

ORDINANCE # 04-04

MOWER COUNTY
INDIVIDUAL SEWAGE TREATMENT SYSTEM
ORDINANCE

Effective Date: August 1, 2004

The Board of Commissioners of Mower County, Minnesota, does hereby adopt this Ordinance for the regulation of the design, construction, location, repair, operation and maintenance of individual sewage treatment systems; the treatment and disposal of septage and the enforcement of these regulations throughout all areas of the County as allowed under Minnesota Statutes, Section 145A.05 and as required in Chapter 7080.0305 Subp. 2.

SEC 11-1 GENERAL PROVISIONS

SUBD 1 PURPOSE AND INTENT. The purpose of this Ordinance is to provide minimum standards for the design, construction, installation, location, use, capacities and maintenance of individual sewage treatment systems and the treatment and disposal of septage to protect the surface and groundwaters of the County from contamination, promote the public health, safety and welfare and prevent public nuisances pursuant to Minnesota Rules Chapter 7080.

SUBD 2 SCOPE OF REGULATIONS. This Ordinance shall regulate the design, construction, repair and replacement of all individual sewage treatment systems and the treatment and disposal of septage in Mower County. It is not intended to regulate systems that treat industrial or other hazardous waste materials.

SUBD 3 DEFINITIONS. For the purpose of this Ordinance the terms are defined as follows:

- a. Alternative System means a sewage treatment system employing such methods and devices as specified by the Minnesota Pollution Control Agency Rules, Chapter 7080.
- b. Department means the Mower County Environmental Services Department.

- c. Director means the Director of the Mower County Environmental Services Department.
- d. Dwelling means any building or place used or intended to be used by human occupants as a single family or multi-family residence or business and producing sewage.
- e. Failing System means a seepage pit, cesspool, drywell, leaching pit, other pit, a tank that obviously leaks below the designated operating depth, or any system with less than the required vertical separation.
- f. Groundwater means that water lying below the ground surface in a saturated zone.
- g. Holding Tank means a water tight tank for the storage of sewage until it can be transported to a point of approved treatment and disposal.
- h. Immediate Incorporation means the mixing of septage with the topsoil by means such as injection equipment, disking, moldboard plowing, or chisel plowing, to a minimum depth of six inches within two hours of landspreading.
- i. Imminent Threat to Public Health or Safety (ITPHS) means situations with the potential to immediately and adversely affect or threaten public health or safety. At a minimum, this includes ground surface or surface water discharges and sewage backup into a dwelling or other establishment.
- j. Individual Sewage Treatment System means a sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, and using sewage tanks followed by soil treatment and disposal or using advanced treatment devices that discharge below final grade. Individual sewage treatment system includes holding tanks and privies.
- k. Intermittent Stream means any stream which flows at certain times during the year, such as after a rainstorm or during wet weather. Intermittent streams receive water from surface runoff, springs, or melting snow and have definable banks. Any intermittent stream mapped on Soil Conservation Service soils surveys or United States Geological Survey Quadrangle Maps may be included within this definition.

- l. Landowner means any person who holds a freehold interest, either individually or as a joint tenant, or tenant in common, to any land lying within the County. Where the term owner of land or landowner is used, it includes each and all of the joint tenants and tenants in common with respect to such land.
- m. Landspreading means the placement of septage or human waste from septic or holding tanks on or into the soil surface.
- n. Lot means lot as defined by the County Subdivision Ordinance.
- o. Lot of Record means any lot or parcel existing at the time of adoption of this Ordinance whether or not it meets the minimum requirements prescribed by the Mower County Zoning Ordinance.
- p. Mound System means a soil treatment system with a rockbed elevated above the original soil with clean sand to overcome soil limitations.
- q. Person means a firm, association, organization, partnership, trust, company, corporation, municipality, agency, or an individual.
- r. Place of Habitation means an apartment, manufactured home, dwelling, residence, or other structure, occupied or intended to be occupied on a day-to-day basis by an individual, group of individuals, family unit, or group of family units.
- s. Public Road Right-Of-Way means the edges of the established public use area associated with a roadway.
- t. Recreation Area means any public area, such as a public park, campground, playground, athletic field, picnic ground, botanical or zoological garden, swimming beach or pool, fairground, or wayside and any commercial campground, resort, tourist court, ski area or amusement park, during the season of use.
- u. Residential/Commercial Development means ten or more places of habitation concentrated within ten acres of land. The term also includes apartment buildings or complexes having ten or more units, churches, schools, hospitals, nursing homes, businesses and offices.

