

FILLMORE COUNTY SUB-SURFACE SEWAGE TREATMENT SYSTEM ORDINANCE

Adopted December 3rd, 2013
Amended October 27th, 2021

**FILLMORE COUNTY
SUB-SURFACE SEWAGE TREATMENT SYSTEM
ORDINANCE**

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FILLMORE COUNTY SUB-SURFACE SEWAGE TREATMENT SYSTEM ORDINANCE

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 Fillmore 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, as amended, 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 Shore land Ordinance, all as amended.

SECTION 1 Purpose and Intent

101. Purpose

The purpose of this ordinance is to establish minimum requirements for regulation of SSTS 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.

102. Intent

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

1. The protection of lakes, rivers and streams, wetlands, and groundwater in Fillmore County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
2. 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.
3. 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.

4. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
5. 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.

103. 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, and as amended.

104. Effective Date

The provisions set forth in this Ordinance shall become effective on December 3rd, 2013.

SECTION 2

Definitions

The following words and phrases shall have the meanings ascribed to them in this section. If not specifically defined in this Section, 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.

1. **Authorized Representative:** An employee or agent of the County Zoning Department.
2. **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 as amended, order the issuance of permits for buildings in areas allowed for future public use and perform such other duties as required by the official controls.
3. **Class V Injection Well:** A shallow well used to place a variety of fluids directly below the land surface. This includes SSTS that are designed to receive sewage or non-sewage from a two-family dwelling or greater or receive sewage or non-sewage from another establishment that serves more than twenty (20) persons per day. 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, as applicable and amended).

4. **Cluster System:** A SSTS under some form of common ownership that collects wastewater from two (2) or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.
5. **County:** Fillmore County, Minnesota.
6. **County Board:** The Fillmore County Board of Commissioners.
7. **Department:** The Fillmore County Zoning Department.
8. **Design Flow:** The daily volume of wastewater for which an SSTS is designed to treat and discharge.
9. **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 as amended; and a system not abandoned in accordance with part 7080.2500 as amended. 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.
10. **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.
11. **Individual Subsurface Sewage Treatment or ISTS:** “Individual subsurface sewage treatment system” or “ISTS” means an individual sewage treatment system or part thereof, as set forth in Minnesota Statutes, sections 115.03 and 115.55, as amended, that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade that are designed to receive a sewage design flows of 5,000 gallons per day or less. ISTS includes the holding tanks and privies that serve these same facilities. ISTS does not include building sewers or other components regulated under Chapter 4715, as amended, or collection sewers.
12. **Industrial Waste:** Sewage containing waste from activities other than sanitary waste from industrial activities including, but not limited to, the following uses defined under the Standard Industrial Classification (SIC) Codes established by the U.S. Office of Management and Budget:

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

13. MPCA: Minnesota Pollution Control Agency.

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

15. Management Plan: “Management plan” means a plan that requires the periodic examination, adjustment, testing, and other operational requirements to meet system performance expectations, including a planned course of action in the event a system does not meet performance expectations.

16. 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.

17. 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 five thousand (5,000) gallons per day to a maximum of ten thousand (10,000) gallons per day.

18. Notice of Non-compliance: “Notice of non-compliance” means a document written and signed by a certified inspector after a compliance inspection that gives notice that an SSTS is not in compliance as specified under part 7080.1500, as amended.

19. Qualified Employee: An employee of the state or a local unit of government, who may perform site evaluations or designs, installations, maintenance, pumping, or inspections to 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.

