

**SUBSURFACE SEWAGE TREATMENT SYSTEM
ORDINANCE
CARLTON COUNTY**

COUNTY ORDINANCE NUMBER 30

January 1, 2010

**SSTS Ordinance
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Carlton County
ORDINANCE NO. 30
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 Midsized Subsurface Sewage Treatment Systems (MSTS) (collectively referred to as SSTS) in unsewered incorporated and unincorporated areas of Carlton 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 1 PURPOSE AND AUTHORITY

SECTION 1. PURPOSE AND INTENT

Subd. A 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.

Subd. B 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 Carlton 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.

SECTION 2. AUTHORITY.

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

SECTION 3. EFFECTIVE DATE.

The provisions set forth in this Ordinance shall become effective on January 1, 2010.

ARTICLE 2 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 Planning and Zoning 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: 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: Carlton County, Minnesota.

County Board: The Carlton County Board of Commissioners.

Department: The Carlton County Planning and Zoning Department.

Design Flow: The daily volume of wastewater for which a 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 Article 4, 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 an individual licensed pursuant to Article 4, Section 5 hereof.

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

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

SIC CODE(S)	INDUSTRY CATEGORY
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
3200-3299	Stone, Clay, Glass, and Concrete Products
3300-3399	Primary Metal Industries
3400-3499	Fabricated Metal Products (except Machinery, Transportation, and 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.

MPCA: Minnesota Pollution Control Agency.

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 to notifying a system Owner that the Owner’s onsite/cluster treatment system has been observed to be noncompliant with the requirements of this ordinance.

Qualified Employee: An employee of the state or 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 of the floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.

SSTS: Subsurface sewage treatment system, whether an individual or midsize system.

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: cBOD5 < 15 mg/L; TSS < 15 mg/L; fecal coliforms < 1,000/100 mL.
Level B: cBOD5 < 25 mg/L; TSS < 30 mg/L; fecal coliforms < 10,000/100 mL.
Level C: cBOD5 < 125 mg/L; TSS < 80 mg/L; fecal coliforms N/A.

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

Type II System: 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. These include systems on lots with rapidly permeable soils or lots in floodplains and privies or holding tanks.

Type III System: A custom designed SSTS 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 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.

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.

ARTICLE 3 GENERAL PROVISIONS

SECTION 1. SCOPE

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

SECTION 2. 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 Planning and Zoning Department shall keep a current list of local jurisdictions within the County administering a SSTS program.

SECTION 3. ADMINISTRATION

Subd. A. COUNTY ADMINISTRATION

1. The County Planning and 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.

Subd. B. STATE OF MINNESOTA

1. 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.

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

Subd. C. CITIES AND TOWNSHIPS

1. 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.

SECTION 4. 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 4 GENERAL REQUIREMENTS

SECTION 1. RETROACTIVITY

Subd. A All SSTS

Except as explicitly set forth in Article 4, Section 1, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

Subd. B Existing Permits

1. Unexpired construction permits which were issued prior to the effective date of this Ordinance 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.
2. Unexpired Operating Permits/Monitoring and Mitigation Agreements which were issued prior to the effective date of this ordinance shall remain valid under the terms and conditions of the original permit until the expiration date or until a change in ownership, whichever is earlier.

Subd. C SSTS on Lots Created after January 23, 1996

All lots created after January 23, 1996, to be served by an SSTS, 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 70.2230, 7080.2260 or site conditions as described in 7081.0270, Subp. 3 through 7.

Subd. D Existing SSTS without Permits

Existing SSTS installed after February 8, 1972, 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.

Subd. E Existing SSTS

A SSTS installed prior to the effective date of this Ordinance and meeting the minimum requirements at the time it was installed shall be allowed to continue in use except if it is determined as a failure to protect ground water or an imminent threat to public health or safety.

