

320226

1822

SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE

Marshall County

2006 MN Rules with 2011 MN Rules Elements

320226

Office of County Recorder
Marshall County, Minnesota
Filed for record 1/21/2014 at 10:00 AM
BEVERLY LYDEEN
Marshall County Recorder

Beverly Lydeen
By Deputy County Recorder
Fee 0.00

RTr MARSHALL CO. WATER COORDINATOR
208 E. COLVIN AVE.
WARREN, MN 56762

No charge

TABLE OF CONTENTS

SECTION 1	PURPOSE, INTENT AND SCOPE.....	1
1.1	Purpose.....	1
1.2	Intent.....	1
1.3	Scope.....	1
SECTION 2	GENERAL PROVISIONS.....	1
2.1	Authority.....	1
2.2	Jurisdiction.....	2
2.3	Interpretation.....	2
2.4	Severability.....	2
2.5	Liability.....	2
2.6	Abrogation and Greater Restrictions.....	2
SECTION 3	ADMINISTRATION.....	2
3.1	County Administration.....	2
3.2	State of Minnesota.....	2
3.3	Cities and Townships.....	2
3.4	Board of Adjustment.....	3
SECTION 4	DEFINITIONS.....	3
SECTION 5	GENERAL REQUIREMENTS.....	5
5.1	Retroactivity.....	5
5.11	Existing Permits.....	5
5.12	Existing SSTS.....	5
5.2	Upgrade, Repair, Replacement and Abandonment.....	6
5.21	SSTS Capacity Expansions.....	6
5.22	Bedroom Additions.....	6
5.23	Failure to Protect Groundwater.....	6
5.24	Imminent Threat to Public Health or Safety.....	6
5.25	Abandonment of SSTS.....	6
5.3	SSTS Located in Floodplains.....	6

5.4	Class V Injection Wells.....	6
5.5	SSTS Practitioner Licensing.....	7
5.51	License Required.....	7
5.52	License Exemption.....	7
5.6	Prohibitions.....	7
5.61	Sewage Discharge to Ground Surface or Surface Water.....	7
5.62	Sewage Discharge to a Well or Boring.....	7
5.63	Discharge of Hazardous or Deleterious Materials.....	7
SECTION 6	SSTS STANDARDS.....	7
6.1	Standards Adopted by Reference.....	7
6.11	2006 MN Rules 7080.....	7
6.12	MN Rules, Chapters 4715 and 4725 SSTS Setbacks.....	8
6.13	Federal Regulations Code 40, Part 503 Septage Disposal.....	8
6.2	Alternative Local Standards (ALS).....	9
6.21	Compliance Criteria: Existing SSTS with “ALS” Vertical Separation.....	9
6.22	“ALS” Vertical Separation for New and Replacement SSTS.....	9
6.23	Locations Where Alternative Local Standards Do Not Apply.....	10
6.24	Soil Dispute Resolution.....	10
6.25	Holding Tanks.....	11
6.26	Privies.....	11
6.27	Lot Size for Treatment Area.....	11
6.28	Standards Must Comply with other Laws and Rules.....	11
6.3	2011 MN Rule Elements Included in this Ordinance.....	11
6.31	Sewage Tanks.....	11
6.32	Registered Products.....	12
6.33	Vertical Separation Flexibility.....	12
6.34	Trench and Seepage Bed Design.....	12
6.4	List of Technical Differences.....	12
SECTION 7	VARIANCES.....	13
7.1	Variance Requests.....	13
7.2	Affected Agency.....	13
7.3	Board of Adjustment Decisions.....	13

SECTION 8	SSTS PERMITS AND PLANS	13
8.1	SSTS Permits Required	13
8.2	Activities Requiring a SSTS Permit	14
8.3	Activities Not Requiring a SSTS Permit	14
8.4	SSTS Permit Requirements in Floodplain and Shoreland	14
8.5	SSTS Permit Applications	14
8.6	SSTS Permit Expiration	14
8.7	Transferability	14
8.8	Operating Permit	14
8.9	Management Plans	14
SECTION 9	COMPLIANCE INSPECTIONS	15
9.1	Compliance Inspection Program	15
9.2	New Construction or Replacement	15
9.3	Existing Systems	16
9.4	Disclaimer	16
SECTION 10	ENFORCEMENT	16
10.1	Violations	16
10.11	Cause to Issue a Notice of Violation	16
10.12	Notice of Violation	17
10.13	Cease and Desist Orders	17
10.14	Administrative Fees	17
10.15	Reimbursement for Restoration	17
10.2	Prosecution	17
SECTION 11	FEES	18
SECTION 12	ADOPTION	18

