

SUBSURFACE SEWAGE TREATMENT
SYSTEM ORDINANCE
KANABEC COUNTY

COUNTY ORDINANCE #6

February 12, 2014

Kanabec County

Ordinance #6

Subsurface Sewage Treatment Systems

This is an ordinance authorizing and providing for sewage treatment and soil dispersal in unsewered areas of the county. It establishes:

- 1) Minimum standards for and regulation of individual (and mid-sized) sewage treatment systems (SSTS) in unsewered incorporated and unincorporated areas of Kanabec County (hereinafter “the County”) except incorporated area which has itself adopted standards that comply with Minn. Stat. §115.55 and are at least as strict as this ordinance: incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency;
- 2) Requirements for issuing permits for installation, alteration, repair or expansion of SSTS;
- 3) Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan;
- 4) Standards for upgrade, repair, replacement, or abandonment of SSTS;
- 5) Penalties for failure to comply with these provisions;
- 6) Provisions for enforcement of these requirements; and
- 7) Promotes the health, safety and welfare of the public pursuant to the Minn. Stat. §§115.55, 145A.05, 375.51, 394.21-394.37, and 471.82 and in furtherance of county policy stated in the “Comprehensive Plan” and the County Shoreland Zoning Ordinance.

ARTICLE I PURPOSE AND AUTHORITY

SECTION 1.0 PURPOSE AND INTENT

The purpose of this ordinance shall be to provide minimum standards for and the regulation of individual (and mid-size) subsurface sewage treatment systems (SSTS) and the treatment and dispersal including the proper location, design, construction, operation, maintenance and repair to protect surface water and ground water from contamination by human sewage and waterborne household and commercial waste; to protect the public’s health and safety, and prevent or eliminate the development of public nuisances.

SECTION 2.0 AUTHORITY

This ordinance is adopted pursuant to Minn. Stat. §115.55; Minn. Stat. §§145A.01 through 145A.08; Minn. Stat. §375.51; or successor statutes, and Minnesota Rules, Chapters 7080, 7081, 7082 and 7083; or successor rules.

SECTION 3.0 EFFECTIVE DATE

The provisions set forth in this ordinance shall become effective on February 12, 2014.

ARTICLE II GENERAL PROVISIONS

SECTION 1.0 SCOPE

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

SECTION 2.0 JURISDICTION

The jurisdiction of this ordinance shall include all lands of the County except for incorporated areas that administer a Subsurface Sewage Treatment System (SSTS) program by ordinance within their incorporated jurisdiction, which is at least as strict as this ordinance and has been approved by the County.

SECTION 3.0 ADMINISTRATION

3.01 COUNTY ADMINISTRATION

The County Environmental Services Department shall administer the SSTS program and all provisions of this ordinance. At appropriate times, the County shall review and revise and update this ordinance as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

3.02 CITIES AND TOWNSHIPS

Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this ordinance.

SECTION 4.0 VALIDITY

The validity of any part of this ordinance shall not be affected by the invalidity of any other parts of this ordinance where the part can be given effect irrespective of any invalid part or parts.

SECTION 5.0 LIABILITY

Any liability or responsibility shall not be imposed upon the department or agency or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster treatment system regulated under this rule by reason of standards, requirements, or inspections authorized hereunder.

ARTICLE III GENERAL REQUIREMENTS

SECTION 1.0

1.02 Existing Permits

Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership.

1.03 SSTS on Lots Created After January 23, 1996

All lots created after January 23, 1996 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 7080.2200 through 7080.2230 or site conditions described in 7081.0270, Subp.3 through 7.

SECTION 2.0 UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT

2.01 SSTS Capacity Expansions

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

2.02 Failure to Protect Groundwater

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this ordinance within 12 months of receipt of a Notice of Noncompliance.

2.03 Imminent Threat to Public Health or Safety

An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this ordinance within 10 months of receipt of a Notice of Noncompliance.

2.04 Abandonment

Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rule 7080.2500.

SECTION 3.0 SSTS IN FLOODPLAINS

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

SECTION 4.0 CLASS V INJECTION WELLS

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations (hereinafter “CFR”), Title 40, Part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR Title 40, Part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

SECTION 5.0 SSTS PRACTITIONER LICENSING

No person shall engage in site evaluation, inspection, design, installation, construction, alternation, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by the Minnesota Pollution Control Agency (hereinafter “MPCA”) in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700.

SECTION 6.0 PROHIBITIONS

Any surface discharging system must be permitted under the National Pollution Discharge Elimination program by the MPCA

ARTICLE IV SSTS STANDARDS

SECTION 1.0 STANDARDS ADOPTED BY REFERENCE

The County hereby adopts by this reference Minnesota Rules Chapters 7080 and 7081 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County’s right or ability to adopt local standards that are in compliance with Minn. Stat. §115.55.

