

Subsurface Sewage Treatment System  
Ordinance  
Hubbard County

County Ordinance No. 38

February 4, 2010



# Table of Contents

<b>ARTICLE 1</b>	<b>PURPOSE AND AUTHORITY</b> .....	<b>1</b>
<b>Section 1.0</b>	<b>Purpose And Intent</b> .....	<b>1</b>
1.01	Purpose.....	1
1.02	Intent.....	1
<b>Section 2.0</b>	<b>Authority</b> .....	<b>2</b>
<b>Section 3.0</b>	<b>Effective Date</b> .....	<b>2</b>
<b>ARTICLE II</b>	<b>DEFINITIONS</b> .....	<b>2</b>
<b>ARTICLE III</b>	<b>GENERAL PROVISIONS</b> .....	<b>5</b>
<b>Section 1.0</b>	<b>Scope</b> .....	<b>5</b>
<b>Section 2.0</b>	<b>Jurisdiction</b> .....	<b>5</b>
<b>Section 3.0</b>	<b>Administration</b> .....	<b>5</b>
3.01	County Administration.....	5
3.02	State of Minnesota.....	5
3.03	Cities and Townships.....	5
3.04	Amendments.....	5
3.05	Appeals.....	6
<b>Section 4.0</b>	<b>Validity</b> .....	<b>6</b>
<b>Section 5.0</b>	<b>Liability</b> .....	<b>6</b>
<b>ARTICLE IV</b>	<b>GENERAL REQUIREMENTS</b> .....	<b>6</b>
<b>Section 1.0</b>	<b>Retroactivity</b> .....	<b>6</b>
1.01	All SSTS.....	6
1.02	Existing Permits.....	7
<b>Section 2.0</b>	<b>Upgrade, Repair, Replacement, and Abandonment</b> .....	<b>7</b>
2.01	SSTS Capacity Expansions.....	7
2.02	Failure to Protect Groundwater.....	7
2.03	Imminent Threat to Public Health or Safety.....	7
2.04	Abandonment.....	7
<b>Section 3.0</b>	<b>SSTS in Floodplains</b> .....	<b>7</b>
<b>Section 4.0</b>	<b>Class V Injection Wells</b> .....	<b>7</b>
<b>Section 5.0</b>	<b>SSTS Practitioner Licensing</b> .....	<b>8</b>
5.01	Property Owners Doing Own Work.....	8
5.02	Indemnification Agreement.....	8
<b>Section 6.0</b>	<b>Prohibitions</b> .....	<b>8</b>
6.01	Occupancy or Use of a Building without a Compliant SSTS.....	8

6.02	Sewage Discharge to Ground Surface or Surface Water.....	8
6.03	Sewage Discharge to a Well or Boring.....	9
6.04	Discharge of Hazardous or Deleterious Materials.....	9
<b>ARTICLE V</b>	<b>SSTS STANDARDS.....</b>	<b>9</b>
<b>Section 1.0</b>	<b>Standards Adopted by Reference.....</b>	<b>9</b>
<b>Section 2.0</b>	<b>Amendments to the Adopted Standards .....</b>	<b>9</b>
2.01	List of Adopted Standards.....	9
2.02	Determination of Hydraulic Loading Rate and SSTS Sizing.....	10
2.03	Compliance Criteria for Existing SSTS.....	10
2.04	Holding Tanks.....	11
<b>Section 3.0</b>	<b>Variances.....</b>	<b>11</b>
3.01	Variance Requests.....	11
3.02	Affected Agency.....	11
3.03	Board of Adjustment .....	12
<b>ARTICLE VI</b>	<b>SSTS PERMITTING.....</b>	<b>13</b>
<b>Section 1.0</b>	<b>Permit Required.....</b>	<b>13</b>
<b>Section 2.0</b>	<b>SSTS Construction Permit.....</b>	<b>13</b>
2.01	Activities Requiring a SSTS Construction Permit.....	14
2.02	Activities Not Requiring a SSTS Construction Permit.....	14
2.03	SSTS Construction Permit Required to Obtain Sewered Structure Building Permit	14
2.04	Conformance to Prevailing Requirements .....	14
2.05	Permit Application Requirements.....	14
2.06	Application Review and Response.....	15
2.07	Permit Expiration .....	15
2.08	Extensions and Renewals .....	15
2.09	Transferability.....	15
2.10	Suspension or Revocation .....	15
2.11	Posting.....	16
<b>Section 3.0</b>	<b>Operating Permit.....</b>	<b>16</b>
3.01	SSTS Requiring an Operating Permit.....	16
3.02	Permit Application Requirements.....	16
3.03	Department Response.....	17
3.04	Operating Permit Terms and Conditions.....	17
3.05	Permit Expiration and Renewal.....	17
3.06	Amendments to Existing Permits not Allowed.....	18
3.07	Transfers.....	18