- v. Septage means those solids and liquids removed during the periodic maintenance of a septic tank or aerobic tank and those solids and liquids removed from a holding tank, seepage pit or any other toilet waste treatment device.
- w. Septage Land Application Site means any land used for septage landspreading.
- x. Septic System means a septic tank and soil treatment unit that is designed and constructed to treat sewage.
- y. Septic Tank means any watertight, covered receptacle designed and constructed to receive the discharge of sewage from a building sewer, separate solids from liquids, digest organic matter, store liquids through a period of detention and allow the effluent to discharge to a treatment system.
- z. Sewage means waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources. Animal waste and commercial or industrial waste are not considered domestic waste.
- aa. Setback means a separation distance measured horizontally.
- bb. Shoreland Area means lands as defined by the Mower County Shoreland Ordinance.
- cc. Surface Water means any water basins or water courses defined as natural water courses or public waters in Minnesota Statutes, Section 103, Subdivision 14 and 15, respectively.
- dd. SWF means the following three categories of systems: systems constructed in shoreland areas; system constructed in wellhead protection areas regulated under MN Statutes, Chapter 1031; and systems serving food, beverage, and lodging establishments, including manufactured home parks and recreational camping areas licensed according to Minnesota statutes, Chapter 327.
- ee. Transfer of Property means the act of a party by which the title of the property is conveyed from one person to another. The sale and every other method, direct or indirect, of disposing or parting with property, or with an interest therein, or with the possession thereof, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, mortgage, gift, or otherwise.

ff. Well means any water well as defined in Minnesota Statutes, Section 103I.005, Subdivision 21.

gg. Wetland means any surface water feature classified as a wetland in the U.S. Fish and Wildlife Service Circular 39 (1971 edition).

SUBD 4 TREATMENT REQUIRED. All buildings and uses which rely on an individual sewage treatment system and are not served by a municipal wastewater treatment system shall be under the jurisdiction of this Ordinance. All septage and sewage from the above buildings and uses shall be treated and disposed of in accordance with the provisions of this Ordinance.

SEC 11-2 ADMINISTRATION

SUBD 1 ADMINISTRATION BY STATE AGENCIES. For an individual sewage treatment system, or group of individual sewage treatment systems, that are located on adjacent properties and under single ownership, the owner or owners shall make application for and obtain a State Disposal System Permit from the agency if either of the following conditions apply:

- a. The individual sewage treatment system or systems are designed to treat an average daily flow greater than 10,000 gallons per day; or
- b. The individual sewage treatment system or systems are designed to treat a maximum monthly average daily flow of 15,000 gallons per day or more. The systems must, at a minimum, conform to the requirements of these standards.

For dwellings such as apartment buildings, townhouses, resort units, rental cabins, and condominiums, the sum of the flows from all existing and proposed sources under single management or ownership shall be used to determine the need for a State Disposal System Permit.

Individual sewage treatment systems serving establishments or facilities licensed or otherwise regulated by the State of Minnesota shall conform to the requirements of the Minnesota Pollution Control Agency (MPCA) Rules, Chapter 7080.

Any individual sewage treatment system requiring approval by the State of Minnesota shall also comply with this Ordinance.

SUBD 2 ADMINISTRATION BY MOWER COUNTY. This Ordinance shall be administered by the Director of the Mower County Environmental Services Department whose responsibilities shall include:

- a. The review of all applications for individual sewage treatment systems;
- b. The issuance of all permits required by this Ordinance;
- c. The inspection of work in progress and the performance of necessary tests to determine conformance with this Ordinance;
- d. Final inspections;
- e. The investigation of complaints;
- f. The performance of sanitary surveys and, where necessary, dye testing to determine system conformance with this Ordinance;
- g. The issuance of stop work orders and violation notices;
- h. The revocation of permits;
- i. The pursuit of complaints to the County Attorney's office;
- j. The enforcement of all of the provisions of this Ordinance; and
- k. The maintenance of proper records for individual sewage treatment systems.
- l. The filing, notification and follow-up required for notices of non-compliance and certificates of compliance.

