

# **Cass County**

## **SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE**

### **Ordinance #2018-03**

**EFFECTIVE DATE:**

**August 2, 2018**

**Table of Contents**

**SUBSURFACE SEWAGE TREATMENT SYSTEM (SSTS) FOR CASS COUNTY**

100 Purpose and Authority.....3  
101 Intent.....3  
102 Jurisdiction.....3  
103 Effective Date.....3  
104 Scope.....3  
105 Definitions.....3  
106 Abrogation and Greater Restrictions.....4  
107 Interpretation.....4  
108 Severability.....4  
109 Repealor.....4

200 Administration.....4  
201 County Administration.....4  
202 State Administration.....4  
203 Cities and Townships Administration.....5  
204 Liability.....5  
205 All SSTS.....5  
206 Existing Permits.....5  
207 SSTS on Lots Created After January 23, 1996.....5

300 Upgrade, Repair, Replacement & Abandonment.....5

400 SSTS in Floodplains.....6

500 Class V Injection Wells.....6

600 SSTS Practitioner Licensing.....6

700 Prohibitions.....7

800 Alternative Local Standards Adopted By Reference.....7

900 Differences in Standards.....7

1000 Compliance Criteria for Existing SSTS.....8  
1001 Holding Tanks.....8  
1002 Variance Requests.....8  
1003 State Agency Variance Requests.....8

1004 Permit Requirements.....	9
1005 Operating Permit.....	10
1006 Compliance Inspection Program.....	11
1007 Enforcement.....	14
1008 State Notification of Violation.....	14
1009 Record Keeping.....	14
1010 Annual Report.....	14
1011 Fees.....	14
1012 Dispute Resolution.....	15
APPENDIX A – Septage Management.....	15

**100 PURPOSE AND AUTHORITY**

The purpose of the Subsurface Sewage Treatment System (SSTS) Ordinance is to provide minimum standards for and regulation of Individual Sewage Treatment Systems (ISTS) and Midsized Sewage Treatment Systems (MSTS) including the proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the Cass County Comprehensive Plan and the Cass County Land Use Ordinance.

**101 INTENT**

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

- A. The protection of lakes, rivers and streams, wetlands, and groundwater in Cass County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
- B. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, 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.

**102 JURISDICTION**

The jurisdiction of this Ordinance shall include all lands of Cass County except for incorporated areas and townships that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their incorporated jurisdiction, which is at least as restrictive as this Ordinance.

**103 EFFECTIVE DATE**

The provisions set forth in this Ordinance shall become effective on May 1, 2014.

**104 SCOPE**

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

**105 DEFINITIONS**

See Cass County Environmental Definitions Ordinance #2007-04. If not specifically defined in the Cass County Environmental Definitions Ordinance, terms used in this Ordinance shall have the same meaning as provided in the standards adopted by reference.

**106 ABROGATION AND GREATER RESTRICTIONS**

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

**107 INTERPRETATION**

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

**108 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.

**109 REPEALOR**

The adoption of this Ordinance repeals Cass County Individual Sewage Treatment Systems Ordinance #2007-02 effective date of May 18, 2007.

**200 ADMINISTRATION**

**201 COUNTY ADMINISTRATION**

- A. The Cass County Environmental Services Department shall administer the SSTS program and all provisions of this ordinance.
- B. The County’s duties and responsibilities include, but are not be limited to, the following;
  - 1. Review all applications for SSTS
  - 2. Issue all permits required in this Ordinance
  - 3. Inspect all work regulated in this Ordinance
  - 4. Investigate all complaints regarding SSTS
  - 5. Issue certificates of installation, certificates of compliance or notices of noncompliance where applicable
  - 6. Enact enforcement provisions of this Ordinance as necessary
  - 7. Refer unresolved violations of this Ordinance to the County Attorney
  - 8. Maintain current records for each permitted SSTS including all site evaluation documents, design documents, inspection documents, and other applicable documents.
  - 9. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program
  - 10. Submit annual reports to MPCA as required

**202 STATE ADMINISTRATION**

The owner or owners of a single SSTS or a group of SSTS under common ownership must obtain an SDS permit from the agency according to chapter 7001 when all or part of proposed or existing soil dispersal components are within one-half mile of each other and the combined flow from all proposed and existing SSTS is greater than 10,000 gallons per day. For proposed SSTS, the flow must be determined according 7081.0110. For existing SSTS, the flow is determined by the greater of the average maximum seven-day measured flow or flow amounts according to part 7081.0110. The highest calculated value of the various methods in Table I under part 7081.0130, subpart 1, must be used to make this determination, with no reduction allowed. An SDS permit is not required if a factor of safety is added to the design flow that results in a design flow that is in excess of the SDS permit threshold.

