

CASS COUNTY

INDIVIDUAL SEWAGE

TREATMENT SYSTEM

ORDINANCE

EFFECTIVE MAY 16, 1998

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SECTION 1. GENERAL PROVISIONS

1.10 PURPOSE AND JURISDICTION.

The purpose of the Individual Sewage Treatment System Ordinance shall be to provide minimum standards for and regulation of individual sewage treatment systems (ISTS) and septage disposal including the proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minn. Stat. Chapters 115 and 145A, Minnesota Rules Chapter 7080 as amended, and the Cass County Comprehensive Land Use Plan that may pertain to sewage and wastewater treatment. The jurisdiction of this ordinance shall include all lands in the unincorporated areas of Cass County, Minnesota and incorporated areas as may be added by mutual agreement of the jurisdictions involved.

1.20 DEFINITIONS

The following words are hereby defined for the purposes of this ordinance:

AS-BUILTS - Drawings and documentation specifying the final in-place location, size and type of all system components. These records identify the results of materials testing and describe conditions during construction. As-builts contain a certified statement.

BEDROOM - Any room used principally for sleeping purposes, an all-purpose room, a study, or a den. A room planned and intended for sleeping.

CERTIFICATE OF COMPLIANCE, ISTS - A document from a licensed sewage treatment inspector fully licensed by the State of Minnesota or a qualified employee provided to the owner of property on which a dwelling is located which is required to have an ISTS and to Cass County, indicating that said ISTS is not a failing system nor an imminent threat to public health or safety and, for new construction and replacement, is constructed in compliance with Minnesota Rules, Chapter 7080, as amended.

COMPLIANCE INSPECTION - Any evaluation, investigation, inspection, or other such process to make conclusions, recommendations, or statements regarding an individual sewage treatment system to reasonably assure an individual sewage treatment system is in compliance as specified under part this Ordinance. Compliance inspections must be conducted by a State-licensed Inspector with a D1 certification, independent of the owner and the installer.

CONVEYANCE - The sale and every other method, direct or indirect, of disposing or parting with real property, or with an interest therein which requires the filing of a Certificate of Real Estate Value, or involves the establishment of a trust.

DEPARTMENT - The Cass County Environmental Services Department, or their designated agent who is a qualified employee or licensee.

DWELLING - Any building, recreational vehicle, travel trailer, or place used or intended to be used by human occupants as a residence and which is connected to pressurized water.

FAILING SYSTEM - Any ISTS that discharges sewage to a seepage pit, cesspool, drywell or leaching pit, and any system with less than three feet of soil between the bottom of the distribution medium and evidence of seasonal high water table or bedrock. In addition any system posing an imminent threat to public health or safety as defined in MN.RULES 7080.0020 Subp.19a shall be considered failing.

HOLDING TANK - A tank for storage of sewage until it can be transported to a point of approved treatment and disposal.

INCORPORATION - The mixing of manure or septage with the topsoil, concurrent with the application or immediately thereafter, by means such as discing, plowing, rototilling, injection or other mechanical means.

INDIVIDUAL SEWAGE TREATMENT SYSTEM (ISTS) - A sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal. Individual sewage treatment system includes holding tanks and privies.

INSPECTOR - An individual qualified to review proposed plans and inspect ISTS and who meet the licensure and registration requirements of the Minnesota Pollution Control Agency.

INTERMITTENT STREAM - A watercourse which carries water on an infrequent or seasonal basis, but which has a well defined stream channel.

LAND SPREADING - The placement of septage or human waste from septic or holding tanks on or into the soil surface.

LAND USE DEVELOPMENT APPLICATION - The term includes, but not limited to applications for the following: construction permits, ISTS permits, vegetative alteration permits, topographic alterations permits, or other types of zoning permits, conditional use permits, amendments to this Ordinance, variances from the provisions of Ordinance, and the subdivision of real estate. The application is not considered complete and will not be accepted by the Cass County Environmental Services Department unless all fees are paid, preliminary reviews and approvals completed, submitted with associated supporting information and documents, and such other information as required by the Cass County Environmental Services Department.

MOTTLING - As applied to soils, means a zone of chemical and reduction activity, appearing as splotchy patches of red, brown, or grey in the soil. In subsoils with a color value of four or more, the term mottling also includes soil having matrix colors with a chroma of two or less as described in "Keys to Soil Taxonomy" 5th Edition, 1992 Soil Management Support Services, technical monograph No. 19, which is incorporated by reference.

MPCA - Minnesota Pollution Control Agency.