SEC 11-3 MINIMUM STANDARDS AND REQUIREMENTS

SUBD 1 STANDARDS ADOPTED BY REFERENCE. This Ordinance hereby adopts by reference, MPCA Rules Chapter 7080 termed "Individual Sewage Treatment Systems", which rules shall comprise the minimum standards for the design, location, installation, use, sizing and maintenance of individual sewage treatment systems in Mower County. Parts 7080.0020, except where definitions are duplicated by this Ordinance, in which case the definition in the Ordinance will prevail; 7080.0060 except as amended by SUBD. 7 part a of Sec. 11-5 of this Ordinance; 7080.0065; 7080.0110; 7080.0115; 7080.0120; 7080.0125; 7080.0130 except Subp.3 Table II which is replaced by Sec. 11-3 SUBD 2.c of this Ordinance; 7080.0150; 7080.0160; 7080.0170; 7080.0172; 7080.0175; 7080.0176; and 7080.0178, "Other Systems" are specifically adopted as required.

SUBD 2 STANDARDS AND REQUIREMENTS FOR INDIVIDUAL SEWAGE TREATMENT SYSTEMS. In addition to the above standards, the following shall apply:

- a. Minimum Lot Size; Additional Site Required. No lot requiring an individual sewage treatment system shall be less than 1 ½ acre in size, excluding right-of-way. Where lots have an approved shared well and an individual sewage treatment system is to be installed, lot size shall be determined on a case-by-case basis provided the lot containing the well shall be a minimum of 1 ½ acre in size. In a shared well situation, the lot to be developed shall be no less than 20,000 square feet in area. Lots of record less than 1 ½ acre in size shall be handled on a case-by-case basis depending on the capability of the soils to support an individual treatment system. Where adjacent lots of record smaller than one acre in size are in the same ownership, properties shall be combined to meet the minimum lot size requirements. Any lot created since January of 1996 must also be able to accommodate one additional soil treatment site that can support a standard system. This additional site must be identified in any plan or design submitted with an application for a permit and must be preserved for system replacement.
- b. Surface Discharge Prohibited. Unless specifically permitted by the Minnesota Pollution Control Agency (MPCA); sewage, sewage tank effluent or seepage from a soil treatment system shall not be discharged to the ground surface, bodies of surface water or water courses, ditches or agricultural drain tiles or into any rock or soil formation, the structure of which is not conducive to purification of water by filtration, or into any well or other excavation in the ground. Any existing system which discharges to the ground surface or surface or ground waters shall be classified as a failing system.

c. Minimum Septic Tank Sizing Requirements.

Garbage Disposal: If a garbage disposal or sewage pump is anticipated or installed in a dwelling, the septic tank must include either multiple compartments or multiple tanks must be provided. The following are minimum septic tank capacities for residences:

EXISTING HOMES:

<u>Number of Bedrooms</u>	Septic Tank Liquid Capacity (gallons)	Septic Tank Liquid Capacity (gallons) (all tanks shall be either multiple compartments or multiple tanks)
	<u>Without Garbage Disposal</u>	<u>With Garbage Disposal</u>
2 or Less	750	1,250
3 or 4	1,000	1,500
5 or 6	1,500	2,500
7, 8 or 9	2,000	3,000

NEW HOME CONSTRUCTION:

All septic tanks shall be either multiple compartments or multiple tanks

Number of Bedrooms	Septic Tank Liquid Capacity (gallons)
4 or less	1,500
5 or 6	2,500
7, 8 or 9	3,000

if sewage is pumped from the dwelling, 7080.0130 subp. 3c shall apply.

d. Setbacks. Failure of existing systems to meet the setbacks in items 2-4 below shall not result in the system being a failing or non-compliant system. The setback between individual sewage treatment systems and wells, water bodies and wetlands shall be as follows:

1. Wells. The minimum distance from a well to an individual sewage treatment system shall be as required by Minnesota Rules, Chapter 4725, Rules Relating to Wells and Borings, as follows:

- (2) No Certificate of Real Estate Value need be filed with the County Auditor, as per Minnesota Statutes, Chapter 272.115.
- (3) The sale or transfer completes a contract for deed entered prior to the effective date of this Ordinance. This subsection applies only to the original vendor and vendee of such a contract.
- (4) Any dwellings or other buildings with running water that are connected to a municipal wastewater treatment system.
- (5) In the event an ISTS is known to be failing an agreement to replace or repair the system, signed by both the buyer and seller, may be substituted for certificate of compliance or notice of non-compliance.

f. If the transaction occurs between November 1 and the following April 30, and the inspection cannot be completed, a compliance inspection shall be completed within six months or by the following September 30, whichever comes first, as provided by the stipulation.

