating the grounds for the appeal and served on the Zoning Board of Adjustment by personal service or certified mail with a copy to the department within 10 calendar days of the service of the permit denial, exclusive of the day of service. The burden of providing clear, accurate and adequate information pertaining to the request for appeal is on the applicant. Following timely service of a request for a hearing, the Zoning Board of Adjustment shall set a time and place for the hearing pursuant to section 13.00.

7.03 MANAGEMENT PLAN. [Minn. R. 7082.0100, Subp. 3(J)]

A. PURPOSE. The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.

B. SSTS REQUIRING MANAGEMENT PLANS.

Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the department with the construction permit application for review and approval. The department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

C. REQUIRED CONTENTS. Management plans shall include:

1. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;

2. Monitoring requirements;

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

4. Statement that the owner is required to notify the department when the management plan requirements are not being met;

5. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence; and

6. Other requirements as determined by the department.

7.04 OPERATING PERMIT. [Minn. R. 7082.0100, Subp. 3(K)]

A. PERMIT REQUIRED. An operating permit is required for all treatment systems installed under Minn. R. 7080.2290 (holding tanks), Minn. R. 7080.2350 (Type IV System), Minn. R. 7080.2400 (Type V System) and Minn. R. Ch. 7081 (MSTS). Sewage shall not be discharged to a treatment system requiring an operating permit until the department certifies that the treatment system was installed in substantial conformance with the approved plans, receives the final records drawings of the treatment system, and a valid operating permit is issued to the owner.

B. APPLICATION FOR PERMIT. Permit applications shall be submitted to the department on forms provided by the department. Applicants shall provide all information as required for the administration of this ordinance.

C. CONTENTS OF PERMIT APPLICATION**.** The permit application shall include the following:

1. The names, addresses, and telephone numbers of the applicant and permittee;

2. The construction permit reference number and date of issue;

3. The final record drawings of the treatment system; and

4. Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business.

D. APPLICATION FEE. The application fee shall accompany the permit application.

E. MONITORING AND DISPOSAL CONTRACT. 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 that guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minn. R. 7082.100, Subp. 3(G). The owner must hold a valid contract with a licensed maintenance business at all times until such time the holding tank is abandoned or the property sold. This contract requirement is waived if the owner is a farmer who is exempt from licensing under Minn. Stats. §115.56, subd. 2(b)(3).

F. APPLICATION REVIEW. The department shall review the application, the record drawings, operation and maintenance manual, management plan, maintenance and servicing 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. If the submitted application and documents fulfill the requirements, the department shall issue an operating permit within 10 working days of receipt of the permit application.

G. PERMIT TERMS AND CONDITIONS. The operating permit shall include the following:

1. System performance requirements;

2. System operating requirements;

3. Monitoring locations, procedures and recording requirements;

4. Maintenance requirements and schedules;

5. Compliance limits and boundaries;

6. Reporting requirements;

7. Department notification requirements for noncompliant conditions;

8. Valid contract between the owner and a licensed maintenance business;

9. Disclosure, location, and condition of acceptable soil treatment and dispersal system site; and

10. Descriptions of acceptable and prohibited discharges. [Minn. R. 7082.0600, Subp. 2(B)]

H. PERMIT EXPIRATION AND RENEWAL.

1. Operating permits shall be valid for a specific term stated on the permit as determined by the department.

2. 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 which time the permit is renewed. If not renewed within 60 calendar days of the expiration date, the department may require that the system be abandoned.

3. The department shall notify the holder of an operating permit of the permit renewal requirement at least 90 calendar days prior to expiration of the permit. The owner must apply for renewal at least 30 calendar days before the permit expiration date.

4. Application for permit renewal shall be made on a form provided by the department including:

a. The names, addresses, and telephone numbers of the applicant and permittee;

b. Reference number of previous operating permit;

c. Any outstanding compliance monitoring reports as required by the operating permit;

d. Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the department;

e. Any revisions made to the operation and maintenance manual; and

f. Any applicable fees.

I. PERMIT NOT TRANSFERABLE. The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with section 7.04 of this ordinance. The department shall not terminate the current permit until 60 calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the department may require a performance inspection of the treatment system certified by a licensedinspector or qualified employee.

J. COMPLIANCE MONITORING.

1. 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.

2. 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 or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of the maintenance and servicing activities performed since the last compliance monitoring report as described below:

a. Owner name and address;

b. Operating permit number;

c. Average daily flow since last compliance monitoring report;

d. Description of type of maintenance and date performed;

e. Description of sample taken (if required), analytical laboratory used, and results of analyses;

f. Problems noted with the system and actions proposed or taken to correct them; and

g. Name, signature, license and license number of the licensed professional who performed the work.

