

Subsurface Sewage Treatment System  
Ordinance  
Lake County

*Revised* County Ordinance No. 11

February 2, 2015

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# Lake County Ordinance No. 11

## 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 subsurface sewage treatment systems [SSTS]) in unsewered incorporated areas that have not adopted ordinances that are as restrictive as this ordinance and unincorporated areas of Lake 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 Land Use Ordinance #12.

### **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 individual subsurface sewage treatment systems (ISTS) and midsized subsurface sewage treatment systems (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 Lake 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 January 1, 2015.

**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 and found in MN Rules 7080.1100. 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.

**Authorized Representative:** An employee or agent of the Lake County Planning & Zoning Department.

**Board of Adjustment:** The Lake County Board of Adjustment as appointed by the Lake County Board of Commissioners.

**County:** Lake County, Minnesota.

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

**Department:** The Lake County Planning & Zoning Department.

**Lot:** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

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

**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 into a septic tank (except for allowed baffle repair) or soil dispersal system.

**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.

**State:** The State of Minnesota.

**Unclassified Watercourse:** A defined bottom drainage way or seasonal stream not classified as a public protected water.

## **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 shall not be less restrictive as this Ordinance.

### **Article III, Section 3.0      Administration**

#### **3.01      County Administration**

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

### **3.02 State of Minnesota**

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 Appeals**

An appeal of any administrative decision made in the enforcement of this Ordinance shall be made within fifteen (15) days of the date of the administrative decision by filling out and submitting to the Department an Administrative Decision Appeal Application form, which is available from the Department. Such appeal shall be heard by the Board of Adjustment within sixty (60) days of the date that such application is submitted to the Department and 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 SSTS 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 design whichever is earlier.

#### **1.03 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 grades as described in Minnesota Rules, Chapters 7080.2200 through 7080.2230 or site conditions described in 7081.0270 Subp. 3 through 7. Variances from this specific provision may be processed administratively in accordance with Article V, Section 3.01 C. If applicable, three soil observations must be located on the contour and at each border of the drainfield media. The drainfield media corners must be identified with highly visible metal stakes. Subdivision soil observation logs must identify each septic site detailing the type of system, depth of suitable soil, and a design flow (gallons per day) based on a standard three bedroom system. Legal non-conforming lots shall adhere to the provisions in Article 28.0 of the Lake County Land Use Ordinance.

## **Article IV, Section 2.0 Upgrade, Repair, Replacement, and Abandonment**

### **2.01 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.

### **2.02 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.

In addition, 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.

### **2.03 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.

#### **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 2.02 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 2.01 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 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**

### **1.01 Adoption of Rule by Reference**

The County hereby adopts by reference the provisions of Minnesota Rules Chapters 7080-7083 in their entirety except as otherwise expressly modified by this Ordinance.

## **Article V, Section 2.0 Amendments to the Adopted Standards**

### **2.01 List of More Restrictive Adopted Standards**

- A. A SSTS shall be upgraded to conform in entirety with all requirements of this Ordinance when additional bedrooms 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.
- B. The setback distance from any component of an SSTS to an unclassified watercourse shall be 50 feet. In cases where a property owner cannot demonstrate sufficient area on a lot to accommodate tank or drainfield placement at 50 feet, the Department Administrator may vary the setback administratively.
- C. Effluent filters shall be required on all new systems and replacement systems constructed after the adoption of this Ordinance.

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

Table IX entitled "Loading rates for determining bottom absorption area and absorption ratios using detailed soil descriptions" or Table IXa entitled "Loading rates for determining bottom absorption area and absorption ratios 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 on lots that will not support the installation of a Type 1 SSTS as determined by the Department. In the case of an existing failing SSTS or SSTS imposing an imminent health threat an existing tank may be used as a temporary holding tank until an upgrade to the failing system is complete when the integrity of the tank is determined to meet or exceed standards.

Tanks meeting Minnesota Rules, Chapter 7080.1900 (general tank standards) may also be used as holding tanks within the established boundaries of a public sewer planning area.

In addition the installation of holding tanks shall meet 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 appropriate 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, and the treatment facility to or site on which the waste was discharged.

Also refer to Article VI, Section 3.0 (Operating Permit)

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).

## **2.05 Type III System Requirements**

Type III Systems must adhere to the Type III System MPCA rules, 7080.2300.

## **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 Land Use Ordinance as described in Article V, Section 3.02 or the standards established for lot creation in Article IV, Section 1.03.

