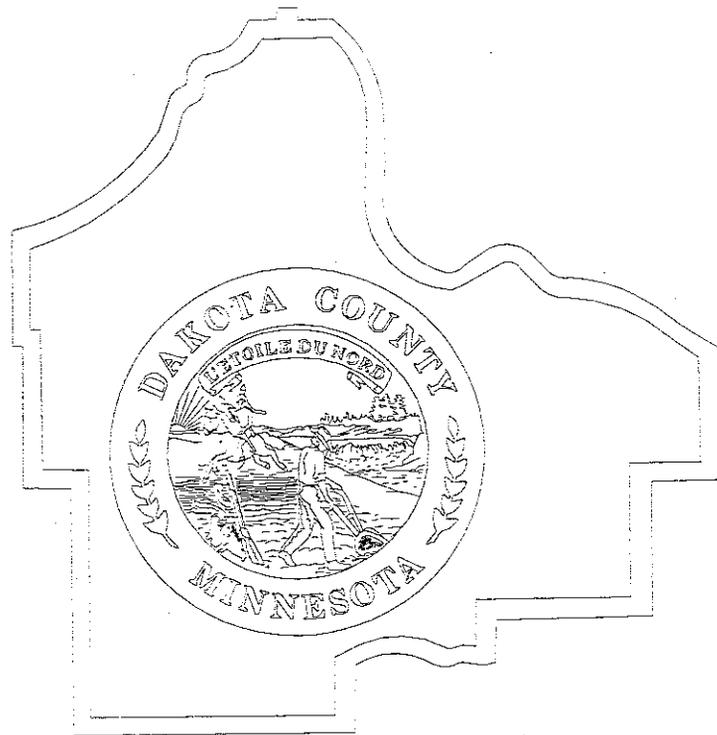


## **Appendix E: Dakota County ISTS Ordinance**

# DAKOTA COUNTY



## ORDINANCE NO. 113 INDIVIDUAL SEWAGE TREATMENT SYSTEMS

Amended By Dakota County Board of Commissioners

May 19, 1998

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**DAKOTA COUNTY ORDINANCE NO. 113**

**INDIVIDUAL SEWAGE TREATMENT SYSTEM ORDINANCE**

The Board of Commissioners of Dakota County, Minnesota, does hereby ordain and adopt this Ordinance establishing standards for and the regulation of Individual Sewage Treatment Systems (ISTS) pursuant to Minnesota Statutes Section 115.03, subd. 1 and Minnesota Rules Chapter 7080.

**CHAPTER 100**

**GENERAL PROVISIONS**

**SECTION 101 PURPOSE AND SCOPE.**

The purpose and scope of this Individual Sewage Treatment Systems Ordinance is to provide standards, guidelines, and regulations for the compliance and enforcement of the proper siting, design, construction, installation, operation, maintenance, repair, reconstruction, inspection and permanent Abandonment of standard Sewage systems; and, subject to municipal approval, alternative, experimental, or new technology (warrantied) ISTS, as referenced within Minnesota Rules Chapter 7080 and this Ordinance.

It shall be the primary intent of this Ordinance to promote the public health, safety and general welfare of Dakota County and to protect the environment and the County's natural resources including soils, bedrock and surface and Groundwaters. To this end, this Ordinance shall provide for the prevention and control of wastewater-related injury, disease, hazards, accidents, nuisance conditions, environmental degradation and natural resource depletion which can result from the improper generation, storage, treatment, removal, transport, utilization and disposal of wastewater.

The citizens of Dakota County, and professionals working within Dakota County such as Sewage Contractors, Realtors, and related professions, expect Municipalities within the County to be as consistent as reasonably possible with the regulation and enforcement of Individual Sewage Treatment Systems standards toward preventing groundwater contamination. Toward that end, it is expected and hoped that all Municipalities with a commitment to serve their citizens in a consistent manner will adopt Ordinance 113, and cooperate with the ISTS program on a County-wide basis.

**SECTION 102 JURISDICTION OF OTHER AGENCIES.**

**102.1 Minnesota Department of Health Jurisdiction.** The Minnesota Department of Health regulates Group Systems and Individual Sewage Treatment Systems of facilities for public use, such as restaurants, gas stations, mobile home parks and combined residences greater than a four-plex. In accordance with Minnesota Rules Chapter 4720, all plans and specifications for the installation, alteration or extension of such Sewage systems must be submitted to, and receive approval from, the Minnesota Department of Health before such work can begin. The Municipal Inspector will inspect the installation of these systems, in accordance with the plans Approved by the Minnesota Department of Health.

- 102.2 Minnesota Pollution Control Agency Jurisdiction.** The Minnesota Pollution Control Agency requires that the owners or Operators of all Group or Individual Sewage Treatment Systems designed to treat an average design flow greater than the amount set forth in applicable MN Rules must make application for and receive a State Disposal System Permit from the Minnesota Pollution Control Agency in accordance with all applicable Minnesota Rules, including Chapters 7001 and 7080, and the forthcoming Rules 7089 for cluster and larger systems.
- 102.3 Metropolitan Council Jurisdiction.** The Metropolitan Council may require, as part of their review and approval process of Municipal Comprehensive Plans, that Municipalities adopt a Sewage system maintenance ordinance. Such an ordinance requires inspections of septic tank(s) on a set time frame to have the tank(s) pumped when needed.
- 102.4 Environmental Protection Agency.** The US Environmental Protection Agency regulates industrial wastewater treatment systems receiving nonhazardous wastes as Class V injection wells under Code of Federal Regulations, title 40, part 144. These federal regulations along with this chapter also cover Individual Sewage Treatment Systems serving more than 20 persons. The US Environmental Protection Agency is also the lead agency for regulating the land application of septage.

## **SECTION 103**

### **DEFINITIONS.**

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this Chapter. Unless specifically defined herein, terms used in this Ordinance shall have common usage meaning. For purposes of this Ordinance, the word "may" is permissive, and the words "must" and "shall" are mandatory and not permissive unless a different definition appears in this Ordinance.

- 103.01 Abandonment**  
The permanent and proper termination or decommissioning of an Individual Sewage Treatment System or device.
- 103.02 Applicant**  
Any Person who applies for an Individual Sewage Treatment System Permit pursuant to this Ordinance.
- 103.03 Approved**  
An action, plan or other application acceptable to the Department as determined by meeting appropriate criteria, standards and good public health practices.
- 103.04 As-Builts**  
Previously called "uniform records", these are legible drawings and documentation specifying the final in-place location, size, and type of all system components. As-Builts shall include inspector approval, or listed corrections needed to obtain final approval and the final approval obtained after the needed corrections are completed.
- 103.05 Cesspool**  
An underground pit or seepage tank into which raw sewage or other untreated waste is discharged and from which the liquid seeps into the surrounding soil, bedrock, water table, or other soil materials. As described, a Cesspool is the first tank. Similar tanks that may be located after a Cesspool are referred to as drywells, seepage pits or leaching pits.
- 103.06 City**  
A statutory or home rule charter City.