K. DENIAL AND RIGHT TO APPEAL. If the department denies a permit to an applicant or denies a renewal, the applicant shall be notified of such denial in writing. The department shall serve the denial by personal service or by certified mail to the address designated in the permit or permit

renewal application. Service by certified mail shall be deemed to be completed upon mailing. The applicant may appeal the permit/renewal denial by filing a request for a hearing. The hearing request shall be in writing stating the grounds for the appeal and served on the Zoning Board of Adjustment by personal service or certified mail with a copy to the department within 10 calendar days of the service of the permit denial, exclusive of the day of service. The burden of providing clear, accurate and adequate information pertaining to the request for appeal is on the applicant. Following timely service of a request for a hearing, Zoning Board of Adjustment shall set a time and place for the hearing pursuant to section 13.00.

7 .05 DUTY TO COMPLY WITH PERMIT CONDITIONS.

The permittee shall comply with all conditions stated in any permit issued by the department under this ordinance. Failure of the permittee to do so is a violation of this ordinance and is subject to the penalties provided herein.

7.06 SYSTEMS NOT OPERATED UNDER MANAGEMENT PLAN.

Owners of SSTS that are not operated under a management plan or operating permit must inspect treatment tanks and remove solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minn. R. 7080.2450. [Minn. R. 7082.0100, Subp. 3(L)]

SECTION 8.00 ABANDONMENT CERTIFICATION [Minn. R. 7082.0100, Subp. 3(B)]

8.01 PURPOSE.

The purpose of the system abandonment certification is to ensure that a treatment system no longer in service is abandoned following decommissioning and in a manner that protects public health, safety, and water quality. It also terminates all permits associated with the system.

8.02 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 any purpose is prohibited.

B. Abandonment shall be completed in accordance with Minn. R. 7080.2500.

C. An abandonment certificate shall be submitted to the department. The report shall include:

1. Owner's name and contact information;

2. Property address;

3. System construction permit and operating permit;

4. The reason(s) for abandonment; and

5. 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.

SECTION 9.00 COMPLIANCE MANAGEMENT

9.01 PUBLIC EDUCATION OUTREACH.

Programs shall be provided by the department and/or others 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.

9.02 COMPLIANCE INSPECTION PROGRAM. [Minn. R. 7082.0700]

A. DEPARTMENT RESPONSIBILITY. It is the responsibility of the department, or its agent, to perform various SSTS compliance inspections periodically to assure that the requirements of this ordinance are met.

1. SSTS compliance inspections must be performed:

a. To ensure compliance with applicable requirements;

b. For all new SSTS construction or replacement; and

c. For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minn. R. 7082.0700 using the SSTS inspection report forms provided by the MPCA.

2. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.

3. The department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building.

4. No person shall hinder or otherwise interfere with the department's employees or agents in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by the department or its agent shall be deemed a violation of this ordinance.

B. NEW CONSTRUCTION OR REPLACEMENT.

1. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minn. R. Chs. 7080 or 7081. SSTS found not to be in compliance with Minn. R. 7080.1500, Supb. 4(A) or Minn. R. 7081.0080, Subp. 3 must be repaired or replaced within 10 months or as directed under Minn. Stats. Ch. 145A. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the department's requirements.

2. It is the responsibility of the SSTS owner or the owner's agent to notify the department at least one working day prior to any permitted work on the SSTS.

3. A certificate of compliance for new SSTS construction or replacement shall be issued by the department if the department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.

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. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner that includes a statement specifying those ordinance provisions with which the SSTS does not comply.

5. The certificate of compliance or notice of noncompliance must be submitted to the department no later than 15 calendar days after the date the inspection was performed. The department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 calendar days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.

6. Certificates of compliance for new construction or replacement shall remain valid for five years from the date of issue unless the department finds evidence of an imminent threat to public health or safety requiring removal and abatement under Minn. Stats. §145A.04, subd. 8.

C. EXISTING SYSTEMS.

1. Compliance inspections shall be required when any of the following conditions occur.

a. When a construction permit is required to repair, modify, or upgrade an existing system;

b. Anytime there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;

c. Anytime there is a change in the use of the property being served by an existing SSTS which may impact the performance of the system;

d. When an operating permit is to be renewed;

e. Prior to the sale or transfer of real property served by an existing SSTS if required by section 9.02(D)(1)(a) below;

f. During systematic shoreland or area-wide SSTS surveys by the department; and

g. At any time as required by this ordinance or the department deems appropriate such as upon receipt of a complaint or other notice of system malfunction.

2. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by the MPCA. An inspection for existing SSTS must verify the conditions in subitems (a) to (c).

a. Sewage tanks must be assessed for leakage below the operating depth. A leakage report must be completed that includes the method(s) used to make the assessment. The assessment must be made by either a licensed SSTS business (except a design business) or a qualified employee with an SSTS certification (except as a designer). A passing report is valid for three years unless the certified

individual has reason to believe that a new inspection is to be conducted and the tank is found not to be watertight.

b. The vertical separation distance from the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock. This verification must be achieved by either conducting soil borings or by prior verifications by two independent parties. The soil borings used for system design or previous inspections qualifies as a verification. A vertical separation distance report must be completed that includes the method(s) used to make the assessment and includes any previous soil borings. The assessment must be made by either a licensed inspection business or a qualified employee of the department. If the verification separation report consists of verifications by two independent parties, a subsequent verification is not required unless the inspector has reason to believe a noncompliant condition exists.