NOTICE OF NONCOMPLIANCE - A document written and signed by a qualified employee or licensee after a compliance inspection which gives notice that an individual sewage treatment system is not in compliance as specified under part Minnesota Rules, Chapter 7080.0060.

PRIVY - An aboveground structure with an underground cavity which is used for the storage or treatment and disposal of toilet wastes, specifically excluding water for flushing or greywater. For the purposes of this ordinance, a privy shall be considered a standard system.

QUALIFIED EMPLOYEE - An employee of state or local government who conducts site evaluations or designs; installs, maintains, pumps, or inspects individual sewage treatment systems as part of employment duties and is registered on the ISTS professional register with specialty area endorsements applicable to the work being conducted. A qualified employee may be an apprentice if the individual has specialty area endorsements applicable to the work to be completed, has fulfilled the contractual requirement under Chapter 7080, and has been issued performance restrictions.

RESIDENCE - A home, abode, or place where an individual is actually living at a specific point in time.

SELLER - Any person, group, partnership, trust, trustor, corporation, or other entity who initiates the conveyance of ownership of or interest in real property.

SEPTAGE - Solids and liquids removed during periodic maintenance of an ISTS, or solids and liquids which are removed from toilet waste treatment devices or a holding tank.

SEWAGE - Any water-carried domestic waste, exclusive of footing and roof drainage, from any industrial, agricultural, or commercial establishment, or any dwelling or any other structure. Domestic waste includes liquid waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources, and specifically excludes animal waste and commercial or industrial wastewater.

TOILET WASTE TREATMENT DEVICES - Privies and other devices including incinerating, composting, biological, chemical, recirculating, or holding toilets.

1.30 OBJECTIVES.

The principal objectives of this Ordinance shall include the following:

- 1.31 The protection of Cass County's lakes, wetlands, rivers and streams and supplies of groundwater essential to the promotion of public health, safety and welfare; the protection of the County's environment and its socioeconomic growth and development of the County in perpetuity.
- 1.32 Given the extensive resources and numerous supplies of surface water and groundwater and their susceptibility to contamination, regulation of proper ISTS construction, reconstruction, repair and maintenance and proper septage disposal is essential to prevent the entry and migration of contaminants, thereby ensuring the non-degradation of surface water and groundwater;
- 1.33 The provision of establishing minimum standards for ISTS placement, design, construction, re-construction, repair and maintenance to prevent contamination and, if contamination is discovered, to identify and control its consequences and abate its source and migration.
- 1.34 The provision of establishing minimum standards for septage removal, transport, treatment and disposal;

1.35 The utilization of privy vaults and other non-water carried ISTS;

1.36 The prevention and control of water-borne disease, lake degradation, groundwater related hazards, and public nuisance conditions through plan reviews, inspections, ISTS surveys and complaint investigation, as well as through technical assistance and education.

1.40 SCOPE.

This Ordinance shall regulate the design, construction and repair of ISTS in Cass County, including but not necessarily limited to individual on-site and cluster or community ISTS, privy vaults, and other non-water carried ISTS, repair and/or replacement of failing ISTS and septage disposal.

1.50 REPEAL OF EXISTING ORDINANCES.

All ordinances or parts of ordinances of Cass County in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 2. ADMINISTRATION

2.10 STANDARDS ADOPTED BY REFERENCE AND EXCEPTIONS.

This Ordinance hereby adopts by reference the current version of Minnesota Rules Chapter 7080, Sections 7080.0020, 7080.0060, 7080.0065, 7080.0110, 7080.0120, 7080.0125, 7080.0130, 7080.0150, 7080.0160, 7080.0170, 7080.0175, 7080.0176, 7080.0910, as amended, being the Sections containing the technical standards and criteria contained in the "Individual Sewage Treatment Systems Program", with the following exceptions:

2.103 7080.0020, Subpart 11b - Require an on-site jar test of sand to be used in mound construction. A quart jar is filled with exactly two inches (2") of the sand sample, then the jar filled three quarters full of water. The sample is then thoroughly agitated and let stand for up to one hour. If more than one eighth of an inch (1/8") of fines accumulate in the bottom of the jar, the sand is unsuitable for use in mound construction.

2.105 7080.0020, Subpart 15a - Require that drainfield rock be washed and free of sand, silt, and clay when placed in the mound, rock bed, or trench.

2.11 7080.0020, Subpart 16 - The definition of dwelling is amended to read "Dwelling means any building, recreational vehicle, travel trailer, or place used or intended to be used by human occupants as a residence and which is connected to pressurized water."

2.12 7080.0060, Subpart 4 - If an ISTS is found to be an imminent health threat require:
1. Discontinuance of system use, or;
2. Pumping of the system within 24 hours and management of the system as a holding tank until the ISTS upgrade is completed.