SECTION 2. UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT

Subd. A SSTS Capacity Expansions

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

Subd. B Bedroom Additions

1. The owner is allowed 5 years from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system if the following conditions apply:

- a. The Department issues a permit to add a bedroom;
- b. A SSTS inspection is triggered by a bedroom addition permit request;
- c. The existing system was installed between May 27, 1989 and January 3, 1996;
- d. The SSTS does not comply with Minnesota Rules, Chapter 7080.1500, Subp. 4.B.;
- e. The SSTS is not determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.A.

2. For existing systems not installed between May 27, 1989 and January 3, 1996, the upgrade, repair, replacement or abandonment of the existing system must be completed prior to occupancy of the bedroom addition.

Subd. C Failure to Protect Groundwater

An SSTS that is failing 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 24 months of receipt of a Notice of Noncompliance.

Subd. D 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. The situation causing the system to pose an imminent threat to public health or safety must be discontinued within ten (10) days of notification.

Subd. E 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.

SECTION 3. SSTS IN FLOODPLAINS

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain shall be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rules, Chapter 7080.2270 and all relevant local requirements are met.

SECTION 4. CLASS V INJECTION WELLS

All owners of new or replacement SSTS that are considered to be Class V Injection Wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V Injection Wells in property transfer disclosures.

SECTION 5. SSTS PRACTITIONER LICENSING

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

A property owner who wishes to construct a SSTS, which is to treat wastewater solely from their own dwelling or a seasonal dwelling, may install their own system without a license providing the following conditions are followed:

1. The system shall be designed by an individual licensed in accordance with Minnesota Rule 7083.0700B, and
2. The property owner shall attend and provide the department with a Certificate of attendance from a Basic Installation Course provided by the University of Minnesota Water Resources Center or an equivalent training program, or
3. Have a licensed designer present during installation when:
 - a. The vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock is determined.

- b. The trench for the dispersal system is excavated or interface soil is prepared for an above ground system.
- c. Plastic limit of the soil is determined.
- d. Pumping levels in the pump chamber are set.
- e. The As-built form is prepared.

The designer shall provide a written affidavit that they witnessed the above activities.

- 4. The property owner shall sign an agreement indemnifying the County against claims due to the failure of the owner to comply with the provisions of this Ordinance.

SECTION 6. PROHIBITIONS

Subd. A Occupancy or Use of a Building without a Compliant SSTS

- 1. It is unlawful for any person to maintain, occupy, or use any building which has plumbing and is intended for habitation that is not provided with a wastewater treatment system that complies with the provisions of this Ordinance unless connected to a municipal system.
- 2. Graywater from buildings without plumbing that originated from hand carried water must not be discharged directly to surface water, drainageways, or poorly drained soils; in a manner or volume harmful to the environment or public health; or in a manner that creates a public health nuisance as determined by the department.

Subd. B Sewage Discharge to Ground Surface or Surface Water

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

Subd. C 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.

Subd. D 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 5 SSTS STANDARDS

SECTION 1. 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.

SECTION 2. AMENDMENTS TO THE ADOPTED STANDARDS

Subd. A List of Adopted Standards

1. **Sewage** flow determination for dwellings:

<u>Design Flow</u> <u>Number of Bedrooms</u>	<u>Gallons Per Day</u>
2 or less	300
3	450
4	600
5	750
6	900

2. The design flow for additional bedrooms is determined by multiplying 150 gallons by the number of bedrooms.

Subd. B Additional Ordinary High Water Level Setback

Lakes listed on the Carlton County Waters and Wetlands Inventory Map, but not included in the Shoreland Management Overlay District, shall have a minimum SSTS setback of 100’ from the Ordinary High Water Level.

Subd. C 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) are herein adopted by reference and either shall be used to size SSTS infiltration areas for SSTS design.

Subd. D Compliance Criteria for Existing SSTS

1. SSTS built before April 1, 1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.
2. SSTS built after March 31, 1996 or SSTS located in a Shoreland Area, Wellhead Protection Area, or serving a food, beverage, or lodging establishment as defined under 7080.1100, Subp. 84 shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. 7080.1500, Subp.4

Subd. E Holding Tanks

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

Subd. F Privies

Privies that meet all of the following criteria are not required to follow vertical separation and vault guidelines depicted in MN State rules 7080.2150 and 7080.2280.