**203 CITIES AND TOWNSHIPS ADMINISTRATION**

Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance. The standards and Ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.

**204 LIABILITY**

The County’s involvement in administration of this Ordinance does not create a special duty to any person and, further liability or responsibility shall not be imposed upon the County or any of its officials, employees, or other contract agents, for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster SSTS regulated under this Ordinance or by reason of any standards, requirements, or inspections authorized by this Ordinance hereunder.

**205 ALL SSTS**

Except as explicitly set forth in Section 207, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

**206 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 design, whichever is earlier.

**207 SSTS ON LOTS CREATED AFTER JANUARY 23, 1996**

All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support Type 1 systems as defined by Minnesota Rule 7080.2200.

**300 UPGRADE, REPLACEMENT AND ABANDONMENT**

**A. SSTS Replacement**

Replacement of an existing SSTS tank or drainfield must include a certificate of compliance on the remaining tank or drainfield.

**B. Bedroom Addition**

Any addition to a structure that includes bedroom(s) that require a land use permit from the County shall require that the SSTS meet the required design flow according to Minnesota

Rule 7080.1860 or be upgraded to meet Class 1 sizing for both the septic tanks and soil absorption area. Any required upgrades shall be completed within two years.

**C. Failure to Protect Groundwater**

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rule 7080.1500, Subp.4(B) shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten months upon receipt of a notice of noncompliance and must meet Class I sizing requirements according to Minnesota Rule 7080.1860.

**D. Imminent Threat to Public Health or Safety**

An SSTS posing an imminent threat to public health or safety shall be pumped within twenty four hours and managed as a holding tank in accordance with Minnesota Rule 7080.1500, Subp.4(A) and said SSTS shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten months upon receipt of a notice of noncompliance and must meet Class I sizing requirements according to Minnesota Rule 7080.1860.

**E. Abandonment**

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

**400 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 in Minnesota Rule 7080.2270 and all relevant local requirements are met.

**500 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 by the Federal Government to submit a UIC Class 5 Inventory Form to the Environmental Protection Agency as described in 40 CFR Part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

**600 SSTS PRACTITIONER LICENSING**

- A.** No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules Chapter 7083 except as exempted in Rule 7083.0700.
- B.** An MPCA license is not required of an individual who is constructing a SSTS on land that is owned by the individual and functions solely as a dwelling for that individual pursuant to Minnesota Rule 7083.0700. Installation of the system shall be based upon a design by a licensed designer. The system shall be inspected before it is covered and a twenty four hour notification to the Department for inspection is required.
- C.** Commercial SSTS and any other pressurized system cannot be constructed by anyone other than a licensed installer.

**700 PROHIBITIONS**

**A. Occupancy or Use of a Building without a Compliant SSTS**

It is unlawful for any person to maintain, occupy, or use any building intended for habitation or that contains plumbing fixtures that is not provided with a wastewater treatment system that disposes 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 SSTS 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 under the National Pollutant Discharge Elimination System program by the MPCA.

**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 Minnesota Rule 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.

**800 ALTERNATIVE LOCAL STANDARDS ADOPTED BY REFERENCE**

**A. Adoption of Rule by Reference**

1. The County hereby adopts by reference the provisions of Minnesota Rules Chapters 7080 -7083 in their entirety except as referenced under Section 800(B), except as otherwise expressly modified by this Ordinance
2. When “2006 version of Minnesota Rules Chapter 7080” is utilized, the reference is to the rules effective April 3, 2006, otherwise the County is referencing the current rules in effect
3. All new construction or replacement of SSTS shall employ sewage tanks, distribution media and treatment products which have been registered by the Minnesota Pollution Control Agency as per Minnesota Rule Chapter 7080.2150 Subp.3(A)