3.08	Suspension or Revocation.....	18
3.09	Compliance Monitoring.....	18
<b>Section 4.0</b>	<b>Temporary Permit.....</b>	<b>19</b>
4.01	Permit Application Requirements.....	19
4.02	Department Response.....	20
4.03	Transfers.....	20
4.04	Suspension or Revocation.....	20
<b>ARTICLE VII</b>	<b>MANAGEMENT PLANS.....</b>	<b>20</b>
<b>Section 1.0</b>	<b>Purpose.....</b>	<b>20</b>
<b>Section 2.0</b>	<b>Management Plan Requirements.....</b>	<b>21</b>
2.01	SSTS Requiring Management Plans.....	21
2.02	Required Contents of a Management Plan.....	21
2.03	Requirements for Systems not Operated under a Management Plan	21
<b>ARTICLE VIII</b>	<b>COMPLIANCE MANAGEMENT.....</b>	<b>21</b>
<b>Section 1.0</b>	<b>Compliance Inspection Program.....</b>	<b>21</b>
1.01	Department Responsibility.....	21
1.02	New Construction or Replacement.....	22
1.03	Existing Systems.....	23
1.04	Periodically Saturated Soil Disagreements.....	24
1.05	Transfer of Properties.....	25
1.06	Disclaimer.....	26
<b>ARTICLE IX</b>	<b>Enforcement.....</b>	<b>27</b>
<b>Section 1.0</b>	<b>Violations.....</b>	<b>27</b>
1.01	Cause to Issue a Notice of Violation.....	27
1.02	Interference with Department Access and Administration/Enforcement is Prohibited	27
1.03	Notice of Violation.....	27
1.04	Cease and Desist Orders.....	27
1.05	Administrative Fees and Restoration.....	28
<b>Section 2.0</b>	<b>Prosecution.....</b>	<b>28</b>
<b>ARTICLE X</b>	<b>FEES.....</b>	<b>28</b>
<b>ARTICLE XI</b>	<b>INTERPRETATION.....</b>	<b>28</b>

<b>ARTICLE XII</b>	<b>SEVERABILITY.....</b>	<b>28</b>
<b>ARTICLE XIII</b>	<b>ABROGATION AND GREATER RESTRICTIONS.....</b>	<b>28</b>
<b>ARTICLE XIV</b>	<b>ORDINANCE REPEALED.....</b>	<b>29</b>
<b>ARTICLE XV</b>	<b>ADOPTION.....</b>	<b>29</b>

**Hubbard County**  
**Ordinance No. 38**  
**Subsurface Sewage Treatment Systems**

This is an Ordinance authorizing and providing for sewage treatment and soil dispersal in unsewered areas of the county. It establishes:

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

**ARTICLE I PURPOSE AND AUTHORITY**

**ARTICLE I, SECTION 1.0 PURPOSE AND INTENT**

**1.01 Purpose**

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

**1.02 Intent**

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

- A. The protection of lakes, rivers and streams, wetlands, and groundwater in Hubbard 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 against the degradation of surface water and groundwater quality.
- C. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
- D. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
- E. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater-related hazards, and public nuisance conditions.

**ARTICLE I, SECTION 2.0 AUTHORITY**

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

**ARTICLE I, SECTION 3.0 EFFECTIVE DATE**

The provisions set forth in this Ordinance shall become effective on February 4, 2010.

**ARTICLE II DEFINITIONS**

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

**As-Builts:** 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 County Environmental Services Department.

**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 Minnesota Statutes, sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map 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, which includes a domestic SSTS serving more than twenty (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).

**Cluster System:** A SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.

**County:** Hubbard County, Minnesota.

**County Board:** The Hubbard County Board of Commissioners.

**Department:** The Hubbard County Environmental Services Department.

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

**Environmental Services Officer:** The Environmental Services Officer of Hubbard County or the Hubbard County Board's authorized agent or representative.

**Failure to Protect Groundwater:** At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or a licensed inspection business.

**Graywater:** "Graywater" means sewage that does not contain toilet waste.

**Imminent Threat to Public Health and Safety:** At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; 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 licensed SSTS inspection business.

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

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

**Management Plan:** A plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.

**Minor Repair:** The repair or replacement of an existing damaged or faulty component/part of an SSTS excluding septic tanks and soil dispersal systems that will

return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS or be made to a septic tank (except for allowed baffle repair) or soil dispersal system.

**MSTS:** A “midsized 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 document written and signed by a certified inspector after a compliance inspection that gives notice that an SSTS is not in compliance as specified under Minnesota Rules, Chapter 7080.1500.

**MPCA:** Minnesota Pollution Control Agency.

**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.

**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.

**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.

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

**State:** The State of Minnesota.

**Type 4 Wetlands:** Inland deep fresh marshes in which soil is usually covered with six inches to three feet or more of water during the growing season. Vegetation includes cattails, reeds, bulrushes, spikerushes, and wild rice. In open areas, pondweeds, naiads, coontail, water milfoils, waterweeds, duckweeds, water lilies, or spatterdocks may occur. These deep marshes may completely fill shallow lake basins, potholes, limestone sinks, and sloughs, or may border open water in such depressions.

**Type 5 Wetlands:** Inland open fresh water, shallow ponds, and reservoirs in which water is usually less than ten feet deep and is fringed by a border of emergent vegetation similar to open areas of type 4 wetland.

**Wetland Type or Type:** “Wetland type” or “type” means a wetland type classified according to Wetlands of the United States, United States Fish and Wildlife Service Circular 39 (1956 and 1971 editions), as summarized in this subpart. “Classification of Wetlands and Deepwater Habitats of the United States” (Cowardin et al., 1979 edition) is a separate, parallel wetland typing system that may be used to characterize components of a wetland.