320226**MARSHALL COUNTY****SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE****SECTION 1 PURPOSE, INTENT AND SCOPE****1.1 Purpose**

The purpose of this Ordinance is to establish minimum standards for regulation of SSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the County and to protect public health and safety by protecting the County's surface water and groundwater quality, and to prevent or eliminate the development of public nuisances. It promotes standards that are reflected in MN Statutes sections 115.55, 145A.05, 375.51, 394.21 - 394.37, and 471.82, the County Comprehensive Land-Use Plan, and the County Floodplain Management and Shoreland Ordinances. It is intended to serve the best interests of the County's citizens by protecting its health, safety, general welfare, and natural resources.

1.2 Intent

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

- A. The protection of lakes, rivers and streams, Florian Reservoir, wetlands, and groundwater in Marshall 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, maintenance, and location of SSTS to prevent the entry and migration of contaminants, thereby preventing the degradation of surface water and groundwater quality.
- C. The establishment of minimum and alternative local standards for SSTS placement, design, construction, reconstruction, repair, maintenance and proper septage disposal 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, SSTS permitting, inspections, and enforcement to prevent and control water-borne diseases, lake and stream degradation, groundwater-related hazards, and public nuisance conditions.

1.3 Scope

All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, inspected, operated, and maintained in accordance with the provisions of this Ordinance or by a sewage treatment system that has been permitted by the MPCA.

SECTION 2 GENERAL PROVISIONS**2.1 Authority**

This Ordinance is adopted pursuant to MN Statutes, Section 115.55; MN Statutes, Sections 145A.01 through 145A.08; MN Statutes, Section 375.51; or successor statutes, MN Rules 2006,

Chapter 7080, and elements of 2011 Rules from Chapters 7080, 7081, 7082 and 7083 or successor rules.

2.2 Jurisdiction

The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas that administer a SSTS program by Ordinance within their incorporated jurisdiction, which is at least as strict as this Ordinance. The Department shall keep a current list of local jurisdictions within the County administering a SSTS program.

2.3 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 MN Statutes.

2.4 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.

2.5 Liability

Any liability or responsibility shall not be imposed upon the Department or agency or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster treatment system regulated under this Ordinance by reason of standards, requirements, or inspections authorized hereunder.

2.6 Abrogation and Greater Restrictions

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

SECTION 3 ADMINISTRATION

3.1 County Administration

The County Water and Land Department shall administer the SSTS program and all provisions of this Ordinance. The County shall employ or utilize qualified and appropriately registered or licensed professionals to administer and operate the SSTS program.

3.2 State of Minnesota

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

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

3.3 Cities and Township

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.

3.4 Board of Adjustment

- 3.41 Rules.** The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Board by State Law. Reference MN Statutes, Chapter 15.99 and Chapter 394 and adopted Rule of Procedures for Marshall County Board of Adjustment.
- 3.42 Appeals.** An appeal of any administrative decision made in the enforcement of this Ordinance shall be made by filling out and submitting to the Department an Application for Appeal. Such an appeal shall be filed within 30 calendar days after the date of the Department's decision and specify the grounds thereof. Such appeal shall be heard by the Board of Adjustment pursuant to 394.27, Subd 6, MN Statutes.
- 3.43 Administrative Review.** The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Ordinance.

SECTION 4.0 DEFINITIONS

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

Alternative Local Standards (ALS): ALS are individual sewage treatment system standards that are less restrictive than the State's technical standards and criteria. ALS contains the adopted standards from the 2006 MN Rules for systems using less than 2500 gallons of water per day. The "local standards" vertical separation adopted by the County in 1998, are included in the ALS. ALS shall adequately protect public health and the environment.

Alternative Local Standards Vertical Separation: Standards that allow less than 3 feet vertical separation but not less than two feet in appropriate locations of the County.

As-Built: Drawings and documentation specifying the final in-place location, elevation, size, and type of all system components. These records identify the results of materials testing and describe conditions during construction. Information provided must be verified by a certified statement.

Authorized Representative: An employee or agent of the Water and Land Department

Bedroom: Any room or unfinished area within a dwelling that might reasonably be used as a sleeping room.

Board of Adjustment: A board established by county ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of MN Statutes, sections 394.21 to 394.37 and perform such other duties as required by the official controls.

Class V Injection Well: A shallow well used to place a variety of fluids directly below the land surface including a domestic SSTs serving more than 20 people. The US Environmental Protection Agency and

delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

County: Marshall County, Minnesota.