- 2.13 7080.0125, Subpart 2, - Allow only Type I and Type II sizing. All new construction shall be sized as a Type I dwelling.
- 2.14 7080.0130, Subpart 1, D - Prohibit the use of metal septic tanks.
- 2.15 7080.0130, Subpart 2, M, (3) - Eliminate the center inspection pipe.
- 2.16 7080.0130, Subpart 3, A - Capacity of Septic Tanks - The minimum size tank is 1000 gallons.
- 2.17 7080.0160, Subpart 1, C - The minimum dosing chamber capacity shall include an alternating two-pump system or have a minimum total capacity of 100 percent of the daily design flow.
- 2.175 7080.0160, Subpart 1, E - All pumps shall be elevated on a block a minimum of 4 inches above the bottom of the dosing chamber.
- 2.18 7080.0170 - Add Subpart 7 establishing privies as standard systems and move criteria for privies from 7080.0910, Subpart 3, F.
- 2.183 7080.0170, Subpart 2 B. (3) c. - Require a minimum soil sizing factor of 1.67 for systems using gravelless pipe.
- 2.185 7080.0170, Subpart 2, D. (1) - Performance standards shall apply on any ISTS when less than Chapter 7080 site requirements for the treatment of wastewater. Performance standards for the ISTS must protect public and environmental health. Performance standards shall require an operating permit from the Department, addressing particular aspects of each system. Operating permits shall require the permittee to monitor and maintain the ISTS.
- 2.19 7080.0700, Subpart 1. B - Require commercial systems to be installed by a state-licensed installer.

2.20 ADMINISTRATION BY CASS COUNTY.

The Cass County Environmental Services Department shall regulate ISTS and septage disposal in Cass County pursuant to this Ordinance.

2.21 DEPARTMENTAL DUTIES AND RESPONSIBILITIES

- A. To review all applications for ISTS with daily flows under 10,000 gallons;
- B. To review all proposals for the land application of septage;
- C. To issue all permits required by this Ordinance.
- D. To inspect work in progress to determine its conformance with this Ordinance;
- E. To investigate complaints regarding ISTS and septage disposal;
- F. To issue certificates of compliance or notices of noncompliance where appropriate;
- G. To issue Cease and Desist Orders and Notices of Violation, pursuant to this Ordinance;
- H. To take complaints to the County Attorney for violations of this Ordinance; and

- I. To maintain proper records for ISTS and septage disposal including site evaluation records, design records including calculations and summaries for all system component sizings and as-builts.
- J. To submit annual reports to the MPCA to demonstrate enforcement of the local ordinance per Chapter 7080.0310.

2.22 Upon Conveyance of Property

- A. Any on-site sewage treatment system located on real property lying within Cass County shall be brought into compliance with the requirements of the current individual sewage treatment systems(ISTS) standard promulgated by the Minnesota Pollution Control Agency (MPCA) in Minn. Rules, Chapter 7080, hereinafter known as "Chapter 7080", or the Cass County Individual Sewage Treatment System Ordinance, hereinafter known as "the Ordinance", whichever is most restrictive, upon conveyance of said real property.
- B. Prior to the conveyance of any real property, the seller must disclose in writing to the buyer information about the status and location of all known ISTS on the property by delivering to the buyer either a sworn affidavit by the seller that no ISTS exists on the property to the best of their knowledge after diligent investigation, or a certificate of compliance or notice of non-compliance meeting all provisions of Chapter 7080 being the result of a compliance inspection conducted by a Minnesota state registered inspector holding a Designer I or Inspector certification. A certificate of compliance (certificate of compliance) or notice of noncompliance (notice of noncompliance) meeting all provisions of Chapter 7080 must be submitted to the Cass County Environmental Services Department and the seller within 30 days after the compliance inspection. If an individual sewage treatment system is found to be in noncompliance, a site evaluation meeting all provisions of Chapter 7080 must be submitted with the notice of noncompliance.
- 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 ISTS. 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 ISTS provided by a licensed and certified installer, or the amount escrowed shall be equal to 110% of the written contract price for the installation of a complying ISTS provided by a licensed and certified installer. After a complying ISTS has been installed and a certificate of compliance issued, the Cass County Environmental Services Department shall provide the escrow agent a copy of the certificate of compliance.
- D. At the time of recording the conveyance of any real property within the unincorporated areas of Cass County, the seller shall provide to the Department or the County Recorder one of the following: (1) a sworn affidavit by the seller certifying that no individual sewage treatment system exists on said property to the best of their knowledge after diligent investigation (affidavit), or (2) a Certificate of Compliance on forms approved by the Environmental Services Department (certificate), or (3) a packet consisting of the following documents to be referred to as an escrow packet: a) an escrow agreement as provided by subdivision "C" of this section, b) an attached