## **ARTICLE III GENERAL PROVISIONS**

### **ARTICLE III, SECTION 1.0 SCOPE**

This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.

### **ARTICLE III, SECTION 2.0 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.

### **ARTICLE III, SECTION 3.0 ADMINISTRATION**

#### **3.01 COUNTY ADMINISTRATION**

The County Environmental Services Department shall administer the SSTS program and all provisions of this Ordinance.

#### **3.02 STATE OF MINNESOTA**

Where a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a State Disposal System 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.

#### **3.03 CITIES AND TOWNSHIPS**

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

#### **3.04 AMENDMENTS**

The procedure for amendments to this Ordinance shall be as follows:

- A. An amendment may be initiated by a property owner, the Planning Commission, or the County Board of Commissioners. Property owners wishing to initiate an amendment shall fill out an application for amendment form, available from the Department. Such application shall be filled out and submitted to the Department together with the appropriate fee.

- B. The applicant shall appear before the Planning Commission to answer any questions that Commission members may have concerning the amendment request.
- C. A public hearing on the amendment request shall be conducted by the Planning Commission within 60 days of such initial meeting. The public hearing shall be conducted in accordance with Minnesota Statute, Chapter 394.26.
- D. The Planning Commission shall make a recommendation to the County Board of Commissioners after the proceedings of this public hearing. The applicant shall be notified in writing of the recommendation that shall be forwarded to the County Board of Commissioners.
- E. The County Board shall consider the recommendation of the Planning Commission within 30 days after the public hearing is conducted.

### **3.05 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, which is available from the Department. Such an appeal shall be filed within 30 calendar days after the date of the Department's decision and specify the grounds thereof. Appeals shall be to the Board of Adjustment pursuant to §394.27, Subd. 6, Minnesota Statutes. Such appeal shall be heard by the Board of Adjustment within 60 days of the date that such application is found complete and accepted by the Department.

### **ARTICLE III, SECTION 4.0 VALIDITY**

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

### **ARTICLE III, SECTION 5.0 LIABILITY**

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

## **ARTICLE IV GENERAL REQUIREMENTS**

### **ARTICLE IV, SECTION 1.0 RETROACTIVITY**

#### **1.01 All SSTS**

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

## **1.02 Existing Permits**

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

## **ARTICLE IV, SECTION 2.0 UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT**

### **2.01 SSTS Capacity Expansions**

Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.

### **2.02 Failure to Protect Groundwater**

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within twelve (12) months of receipt of a Notice of Noncompliance.

### **2.03 Imminent Threat to Public Health or Safety**

An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten (10) months of receipt of a Notice of Noncompliance.

An SSTS posing an imminent threat to public health or safety shall be pumped within 24 hours of the determination that the SSTS is an imminent threat and managed as a holding tank if the tank is sealed and compliant until an SSTS upgrade is completed. If the tank is not compliant or able to function as a holding tank, the building(s) serviced by the SSTS shall not be occupied or habitated per Article IV, Section 6.01 of this Ordinance until an SSTS upgrade is completed or unless a Department approved alternative for safe waste disposal is implemented.

### **2.04 Abandonment**

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

## **ARTICLE IV, SECTION 3.0 SSTS IN FLOODPLAINS**

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain shall 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 Rules, Chapter 7080.2270 and all relevant local requirements are met.

## **ARTICLE IV, SECTION 4.0 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 CFR 40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

#### **ARTICLE IV, SECTION 5.0 SSTS PRACTITIONER LICENSING**

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700.

##### **5.01 Property Owners Doing Own Work**

Property owners who may be permitted to construct or repair SSTS on their own properties shall be exempted from providing proof of a State license, but shall be required to execute a signed indemnification agreement pursuant to Article IV, Section 5.02 of this Ordinance. Property owners doing their own work must comply with Article VI as well as other applicable provisions of this Ordinance. A property owner shall have either a current license issued by the MPCA for Designer or Advanced Designer if they wish to perform the site evaluation or design their own SSTS.

##### **5.02 Indemnification Agreement**

The permittee shall provide a signed agreement to the Department on a form provided by the Department which indemnifies and saves the County, holding it harmless from all losses, damages, costs and charges that may be incurred by the County due to the failure of the permittee to conform to and comply with the provision of this Ordinance.

#### **ARTICLE IV, SECTION 6.0 PROHIBITIONS**

##### **6.01 Occupancy or Use of a Building without a Compliant SSTS**

It is unlawful for any person to occupy, or use any building intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that complies with the provisions of this Ordinance with the following exceptions:

1. Building connected to SSTS that are non-compliant and are imminent health threats may continue to be occupied or used during the time period in which the system is noncompliant until it is upgraded if the property complies with Article IV, Section 2.03 of this Ordinance.
2. Building connected to SSTS that are noncompliant and failing to protect groundwater may continue to be occupied or used during the time period until the system is upgraded not to exceed the twelve month upgrade time period allowed in Article IV, Section 2.02 of this Ordinance.

##### **6.02 Sewage Discharge to Ground Surface or Surface Water**

It is unlawful for any person to construct, maintain, or use any SSTS 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.