County Board: The Marshall County Board of Commissioners.

Department: The Marshall County Water and Land Department.

Design: Site evaluation, all system components, and record drawings.

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

Failing System: At a minimum, an SSTS that fails to protect groundwater is one that discharges sewage to a seepage pit, cesspool, drywell, leaching pit, or other pit; an SSTS with less than the vertical separation distance of 2 feet in floodplain, SWF and all other areas built prior to April 1, 1996, less than 3 feet vertical separation in systems located in floodplain and SWF after March 31, 1996 and a system not abandoned in accordance with part 7080.0176. The determination of the threat to groundwater for other conditions shall be made by a Qualified Employee or State licensed inspection business.

Grey water: Sewage that does not contain toilet wastes.

Imminent Threat to Public Health or Safety (ITPH): At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a State licensed inspection business.

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

Lot: "Lot" means a parcel of land in a plat recorded in the office of the County recorder or registrar of titles or a parcel of land created and conveyed, using a specific legal description.

Mottling: As applied to soils, means a zone of chemical and reduction activity, appearing as splotchy patches of red, brown or grey in the soil. In sub soils with a color value of four or more, the term mottling also includes soil having matrix colors with a chroma of two or less as described in "Keys to Soil Taxonomy": 11th Edition, 2010. Residual Mottling: mottling occurring in developed (drained) areas which may be used with criteria of drainage, vegetation, system densities and soil type when determining the type of SSTS to be installed.

MPCA: MN Pollution Control Agency.

MSTS: A mid-sized subsurface sewage treatment system under single ownership that receives sewage from dwellings or other establishments having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.

Notice of Noncompliance: A written document issued by the Department notifying a system owner that the owner's onsite or cluster treatment system has been observed to be noncompliant with the requirements of this Ordinance.

Qualified Employee: An employee of the state or a local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual's

employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.

Record Drawings: A set of drawings which to the fullest extent possible document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system.

Septage: Solids and liquids removed during periodic maintenance of an SSTS or solids and liquids which are removed from toilet waste treatment devices, holding tanks or privies.

Sewage: Waste from toilets, bathing, laundry, or culinary activities or operations or floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.

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

Soil Dispersal System: A system where sewage effluent is dispersed into the soil for treatment by absorption and filtration and includes, but is not limited to, trenches, seepage beds, at-grade systems, mound systems and drip dispersal systems.

State: The State of Minnesota.

SWF: shoreland, wellhead protection areas, food, beverage, lodging establishments

Type I System: A “standard” SSTS that follows a standard trench, bed, at-grade, mound, or grey water system design in accordance with MN Rules, Chapter 7080.0170 Subp 2, 3, 5, 6 and 7.

Type II System: An “alternate” SSTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. This type includes systems on lots with rapidly permeable soils MN Rules Chapter 7080.0170, Subp 4, or lots in floodplains, and systems called privies or holding tanks, 7080.0172.

Type III System: An “other” SSTS that uses soil to treat sewage but does not meet the tank, size or distribution requirements for a Type I system, MN Rules Chapter 7080.0178. Type III systems are designed for use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

Type IV System: An SSTS, having an approved pretreatment device and incorporating pressure distribution and dosing. It is sometimes referred to as registered system.

Type V System: A “performance” SSTS, designed by a professional engineer that does not meet the prescriptive designs for Types I-IV. Type V systems must meet the public health and safety standards of 7080.0179.

Type ALS System: An SSTS designed with alternative local standards. See definition.

SECTION 5.0 GENERAL REQUIREMENTS

5.1 Retroactivity

5.11 Existing Permits

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

5.12 Existing SSTS

A SSTS installed prior to April 1, 1996 and meeting the minimum requirements at the time it was installed, shall be allowed to continue in use except if it is determined as a failure to protect ground water or an imminent threat to public health or safety. SSTS built after March 31, 1996 in the floodplain area, shore land area, wellhead protection area or areas of food, beverage, or lodging establishments shall have a 3-foot vertical separation between the bottom of the dispersal system and the seasonal saturated soil and/or bedrock per MN Rules 7080.0060 Subp 3. See Section 6.33 of this Ordinance for allowance on a 15% reduction in separation.

5.2 Upgrade, Repair, Replacement, and Abandonment

5.21 SSTS Capacity Expansions

Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with MN Rules 7080.0060 at the time of the expansion. Expansions may include addition of bedrooms, water using appliances and mobile home replacement with larger home.