2. Compliance at Transfer of Property;

Prior to closing, a compliance inspection is to be conducted. If the system on the property in question is found to be a failing system, the system is to be brought into compliance with this Ordinance within a year of the date of closing, or within ten months in the case of an Imminent Threat to Public Health or Safety (ITPHS).

3. Upon Complaint or Notice of Non-Compliance any failing individual sewage treatment system shall be replaced with a system that conforms to this Ordinance or repaired in accordance with Ordinance requirements. Within 30 days of notification by the Department the landowner(s) shall submit a plan which identifies the location of the existing system and a schedule for replacement or repair. Failure to comply with this requirement shall be a violation of this Ordinance.

- a. A failing system shall be upgraded, replaced or its use discontinued within one (1) year of the date of a notice of non-compliance.
- b. An ISTS posing an imminent threat to public health or safety shall be upgraded, replaced or repaired or its use discontinued within an appropriate time set by the Department to be no greater than ten (10) months of a notice of non-compliance.

4. Upon Expansion. Any system shall be brought into compliance with requirements of this ordinance with issuance of a zoning permit or variance approval for a bedroom addition to a dwelling on the property served by the system or replacement or construction of a dwelling.
 - a. A compliance inspection must be performed prior to the issuance of a Zoning Permit. If application for a Zoning Permit is made between Nov. 1 and April 30 and a compliance inspection cannot be conducted the applicant can have until the following June 1 to conduct the compliance inspection and until Sept. 1 to submit the Certificate of Compliance.
 - b. If necessary, the system must be upgraded, repaired or replaced within a year of issuance of the Zoning Permit or Variance, except that a system posing an imminent threat to public health or safety shall comply with 3.b of this section.
 - c. In the event that a Zoning Permit application includes the addition of a bedroom, the owner has five years from the date of the bedroom addition permit issuance to upgrade, replace, repair or discontinue use of the system if:
 1. The system inspection is triggered by a bedroom addition request.
 2. The system was installed between May 27, 1989 and January 23, 1996.
 3. The system does not meet the appropriate water table separation as required in 7080.0060; and
 4. The system is not an imminent threat to public health or safety (ITPHS).

- f. Alternative and Other Systems. Alternative systems are those described as alternative in Chapter 7080 Section 7080.0172. Applications for alternative and other systems must include plans for monitoring and determining system failure and plans for system replacement if necessary. Other Systems must meet the requirements of Section 7080.0178 and are subject to review and approval by the department.
 1. Holding tanks are to be installed as allowed under Section 7080.0172 Subpart 3A-G. Holding tanks for new construction shall be allowed only by variance. Holding tanks for existing dwellings may be allowed by the Director if it is found that there is not adequate room or soils for the installation of a standard system. Holding tanks for existing construction shall be subject to

the review and approval of the Department. The owner of a holding tank shall maintain and place on file with the County a current contract for septage treatment and disposal with a licensed pumper, or if pumping as allowed in Section 7080.0700 (D) shall record pumping frequency and volume and file a report annually to the County. All septage shall be disposed of as required in Sec. 11-3 Subd. 3 of this Ordinance.

2. Floodplain Areas – An ISTS shall not be located in the floodway except by permission of the Director and placement within any part of the floodplain is to be avoided, but if no alternative exists the ISTS may be placed within the flood fringe as allowed under 7080.0172 Subp. 1.
 3. Privies – Privies shall be installed as allowed in 7080.0172 Subd. 2.
- g. Warranted Systems - Warranted individual sewage treatment systems meeting the requirements under part 7080.0450 may be used only if the system carries a manufacturer's or installer's warranty of 20 years or more.
- h. System Maintenance – The individual sewage treatment system and all components must be maintained in compliance with Minnesota Rule Chapter 7080.0175, this ordinance and manufacturer's requirements.

The owner of an individual sewage treatment system or the owner's agent shall regularly, but in no case less frequently than every three years:

- 1) Assess whether the sewage tank leaks below the designed operating depth and whether the sewage tank tops, riser joints and riser connections leak through visual evidence of major defects, and
- 2) Measure or remove the accumulations of scum, which includes grease and other floating materials at the top of each septic tank and compartment along with the sludge, which includes the solids, denser and water.

Septage shall be removed by pumping the septage from all tanks or compartments in which the top of the sludge layer is less than twelve inches below the bottom of the outlet baffle, or whenever the bottom of the scum layer is less than three inches above the bottom of the outlet baffle. Removal of the accumulated sludge, scum and liquids must be through the maintenance hole. If no maintenance hole exists on the sewage tank, the owner or the owner's agent shall install maintenance holes in sewage tanks in accordance with 7080.0130 subp. 2 sub-item m. to allow for maintenance to take place through the

maintenance hole. If the owner or owner's agent refuses to allow the removal through a maintenance hole, the licensed pumper must obtain a signed statement from the owner or owner's agent that the owner or agent was informed of correct removal procedures and the reason for refusal.