**6.03 Sewage Discharge to a Well or Boring**

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

**6.04 Discharge of Hazardous or Deleterious Materials**

It is unlawful for any person to discharge into any 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.

**ARTICLE V SSTS STANDARDS**

**ARTICLE V, SECTION 1.0 STANDARDS ADOPTED BY REFERENCE**

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

**ARTICLE V, SECTION 2.0 AMENDMENTS TO THE ADOPTED STANDARDS**

**2.01 List of Adopted Standards**

- A. An inspection pipe of four inches in diameter shall be installed on every drop box, cross pipe used to top-load, or distribution box.
- B. A SSTS shall be upgraded to conform in entirety with all requirements of this Ordinance when additional bedrooms or water-using appliances are added to a building or the SSTS is disconnected from a building and being replaced and connected to a new building such as in the case of replacement of mobile homes, modular homes, etc.
- C. The setback distance from an SSTS to classified lakes and rivers shall be as specified in the Hubbard County Shoreland Management Ordinance. The setback distance from an SSTS to the delineated boundary of a Type 4 or Type 5 wetland shall be seventy-five (75) feet.
- D. The top of sewage tanks shall be buried no deeper from final grade than the tank manufacturer's maximum designed depth for the tank. This provision is adopted per the County's ability to do so as stated in Minnesota Rules, Chapter 7080.2000, C.
- E. On holding tanks, the maintenance hole of at least 20 inches in least dimension must extend through the cover to above final surface grade rather than follow the requirement in Minnesota Rules, Chapter 7080.2290, C and the maintenance hole cover must be secured per the requirements in Minnesota Rules Chapter 7080.1970, C.

- F. A percolation test shall be required to be included in standard in-ground SSTS system designs performed on sites classified in the Hubbard County Soil Survey by general soil map units 1, 3, 4, or 5 or the following detailed soil map units: Blowers – 1320B or 1336; Huntersville – 139B or 1334; Nary – 1294; Nebish – 1460B or 1460C; Redeye – 82B, 82C, 1440B, or 1440C; Rockwood – 1319B or 1319C; Sol – 1244B, 1244C, or 1272B; and Snellman – 267B. The percolation test shall be performed in the soil layer(s) at the depth where the soil dispersal system is located. Table IXa in Minnesota Rules, Chapter 7080.2150, Subp. 3(E) shall be used to size and design SSTS located on these sites.
- G. The Department shall govern and specify the forms that are to be used in complying with this ordinance.
- H. SSTS designs that will be used for a self-installed SSTS must include detailed construction/installation specifications and instructions meeting Department policy criteria for such designs.
- I. 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 trenches, seepage beds, mounds, and at-grade systems as described in Minnesota Rules, Chapters 7080.2200 through 7080.2230 or site conditions described in 7081.0270, Subp. 3 through 7. If a lot has one or more existing SSTS, a compliance inspection that includes an alternate site soil boring shall be conducted on each existing SSTS and required in lieu of a site evaluation on that lot.

## **2.02 Determination of Hydraulic Loading Rate and SSTS Sizing**

Table IX entitled “Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions” or Table IXa entitled “Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests” from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) and herein adopted by reference shall be used to size SSTS infiltration areas.

## **2.03 Compliance Criteria for Existing SSTS**

SSTS built before April 1, 1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

SSTS built after March 31, 1996 or SSTS located in a shoreland area, wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under 7080.1100, Subp. 84 shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account

for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence, but in an area of similar soil.

## **2.04 Holding Tanks**

Holding tanks may be allowed for the following applications: as replacements for existing failing SSTS, SSTS that pose an imminent threat to public health or safety, or for new construction on lots existing as of the date of the enactment of this Ordinance and only where it can be shown conclusively that a SSTS permitted under this Ordinance cannot be feasibly installed.

Holding tanks meeting the above-mentioned criteria may be used for single family homes and other buildings with limited water use under the following conditions:

- A. The owner shall install a holding tank in accordance with Minnesota Rules, Chapter 7080.2290.
- B. An alarm device shall be installed that identifies when the holding tank is at 75 percent capacity per Minnesota Rules, Chapter 7080.2290 Subp. F.
- C. The owner shall maintain a valid contract with a licensed maintainer to pump and haul the holding tank contents to a licensed treatment facility or an MPCA approved land application site.
- D. The holding tank shall be regularly pumped, no less frequently than once a year or other regular schedule approved by the Department based on water use.
- E. The maintainer shall certify each date the tank is pumped, the volume of the liquid waste removed, the treatment facility to or site on which the waste was discharged, and the water meter reading at the time of pumping and report to the Department.

Failure to meet these requirements shall constitute a violation of this Ordinance and will result in enforcement actions being taken by the County per Article IX of this Ordinance which may include, but not be limited to, banning use/occupancy of the structure(s) served by the holding tank(s).

## **ARTICLE V, SECTION 3.0 VARIANCES**

### **3.01 Variance Requests**

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

### **3.02 Affected Agency**

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.

### 3.03 Board of Adjustment

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 Minnesota Rules, Chapter 7082.0300 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 in meeting the strict letter of this Ordinance. Variance requests to deviate from the design flow determination procedures in Minnesota Rules, Chapter 7081.0110 if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day, or to provisions in 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through 5 regarding the vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in 7082.1700, Subp. 4D) must be approved by MPCA. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.