- 103.07 Compliance Inspection**  
Any evaluation, investigation, inspection or other such process to make conclusions, recommendations, or statements regarding an Individual Sewage Treatment System to reasonably verify whether each component of an Individual Sewage Treatment System (tank or tanks and drainfield or bed if present) is in compliance as specified by Minnesota Rules Part 7080.0060. Compliance Inspections must be conducted by a qualified employee or under a license independent of the Owner and the installer. See Section 213 for the Compliance Inspection standards.
- 103.08 Contaminant**  
Any physical, chemical, biological, or radiological substance or material in water which tends to degrade the environment by contributing toxicity, constituting a hazard or otherwise impairing its usefulness.
- 103.09 Contamination**  
The presence of certain infectious or toxic agents or certain hazardous characteristics capable of causing disease or other harm.
- 103.10 Contractor**  
This term shall have the same meaning as “ISTS Professional” as defined in this Ordinance.
- 103.11 County**  
Dakota County, Minnesota.
- 103.12 County Board**  
The Board of Commissioners of Dakota County, which also acts as the Dakota County Board of Health pursuant to Minnesota Statutes Chapter 145A.
- 103.13 Dwelling**  
A building or place used or intended to be used by human occupants as a single-family or two-family unit.
- 103.14 Department**  
The Dakota County Environmental Management Department, or its staff.
- 103.15 Embargo**  
The withholding from use, sale or other disposition of materials, equipment, supplies or products that come under the jurisdiction of this Ordinance until approval for release is given for such use, sale or other disposition by a Municipality or the Department, or until condemned and otherwise resolved.
- 103.16 Existing System**  
A sewage system that was installed before the “Existing System date” as set forth in MN Rules 7080.
- 103.17 Failing System**  
Any Sewage system that:
- 1) discharges Sewage to a seepage pit, Cesspool, drywell, leaching pit, surface water, ground surface, causes sewage backup into a building or
  - 2) has less than two feet of soil or sand between the bottom of the distribution medium and the saturated soil level or bedrock (unless the system is located in a shoreland area regulated under sections 103F.201 to 103F.221, wellhead protection areas as defined in section 103I.005, or those used in connection with food, beverage, and lodging establishments regulated under chapter 157 which all require a 3 foot vertical separation,); or

3) any system posing or constituting an Imminent Threat to Public Health or Safety.

- 103.18 Groundwater**  
All subsurface water in the vadose (unsaturated) and phreatic (saturated) zones occurring naturally in soil and rock formations, whether or not capable of yielding such water to wells, and shall specifically mean that subsurface water present in the saturated zone defined by a perched, free or confined Groundwater surface.
- 103.19 Group System**  
A collective Individual Sewage Treatment System serving multiple residences.
- 103.20 Individual Sewage Treatment System**  
A Sewage treatment system, or part thereof, serving a Dwelling, building, structure 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.
- 103.21 ISTS**  
Shall mean an Individual Sewage Treatment Systems or “system”, defined as a sewage treatment system, or part thereof, serving a Dwelling, other establishment, or group thereof, that uses soil treatment and disposal.
- 103.22 ISTS Professional**  
A Person who conducts site evaluations or designs, installs, alters, repairs, maintains, pumps, or inspects all or part of an Individual Sewage Treatment System and is required to comply with applicable requirements. An ISTS Professional shall have the same meaning as a “Contractor”.
- 103.23 Immediate Compliance**  
Coming into compliance within 24 hours of the receipt of written or verbal orders for the correction of conditions, unless an Imminent Threat to Public Health or Safety requires an emergency response and action with out delay, which shall then be stated in the written or verbal orders.
- 103.24 Imminent Threat to Public Health or Safety**  
Situations with the potential to immediately and adversely impact or threaten public health or safety. An Imminent Threat to Public Health or Safety shall include all ground surface or surface water discharges of waste water, any system causing Sewage backup into a Dwelling or other establishment, and any sewage system so identified in MN Statutes, section 115.55, Subd. 5a shall constitute an Imminent Threat to Public Health or Safety.
- 103.25 Inspector, Municipal**  
“Municipal Inspector” shall mean an individual hired or contracted by a Municipality to perform the ISTS inspections and duties as set forth in the Municipal Ordinance. Also see Section 302, avoiding conflicts of interest.
- 103.26 Inspector, Private**  
“Private Inspector” shall mean an individual that performs ISTS work for their own company, and is not an employee of or hired by the Municipality in which ISTS work is performed. Also see Section 302, avoiding conflicts of interest.
- 103.27 MPCA**  
Shall mean the Minnesota Pollution Control Agency.

- 103.28 Municipality**  
A City, village, township or other political subdivision created by or pursuant to State law or any combination of such units acting cooperatively or jointly, but excluding counties.
- 103.29 Municipal Authority**  
The governing board or council, or duly authorized representative of a Municipality.
- 103.30 Munsell Soil Color Chart**  
The soil color charts referenced in Minn. Rules 7080, required to be used for all soils descriptions as part of the site evaluation procedure.
- 103.31 Operator**  
An owner of an Individual Sewage Treatment System or the designated agent of the owner who is responsible for the proper operation, maintenance, repair, replacement and Abandonment of such systems.
- 103.32 Permit**  
The whole or part of a written document issued by a Municipality or a County granting permission to conduct any and all work under and pursuant to this Ordinance and related laws and regulations, or municipal ordinances where adopted and enforced, that describes the Approved activities and all conditions of the approval. A Permit shall be issued for a specific period of time after which it shall terminate unless properly renewed, or suspended or revoked earlier.
- 103.33 Permittee**  
Any qualified Person to whom a valid Permit has been issued for such Approved work.
- 103.34 Person**  
Any human being; any Municipality or other governmental or political subdivision or other public agency; any public or private corporation; any partnership, firm, association, or other organization; any receiver, trustee, assignee, agent or other legal representative of any of the foregoing; or any other legal entity.
- 103.35 Primary Area**  
That portion of real property designated by the Department, a Municipality or a Site Evaluator/Designer to be protected from all vehicular traffic, construction and other disturbances to the original, natural soil condition so that an Individual Sewage Treatment System or device may be constructed therein meeting all Ordinance requirements. Also see Reserve Area and Section 206 on Minimum Soil Observations.
- 103.36 Property Transaction**  
The sale, transfer, exchange or other conveyance of real property or legal rights held by an owner.
- 103.37 Pumper**  
Shall mean a person who maintains components of Individual Sewage Treatment Systems including, but not limited to, septic, aerobic, and holding tanks.
- 103.38 Reserve Area**  
That portion of real property designated by the Department, a Municipality or a Site Evaluator/Designer to be protected from all vehicular traffic, construction and other disturbances to the original, natural soil condition in which a future Individual Sewage Treatment System or device may be constructed meeting all Ordinance requirements when the existing primary system or device malfunctions, becomes non-repairable or when it fails to comply with this Ordinance. The Reserve Area

does not need to be located next to Primary Area. See also Primary Area and Section 206 on Minimum Soil Observations.

**103.39 Sanitary Survey**

A comprehensive inspection, inventory and testing of an Individual Sewage Treatment System, including any devices and all appurtenances, building plumbing, and water supply storage, treatment and use devices, with emphasis on the sources of Contamination to protect public health and safety.

**103.40 Sewage**

Any water-carried domestic waste, exclusive of footing and roof drainage and chemically treated hot tub or pool water, 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. Animal waste and commercial or industrial wastes are not considered domestic waste.

**103.41 Shoreland/Floodplain Areas**

Those areas covered by the Dakota County Shoreland and Floodplain Management Ordinance, administered by the Dakota County Office of Planning.

**103.42 Service**

The personal Service of a notice or other document as defined in Rule 4.03 of the Minnesota Rules of Civil Procedure or the delivery by registered or certified mail to a Person, at a certain location and by a certain date and time, exclusive of the day of Service, in order for the required notice to be officially received. Personal Service under this Ordinance may be given at any reasonable time so as to give proper notice to a Person.

**103.43 Soil Survey**

The "Soil Survey of Dakota County, Minnesota" as published by the US Department of Agriculture, Soil Conservation Service 1983 and as amended thereafter.

**103.44 Soil Observation**

A detailed examination, evaluation and written description of the soil profile at one location, using an exposed pit, probing or augering, giving particular attention to the beginning of mottling or bedrock as defined in Minn. Rules 7080.

**103.45 State**

The State of Minnesota.

