

ORDINANCE #2007-02

**CASS COUNTY
INDIVIDUAL SEWAGE
TREATMENT SYSTEM
ORDINANCE**

**EFFECTIVE DATE:
May 25, 2007**

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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.

1.30 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.

The adoption of this ordinance repeals Cass County Individual Sewage Treatment Systems Ordinance #1998-03, effective: May 16, 1998.

1.60 CONFLICTING REGULATIONS

Whenever any provision of this ordinance is found to be in direct conflict with the provisions of any other County ordinance, the ordinance containing the more restrictive requirements shall govern.

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, 7080.0115, 7080.0120, 7080.0125, 7080.0130, 7080.0150, 7080.0160, 7080.0170, 7080.0175, 7080.0176, 7080.0178, 7080.0179, 7080.0600, and 7080.0950 as amended, being the Sections containing the technical standards and criteria contained in the "Individual Sewage Treatment Systems Program", with the exceptions that are listed in Appendix A.

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 suitable land application sites for 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

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I. To maintain proper records for ISTS including site evaluation records, design records including calculations and summaries for all system component sizings and as-builts; and septage disposal sites, and.

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 individual sewage treatment system located on real property lying within Cass County shall be brought into compliance with the requirements of the Cass County Individual Sewage Treatment System Ordinance, hereinafter known as “the Ordinance”, upon conveyance of said real property.

B. Prior to the conveyance of any real property, the seller shall 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 this ordinance 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 this ordinance shall be submitted to the Cass County Environmental Services Department and the seller within 30 days after the compliance inspection.

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 with the Department. The amount escrowed shall be equal to 125% of a written estimate to install a complying ISTS provided by a licensed and certified installer. The buyer may, by mutual written agreement with the seller, assume the responsibility to fund the escrow. The seller or buyer may, by written agreement, assign a third party to receive the disbursement from the escrow account. After a complying ISTS has been installed and a certificate of compliance issued, the Cass County Environmental Services Department shall cause the escrow to be released to the maker of the escrow or their assigns.

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 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. 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 shall 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 shall be established in accordance with section C, above, and the system shall 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 residential structures 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 expire 24 months after date of issuance. Any work to be conducted under a permit that has expired shall not commence until a new permit is applied for and approved. Any application received must be accompanied by a site evaluation and design prepared by a state-licensed site evaluator/designer or a signed winter agreement.

3.12 Land Use Permits

- A. 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 residential structure on the subject property. Any noncomplying ISTS so found shall be reconstructed or replaced in accordance with the provisions of this Ordinance.
- B. All permitted residential structures must be served by a compliant ISTS.
- C. Any structure that generates sewage and is served by a pressurized water supply system must be served by a compliant ISTS.
- D. Prior to the issuance of any land use permit authorized by the Department, an operating permit shall be in place for all systems serving 3 or more structures or 2 or more parcels of land.

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. New holding tanks are permitted only where there is no other reasonable alternative to treating and disposing of the wastewater on lots of record created before January 1, 2005. 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 submitted to the Department annually along with the renewal application. 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 Privies (Outhouses)

- A. All applications to construct a privy must be accompanied by a design for that privy conducted by a licensed designer and shall include the following;
1. Minimum of one soil boring if the privy is not vaulted.
 2. The pit or vault shall have a minimum of 200 gallons of storage capacity or 25 cubic feet.
 3. The placement or construction of privies must be inspected according to the provisions in this ordinance.

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

3.20 PERMITS NOT REQUIRED.

Permits shall not be required for the repair or replacement of pumps, floats or electrical devices germane to the pump, replacement of baffles, and general repair to inspection pipes and manholes.

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 and any system with pressure distribution cannot be constructed by anyone other than a licensed installer.

3.31 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.

3.40 FEES.

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

3.41 Fees shall be due and payable at the time of permit application. Any application received without associated fees shall be considered incomplete and will be returned to the applicant.