If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all disputing parties must follow the dispute resolution procedure described in Minn. R. 7082.0700, Subp. 5. [Minn. R. 7082.0100, Subp. 3(N)]

c. Sewage backup, surface seeping or surface discharge from the system must be determined. A hydraulic function report must be completed that includes the method(s) used to make the assessment. The assessment must be made by either a licensed inspection business or a qualified employee with an inspector certification. A passing report is valid until a new inspection is requested or if the hydraulic performance is believed to have changed. [Minn. R. 7082.0700, Subp. 4, B(4)]

3. A certificate of compliance shall be based on the results of the verifications in section 9.02(C)(2). The certificate of compliance must include a certified statement by a qualified employee or a licensed inspection business, authorized by the department, 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 construction permit application must be submitted to the department if the required corrective action is not a minor repair.

4. The certificate of compliance or notice of noncompliance must be submitted to the department no later than 15 calendar days after the date the inspection was performed. The department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 calendar days of receipt from the licensed inspection business.

5. Certificates of compliance for existing SSTS shall remain valid for three years from the date of issue unless the department finds evidence of an imminent threat to public safety requiring removal and abatement under Minn. Stats. § 145A.04, subd. 8.

6. The department may waive a compliance inspection required by section 9.02(C)(1) if:

a. The owner of the real property served by an existing SSTS acknowledges in writing to the department that the existing SSTS is failing and shall be upgraded, repaired, replaced or abandoned in accordance with this ordinance within 10 months; or

b. The owner of the real property served by an existing SSTS acknowledges in writing to the department that the existing SSTS is an imminent threat to public health or safety and shall be upgraded, repaired, replaced or abandoned in accordance with this ordinance within 30 days.

D. PROPERTY TRANSFER/SALE REQUIREMENTS.

1. No owner or other person acting with legal authority on behalf of an owner of real property served by an existing SSTS shall sell or transfer to another party said real property unless the following requirements are met:

a. A compliance inspection has been performed and a certificate of compliance has been issued for the SSTS within three years if the SSTS is older than five years or within five years if the SSTS is less than five years old prior to the intended date of sale or transfer of the real property, unless evidence is found identifying an imminent threat to public health and safety. If this requirement cannot be met, a compliance inspection must be conducted in accordance with section 9.02(C) above.

b. The compliance inspection must have been performed by a qualified employee of the department or a licensed inspection business following the procedures described in section 9.02(C) above.

c. The seller/transferor of the real property must provide the disclosure required by Minn.Stats. § 115.55, subd. 6.

d. If the seller/transferor fails to provide a certificate of compliance, the seller/transferor shall provide the buyer/transferee 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, or federal or state chartered financial institution. 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 verified installer. After a complying SSTS has been installed and a certificate of compliance issued, the seller/transferor or the buyer/transferee shall provide the escrow agent a copy of the certificate of compliance.

2. The compliance portion of the certificate of compliance need not be completed if the sale or transfer involves the following circumstances:

a. The affected real property is without buildings or contains no dwellings or other buildings with plumbing fixtures.

b. The transfer is a tax forfeiture.

c. 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 contract.

3. All real property sales or transfers subject to this ordinance occurring during the period between November 15th and April 15th when SSTS compliance cannot be determined due to frozen soil conditions shall require a winter agreement, which includes an application for an SSTS permit and an agreement to complete a compliance inspection by the following June 1st by a licensed

inspection business. If upon inspection the SSTS is found to be in compliance, the permit fee will be refunded. If upon inspection the system is found to be noncompliant, an escrow agreement must be established in accordance with section 9.02(D)(1)(d) above and the system upgraded.

4. The responsibility for filing the completed compliance portion of the certificate of compliance under section 9.02(D)(1) above or for upgrading a system found to be noncompliant shall be determined by the seller/transferor and the buyer/transferee. The seller/transferor and the buyer/transferee shall provide the department with a signed statement indicating responsibility for completing the compliance portion of the certificate of compliance and for upgrading a system found to be noncompliant.

5. The issuance of permits, certificates of compliance or notices of noncompliance as requested or issued shall not be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in questions Is or has been designed and installed in compliance or noncompliance of this ordinance.

