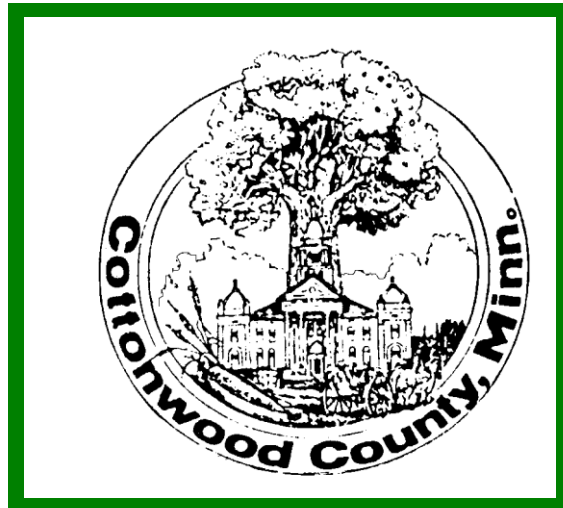


COTTONWOOD COUNTY
SUBSURFACE SEWAGE TREATMENT
SYSTEM

ORDINANCE # 38
(SSTS)



January 1, 2011
March 20, 2012
REVISED EFFECTIVE DATE:

APRIL 9, 2013

The Cottonwood County Board of Commissioners Ordains:

An Ordinance authorizing and providing for sewage treatment and soil dispersal in unsewered areas of Cottonwood County.

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SECTION 1: Purpose

The purpose of this ordinance is to establish minimum requirements for regulation of Subsurface Sewage Treatment Systems (SSTS) for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the County’s citizens by protecting its health, safety, general welfare, and natural resources.

SECTION 2: Intent

It is intended by the County Board that this Ordinance will promote the following:

1. The protection of lakes, rivers and streams, wetlands, and groundwater in Cottonwood County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
2. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
4. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
5. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

SECTION 3: Authority

This Ordinance is adopted pursuant to MN Statutes, Chapter 115, Section 115.55; MN Statutes Chapter 145A, Sections 145A.01 through 145A.08; MN Statutes Chapter 375, Section 375.51; or successor MN Statutes, and MN Rules, Chapter 7080, Chapter 7081, Chapter 7082 and Chapter 7083 or successor Rules.

SECTION 4: Title

This Ordinance shall be known and may be cited and referred to as the “Cottonwood County Subsurface Sewage Treatment Systems” or “SSTS” Ordinance; when referred to herein, it shall be known as “this Ordinance”.

SECTION 5: Rules

1. Minimum standards for and regulation of individual sewage treatment systems (ISTS) and mid-sized Subsurface Sewage Treatment Systems (MSTS) (collectively referred to as SSTS) in unsewered incorporated and unsewered unincorporated areas of Cottonwood County incorporating by reference minimum standards established by MN Statutes and Administrative Rules of the Minnesota Pollution Control Agency,

2. Requirements for issuing permits for installation, alteration, repair or expansion of SSTS,
3. Requirements for all SSTS permitted under the revised MN Rules, Chapters 7080, 7081, 7082 and 7083 to be operated under an approved management plan,
4. Standards for upgrade, repair, replacement, or abandonment of SSTS,
5. Penalties for failure to comply with these provisions,
6. Provisions for enforcement of these requirements, and
7. Standards which promote the health, safety and welfare of the public as reflected in MN Statutes Chapter 115, Sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82; Cottonwood County Comprehensive Plan; and Cottonwood County Zoning Ordinance.
8. Statutes and Rules referenced in this Ordinance can be accessed to read or download at this website:
<https://www.revisor.mn.gov/pubs/>

SECTION 6: Definitions

The following words and phrases shall have the meanings ascribed to them in this Subdivision. If not specifically defined in this Subdivision terms used in this Ordinance shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this Ordinance, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

Agency: Minnesota Pollution Control Agency.

As-Builts: Drawings and documentation specifying final in-place location, elevation, size and type of all system components.