written estimate or contract to install a complying ISTS provided by a licensed and certified installer ; and, c) an attached ISTS permit application for the installation of the ISTS (packet), or (4) an ISTS permit application and ISTS Compliance Inspection Agreement for conveyances which take place between November 15th and April 15th when compliance cannot be determined (winter agreement). Failure to comply with a requirement of this subdivision does not impair the validity of the deed. Failure to present to the Department or County Recorder an affidavit, certificate of compliance, escrow packet, or a winter agreement as outlined in this subdivision shall constitute a misdemeanor and shall be punishable as defined by Minnesota State Statutes.

- E. Liability for Failure to Disclose: Unless the buyer and seller agree to the contrary in writing before the closing of the sale, a seller who fails to disclose the existence of an individual sewage treatment system at the time of sale and knew or had reason to know of the existence of an individual sewage treatment system is liable to the buyer for costs relating to bringing the individual sewage treatment system into compliance with the Cass County Individual Sewage Treatment System Ordinance, and reasonable attorney's fees for collection of costs from the seller, if the action is commenced within two (2) years after the date the buyer closed the purchase of the real property where the individual sewage treatment system is located. Said civil liability shall in no way impair a criminal prosecution for the same violation.
- F. An individual sewage treatment system not meeting the requirements of the Cass County Individual Sewage Treatment System Ordinance must be upgraded in accordance with item D of this section prior to the issuance of any Cass County land use; or food, beverage, and lodging permit or license.
- G. In accordance with section D, (4) above, all property conveyances subject to this ordinance occurring during the period between November 15th and April 15th when ISTS compliance cannot be determined due to frozen soil conditions shall require a winter agreement, which includes an application for an ISTS permit and an ISTS Compliance Inspection Agreement. The compliance inspection must be completed by following June 1st by a state-licensed compliance inspector. If upon inspection the ISTS is found to be in compliance, the permit fee will be refunded. If upon inspection the system is found to be failed, an escrow agreement must be established in accordance with section C, above, and the system must be upgraded.

2.23 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.

2.30 ADMINISTRATION BY STATE AGENCIES.

2.31 For an on-site ISTS, or group of systems that are located on adjacent properties and under single ownership, the owner or owners shall make application for and obtain a State Disposal System permit from the Minnesota Pollution Control Agency if the on-site ISTS or group of systems are designed to treat an average design flow greater than 10,000 gallons per day.

- 2.32** For dwellings including apartments, townhouses, resort units, rental cabins and condominiums, the sum of the flows from all existing and proposed sources under single management or ownership will be used to determine the need for a State Disposal System permit.
- 2.33** Any ISTS requiring approval by the State of Minnesota shall also comply with all local codes and this Ordinance.
- 2.34** Plans and specifications must receive appropriate state and local approval before construction is initiated.

SECTION 3. PERMITTING

3.10 PERMITS REQUIRED.

3.11 ISTS PERMITS.

A permit shall be obtained whenever any ISTS in Cass County is installed, replaced, altered, repaired or extended, except as identified under Section 3.20 . Installation, replacement, alteration, repair, or extension of an ISTS shall not begin without first making an application for a permit and obtaining said permit from the Department for each specific installation, replacement, alteration, repair or extension pursuant to this Ordinance. A permit shall not be required only for the work. Permits are not transferable as to person or place and expire 12 months after date of issuance. Any application received must be accompanied by a site evaluation and design prepared by a state-licensed site evaluator/designer.

3.12 LAND USE PERMITS

Prior to the issuance of any land use permit authorized by the Department, an investigation shall be made to determine that a complying ISTS serves any dwelling on the subject property. Any noncomplying ISTS so found shall be reconstructed or replaced in accordance with the provisions of this Ordinance.

3.13 HOLDING TANKS

- A. After the date of enactment of this Ordinance, any owner of a property installing a holding tank as a permanent ISTS shall obtain from the Department, and annually renew, a holding tank permit. Renewals shall be due on or before January 1st of each year and shall be accompanied by evidence of all pumping done in the previous year, such as paid receipts from a state-licensed septage pumper. In addition, a water meter must be installed which records the flow of all water that is discharged into the ISTS. Meter readings shall be made available to the Department upon request. Failure to pump a holding tank, renew a holding tank permit, or provide the required information at the time of permit renewal shall constitute a violation of this Ordinance.
- B. Any owner of a property having an existing holding tank as a permanent ISTS which pre-dates the enactment of this Ordinance and does not provide annual evidence of all pumping done in the previous year shall be required to comply with part "A" of this section.