**B. Alternative Local Standards for New and Existing SSTS**

1. The County hereby adopts the 2006 version of Minnesota Rules Chapter 7080 for all new and existing residential Type I, Type II and Type III SSTS and SSTS that serve any Food, Beverage and Lodging Establishment under 2,500 gallons per day provided the effluent discharge does not exceed the standards in Minnesota Rule 7080.2150, Subp.3(K)

**900 DIFFERENCES IN STANDARDS**

**A. List of Different Adopted Standards**

1. In no land use district shall a land use permit for a sewer structure, minor subdivision, plat, conditional use permit or variance be issued without a current Certificate of Compliance or Certificate of Installation that has not expired according to Section 1006 of this ordinance
2. At least one cleanout at or above finished grade shall be installed between the structure and the septic tank with additional clean outs at intervals not more than one hundred feet.
3. Class I sizing is required on all new construction. New construction will be defined as placement of a new structure or replacement structure that is served by pressurized water



4. All tank sizing shall follow Minnesota Rule 7080.1930
5. Pump tank sizing shall follow Minnesota Rule 7080.2100
6. Soil pits shall be required during the construction inspection. The soil pit shall be excavated at the time of the inspection. The soil pit shall be dug by a backhoe or other acceptable method and be excavated to a depth that will allow the verification of redoximorphic features and the three feet of vertical separation as required. Location of soil pits shall be adjacent to the lowest trench or next to the down slope side of an elevated treatment area. The pit shall not impact the hydraulic performance of the ISTS. A certificate of installation will not be issued until the soils are verified
7. All dwellings shall meet the required setbacks to the septic tank and soil absorption area. Accessory structures, including but not limited to, decks, screen decks, porches, sheds, garages and pole buildings shall not be required to meet said setbacks provided that the tank(s) can be maintained properly and that the structure does not negatively impact the function of the system
8. Vaulted privies must have a watertight registered storage tank of at least fifty five gallon capacity

#### **1000 COMPLIANCE CRITERIA FOR EXISTING SSTS**

For an SSTS built before April 1, 1996, and outside of areas designated as “SWF”, (systems in shoreland areas, wellhead protection areas, or systems serving food, beverage, or lodging establishments), there must be at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

#### **1001 HOLDING TANKS**

Holding tanks may be allowed for the following applications: as replacements for existing failing SSTS and SSTS that pose an imminent threat to public health or safety, on lots with limitations that will not allow for the installation of a Type 1 SSTS or for uses that are seasonal or intermittent in nature. Holding tanks shall require an operating permit.

#### **1002 VARIANCE REQUESTS**

A property owner may request a variance from the standards as specified in this ordinance pursuant to Section 800 of the Cass County Land Use Ordinance.

#### **1003 STATE AGENCY VARIANCE REQUESTS**

Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State Agency. No permits will be issued by the County until all required State Agency variances have been approved.

#### **1004 PERMIT REQUIREMENTS**

##### **A. Activities Not Requiring a Land Use Permit**

A land use 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 design, layout, or function. Examples are, but not limited to, pumps, baffles, and effluent screens or filters.

## **B. Activities Requiring a Land Use Permit**

A land use permit shall be obtained by the property owner or an agent of the property owner from the County prior to the installation, construction, replacement, modification, alteration, or capacity expansion of a SSTS. It is unlawful for any person to construct, install, modify or replace a SSTS without the appropriate permit from the Department including 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. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

## **C. Permit Requirements**

Land Use Permit applications shall be made on forms provided by the Department and signed by the applicant or applicant's agent, and must include the following information and documentation:

1. Applicant name, mailing address, telephone number, and email address
2. Property Identification Number, property address and legal description of property location
3. Site Evaluation Report, as defined by Section 800, and shall be made on either a form provided by the Department or one that is acceptable to the Department
4. Design Report, as defined by Section 800, and shall be made on either a form provided by the Department or one that is acceptable to the Department
5. A maintenance management plan, as defined by Minnesota Rule 7082.0600, Subp.1B

## **D. Application Review and Response**

The Department shall review a permit application and supporting documents according to the Cass County Land Use Ordinance and Cass County SSTS ordinance.

## **E. Appeal**

The applicant may appeal any decision of the Department in accordance with Section 801 of the Cass County Land Use Ordinance.