**CHAPTER 200**  
**ADMINISTRATION**

**SECTION 201      STANDARDS ADOPTED BY REFERENCE.**

This Ordinance hereby adopts by reference all of Minnesota Rules Chapter 7080, "Individual Sewage Treatment System Standards", including 7080.0910 alternative, experimental and new technology (warrantied) Systems, and all future amendments, along with other related State Agency Rules referenced in Minn. Rules Chapter 7080, and all future amendments, unless otherwise prescribed by this Ordinance. This Ordinance also adopts by reference the MPCA Land Application Guidelines as a County Standard for the land application of septage. This Ordinance also adopts MN Rules 7089 by reference when it becomes effective, which will cover larger septic systems.

**SECTION 202      MUNICIPAL ORDINANCES.**

- 202.1**      It is recommended that all municipalities located within Dakota County adopt Ordinance No. 113 and any subsequent amendments, or similar local regulations that are no less restrictive. In accordance with Minnesota Statutes 1996, section 115.55, subdivision 2 (a), cities or towns that have not adopted a sewage system ordinance that complies with section 115.55 by January 1, 1998 are subject to the County Ordinance that shall prevail. Municipalities that choose not to adopt this ordinance are responsible to contact and meet with Dakota County to determine the administration and enforcement of the technical and administrative components of Ordinance 113 and all applicable MN Rules 7080, and other rules or laws that apply to onsite sewage systems and items related to Sewage systems.
- 202.2**      Municipalities may either use, as applicable, the variance and hearing procedures as set forth in this Ordinance, or such other administrative procedures as provided by the Municipality.
- 202.3**      Municipalities may allow for alternative, experimental, new technology (warrantied) systems or homeowner installed Sewage systems in accordance with applicable Minnesota Rules and this Ordinance, and may also allow for administrative variance approval for lessor lot line Sewage system setbacks.
- 202.4**      Municipalities must submit a copy of their adopted Ordinance to the MPCA and Dakota County.
- 202.5**      Municipalities must make available to the public upon request a written list of any differences between its adopted ordinances and the minimum MN Rules 7080.

**SECTION 203      SHORELAND AND FLOODPLAIN MANAGEMENT.**

The Dakota County Office of Planning is responsible for administering and enforcing the Dakota County Shoreland and Floodplain Management Ordinance. Those chapters of the Dakota County Shoreland and Floodplain Management Ordinance relating to Individual Sewage Treatment Systems shall be no less restrictive than this Ordinance and shall be administered by the Office of Planning. Whenever a property comes under the authority of the Dakota County Shoreland and Floodplain Zoning Ordinance, the Office of Planning shall have the authority and responsibility of implementing and enforcing this Ordinance and operating as a Municipality with respect to this Ordinance. The Office of Planning can request assistance from the Department to ensure Ordinance compliance.

**SECTION 204 HIGHER STANDARD REQUIRED.**

Where there is conflict between the provisions and interpretation of this Ordinance, other Dakota County ordinances, local Municipal ordinances and State laws and rules, those provisions which are more restrictive and which require the higher standard for the protection of the Groundwater and the environment shall prevail. The standards in this Ordinance are minimum standards.

**SECTION 205 REQUIRED SUBMISSION OF REPORTS TO MUNICIPAL INSPECTORS.**

- 205.1** A copy of all site evaluations and design information/reports must be submitted by the site evaluator/designer to the local ISTS inspector within 10 working days of completion of the inspection. Inspectors of existing Individual Sewage Treatment Systems must submit a copy of their reports to the local ISTS Inspector within 10 days of completion of the inspection.
- 205.2** All Pumpers operating within Dakota County must complete a Dakota County Pump Maintenance report for all tanks pumped, and submit these reports to Dakota County on a monthly basis so that the County can make this information available to Municipalities.
- 205.3** All Pumpers land-applying septage must identify by date and legal description those sites used, and the gallonage applied to each site.

**SECTION 206 MINIMUM SOIL OBSERVATIONS.**

It shall be the responsibility of the site evaluator to utilize the proper professional tools, professional methods and judgments, and number of Soil Observations to verify to Minnesota Rules 7080 standards and the local authority that the site evaluation is a true and correct representation of the soils and site within the Primary and Reserve Areas. The Primary and Reserve areas shall consist of a minimum of 10,500 usable square feet per lot unless otherwise directed by the Municipal Inspector. This area must consist of original soil, which is at least one foot above a seasonally saturated layer or bedrock, and have topography acceptable for the installation of a soil treatment system. The site evaluator shall use the Dakota County Soil Survey and Munsell Soil Color Charts in accordance with MN Rules 7080, and shall obtain assistance from the proper authority or a more experienced site evaluator if a difficult site is encountered beyond their experience or knowledge level. Only experienced and competent soils professionals may use the small 3/4 inch core soil sampler alone for all Soil Observations. Given the requirement of an accurate and high quality site evaluation, a minimum of four (4) Soil Observations and two (2) percolation tests must be completed for the primary site, and at least one soil observation in the Reserve Area. A Municipality may give prior permission for a lessor number of soil observations.

**SECTION 207 PROHIBITED ITEMS.**

MN Rules 7080 require that septic tanks be watertight. Therefore, the repair or any modification of Cesspools, seepage pits and dry wells for use as septic tanks or pump-lift stations is prohibited, and septic tanks constructed of concrete blocks cannot be considered as meeting MN Rules 7080 requirements for Compliance Inspections.

**SECTION 208      REQUIRED SEPTIC TANK SIZING.**

Septic tank sizing for new and replacement residential septic tank installations shall be sized 50% greater than the State minimum requirement, (example: a minimum 1000 gallon tank would require a 1500 gallon size), to allow for future additional anticipated uses. Also, if there is a planned or proposed basement toilet that will require a pump, the septic tank capacity shall be sized for both future anticipated uses and the basement raw Sewage pump in accordance with Minnesota Rules 7080. The sizing shall be in accordance with the following chart:

**DAKOTA COUNTY MINIMUM  
SEPTIC TANK REQUIREMENTS IN GALLONS**

No. Bedrooms	Minimum Liquid Capacity	Minimum Liquid Capacity with Garbage Disposal	Minimum Liquid Capacity with Garbage Disposal AND Basement Sewage Lift
<b>2</b>	<b>1125*</b> <i>(750)</i>	<b>1125 *</b> <i>(1125*)</i>	<b>1500 *</b> <i>(1500 *)</i>
<b>3 or 4</b>	<b>1500*</b> <i>(1000)</i>	<b>1500 *</b> <i>(1500 *)</i>	<b>2000 *</b> <i>(2000 *)</i>
<b>5 or 6</b>	<b>2250*</b> <i>(1500)</i>	<b>2250 *</b> <i>(2250*)</i>	<b>3000 *</b> <i>(3000 *)</i>
<b>7, 8 or 9</b>	<b>3000*</b> <i>(2000)</i>	<b>3000 *</b> <i>(3000 *)</i>	<b>4000 *</b> <i>(4000 *)</i>

**\* Multiple Compartments or Multiple Tanks**

*MN Rules 7080 requirements in ( ) for reference and comparison*

Multiple Compartment Tanks are required to have a code maintenance hole (man-hole) for each **compartment**.

Designers and installers should inform home owners of the need to have **all** compartments pumped. As-built drawings should also reference this. Homeowners need to be able to locate **all** maintenance holes for the Pumpers.

Designers are required to state the correct Dakota County tank sizing for replacement and upgrades.

It is highly recommended that “property for sale” compliance inspections indicate whether the septic tank capacity meets the above standard. The potential buyer would then be informed of the need for additional septic tank capacity requirements before adding a garbage disposal, basement sewage lift, an additional bedroom, etc.

Refer to applicable MN Rules for septic tank sizing beyond the above chart.

Questions regarding these items may be directed to your local Municipal Sewage System Inspector.