SECTION 2.0 AMENDMENTS TO THE ADOPTED STANDARDS

2.01 List of Adopted Standards

All new and upgraded subsurface sewage treatment systems for individual dwelling shall be sized for Type I dwelling

2.02 Determination of Hydraulic Loading Rate and SSTS Sizing

Either Table IX or Table IXa from Minnesota Rule 7080.2150, Subp. 3(E) and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this ordinance.

2.03 Compliance Criteria

Compliance Criteria for Existing SSTS

SSTS built after March 31, 1996 or SSTS located in a Shoreland area, wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under Minnesota Rule 7080.1100, Subp. 84 shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. 7080.1500, Subp. 4.

All other system compliance shall be as defined in Minnesota Rules 7080.1500, Subp. 1-6.

2.04 Holding Tanks

Holding tanks may be used for single family homes and other buildings with limited water use under the following conditions:

- 1) The owner shall install a holding tank in accordance with Minnesota Rules 7080.2290.
- 2) The owner shall maintain a valid contract with a licensed liquid waste hauler to pump and haul the holding tank to a licensed treatment facility.
- 3) The holding tank shall be regularly pumped per a schedule agreed upon by the permitting entity and the licensed liquid waste hauler.
- 4) The pumper shall certify each date the tank is pumped and the volume of the liquid waste removed and report to the permitting entity.

SECTION 3.0 VARIANCES

3.01 Variance Requests

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

3.02 Affected Agency

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

3.03 Board of Adjustment

The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings.

ARTICLE V SSTS PERMITTING

SECTION 1.0 PERMIT REQUIRED

It is unlawful for any person to construct install modify, replace, or operate a subsurface sewage treatment system without the appropriate permit from the Environmental Services Department, Kanabec County.

SECTION 2.0 CONSTRUCTION PERMIT

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

2.01 Activities Requiring a Construction Permit

A Construction Permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

2.02 Activities Not Requiring a Permit

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

2.03 Permit Application Requirements

Construction Permit applications shall be made on forms provided by the Environmental Services Department and signed by the applicant/applicant's agent. The applications shall include the documents listed in items A through E below.

- A. Name, mailing address, telephone number, and email address.
- B. Property Identification Number and address or other description of property location.
- C. Site Evaluation Report as described in Minnesota Rules 7080.1730
- D. Design Report as described in Minnesota Rules 7080.2430.
- E. Management Plan as described in Minnesota Rules 7082.0600. B. Monitoring and Disposal Contract.

2.04 Application Review and Response

The Environmental Services Department shall review a permit application and supporting documents within fifteen (15) working days from the date of receipt of a satisfactorily completed application. Upon satisfaction that the proposed work will conform to the provisions of this ordinance, the Environmental Services Department shall issue a written permit authorizing construction of the SSTS as designed. In the event that for any reason the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for approval or denial. The Environmental Services Department shall complete the review of the amended application within (15) working days of receipt of the amended application. If the permit applications is incomplete or does not meet the requirements of this ordinance the Environmental Services Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.

2.05 Permit Expiration

The Construction Permit is valid for a period of no more than (one) year from its date of issue, unless it is extended in accordance with this section or construction has been completed satisfactorily, whichever is shorter. Satisfactory completion of construction shall be determined by receipt a signed certification that the construction or installation of the system was completed in substantial conformance to the approved design documents by a qualified employee of the Environmental Services Department or a licensed inspection business, which is authorized by the Environmental Services Department and independent of the owner and the SSTS installer.

2.06 Extensions and Renewals

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

2.07 Suspension or Revocation

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

SECTION 3.0 OPERATING PERMIT

SSTS Requiring an Operating Permit

An operating permit shall be required for all systems installed under Minnesota Rules 7080.2290, 7080.2350 and 7080.2400 and Chapter 7081.

SECTION 4.0 ABANDONMENT CERTIFICATION

4.01 Purpose

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

4.02 Abandonment Requirements

- A. Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this ordinance shall be prohibited.
- B. Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Environmental Services Department.

- C. Abandonment shall be completed in accordance with Minnesota Rules 7080.2500. No prior notification of the Environmental Services Department of an owner's intent to abandon a system is necessary.
- D. A report of abandonment certified by the licensed installation business shall be submitted to the Environmental Services Department. The report shall include:
 - (1) Owner's name and contact information
 - (2) Property address
 - (3) The reason(s) for abandonment
 - (4) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

4.03 Abandonment Certificate

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

ARTICLE VI MANAGEMENT PLANS

SECTION 1.0 PURPOSE

The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.