Individual sewage treatment system additives must not be used as a means to reduce the frequency of proper maintenance and removal of septage from the tank as specified. Individual sewage treatment system additives that contain hazardous substances must not be used in individual sewage treatment systems.

SUBD 3 STANDARDS FOR SEPTAGE TREATMENT AND DISPOSAL. Septage may be land spread or disposed of at a sewage treatment plant only with the permission of the owner. The following requirements shall apply to land spread septage from individual sewage treatment systems which receive and treat domestic wastes. They do not apply to waste materials from septic or holding tanks which receive industrial or agricultural wastes.

A. Requirements for land application sites

1. General. Sites selected to receive septage application shall meet the requirements of this part.
2. Soil Requirements. Soils suitable for septage application must meet the requirements of A through D.
 - a. The soil texture at the zone of septage application must be fine sand, loamy sand, sandy loam, loam, silt, silt loam, sandy clay loam, clay loam, sandy clay, silty clay loam, silty clay, or clay.
 - b. Septage may not be applied to soil with a seasonally high water table or bedrock of less than 3 feet from the zone of application. Septage may not be applied to soil with a seasonally high watertable or bedrock of less than 5 feet from the zone of application if the soil is rated as highly permeable by the Natural Resource Conservation Service. For seasonally high watertable soils, this separation distance can be gained by a drainage system designed according to or equivalent to Natural Resources Conservation Service engineering criteria.

c. Septage may not be applied to soil within a 100-year floodplain as designated by the Department of Natural Resources.

d. Septage must be incorporated within 48 hours or injected if the permeability of the surface layer of the soil is less than or equal to 0.2 inches/hour.

3. Slope Restrictions. The slope restrictions in Table 1 shall be maintained.

Table 1.

Slope (percent)	Surface Application	Injection or Incorporation Within 48 hours
0 – 6	Allowed	Allowed
↔ 6 – 12	Not Allowed	Allowed
↔ > 12	Not Allowed	Not Allowed

Septage may only be applied on areas with a slope of 2% or less when the soil is snow covered or frozen.
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4. Setback Requirements. Septage shall not be land applied closer than the distances listed in Table 2.

Table 2. (distances in feet)¹

Feature	Separation Distances in Feet		
	Surface Applied	Incorporated within 48 hours	Injected
Private drinking water	200	200	200
Public drinking water supply wells(1)	1000	1000	1000
Irrigation wells	50	25	25
Residences(2)	200	200	100
Residential developments(2)	600	600	300
Public contact sites	600	300	300
Down gradient lakes, Rivers, streams, Slope 0% to 6%	200	50	50
wetlands, Intermittent streams, or tile inlets Slope 6% to 12% connected to these	Not Allowed	100	100

Surface water features, And sinkholes(3)	Winter 0% to 2%	600	Not Applicable	Not Applicable
Grassed water ways (4)	Slope 0% to 6%	100	33	33
	Slope 6% to 12%	Not Allowed	33	33

- 1 There may be special requirements if the land application site is within the boundaries of a wellhead protection area. Check with the Minnesota Department of Health or local unit of government.
- 2 Separation distances may be reduced with written permission from all persons inhabiting within the protected distance.
- 3 If downgradient surface water does not receive runoff because the site is bermed, separation distances can be reduced to 33 feet.
- 4 Separation distances are measured from the centerline of grassed waterways. For grassed waterways that are wider than these separation distances, application is allowed to the edge of the grass strip. Grassed waterways are natural or constructed, typically broad and shallow, and seeded to grass as protection against erosion.

B. Grease Trap Wastes Disposal Requirements.

Disposal of grease trap waste or grease trap wastes mixed with non-grease trap septage must be as follows:

1. Grease trap waste must be incorporated into the soil within six hours of surface application or injected into the soil. The application rate not to exceed 15,000 gallons/acre/year.
2. Grease trap waste must be mixed with septage not derived from grease traps prior to land application. The quantity of grease trap waste mixed with septage cannot exceed 25% of the mixture by volume. Maximum application rates of this mixture are limited to 60,000 gallons/acre/year.