3.50 VARIANCES.

A property owner may request a variance from ISTS regulations established in the Cass County Land Use Ordinance or this Ordinance by submitting in writing such request to the Cass County Environmental Services Department Technical Committee. 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.

3.60 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.

3.70 OUTSTANDING VIOLATIONS

No permits will be issued to landowners or on property on which there are unresolved violations 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 professional, 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 INSPECTION-REQUIREMENTS FOR NEW ISTS CONSTRUCTION

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 a licensed designer and 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 Notification 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 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.

4.23 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. A certificate of compliance for new construction shall remain valid for a period of five years from the date of issuance unless the system is deemed to be an imminent threat to public health and safety.

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. A certificate of compliance for an existing system shall remain valid for a period of three years from the date of issuance unless the system is deemed to be an imminent threat to public health and safety.

4.31 Mandatory Compliance Inspection 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 Cass County Land Use Ordinance 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, 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. 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.

SECTION 5. ADDITIONAL STANDARDS FOR HEALTH AND ENVIRONMENTAL PROTECTION

5.10 ADDITIONAL STANDARDS. 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 follows:

<u>Class of Public Waters</u>	<u>Setback from the OHW Mark in feet</u>
<u>Lakes:</u>	
Natural Environment Lake	150 feet
Recreational Development Lake	75
General Development Lake	50
<u>Rivers:</u>	
Tributaries	75 feet
Remote	150
Forested and transitional	100
Urban and tributary	75

5.12 Commercial Systems All new commercial ISTS installations 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. All new commercial ISTS designs shall have pressure distribution and time dosing to the drainfield.

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 Operating Permits

A. Operating permits are required for all new commercial ISTS installations and for any new construction of ISTS which does not meet the requirements of a standard system under the provisions of this ordinance.

B. Operating permits shall be a signed agreement between the Department and the property owner and shall include monitoring requirements, performance requirements, mitigation requirements, and reporting requirements.

C. A valid operating permit shall be considered a certificate of compliance if that system is in compliance with the requirements of the operating permit.

5.15 Performance Systems

A. Drainfield size reductions are allowed provided that there is a current operating permit for the life of the system and there is an approved mitigation plan in the operating permit.

5.20 LAND APPLICATION OF SEPTAGE.

All septage disposal sites shall be preapproved by the Department.

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. 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 |
| 4. Occupied residential structure | 600 feet* |
| 5. Residential Districts,
Commercial Developments,Recreational areas | 600 feet |
| 6. Property lines | 50 feet |
| 7. Public Road Right-of-Ways | 50 feet |
| 8. OHW of Protected Waters | 200 feet |

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

B. SEPARATION FROM SURFACE WATERS Separation distances from protected waters, wetlands, intermittent streams, and agricultural drainage ditches shall be observed as follows:

SITE SLOPE	SEPARATION DISTANCES FROM PROTECTED WATERS	
	May-Oct	Nov-April
0-2%	200 ft.	600 ft.
2-6%	400 ft.*	not allowed
6-12%	600 ft.**	not allowed

All of the above setbacks must be doubled if the site drains to the protected water.

SITE SLOPE	SEPARATION DISTANCES FROM ALL OTHER UNCLASSIFIED WATERS	
	May-Oct	Nov-April
0-2%	200 ft.*	600 ft.
2-6%	400 ft.*	not allowed
6-12%	300 ft.**	not allowed

*--Separation distances 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 land spreading, 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 vertical separation as outlines in chapter 7080.0110.
3. Have 6 inches of available water holding capacity between the application depth and redoxomorphic features.
4. Have at least one horizon in the upper 5 feet that has a permeability of less than 6 inches per hour.
5. Have surface permeabilities slower than 20 inches/hour or faster than 0.2 inch/hour.
6. Have a slope of 12% or less.

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.
5. Septage shall be incorporated as necessary to prevent nuisance conditions and excessive accumulation of septage solids on the soil surfaces.

