

**SANITARY SEWAGE TREATMENT  
SYSTEM ORDINANCE  
Freeborn County**

**COUNTY ORDINANCE NUMBER - 4**

**Effective Date – April 1, 2009**

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# **Freeborn County**

## **ORDINANCE NO. 4**

### **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 Freeborn 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 Zoning and Shoreland Ordinance.

#### **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 Freeborn County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County .

- B. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
- C. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
- D. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
- 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; 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 April 1, 2009

**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.

**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 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:** Freeborn County, Minnesota.

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

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

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

**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 an individual licensed pursuant to Section 5 hereof.

**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 SSTS inspection business licensed pursuant to Section 5 hereof.

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

SIC CODE(S)	INDUSTRY CATEGORY
753-7549	Automotive Repairs and Services
7231,7241	Beauty Shops, Barber Shops
7211-7219	Laundry Cleaning and Garment Services
4011-4581	Transportation (Maintenance only)
8062-8069	Hospitals
2000-3999	Manufacturing
2000-2099	Food Products
2100-2199	Tobacco Products
2400-2499	Lumber and Wood Products, except Furniture
2500-2599	Furniture and Fixtures
2600-2699	Paper and Allied Products
2700-2799	Printing, Publishing, and Allied Industries
2800-2899	Chemicals and Allied Products
2900-2999	Petroleum Refining and Related Industries
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3200-3299	Stone, Clay, Glass, and Concrete Products
3300-3399	Primary Metal Industries
3400-3499	Fabricated Metal Products (except Machinery, and Transportation Equipment
3500-3599	Industrial and Commercial Machinery and Computer Equipment
3700-3799	Transportation Equipment
3800-3899	Measuring, Analyzing, and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks
3900-3999	Miscellaneous Manufacturing Industries

**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 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.

**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 written document issued by the Department notifying a system owner that the owner’s onsite/cluster treatment system has been observed to be noncompliant with the requirements of this Ordinance.

**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.

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

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

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

**State:** The State of Minnesota.

**Treatment Level:** Treatment system performance levels defined in Minnesota Rules, Chapter 7083.4030, Table III for testing of proprietary treatment products, which include the following:

Level A:  $\text{cBOD}_5 \leq 15 \text{ mg/L}$ ;  $\text{TSS} \leq 15 \text{ mg/L}$ ; fecal coliforms  $\leq 1,000/100 \text{ mL}$ .

Level B:  $\text{cBOD}_5 \leq 25 \text{ mg/L}$ ;  $\text{TSS} \leq 30 \text{ mg/L}$ ; fecal coliforms  $\leq 10,000/100 \text{ mL}$ .

Level C:  $\text{cBOD}_5 \leq 125 \text{ mg/L}$ ;  $\text{TSS} \leq 80 \text{ mg/L}$ ; fecal coliforms N/A.

**Type I System:** An ISTS that follows a standard trench, bed, at-grade, mound, or graywater system design in accordance with MPCA rules, Minnesota Rules, Chapter 7080.2200 through 7080.2240.

**Type II System:** An ISTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots with rapidly permeable soils or lots in floodplains and privies or holding tanks.

**Type III System:** A custom designed ISTS having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

**Type IV System:** An ISTS, having an approved pretreatment device and incorporating pressure distribution and dosing, that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.

**Type V System:** An ISTS, which is a custom engineered design to accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and other relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented.

## **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 any 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 Subsurface Sewage Treatment System (SSTS) program by Ordinance within their incorporated jurisdiction, which is at least as strict as this Ordinance and has been approved by the County. The County Environmental Services Department shall keep a current list of local jurisdictions within the County administering a SSTS program.

### **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. At appropriate times, the County shall review this and revise and update this Ordinance as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

#### **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.

### **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 rule 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.

#### **1.03 SSTS on Lots Created Before 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.

#### **1.04 Existing SSTS without Permits**

Existing SSTS with no permits of record shall require a permit and be brought into compliance with the requirements of this Ordinance regardless of the date they were originally constructed.