E. CONFLICT OF INTEREST. A licensed inspection business that inspects an existing SSTS is allowed to subsequently design and install a new SSTS for that property provided the inspection business is also licensed to design and install. A licensed inspection business working on behalf of a municipality must not design or install a system or system site. A person working for or on behalf of a municipality shall not use the person's position to solicit for private business gain. [Minn. R. 7082.0700, Subp. 2(B-D)]

SECTION 10.00 VARIANCES

10.01 VARIANCES ALLOWED. [Minn. R. 7082.0100, Subp. 3(D)]

With the exception of section 10.02 below, in any case where it appears by the reason of exceptional circumstances the strict enforcement of any provision of the standards would cause unnecessary hardship or that strict conformity with the standards would be unreasonable, impractical or not feasible under the circumstances in order to promote the effective and reasonable application and enforcement of the provisions of this ordinance, the Zoning Board of Adjustment may permit a variance upon such conditions as it may prescribe consistent with the general purposes of this ordinance and the intent of this and all other applicable state and local regulations.

A variance shall expire and be considered null and void one (1) year after the Zoning Board of Adjustment’s final decision to grant the variance if no SSTS construction has begun. One administrative extension of up to one (1) year may be granted by the Zoning Board of Adjustment upon written request by the property owner, provided there is reasonable cause for the request and further provide that the written request is made no less than 30 calendar days prior to the expiration of the variance.

10.02 PROHIBITED VARIANCES.

The Zoning Board of Adjustment may not grant variances from the following standards:

A. Minn. R. 7080.2150, Subp. 2. A-D.

B. Minn. R. 7081.0080, Subps. 2 to 5, however, variances may be granted to Minn. R. 7081.0080, Ssubp. 4(D)(1) for the replacement of MSTS serving existing dwellings or other establishments.

C. Flow determinations under Minn. R. 7081.0110 if the deviation reduces the average daily flow from more than 10,000 gallons to 10,000 gallons per day or less.

10.03 PROCEDURE FOR REQUESTING VARIANCE.

A. APPLICATION FOR VARIANCE. A variance application shall be submitted by the property owner to the department on forms provided by the department. Applicants shall provide all information as required for the administration of this ordinance.

B. CONTENTS OF VARIANCE APPLICATION. The variance application shall include development plans and specifications and such other information as may be required by other sections of this ordinance or by the department. The application shall also include:

1. The legal description of the real property on which the system will be located;

2. The names, addresses and telephone numbers of the owners of the property or any person having a legal interest therein;

3. A site plan showing all pertinent dimensions, buildings, structures and significant natural features having an influence on the variance;

4. Copies of any required municipal, county, state, or federal permits or approvals;

5. A statement identifying the specific provision(s) in the ordinance from which the variance is requested;

6. The reasons why compliance with the provision(s) is difficult or inappropriate;

7. The alternative measures that will be taken to ensure a comparable degree of compliance with the intention of the applicable provision(s);

8. The length of time for which the variance is requested;

9. Cost considerations; and

10. Other relevant information requested by the department as necessary to properly evaluate the variance request.

C. APPLICATION FEE. The application fee shall accompany the initial application for a variance request.

D. SITE INVESTIGATION. Upon receipt of the variance application, the department shall decide if a site investigation conducted by the department is necessary. After the necessary information has been gathered, the department shall make a written recommendation to approve or deny the variance to the Zoning Board of Adjustment.

E. NOTIFICATION. Notice of the time, place, and purpose of the public hearing (Notice of Hearing) shall be given by publication in a newspaper of general circulation in the town, municipality, or other area concerned and in the official newspaper of the county, at least ten days before the

hearing. The Notice of Hearing shall be sent to property owners of record within 500 feet of the affected property, the town board of the township wherein the variance is proposed, and/or the governing body of any city of which the incorporated limits lie within two miles of the proposed variance. Notice of Hearing shall be given not less than 14 calendar days prior to the date of the meeting at which the variance application will be considered by the Zoning Board of Adjustment.

In instances where the affected property is located within the shoreland overly district, a copy of the Notice of Hearing shall also be sent by mail to the Minnesota Department of Natural Resources (DNR) sufficiently in advance so that the DNR receives at least 10 days' notice of the hearing.

The failure of any person to receive such notification shall not invalidate the proceedings.

F. EVALUATION CRITERIA FOR VARIANCE. A variance may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official controls set forth in this ordinance. "Practical difficulties" means that the property owner proposes to use the property in a reasonable manner not permitted by an official control set forth in this ordinance; the plight of the property owner is due to circumstances unique to the property not created by the property owner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

The following additional criteria must be satisfied for any variance from this ordinance:

1. The granting of the variance will not be contrary to the public interest or damaging to the rights of other person or to property values in the vicinity;

2. The property owner would have no reasonable use of the land without the variance;

3. The granting of the variance would not allow a prohibited use; and

4. The granting of the variance would be in accordance with Minn. R. Chs. 7080, 7081, and 7082.

G. CONDITIONS. The Zoning Board of Adjustment may impose conditions in granting the variance to ensure compliance and to protect the public health, safety, or welfare. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. Each violation of any condition set forth in the variance shall be a separate violation of this ordinance subject to enforcement and shall be sufficient grounds for terminating the variance.