- 20. 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.
- 21. Sewage:** “Sewage” means waste produced by toilets, bathing, laundry, or culinary operations or the floor drains associated with these sources, and includes household cleaners, medications, and other constituents in sewage restricted to amounts normally used for domestic purposes.
- 22. Subsurface Sewage Treatment System or SSTS:** “Subsurface sewage treatment system” or “SSTS” is either an individual subsurface sewage treatment system as defined in subpart 45 of 7080.1100, as amended, or a mid-sized subsurface sewage treatment system as defined in part 7081.0020, subpart 4, as applicable and amended.
- 23. State:** The State of Minnesota.
- 24. Treatment Level:** Treatment system performance levels defined in Minnesota Rules, Chapter 7083.4030, and 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 A-2: $\text{cBOD}_5 \leq 15 \text{ mg/L}$; $\text{TSS} \leq 15 \text{ mg/L}$; fecal coliforms N/A.
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 B-2: $\text{cBOD}_5 \leq 25 \text{ mg/L}$; $\text{TSS} \leq 30 \text{ mg/L}$; fecal coliforms N/A.
Level C: $\text{cBOD}_5 \leq 125 \text{ mg/L}$; $\text{TSS} \leq 60 \text{ mg/L}$; 25)&G; fecal coliforms N/A.
- 25. Type I System:** An SSTS that follows a standard trench, bed, at-grade, mound, or gray water system design, as applicable, in accordance with MPCA rules, Minnesota Rules, Chapter 7080.2200 through 7080.2240, as amended.
- 26. Type II System:** An SSTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system, in accordance with Minnesota Rules, Chapter 7080.2260 through 7080.2290, as amended. These include systems on lots with rapidly permeable soils or lots in floodplains and privies or holding tanks.
- 27. Type III System:** A custom designed SSTS having potential acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system, in accordance with Minnesota Rules, Chapter 7080.2300, as amended.
- 28. Type IV System:** An SSTS, 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, in accordance with Minnesota Rules, Chapter 7080.2350, as amended.

29. Type V System: An SSTS, 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, in accordance with Minnesota Rules, Chapter 7080.2400, as amended.

SECTION 3

General Provisions

301. Scope

This Ordinance regulates the site area, 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.

302. 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 Zoning Department shall keep a current list of local jurisdictions within the County administering a SSTS program.

303. Administration

1. County Administration

The County Zoning Department shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County shall review, 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.

2. State of Minnesota

Where a single SSTS or group of SSTS under single ownership within one-half (1/2) mile of each other, have a design flow greater than ten thousand (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 ten thousand (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. Cities and Townships

Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance, as stated in Section 302, Jurisdiction, as amended. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.

304. 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.

305. Liability

Any liability or responsibility shall not be imposed upon, by, or to or from 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.

**SECTION 4
General Requirements**

401. Retroactivity

1. All SSTS

Except as explicitly set forth in Section 4, 401.02, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

2. 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, provided the permit is renewed as applicable by Fillmore County Zoning Ordinance.

3. SSTS on Lots Created after April 1, 1996

All lots created after April 1, 1996 must have a minimum of two (2) 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 and 7080.2260; or site conditions described in 7081.0270, Subp.3 through 7, as amended.

4. Existing SSTS without Permits

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

402. Upgrade, Repair, Replacement, and Abandonment

1. 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. Garbage Disposals

The construction of new or repair of existing septic systems must comply with Section 7080.01930 Septic Tank Capacity, Subp. 2 of Minnesota Rules from 2008, specifically stating “If a garbage unit or other appliance with garbage grinding capability is anticipated or installed in a dwelling, the septic tank capacity must be at least 50 percent greater than that required in subpart 1 and must include either multiple compartments or multiple tanks. In addition, an effluent screen with an alarm must be employed”.

3. Bedroom Additions

The owner is allowed twelve (12) months from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system if any of the following conditions apply:

- a. The Zoning Department issues a permit to add a bedroom;
 - b. A SSTS inspection is triggered by a bedroom 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, and Subp.4.B, as amended;
 - e. The SSTS is not determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, and Subp.4.A, as amended.
- Building permits for bedroom or bathroom additions will not be permitted until the Department has received a valid and complete septic application with a design, and applicable fee, from a licensed septic designer and/or a current compliance inspection.

4. Failure to Protect Groundwater

An SSTS that is determined not to be protective of groundwater and/or found to be a non-imminent public health threat shall be brought into compliance in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4.B thru 7080.2500 as amended and shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance.

5. 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, and Subp.4A, as amended, 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 Non-compliance.

6. 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, as amended.

403. 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, as amended, and all relevant local requirements are met.

404. 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.

405. 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.

406. Prohibitions

1. 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.

2. 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. If it is not permitted by MPCA it shall be considered an Imminent Public Health Threat.

3. Sewage Discharge to a Well, Sinkhole, or Boring

It is unlawful for any person to discharge raw or treated wastewater into any well, sinkhole, or boring as described in Minnesota Rules, Chapter 4725.2050, as amended, or any other excavation in the ground that is not in compliance with this ordinance. Persons found discharging raw or treated wastewater into any well, sinkhole, or boring shall immediately stop all discharge activities and comply with Minnesota Rules pertaining to the discharge of septage.

4. 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.