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

#### **2.01 SSTS Capacity Expansions**

Expansion of an existing SSTS may include 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 Bedroom or Bathroom Additions**

The owner is allowed 10 months from the date of issuance of a bedroom or bathroom addition permit to upgrade, repair, replace or abandon an existing system if any of the following conditions apply:

- A. The Environmental Services Department issues a permit to add a bedroom or bathroom;
- B. A SSTS inspection is triggered by a bedroom or a bathroom addition permit request;
- C. No official County records exist for the sewer system at this site.
- D. The SSTS does not comply with Minnesota Rules, Chapter 7080.1500, Subp. 4.B.;
- E. The SSTS is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.A.

## **2.03 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 5 years of receipt of a Notice of Noncompliance.

## **2.04 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 10 months of receipt of a Notice of Noncompliance.

## **2.05 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 should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota 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 CFR40 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, alternation, 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. Freeborn County may require any person seeking any exemption listed in 7083.0700 to attend MPCA certified SSTS construction training and/or sign and have on record at the Environmental Services Department an agreement indemnifying the county against claims due to the failure of the landowner to comply with any 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 maintain, 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 does not comply with the provisions 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**

1. Freeborn County may require any person seeking any exemption listed in 7083.700 to attend MPCA certified SSTS construction training and/or sign and have on record at the Environmental Services Department an agreement indemnifying the county against claims due to failure of the landowner to comply with the provisions of this ordinance.
2. Freeborn County Permitted Sewage Disposal Systems installed prior to June 18, 2002, and not located in Shoreland or Wellhead Protection Area or serving a food, beverage, or lodging establishment shall have not less than two (2) feet of vertical separation between the system bottom and saturated soil or bedrock.
3. All costs associated with the repair or replacement of a failing/noncompliant sewage treatment system shall be the responsibility of the property owner or as otherwise provided for in written agreement and on file at the Environmental Services Department.
4. When official records of a sewage disposal system are not on file at the department for a property involved in the transfer or sale of that property; it shall be considered a violation of this ordinance.
5. A MPCA Compliance Inspection Form for an existing Subsurface Sewage Treatment System must be completed and on file with the department prior to the issuance of any Conditional Use Permit or a Variance request receiving official approval on any parcel of property.
6. An approved Freeborn County Holding Tank Service Agreement shall be signed and on record in the department prior to any tank installation.

### **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” and 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 both be used to size SSTS infiltration areas using the larger sizing factor of the two for SSTS design.

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

Freeborn County permitted ISTS built before June 18, 2002; located 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 June 18, 2002 in Freeborn County; 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. 7080.1500, Subp.4

## **2.04 Holding Tanks**

### **Standards:**

Installation of **holding tanks**, the specific conditions under which their use will be allowed are specified in 7082.0100, Subp.3G. All holding tanks shall comply with 7080.2290, items A through F. Further, all owners of holding tanks may be issued an operating permit 7082.0600, Subp.2A, which will include the provisions listed in 7082.0600, Subp.2B, (1) through (8). See Article V. Section 2.0 of this Ordinance.

Freeborn County will prohibit or severely limit the use of holding tanks. Yet, holding tanks are a practical method of handling wastewater for a variety of applications where water use is low such as in seasonal homes, buildings located on sensitive sites, parks, playgrounds service station drains ,etc. However, reliable management, which ensures that the tanks are pumped and the contents are hauled to permitted treatment facilities is a critical and necessary element of holding tank use. Proper management assured, holding tanks offer safe, effective and affordable options for low water use applications.

Example holding tank provisions are provided:

Restrictive Provision: Holding tanks may be allowed where it can be shown conclusively that a SSTS permitted under this Ordinance cannot be feasibly installed. Holding tanks shall not be allowed for all other wastewater applications.

Conditional Provision: Holding tanks may be used for limited water use under the following conditions:

- 1) The owner shall install a holding tank in accordance with Minnesota Rules Section 7080.2290.
- 2) The owner may be required to install a water meter to continuously record indoor water use.
- 3) The owner shall maintain a valid contract with a licensed liquid waste hauler to pump and haul the holding tank to a licensed treatment facility.
- 4) The holding tank shall be regularly pumped, no less frequently than bi-weekly or other regular schedule agreed upon with the Department.

5) The pumper shall certify each date the tank is pumped, the volume of the liquid waste removed, the treatment facility to which the waste was discharged, and the water meter reading at the time of pumping and report to the Department that the holding tank is pumped less frequently than bi-weekly or other schedule agreed upon with the Department.