1. The privy is in a remote area with a minimum of 20 acres of lot area.
2. The privy is used on a limited seasonal basis.
3. The dwelling is served by hand carried water.
4. The privy is not within a floodplain.
5. The privy is not within a shoreland.
6. The privy is not on a hydric soil as indicated in the Carlton County Soil Survey.
7. The privy is not in a wetland as indicated on the National Wetland Inventory Map.

8. The privy shall be at least 100' from any existing well.
9. When the waste in the pit reaches a point that it is one foot below the natural ground surface, the pit shall be properly abandoned.

SECTION 3. VARIANCES

Subd. A Variance Requests

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

Subd. B Affected Agency

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

Subd. C Board of Adjustment

1. The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings. 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. Variations to wells and water supply lines must be approved by the Minnesota Department of Health.

- a. Any property owner requesting relief from the strict application of the provisions in this Ordinance must complete and submit an Application for Variance to the Department on a form provided by the Department. The variance request must include, as applicable:
 1. A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;
 2. The reasons why compliance with the provision or provisions is difficult or inappropriate;
 3. A description of the hardship that prevents compliance with the rule;
 4. The alternative measures that will be taken to ensure a comparable degree of compliance with the intention of the applicable provision;

5. The length of time for which the variance is requested;
 6. Cost considerations; and
 7. Other relevant information requested by the Department as necessary to properly evaluate the variance request.
- b. The appropriate fee shall be paid at the time of submittal of the application to receive consideration by the Board of Adjustment
 - c. Upon receipt of the variance application, the Department shall decide if a site investigation conducted by the Department will be necessary. After the necessary information has been gathered, the Department shall make a written recommendation to approve or deny the variance to the Board of Adjustment.
 - d. The Board of Adjustment consider all of the following factors in order to grant a variance:
 1. Is the request a substantial variation from the requirements of the Ordinance;
 2. Will the request have an adverse effect on government services;
 3. Will the request effect a substantial change in the character of the neighborhood or will it result in a substantial detriment to neighboring properties;
 4. Is there another feasible method to alleviate the need for a variance;
 5. Did the landowner create the need for a variance;
 6. In light of the above factors, would denying the variance serve the interests of justice.

If the variance is after-the-fact, the Board of Adjustment should consider the additional following factors:

7. Why did the applicant fail to obtain a variance, and did the applicant act in good faith;
8. Did the applicant attempt to comply with the law by obtaining permits;
9. Did the applicant obtain a permit from another entity that violated the law;
10. Did the applicant make a substantial improvement in the property;
11. Did the applicant complete repairs, construction before the applicant was informed of the impropriety;

12. Is the nature of the property residential/recreational and not commercial;
 13. Are there similar structures in place;
 14. Would the benefits to the public be outweighed by the detriments to the applicant if regulations were enforced.
- e. In granting a request for a variance, the Board of Adjustment may attach such conditions as it deems necessary to conform to the purpose and intent of this Ordinance.
 - f. Any violation of the terms and conditions of a variance issued pursuant to this Ordinance, or any violation of any provision of this Ordinance relating to the specific issue of the variance, shall result in immediate revocation of the variance.
 - g. No application for a variance which has been denied shall be resubmitted within one year of denial.
 - h. Any variance granted shall automatically expire if the system is not installed within one year of the grant of the variance.

ARTICLE 6 SSTS PERMITTING

SECTION 1. PERMITS REQUIRED

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

SECTION 2. CONSTRUCTION PERMIT

A construction permit shall be obtained by the property owner or an agent of the property owner from the County prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by appropriately certified and/or licensed practitioner(s).

Subd. A Activities Requiring a Construction Permit

A construction permit is required for installation of a new SSTS, for replacement of an existing SSTS, replacement of a tank, 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.