5.22 Bedroom Additions

When a bedroom addition is planned for construction, a SSTS compliance inspection is required of the existing SSTS. If SSTS does not comply with Section 6.21 of this Ordinance, a permit shall be issued to upgrade, repair, replace or abandon the existing septic system. The owner is allowed 3 years from the date of issuance of certificate of non-compliance to replace a failing system and 10 months for systems that are an imminent health threat.

5.23 Failure to Protect Groundwater

A SSTS that is determined not to be protective of groundwater shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within (3) years of receipt of a Notice of Noncompliance.

5.24 Imminent Threat to Public Health or Safety

A SSTS that is determined to be an imminent threat to public health or safety in accordance with the provisions of this Ordinance., shall be upgraded, repaired, replaced or abandoned by the owner within (10) months of receipt of a Notice of Noncompliance.

5.25 Abandonment of SSTS

- A. All systems with no future intent for use must be abandoned in accordance with MN Rules, Chapter 7080.0176.
- B. Continued use of a treatment tank where the tank is to become an integral part of a replacement system or sanitary sewer system requires the prior written approval of the Department.

5.3 SSTS Located in Floodplain

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 MN Rules, Chapter 7080.0172 are met.

5.4 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 SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

5.5 SSTS Practitioner Licensing

5.51 License Required

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS in Marshall County without an appropriate and valid license issued by MPCA.

5.52 License Exemption. A license is not required for:

- A. An individual who is constructing a system on land that is owned or leased by the individual and functions solely as a dwelling for that individual based upon a design by a licensed designer. A permit shall be obtained from the County, the system shall be inspected before being covered and as-built plans submitted in accordance with this Ordinance. A Certificate of Compliance or notice of non compliance will be issued by the Inspector.
- B. An individual who performs supervised labor or services as an employee or a licensed SSTS business.
- C. A farmer who pumps sewage waste from individual sewage treatment systems from dwellings that are owned or leased by the farmer and disposes of those wastes on land that is owned or leased by the farmer.

5.6 Prohibitions

5.61 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.

5.62 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 MN Rules, Chapter 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.

5.63 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.

SECTION 6 SSTS STANDARDS

6.1 Standards Adopted By Reference

6.11 2006 MN Rules 7080

The County hereby adopts by reference the 2006 MN Rules, Chapter 7080 as the alternative local standards for new and replacement residential systems with a flow of less than 2500 gallons per day. Existing alternative local standards for Marshall County are stated in Section 6.2 of this Ordinance. The County hereby adopts by reference the 2011 MN Rules, Chapters 7080 and 7081 for new and replacement systems using equal to or greater than 2500 gallons per day. Specific elements that are required by the 2011 Rules for all sizes of systems are listed in Section 6.3 of this Ordinance. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with MN Statute 115.55.

6.12 Reference MN Rules, Chapters 4715, 4725 and Table 1 for minimum set back distances for sewage treatment systems.

<i>Table 1. Minimum Setback Distances (feet) for Sewage Treatment Systems</i>		
Feature	Sewage tank, holding tank, or sealed privy	Absorption area or unsealed privy
Water supply Wells	50	50
Water supply Wells with less than 50 feet of casing	100	100
Buried water lines - suction	50	50
Buried water lines-under pressure	10	10
Buried lines – electric line, LP tank, gas pipe	10	10
Buildings	10	20
Property lines	10	10
OHWL of public waters	75, 100, or 150	75, 100, or 150

6.13 Reference Federal Regulations Code 40, Part 503 and MPCA Septage Management Guidelines #4.20 and Table 2. For Septage Disposal and Treatment.

<i>Table 2. Minimum Separated Distances from the Land Application Site</i>				
Feature	Slope	Separation Distances in Feet		
		Surface Applied	Incorporated within 48 hours	Injected
Private drinking water supply wells		200	200	200
Public drinking water supply wells		1000	1000	1000
Irrigation wells		50	25	25
Residences		200	200	100
Residential Developments		600	600	300
Public Contact Sites		600	600	300
Property Lines		50	50	50

Public Road Right of Ways		50	50	50
Lakes*		1000	1000	1000
Rivers and Streams*		300	300	300
Down gradient wetlands,	Slope 0% to 6%	200	50 feet	50
Intermittent streams, or tile	Slope 6% to 12%	Not allowed	100 feet	100
Inlets connected to these surface water features*	Winter 0% to 2%	600	Not Applicable	Not Applicable
Grassed Water Ways	Slope 0% to 6%	100	33	33

**Lakes, rivers and streams: Septage shall not be land spread in designated shore land management areas as identified in the "Marshall County Shoreland Ordinance". Intermittent stream means a drainage channel with definable banks that provides for runoff flow to any of the surface waters listed in the above table during snow melt or rainfall events.*