- A. Any property owner requesting relief from the strict application of the provisions in this Ordinance must complete and submit an Application for Variance to the Department on a form provided by the Department. The variance request must include, as applicable:
  1. A statement identifying the specific provision or provisions in the Ordinance from which the variance is requested;
  2. A description of the practical difficulty that prevents compliance with the rule;
  3. The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions;
  4. The length of time for which the variance is requested;
  5. Cost considerations only if a reasonable use of the property does not exist under the term of the Ordinance; and
  6. Other relevant information requested by the Department as necessary to properly evaluate the variance request.
- B. The appropriate fee shall be paid at the time of submittal of the application to receive consideration by the Board of Adjustment
- C. Upon receipt of the variance application, the Department shall decide if a site investigation conducted by the Department will be necessary. After the necessary information has been gathered, the Department shall make a written recommendation to approve or deny the variance to the Board of Adjustment.
- D. The Board of Adjustment shall make the final decision after conducting a public hearing. The variance may be granted provided that:

1. The condition causing the demonstrated practical difficulty is unique to the property and was not caused by the actions of applicant;
  2. The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the vicinity;
  3. The property owner would have no reasonable use of the land without the variance;
  4. The granting of the variance would not allow a prohibited use; and
  5. The granting of the variance would be in accordance with Minnesota Rules, Chapters 7080, 7081, and 7082.
- E. In granting a request for a variance, the Board of Adjustment may attach such conditions as it deems necessary to conform to the purpose and intent of this Ordinance.
- F. Any violation of the terms and conditions of a variance issued pursuant to this Ordinance, or any violation of any provision of this Ordinance relating to the specific issue of the variance, shall result in immediate revocation of the variance.
- G. Any variance granted shall automatically expire if the SSTS is not installed within one year of the date of the variance approval.

## **ARTICLE VI SSTS PERMITTING**

### **ARTICLE VI, SECTION 1.0 PERMIT REQUIRED**

It is unlawful for any person to construct, install, alter, modify, repair, replace, or operate a SSTS without the appropriate permit and accompanying compliance inspection resulting in the issuance of a certificate of compliance from the Hubbard County Environmental Services 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 or inspection.

### **ARTICLE VI, SECTION 2.0 SSTS CONSTRUCTION PERMIT**

A construction 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, repair, or capacity expansion of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by appropriately certified and/or licensed practitioner(s).

No permit will be issued to landowners or on property on which there are unresolved violations of this or any other ordinance unless that permit is part of a Department approved plan to resolve the violation(s).

## **2.01 Activities Requiring a SSTS Construction Permit**

A permit shall be obtained by the fee title owner of the property or his/her authorized representative whenever any SSTS in Hubbard County is installed, replaced, altered, repaired or extended. Installation, replacement, alteration, repair, or extension of an SSTS shall not begin without first making an application for a permit and obtaining said permit from the Department for each specific installation, replacement, alteration, repair or extension pursuant to this Ordinance. A permit shall not be required only for the work identified under Item 2.02 of this section of the Ordinance.

## **2.02 Activities Not Requiring a SSTS Construction Permit**

A SSTS construction permit is not required only for the following: repair or replacement of pumps, floats, or other electrical devices of the pump, baffles in a septic tank, repair of collapsed or clogged building sewers or sewer lines, repair or replacement of risers, manhole covers, filters, and inspection pipes, or any other repair or replacement of items excluding septic tanks and soil dispersal systems.

## **2.03 SSTS Construction Permit Required to Obtain Sewered Structure Building Permit**

For any property on which a SSTS permit is required in the Shoreland Management Ordinance jurisdictional area, approval and issuance of a valid SSTS Construction Permit must be obtained or a valid certificate of compliance for the SSTS must be submitted to the Department, as applicable, before a sewer structure building or land use permit may be issued by the Department.

## **2.04 Conformance to Prevailing Requirements**

Any activity involving an existing system that requires a Construction Permit shall require that the entire system be brought into compliance with this Ordinance except for existing gravity SSTS in qualifying sandy soils shall not be required to be upgraded to a pressure-distributed SSTS.

## **2.05 Permit Application Requirements**

Construction Permit applications shall be made on forms provided by the Department and signed by the applicant or an authorized agent. The applications shall include, but is not limited to the information and documents listed in items A through E below.

- 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 Report as described in Minnesota Rules, Chapter 7080.1730.
- D. Design Report as described in Minnesota Rules, Chapter 7080.2430.
- E. Management Plan as described in Minnesota Rules, Chapter 7082.0600.

## **2.06 Application Review and Response**

The Department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved application such as a change in the soil dispersal system location, distribution method, or treatment type, the applicant must file an amended application with the Department detailing the changed conditions prior to initiating or continuing construction, modification, or operation. Upon satisfaction that the amended application will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as amended and then construction may commence per the amended and accompanying permit. If the permit application is incomplete or does not meet the requirements of this Ordinance, the Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.

## **2.07 Permit Expiration**

The SSTS Construction Permit is valid for a period of no more than one (1) year from its date of issue. Satisfactory completion of construction shall be determined by receipt of final as-builts and a signed certification that the construction or 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.

If construction is not completed within the valid permit period, the permit is automatically voided.