Subd. B Activities Not Requiring a Permit

A construction permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

Subd. C Site Plan Required to Obtain Zoning Permit

For any property on which a SSTS permit is required, prior to issuing a Zoning Permit for a new dwelling on the property the site plan must indicate the location of two suitable sites for a SSTS.

Subd. D Permit Application Requirements

1. Construction permit applications shall be made on forms provided by the Planning and Zoning Department and signed by the applicant and an appropriately certified 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.

Subd. E Application Review and Response

The Department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing 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 must state the reason for the denial.

Subd. F Appeal

The applicant may appeal the Department's decision to deny the construction permit to the Board of Adjustment under the standard appeal procedures.

Subd. G Permit Expiration

The construction permit is valid for a period of no more than one year from its date of issue. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in 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.

Subd. H Extensions and Renewals

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

Subd. I Transferability

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

Subd. J Suspension or Revocation

The Department may suspend or revoke a construction permit issued under this section for any false statements, misrepresentations of facts on which the construction permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid construction permit is obtained.

Subd. K Posting

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

SECTION 3. OPERATING PERMIT

Subd. A SSTS Requiring an Operating Permit

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

Subd. B Permit Application Requirements

1. Application for an Operating Permit shall be made on a form provided by the Planning and Zoning Department including:
 - a. Owner name, mailing address, telephone, and email address.
 - b. Construction permit reference number and date of issue.
 - c. Final record drawings of the treatment system.
 - d. Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business.

2. Monitoring and Disposal Contract

Owners of holding tanks shall provide to the Planning and Zoning Department a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minnesota Rules, Chapter 7082.0100, Subp. 3G. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, section 115.56, subdivision 2, paragraph (b), clause (3).

3. Holding Tanks, Type IV or Type V Systems, or MSTs existing prior to the effective date of the ordinance.

All Holding Tanks, Type IV or Type V Systems, or MSTs existing prior to the effective date of this Ordinance shall require an operating permit upon transfer of ownership, replacement, any modification or expansion that requires a permit, or following any SSTS enforcement action.

Subd. C Department Response

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

Subd. D Operating Permit Terms and Conditions

1. 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.

Subd. E Permit Expiration and Renewal

1. Operating Permits shall be valid for the specific term stated on the permit as determined by the Department.
2. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service and not operated until the permit is renewed. If not renewed within in 90 calendar days of the expiration date, the Regulatory Authority may require that the system be abandoned in accordance with Article 4, Section 2, Subd. E.
3. The Department shall notify the holder of an operating permit at least 90 calendar days prior to expiration of the permit. The Owner must apply for renewal at least 30 calendar days before the expiration date.
4. Application shall be made on a form provided by the Department including:
 - a. Applicant name, mailing address and phone number.
 - b. Reference number of previous owner's operating permit.
 - c. Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit.
 - d. Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the Regulatory Authority.
 - e. Any revisions made to the operation and maintenance manual.
5. Payment of application review fee as determined by the Regulatory Authority.

Subd. F Amendments to Existing Permits not Allowed

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

Subd. G Transfers

The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with Article 6, Section 3 of this Ordinance. The Department shall not terminate the current permit until 60 calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require a compliance inspection of the treatment system certified by a licensed inspector or qualified employee.

Subd. H Suspension or Revocation

1. 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.
2. Notice of suspension or revocation and the reasons for revocation shall be conveyed in writing to the owner.
3. 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 4, Section 2, E.
4. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

Subd. I Compliance Monitoring

1. 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.
2. 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:
 - a. Owner name and address.
 - b. Operating Permit number.
 - c. Average daily flow since last compliance monitoring report.
 - d. Description of type of maintenance and date performed.
 - e. Description of samples taken (if required), analytical laboratory used, and results of analyses.
 - f. Problems noted with the system and actions proposed or taken to correct them.
 - g. Name, signature, license and license number of the licensed professional who performed the work.

SECTION 4. ABANDONMENT CERTIFICATION

Subd. A Purpose

The purpose of the System Abandonment Certification is to ensure that a treatment system no longer in service is abandoned within a reasonable time following decommissioning and in a manner that protects public health, safety and water quality. It also terminates all permits associated with the system.