5. Warrantied Systems

Any SSTS system classified as a “Warrantied System” as found in MPCA Rules 7080 is prohibited in Fillmore County.

SECTION 5

SSTS Standards

501. 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, as amended.

502. Alternative Local Standards

1. Alternative Local Standards for New, Replacement, and Existing SSTS

Alternative local standards will apply to dwellings that do not have indoor toilet facilities, but still use water for their daily needs, in the following Townships within Fillmore County: Amherst, Bristol, Canton, Harmony, Holt, Newburg, Norway, Preble, Preston, and York. This type of system is intended to serve the Amish community and is intended to serve the needs of the Amish population within the above listed specific townships within Fillmore County.

a. Local standards.

1. Dwellings that do not have a toilet located in the home may be considered a Type IV Gray Water System and labeled, for the County’s purpose, as Amish Gray Water Systems (this does not include seasonal dwellings);
2. Such systems do not have bedroom classifications for determining gallons per day (gpd), instead, these types of systems should be calculated on a flat usage of 100 gpd;
3. Use a minimum septic tank size of 1,000 gallons;
4. Install a minimum of one-hundred (100’) feet of drainfield;
5. May use six (6”) inches of rock instead of twelve (12”) inches;
6. Require three (3’) feet of separation unless a variance is granted by the State; and
7. Follow all other rules and regulations in reference to Minnesota Rules Chapter 7080.

b. Existing systems that are not in compliance with this rule must be upgraded, replaced, or its use discontinued within eighteen (18) months of the owner’s receipt of a Notice of Violation.

2. Alternative Local Standards Requirements

This type of gray water system may be installed by the homeowner if all of the following regulations are met:

- a. The owner has a design developed by an individual licensed by the State of Minnesota to design subsurface sewage treatment systems;
- b. A septic system permit must be obtained from the County to install the gray water system;
- c. The owner of the gray water system must attend an instructional class conducted by the Local Unit of Government for proper installation, operation and maintenance of a gray water system, if the system is installed by the homeowner;
- d. The landowner or his/her family members may be the person(s) digging and installing the gray water system. If there are mechanical means used for the installation of the system such as a backhoe, skid steer or any other device used for digging, this person must be an immediate family member or be an individual licensed by the State of Minnesota to do installation of subsurface sewage treatment systems, as well as licensed to use such equipment in general;
- e. Toilet waste must not be discharged to a gray water system. There must be proof of use of an outdoor privy that is detached from the house or wash room or the presence of a chemical toilet. New and existing homes must have at least a ten (10') foot section of Schedule 40 two (2") inch PVC pipe included in the line leading to the septic tank. This line must be immediately leaving the house of a gray water system. The largest line that may be attached or added to the four (4) inch line is a Schedule 40, two (2") inch PVC pipe may be used; and
- f. The gray water system must be inspected by the LUG before, during, and prior to covering the system with soil in order for compliance inspections to be completed.

3. Locations where the Alternative Local Standards do not Apply

These alternative local standards shall not apply to systems in shore land or wellhead protection areas or to systems serving food, beverage, or lodging establishments.

503. Amendments to the Adopted Standards

1. List of Adopted Standards

- a. Fillmore County may require any person seeking any exemption listed in 7083.700, as amended, to attend MPCA certified SSTS construction training and/or sign and have on record at the County Zoning Department an agreement indemnifying the County against claims due to failure of the landowner to comply with the provisions of this ordinance.
- b. Fillmore County Permitted Sewage Treatment Systems installed prior to April 1, 1996, and not located in Shore land 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.
- c. All costs associated with the repair or replacement of a failing/non-compliant sewage treatment system shall be the responsibility of the property owner or as otherwise provided for in written agreement and on file at the County Zoning Department.
- d. When official records of a sewage treatment 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, and a penalty may be imposed by the County as set and on file in the County Zoning Office.

- e. An approved Fillmore County Holding Tank Service Agreement shall be signed and on record in the department prior to any holding tank installation.

2. 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, as amended, shall both be used to size SSTS infiltration areas using the larger sizing factor of the two (2) for SSTS design.

3. Compliance Criteria for Existing SSTS

Fillmore County permitted ISTS built before April 1st, 1996; located outside of areas designated as shore land areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two (2) feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

SSTS built after March 31, 1996 in Fillmore 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 fifteen 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, per 7080.1500, Subp.4, as amended.