H. DENIAL OF VARIANCE. No application for a variance which has been denied wholly or in part shall be resubmitted for a period of six months from the date of said denial, except on the grounds of relevant new evidence or proof of a significant change of conditions.

I. APPEAL. Any person aggrieved by the decision of the Zoning Board of Adjustment may appeal the decision to Dakota County District Court.

J. NOTICE TO THE DEPARTMENT OF NATURAL RESOURCES. In instances where the affected property is located within the shoreland overly district, a final decision granting a variance shall be sent to the DNR within 10 days of the final action.

K. RECORDING. A certified copy of any order issued by Zoning Board of Adjustment granting a variance shall be recorded by the department with the county recorder or registrar of titles. The order shall include the legal description of the property involved.

SECTION 11.00 ORDINANCE VIOLATIONS

For violations of this ordinance, the county may take the following actions: issuance of a warning notice; issuance of a notice of violation, issuance of a citation or complaint; issuance of a cease and desist order; abatement; suspension, summary suspension or revocation of a permit issued under this ordinance; execution of a stipulation agreement; and/or commencement of other civil proceedings.

11.01 WARNING NOTICE.

The department may issue a warning notice to any person alleged to have committed a violation of this ordinance. A warning notice shall serve to place the person on notice that compliance with specified ordinance requirements must occur to avoid additional enforcement actions. Service of the warning notice shall be made by first class mail or by personal service. The warning notice shall contain:

A. A list of violations, including the ordinance section(s), rule(s), or statute(s) violated, the factual basis for the violations and the date(s) of the violations.

B. The specific actions required to be taken by the person to correct the violations and the timeframes within which the corrections are required to be made.

C. A general description of the additional administrative and judicial enforcement actions that could be pursued by the department if the alleged violations are not satisfactorily corrected.

11.02 NOTICE OF VIOLATION (NOV).

The department may issue a notice of violation (NOV) to any person alleged to have committed a violation of this ordinance. A NOV shall serve to place the person on notice that compliance with specified ordinance requirements must occur to avoid additional enforcement actions. Service of the NOV shall be made by certified mail or by personal service. The notice of violation shall contain:

A. Findings of fact with corresponding conclusions of law, which describe the alleged violations and the corresponding ordinance section(s), statute(s), and/or rule(s) which are allegedly violated.

B. Orders for corrective actions, which describe specifically how each alleged violation must be corrected and the timeframes within which the corrections are required to be made.

C. Notice of further action, which describes in general terms, the additional administrative and judicial enforcement actions that could be pursued by the department if the· alleged violations are not satisfactorily corrected.

11.03 CITATIONS.

Any person who fails to comply with the provisions of this ordinance is guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. An authorized

representative of the department shall have the power to issue citations for violations of this ordinance, but shall not be permitted to physically arrest or take into custody any violator.

A. Issuance of the Citation. Citations shall be issued to the person alleged to have committed the violation (alleged violator) either by personal service or by certified mail. In the case of a public, private, or municipal corporation, the citation shall be issued to any officer or agent with express or implied authorization to accept such issuance.

B. Notice of Citation. Citations shall be made out in quadruplicate (4). One copy shall be issued to the alleged violator; one copy shall be filed with the department; one copy shall be filed with the Dakota County Attorney's Office; and one copy shall be filed with the Dakota County District Court, First Judicial District.

C. Form of Citation. Citations shall be on such form(s) as approved by the department and shall contain at least the following:

1. The name and address of the alleged violator and when known, the owner or person in charge of the premises at which the violation occurred;

2. The date, time (if known) and place of violation;

3. A short description of the violation followed by reference to the section of this ordinance violated;

4. The name of the person issuing the citation;

5. The date, time, and place at which the alleged violator shall appear in court and notice that if such person does not appear a warrant may be issued for such person's arrest; and

6. Such other information as the court may specify.

D. Court Appearance. The alleged violator shall appear at the place and on the date and time specified in the citation and either:

1. Plead guilty to the citation and meet the requirements of the sentence imposed by the court; or

2. Plead not guilty to the citation and schedule a court date for further hearing or trial.

E. Failure to Appear on the Citation. If the alleged violator does not appear at the place and on the date and time specified on the citation, the court may issue a warrant for the person's arrest.

F. Complaint. A complaint may be issued in lieu of a citation as determined by the Dakota County Attorney's Office.

G. Aiding and Abetting. As set forth in Minn. Stats. § 609.05, a person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime. A person liable for such crime is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended. A person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons that purpose and makes a reasonable effort to

prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed.

A person liable under this section may be charged with and convicted of the crime although the person who directly committed the crime has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act, or if the person is a juvenile who has not been found delinquent for the act. For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.