## **2.08 Extensions and Renewals**

The Department may grant an extension of the SSTS Construction Permit if the construction has commenced prior to the original expiration date of the permit. The permit may be extended for a period of no more than six (6) months.

## **2.09 Transferability**

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

## **2.10 Suspension or Revocation**

The Department may suspend or revoke a SSTS Construction Permit issued under this section for any false statements, misrepresentations of facts on which the SSTS Construction Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. A 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 SSTS may not commence or continue until a valid SSTS Construction Permit is obtained.

### **2.11 Posting**

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

## **ARTICLE VI, SECTION 3.0 OPERATING PERMIT**

### **3.01 SSTS Requiring an Operating Permit**

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

### **3.02 Permit Application Requirements**

A. Application for an Operating Permit shall be made on a form provided by the Department including:

- (1) Owner name, mailing address, telephone, (and email address, if available.)
- (2) SSTS Construction Permit reference number and date of issue
- (3) Final as-builts of the SSTS
- (4) Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business

B. Monitoring and Disposal Contract

Owners of holding tanks shall provide to the Department a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minnesota Rules, Chapter 7082.0100, Subp. 3G. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, section 115.56, subdivision 3, paragraph (b), clause (3) and doing his/her own maintaining. Owners of holding tanks shall hold a valid monitoring and disposal contract with a licensed maintenance business at all times until which time the holding tank is abandoned or the property sold and provide to the Department a copy of each and every said contract within thirty (30) days of the contract's execution.

### **3.03 Department Response**

The Department shall review the as-builts, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue an operating permit.

### **3.04 Operating Permit Terms and Conditions**

The Operating Permit shall include the following:

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

### **3.05 Permit Expiration and Renewal**

- A. Operating Permits shall be valid for the specific term stated on the permit as determined by the Department.
- B. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within ninety (90) calendar days of the expiration date, the County may require that the system be abandoned in accordance with Article IV, Section 2.04.
- C. The Owner must apply for renewal at least thirty (30) calendar days before the expiration date.
- D. Application shall be made on a form provided by the Department including, but not limited to:
  - (1) Applicant name, mailing address, phone number, (and email address, if available.)
  - (2) Reference number of previous owner's operating permit.

- (3) Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit.
- (4) Evidence of all pumping done during the most recent operating permit period such as paid receipts from a state-licensed maintainer.
- (5) Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the County.
- (6) Any revisions made to the operation and maintenance manual.
- (7) Payment of application review fee as determined by the County.

### **3.06 Amendments to Existing Permits not Allowed**

The County may not amend an existing permit to reflect changes in this Ordinance until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.

### **3.07 Transfers**

The operating permit shall not be transferred. A new owner shall apply for an operating permit in accordance with Article VI, Section 3.02 of this Ordinance. 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.

### **3.08 Suspension or Revocation**

- A. The Department may suspend or revoke any operating permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued or in cases when a monitoring report shows the system is not operating per the terms of the operating permit.
- B. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
- C. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with Article IV, Section 2.04.
- D. At the Department's discretion, the Operating Permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

### **3.09 Compliance Monitoring**

- A. Performance monitoring of a SSTS shall be performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
- B. A monitoring report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the Department on a form provided by the Department on or before the

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

- (1) Owner name, address, telephone number, (and email address, if available.)
- (2) Property tax parcel identification number and legal description
- (3) Operating Permit number
- (4) Average daily flow since last compliance monitoring report
- (5) Description of type of maintenance and date performed
- (6) Description of samples taken (if required), analytical laboratory used, and results of analyses
- (7) Problems noted with the system and actions proposed or taken to correct them
- (8) Name, signature, license and license number of the licensed professional who performed the work

#### **ARTICLE VI, SECTION 4.0 TEMPORARY PERMIT**

If a property owner has need to occupy a building after a SSTS's tanks are installed and connected to the building sewer, but before the SSTS's soil dispersal system is installed, the Department may issue a temporary permit to allow the system to operate as a holding tank. A temporary permit shall be valid for no more than 240 days. Prior to the permit's expiration, either the soil dispersal system shall be installed and a certificate of compliance issued for the SSTS if it is a standard SSTS or the soil dispersal system shall be installed, a certificate of compliance be issued for the SSTS, and an operating permit issued if it is a Type III, IV, or V SSTS.

##### **4.01 Permit Application Requirements**

- A. Application for an Temporary Permit shall be made on a form provided by the Department including:
  - (1) Owner name, mailing address, telephone, (and email address, if available)
  - (2) Construction Permit reference number and date of issue
  - (3) As-builts of the SSTS as it currently exists
  - (4) The property owner of the SSTS must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business
- B. Monitoring and Disposal Contract

Property owners applying for a temporary permit shall provide to the Department a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the septic tank contents in a timely manner that prevents an illegal discharge in accordance with Minnesota Rules, Chapter 7082.0100, Subp. 3G. This requirement is waived if the owner is a farmer who is exempt

from licensing under Minnesota Statutes, section 115.56, subdivision 2, paragraph (b), clause (3) and follow said Statute's provisions. Property owners possessing a temporary permit shall hold a valid monitoring and disposal contract with a licensed maintenance business at all times until which time the complete SSTS is installed and receives a certificate of compliance. The property owner shall provide to the Department a copy of each and every valid, current contract within thirty (30) days of the contract's execution.

