

**Excerpt from Ordinance No. 2014-01
Amendments to Individual Sewage
Treatment Systems Ordinance 2007-02**

CASS COUNTY ENVIRONMENTAL SERVICES

D. Transfer of Property

- 1.** Any individual sewage treatment system located on real property lying within Cass County shall be brought into compliance with the requirements of the Cass County Subsurface Sewage Treatment System Ordinance upon conveyance of said real property.
- 2.** Prior to the conveyance of any real property, the seller shall disclose in writing to the buyer information about the status and location of all known SSTS on the property by delivering to the buyer either a sworn affidavit by the seller that no SSTS exists on the property to the best of their knowledge after diligent investigation, or a certificate of compliance or notice of non-compliance meeting all provisions of this ordinance being the result of a compliance inspection conducted by a Minnesota state registered inspector holding a Designer I or Inspector certification. A certificate of compliance or notice of noncompliance meeting all provisions of this ordinance shall be submitted to the Cass County Environmental Services Department and the seller within 30 days after the compliance inspection.
- 3.** If the seller fails to provide a Certificate of Compliance, the seller shall provide the buyer sufficient security in the form of an escrow with the Department, a licensed real estate closer, licensed attorney-at-law, or a federal or state chartered financial institution. The escrow must list the County as having the “release authority”. If the escrow is held by some entity other than the County, a copy of the escrow and written estimate must be submitted to the Department. The amount escrowed shall be equal to 125% of a written estimate to install a complying ISTS provided by a licensed and certified installer. The buyer may, by mutual written agreement with the seller, assume the responsibility to fund the escrow. The seller or buyer may, by written agreement, assign a third party to receive the disbursement from the escrow account. After a complying SSTS has been installed and a certificate of compliance issued, the Department must provide the holder of the escrow a copy of the Certificate of Compliance, and the Cass County Environmental Services Department shall authorize the escrow to be released to the maker of the escrow or their assigns.
- 4.** At the time of recording the conveyance of any real property within the unincorporated areas of Cass County, the seller shall provide to the Department or the County Recorder one of the following: (A) a sworn affidavit by the seller certifying that no subsurface sewage treatment system exists on said property to the best of their knowledge after diligent investigation (affidavit), or (B) a Certificate of Compliance on forms approved by the Department (certificate), or (C) a packet consisting of the following documents to be referred to as an escrow packet: 1) an escrow agreement as provided by subdivision “3” of this section, 2) an attached written estimate or contract to install a complying SSTS provided by a licensed and certified installer; and, 3) an attached SSTS permit application for the installation of the SSTS (packet), or (D) an SSTS permit application and SSTS Compliance Inspection Agreement for conveyances which take place between November 1st and April 30th when compliance cannot be determined (winter agreement). Failure to comply with a requirement of this subdivision does not impair the validity of the deed. Failure to present to the Department or County Recorder an affidavit, certificate of compliance, escrow packet, or a winter agreement as outlined in this subdivision shall constitute a misdemeanor and shall be punishable as defined by Minnesota State Statutes.
- 5. Liability for Failure to Disclose:** Unless the buyer and seller agree to the contrary in writing before the closing of the sale, a seller who fails to disclose the existence of a subsurface sewage treatment system at the time of sale and knew or had reason to know of the existence of a subsurface sewage treatment system is liable to the buyer for costs relating to bringing the subsurface sewage treatment system into compliance with the Cass County Subsurface Sewage Treatment System Ordinance, and reasonable attorney’s fees for collection of costs from the seller, if the action is commenced within two (2) years after the date the buyer closed the purchase of the real property where the subsurface sewage treatment system is located. Said civil liability shall in no way impair a criminal prosecution for the same violation.
- 6.** In accordance with section 4(D) above, all property conveyances subject to this ordinance occurring during the period between November 1st and April 30th when ISTS compliance cannot be determined due to frozen soil conditions shall require a winter agreement, which includes an application for an SSTS permit and an SSTS Compliance Inspection Agreement. The compliance inspection shall be completed by following June 1st by a state-licensed compliance inspector. 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 failed, an escrow agreement shall be established in accordance with section 3, above, and the system shall be upgraded.