11.04 ABATEMENT.

If a SSTS constitutes a public health nuisance defined by Minn. Stats. Ch. 145A, the department may enter the property and abate the nuisance and recover the costs of the same from the property owner through the following procedures:

A. ABATEMENT NOTICE. The department shall serve an abatement notice on the property owner or occupant.

1. Contents of Abatement Notice. An abatement notice shall include the following:

a. Notice that there is a SSTS located on the property and that it constitutes a public health nuisance.

b. Notice that the property owner must abate the public health nuisance within a specified time period not to exceed 10 calendar days in order to avoid any liability for the costs of inspection and abatement that the county may incur.

c. Notice that if the property owner fails to abate the public health nuisance within the specified timeframe, the department or its agent intends to enter the property and commence abatement of the public health nuisance and assess the costs of inspection and abatement against the real property on which the nuisance is located.

2. Service. The abatement notice must be served on a property owner by certified mail or personal service. Service by certified mail shall be deemed complete upon mailing. If the property owner is unknown or absent and has no known representative upon whom notice can be served, the department shall post a written or printed notice on the property stating that, unless the public health nuisance is abated within a period not longer than 10 days, the department will have the nuisance abated at the expense of the owner.

B. ABATEMENT BY THE COUNTY. In the event a property owner does not abate the public health nuisance, the department may expend funds necessary to abate the nuisance in accordance with the Dakota County Bid Grant and Contracting Policy.

C. ASSESSMENT OF ABATEMENT COSTS.

1. The costs of an enforcement action under this section may be assessed and charged against the real property on which the public health nuisance was located.

2. The department shall keep a record of the enforcement and abatement costs and report all work done for which assessments are to be made, stating and certifying the description of the real property, lots or parcels involved and the amount assessable to each to the county auditor.

3. The county auditor shall extend the cost so assessed and charged on the tax roll of the county against the real property on which the enforcement action was taken.

11.05 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, it shall not be resumed until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

11.06 STIPULATION AGREEMENT.

The department and a person alleged to have violated provisions of this ordinance may voluntarily enter into a stipulation agreement whereby the parties to the agreement: identify conditions on the property that require corrective action; agree on the corrective actions that must be performed by the person; and agree on the timeframes in which the corrective actions must be completed. If the person fails to fulfill the requirements of the agreement, the county may seek compliance with the terms of the agreement through a court of competent jurisdiction or pursue other enforcement action allowed by this ordinance.

11.07 SUSPENSION AND REVOCATION OF PERMIT.

The department may suspend or revoke a permit for violations of this ordinance in accordance with section 12.00 below. The department may issue a summary suspension of a permit for violations of this ordinance in accordance with section 12.02 below.

11.08 COMMENCEMENT OF CIVIL COURT ACTION.

In the event of a violation or threat of violation of this ordinance, the county board may institute appropriate civil actions or proceedings in any court of competent jurisdiction requesting injunctive relief to prevent, restrain, correct or abate such violations or threatened violations. The county may recover all costs, including reasonable attorney's fees, incurred for enforcement of this ordinance.

SECTION 12.00 PERMIT SUSPENSION AND REVOCATION

12.01 SUSPENSION.

A. Any permit required under this ordinance may be suspended by the department for violation of any provision of this ordinance. Upon written notice to the permittee, said permit may be suspended by the department for a period not longer than 60 days or until the violation is corrected, whichever is shorter.

B. Such suspension shall not occur earlier than 10 business days after written notice of suspension has been served on the permittee, or if a hearing is requested, until written notice of the Zoning Board of Adjustment action has been served on the permittee. Notice to the permittee shall be

made by personal service or by certified mail to the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Such written notice of suspension shall contain the effective date of the suspension, the nature of the violation(s) constituting the basis for the suspension, the facts which support the conclusion that the violation(s) occurred, and a statement that if the permittee desires to appeal, the permittee must file a written request for an appeal hearing with the Zoning Board of Adjustment within 10 business days of the service of the suspension notice, exclusive of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and served on the Zoning Board of Adjustment by personal service or certified mail with a copy to the department within 10 business days of service of the suspension notice, exclusive of the day of service. Following timely service of a request for hearing, the Zoning Board of Adjustment shall set a time and place for the hearing pursuant to section 13.00.

C. If said suspension is upheld and the permittee has not demonstrated within the 60 day time period that the provisions of the ordinance have been complied with, the department may serve notice of continued suspension for up to an additional 60 days or initiate revocation procedures.

12.02 SUMMARY SUSPENSION.

A. If the department finds that an imminent threat to the environment or to public health, safety or welfare requires emergency action and incorporates a finding to that effect in its order, summary suspension of a permit may be ordered by the department upon notification to the Dakota County Attorney's Office. Written notice of such summary suspension shall be made by personal service or by certified mail on the permittee at the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Alternatively, the department may post copies of the notice of summary suspension of the permit on the property for which the permit was issued. Said posting shall constitute the notice required under this section.