#### **4.02 Department Response**

The Department shall review the as-builts, monitoring and disposal contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the temporary permit shall be denied and the SSTS shall not be used until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue a temporary permit.

#### **4.03 Transfers**

The temporary permit may not be transferred. A new owner shall apply for a temporary permit in accordance with Article VI, Section 4.0 of this Ordinance. To consider the new owner's application, the Department may require a compliance inspection of the SSTS certified by a licensed inspector or qualified employee.

#### **4.04 Suspension or Revocation**

- A. The Department may suspend or revoke any temporary permit issued under this section for any false statements or misrepresentations of facts on which the Temporary Permit was issued.
- B. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
- C. If suspended or revoked, the Department may require that the SSTS be removed from service, or abandoned in accordance with Article IV, Section 2.04.
- D. At the Department's discretion, the temporary permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

## **ARTICLE VII MANAGEMENT PLANS**

### **ARTICLE VII, SECTION 1.0 PURPOSE**

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

## **ARTICLE VII, SECTION 2.0 MANAGEMENT PLAN REQUIREMENTS**

### **2.01 SSTS Requiring Management Plans**

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

### **2.02 Required Contents of a Management Plan**

Management plans shall include:

- A. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
- B. Monitoring requirements;
- C. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
- D. Statement that the owner is required to notify the Department when the management plan requirements are not being met;
- E. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.
- F. Other requirements as determined by the Department.

### **2.03 Requirements for Systems not Operated under a Management Plan**

SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

## **ARTICLE VIII COMPLIANCE MANAGEMENT**

### **ARTICLE VIII, SECTION 1.0 COMPLIANCE INSPECTION PROGRAM**

#### **1.01 Department Responsibility**

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

- A. SSTS compliance inspections must be performed:
  - (1) To ensure compliance with applicable requirements;
  - (2) To ensure system compliance before issuance of a permit for addition of a bedroom unless the permit application is made during the period of November 1 to April 30, provided a compliance inspection is performed before the following June 1, the applicant submits a certificate of

compliance by the following June 30, and the Department deems it appropriate;

- (3) For all new SSTS construction or replacement (includes privies);
  - (4) For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minnesota Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.
- B. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
  - 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.

## **1.02 New Construction or Replacement**

- A. Compliance inspections shall be performed on new or replacement SSTS during construction and installation of a SSTS before it is covered with soil to determine compliance with Minnesota Rules, Chapters 7080 or 7081.
- B. It is the responsibility of the SSTS owner or the owner's agent to notify the Department no later than 9:30 a.m. on the workday the inspection is requested.
- C. A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) years, shall be issued by the Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.
- D. The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those Ordinance provisions with which the SSTS does not comply.
- E. The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (15) calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within fifteen (15) calendar days of receipt from the certified inspector. No

- F. Certificates of compliance for new construction or replacement shall remain valid for five (5) years from the date of issue unless the Department finds evidence of noncompliance.
- G. When additional inspections are required, an additional re-inspection fee will be charged.

### **1.03 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 addition or alteration to, or an expansion of use of the building being served by an existing SSTS;
  - (3) 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;
  - (4) When an operating permit is to be renewed;
  - (5) At the time of property sale or transfer (see Article VIII, Section 1.05);
  - (6) During systematic lake or area-wide SSTS surveys by the Department; and/or
  - (7) At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
- B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions must be assessed, or verified:
  - (1) Watertightness assessment of all treatment tanks including a leakage report;
  - (2) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including a vertical separation verification report;
  - (3) Sewage backup, surface seepage, or surface discharge including a hydraulic function report.
- C. The certificate of compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the Ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A construction permit

- application must be submitted to the Department if the required corrective action is not a minor repair.
- D. If the certificate of compliance is being performed for a permit or variance application where the size of the SSTS tank(s) and drainfield must be known in order to act on the permit or variance application, then the quantity and capacity of tanks and size of the soil dispersal system must be shown on the certificate of compliance.
  - E. A copy of the certificate of compliance or notice of noncompliance shall be provided to the property owner and the original certificate of compliance or notice of noncompliance shall be provided to the Department by the licensed inspector conducting the inspection within fifteen (15) days of the date the inspection was performed.
  - F. Certificates of compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless the Department finds evidence of noncompliance.
  - G. SSTS found not to be in compliance with Minnesota Rules, Chapter 7080.1500, Subp. 4A or 7081.0080, Subp. 3 must be repaired or replaced within ten months or as directed under Minnesota Statutes, Chapter 145A. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.

#### **1.04 Periodically Saturated Soil Disagreements**

- A. If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all disputing parties must follow the procedure listed below:
  - (1) The disputing parties shall meet at the disputed site in an attempt to resolve their differences.
  - (2) If the provision in subitem (1) above does not resolve the differences, then an opinion from a qualified employee of the Department shall be obtained and this opinion shall be binding.
- B. If a documented discrepancy arises on the depth of the periodically saturated soil between an SSTS licensed business and a qualified employee of the Department or licensed inspection business working on behalf of the Department for SSTS design or compliance purposes, all disputing parties shall follow the procedure listed below:
  - (1) The disputing parties shall meet at the disputed site in an attempt to resolve their differences.
  - (2) If the provision in subitem (1) above does not resolve the differences, then an opinion from a qualified employee of the Department previously not involved in the matter shall be obtained and this opinion shall be binding.