6.2 Alternative Local Standards (ALS)

6.21 Compliance Criteria for Existing SSTS with "ALS" Vertical Separation

A. Existing "ALS" SSTS that are Failing to Protect Groundwater

SSTS built outside of protected areas designated as floodplain areas, shoreland areas, wellhead protection areas, or areas where SSTS provide sewage treatment for food, beverage, or lodging establishments shall have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock per MN Rules 7080.0060 Subp 3. Existing systems with less than two-feet vertical separation in these areas may fail to protect groundwater, are unlawful and shall be upgraded, replaced, or its use discontinued within (3) years of the owner's receipt of a Notice of Noncompliance. The notice should specify what ordinance provisions are violated.

B. Existing "ALS" SSTS that are an Imminent Health Threat to the Public

Existing "ALS" systems built outside of the protected areas designated as floodplain areas, shoreland areas, wellhead protection areas, or areas where SSTS provide sewage treatment for food, beverage, or lodging establishments and determined to be an imminent threat to public health or safety in accordance with MN Rules, Chapter 7080.1500, Subp 4A, are unlawful and shall be upgraded, replaced, or its use discontinued within (10) months of the owner's receipt of a Notice of Noncompliance. The notice should specify what ordinance provisions are violated.

6.22 "ALS" Vertical Separation for New and Replacement SSTS

- A. For new "ALS" trench and at-grade systems, a minimum of two feet vertical separation shall be allowed between the bottom of the dispersal system and the seasonal saturation or bedrock located in areas other than floodplain, shoreland, wellhead protection, and areas with food, beverage or lodging establishments.
- B. Site suitability requirements must be met whenever a SSTS is installed, replaced, altered, or extended. Following parameters shall be met:

- (1) For unsaturated soil separation, three separate soil samples from three field locations are taken for observation by the designer and referenced to the NRCS Soils Survey, mottling/residual mottling features and/or percolation tests for sizing the system.
- (2) Reference NRCS Soils Survey for the County soil classifications.
Soils which are not acceptable for use with ALS vertical separation SSTs are 187, 384, 387, 514, 540, 541, 543, 544, 546, 547, 550, 563, 630, 653, 1006, 1031, 1144, 1146, 1187, 1188, 1189, 1804, 1807, 1808, 1871, 1878, and 1882.
- (3) Placement and construction of wells in proximity. Set back requirements for wells shall follow requirements of Department of Health. Rural Water systems are piped in the western side of the County from the Fork Township south through Oak Park Township and north east to Lincoln Township south to Comstock Township.
- (4) Density of SSTs. Marshall County is sparsely populated (<10,000 people), therefore SSTs are generally located over 1 acre apart. Developments with SSTs in the shore land after February 28, 1995 and county-wide after January 20, 1998 shall not allow less than one acre lot size. Lot shall allow one SST with room for two drain fields.
- (5) Existing natural and constructed drainage systems.
A drainage sketch will be submitted with the system design materials which show distances to public water or to public or private drainage systems. The sketch will specify how rain and excess surface water will be removed from the SST drain field area. If ditching or tile is used, the locations of said ditches or tile will be designated in the sketch and submitted to the owner with the system design. The distance from any ditch or tile to the trench will not be less than ten (10) feet.

6.23 Locations where the Alternative Local Standards do not Apply

SWF/Floodplain Areas: The “ALS” vertical separation standards do not apply to systems in floodplain, shoreland, wellhead protection areas or to systems providing sewage treatment for food, beverage, or lodging establishments. Reference Marshall County Floodplain Management Ordinance and Flood Insurance Rate Maps for SSTs located in the floodplain. Reference Marshall County Shoreland Ordinance, MN Chapters 6105 and 6120 and MN DNR Protected Waters Maps for SSTs located in shore land areas. Reference MN Rules, Chapters 4715 and 4725 for SSTs located near buried water lines and water supply wells.

SSTs built after March 31, 1996 in the floodplain area, shore land area, wellhead protection area or areas of food, beverage, or lodging establishments shall have a 3-foot vertical separation between the bottom of the dispersal system and the seasonal saturated soil and/or bedrock per MN Rules 7080.0060 Subp 3.

Systems with 15% Flexibility: ALS Vertical Separation is not allowed to be used in conjunction with the 15% reduction in vertical separation defined in 6.33 of this Ordinance and written in 2011 MN Rules 7080.1500 Subp 4D.