## **F. Permit Expiration**

A Land Use Permit for a new SSTS is valid for a period of no more than two years from its date of issue. A Land Use Permit for the replacement of SSTS failing to protect groundwater is valid for ten months. A Land Use Permit for the replacement of SSTS that are imminent threats to public health is valid for ten months. Satisfactory completion of construction shall be determined by as-built drawings and a signed certification that the construction and installation of the system was completed in reasonable conformance with 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.

## **G. Transferability**

A Land Use Permit may be transferred to a new owner provided there are no proposed changes to the SSTS design.

## **H. Suspension or Revocation**

The Department may suspend or revoke a Land Use Permit issued under this section for any false statements, misrepresentations of facts on which the Land Use Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise

change the original system design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Land Use Permit is obtained.

#### **I. SSTS Assessment Requirements**

For those SSTS without a management plan or operating permit according to the provisions of this Ordinance, the following provisions apply:

1. The owner of an ISTS or the owner's agent shall regularly, but in no case less frequently than every three years, assess whether sewage tanks leak below the designed operating depth and whether sewage tank tops, riser joints, and riser connections leak through visual evidence of major defects and measure or remove the accumulations of scum, grease, and other floating materials at the top of each septic tank and compartment, along with the sludge, which consists of the solids denser than water
2. All solids and liquids must be removed by pumping from all tanks or compartments in which the top of the sludge layer is less than twelve inches from the bottom of the outlet baffle or transfer hole or whenever the bottom of the scum layer is less than three inches above the bottom of the outlet baffle or transfer hole. Total sludge and scum volume must not be greater than 25% percent of the tank's liquid capacity. Removal of accumulated sludge, scum, and liquids from septic tanks and pump tanks must be through the maintenance hole. The removal of solids from any location other than the maintenance hole is not a compliant method of solids removal from a sewage tank, and this method does not fulfill the solids removal requirement of this part or a management plan. Liquid and solids removal from clean-out pipes is allowed for holding tanks

### **1005 OPERATING PERMIT**

- A. An Operating Permit shall be required for the following SSTS:
  1. SSTS with high strength waste effluent standards that exceed Minnesota Rule 7080.2150, Subp.3(K)
  2. Holding Tanks
  3. SSTS serving three or more connections
  4. Type III, Type IV and Type V SSTS
  5. SSTS that exceed a daily flow of 2,500 gallons per day; or
  6. MSTs designed under Minnesota Rules Chapter 7081
- B. Operating Permits shall be a signed agreement between the Department and the property owner and shall include monitoring, performance, mitigation, and reporting requirements.
- C. A valid Operating Permit shall be considered a certificate of compliance if that system is in compliance with the requirements of the Operating Permit.
- D. Owners of holding tanks and vaulted privies shall provide the Department with a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner and prevents an illegal discharge in accordance with Minnesota Rule 7082.0100, Subd.3(G). This requirement is waived if the owner is a farmer who is exempt from licensing under Minn. Stat., § 115.56, Subd.3(b)(3).
- E. Operating Permits shall be valid for the specific term stated on the permit as determined by the Department.

- F. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within ninety calendar days of the expiration date, the Department may require that the system be abandoned in accordance with Section 300 (E).
- G. Operating Permits do not transfer to new property owners. New owners shall apply for an Operating Permit in accordance with Section 1005. The Department shall not terminate the current permit until ninety 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 licensed inspector or qualified employee.
- H. A report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the Operating Permit as required. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described in the Operating Permit.
- I. The Department may suspend or revoke any Operating Permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.
- J. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned.
- K. At the Department's sole discretion, the Operating Permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

## **1006 COMPLIANCE INSPECTION PROGRAM**

### **A. Department Responsibility**

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

1. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors
2. 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
3. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense
4. A signed winter agreement, as per Section 303 D of the Cass County Land Use Ordinance, may be accepted in lieu of a compliance inspection for property transfers, between November 1 and April 30, provided the required information is submitted to the Department by June 1 of the subsequent year. Failure to fulfill all of the obligations of the winter agreement shall be a violation of this Ordinance