At-grade system: a pressurize soil treatment and dispersal system where sewage tank effluent is dosed to an absorption bed that is constructed directly on original soil at the ground surface and covered by loamy soil materials.

Authorized Representative: Cottonwood County Environmental Administrator or other qualified County Staff.

Bedrock: geological layers, of which greater than 50 percent by volume consist of un-weathered in-place consolidated rock or rock fragments. Bedrock also means weathered in-place rock which cannot be hand augered or penetrated with a knife blade in a soil pit.

Bedroom: for the sole purpose of estimating design flows from dwellings, an area or room that is designed or used for sleeping; OR

A room or area of a dwelling that has a minimum floor area of 70 square feet with access gained from the living area or living area hallway. Architectural features that affect the use as a bedroom under this item may be considered in making the bedroom determination.

Board of Adjustment: A board established by county ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of MN Statutes, sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Certificate of Compliance: A document, written after a compliance inspection, certifying that a system is in compliance with applicable requirements at the time of the inspection.

Certified Statement: A statement signed by a certified individual, apprentice, or qualified employee under MN Rules Chapter 7083 certifying that the licensed business or qualified employee completed work in accordance with applicable requirements.

Cesspool: An underground pit, receptacle, or seepage tank that receives sewage directly from a point of discharge and leaches sewage into the surrounding soil, bedrock, or other soil materials. Cesspools include sewage tanks that were designed to be watertight, but subsequently leak below the designed operating depth.

Chapter 7080: MN Rules and Minnesota Pollution Control Agency Design Standards for Individual Subsurface Sewage Treatment Systems.

Chapter 7081: MN Rules and Minnesota Pollution Control Agency Design Mid-sized Subsurface Sewage Treatment Systems.

Chapter 7082: MN Rules and Minnesota Pollution Control Agency Requirements for Local ISTS Programs.

Chapter 7083: SSTS licensing and certification program, product registration program, and advisory committee.

Class V Injection Well: A shallow well used to place a variety of fluids directly below the land surface. This includes SSTS that are designed to receive sewage or non-sewage from a two-family dwelling or greater or receive sewage or non-sewage from another establishment that serves more than 20 persons per day. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

Cluster System: An SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.

Compliance Inspection: An evaluation, investigation, inspection, or other such process for the purpose of issuing a Certificate of Compliance or Notice of Non-compliance.

Cottonwood County Environmental Office: Qualified county employee or Cottonwood SWCD (contracted agent) qualified employee.

County: Cottonwood County, Minnesota.

County Board: Cottonwood County Board of Commissioners.

Deleterious Material: Any harmful or injurious substance.

Department: Cottonwood County Environmental Office.

Design Flow: The daily volume of wastewater for which an SSTS is designed to treat and discharge.

Dwelling: Any building with provision for living, sanitary, and sleeping facilities.

EPA: United States Environmental Protection Agency.

Failure to Protect Groundwater: At a minimum, an SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; an SSTS with less than the required vertical separation distance, described in MN Rules Chapter 7080, Part 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Subdivision 15 of this Ordinance.

Graywater: Wastewater/sewage that does not contain toilet wastes.

Graywater System: A system that receives, treats, and disperses only graywater or other similar system as designated by the commissioner.

Hazardous waste: Any substance that, when discarded, meets the definition of hazardous waste in MN Statutes Chapter 116, Section 116.06, subdivision 11.

Holding tank: A tank for storage of sewage until it can be transported to a point of treatment and dispersal. Holding tanks are considered a septic system tank under MN Statutes Chapter 115, Section 115.55.

Imminent Threat to Public Health and Safety: At a minimum an SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a SSTS inspection business licensed pursuant to Subdivision 5 of this Ordinance.

ISTS: An individual sewage treatment system having a design flow of no more than 5,000 gallons per day.