6.24 Soil Dispute Resolutions

When a disagreement occurs between SSTS Certified Individuals and a licensed business about the depth of the periodically saturated soil, the disputing parties shall meet at the disputed site to resolve differences. The County will determine final decision on depth of saturated soils.

6.25 Holding Tanks

Holding tanks may be allowed for seasonal single family homes, sensitive sites, parks and other buildings with limited water use under the following conditions:

- A. The owner shall install a holding tank in accordance with MN Rules Section 7080.0172 subp 3.
- B. The owner shall hire a MN licensed Maintainer to pump and haul the holding tank contents to approved land application site. Reference Table 2.of this ordinance.
- C. Operating Plan
Septic tanks must be inspected and solids removed, if needed, every three years. Solids must be removed when their accumulation meets the limit described in MN Rules, Chapter 7080.0175. An Operating Plan shall be submitted with permit application, reference 7080.0310 Subp 6.

6.26 Privies

Privies that meet all of the following criteria may be designed with ALS vertical separation.

- A. The privy is in a remote area with a minimum of one (1) acre of lot area.
- B. For privies not located within a floodplain, shoreland or on hydric soils as indicated in the NRCS Soil Survey for Marshall County.
- C. The privy is not in a wetland as indicated on the National Wetland Inventory Map.
- D. The privy shall be located at least 100 feet from any existing well.

6.27 Lot Size for Treatment Area

Minimum lot size allowed equal one (1) acre. All lots created after January 23, 1996 shall include a minimum of two soil treatment and dispersal areas that can support Alternative Local Standard Systems as in Section 6.2 of this Ordinance and Type 1 trenches, seepage beds, mounds, and at-grade systems as described in MN Rules, Chapters 7080.0170 Subp 2 and 5-6.

6.28 Standards Must Comply with other Laws and Rules

Alternative Local Standards must comply with requirements of other applicable State Laws, State Rules and County ordinances.

6.3 2011 MN Rule Elements included in this Ordinance

6.31 Sewage Tanks

Tank Strength Requirements, 7080.1910, Subp 1

Poured-in-place concrete tanks, 7080.1910, Subp 2

Septic Tank Design, 7080.1920 A – E.

Septic Tank Capacity 7080.1930

Liquid Capacity of Septic Tanks		
# of Bedrooms	Septic Tank Capacity (GPD)	With a Garbage Disposal and/or a Pump* (GPD)
3 or less	1000	1500
4 or 5	1500	2250
6 or 7	2000	3000
8 or 9	2500	3750

Multiple Septic Tanks, 7080.1940

Compartmentalization of Single Tanks, 7080.1950 A - E

Septic Tank Baffles, 7080.1960 A - G

Sewage Tank Access, 7080.1970 A - D

Tank Construction, 7080.1980 A – B

Tank Storage, Transport and Use, 7080.1990 Subp 1 and 2

Location and Installation of Tanks, 7080.2000 A – K.

Tank Assessment, 7080.2010 Subp 1, 2 and 3

Tank Identification, 7080.2020 A – D

6.32 Registered Products

Final Treatment and Dispersal, 7080.2150 including soil sizing Tables IX and IXa

6.33 Vertical Separation Flexibility

15% Flexibility, 7080.1500 Subp 4D

A reduced vertical separation for existing systems is allowed for SSTs that were designed with at least a three-foot vertical separation distance. The maximum of 15 percent reduction (a separation distance no less than 30.6 inches) is only allowed, to account for settling of sand or soil, normal variation of measurements, and interpretations of the limiting layer conditions. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil.

6.34 Trench and Seepage Bed Design, 7080.2210, Subp 4D

The minimum depth of soil cover, including topsoil borrow, over the distribution medium is 12 inches.

6.4 List of Technical Differences in Ordinance from 2011 MN Rules 7080 and 7081

- A. Alternative Local Standards “ALS” Vertical Separation, reference 6.21- 6.22.
- B. Location where Alternative Local Standards do not apply, reference 6.23
- C. 2006 MN Rules used as Alternative Local Standards

- (1) Pressure lateral spacing, defined in 2006 Rules 7080.0150, Subp 3F may be used.
 - (2) Clean outs on ends of pressure laterals, as stated in 2011 Rules 7080.2050, Subp 4J, is not mandatory.
 - (3) Flow measurement when pump is installed is not required in 2006 Rules. Following 2011 Rules 7080.2210, 2220, 2230, 2240, 2270, and 2300 on flow measurement is not mandatory.
 - (4) When a technical difference exists that is not listed in the 2011 MN Rule Elements, Section 6.3, follow the 2006 MN Rules 7080.
- D. 2011 MN Rule Elements, 6.3 adopted in Ordinance
- (1) Sewage Tanks, reference 6.31
 - (2) Final treatment with soil sizing, reference 6.32
 - (3) Vertical Separation Flexibility, reference 6.33

SECTION 7 VARIANCES

7.1 Variance Requests

A property owner may request a variance from the standards as specified in this ordinance pursuant to County policies and procedures.