### **B. New Construction or Replacement**

1. New installation inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081, respectively, according to this section. 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 twenty four hours prior to the installation inspection
3. If the installer provides proper notice and the department does not provide an inspection within one hour after an inspection time was set, the installer may complete the construction per the following: The installer shall submit photographs of the entire uncovered system and an as-built drawing with a certified statement that the installation of the SSTS met the appropriate standards of this Ordinance within five working days of the installation
4. A Certificate of Installation for new SSTS construction or replacement shall be issued by the Department within thirty days of inspection if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit
5. The Certificate of Installation 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 which includes a statement specifying those ordinance provisions with which the SSTS does not comply
6. No SSTS shall be placed into operation until a valid Certificate of Installation has been issued
7. Certificates of Installation for new construction or replacement shall remain valid for five years from the date of issue unless the Department finds evidence of noncompliance

### **C. Existing Systems**

1. Compliance inspections shall be required when any of the following conditions occur
  - a. When applying for a land use permit for a sewer structure, minor subdivision, plat, land use reclassification, conditional use permit or variance and the Certificate of Installation is more than five years old or the Certificate of Compliance is more than three years old.
  - b. Prior to conveyance of any real property and the Certificate of Installation is more than five years old or the Certificate of Compliance is more than three years old.
  - c. Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system.
  - d. At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
2. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified
  - a. Watertightness assessment of all treatment tanks including a leakage report.
  - b. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including vertical soils separation verification report unless soils have been verified according to Minnesota Rule 7082.0700, Subp.4(B).
  - c. Sewage backup, surface seepage or surface discharge including a hydraulic function report.
3. The Certificate of Compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the requirements of this Ordinance. 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. An SSTS 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 fifteen calendar days after the date the inspection was performed
5. Certificates of Compliance for existing SSTS shall remain valid for three years from the date of issue unless the Department finds evidence of noncompliance

#### **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.

#### **E. Commercial SSTS**

- 1.** Septic tank effluent testing for Carbonaceous Biochemical Oxygen Demand (CBOD), Biological Oxygen Demand (BOD), Total Suspended Solids (TSS), and oil/grease combination is mandatory for all SSTS that serve commercial establishments that serve food and beverages or have a flow that exceeds 1000 gallons per day as part of any compliance inspection.
- 2.** Effluent testing shall not be required for commercial SSTS that have a current operating permit as of the date this Ordinance is effective. If all provisions of the operating permit are met, the SSTS shall be considered to be in compliance.
- 3.** An SSTS with effluent testing that does not meet the standards in the Minnesota Rule 7080.2150, Subp.3(K) shall be upgraded within three years to meet said standards and be placed on an Operating Permit as provided in this Ordinance.

**F. Vertical Separation Reduction**

Minnesota Rule 7080.1500, Subp. 4(D) is hereby adopted allowing a 15% reduction in vertical separation distance for settling of sand or soil, normal variation of measurements and interpretations of the limiting layer for existing SSTS. This provision does not apply to Section 1000.

**1007 ENFORCEMENT**

Enforcement of this Ordinance shall follow the standards in Section 600 of the Cass County Land Use Ordinance.

**1008 STATE NOTIFICATION OF VIOLATION**

The Department shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed maintainer that is performed in violation of the provisions of this Ordinance. The department shall also notify the MPCA of any discovered straight pipes pursuant to Minnesota Statute 115.55 Subdivision 11.

**1009 RECORD KEEPING**

The County shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, Certificates of Compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, Operating Permits, an annual list of all sewage tanks installed in the County sorted by licensed installation businesses, and other records the County deems relevant to a particular system.

**1010 ANNUAL REPORT**

The Department shall provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.

**1011 FEES**

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

**1012 DISPUTE RESOLUTION**

Resolution of disputes between SSTS Certified Individuals regarding conflicting compliance inspections, determination of seasonally saturation of soils and other technical issues shall follow Minnesota Rule 7082.0700, Subp.5.



**APPENDIX A**

**SEPTAGE MANAGEMENT**

All septage disposal sites shall be preapproved by the Department.