3.14 POSTING OF PERMITS

Permits shall be posted in a conspicuous location by the permittee.

3.20 PERMITS NOT REQUIRED.

Permits shall not be required only for the repair or replacement of pumps, floats or electrical devices germane to the pump.

3.30 PROPERTY OWNERS DOING OWN WORK.

Property owners who may be permitted to construct or repair ISTS for their own residence shall be exempted from providing proof of a State license but shall be required to execute a signed indemnification agreement pursuant to Section 3.31. Property owners doing their own work must comply with Section 3.10 as well as other applicable provisions of this Ordinance. A property owner shall have either a current license issued by the Minnesota Pollution Control Agency for Designer I or II if they wish to perform the site evaluation or design their own ISTS. Commercial systems cannot be constructed by anyone other than a licensed installer.

A. INDEMNIFICATION AGREEMENT

The permittee shall provide a signed agreement to the Department which indemnifies and saves the County, holding it harmless from all losses, damages, costs and charges that may be incurred by the County due to the failure of the permittee to conform to and comply with the provision of this Ordinance. (also add to permit application form)

3.40 PERMIT APPLICATION REQUIREMENTS.

All applications for a ISTS permit shall include the following information:

- A.** Name and address of property owner;
- B.** Property identification number;
- C.** Legal description of the property;
- D.** ISTS Designer Name, address, phone number and State ISTS License number; (or Department qualified employee name and number)
- E.** Site evaluation report on a form as provided by the county;
- F.** System design with full information including applicable construction information on forms as provided by the county, and
- G.** Any other information requested pertinent to the process
- H.** A certified statement from the person who conducted the work.
- I.** On lots created after January 23, 1996, the system design shall include at least one designated additional soil treatment area which can support a standard soil treatment system.

3.41 APPLICATION REVIEW AND APPROVAL

If, after consideration of the application for a permit, a qualified employee or authorized licensee of the Department shall be satisfied that the work contemplated conforms to and complies with provisions of this Ordinance, the Department shall issue a written permit granting preliminary approval authorizing initiation of construction of the system as designed.

3.42 INCOMPLETE APPLICATION INFORMATION

If after consideration of the application for a permit, the Department shall be satisfied that the work contemplated will not conform to or comply with the provisions of this Ordinance, the Department shall deny the application for a permit. Notice of such denial shall be served on the applicant or permittee and shall state the reason for denial. The permit application may be revised or corrected and resubmitted to the Department at any reasonable time for reconsideration.

3.50 FEES.

The County Board shall establish, by resolution, fees for permits required by this Ordinance.

3.51 Fees shall be due and payable at the time of permit application.

3.60 VARIANCES.

An affected property owner may request a variance from standards as specified in the Ordinance for the Management of Shoreland Areas, Cass County, Minnesota and may be requested pursuant to that Ordinance. Variances to decrease the three feet of vertical separation required beneath the distribution medium and the saturated soil or bedrock must be approved by the MPCA as per the procedures contained in Minnesota Rules Chapter 7080.0305 Subp. 3. Variances from the requirements of the Minnesota Well Water Code, (Minnesota Statutes, Section 301i, Minnesota Rules, Chapter 4725, as amended), require approval from the Minnesota Department of Health.

3.70 RESPONSIBILITY TO OBTAIN OTHER PERMITS

The granting of any permit, variance, or conditional use under provisions of this ordinance shall in no way affect the applicant's responsibility to obtain any state or federal permits required by any state or federal statute, ordinance, or rule.

3.80 OUTSTANDING VIOLATIONS

No permits will be issued to landowners or on property on which there are current or past unresolved violations outstanding unless that permit is part of an ESD approved plan to resolve the violation(s).

SECTION 4. INSPECTION REQUIREMENTS

4.10 GENERAL REQUIREMENTS

4.11 COMPLIANCE INSPECTION.

Compliance inspections for construction, replacement, alteration, or repair work on ISTS, or upon conveyance of property, shall be conducted by a State-licensed site

evaluator/designer holding a D1 certification, who is independent of the owner and installer.

4.12 ACCESS TO PREMISES AND RECORDS.

Upon the request of the Department, the applicant, permittee or any other person shall allow access at any reasonable time to the affected premises as well as any related records, for the purposes of regulating and enforcing this Ordinance.

4.13 INTERFERENCE PROHIBITED.

No person shall hinder or otherwise interfere with the Department in the performance of 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, whether or not any other specific violations are cited.