Failure to meet these requirements will result in this matter being referred to the County Attorney for prosecution.

## **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**

Variations that pertain to the standards and requirements of the State of Minnesota Department of Health must be approved by the affected State Agency pursuant to the requirements of the State Agency.

Freeborn County may request a variance from MR Chapter 7082 or public health or environmental protection standards in Chapter 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through Subp. 5 from MPCA. Freeborn County may approve variances from standards and criteria not listed above on a case-by-case basis. The County Sanitarian or Environmental Services Department designee shall have the authority to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance where there are practical difficulties or particular hardship 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.

Anyone requesting a variance from any technical requirements in this Ordinance shall:

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 hardship 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.
- C. Upon receipt of the variance application, the Department shall decide if a site investigation conducted by the Department will be necessary. .

## **ARTICLE VI SSTS PERMITTING**

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

It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate permit from the Environmental Services Department, Freeborn County, MN. 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.

### **ARTICLE VI, SECTION 2.0. SEWER PERMIT**

A 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).

#### **2.01 Activities Requiring a Permit**

A 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 a Permit**

A 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 Sewer Permit Required to Obtain Building Permit**

For any property on which a SSTS permit is required; approval and issuance of a valid SSTS Permit shall be obtained before (or as otherwise agreed to in writing) a building or land use permit is issued by the Department.

### **2.04 Conformance to Prevailing Requirements**

Any construction activity involving an existing SSTS system that requires issuance of an updated Sewer Permit shall require that the entire SSTS system be brought into compliance with this Ordinance.

### **2.05 Permit Application Requirements**

Sewer Permit applications shall be made on forms provided by the Environmental Services Department/MPCA and signed by the property owner and certified SSTS practitioner including the practitioner's certification number and date of expiration. The applications shall include the documents listed in items A through E below.

- A. Name, mailing address, telephone number, and email address.
- 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 may issue a sewer permit authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or initiating any construction, modification, or operation for approval or denial. The Department shall complete the review of the amended application. 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 may be provided to the applicant, which would state the reason(s) for the denial.

### **2.07 Appeal**

The applicant may appeal the Departments decision to deny the Sewer Permit in accordance with the County's established policies and appeal procedures.

## **2.08 Permit Expiration**

The Sewer Permit is valid 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 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.

## **2.09 Transferability**

A Sewer Permit may be transferred to a new property owner.

## **2.10 Suspension or Revocation**

The Department may suspend or revoke a Sewer Permit issued under this section for any false statements, misrepresentations of facts on which the Sewer 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 may be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system shall not commence or continue until a valid Sewer Permit is obtained.

## **2.11 Posting**

The Sewer 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 or MSTS or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank or MSTS until Environmental Services Department certifies that the MSTS or holding tank was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTS, and a valid Operating Permit is issued to the owner.

## **3.02 Permit Application Requirements**

Application for an Operating Permit shall be made on a form provided by the Environmental Services Department following any SSTS expansion that requires a permit, or following any SSTS enforcement action.

### **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 may issue an operating permit within (10) working days of receipt of the permit application.

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

The Operating Permit shall include the following (see Minnesota Rules, Chapter 7082.0600, Subp.2.B):

- 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 acceptable soil treatment and dispersal system site.
- J. Descriptions of acceptable and prohibited discharges.

### **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 shall 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 in (90) calendar days of the expiration date, the County may require that the system be abandoned in accordance with Article IV, Section 4.0.
- C. The Department may notify the holder of an operating permit prior to expiration of the permit. The Owner shall apply for renewal at least (30) calendar days before the expiration date.
- D. Application shall be made on a form provided by the Department including:
  - (1) Applicant name, mailing address and phone number.
  - (2) Reference number of previous owner's operating permit.

- (3) Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit.
- (4) Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the County.
- (5) Any revisions made to the operation and maintenance manual.

### **3.06 Amendments to Existing Permits**

The County may amend an existing permit to reflect changes in this Ordinance.

### **3.07 Transfers**

The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with Article IV, Section 3.02 of this Ordinance. The Department shall terminate the current permit within 60 calendar days after the date of sale if an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.