SECTION 2.0 MANAGEMENT PLAN REQUIREMENTS

2.01 SSTS Requiring Management Plans

Management plans are required for all new or replacement SSTS as described in parts 7080.210 to 7080.2400. The management plan shall be submitted to the Environmental Services Department with the construction permit application for review and approval. The Environmental Services Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

2.02 Required Contents of a Management Plan

Management plans shall include (*Minnesota Rules, Chapter 7082.0600, Subp.1*):

- A. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
- B. Monitoring requirements;
- C. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;

- D. Statement that the owner is required to notify the Environmental Services Department when the management plan requirements are not being met;
- E. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.

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

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

ARTICLE VII COMPLIANCE MANAGEMENT

SECTION 2.0 COMPLIANCE INSPECTION PROGRAM

2.01 Compliance Inspection

- A. SSTS compliance inspections must be performed as defined in Minnesota Rules 7082.0700 Inspection Program for Subsurface Sewage Treatment Systems.
- B. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.

2.02 New Construction or Replacement

- A. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081. SSTS found not to be in compliance with 7080.1500, Subp. 4A or 7081.0080, Subp. 3 must be repaired or replaced within ten months or as directed under Minnesota Statutes Chapter 145A. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit.
- B. It is the responsibility of the SSTS owner or the owner's agent to notify the Environmental Services Department two (2) calendar days prior to any permitted work on the SSTS.
- C. A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) years, shall be issued by the Environmental Services Department if the system was built in accordance with the applicable requirements as specified in the construction permit.
- D. Certificates of compliance for new construction or replacement shall remain valid for five (5) years from the date of issue unless the Environmental Services Department finds evidence of noncompliance.

2.03 Existing Systems

- A. Compliance inspections shall be required when any of the following conditions occur:
 - (1) When a construction permit is required to repair, modify, or upgrade an existing system; or
 - (2) Upon receipt of a complaint or other notice of a system malfunction.

- B. Compliance inspections for existing SSTS shall be reported on inspection report forms provided by the PCA. Compliance inspections of existing SSTS shall meet the requirements for Minnesota Rules, Chapter 7082.0700, Subp. 4(B). Vertical separation disputes must follow the procedure described in 7080.0700, Subp. 5.
- C. The certificate of compliance or notice of noncompliance must be submitted to the Department and the owner or owner's agent no later than (15) calendar days after the date the inspection was performed.
- D. Certificates of compliance for existing SSTS shall remain valid for (three) years from the date of issue unless the Department finds evidence of noncompliance.
- E. Neither the issuance of permits, certificates of compliance or notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

ARTICLE VIII ENFORCEMENT

SECTION 1.0 VIOLATIONS

1.01 Cause to Issue a Notice of Violation

Any person who violates any of the provisions of this ordinance or who makes any false statement on a Certificate of Compliance shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both as defined by law.

1.02 Notice of Violation

The Environmental Services Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this ordinance. The notice of violation shall contain:

- A. A statement documenting the findings of fact determined through observations, inspections, or investigations;
- B. A list of specific violation(s) of this ordinance;
- C. Specific requirements for correction or removal of the specified violation(s); and
- D. A mandatory time schedule for correction, removal and compliance with this ordinance.

SECTION 2.0 PROSECUTION

In the event of a violation of this ordinance, in addition to other remedies, the Kanabec County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.

SECTION 3.0 STATE NOTIFICATION OF VIOLATION

In accordance with state law, the Environmental Services Department shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this ordinance.

ARTICLE IX FEES

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

ARTICLE X 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.

ARTICLE XI SEVERABILITY

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

ARTICLE XII ABROGATION AND GREATER- RESTRICTIONS

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

ARTICLE XIII ORDINANCE REPEALED

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

ARTICLE XIV ADOPTION

The Kanabec County Subsurface Sewage Treatment Program Ordinance is hereby adopted by the Kanabec County Board of Commissioners on the Twelve day of February, 2014

Chairperson, Kanabec County Board of Commissioners ATTEST:

EFFECTIVE DATE: February 12, 2014

Office of the
County Coordinator
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Proceedings of the County Board

State of Minnesota
County of Kanabec
Office of the County Coordinator
Mora, Kanabec County, Minnesota
Minutes of the County Board Held: February 12, 2014

Certification

I, the undersigned, being the duly appointed recording officer of the County of Kanabec, State of Minnesota, certify that the information herein as approve in Board Resolution 18 – 02/12/14 has been carefully compared with the original records of Board of Commissioners, Kanabec County, Minnesota, those records being in my custody and on file in the Coordinator's Office, and is a true and correct copy of these minutes.

Patrick Christopherson, Kanabec County Coordinator