**Separation Requirements For Land Application Of Septage** - Domestic septage disposal and treatment standards shall comply with U.S. Environmental Protection Agency rules as found in 40 CFR Part 503 entitled "Standards for the Use or Disposal of Sewage Sludge," and Minnesota Pollution Control Agency guidelines as stated in " Land Application of Septage. "

- A.** The land spreading site shall be located such that the following minimum separation distances are maintained:
- |   |           |
|---|-----------|
| 1. Private water wells  | 200 feet  |
| 2. Municipal well   | 1000 feet |
| 3. Occupied residential structure                                     | 600 feet* |
| 4. Residential Districts, Commercial Developments, Recreational areas | 600 feet  |
| 5. Property lines   | 50 feet   |
| 6. Public Road Right-of-Ways  | 50 feet   |
| 7. OHW of Protected Water   | 200 feet  |
- B.** Separation distances from protected waters, wetlands, intermittent streams, and agricultural drainage ditches shall be observed as follows:

<u>SITE SLOPE</u>	<u>SEPARATION DISTANCES FROM PROTECTED WATERS</u>	
May-Oct	Nov-April	
0-2%	200 ft.	600 ft.
2-6%	400 ft.*	not allowed
6-12%	600 ft.**	not allowed

**ALL OF THE ABOVE SETBACKS MUST BE DOUBLED IF THE SITE DRAINS TO THE PROTECTED WATER**

<u>SITE SLOPE</u>	<u>SEPARATION DISTANCES FROM ALL OTHER UNCLASSIFIED WATERS</u>	
May-Oct	Nov-April	
0-2%	200 ft.*	600 ft.
2-6%	400 ft.*	not allowed
6-12%	300 ft.**	not allowed

\*--Separation distances may be reduced by 50% if septage is injected.  
 \*\*-- Land Spreading not allowed without injection.  
 Surface application of septage on frozen soil is prohibited unless slopes are 2% or less.

**Land Suitability For Land Application Of Septage**

- A. Soil Suitability** - To be suitable for land spreading, the soil must meet the following criteria:
1. Have medium or fine surface textures (no sandy or peaty surface textures).
  2. Have a 3 foot vertical separation distance as outlines in chapter 7080.0110.
  3. Have 6 inches of available water holding capacity between the application depth and redoxomorphic features.
  4. Have at least 1 horizon in the upper 5 feet that has a permeability of less than 6 inches per hour.
  5. Have surface permeabilities slower than 20 inches/hour or faster than 0.2 inch/hour.
  6. Have a slope of 12% or less.

**B. Physical Criteria**

1. Septage must not be spread where a monitor well or designated monitor well exceeds 10 ppm nitrate count.
2. Septage shall be land spread on cropland in such quantity so as not to exceed the agronomic rates as approved by the Agency and Department.
3. Septage shall be spread evenly across an approved land spreading site and not concentrated.
4. Septage land spreading sites must not be used for growth of crops, which will be consumed directly by humans for three years after the last septage application. The grazing or harvesting of foraged materials on septage land spreading sites must not occur for at least three weeks after the last spreading date.
5. Septage shall be incorporated as necessary to prevent nuisance conditions and excessive accumulation of septage solids on the soil surfaces.
6. In order to comply with the requirements for pathogen reduction and vector attraction reduction, the pH of septage to be land applied shall be raised and held at 12 or more for a minimum of 30 minutes. All other methods of pathogen reduction and vector attraction reduction methods must be approved in writing by the Department prior to land application.

**C. Daily Liquid Loading Limits**

<u>Soil Texture</u>	<u>Gallons/Acres/Day</u>
Coarse	25,000
Medium	15,000
Fine	10,000

**D. Annual Nitrogen Application for Non-Cropped and Non-Harvested Land**

<u>Soil texture</u>	<u>Ibs. per acre</u>	<u>Surface applied</u>
<u>Nitrogen</u>	<u>Gal/acre/Year</u>	
1. High Density Vegetative cover -50% cover		
Coarse	75	34,000
Medium	100	49,000
Fine	125	65,000
2. Low Density Vegetative Cover- 25-50% Cover		
Coarse 50	25,000	
Medium	75	34,000
Fine	100	49,000
3. Fallow Land - 25 % Cover		
Coarse	0	0
Medium	50	25,000
Fine	75	34,000

**Additional General Requirements**

- A. Pumpers shall obtain approval from the owner of the land area used for septage disposal.
- B. Disposal of septage must meet all applicable federal, state, county or local zoning regulations.
- C. Disposal of septage within incorporated cities requires prior written approval from the city.
  1. Alternative Disposal-Any alternative disposal of septage must meet the applicable standards of the Department and the Agency. Any alternative disposal requires written approval from the Department prior to the disposal.