- A. 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.
- B. Any variance granted shall automatically expire if the SSTS is not installed within one year of the date of the variance approval.
- C. Administrative Variances: The Lake County Environmental Services Department may administratively process variance requests from the provision within Article IV, Section 1.03 of this Ordinance through the following procedures:
  1. Administrative Variance Application shall be filed to the Environmental Services Department on the forms provided by the department.
  2. Application shall be complete and shall be accompanied by all necessary documentation supporting the need for the variance along with a map of the property identifying all soil boring locations, which are also physically marked on the property, and a description of the types of systems proposed as alternatives to Type I systems.
  3. After the Environmental Services Director has reviewed all the information and conducted a site visit, a decision shall be made by the Director within the timelines established by Minnesota Statute 15.99 and notification of that decision shall be sent to the property owner and respective septic contractor, and shall include written reasons in sufficient detail to demonstrate that the decision was made based on the criteria within this Ordinance.
  4. The Environmental Services Director may impose conditions in the granting of the variance to insure compliance and to protect adjacent properties and the public interest.
  5. Decisions shall be final except that an aggrieved party may appeal the decision of the Environmental Services Director to the Lake County Board of Adjustment in accordance with Article 25.0 of the Lake County Land Use Ordinance.

### **3.02 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.

## **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 Department. The issuing of any permit or variance 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 Permit**

An SSTS 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 an SSTS Permit**

An SSTS permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

#### **2.02 Activities Not Requiring an SSTS Permit**

An SSTS 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.

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

For any property on which an SSTS permit is required, approval and issuance of a valid SSTS permit must be obtained or a valid certificate of compliance for the SSTS, as applicable, must be submitted to the Department before a sewer structure building or land use permit can be issued by the Department.

### **2.04 Permit Application Requirements**

SSTS Permit applications shall be made on forms provided or approved 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.

### **2.05 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.

## **2.06 Permit Expiration**

The SSTS 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 record drawings and a signed certification that the construction or installation of the system was completed in substantial 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.

## **2.07 Extensions and Renewals**

The Department may grant an extension of the SSTS 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.

## **2.08 Transferability**

An SSTS permit may be transferred to a new owner provided there are no proposed changes to the SSTS design.

## **2.09 Suspension or Revocation**

The Department may suspend or revoke an SSTS permit issued under this section for any false statements, misrepresentations of facts on which the SSTS 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 permit is obtained.

## **2.10 Posting**

The SSTS 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 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. 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 record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted 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 2.03.
- 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 IV, 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 2.03.
- 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 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 SSTS 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) For all new SSTS construction or replacement ;
  - (3) 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 SSTS inspector that an installation inspection is being requested 24 hours in advance of the anticipated inspection.
- C. A certificate of compliance for new SSTS construction or replacement, which shall be valid for five (5) years from the date of issue, shall be issued by the Department unless the Department finds evidence of noncompliance.
- 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. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.
- F. Certificates of compliance for new construction or replacement shall remain valid five (5) years.
- G. When additional inspections are required, an additional re-inspection fee will be charged.

### 1.03 Existing Systems

A. A Compliance Inspection is required when the following circumstances occur if the system has not been installed in the last 12 years with a valid SSTS permit or a passing Compliance Inspection has not been completed in the last 8 years.

1. Prior to issuance of a land use permit for any structure.
2. Change in use of property or building being served by SSTS if the change has the potential to impact the system.
3. Operating permit renewal.
4. At the time of submission of a Conditional Use, Interim Use, or Variance.
5. During systematic lake or area-wide SSTS surveys by the Department.
6. Sale or transfer of property.
7. When a new building is being connected to an existing SSTS.

B. Point of Sale

1. Prior to the sale, transfer, contract for deed, or any other conveyance of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have an SSTS occurs, the following requirements must be met:

a. A compliance inspection has been performed and a Certificate of Compliance has been issued by the Department for a system built within twelve (12) years; systems older than twelve (12) years must have a passing Compliance Inspection within eight (8) years of the intended sale or transfer of the property, unless evidence is found identifying an Imminent Threat to Public Health and Safety.

b. The seller of the property must disclose in writing information about the status and location of all known SSTS on the property to the buyer on a form acceptable to the Department.

c. If the seller fails to provide a Certificate of Compliance, or if a compliance inspection indicates a Notice of Noncompliance, or if the seller is unable to complete a compliance inspection due to frozen soil conditions, the seller or buyer must provide sufficient security in the form of an escrow or trust agreement to assure the installation of a complying SSTS. The security must be placed in an escrow or trust with a licensed real estate closer, licensed attorney-at-law, federal or state chartered financial institution or the Lake County Auditor. The amount placed in escrow must be equal to a written estimate to install a complying SSTS provided by a licensed and certified installer. In the absence of a written

estimate, the amount escrowed shall be the amount set by the Lake County Board per fee schedule. The escrow or trust agreement must list the County as having the “release authority” of the monies which shall not be released until a Certificate of Compliance is issued by the Department. A copy of the escrow or trust agreement and written estimate must be submitted to the Department. After a complying SSTS has been installed and a Certificate of Compliance issued, the Department must provide the agent a copy of the Certificate of Compliance.