3. Grease trap waste must be mixed with septage not derived from grease traps prior to land application. The quantity of grease trap waste mixed with septage cannot exceed 50% of the mixture by volume. Maximum application rates of this mixture are limited to 30,000 gallons/acre/year.

SEC 11-4 DESIGN, SITE EVALUATION AND SYSTEM ABANDONMENT REQUIREMENTS

SUBD 1 DESIGN REQUIREMENTS. All individual sewage treatment systems shall be designed by a certified Individual Sewage Treatment System Designer.

SUBD 2 SITE EVALUATION REQUIREMENTS. All applications for new or replacement individual sewage treatment systems shall be accompanied by a report from a certified Designer I or Designer 2 which satisfies the criteria and certifies that the proposed site meets the requirements of Chapter 7080 and this Ordinance. The Designer shall be responsible for the placement of flagging around the perimeter of the proposed system at the time of evaluation.

SUBD 3 SOIL BORINGS Soil borings shall be required for all individual sewage treatment system sites.

SUBD 4 SYSTEM ABANDONMENT. An individual sewage treatment system or part thereof that is no longer to be used must be abandoned according to Chapter 7080.0176 Subparts 1-3. In addition, the abandonment must be conducted by a licensed ISTS installer or ISTS pumper.

SEC 11-5 LICENSE, PERMIT, INSPECTION AND VARIANCE REQUIREMENTS

SUBD 1 All design, installation, alteration, repair, maintenance, pumping and inspection activities for an individual sewage treatment system must be completed by an appropriately licensed business and an appropriately registered qualified employee or a person exempted under 7080.0700 Subpart I.

SUBD 2 PERMITS REQUIRED. No person shall install, alter, repair or extend an individual sewage treatment system until a permit has been issued for the site by the Director. Permits shall be valid for six months from the date of issuance for individual sewage treatment systems.

SUBD 3 PERMIT EXEMPTIONS. All of the requirements of this Ordinance shall be complied with except that Permits shall not be required for the following installations or actions:

- a. Repair or replacement of the solid sewer pipe extending from the building to the septic or holding tank.
- b. Repair or replacement of the solid sewer pipe extending from the septic tank to the first distribution or drop box.
- c. Repair or replacement of pumps, floats or electrical pump devices.
- d. Repair or replacement of septic tank baffles.

SUBD 4 PERMIT APPLICATION FEES. Application fees shall be payable at the time of application as established by the Mower County Board of Commissioners.

SUBD 5 PERMIT APPLICATION REQUIREMENTS. Application for a permit to install a system shall be made on a form provided by the County Environmental Services Department in accordance with the submittal requirements established thereon. An application to construct an individual sewage treatment system shall be accompanied by a plan prepared by a certified Designer I or 2 and accompanied by a site evaluation and soil borings and percolation tests, where required by this Ordinance.

SUBD 6 INDEMNIFICATION AGREEMENT. The permittee shall indemnify and hold the County harmless from all losses, damages, costs and charges that may be incurred by the County due to the failure of the permittee to conform to and comply with the provisions of this Ordinance.

SUBD 7 INSPECTIONS. The Department shall make such inspection or inspections as are necessary to determine compliance with this Chapter. No part of the system shall be covered until it has been inspected and accepted by the inspector. It shall be the responsibility of the applicant for the permit to notify the inspector that the job is ready for inspection or reinspection, and it shall be the duty of the inspector to make the indicated inspection within forty-eight hours after such notice has been given. Notice must be given before noon in order for an inspection to be conducted the same day. It shall be the duty of the owner or occupant of the property to give the inspector free access to the property at reasonable times for the purpose of making such inspections. Upon satisfactory completion and final inspection of the system the inspector shall issue to the applicant a certificate of compliance.

If, upon inspection, the inspector discovers that any part of the system is not constructed in accordance with the minimum standards provided in this chapter, he/she shall give the applicant written notification describing the defects. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

If an inspection cannot be made within 48 hours or if for weather or other reasons the inspector deems that the system must be covered prior to inspection, the contractor shall photograph the entire system and provide the photographs and an “as built” drawing to the inspector within 7 days of completion of the system.