4. Holding Tanks

Standards:

Installation of holding tanks, the specific conditions under which their use will be allowed are specified in 7082.0100, Subp.3G, as amended. All holding tanks shall comply with 7080.2290, items A through F, as amended. Further, all owners of holding tanks may be issued an operating permit 7082.0600, Subp.2A, as amended, which will include the provisions listed in 7082.0600, Subp.2B, (1) through (8), as amended. See Section 5. 502.02 of this Ordinance.

Fillmore County will 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 a permitted treatment facility, 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.

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:

- a. The owner shall install a holding tank in accordance with Minnesota Rules Section 7080.2290, as amended.
- b. The owner may be required to install a water meter to continuously record indoor water use.
- c. The owner shall maintain a valid contract with a licensed liquid waste hauler to pump and haul the contents from the holding tank to a licensed treatment facility and provide a copy of the contract to the Fillmore County Zoning Office. The contract that must be used is the Pumpers Contract as provided for by the Department.
- d. The holding tank shall be regularly pumped, no less frequently than monthly or other regular schedule agreed upon with the Department.
- e. 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 monthly 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.

504. Variances

1. Variance Requests

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

2. Affected Agency

Variances 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. Variances not related to the size or type of system may be authorized on-site by a Fillmore County Septic Inspector.

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, as amended, regarding the vertical separation required beneath the treatment and dispersal soil system and saturated

soil or bedrock from the required three (3) feet of unsaturated soil material (except as provided in 7082.1700, Subp.4D) must be approved by MPCA.

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 or difficulty that prevents compliance with the rule;
 3. The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions;
 4. The length of time for which the variance is requested, if applicable;
 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.

SECTION 6

SSTS Permitting

601. Permit Required

It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate permit from the Fillmore County Zoning Office. 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.

602. 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).

1. Activities Requiring a Permit

A permit is required for installation, replacement, or for any repair of a SSTS or its components that could potentially 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. 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.

3. 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. This applies to new residences or other buildings/structures that may require an SSTS.

4. 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.

5. Permit Application Requirements

Sewer Permit applications shall be made on forms provided by the County Zoning Department and/or 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. as amended.
- d. Design Report as described in Minnesota Rules, Chapter 7080.2430, as amended.
- e. Management Plan as described in Minnesota Rules, Chapter 7082.0600, as amended.
- f. Construction information and/or anything else deemed necessary by the Department.

6. Application Review and Response

All applications must be complete when submitted to the Department. The Department must receive the application at least two (2) business days prior to the start of construction and the applicant must have a permit in his or her possession prior to the start of construction. 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 shall be provided to the applicant, which would state the reason(s) for the denial.

7. Appeal

The applicant may appeal the Department’s decision to deny the Sewer Permit in accordance with the County’s established policies and appeal procedures. Appeals will be heard by the Fillmore County Board of Adjustment.

8. Permit Expiration

The Septic Permit is valid one (1) year from the date of issue. If the permit is not used within one (1) year it may be renewed at the original cost providing that the design or location has not changed. 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. Septic permits shall only be renewed for one (1) additional year beyond the initial year.

9. Transferability

A Sewer Permit may be transferred to a new property owner providing the SSTS location has not been changed or altered.

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.

603. Operating Permit

1. SSTS Requiring an Operating Permit

An Operating Permit shall be required of all owners of new MSTs or any other system deemed by the Department to require operational oversight to include Type IV and V SSTS, and holding tanks. Sewage shall not be discharged to a MSTs until the Department certifies that the MSTs 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.

2. Permit Application Requirements

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

3. 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 fifteen (15) working days of receipt of the permit application.

4. Operating Permit Terms and Conditions

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

- 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; and
- k. Anything else the Department may deem necessary based on a site by site basis.

5. 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 ninety (90) calendar days of the expiration date, the County may require that the system be abandoned in accordance with Section 4, 404.
- 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 thirty (30) calendar days before the expiration date, and it is the owner's responsibility to know the expiration date and apply for the renewal.
- 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.

6. Amendments to Existing Permits

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

7. Transfers

The operating permit shall not be transferred. A new owner shall apply for an operating permit in accordance with Section 4, Section 401.02 and 401.04 of this Ordinance. The Department shall terminate the current permit within sixty (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.

8. 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 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 Section 4, Section 401.
- d. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

9. Compliance Monitoring

- a. Performance monitoring of a SSTS shall be performed by a licensed service provider/maintainer 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 service provider/maintainer. The monitoring report must list what tasks the holder of the operating permit can carry out without the licensed service provider/maintainer. 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.