6. In order to comply with the requirements for pathogen reduction and vector attraction reduction, the pH of septage to be land applied shall be raised and held at 12 or more for a minimum of 30 minutes. All other methods of pathogen reduction and vector attraction reduction methods must be approved in writing by the Department prior to land application.

C. Daily Liquid Loading Limits

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

D. Annual Nitrogen Application for Non-Cropped and Non-Harvested Land

<u>Soil texture</u>	<u>lbs. per acre</u>	<u>Surface applied</u>
<u>Nitrogen</u>	<u>Gal/acre/Year</u>	
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 approval from the owner of the land area used for septage disposal.
- B.** Disposal of septage must meet all applicable federal, state, 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 from the Department prior to the disposal.

SECTION 6.0 LICENSING REQUIREMENTS

6.10 LICENSED PROFESSIONALS

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 except as exempted in this Ordinance.

6.20 LICENSE EXEMPTION.

A license is not required for:

- A. An individual who is constructing a residential system without pressure distribution on land that is owned by the individual and functions solely as a residential structure for that individual based upon an approved design by a licensed designer. The system must be inspected by the Department as specified in this Ordinance before being covered
- 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

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 again be resumed until the reason for the work stoppage has been completely satisfied, any administrative fees paid, 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 ADMINISTRATIVE FEES AND RESTORATION

Any application for a permit that is made after the work has commenced and which requires a permit or is done in violation of a permit shall be charged an additional administrative fee. In addition, the Department may require correction and/or restoration of the property 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 FINANCIAL ASSURANCE

The Department may require a surety bond, cash escrow, or letter of credit prior to the issuing of any permit or initiation of work on the proposed improvements or development. Said security shall be irrevocable, conditioned in favor of Cass County, and shall guarantee conformance and compliance with the conditions of the permit or variance and the Ordinance of the County. The amount of the bond may be set at up to 150%, of the estimated cost of soil stabilization, water quality protection, and pollution control measures.

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 _____, 200_.

Chairman, Cass County Board of Commissioners

ATTEST:

EFFECTIVE DATE: May 25th , 2007

Appendix A

LOCAL EXCEPTIONS TO MN. RULES, CHAPTER 7080

- A. 7080.0020, Subpart 11b – In addition to subpart 11b, also 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 on top of the settled sand, the sand is unsuitable for use in mound construction unless an independent laboratory confirms that the sample meets the standards set out in part 7080.0170 subpart 5, item B, subitem (3).
- B. 7080.0020, Subpart 16 - The definition of dwelling is amended to read "Dwelling – see Residential Structure
- C. 7080.0305, Subpart 4, B, - 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.
- D. 7080.0125, Subpart 2, - Allow only Type I and Type II sizing. All new residential structures shall have an ISTS sized for a Type I residential structure. Additions to a residential structure shall also include an ISTS addition of 150 gallons per day per bedroom added unless the system was originally sized to accommodate the bedroom additions.
- E. 7080.0130, Subpart 1, D - Prohibit the use of metal septic tanks.
- F. 7080.0130, Subpart 2, M, (3) - Eliminate the center inspection pipe.
- G. 7080.0130, Subpart 3, A - Capacity of Septic Tanks - The minimum size tank is 1000 gallons.
- H. 7080.0160, Subpart 1a, 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.
- I. 7080.0160, Subpart 1a, E - All pumps shall be elevated on a block a minimum of 4 inches above the bottom of the dosing chamber.
- J. 7080.0170 - Add Subpart 8 establishing privies as standard systems and move criteria for privies from 7080. 0172, Subpart 2.
- K. 7080.0170 – Add subpart 9 establishing holding tanks as standard systems and move criteria for holding tanks from 7080.0172, Subpart 3.
- L. 7080.0170, Subpart 2 B. (3) c. - Require a minimum soil sizing factor of 1.67 for systems using gravelless pipe.

M. 7080.0700, Subpart 1. B - Require systems with pressure distribution to be installed by a state-licensed installer.

N. 7080.0150 Subpart 1. Supply pipes must be accessible for maintenance.