- a. Compliance Criteria. An ISTS shall be considered in compliance if the following provisions are satisfied:
 1. The system is not a failing system or an imminent threat to public health or safety and meets the requirements of any monitoring plan.
 2. All existing systems built after March 31, 1996 shall have a three foot vertical separation and those built before April 1, 1996, in non-SWF areas must have at least two foot of vertical separation from the water table as measured outside the area of system influence in an area of similar soil.
 3. All existing systems built after March 31, 1996 must meet the compliance requirements of this section and the technical standards in MN Rule Chapter 7080 parts 7080.0130, 7080.0170 Subp 1A-C and F, Subp 2C, Subp 5B(2) and Subp 6B(1).
 4. All new or replacement systems must meet technical standards and criteria shown in this Ordinance and MN Rule Chapter 7080 parts 7080.0020, 7080.0060 to 7080.0176 & 7080.0600 as adopted in Sec. 11-3 of this Ordinance.
 5. For all new construction the vertical separation distance shall be measured in the soil treatment area.
 6. Other systems must meet design requirements and monitoring and mitigation plans specified in parts 7080.0178 and 7080.0310, Subp 7.
- b. Inspection Requirements for Existing Systems. Only a qualified employee or authorized licensee or licensed Designer I or Inspector independent of the owner and the installer shall conduct an inspection when a compliance

inspection is required for an existing ISTS. A copy of the Certificate of Compliance or Notice of Noncompliance resulting from a compliance inspection shall be provided to the property owner and the County within 30 days of the inspection.

- c. **Mandatory Compliance Inspections of Existing Systems.** An ISTS shall require a compliance inspection when any one of the following conditions occur:
 - 1. At the transfer of property in Mower County as stated in Sec 11-3 Subdivision 2(d) of this Ordinance.
 - 2. At any time the Department deems appropriate such as upon receiving a complaint or other information of system failure.
 - 3. At the time of application for a Zoning Permit or variance for a bedroom addition to a dwelling or a Zoning Permit for a dwelling.

- d. **Notice of Non-Compliance.** A Notice of Non-Compliance shall be issued and copies provided to the property owner and the County within 30 days under the following conditions:
 - 1. An ISTS posing an (ITPHS) shall be brought into compliance within 10 months of notification.
 - 2. Except in the case of an ITPHS, a failed ISTS shall be upgraded, replaced or repaired and brought into compliance with Minnesota Rules Chapter 7080.0060, as applicable within one (1) year. The Department will give consideration to weather conditions as compliance dates are established.
 - 3. When the ISTS is determined to be failing at the point of sale or transfer of property.

- e. **Failing ISTS.** The owner(s) of a failing ISTS shall submit to the Department an acceptable Replacement Plan within thirty (30) days after notification by the Department. The Replacement Plan shall identify the location and design of the ISTS and a schedule for its replacement. Failure to submit

and execute an acceptable Replacement Plan is a violation of this SECTION.

- f. Certificate of Compliance. Certification of an ISTS is valid for three (3) years for an existing system, five (5) years for a new or replacement system, provided the system does not fail or become an imminent public health threat or other cause as deemed appropriate by the Department.

SUBD 8 VARIANCES. The Mower County Board of Adjustment shall have the authority to grant variances when the purposes and intent of the variance are consistent with this Ordinance and Mower County's Comprehensive Plan, Zoning Ordinance, Shoreland Management Ordinance, Water Well Construction, Sealing and Repair Ordinance and Surface Water Management Plan.

The application procedure for a variance from the Board of Adjustment is contained in the Mower County Zoning Ordinance under Division 5 Board of Adjustment, Sections 14-22 through 14-27.

SEC 11-6 VIOLATIONS AND ENFORCEMENT

SUBD 1 RESPONSIBILITY. The Department of Environmental Services shall be responsible for the enforcement of this Ordinance.

SUBD 2 NOTICES OF VIOLATIONS

- a. Cause to Issue a Notice of Violation. Unresolved and either separate, recurrent, or continuing violations of this Ordinance by an applicant, permittee, installer or other person, as determined by inspections, reinspections, or investigations shall constitute nonconformance or noncompliance with this Ordinance.
- b. Serving a Notice of Violation. A notice of violation shall be served by mail upon the applicant, permittee, installer or other person found to be in violation of this Ordinance.
- c. Contents of a Notice of Violation. A notice of violation shall contain the following:
 - 1. A statement documenting the findings of fact through inspections, reinspections or investigations;

2. A list of specific violations of this Ordinance;
 3. The specific requirements for correction or removal of said violations;
 4. A mandatory time schedule for correction, removal and compliance with the Ordinance; and
 5. Specific enforcement actions that will be taken if corrective action is not completed.
- d. Enforcement Action. If specific violations of the Ordinance are not adequately corrected in accordance with the time schedule identified in the notice of violation, the applicant, permittee, installer or other person shall be subject to those enforcement actions identified in this Ordinance. Failure to comply with provisions of this Ordinance shall be a misdemeanor and subject to penalties.