**SECTION 209 "PROPERTY FOR SALE" STANDARDS FOR SEWAGE SYSTEMS.**

- 209.1 All owners proposing to sell any property having a Sewage system must have a State Licensed ISTS Inspector or Designer I complete the MPCA Sewage system Compliance Inspection form for existing Sewage systems in accordance with the MPCA's "Inspection Manual for Existing Systems."
- 209.2 The seller must provide a copy of the completed Sewage system disclosure and Compliance Inspection forms to all potential buyers before the purchase agreement is signed, including all requirements where a Failing System needs to be replaced with a system that complies with this Ordinance.
- 209.3 The seller or buyer of a Failing System that is an Imminent Threat to Public Health or Safety must have the system repaired or replaced so that it is no longer an Imminent Threat to Public Health or Safety within 30 days after notification from the Municipality. If winter or excessive rain conditions prevent proper Sewage system replacement, the owner is required to take appropriate action, such as, having the septic tank(s) pumped or using less water, to eliminate any actual or Imminent Threat to Public Health or Safety.

The seller or buyer of a Failing System that is not an Imminent Threat to Public Health or Safety must have the Sewage system upgraded to a complying Sewage system within 10 months after notification from the Municipality.

**SECTION 210 ENVIRONMENTAL MANAGEMENT DEPARTMENT JURISDICTION.**

This Ordinance carries the authority of Minnesota Statutes Chapter 115.03 and the regulations adopted thereunder by the Minnesota Pollution Control Agency, specifically Minnesota Rules Chapter 7080, which allows local regulation of Individual Sewage Treatment Systems, and the authority granted under Minnesota Statutes Chapter 145A as amended, and known as the "Local Public Health Act". Refer to Section 102 for reference to jurisdiction of other agencies.

**SECTION 211 COUNTY DUTIES AND RESPONSIBILITIES.**

The Department and its staff shall have the following duties and responsibilities.

- 211.1 Receive the As-Built (uniform) records and pump/maintenance records of Individual Sewage Treatment Systems, charging the appropriate fees for these services as set forth in the approved fee schedule, and provide for permanent storage and retrieval as per Municipal Ordinance or citizen request.
- 211.2 Administer the duties of the County as specified in this Ordinance and prepare and propose Ordinance amendments as needed.
- 211.3 Provide limited technical assistance to Municipal Inspectors and ISTS Professionals according to County staff availability, for which the County may charge a fee at the hourly rate set forth in the County Board approved annual fee schedule.
- 211.4 Maintain a list of area State licensed ISTS Contractors for distribution to the public, Municipalities, Realtors and other interested individuals. The County may charge the ISTS Contractors a reasonable service fee for this service as set forth in the County fee schedule. If an ISTS Contractor fails to provide the required As-Built records and pump maintenance records within the time frame set forth in Section 205, the County may temporarily remove their name from this list until such time that the required records are submitted to Dakota County.

## SECTION 212

## MUNICIPAL DUTIES AND RESPONSIBILITIES.

- 212.1** A Municipality and/or its' staff or designated qualified consultant shall receive, review and approve or reject applications/designs to install, replace or repair Individual Sewage Treatment Systems, and confirm that only MPCA Licensed individuals are conducting ISTS work in their Municipality.
- 212.2** A Municipality and/or its' staff or designated qualified consultant shall conduct Compliance Inspections of newly constructed, replaced or repaired systems, requiring appropriate corrections for those parts of the Sewage system that do not meet requirements of this Ordinance and Minnesota Rules Chapter 7080.
- 212.3** Assure that an As-Built record is fully and correctly completed immediately after each Sewage system installation, replacement or repair. Forward As-Built records, with accompanying fees, to Dakota County within 30 days of the Sewage system completion.
- 212.4** Municipalities must maintain copies of certificates of compliance, notices of noncompliance, permit applications, issued permits, enforcement proceedings, variance requests, and other actions taken. Records must be available for review by the MPCA. Permit files must also include:
- a) site evaluation records including items identified in part 7080.0110;
  - b) design records including warranties and calculations and summaries for all system component sizings;
  - c) as-builts for their own records.
- 212.5** In accordance with State Statute requirements, Municipalities must submit annual reports to the MPCA to demonstrate enforcement of their local ordinance. At a minimum, the reports must include a copy of the standard permit and inspection forms, the name and address of the program administrator, all qualified employees and contracted licensees authorized by the municipality, the number of permits issued, the percent of systems inspected, the number and type of systems, including number of mounds; at-grades; seepage beds; gravelless, chamber and drainfield rock trenches; warrantied, and performance systems; monitoring results from approved monitoring plans and mitigation actions for approved mitigative plans. The reports shall be submitted by March 1, 2000, contain information from the calendar year and shall be received by MPCA no later than March 1 of succeeding years.
- 212.6** Receive all Compliance Inspection reports on Sewage systems located within the Municipality, and require appropriate corrective actions for those Sewage systems in accordance with this Ordinance and/or Minnesota Rules 7080. Municipalities shall respond to and take appropriate action regarding Sewage system related complaints.
- 212.7** Document violations of ISTS Professionals occurring within the Municipality, to allow the Minnesota Pollution Control Agency to take appropriate action against licensed ISTS Professionals who violate applicable Minnesota Rules.
- 212.8** Require a Sewage system Compliance Inspection to be performed for a Permit application for a bedroom addition, and require Sewage system upgrade for Failing Systems in accordance with applicable standards.
- 212.9** Administer and enforce the applicable requirements of Minnesota Rules Chapter 7080 and the technical and administrative components of this Ordinance within the Municipality, and hire or contract for the services of a State Certified ISTS Inspector as needed to fulfill the duties and responsibilities of Minnesota Rules Chapter 7080. Each municipal ordinance shall contain a provision that requires all

failing systems to be upgraded, replaced, or repaired in compliance with MN Rules 7080.0060 within a reasonable timeframe.

## SECTION 213 COMPLIANCE INSPECTIONS

- 213.1 State License Required.** Compliance Inspections shall only be performed by a MPCA licensed Designer 1 independent of the owner and the installer, in accordance with MN Rules 7080 and Ordinance 113, and in accordance with and on the MPCA compliance inspection form.
- 213.2 Existing Systems.** Compliance Inspections are valid for three (3) years for Existing Systems, unless there is evidence of an imminent threat to public health or safety requiring removal and abatement under section 145A.04, subdivision 8.
- 213.3 New or Replacement Systems.** Compliance Inspections are valid for five (5) years for new or replacement systems, unless there is evidence of an imminent threat to public health or safety requiring removal or abatement under section 145A.04, subdivision 8.
- 213.4 Submission to Municipality Required.** A copy of all compliance inspections, whether or not the system was found to be failing or complying, shall be sent or delivered to the local Municipality within ten (10) days of completion.
- 213.5 Failing System.** A Compliance Inspection prepared for a proposed bedroom addition, a property for sale, or complaint to a Municipality, that confirms a failing system, requires that the owner (or buyer) upgrade the sewage system within 10 months after notification from the Municipality.
- 213.6 Imminent Threat to Public Health.** A Failing System that is an Imminent Threat to Public Health or Safety must have the system repaired or replaced so that it is no longer an Imminent Threat to Public Health or Safety within 30 days after notification from the Municipality.
- 213.7 Extreme Site Conditions.** If frozen ground or excessive snow/rain conditions prevent proper Sewage system replacement, the owner is required to take appropriate action, such as having the septic tank(s) pumped or using less water, to eliminate any actual or Imminent Threat to Public Health or Safety.
- 213.8 Inspection Exception.** A Compliance Inspection is not required if the owner (seller) of the system acknowledges in writing to the Municipality that the Existing System is failing and will be replaced within 10 months and if the system is an imminent health threat that the appropriate action is taken as stated in Section 209.3.
- 213.9 Required for Soils Maintenance.** In accordance with the requirement in MN Rules 7080.0175I that any maintenance activity used to increase the acceptance of effluent to a soil treatment system not be used on a Failing System, a Compliance Inspection with Municipal approval is required prior to conducting any such maintenance for each system.