604. Abandonment Requirements

- 1. 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 shall be prohibited.

2. 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.
3. An owner of an SSTS may retain a licensed installation business to abandon all components of the treatment system within thirty (30) calendar days of a system installation. Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500, as amended. Notification to the Department of an owner's intent to abandon a system is necessary.
4. A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:
 - a. Owner's name and contact information;
 - b. Property address;
 - c. System construction permit and operating permit;
 - d. The reason(s) for abandonment; and
 - e. 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.

605. 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 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 thirty (30) calendar days of the notice.

SECTION 7 Management Plans

701. 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.

702. Management Plan Requirements

1. 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. Required Contents of a Management Plan

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

- 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.

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

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, as amended.

**SECTION 8
Compliance Management**

801. 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.

802. Compliance Inspection Program

1. Department Responsibility

The Department may perform or require its agents or any SSTS contractor to perform various SSTS compliance inspections to assure that the requirements of this Ordinance are met.

- a. SSTS compliance inspections shall be performed:
 - 1. To ensure compliance with applicable requirements;

2. To ensure system compliance before issuance of a permit for addition of a bedroom or bathroom, unless the permit application is made during the period of November 1 to April 30, provided a compliance inspection is performed before the following June 30 and the applicant submits a certificate of compliance by the following June 30 two (2) years from now;
 3. For all new SSTS construction or replacement; and
 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, as amended, using the SSTS inspection report forms provided by MPCA.
- b. All compliance inspections must be performed and signed by licensed inspection business or qualified employee certified as an inspector.
 - 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 employee(s) in the performance of his/her 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 and may deem the system non-compliant.

2. 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, as amended. SSTS found not to be in compliance with 7080.1500, Subp.4A or 7081.0080; Subp.3, as amended, must be repaired or replaced within twelve (12) months or as directed under Minnesota Statutes, Chapter 145A, as amended. 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 non-compliant with other applicable requirements must be repaired or replaced according to the Department's requirements. In the event that the County Inspector is unable to inspect the SSTS in a timely manner, the installer shall fill out an inspection report as provided by the Department and send it to the County Inspector within seven (7) working days. The establishment of a private sewer or the connection to a city's municipal sewer system shall comply with all ordinances relating to the use of public sewers.
- b. 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), as amended, 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, as amended, may be followed to settle any dispute between two verifying inspectors.
- c. It is the responsibility of the SSTS owner or the owner's agent to notify the Department one (1) calendar days prior to any permitted work on the SSTS.
- d. 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.
- e. 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 non-compliance must be issued to the property owner.
 - f. The certificate of compliance or notice of non-compliance 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 non-compliance 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 certificate of compliance has been issued.
 - g. Certificates of compliance issued for new construction or replacement systems shall remain valid for five (5) years; Certificates of Compliance issued from a Compliance Inspection shall remain valid for three (3) years from the date of issue unless the Department finds evidence of non-compliance.

3. 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 such as a bedroom or bathroom addition by which an existing SSTS may be impacted in 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 or prior to the Point of Sale and/or change in ownership.
 - 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 the Department or the MPCA. The following conditions must be assessed, or verified:
 - 1. Water tightness 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), as amended, 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, as amended, 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), as amended.
- 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 non-compliance 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 non-compliance 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 non-compliance to the owner or the owner's agent within ninety (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 non-compliance.

803. Sale or Transfer of Real Estate

1. Compliance Inspection

A subsurface sewage treatment system (SSTS) inspection must be completed before real estate is sold or transferred. The inspector must be a person certified by the State of Minnesota as an Inspector. Pre-treatment systems will require an Intermediate Inspector. The seller of the real estate shall be responsible for the SSTS inspection unless the buyer and seller agree in writing that the buyer will assume responsibility for the inspection. If the SSTS inspection is not completed prior to the sale or transfer, it shall be the duty of the new owner to complete the SSTS Inspection and file the appropriate certifications with the Zoning Office. An SSTS Compliance Inspection must be given to the person requesting the inspection and the Zoning Office within 15 days of the date the compliance inspection was completed. The SSTS Compliance Inspection shall indicate whether the SSTS is compliant with MPCA rules, non-compliant failing, or is an imminent public health threat (IPHT). If the SSTS Compliance Inspection is not provided to the Zoning Office, a monetary penalty may be charged to the buyer and seller in an amount as set by the County Board and on file in the Zoning Office. If the SSTS is compliant, no further action is needed. If it is non-compliant or failing, it must be brought up to code within twelve (12) months. If it is an imminent public health threat, it must be brought up to code within ten (10) months.