Subd. B 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 must retain a licensed installation business to abandon all components of the treatment system within 60 calendar days of a systems use being discontinued. Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500. No prior notification of 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.
 - 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.

Subd. C Abandonment Certificate

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

ARTICLE 7 MANAGEMENT PLANS

SECTION 1. 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.

SECTION 2. MANAGEMENT PLAN REQUIREMENTS

Subd. A SSTS Requiring Management Plans

Management plans are required for all new or replacement Type I, Type II and Type III SSTS. The management plan shall be submitted to the Department with the construction permit application for review and approval. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

Subd. B Required Contents of a Management Plan

1. 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. A description of the system and each component, how the system functions, a sketch of the system, equipment specifications, and emergency operating procedures in the event of a malfunction, and a troubleshooting guide.

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

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

ARTICLE 8 COMPLIANCE MANAGEMENT

SECTION 1. PUBLIC EDUCATION OUTREACH

Programs may 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.

SECTION 2. COMPLIANCE INSPECTION PROGRAM

Subd. A Department Responsibility

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

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

The Compliance Inspection shall be completed as indicated in Article 8, Section 2, Subdivision C;

If a notice of noncompliance is issued, a replacement shall follow Article 4, Section 2, Subdivision C and D;

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. As used in this paragraph, “property” does

not include a residence or private building. The Department shall notify the owner of the Department's intent to inspect the SSTS.

- 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.

Subd. B New Construction or Replacement

1. 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. 3 or 7081.0080, Subp. 3 must be repaired or replaced and reinspected for compliance.

- a. The owner or owner's agent shall notify the Department that the system is ready for an inspection prior to the completion and covering of the SSTS. The installation and construction of the SSTS shall be in accordance with the permit requirement and application design. If any SSTS component is covered before being inspected and approved by the Department, it shall be uncovered upon the direction of the Department. Proposals to alter the permitted construction shall be reviewed and the proposed change accepted by the Department prior to construction. Inspections shall be conducted at least once during the construction of the SSTS, at such time as to assure that the system has been constructed per submitted and approved design.

A final inspection is required for an at-grade and mound system. This shall be done after the completion of the final cover, sloping and topsoil has been added. The owner or owner's agent shall have the system ready for final inspection within thirty (30) days after the initial inspection.

If, during an inspection, the inspector discovers that any part of the system is not constructed in accordance with the minimum standards provided in this ordinance, notification shall be given to the applicant/installer describing the defects and a time period to make the corrections. The owner or owner's agent shall pay a reinspection fee prior to the reinspection. The fee shall be established by the County Board.

- b. Notifications for Inspections.
 1. It shall be the duty of the owner or owner's agent to notify the Department at least 24 hours prior to the day the inspection is desired.
 2. The Department shall make every effort to inspect the system within 48 hours after notification.

- c. As-builts shall be submitted to the Department within 5 working days of completion of the work on the SSTS. These shall be submitted on forms provided or approved by the Department.
- d. When required by the Department, holding, septic, or dosing tanks shall be filled with liquid to the discharge invert level for a sufficient period of time to demonstrate they are water tight.
- e. A Certificate of Compliance for new SSTS construction or replacement 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.
- f. The Certificate of Compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.
- g. The Department shall deliver the Certificate of Compliance or Notice of Noncompliance to the owner or the owner's agent. No SSTS shall be placed into operation until a valid Certificate of Compliance has been issued.
- h. 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.

Subd. C Existing Systems

1. Compliance inspections shall be required when any of the following conditions occur:
 - a. When a construction permit is required to repair, modify, or upgrade an existing system;
 - b. Anytime there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
 - c. Anytime there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
 - d. At anytime as required by this Ordinance or the Department deems appropriate such as upon receipt of a signed, written complaint of a system malfunction.
 - e. Any permit application within the shoreland areas of the County.