4.20 INSPECTIONS.

The permittee or his agent shall notify the Department 24 hours prior to the completion and covering of the ISTS. The installation and construction of the ISTS shall be in accordance with the permit requirements and application design. If any ISTS 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 ISTS at such time as to assure that the system has been constructed per submitted and approved design.

4.21 NOTIFICATIONS FOR INSPECTIONS.

- A.** It shall be the duty of the permittee to notify the Department on the workday preceding the day inspection is desired.
- B.** If the permittee provides proper notice as described above and the Department does not appear for an inspection within one hour after time set, the permittee may complete the installation. The permittee or his agent shall then file a signed As-Built, including photographs of the system prior to covering, with the Department within five working days. The As-built shall include a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects.

4.22 AS-BUILT DRAWINGS

As-Builts shall be submitted to the Department at the time of inspection of the ISTS. These shall be submitted on forms provided or approved by the Department. No Certificate of Compliance shall be issued until the as-built drawings are submitted.

4.23 TANK TESTING

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.

4.24 INSPECTION REPORT.

A Certificate of Compliance or Notice of Noncompliance shall be prepared by the Department following an inspection or review of as-built plans submitted in accordance with Section 4.21 B. A Certificate of Compliance or Notice of Noncompliance must include a signed statement by the inspector identifying the type and components of ISTS inspected and whether the system is in compliance with this Ordinance. A copy of the Certificate of Compliance or Notice of Noncompliance shall be provided to the property owner within 30 days of the compliance inspection and a copy kept on file in the Department.

4.30 INSPECTION REQUIREMENTS FOR EXISTING SYSTEMS.

Only a licensed Designer I or Inspector independent of the owner and the installer shall conduct an inspection when a compliance inspection is required for an existing ISTS. A copy of the Certificate of Compliance or Notice of Non-compliance resulting from a compliance inspection shall be provided to the property owner and the County within 30 days of the inspection.

4.31 MANDATORY COMPLIANCE INSPECTIONS OF EXISTING SYSTEMS

Compliance inspection of an ISTS shall be required when any one of the following conditions occur:

- A.** the conditions as stated in Section 2.22 of this Ordinance are met, or;
- B.** the ISTS-related conditions as stated in the Ordinance for the Management of Shoreland Areas, Cass County, Minnesota or the Ordinance for the Management of Non-shoreland Areas, Cass County, Minnesota are met, or;
- C.** At any time the Department receives a complaint or other information regarding the failure of an ISTS system, or;
- D.** In conjunction with the application for any land use permit on a property, or a variance issued in accordance with Minnesota Rules Chapter 7080.0305 Subp. 3:
 - 1. If a request for an additional bedroom or variance is received between November 1 and April 30 the county may issue a permit or variance immediately with the requirement that a compliance inspection be completed by the following June 1.
 - 2. If a system does not comply with applicable requirements, and is not an imminent public health threat, a property owner applying for a zoning permit to construct a bedroom addition has one (1) year from the date of issuance of such zoning permit to bring the system into compliance.

4.32 FAILING SEPTIC SYSTEMS

- A.** A Notice of Noncompliance shall be issued and copies provided to the property owner and the County within 30 days of the date of an ISTS inspection.
- B.** A failed ISTS shall be upgraded, replaced or repaired in compliance with this Ordinance, as applicable within one (1) year.

- C. An ISTS posing an imminent threat to public health or safety shall be pumped within 24 hours and managed as a holding tank until an ISTS upgrade is completed ;
- D. An ISTS shall be upgraded if it is determined to be failing at the point of conveyance of property as defined in Section 2.22 of this Ordinance.
- E. The owner(s) of real property upon which a failing ISTS is located shall submit to the Department an acceptable Replacement Plan and apply for an ISTS permit within twenty (20) days after notification by the Department. The Replacement Plan shall include a site evaluation and system design of the ISTS and a schedule for its replacement. Failure to submit and execute an acceptable Replacement Plan is a violation of this Ordinance.

The Department may not require recertification of an ISTS within five (5) years of its certification date provided the system does not fail or become an imminent public health threat or other cause as deemed appropriate by the Department.