B. The written notice shall state the effective date of the summary suspension, the nature of the violation(s} requiring emergency action, the facts which support the conclusion that the violation(s) occurred and a statement that if the permittee desires to appeal, the permittee must file a request for an appeal hearing with the county board within 10 business days of service or posting of the suspension notice, exclusion of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and served on the county board by personal service or by certified mail with a copy to the department within 10 business days of service or posting of the suspension notice, exclusive of the day of service. Following timely service of a request for a hearing, the county board shall set a time and place for the hearing pursuant to section 13.00.

C. The summary suspension shall not be stayed pending an appeal to the county board or an informal review by the department head, but shall be subject to dismissal upon a favorable re-inspection by the department or favorable appeal to the county board.

12.03 SUSPENSION RE-INSPECTIONS.

Upon written notification from the permittee that all violations for which a suspension or summary suspension was invoked have been corrected, the department shall re-inspect the system, device, site or activity within a reasonable length of time, but in no case more than three business days

after receipt of the notice from the permittee. If the department finds upon re-inspection that the violations constituting the grounds for the suspension have been corrected or removed, the department shall immediately dismiss the suspension by written notice to the permittee, served personally or by certified mail on the permittee at the address designated in the permutation application, with a copy to the Dakota County Attorney's Office.

12.04 REVOCATION.

A. Any permit granted pursuant to this ordinance may be revoked by the department for violation of any provision of this ordinance.

B. Revocation shall not occur earlier than 10 business days from the time that written notice of revocation from the department is served on the permittee, or if a hearing is requested, until written notice of the Zoning Board of Adjustment action has been served on the permittee. The notice of revocation to the permittee shall be made by personal service or by certified mail to the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation(s) constituting the basis for the revocation, the facts which support the conclusion that the violation(s) occurred and a statement that if the permittee desires to appeal, the permittee must file a request for an appeal hearing with the Zoning Board of Adjustment within 10 business days of service of the revocation notice, exclusive of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and served on the Zoning Board of Adjustment by personal service or by certified mail with a copy to the department within 10 business days of service of the revocation notice, exclusive of the day of service. Following timely service of a request for a hearing, the Zoning Board of Adjustment shall set a time and a place for the hearing to be held pursuant to section 13.00.

SECTION 13.00 HEARINGS

Hearings requested under this ordinance by an applicant or permittee (hereinafter collectively referred to as “appellant”) aggrieved by a denial of construction permit or operating permit pursuant to sections 7.02 or 7.04 or a permit suspension or revocation pursuant to sections 12.01, 12.02 or 12.04 shall be held before the Zoning Board of Adjustment and shall be open to the public.

A. TIMEFRAME FOR HEARING. Unless an extension of time is requested by the appellant in writing directed to the chair of the Zoning Board of Adjustment and is granted, the hearing will be held no later than 45 calendar days after the date of service of request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than 90 calendar days after the date of service of request for a hearing, exclusive of the date of such service.

B. NOTICE OF HEARING. The Zoning Board of Adjustment shall mail notice of the hearing to the appellant, with a copy to the department and the Dakota County Attorney's Office, at least 15 business days prior to the hearing.

Such notice shall include:

1. A statement of time, place, and nature of the hearing.

2. A statement of the legal authority and jurisdiction under which the hearing is to be held.

3. A reference to the particular section of the ordinance and rules involved.

C. CONDUCT OF THE HEARING. The appellant and the department may be represented by counsel. The department, the appellant, and additional parties, as determined by the Zoning Board of Adjustment or hearing examiner, in that order, shall present evidence. All testimony shall be sworn under oath. All parties shall have full opportunity to respond to and present evidence, cross-examine witnesses, and present argument. The Zoning Board of Adjustment or hearing examiner may also examine witnesses.

D. BURDEN OF PROOF. The department shall have the burden of proof of proving its position by a preponderance of the evidence, unless a different burden is provided by substantive law, and all findings of fact, conclusions, and decisions by the Zoning Board of Adjustment shall be based on evidence presented and matters officially noticed.

E. ADMISSION OF EVIDENCE. All evidence that possesses probative value, including hearsay, may be admitted if it is the type of evidence on which prudent persons are accustomed to rely in the conduct of their serious affairs. Evidence that is incompetent, irrelevant, immaterial or unduly repetitious may be excluded. The hearing shall be confined to matters raised in the department's written notice of suspension, summary suspension, revocation, or denial of a permit, or in the written request for a hearing.

F. PRE-HEARING CONFERENCE. At the written request of any party, or upon motion of the Zoning Board of Adjustment or hearing examiner, a pre-hearing conference shall be held. The pre-hearing conference shall be conducted by the hearing examiner, if the Zoning Board of Adjustment has chosen to use one, or by a designated representative of the Zoning Board of Adjustment. The pre-hearing conference shall be held no later than five business days before the hearing. The purpose of the pre-hearing conference is to:

1. Clarify the issues to be determined at the hearing.

2. Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party. The hearing examiner or Zoning Board of Adjustment's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction.