- C. If an appeal of a decision issued per subitem (2) of item A or B is made, it shall be submitted to the Department on a form provided by the Department within ten (10) business days of the date of the decision. The party making the appeal shall pay all costs incurred in the appeal process. The appeal process shall consist of the parties obtaining an opinion from a Minnesota licensed professional soil scientist who is a certified SSTS designer or inspector and who is independent of, and agreed upon by, both parties involved in the disagreement. The decision rendered by the soil scientist shall be final and binding.
- D. Upon resolution of a disagreement, amendments to initial disputed documents containing the resolution shall be made and submitted to the Department and all other parties involved.

### **1.05 Transfer of Properties**

- A. No owner or other person acting with legal authority on behalf of an owner of a tract of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have a subsurface sewage treatment system is located, shall convey to another party said tract of land, unless the following requirements are met:
  - (1) A compliance inspection has been performed and a Certificate of Compliance has been provided to the County and issued within three (3) years for SSTS older than five years or within five (5) years if the SSTS is less than five years old prior to the intended sale or transfer of the property. A compliance inspection shall not be valid if the Department finds evidence of an Imminent Threat to Public Health and Safety. In residential planned unit developments, a compliance inspection is only required on the SSTS connected to the unit being sold.
  - (2) The compliance inspection must have been performed by a licensed inspection business or individual following procedures described in Article VIII, Section 1.03 of this Ordinance.
  - (3) A County sewage treatment system property transfer form shall be signed by both the buyer(s) and seller(s) and filed with the Hubbard County Recorder at the time of sale or transfer of the property.
  - (4) Failure to submit a compliance inspection for a property transfer shall result in all future permits for the site to be denied until a certificate of compliance form has been submitted.
- B. The Certificate of Compliance need not be filed with the County at the time of sale or transfer of property if the sale or transfer involves the following circumstances:
  - (1) The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
  - (2) The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, subd. 1.

- (3) The transfer is a tax forfeiture.
  - (4) The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this Ordinance. This subsection applies only to the original vendor and vendee on such a contract.
  - (5) Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment system; any dwellings or other buildings that are located within the jurisdiction of a County approved agreement requiring exclusive connection to the wastewater treatment system of any municipality; or, any dwellings or other buildings that are connected exclusively to an approved wastewater treatment facility other than a SSTS.
- C. Winter Transfers – If the sale or transfer of property occurs during the winter months of November 1<sup>st</sup> through April 30<sup>th</sup>, the buyer shall complete the compliance inspection, if necessary, by the following June 1<sup>st</sup>. The buyer shall ultimately be held responsible by the County if the septic system is noncompliant and not brought into compliance within the timeframe provided by the Department or if a compliance inspection has not been completed.
- D. At the time of recording the conveyance of any real property within the unincorporated areas of Hubbard County, the seller shall provide to the Department or the County Recorder the following: (1) a Certificate of Compliance on forms approved by the Department (when applicable), and/or (2) County sewage treatment system property transfer form. Failure to comply with a requirement of this subdivision does not impair the validity of the deed. Failure to present to the County a certificate of compliance and sewage treatment system property transfer form as outlined in this subdivision shall constitute a misdemeanor and shall be punishable as defined by Minnesota State Statutes.
- E. 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 SSTS at the time of sale and knew or had reason to know of the existence of a SSTS is liable to the buyer for costs relating to bringing the SSTS into compliance with the Hubbard 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 SSTS is located. Said civil liability shall in no way impair a criminal prosecution for the same violation.

#### **1.06 Disclaimer**

Neither the issuance of permits, certificates of compliance, or 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.

## **ARTICLE IX ENFORCEMENT**

### **ARTICLE IX, SECTION 1.0 VIOLATIONS**

#### **1.01 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, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes. Each day that a violation exists shall constitute a separate offense.

#### **1.02 Interference with Department Access or Administration/Enforcement Prohibited**

The Department shall be given access to enter a property without prior notice at any reasonable time to inspect and/or monitor the SSTS for any reason the Department deems necessary. As used in this paragraph, "property" does not include a residence or private building.

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.

#### **1.03 Notice of Violation**

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

- 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.

#### **1.04 Cease and Desist Orders**

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

reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

#### **1.05 Administrative Fees and Restoration**

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 administrative fee. In addition, 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.

#### **ARTICLE IX, SECTION 2.0 PROSECUTION**

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

#### **ARTICLE X 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.

#### **ARTICLE XI 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.

#### **ARTICLE XII 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.

#### **ARTICLE XIII 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.

## **ARTICLE XIV ORDINANCE REPEALED**

The Hubbard County previous ordinance for the regulation of Individual Sewage Treatment Systems of the County (Individual Sewage System Standards Ordinance No. 28) is hereby repealed.

## **ARTICLE XV ADOPTION**

The Hubbard County Subsurface Sewage Treatment Program Ordinance is hereby adopted by the Hubbard County Board of Commissioners on the 4<sup>th</sup> day of November, 2009.

---

**Chairperson, Hubbard County Board of Commissioners**

**ATTEST:**

---

**EFFECTIVE DATE: February 4, 2010**