**CHAPTER 300**

**STATE LICENSING OF ISTS CONTRACTORS**

**SECTION 301 STATE LICENSE REQUIRED.**

- 301.1** Any Person performing any work in Dakota County related to the siting, design, construction and installation, maintenance and repair, alteration and reconstruction, investigation, inspection, permanent abandonment of an Individual Sewage Treatment System, for removal, temporary storage, transport, disposal or beneficial utilization of septage, Sewage, Sewage sludge or wastewater solids and liquids, must have a current MPCA Sewage Contractor license from the State of Minnesota. Neither the County nor any Municipality shall license Individual Sewage Treatment System Contractors or Inspectors.
- 301.2** No Person shall apply for a Permit from a Municipal Authority, the Dakota County Office of Planning, or the Department without ensuring that all site evaluation and design work, and all proposed construction, installation, reconstruction, cleaning and pumping work has been or will be completed by a currently licensed State Contractor. A Municipality shall not issue a Permit to an unlicensed Contractor. Any Permit that is issued to an unlicensed Person or to a licensed Contractor who uses the services of an unlicensed Person to perform any work authorized by the Permit, shall be automatically void, and the Municipality shall give immediate notice to the individual(s) of that fact.

**SECTION 302 AVOIDING CONFLICTS OF INTEREST.**

- 302.1** To prevent potential conflicts of interest, Municipal Inspectors may not perform any Individual Sewage Treatment System work or provide any service, consulting, direct or indirect assistance of any type, or equipment rental, lease or use as a licensed Contractor in a Municipality where that person or company is also providing services to that Municipality as a Municipal Inspector. ISTS Professionals may not be the Municipal Inspector of their own work.
- 302.2** A licensed Private Inspector who inspects an Existing System may subsequently design and install a new system for that property, provided the Private Inspector is licensed to install Individual Sewage Treatment Systems. Owners or individuals requesting these professional services can, of course, choose to hire separate individuals in the categories of Private Inspector, designer, and installer at their own discretion.

**SECTION 303 LICENSING NOT EXCLUSIVE.**

The licensing of a Contractor by the State shall not exempt that Person from the need to obtain all other appropriate certifications, Permits and approvals required from federal, State, county or municipal agencies, unless otherwise stated in this Ordinance.

CHAPTER 400

MUNICIPAL PERMITS

**SECTION 401      SHORELAND AND FLOODPLAIN AREAS.**

For Shoreland and Floodplain areas in Townships, the Dakota County Office of Planning shall operate as a Municipality for purposes of this Ordinance.

**SECTION 402      SEWAGE SYSTEM CONSTRUCTION PERMIT REQUIRED.**

- 402.1** No Person shall excavate, construct, install, replace, reconstruct, extend or otherwise modify or alter an Individual Sewage Treatment System, or any component thereof, in Dakota County, without first applying for and obtaining a valid Sewage system construction Permit from the Municipality in which the real property is located. A Sewage system construction Permit shall require that all parts of the Sewage system be brought into compliance, and that an "As-Built" record be properly filled out immediately after system completion, and be submitted to Dakota County within 30 days.
- 402.2** Sewage system construction Permits shall be required for the excavation, construction, installation, replacement, reconstruction, extension, modification or alteration of an Individual Sewage Treatment System located on residential or nonresidential real property, regardless of the location of final treatment or disposal. A Sewage system is not approved until a properly completed "As-Built" record is in the possession of the Municipal Inspector.
- 402.3** A Sewage system permit and "As-Built" record are not required to repair or replace a crushed pipe, a pump, floats or other electrical devices of the pump, baffles in the septic tank, inspection pipes, septic tank access cover or extension ring(s), or the septic tank cover.

## CHAPTER 500

### MUNICIPAL VARIANCES

#### **SECTION 501      MUNICIPALITIES MAY ISSUE VARIANCES.**

Municipalities may use these variance procedures, or they may adopt their own variance procedures that are consistent with the procedures provided in this chapter.

#### **SECTION 502      VARIANCE REQUEST.**

A property Owner may request a variance from specific ISTS requirements of this Ordinance, a Municipal ordinance, or the Dakota County Shoreland and Floodplain Zoning Ordinance.

#### **SECTION 503      MUNICIPAL VARIANCES.**

A Municipality may grant variances from a Municipal Ordinance for new and repaired ISTS, but only when the purpose and intent of the variance is consistent with this Ordinance, the Dakota County Comprehensive Plan and the Dakota County Groundwater Protection Plan. As referenced in Section 202, Municipalities may allow for administrative variance approval for lessor lot line sewage system setbacks.

#### **SECTION 504      PROCEDURE FOR REQUESTING VARIANCE.**

**504.1** An application for a variance shall be filed with the Municipal Authority, and shall be accompanied by development plans and specifications showing all information as the Municipal Authority may reasonably require to assess the variance request. The plans need not meet all necessary engineering or construction details so long as they contain sufficient information for the Municipal Authority to determine whether the proposed variance will meet all applicable development standards if the variance is granted. In all cases the application shall include:

- a) names, addresses, and telephone numbers of the Applicant and Permittee;
- b) the legal description of the real property on which the system will be located;
- c) the names, addresses and telephone numbers of the Owners of the property or any Persons having a legal interest therein;
- d) a site plan showing all pertinent dimensions, buildings, structures and significant natural features having an influence on the variance;
- e) copies of required Municipal, County, State or federal Permits or approvals; and
- f) a description of the variance requested and a statement outlining the unique or particular situation or peculiar hardship that creates the need for a variance.

- 504.2** At its option, a Municipality may hold a public meeting or meetings on any application for a variance. If a public meeting is held, notice of the purpose, time and place of the meeting shall be published in a newspaper of general circulation in the township, municipality or other areas concerned and in the official newspaper of the County at least 10 days prior to the date of the meeting. Written notice of the public meeting shall be mailed to all property Owners of record within 500 feet of the subject property, the Board of Town Supervisors, and to the Municipal Authority of any Municipality within 2 miles of the subject property.
- 504.3** All administrative costs for conducting the public meeting shall be borne by the Person requesting the variance if the Municipality requests reimbursement of the costs. Such costs shall include, but are not be limited to, actual expenses incurred by the Municipality for publishing the notice and conducting the public hearing.
- 504.4** All decisions by the Municipal Authority on variance requests shall be final except that any aggrieved Person or Persons, or any Department, board or commission of the Municipality or of the State shall have the right to appeal within 30 days for a hearing before the Municipal Authority.
- 504.5** No application for a variance which has been denied wholly or in part shall be resubmitted for a period of 6 months from the date of said denial, except on the grounds of relevant new evidence or proof of significant change of conditions.
- 504.6** Each violation of any condition set forth in the variance shall be a separate violation of this Ordinance and shall be sufficient grounds for terminating the variance.
- 504.7** In exercising its authority to review any order, requirement, decision or determination made by any administrative official, the Municipal Authority shall not grant any variance unless it finds the following facts at the meeting where the Applicant shall present a statement and evidence on such forms as the Municipal Authority may require:
- a) that by reason of exceptional circumstances the strict enforcement of any provision of this Ordinance would cause undue hardship; and
  - b) that disposal of the Sewage is necessary for the public health, safety, or welfare; and
  - c) that strict conformity with the standards would be unreasonable, impractical, not feasible under the circumstances, or not reasonable due to proximity of Sewage systems.
- 504.8** Upon a request for a review of a previously granted variance, the Municipality may reconsider and amend specific conditions attached to a variance provided that they are in harmony with the general purposes and intent of this Ordinance, Dakota County Comprehensive Plan, Dakota County Groundwater Protection Plan, and Municipal Wellhead Protection Plan(s) and provided that the new or amended conditions are Approved by the local Municipal Authority or the Dakota County Office of Planning, if applicable.