### **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.
- B. Notice of suspension revocation and the reasons for revocation may 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 4.0.
- 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 and address
  - (2) Operating Permit number

- (3) Average daily flow since last compliance monitoring report
- (4) Description of type of maintenance and date performed
- (5) Description of samples taken (if required), analytical laboratory used, and results of analyses
- (6) Problems noted with the system and actions proposed or taken to correct them
- (7) Name, signature, license and license number of the licensed professional who performed the work

## **ARTICLE VI SECTION 4.0 ABANDONMENT**

### **4.01 Abandonment Requirements**

- A. Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance may be prohibited.
- B. Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Department.
- C. An owner of an SSTS may retain a licensed installation business to abandon all components of the treatment system within (30) calendar days of a system installation. Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500. Notification of the Department of an owner's intent to abandon a system is necessary.
- D. A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:
  - (1) Owner's name and contact information
  - (2) Property address
  - (3) System construction permit and operating permit
  - (4) The reason(s) for abandonment
  - (5) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

#### **4.02 Abandonment Certificate**

Upon receipt of an abandonment report and its determination that the SSTS has been abandoned according to the requirements of this Ordinance, the Department may issue an abandonment certificate. If the abandonment is not completed according to the requirements of this ordinance; the County will notify the owner of the SSTS and the SSTS contractor of the deficiencies, which shall be corrected within (30) calendar days of the notice.

### **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 application plans for review and approval. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted prior to the time of final construction certification

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

Management plans shall include (Minnesota Rules, Chapter 7082.0600, Subp.1):

- 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

May include a description of the system and each component, how the system functions, a plot plan of the system, equipment specifications, emergency operating procedures in the event of a malfunction, and a troubleshooting guide.

**2.03 Requirements for Systems not Operated under a Management Plan**  
(Minnesota Rules, Chapter 7082.0100, Subp. 3.(L))

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 PUBLIC EDUCATION OUTREACH**

Programs may periodically be provided by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.

**ARTICLE VIII, SECTION 2.0 COMPLIANCE INSPECTION PROGRAM**

**2.01 Department Responsibility**

The Department may perform or require its agents or any SSTS contractors to perform various SSTS compliance inspections to assure that the requirements of this Ordinance are met, as described in 7082.0700, Subp. 2 and 3 except for Subp. 3(3).

A. SSTS compliance inspections shall be performed to:

- (1) To ensure compliance with applicable requirements;
- (2) To ensure system compliance before issuance of a Conditional Use Permit, Granting of a Variance, permit for addition of a bedroom or bathroom; unless the permit application is made during the period of November 15 to April 15, provided a compliance inspection is performed before the following June 1 and the applicant submits a certificate of compliance by the following June 15;
- (3) For all new SSTS construction or replacement;
- (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. The Department may notify the owner of the Department's intent to inspect the SSTS in advance of the intended inspection.

- 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.

## **2.02 New Construction or Replacement**

- A. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081. SSTS found not to be in compliance with 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.
- B. It is the responsibility of the SSTS owner or the owner's agent to notify the Department two (2) calendar days prior to any permitted work on the SSTS.
- 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 property owner.
- E. The certificate of compliance or notice of noncompliance must be submitted to the Department, and to the property owner or owner's agent no later than fifteen (15) calendar days after the date the inspection was performed. The Department may then send a certificate of compliance or notice of noncompliance to the owner or the owner's agent within ninety (90) calendar days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificated of compliance has been issued.
- 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.

## **2.03 Existing Systems**

- A. Compliance inspections shall be required when any of the following conditions occur:
  - (1) When a permit is required to repair, modify, or upgrade an existing system;
  - (2) Any time there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;

- (3) Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
  - (4) 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; Chapter 7082.0700, Subp. 3(2) requires that a vertical separation report include verifications by two independent parties, which may be licensed inspection businesses and/or a qualified employee inspector with jurisdiction. A dispute resolution procedure described in 7082.0700, Subp. 5 may be followed to settle any dispute between two verifying inspectors.
  - (3) Sewage backup, surface seepage, or surface discharge including a hydraulic function report. The requirements for the inspection reports in this section are described in Minnesota Rules, Chapter 7082.0700, Subp. 4(B)
- 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 state and local SSTS 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 provisions with which the SSTS does not comply. A sewer permit application shall be submitted to the Department for any required corrective actions other than a minor repair.
- D. The certificate of compliance or notice of noncompliance must be submitted to the Department and the property owner or the owner's agent no later than fifteen (15) calendar days after the date the inspection was performed. The Department may deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within (90) calendar days of receipt from the licensed inspection business.
- E. 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.

