

Ordinance No. 30-A

An Ordinance Amending Ordinance No. 30 – Subsurface Sewage Treatment System Ordinance Carlton County

The Board of Commissioners ordains as follows:

SECTION I. ARTICLE 2, "DEFINITIONS" is amended to read as follows:

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 A2: cBOD5 < 15 mg/L; TSS < 15 mg/L.
- Level B: cBOD5 < 25 mg/L; TSS < 30 mg/L; fecal coliforms < 10,000/100 mL.
- Level B2: cBOD < 25 mg/L; TSS < 30 mg/L.
- Level C: cBOD5 < 125 mg/L; TSS < 60 mg/L; O&G < 25 mg/L; fecal coliforms N/A.

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 in floodplains and privies or holding tanks.

SECTION II. ARTICLE 3, SECTION 3, Subdivision B is amended to read as follows:

Subd. B. STATE OF MINNESOTA

The owner or owners of a single SSTS or a group of SSTS under common ownership shall obtain a State Disposal System (SDS) permit from the MPCA according to Minnesota Rules Chapter 7001 when all or part of proposed or existing soil dispersal components are within one-half mile of each other and the combined flow from all proposed and existing SSTS is greater than 10,000 gallons per day. For proposed SSTS, the flow must be determined according to Minnesota Rules Chapter 7081.0040 Subp. 1.D. For existing SSTS, the flow is

determined by the greater of the following: (1) the average maximum seven-day measured flow; or (2) the flow determined by Minnesota Rules Chapter 7081.0040 Subp.1.D.

SECTION III. ARTICLE 4, SECTION 1, Subdivision C is amended to read as follows:

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 or site conditions as described in 7081.0270, Subp. 3 through 7.

SECTION IV. ARTICLE 4, SECTION 2, Subdivision B is amended to read as follows:

Subd. B Bedroom Additions

1. When the Department issues a permit for a bedroom addition a compliance inspection is triggered.
2. If the SSTS is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.A, the system must be upgraded according to Article 4, Section 2, Subdivision D.
3. For existing systems the upgrade, repair, replacement or abandonment of the existing system must be completed prior to occupancy of the bedroom addition.

SECTION V. ARTICLE 5, SECTION 3, Variances is amended to read as follows:

SECTION 3. VARIANCES

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. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.

- a. Any property owner requesting relief from the strict application of the provisions in this Ordinance must complete and submit an Application for Variance to the Department

on a form provided by the Department. The variance request must include, as applicable:

1. A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;
 2. The reasons why compliance with the provision or provisions is difficult or inappropriate;
 3. A description of the practical difficulty 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 shall consider all of the following factors in order to grant a variance:
1. The property owner is proposing to use the property in a reasonable manner not permitted by this Ordinance;
 2. Economic considerations alone do not constitute a practical difficulty if a reasonable use for the property exists under the terms of this Ordinance;
 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. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located;
 5. The practical difficulty is unique to the subject property and is not created by the property owner or prior property owners;

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

6 Why did the applicant fail to obtain a variance, and did the applicant act in good faith;

7. Did the applicant attempt to comply with the law by obtaining permits;

8. Did the applicant obtain a permit from another entity that violated the law;

9. Did the applicant make a substantial improvement in the property;

10. Did the applicant complete repairs, construction before the applicant was informed of the impropriety;

11. Is the nature of the property residential/recreational and not commercial;

12. Are there similar structures in place;

13. 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.

SECTION VI. ARTICLE 6, SECTION 3, Subdivision A is amended to read as follows:

Subd. A SSTS Requiring an Operating Permit

An Operating Permit shall be required of all owners of new 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 MSTs until the Planning and Zoning Department certifies that the Type IV or V system, or 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.

SECTION VII. ARTICLE 6, SECTION 3, Subdivision I is amended to read as follows:

Subd. I Compliance Monitoring

1. Performance monitoring of a SSTS shall be performed by an appropriately 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 an appropriately 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:

SECTION VIII. ARTICLE 6, SECTION 4, Subdivision B, 3 is amended to read as follows:

3. An owner of an SSTS must 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.

SECTION IX This Ordinance shall be in full force and effect after its passage and publication according to law.

Approved and adopted by the Board of Commissioners of Carlton County this 9th day of August, 2011.

/s/ Thomas R. Proulx
Thomas R. Proulx, Chairman
Carlton County Board of Commissioners

ATTEST:

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

Legal notice published in the Arrowhead Leader on the 21st day of July, 2011.

Public Hearing held at the Carlton County Transportation Department on August 3, 2011 at 7:00 p.m.

Ordinance published in the Arrowhead Leader on the 22nd of September, 2011.