## CHAPTER 600

### HEARINGS

#### **SECTION 601 HEARING PROCEDURES.**

Hearings related to County action under this Ordinance shall be conducted consistent with this chapter. If a Municipality has adopted this Ordinance and a hearing related to action taken by that Municipality is requested, the Municipality may follow the hearing procedures in this chapter by substituting the term "Municipality" for "County Board" or "Department", or the Municipality may use other hearing procedures that have been adopted by, or that are used by the Municipality.

#### **SECTION 602 REQUEST FOR HEARING.**

If any Applicant, licensee or Permittee properly requests a hearing on the denial, suspension, or revocation of a Permit, or denial of a variance, a hearing shall be held before the Municipal Authority, or a hearing examiner as provided below, and shall be open to the public.

#### **SECTION 603 HEARING DATE.**

Unless a written request for an extension of time is submitted to the County Board and is granted, the hearing will be held no later than 45 calendar days after the date of Service of request for a hearing, exclusive of the date of such Service. In any event, such hearing shall be held no later than 90 calendar days after the date of Service of request for a hearing, exclusive of the date of such Service.

#### **SECTION 604 HEARING NOTICE.**

The Department shall mail notice of the hearing to the Person requesting the hearing at least fifteen (15) working days prior to the hearing. Such notice shall include:

- 604.1 a statement of the date, time, place and nature of the hearing;
- 604.2 a statement of the legal authority and jurisdiction under which the hearing is to be held; and
- 604.3 a reference to the particular chapter or Section of the Ordinance and rules involved.

#### **SECTION 605 HEARING EXAMINER.**

The County Board may, by resolution, appoint an individual, to be known as the hearing examiner, to conduct the hearing and to make findings of fact, conclusions and recommendations. After completion of the hearing, the hearing examiner shall submit the findings of fact, conclusions and recommendations to the County Board in a written report, and the County Board may adopt, modify or reject the report.

#### **SECTION 606 CONDUCT AND RULES OF THE HEARING.**

- 606.1 The Person requesting the hearing may be represented by legal counsel. The County, the Applicant, licensee or Permittee and any additional parties as determined by the County Board or the hearing examiner, in that order, shall present evidence. All testimony shall be sworn under oath. All parties shall have full opportunity to respond to and present evidence, cross-examine witnesses, and

present argument. The County Board or the hearing examiner may also examine witnesses.

- 606.2** If the Person requesting the hearing fails to appear at the hearing, the right to a public hearing before the County Board or hearing examiner shall be forfeited.
- 606.3** The County shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by law, and all findings of fact, conclusions, and decisions by the County Board or findings of fact, conclusions and recommendations by the hearing examiner, shall be based on the evidence presented and matters officially noticed.
- 606.4** All evidence which has probative value including hearsay, may be admitted if it is the type of evidence on which prudent Persons are accustomed to rely in the conduct of their serious affairs. Evidence which is incompetent, irrelevant, immaterial or unduly repetitious may be excluded. The hearing shall be confined to matters raised in the written notice of suspension, summary suspension termination, revocation or denial, or in the written request for a hearing.
- 606.5** At the request of any party, or upon motion of the County Board or hearing examiner, a pre-hearing conference shall be held. The pre-hearing conference shall be conducted by the hearing examiner, if the County Board has chosen to use one, or by a designated representative of the County Board. The pre-hearing conference shall be held no later than 5 working days before the hearing. The purpose of the pre-hearing conference is to:
  - 606.51** Clarify the issues to be determined at the hearing; and
  - 606.52** Provide an opportunity for discovery of all relevant documentary photographic or other demonstrative evidence in the possession of each party. The hearing examiner representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction; and
  - 606.53** Provide an opportunity for discovery of the full names and addresses of all witnesses who will be called at the hearing and a brief description of the facts and opinions to which each is expected to testify. If the names and addresses are not known, the party shall describe them thoroughly by job duties and involvement with the facts at issue.
- 606.6** If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:
  - 606.61** The evidence was not known to the party at the time of the pre-hearing conference; or
  - 606.62** The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.

## CHAPTER 700

### COMPLIANCE AND ENFORCEMENT

#### SECTION 701      **GENERAL REQUIREMENTS FOR MUNICIPALITIES.**

- 701.1 Municipal Responsibilities.** Municipalities shall regulate all Individual Sewage Treatment Systems located within its boundaries, pursuant to this Ordinance and applicable MPCA Rules, and shall enforce its provisions whenever Failing Systems, non-complying Sewage systems or other violations are documented. Such regulation can include inspection, Sanitary Surveys, investigations, plan reviews, technical assistance and evaluation, testing and other evaluations.
- 701.2 Municipal Regulation.** Wherever a municipal ordinance has been adopted which complies to and is no less restrictive than this Ordinance, that Municipality shall have the authority and responsibility of implementing and enforcing this Ordinance or the more restrictive provisions of the Municipal Ordinance. Municipalities may adopt this Ordinance by reference. The Municipal Authority shall cooperate and coordinate with the Department to ensure Ordinance compliance.
- 701.3 Costs.** All costs of County regulatory compliance and enforcement of this Ordinance shall be borne by the current property Owner, unless otherwise provided by this Ordinance, who shall pay all documented costs no later than 30 calendar days from the date of billing. If the owner fails to pay all such bills, the Department may certify to the County Auditor a request for an assessment in the amount of the unpaid costs as a special tax against the Owner's real property or other such remedies at the discretion of the Department.
- 701.4 Access to Premises and Records.** Upon the request of a Municipality or the Department, the Applicant, Permittee or any other Person shall allow access at any reasonable time to any property or premises, and any related records or documents, for the purposes of regulating and enforcing this Ordinance.
- 701.5 Interference Prohibited.** No Person shall hinder nor otherwise interfere with the Municipality or its authorized agents, the Department, or its staff, in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to provide the Municipality or Department with reasonable access to the property, premises, related records or documents shall be deemed a separate and distinct violation of this Ordinance, whether or not any other specific violations are cited.
- 701.6 Additional Requirements.** Each Municipality and the Department may establish additional policies, procedures, guidelines and other requirements for regulating and enforcing this Ordinance, including the ability to require Immediate Compliance.

#### SECTION 702      **MUNICIPAL INSPECTIONS AND RECORDS.**

##### **702.1 Municipal Inspections.**

- 702.11** A Municipality, its designated agents, the Department or its staff may inspect Individual Sewage Treatment Systems as frequently as it may deem necessary to ensure compliance with this Ordinance, including reinspections as needed to verify the correction or removal of any violations cited.
- 702.12** A Municipality determines the manner and timing of inspections. A Municipality may allow the inspection requirement to be satisfied by a review of submitted video, electronic, photographic, and other adequate evidence of compliance by the installer.

702.13 A Municipality or the Department may issue written orders to correct violations, or to remove a system in violation of this Ordinance.

702.14 Failure to comply with such written orders for the correction or removal of each violation shall constitute a separate and distinct offense regardless of the disposition of the original violation.

#### **702.2 Notification of Request for Municipal Inspection.**

702.21 It shall be the duty of the Permittee or Contractor to give reasonable notice to the Municipality either in Person, by telephone or in writing, as well as retain a record of such notification, at the following times, so that the Municipality can perform a timely inspection:

- a) when the construction, installation, reconstruction or permanent Abandonment of a system will begin;
- b) when the construction, installation or reconstruction will be completed but prior to any covering or enclosure of the system or device by soil or other material;
- c) at other times as required by a Permit;
- d) whenever significant problems develop which, in the Permittee's or Contractors opinion, requires technical assistance, other advice or action; and
- e) at any other times required by orders for correction of violations, administrative actions or enforcement actions issued by the Municipality or Department.