SSTS on properties sold or transferred to new owners shall be repaired, replaced, or upgraded as determined by a compliance inspection, records search, or other means acceptable to the Department that are conducted prior to ownership transfers. The determination of need to repair, replace, or upgrade shall precede the property sale transaction. .

#### **2.04 Transfer of Properties**

- A. Whenever a 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 shall be met:
- (1) A compliance inspection has been performed and a Certificate has been issued by the Department.
  - (2) The compliance inspection must have been performed by a qualified employee of the Department or a licensed inspection business following procedures described in Article VIII, Section 2.03 of this ordinance.
  - (3) The seller of the property must disclose in writing information about the status and location of all known ISTS on the property to the buyer on a form acceptable to the Department.
  - (4) If the seller fails to provide a Certificate of Compliance, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a complying ISTS. The security shall be placed in an escrow with a licensed attorney-at-law, or federal or state chartered financial institution. The amount escrowed shall be equal to 150% of a written estimate to install a complying ISTS provided by a licensed and certified installer, or the amount escrowed shall be equal to 110% of the written contract price for the installation of a complying ISTS provided by a licensed and certified installer. After a complying SSTS has been installed and a certificate of compliance issued, the Department shall provide the escrow agent a copy of the Certificate of Compliance.
- B. The compliance portion of the Certificate of Compliance need not be completed 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) 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 an individual sewage treatment system.

- C. All property conveyances subject to this ordinance occurring during the period between November 15th and April 15th, when SSTS compliance cannot be determined due to frozen soil conditions, shall require a winter agreement, which includes an application for an SSTS permit and an agreement to complete a compliance inspection by the following June 1st by a licensed inspection business. If upon inspection the system is found to be non-compliant, an escrow agreement must be established in accordance with section 2.04 A(4), above, and the system upgraded.
- D. The responsibility for filing the completed compliance portion of the Certificate of Compliance under section 2.04 A, above, or for upgrading a system found to be non-compliant shall be the responsibility of the property seller. Buyer and seller shall provide the Department with a signed statement indicating responsibility for completing the compliance portion of the Certification and for upgrading a system found to be non-conforming.
- E. Neither the issuance of permits, certificates of compliance, or notices of noncompliance 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 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 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.

### **1.03 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 with out 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.

### **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. The County Attorney shall have authority to commence such civil action. The County may recover any and all costs, loss, damage, liability or expense incurred, including reasonable attorneys fees, incurred for enforcement of this Ordinance through a civil action based upon, resulting from, or otherwise arising in connection with any actions, claims or proceedings, brought, or any loss, damage or injury of any type whatsoever sustained, based upon, resulting from, otherwise arising in connection with any actions, claims or proceedings. The corrective action in a civil action in any court of competent jurisdiction or, at the discretion of the Freeborn County Board of Commissioners, all costs (including legal and attorney's fees) may be certified to the Freeborn County Auditor; as a Special Assessment against the real property.

### **ARTICLE IX, SECTION 3.0 STATE NOTIFICATION OF VIOLATION**

In accordance with state law, the Department may notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this Ordinance.

### **SECTION 4.0 COSTS AND REIMBURSEMENTS**

If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover all costs incurred in removal or abatement in a civil action, including legal fees; at the discretion of the County Board, the cost of an enforcement action under this ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.

### **ARTICLE X RECORD KEEPING**

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

## **ARTICLE XI ANNUAL REPORT**

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

## **ARTICLE XII 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 XIII 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 XIV 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 XV 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 XVI ORDINANCE REPEALED**

The Freeborn County previous ordinance for the regulation of Individual Sewage Treatment Systems of the County is hereby repealed.

## **ARTICLE XVII ADOPTION**

The Freeborn County Subsurface Sewage Treatment Program Ordinance is hereby adopted by Freeborn County Board of Commissioners on the 17<sup>th</sup> day of March, 2009.

**Freeborn County Board of Commissioners**

**EFFECTIVE DATE: April 1, 2009.**