- A. Property owner shall complete and submit an Application for Variance with fee to the Department on a form provided by the Department.
- B. Department reviews application and submits application to Board of Adjustment with written recommendation to approve or deny variance.
- C. Final decisions on variances are made after conducting a public hearing.

7.2 Affected Agency

Variances that pertain to the standards and requirements of the State of MN must be approved by the affected State Agency pursuant to the requirements of the State Agency.

7.3 Board of Adjustment Decisions

The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings and other standards and criteria per MN Rules, Chapter 7080.0030 Subp 3. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance, where there are practical difficulties with meeting the strict letter of this Ordinance. Variances to wells and water supply lines, MN Statutes 4720, 4725, 6105, and 6120 must be approved by the MN Department of Health.

SECTION 8 SSTS PERMITS AND PLANS

8.1 SSTS Permits Required

It is unlawful for any person to construct, install, modify, repair, replace, or operate a SSTS without the appropriate permit from the Marshall County Water and Land Department. 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.

8.2 Activities Requiring a SSTS Permit

All contractors, property owners or other persons having charge of the SSTS construction, replacement (including tanks and dispersal systems), repair, or modification of components of SSTS, shall obtain a SSTS Permit from the Water and Land Department prior to starting construction. Permits shall be granted upon receipt of a completed application with design and the appropriate fee.

8.3 Activities Not Requiring a SSTS Permit

A SSTS 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.

8.4 SSTS Permit Requirements in Floodplain and Shoreland

For development in the Shoreland and Floodplain Management Ordinance jurisdictional areas, a valid SSTS Permit and/or Certificate of Compliance for the existing SSTS must be submitted to the Department prior to approval and issuance of a building or land use permit.

8.5 SSTS Permit Applications

SSTS construction permit applications shall be made on forms provided by the Department and signed by the applicant or an authorized agent. The application shall include but is not limited to the information and documents listed in items A through D below. Completed application shall be examined and approved or denied by the Department.

- A. Name, mailing address, telephone number, (and email address if available.)
- B. Property Identification Number and address or other description of property location.
- C. Site Evaluation including soil verification with 3 soil observations made in exposed pits or by hand augering prior to construction. The depth to the periodically saturated soil shall be determined by parameters set in Section 6 of this Ordinance. The soil verification shall be made by a qualified employee or licensed inspection business authorized by the County. The soil boring log with soil verification signature shall be submitted with design by contractor to the County.
- D. Design Reports, as-built drawings, operating permits and any documents described in MN Rules, Chapter 7080.0110-7080.0115.

8.6 SSTS Permit Expiration

The SSTS Permit is valid for a period of one (1) year from its date of issue. An extension of the permit may be granted at the discretion of the Department.

8.7 Transferability

A SSTS Permit may be transferred to a new owner provided the new owner follows the design and permit as it has been issued.

8.8 Operating Permits

An Operating Permit shall be required of all owners of new holding tanks, Type IV, Type V and MSTs.

8.9 Management Plans

Management plans for all new or replacement Type IV, Type V and MSTs shall be provided by the licensed designer. The plans shall include operating, monitoring and maintenance requirements for the new or replacement system. Homeowners are recommended every three years to maintain their sewage tank per instructions in 7080.2450 Subp 2.

SECTION 9 COMPLIANCE INSPECTIONS

9.1 Compliance Inspection Program

- A. SSTs Compliance Inspections are performed:
 - (1) To ensure compliance with applicable requirements;
 - (2) To ensure system compliance before issuance of a Land Use Permit or Variance in the Floodplain and Shoreland areas.
 - (3) For all new SSTs construction or replacement;
 - (4) When an SSTs permit is required to repair, modify, or upgrade an existing system;
 - (5) To ensure compliance before issuance of a permit for the addition of a bedroom on properties served by an SSTs. The County may temporarily waive the certificate of compliance requirement for the permit application made during the period from November 1 to April 30 with provisions for compliance inspection to be made the following June 1.
 - (6) Any time the Department deems appropriate, such as upon receiving a complaint or other information of system failure.
- B. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees with jurisdiction.
- C. 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.
- D. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

9.2 New Construction or Replacement

- A. Compliance inspections must be performed on new or replacement SSTs during construction and installation of a SSTs before it is covered with soil, unless acceptable photographs or video documentation are provided, to determine compliance with MN Rules, Chapters 7080 or 7081.
- B. It shall be the responsibility of the installer to notify the inspector to arrange for the inspection.
- C. The Certificate of Compliance must include a certified statement by the licensed inspector 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 shall be issued to the owner by the Department which includes a statement specifying those ordinance provisions with which the SSTs does not comply.