702.22 Notification to Municipalities for inspections shall be made during normal business hours on the workday preceding the day the inspection is desired, excluding evenings, Saturdays, Sundays or holidays. If the time for an inspection must be changed, the final inspection notice shall be given not less than four hours before a system, device or site was originally scheduled for inspection unless otherwise Approved by the Municipality.

702.23 Notification to Municipalities for inspections shall not be construed as an obligation to appear for an inspection unless prearranged by the inspector at least 24 hours before the inspection time.

702.24 The Municipality may require the Permittee to file an affidavit with the Municipality attesting that the work was performed and the equipment and materials were constructed and installed in accordance with the standards, Approved plans, and Permit conditions and that the system is free from defects.

#### **702.3 Municipal and County Records.**

702.31 Record Keeping. Permittees and ISTS Professionals shall maintain all necessary books and records, including, but not limited to, Permit applications, plan and specification documents, Permit copies, inspection reports, correction orders and re-inspection reports, bills of lading, receipts and other information and data relevant to the Individual Sewage Treatment System, device or site. Failure to maintain such records shall be sufficient cause for the Municipality or Department to commence appropriate enforcement actions to ensure compliance.

- 702.32** Access for Review. Permittees and ISTS Professionals shall allow access to all such records at any reasonable time upon the request of the Municipality or Department. Failure to allow reasonable access by the Department shall be sufficient cause for the Department to commence appropriate enforcement actions to ensure compliance.
- 702.33** "As-Built" (Uniform) Records and Other Reports. For each newly constructed or reconstructed Individual Sewage Treatment System, an As-Built record shall be properly completed. At a minimum, As-Built records must be submitted to the Municipal Inspector no later than 10 days from Sewage System completion. The As-Built plan shall be reviewed and Approved or rejected by the inspector. The original As-Built records may be retained by the Municipality, and a legible copy shall be sent or delivered to the Department in a timely manner with appropriate required fees, but no later than 30 days after completion of the system or device. Other reports, as required by this Ordinance, shall be provided to the Department in a timely manner or upon request, but not to exceed 30 days from the date of construction unless requested earlier.
- 702.34** Pump Maintenance Records. For each Sewage tank system that is pumped, a pump maintenance record, as established by the Department, shall be completed. A legible copy or the original of this record shall be sent or delivered to the Department in a timely manner, not to exceed 30 days from the date of pumping.

### **SECTION 703 NOTICE OF VIOLATIONS.**

Unresolved and either separate, recurrent or continuing violations of this Ordinance by an Applicant, licensee Permittee, Contractor or any other Person, as determined by inspections, re-inspections, or other investigations, shall constitute noncompliance, and, therefore, the Municipality or Department may issue and serve a formal notice of violations, either in person or by certified or registered mail. A notice of violations shall contain statements documenting the findings of fact, listing the specific violations, describing the requirements for the correction or removal of said violations, imposing a mandatory time schedule for compliance and assessing penalties and other remedies.

### **SECTION 704 EXAMINATION.**

Samples of waste, wastewater, water, or other environmental samples and specimens may be collected without cost to the Municipality or Department from a system, device, site, well, water supply or other related location or operation and may be examined by the Municipality or Department as often as may be necessary to protect the environment and promote the public health, safety and general welfare. A fee for Service may be charged for said collection and examination and, if so, must be paid to the Municipality or Department within thirty (30) days of billing. Standard, Environmental Protection Agency or other Approved testing methods for the collection and examination of waste, wastewater, water, environmental samples or other specimens shall be utilized, and a copy of the laboratory report shall be provided to the responsible Person.

### **SECTION 705 SEIZURE, EMBARGO, CONDEMNATION AND TAGGING.**

A Municipality or the Department may seize, Embargo or condemn any system, device or its appurtenances, or require repair or abandon equipment, supplies and machinery, or other materials, devices, products or Services which do not meet the requirements of this Ordinance and whose continued use or presence may pose a potential or imminent threat to the environment or an Imminent Threat to Public Health or Safety. Seized or Embargoed items may be examined or otherwise evaluated by a Municipality, or the Department to determine compliance with the provisions of this Ordinance. After completing its

evaluation or inspection, a Municipality or the Department shall determine if such items may be released from seizure or Embargo or will be condemned for removal or destruction. A Municipality or the Department may condemn and cause to be properly abandoned, removed or destroyed any such item which does not comply with this Ordinance, which is being used or is present in violation of this Ordinance or which is otherwise determined to be harmful to public health, safety or the environment. A Municipality or the Department will use a red tag to indicate the seizure or Embargo of any item or to otherwise identify its condemnation. No Person may remove this tag or other identification, except under the specific direction of the Municipality or the Department. Removal of an Embargo or condemnation tag without proper authorization shall constitute a violation of the Ordinance.

## **SECTION 706      CITATIONS.**

- 706.1 Municipalities May Follow these Procedures.** Citations related to County action under this Ordinance shall be conducted consistent with this chapter. If a Municipality has adopted this Ordinance and that Municipality desires to use citations, the Municipality may follow the citation procedures in this chapter by substituting the term "Municipality" for "County Board" or "Department", or the Municipality may use other citation procedures that have been adopted by, or that are used by the Municipality.
- 706.2 Authority for Citations.** The Department or any of its duly authorized representatives charged with the responsibility of the regulation and enforcement of this Ordinance shall have the power to issue citations for violations of this Ordinance. Such representatives may not physically arrest or take into custody any violators.
- 706.3 Issuing Citations.** Whenever any representative of the Department discovers any violation of this Ordinance, the representative may write and issue a citation to the Person alleged to have committed the violation. A citation shall be made out in quadruplicate (4). One copy shall be issued to the Person alleged to have committed the violation; two copies shall be filed with the Department; and one copy shall be filed with the Dakota County Auditor's Office. Appropriate documentation and evidentiary collection shall be maintained on file at the Department.
- 706.4 Form of Citation.** Citations shall contain at least the following:
- a) the name, address and telephone number of the Owner or Person in charge of the premises at which the violations occur;
  - b) the date, time and place of the violations;
  - c) a short description of the violation followed by the chapter or section of the Ordinance violated;
  - d) the date and place at which the Person receiving the citation is to appear, and a notice providing that if such Person does not respond, a warrant may be issued for that Person's arrest; and
  - e) such other information as the Courts may specify.
- 706.5 Issuance of Citations.** The citation shall be issued either by personal Service or by registered or certified mail to the Person alleged to have committed the violation, or in the case of a corporation or Municipality, to any officer or agent expressly or otherwise authorized to accept Service of legal documents.

**706.6 Appearance.** After the issuance of the citation and within such time as shall be fixed by court rule, the Person charged with the violation shall report to the Department. If the Department marks the citation with "Court Appearance Required," the Person or his authorized agent shall be required to appear before the District Court at the date, time and place established and stated on the citation.

**706.7 Formal Complaint.** If the Person charged with the violation does not appear at the Department within the time specified by court rule, the Department shall send a notice directing the Person to respond to the citation within 7 days of the date of the notice and if such Person fails to timely respond, the Department, through the County Attorney's Office, may cause a formal complaint to be signed and a warrant to be issued for the arrest of such Person to compel an appearance in court.

## **SECTION 707       SUSPENSION AND REVOCATION.**

**707.1 General.** Municipalities may use these Suspension and Revocation procedures or may adopt their own variance procedures that are consistent with the procedures provided in this chapter.

**707.2 Suspension.** Any Permit required under this Ordinance may be suspended by the Municipality or Department for violation of any provision of this Ordinance. Upon written notice to the Applicant and Permittee, said Permit may be suspended by the Municipality or Department for a period not longer than 60 days, or until the violation is corrected.