- f. The sale or transfer of a tract of land in a shoreland area in which a dwelling is located or a tract of land on which a structure which is required to have an SSTS is located.
 2. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified:
 - a. Water tightness assessment of all treatment tanks including a leakage report;
 - 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;
 - c. Sewage backup, surface seepage, or surface discharge including a hydraulic function report.
 3. The Certificate of Compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A construction permit application must be submitted to the Department if the required corrective action is not a minor repair.
 4. The Certificate of Compliance or Notice of Noncompliance must be submitted to the Department and the property owner or owner's agent no later than fifteen (15) calendar days after the compliance inspection. If a Notice of Noncompliance is issued, the Department shall deliver an Abatement Notice to the owner or owner's agent.
 5. 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.

Subd. D Transfer of Properties

1. Whenever a conveyance of land upon which a dwelling is located within a shoreland area, or a tract of land upon which a structure that is required to have an SSTS occurs, the following requirements shall be met:
 - a. A compliance inspection has been performed and Certificate of Compliance has been issued by the Department within three years for SSTS older than five years or within five years if the system is less than five years old prior to the intended sale or transfer of the property, unless evidence is found identifying an Imminent Threat to Public Health and Safety.
 - b. The compliance inspection must have been performed by a Qualified Employee of the Department or a licensed inspection business following procedures described in

Article 8, Section 2, Subd. A of this Ordinance.

- c. 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 SSTS. The security shall be placed in an escrow with a licensed real estate closer, 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 SSTS 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 SSTS 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.
2. The Certificate of Compliance need not be completed if the sale or transfer involves the following circumstances:
 - a. The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
 - b. The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, Subdivision 1.
 - c. The transfer is a foreclosure or tax forfeiture.
 - d. The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this Ordinance. This subsection applies only to the original vendor and vendee on such a contract.
 - e. 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.
 3. All property conveyances subject to this ordinance occurring during the period between November 1st and April 30th when SSTS compliance cannot be determined due to frozen soil conditions shall require a winter agreement, which includes an agreement to complete a compliance inspection by the following June 1st by a licensed inspection business and an escrow agreement established in accordance with Subd. D, 1 C above, and the system upgraded.
 4. The responsibility for filing the completed compliance portion of the Certificate of Compliance under Subd. D, 1 above, or for upgrading a system found to be non-compliant shall be determined by the buyer and 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.

5. Neither the issuance of permits, Certificates of Compliance or Notices of Noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

ARTICLE 9 ENFORCEMENT

SECTION 1. VIOLATIONS

Subd. A 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.

Subd. B Notice of Violation

1. 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.

Subd. C 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, it shall not be resumed until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

SECTION 2. PROSECUTION

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

SECTION 3. STATE NOTIFICATION OF VIOLATION

In accordance with state law, the Department shall 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. COSTS AND REIMBURSEMENTS

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

ARTICLE 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 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 11 DISPUTE RESOLUTION

The County Board may establish a Dispute Resolution Policy to resolve differences of opinions between two SSTS professionals or between a SSTS professional and a Carlton County SSTS professional relating to the depth to redoximorphic features.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 15 VALIDITY

If any section, subdivision or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE 16 REPEAL OF EXISTING ORDINANCE

The Individual Sewage Treatment Systems Ordinance of Carlton County, Ordinance #25, adopted November 10, 1997, and any subsequent amendments are repealed upon effectuation of this Ordinance.

ARTICLE 17 ADOPTION

Carlton County's Subsurface Sewage Treatment Program Ordinance, Ordinance #30 is hereby adopted by the Carlton County Board of Commissioners on the 26th day of October, 2009.

/s/ R. J. Brenner
Chairperson, Carlton County Board of Commissioners

ATTEST:

/s/ Paul G. Gassert
Paul G. Gassert, County Auditor/Treasurer

Public Hearing held at the Carlton County Transportation Department on May 6, 2009 at 7:00 p.m.

Legal notice published in the Star Gazette on the 16th day of April, 2009.

Ordinance published in the Star Gazette on the 19th day of November, 2009.