SECTION 5. ADDITIONAL STANDARDS FOR HEALTH AND ENVIRONMENTAL PROTECTION

5.10 ADDITIONAL STANDARDS.

The following standards shall also apply:

5.11 SEPARATION DISTANCES.

- A. The separation distance from a well to an ISTS shall be as specified in M.S. 301i, Minnesota Rules Chapter 4725, as amended.
- B. The separation distances from ISTS to designated lakes and rivers shall be as identified in the Ordinance for the Management of Shoreland Areas, Cass County, Minnesota:

<u>Type of Lake or River Segment</u>	<u>Setback from the OHW Mark</u>
Natural Environment Lake	150
Recreational Development Lake	75
General Development Lake	50
Wild River	150 feet
Scenic River	100 feet
Recreational River	75 feet
Tributaries	75 feet
Remote River Segments	150
Forested River Segments	100
Transition River Segments	100
Agricultural River Segments	75
Urban River Segments	75

5.12 COMMERCIAL SYSTEMS

All new commercial ISTS installations which require food, beverage, and lodging permits shall require operating permits which must be renewed on a 1-5 year basis, depending on waste strength, system technology, and flow. Operating permits shall require the permittee to monitor and maintain the ISTS.

5.13 MAINTENANCE.

The owner of an ISTS or the owner's agent is responsible for full maintenance of the ISTS as indicated by Minnesota Rules Chapter 7080.0175.

5.14 ALTERNATIVE AND EXPERIMENTAL SYSTEMS

This Ordinance hereby adopts by reference Minnesota Rules Chapter 7080.0910, Alternative and Experimental Systems.

5.20 SEPTAGE DISPOSAL AND TREATMENT.

5.21 SEPARATION REQUIREMENTS FOR LAND APPLICATION OF SEPTAGE

Domestic septage disposal and treatment standards shall comply with U.S. Environmental Protection Agency rules as found in 40 CFR Part 503 entitled "Standards for the Use or Disposal of Sewage Sludge," and Minnesota Pollution Control Agency guidelines as stated in " Land Application of Septage. "

A. LAND SPREADING LOCATION. The land spreading site shall be located such that the following minimum separation distances are maintained:

1.	Private water wells	200 feet
2.	Municipal well	1000 feet
3.	Intermittent Stream	200 feet
4.	Occupied Dwellings	600 feet*
5.	Residential Districts, Commercial Developments, Recreational areas	1320 feet
6.	Property lines	100 feet
7.	Public Road Right-of-Ways	100 feet
8.	OHW of Protected Waters	1320 feet
9.	Airport	5000 feet

*--may be reduced to 200 feet with written approval from landowner

B. SEPARATION FROM SURFACE WATERS Septage shall not be land spread in designated Shoreland Management Areas as identified in the Ordinance for the Management of Shoreland Areas, Cass County, Minnesota. Separation distances from unclassified surface waters, wetlands, and agricultural drainage ditches shall be observed as follows;

SITE SLOPE**SEPARATION DISTANCE**

0-2%
2-6%
6-12%

May-Oct*
200 ft.
400 ft.
300** ft.

Nov-April
600 ft.
not allowed
not allowed

*--Separation distances on 0-6% slopes may be reduced by 50% if septage is injected.

**-- Land Spreading not allowed without injection.

Surface application of septage on frozen soil is prohibited unless slopes are 2% or less.

5.22 LAND SUITABILITY FOR LAND APPLICATION OF SEPTAGE

- A. SOIL SUITABILITY.** To be suitable for landspreading, the soil must meet the following criteria:
1. Have medium or fine surface textures (no sandy or peaty surface textures).
 2. Have a 3 foot separation distance to the water table or bedrock.
 3. Have 6 inches of available water holding capacity between the application depth and the water table or bedrock.
 4. Be free from flooding hazard.
 5. Have at least one horizon in the upper 5 feet that has a permeability of less than 6 inches per hour.
 6. Have surface permeabilities slower than 20 inches/hour or faster than 0.2 inch/hour.
 7. Have a slope of 12% or less.
 - 8.
- B. PHYSICAL CRITERIA.**
1. Septage must not be spread where a monitor well or designated monitor well exceeds 10 ppm nitrate count.
 2. Septage shall be land spread on cropland in such quantity so as not to exceed the agronomic rates as approved by the Agency and Department.
 3. Septage shall be spread evenly across an approved land spreading site and not concentrated.
 4. Septage land spreading sites must not be used for growth of crops, which will be consumed directly by humans for three years after the last septage application. The grazing or harvesting of foraged materials on septage land spreading sites must not occur for at least three weeks after the last spreading date.
 4. Septage shall be incorporated as necessary to prevent nuisance conditions and excessive accumulation of septage solids on the soil surfaces.
- C. DAILY LIQUID LOADING LIMITS.**