Such suspension shall occur 10 working days after written notice of suspension has been served on the Permittee unless the Department determines that an Imminent Threat to Public Health or Safety and the environment requires summary suspension. If a hearing is requested, under Chapter 600 of this Ordinance, suspension shall not occur until written notice of the Municipality or Department action has been served on the Permittee. Notice to the Permittee shall be served personally or by registered or certified mail at the address designated in the Permit application. Such written notice of suspension shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation(s) has occurred, and a statement that the Permittee may appeal the suspension by filing a request for hearing, within 10 working days, exclusive of the day of Service. The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail by the Municipality or Department no later than midnight of the tenth working day following Service as defined in chapter 102.27 of this Ordinance. Following receipt of a request for a hearing, the Department shall set a time and place for hearing.

**707.3 Notice of Continued Suspension** If said suspension is upheld and the Permittee has not demonstrated within the 60 day period that the provisions of the Ordinance have been complied with, the Department may serve notice of continued suspension for up to an additional 60 days or initiate revocation procedures.

## **SECTION 708       SUMMARY SUSPENSION.**

**708.1** Municipalities may use these Summary Suspension procedures or may adopt their own Summary Suspension procedures that are consistent with the procedures provided in this chapter.

**708.2** If the Department finds that an imminent threat to the environment or an Imminent Threat to Public Health or Safety, requiring emergency action, and incorporates a finding to that effect in its order, summary suspension of the Permit may be ordered. Written notice of such summary suspension shall be served, as defined in

Section 102.27, personally on the Permittee or by registered or certified mail to said Permittee at the address designated in the Permit application. In addition, the Municipality or Department may post copies of the notice of summary suspension of the Permit on the property. Said posting shall constitute the notice required under this chapter.

- 708.3** The written notice in such cases shall state the effective date of the summary suspension and the nature of the violation requiring emergency action, the facts which support the conclusion that a violation or violations has occurred and a statement that if the Permittee desires to appeal he must, within ten (10) working days, exclusive of the day of Service as defined in section 102.27, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and served personally or be registered or certified mail on the Municipality or Department no later than midnight of the tenth working day following Service. Following receipt of a request for an appeal, the Municipality or Department shall set a time and a place for the hearing.
- 708.4** The summary suspension shall not be stayed pending an appeal or informal review by the Municipality or Department, but shall be subject to dismissal upon a favorable re-inspection by the Municipality or Department.

## **SECTION 709       SUSPENSION RE-INSPECTIONS.**

Upon written notification from the Permittee that all violations for which a suspension or summary suspension was invoked have been corrected, the Department shall re-inspect the system, device, site or activity within a reasonable length of time, but in no case more than 5 working days after receipt of the notice from the Permittee. If the Department finds upon such re-inspection that the violations constituting the grounds for suspension have been corrected or removed, the Municipality or the Department shall immediately dismiss the suspension by written notice to the Permittee, designated in the Permit application.

## **SECTION 710       REVOCATION.**

- 710.1** Municipalities may use these Revocation procedures or may adopt their own Revocation procedures that are consistent with the procedures provided in this chapter.
- 710.2** Any Permit granted pursuant to this Ordinance may be revoked by the Department for violation of any provisions of this Ordinance.
- 710.3** Revocation shall not occur earlier than ten 10 working days from the time that written notice of revocation is served on the Permittee. If a hearing is requested, revocation shall not occur until written notice of the Department action has been served on the Permittee. Notice to the Permittee shall be served, as defined in chapter 102.27, personally or by registered or certified mail at the address designated in the Permit application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis for the revocation, the facts which support the conclusion that a violation or violations has occurred and a statement that if the Permittee desires to appeal, he must within 10 working days, exclusive of the day of Service, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Department no later than midnight of the tenth County working day following Service. Following receipt of a request for a hearing, the Department shall set a time and a place for the hearing.

**SECTION 711 MISDEMEANOR PENALTY.**

Any Person who fails to comply with any of the provisions of this Ordinance shall be guilty of a misdemeanor as provided by Minnesota Statutes Section 115.03 and other laws, and upon conviction thereof, shall be punished as provided by law. A separate offense shall be deemed committed each day during or upon which a violation occurs or continues.

**SECTION 712 INJUNCTIVE RELIEF AND OTHER REMEDIES.**

In the event of a violation or a threat of violation of this Ordinance, the Municipality or Department may institute appropriate civil actions or proceedings, including requesting injunctive relief, to prevent, restrain, correct or abate such violations or threatened violations. The Municipal Authority or Department may recover costs incurred for corrective action in a civil action in any court of competent jurisdiction.

At the discretion of the Department, the costs for the Department may be certified to the County Auditor as a special tax against the real property. These and other remedies, as determined appropriate by the Department, may be imposed upon the Applicant, Permittee, Contractor or other responsible Person either in addition to or separate from other enforcement actions.

**CHAPTER 800**

**OPERATION AND MAINTENANCE**

**SECTION 801. TREATABLE WASTE AND WASTEWATER.**

- 801.1** No Person, property Owner or other entity shall cause or allow the release of any wastes, wastewaters or other substances by spillage, leakage or other incident which cannot be properly treated by an Approved soil treatment unit or by an Approved, manufactured treatment system or device, unless otherwise regulated by competent authority.
- 801.2** The release of hazardous or toxic materials or wastes or the release of wastes, wastewaters or other substances in which such hazardous or toxic materials or wastes are significant constituents, shall be strictly prohibited and enforced under this Ordinance. Persons, property Owners and other entities who allow or cause the improper construction, location, use, interconnection, storage or disposal of such materials or wastes shall be held jointly responsible for the abatement, remediation and other resolution of said release.
- 801.3** The use of additives or products to reputedly modify or improve wastewater treatment shall be restricted to only those reviewed and Approved by the State. Manufacturer shall provide demonstrable, scientific proof of such claims which shall also verify that the additives, products or applications do not damage the systems or devices, do not cause environmental harm and do not endanger the public health and safety. A non-refundable fee for the review shall be required regardless of the approval or disapproval of the particular additive, product or application.

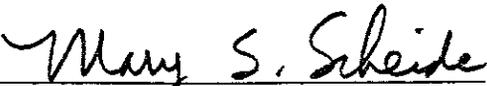
Passed by the Dakota County Board of Commissioners this 4th day of June, 1985.

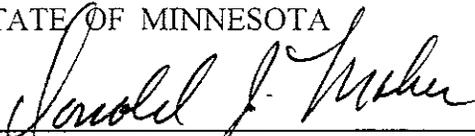
Amended by the Dakota County Board of Commissioners this 23rd day of July, 1996.

The effective date of the 7-23-96 amendments was November 1, 1996.

Amended by the Dakota County Board of Commissioners, and effective, this 19 day of May, 1998.

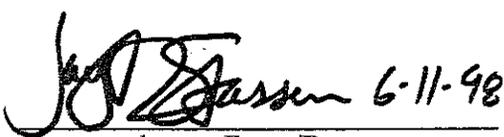
ATTEST: COUNTY OF DAKOTA, STATE OF MINNESOTA

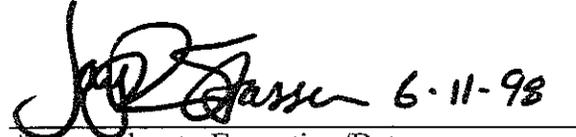
  
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Mary S. Scheide  
Clerk to the Board

  
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Donald J. Maher, Chairman  
Dakota County Board of Commissioners

DATE: 6-9-98

Date: 6-9-98

  
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Approved as to Form/Date  
Jay R. Stassen  
Assistant County Attorney

  
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Approved as to Execution/Date  
Jay R. Stassen  
Assistant County Attorney

Ordinance History  
Originally adopted: June 4, 1985  
First Amendments: July 23, 1996  
Second Amendment May 19, 1998