3. Provide an opportunity for discovery of the full name and address of all witnesses who will be called at the hearing and a brief description of the facts and opinions to which each is expected to testify. If the names and addresses are not known, the party shall describe them thoroughly by job duties and involvement with the facts at issue.

4. If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:

a. The evidence was not known to the party at the time of the pre-hearing conference; or

b. The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.

G. FAILURE TO APPEAR. If the appellant fails to appear at the hearing, appellant shall forfeit any right to a hearing before the Zoning Board of Adjustment or hearing examiner. Appellant's failure to appear shall also be deemed as a waiver of appellant's right to appeal the department's decision and the department's decision shall stand.

H. DECISION. The Zoning Board of Adjustment may reverse, affirm in whole or part, or may modify the order, requirements, decisions or determinations of the department and to direct the department to issue the permit. In addition, the Zoning Board of Adjustment may impose conditions, including time limits, to protect the public health, safety and welfare of the public. The reasons for the Zoning Board of Adjustment's decision shall be stated in writing.

I. APPEAL. Any appellant aggrieved by the decision of the Zoning Board of Adjustment may appeal that decision to Dakota County District Court.

SECTION 14.00 RECORD KEEPING AND ANNUAL REPORT

14.01 RECORD KEEPING.

The department 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 department's jurisdiction sorted by licensed installation businesses, and other records relevant to each system. [Minn. R. 7082.0300, Subp. 4]

14.02 ANNUAL REPORT.

The department shall provide an annual report of SSTS permitting activities to the MPCA in accordance with the requirements set forth in Minn. R. 7082.0040, Subp. 5, as may be amended. [Minn. R. 7082.0040, Subp. 5]

SECTION 15.00 TAX ASSESSSMENT PROGRAM

15.01 GENERAL PROVISIONS.

A. Authority. Pursuant to Minn. Stats. § 115.57, the Dakota County Board of Commissioners hereby establishes a voluntary tax assessment program to assist qualifying property owners to replace or repair failing SSTS in Dakota County. The program may only be used for the site evaluation, design, installation, repair and replacement of existing failing SSTS on privately owned property, pursuant to the authority granted under Minn. Stats. Ch. 115 and Minn. R. Ch. 7080 that pertain to sewage treatment as defined under this ordinance. The program may not be used for construction of a new SSTS on property that did not previously have a SSTS.

B. Application. Application shall be made to the Department on forms provided by the Department. Department staff shall determine if an applicant is a qualifying property owner by verifying that the applicant is the property owner of record, the property is homesteaded, and the taxes are current. Whoever knowingly makes, or causes to be made, a material misstatement, misrepresentation, or omission during the application process with the intention that it be relied upon by the Department in determining eligibility for the program is guilty of a misdemeanor.

C. Terms. Dakota County may lend funds to a qualifying property owner to correct a failing SSTS, as shall be recommended by the Department, at an interest rate and terms to be established by resolution of the Dakota County Board of Commissioners. All sums loaned under the program, and accrued interest thereon, shall be a lien against the real property upon which the improvement was made, and shall be assessed against the property. The property owner has the right to prepay the assessment at any time during the assessment period. There shall be no penalty for prepayment.

D. Notification. Upon approval by the Department, the applicant will be notified in writing that their application has been approved. Work to replace or repair the failing SSTS may not proceed until the application has been approved and all required permits obtained. All construction must conform to the standards and requirements in Minn. R. Chs. 7080-7083 and Section 5.05 of this ordinance. If an application is not approved, the applicant will be notified in writing as to the reasons the application was denied.

E. Fund Disbursement. Upon completion of the repair or replacement of the SSTS, the contractor shall submit an invoice, final inspection report or certificate of compliance, and an as-built record to the Department. After review by the Department, payment shall be made to the contractor for the approved amount of the program loan.

SECTION 16.00 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.

SECTION 17.00 REMEDIES CUMULATIVE

No remedy set forth in this ordinance is intended to be exclusive but each such remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or in equity. No delay in the exercise of ay remedy for violation of this ordinance shall later impair or waive any such right or power of the county.

SECTION 18.00 EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed by the Board of County Commissioners of Dakota County this 4th day of June 1985.

Amended by the Board of County Commissioners of Dakota County this 23rd day of July 1996.

Amended by the Board of County Commissioners of Dakota County this 19th day of May 1998.

Amended by the Board of County Commissioners of Dakota County this 15th day of December 2009.

Amended by the Board of County Commissioners of Dakota County this 5th day of April 2016.

Amended by the Board of County Commissioners of Dakota County this 23rd day of January 2018.

Amended by the Board of County Commissioners of Dakota County this 9th day of June 2026.