- D. 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.
- E. The Department shall deliver the Certificate of Compliance or the Notice of Noncompliance to the owner or the owner's agent with ordinance provisions of noncompliance.
- F. Certificates of compliance for new construction or replacement shall remain valid for (5) years from the date of issue, unless the Department finds evidence of noncompliance.

9.3 Existing Systems

- A. Compliance inspections shall be required when any of the following conditions occur:
 - (1) When a construction permit is required to repair, modify, or upgrade an existing system;
 - (2) Any time there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
 - (3) Any time there is a change in use or added use of the property in a designated floodplain or shoreland area that is being served by an existing SSTS which may impact the performance of the system;
 - (4) At the time of a variance request; and/or
 - (5) During any future area-wide SSTS surveys by the Department.
- B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA.
- C. If the SSTS is determined not to be in compliance with the Ordinance requirements, a Notice of Noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. Non compliant SSTS that are an ITPH shall be replaced within ten (10) months of inspection and SSTS that are failing shall be replaced within three (3) years of inspection. The Certificate of Compliance or Notice of Noncompliance shall be provided to the property owner or owner's agent and the original Certificate of Compliance or Notice of Noncompliance shall be submitted with the inspection report to the Department by the licensed inspector conducting the inspection within (15) days after the date the inspection was performed.
- D. Certificates of Compliance for existing SSTS shall remain valid for (3) years from the date of issue unless the Department finds evidence of noncompliance.

9.4 Disclaimer

Neither the issuance of permits, Certificates of Compliance, nor Notices of Noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

SECTION 10 ENFORCEMENT

10.1 Violations

10.11 Cause to Issue a Notice of Violation

Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this

Ordinance, including violations of conditions and safeguards, including the requirements for the system to be upgraded, replaced or its use discontinued, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, may be guilty of a misdemeanor and upon conviction thereof, shall be punishable as prescribed by the applicable MN Statutes in which the maximum penalty may be 90 days in jail, \$1,000.00 fine or both.

10.12 Notice of Violation

The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Ordinance. A copy of the notice of a violation shall be provided to the unit of government with jurisdiction. The notice of violation shall contain:

- A. A statement documenting the findings of fact determined through observations, inspections, or investigations;
- B. A list of specific violation(s) of this Ordinance
- C. Specific requirements for correction or removal of the specified violation(s);
- D. A mandatory time schedule for correction, removal and compliance with this ordinance.
- E. Specify why the system must be upgraded, replaced, or its use discontinued, if applicable.

10.13 Cease and Desist Orders

Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other County Ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, the work shall not resume until the reason for the work stoppage has been completely satisfied, administrative fees paid, and the cease and desist order lifted.

1014 Administrative Fees

Any application for a permit that is made after the work has commenced and which requires a permit or is done in violation of a permit shall be charged an additional "after-the-fact" administrative fee.

10.15 Reimbursements for Restoration

The Department may require correction and/or restoration of the property to its original state should the application for a permit be denied or if the action permitted does not include all or part of the work commenced prior to approval of said permit. The Department may recover the cost incurred in removal or abatement in a civil action; or at the discretion of the County Board, the cost of an enforcement action under this Ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor may extend the cost as assessed and charged on the tax roll against said real property.

10.2 Prosecution

In the event of a violation or threatened violation of this Ordinance, the County may seek other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations, including any criminal prosecution and the County

320226

Attorney shall have authority to commence such civil action. The Department and County Attorney may take such actions as may be necessary to enforce the provisions of this ordinance. Upon request, written notice of any difference between the Ordinance and Rules adopted under Minnesota Statute Section 115.55 shall be made available by the unit of government.

SECTION 11 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.

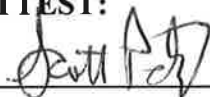
SECTION 12 ADOPTION

The Marshall County Subsurface Sewage Treatment System Ordinance is hereby adopted by Marshall County Board of Commissioners on the 21st day of January, 2014.



Chairperson, Marshall County Board of Commissioners

ATTEST:



EFFECTIVE DATE: 1/21, 2014