Soil Texture	Gallons/Acres/Day
Coarse	25,000
Medium	15,000
Fine	10,000

D. ANNUAL NITROGEN APPLICATION FOR NON-CROPPED AND NON-HARVESTED LAND (LAND BANK, IDLES ACRES, ETC.)

Soil texture	lbs. per acre Nitrogen	Surface applied Gal/acre/Year
1. High Density Vegetative cover -50% cover		
Coarse	75	34,000
Medium	100	49,000
Fine	125	65,000
2. Low Density Vegetative Cover- 25-50% Cover		
Coarse	50	25,000
Medium	75	34,000
Fine	100	49,000
3. Fallow Land - 25 % Cover		
Coarse	0	0
Medium	50	25,000
Fine	75	34,000

5.23 ADDITIONAL GENERAL REQUIREMENTS

- A. Pumpers shall obtain approved from the owner of the land area used for septage disposable.
- B. Disposal of septage must meet all applicable county or local zoning regulations.
- C. Disposal of septage within incorporated cities requires prior written approval from the city.
- D. Alternative Disposal- Any alternative disposal of septage must meet the applicable standards of the Department and the Agency. Any alternative disposal requires written approval form the Department prior to the disposal.

SECTION 6.0 LICENSING REQUIREMENTS

6.10 SITE EVALUATORS, DESIGNERS, INSTALLERS AND PUMPERS.

No person shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of on-site sewage treatment systems in Cass County without first obtaining a license to perform such tasks from the Minnesota Pollution Control Agency.

6.20 LICENSE EXEMPTION.

A license is not required for:

A. An individual who is constructing a residential system on land that is owned or leased by the individual and functions solely as a dwelling or seasonal dwelling for that individual based upon a design by a licensed designer. The system must be inspected by the Department before being covered and as-built plans submitted in accordance with part 4.20 of this Ordinance. Commercial systems and all pressurized systems must be designed and installed by a State-licensed designer and installer.

B. An individual who performs labor or services under a licensee;

C. A farmer who pumps sewage waste from his own residential individual sewage treatment systems and disposes of those wastes on land that is owned by the farmer in accordance with Section 5.2 of this Ordinance;

SECTION 7.0. ENFORCEMENT

The Cass County Board of Commissioners and the Environmental Services Department are responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements by a landowner or their agent, including violations of or failure to comply with conditions and safeguards established in connection with the granting of, or contained with permits or variances shall constitute a misdemeanor and shall be punishable as defined by Minnesota State Statutes. The Cass County Environmental Services Department and the Cass County Sheriff shall have the power to enforce this ordinance by issuing citations for criminal violations of this ordinance upon the owner of a property and/or their agent. Cass County, through the Environmental Services Department may sue for injunctive relief on any violation, including restoration of the premises to its condition existing prior to the violation.

7.10 EACH DAY A SEPARATE VIOLATION

Each day of a violation of this ordinance or each day that a failure to comply with any requirements of this ordinance continues shall constitute a separate offense.

7.20 PROSECUTION

The Department may enforce the provisions of the ordinance whether through criminal prosecution, civil remedy, or both. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution for a violation shall not be a bar to a civil remedy.

7.30 CEASE AND DESIST ORDERS

The Department may issue cease and desist orders to halt the progress of any on-going violation. When any work has been stopped by the Department for any valid reason

whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.

7.40 DUTY TO ENFORCE

It shall be the duty of the County Attorney and County Sheriff to perform such duties as may be necessary to enforce the provisions of this ordinance.

7.50 AFTER-THE-FACT APPLICATIONS

Any application for a permit which is made after the work is commenced and which requires a permit shall be charged an additional administrative fee. In addition, the Department may require correction and/or restoration of the property concerned to its original state should the application for a permit be denied or if the action permitted does not include all or part of the work commenced prior to approval of said permit.

7.60 PERFORMANCE BOND

Upon approval of a permit application, the Department may require a surety bond, cash escrow, certificate of deposit, securities, letter of credit or cash deposit prior to the issuing of a land use permit or initiation of work on the proposed improvements or development. Said security shall be irrevocable and shall guarantee conformance and compliance with the conditions of the permit or variance and the Ordinance of the County.

7.70 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 governing body and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

7.80 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.

7.90 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, or impair any existing 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.

7.95 STATE NOTIFICATION OF VIOLATIONS

Any inspection installation, design, construction, alteration or repair of an ISTS by a licensed person or any pumping and disposal of septage by a licensed pumper or hauler done in violation of the provisions of this Ordinance shall be cause for notification to the Minnesota Pollution Control Agency.

8.00 ADOPTION

THE CASS COUNTY INDIVIDUAL SEWAGE TREATMENT SYSTEM ORDINANCE IS HEREBY ADOPTED BY THE CASS COUNTY BOARD OF COMMISSIONERS ON THIS

_____ Day of _____, 199_.

Chairman, Cass County Board of Commissioners

ATTEST:

EFFECTIVE DATE: _____, 199_