- d. In the case of an Operating Permit, the permit must be renewed in the name of the buyer.

**2. Evidence of a Certificate of Compliance need not be completed if the sale or transfer involves the following circumstances:**

- a. The system has been installed in the last twelve (12) years with a valid SSTS permit or a passing Compliance Inspection has been completed within the last eight (8) years.
- b. A signed disclosure statement is presented indicating that no SSTS exists nor is one required on the property.
- c. Court rulings for wills, probate actions, divorce, estate settlements.
- d. The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
- e. The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, subdivision 1.
- f. 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.
- g. 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 exclusively connection to the wastewater treatment system of any municipality; or, and dwellings or other buildings that are connected exclusively to an approved wastewater treatment facility other than an individual sewage treatment system.

**3. All property conveyances subject to this ordinance occurring during the period between November 1<sup>st</sup> and April 30<sup>th</sup>, when SSTS compliance cannot be determined due to frozen soil conditions, must require a Transfer Agreement which includes an agreement to complete a compliance**

inspection by the following June 1<sup>st</sup> by a licensed inspector. If upon inspection the system is found to be non-compliant or is an Imminent Threat to Public Health or Safety as defined in Article IV, Section 2.02, an escrow or trust agreement must be established in accordance with Article VIII, Section 1.03, B. c, above, and the system upgraded.

4. The licensed inspector must submit the completed version of the Compliance Inspection Form to the Department and property owner within 15 days after any existing system compliance inspection. Buyer and seller must provide the Department with a signed Transfer Agreement indicating responsibility for upgrading a system found to be noncompliant.
  5. 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 noncompliance with the provisions of these standards and regulations.
  6. Failure to comply with the requirements of this subdivision does not impair the validity of the deed.
- C.** When it is determined that weather is unsuitable for a compliance inspection, or between the period of November 1<sup>st</sup> and April 30<sup>th</sup>, a signed SSTS Compliance Inspection Agreement form as provided by the Department can be submitted in lieu of a valid Certificate of Compliance, Article VIII, Section 1.03 (A) 1- 7, which will require a compliance inspection to be performed by the following June 1<sup>st</sup>.
- D.** 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.
- E.** 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. An SSTS permit application must be submitted to the Department if the required corrective action is not a minor repair.

- F. If the compliance inspection is being performed for a Land Use, Conditional Use, Interim Use, 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.
- G. 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.
- H. 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.
- I. 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.
- J. Properties connected to a public sanitary wastewater district are exempt from providing a valid Certificate of Compliance.
- K. A compliance inspection can be required anytime the Department deems appropriate such as upon receiving a complaint or other information of system malfunction or failure.

#### **1.04 Bedroom Addition**

Any bedroom addition shall require a SSTS Compliance Inspection if there is not a valid Certificate of Compliance on file as defined in Article VIII 1.02 C or Article VIII 1.03 H. If the current SSTS does not comply with Design Flow – gallons per day, the SSTS must be upgraded, repaired, or replaced to meet the required design flow according to MN Rule 7080.1860 to accommodate for the bedroom addition.

#### **1.05 Periodically Saturated Soil Disagreements**

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

**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 Lake County previous ordinance for the regulation of Onsite Sewage Treatment Systems of the County (Ordinance No. 11) is hereby repealed.

## **Article XV Adoption**

The Lake County Subsurface Sewage Treatment Program Ordinance is hereby adopted by Lake County Board of Commissioners on the 25<sup>th</sup> day of November, 2014.

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**Chairperson, Lake County Board of Commissioners**

**Attest:**

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**Effective Date: February 2, 2015**

**1<sup>st</sup> Amendment Date: April 28, 2015**

**2<sup>nd</sup> Amendment Date: September 27, 2016**

**3<sup>rd</sup> Amendment Date: June 23, 2017**

**AMENDED: April 28, 2015 (1.04 Bedroom addition language, addition of Type III system requirements under Article V, Section 2.0, 2.06, Amendments to the Adopted Standards).**

**AMENDED: September 27, 2016 (Article IV, Section 1, 1.03, SSTS on lots created after January 23, 1996) and (Added Article V, Section 3, 3.01 C, Administrative Variances).**

**AMENDED: June 23, 2017 (Article V, Section 2.0, 2.06) Modification to Type III System Requirements.**