SUBD 3 SUSPENSION OF PERMITS.

- a. Cause to Issue Notice of Suspension. Any permit required under this Ordinance may be suspended by the Department for violation of any provision of this Ordinance. Upon written notice to the applicant or permittee, said permit may be suspended by the Department until the violation is corrected.
- b. Serving a Notice of Suspension. Written notice of suspension shall be served on the permittee by mail and shall be effective on the date identified on the notice of suspension. If the Department concludes that there is a health hazard, suspension may be effective immediately upon notice to the permittee.
- c. Contents of a Notice of Suspension. A notice of suspension shall contain the following:
 1. The effective date of the suspension;
 2. The nature of the violation or violations constituting the basis for the suspension;

3. The facts which support the conclusion that a violation or violations has occurred; and
 4. A statement that if the permittee desires to appeal, the permittee must, within 15 County working days, exclusive of the day of service, file a request for an appeal pursuant to the requirements of this Ordinance.
- d. Enforcement Action. If said suspension is upheld and the permittee has not demonstrated within the 60 day period that the provisions of this Ordinance have been complied with, the Department may serve notice by mail of continued suspension for up to an additional 60 days or initiate revocation procedures.
- e. Suspension Reinspections. Upon notification from the permittee that all violations for which a suspension was invoked have been corrected, the Department shall reinspect the on-site sewage treatment system or activity within a reasonable length of time, but in no case more than five (5) County working days after receipt of written notice from the permittee. If the Department finds upon such reinspection that the violations constituting the grounds for the suspension have been corrected or removed, the Department shall immediately dismiss the suspension by written notice to the permittee.

SUBD 4 PENALTIES. Any person, firm or corporation who shall violate any provision of this Ordinance shall be guilty of a misdemeanor and shall be subject to penalties as established by Minnesota Statutes. Each day that the violation continues shall constitute a separate offense warranting penalty.

SUBD 5 STOP WORK ORDER. Whenever any work is being done contrary to the provisions of this Ordinance, the Department may order work stopped by written notice personally served upon the installer or landowner. All installation or construction shall cease and desist until subsequent authorization to proceed is received from the Department.

SUBD 6 COMPLAINTS. Upon receipt of a written or verbal complaint from any person regarding an individual sewage treatment system after following the procedure for notices of violation as prescribed by Sec 11-7, Subd 2, the Department shall file a complaint with the Mower County Attorney who shall prosecute the complaint through the County Courts.

SUBD 7 REVOCAION OF PERMITS.

- a. Cause to Issue a Notice of Revocation. Any permit granted pursuant to this Ordinance may be revoked by the Department for violation of any provisions of this Ordinance.
- b. Serving a Notice of Revocation. A notice of revocation shall be served by mail upon the applicant, permittee, installer or other person found to be in violation of this Ordinance. Revocation shall not occur earlier than fifteen (15) County working days from the time that the notice of revocation is served by the Department. If an appeal is requested pursuant to this Ordinance, revocation shall not occur until written notice of the Department action has been served on the permittee.
- c. Contents of a Notice of Revocation. A notice of revocation shall contain the following:
 1. The effective date of the revocation;
 2. The nature of the violation or violations constituting the basis of the revocation;
 3. The facts which support the conclusion that a violation or violations has occurred; and
 4. A statement that if the permittee desires to appeal, the permittee must, within 15 County working days, exclusive of the day of service, file a written request for an appeal pursuant to this Ordinance.

SEC 11-7 APPEALS

Any decision by the County Environmental Services Department to stop work, suspend a permit or revoke a permit may be appealed in writing to the Mower County Board of Commissioners within fifteen (15) County working days after the official notice of action by the Department.

SEC 11-8 SEVERABILITY

If any provision or application of any provision of this Ordinance is held invalid, such finding of invalidity shall not affect other provisions or applications of this Ordinance.

SEC 11-9 ORDINANCE REPEALER

The Mower County Individual Sewage Treatment Ordinance, dated 1994 and all amendments thereto, is hereby repealed in its entirety upon the effective date of this ordinance.

SEC 11-10 EFFECTIVE DATE

This Ordinance shall be in full-force and effect on and after _____ upon adoption and publication pursuant to law.

ATTEST

MOWER COUNTY, MINNESOTA

Clerk of Board of Commissioners
Mower County

Chairperson

Date

Date