2. Escrow Account

If the SSTS must be brought up to code, and will not be completed prior to property transfer, an escrow account must be established to pay for bringing the SSTS up to code. Information pertaining to the escrow account must be submitted to the Zoning Office and provide, at a minimum, who is responsible for the escrow, amount in escrow, date escrow set up, and the cost estimate for the project. The amount of money placed in the escrow account shall be as follows:

- a. If the septic system has **not** been inspected, an escrow account in the amount of 150% of the estimated cost of bringing the SSTS up to code as determined by a person certified by the State of Minnesota to design SSTS.
- b. If the septic system has been inspected and deemed non-compliant, and if a detailed estimate of the cost of the upgrade of the septic system is submitted and

approved by the Zoning Department, an escrow account may be established in the amount of 115% of the estimated cost for the upgrade.

If the real estate is to be sold or transferred between November 1 and April 30, and if the ground is frozen, the real estate may still be sold or transferred once the Zoning Office receives proof that an escrow account has been established to pay for bringing the SSTS up to code. However, in the event that this does take place, the Certificate of Compliance showing the SSTS has been brought up to code must then be provided to the Zoning Office before June 30. Upon the sale or transfer of real estate, no Compliance Inspection is needed if:

- a. The real estate does not have a dwelling or other structure that contains, a SSTS, or any structure which requires an SSTS as outlined in Section 406(1).
- b. The sale or transfer completes a contract for deed for which there has already been a compliance inspection. This applies only to the original vendor and vendee.
- c. The dwelling or other structure is connected to a city sewer system.
- d. The sale of real estate does not need a Certificate of Real Estate Value as determined by the County Auditor.
 - If a parcel containing a dwelling is transferred without an inspection because a Certificate of Real Estate Value was not required (as determined by the County Auditor), a Compliance Inspection must be performed and submitted to the Zoning Department within 12 months of the date of the property transfer. If the SSTS is compliant, no further action is needed. If it is non-compliant or failing, it must be brought up to code or properly abandoned within twelve (12) months. If it is an imminent public health threat, it must be brought up to code or properly abandoned within ten (10) months.
- e. The system is properly abandoned by an individual or company licensed to abandon septic systems per the State of Minnesota prior to transfer, or must have an escrow account established for the abandonment in an amount to be determined by the Zoning Department.
- f. There is a Certificate of Compliance (issued from a Compliance Inspection) for an existing SSTS which is less than three (3) years old.
- g. There is a Certificate of Compliance for a new SSTS which is less than five (5) years old.

A Fillmore County SSTS Land Transfer Compliance form **must** be submitted with every property transfer, whether or not an inspection is required.

804. Reports from Concrete Suppliers

At least semi-annually, by January 15th and July 15th of each year, concrete tank manufacturers and suppliers shall submit a report to the Fillmore County Zoning Office with the names and addresses of individuals or companies that have purchased septic tanks, of any type, shape, or style, and such report shall include the date the tank was purchased. This shall apply only to septic tanks that were sold to individuals or companies that reside in Fillmore County and/or for tanks that will be placed and set within Fillmore County.

SECTION 9

Enforcement

901. Violations

1. 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.

2. 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); and
- d. A mandatory time schedule for correction, removal and compliance with this Ordinance.

3. 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.

902. 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 Fillmore County Board of

Commissioners, all costs (including legal and attorney's fees) may be certified to the Fillmore County Auditor, as a Special Assessment against the real property.

903. 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.

904. 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.

SECTION 10 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 non-compliance, 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.

SECTION 11 Annual Report

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

SECTION 12 Fees

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

SECTION 13 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.

SECTION 14

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.

SECTION 15

Abrogation and Greater Restrictions

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

SECTION 16

Ordinance Repealed

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

SECTION 17

Adoption

The Fillmore County Subsurface Sewage Treatment Program Ordinance is hereby adopted by Fillmore County Board of Commissioners on the 3rd day of December, 2013.

Chairperson, Fillmore County Board of Commissioners

ATTEST: Karen Brown, Coordinator

EFFECTIVE DATE: December 3rd, 2013