Industrial Waste: Sewage containing waste from activities other than sanitary waste from industrial activities including, but not limited to, the following uses defined under the Standard Industrial Classification (SIC) Codes established by the U.S. Office of Management and Budget.

SIC CODE(S)	INDUSTRY CATEGORY
753-7549	Automotive Repairs and Services
7231,7241	Beauty Shops, Barber Shops
7211-7219	Laundry Cleaning and Garment Services
4011-4581	Transportation (Maintenance only)
8062-8069	Hospitals
2000-3999	Manufacturing
2000-2099	Food Products
2100-2199	Tobacco Products
2400-2499	Lumber and Wood Products, except Furniture
2500-2599	Furniture and Fixtures
2600-2699	Paper and Allied Products
2700-2799	Printing, Publishing, and Allied Industries
2800-2899	Chemicals and Allied Products
2900-2999	Petroleum Refining and Related Industries
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3200-3299	Stone, Clay, Glass, and Concrete Products
3300-3399	Primary Metal Industries
3400-3499	Fabricated Metal Products (except Machinery, and Transportation Equipment
3500-3599	Industrial and Commercial Machinery and Computer Equipment
3700-3799	Transportation Equipment
3800-3899	Measuring, Analyzing, and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks
3900-3999	Miscellaneous Manufacturing Industries

LSTS: A “large subsurface sewage treatment system” under single ownership that receives sewage from dwellings or other establishments having a design flow of 10,000 gallons per day or greater.

Malfunction: The partial or complete loss of function of an SSTS component, which requires a corrective action to restore its intended function.

Management Plan: A plan that requires the periodic examination, adjustment, testing, and other operational requirements to meet system performance expectations, including a planned course of action in the event a system does not meet performance expectations.

Minor Repair: The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS.

Mound System: A soil treatment and dispersal system designed and installed such that all of the infiltrative surface is installed above grade, using clean sand between the bottom of the infiltrative surface and the original ground elevation, utilizing pressure distribution and capped with suitable soil material to stabilize the surface and encourage vegetative growth.

MSTS: A “midsized subsurface sewage treatment system” under single ownership that receives sewage from dwellings or other establishments having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.

Notice of Noncompliance: A document written and signed by a certified inspector after a compliance inspection that gives notice that an ISTS is not in compliance as specified under MN Rules Chapter 7080, Part 7080.1500.

MPCA: Minnesota Pollution Control Agency.

Original Soil: Naturally occurring soil that has not been cut, filled, moved, smeared, compacted, altered, or manipulated to the degree that the loading rate must be reduced from that associated with natural soil conditions.

Periodically Saturated Soil: The highest elevation in the soil that is in a reduced chemical state due to soil pores filled or nearly filled with water causing anaerobic conditions. Periodically saturated soil is determined by the presence of redoximorphic features in conjunction with other established indicators as specified in part MN Rules Chapter 7080, Part 7080.1720, subpart 5, items E and F, or determined by other scientifically established technical methods or empirical field measurements acceptable to the permitting authority in consultation with the commissioner.

Privy: An aboveground structure with an underground cavity meeting the requirements of MN Rules Chapter 7080, Part 7080.2280 that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing and graywater. A privy also means a non-dwelling structure containing a toilet waste treatment devise.

Property Transfer: The act of a party by which the title to property is conveyed from one party or entity 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 individually, by or without judicial proceedings, as a conveyance, sale, mortgage, gift, or otherwise.

Pump Tank: A tank or separate compartment following the sewage tank that serves as a reservoir for a pump. A separate tank used as a pump tank is considered a septic system tank under MN Statues Chapter 115, Section 115.55.

Redoximorphic Features: A color pattern in soil, formed by oxidation and reduction of iron or manganese in saturated soil coupled with their removal, translocation, or accrual, which results in the loss (depletion) or gain (concentration) of mineral compounds compared to the matrix color;

OR: A soil matrix color controlled by the presence of ferrous iron, Redoximorphic features are described in MN Rules Chapter 7080, Part 7080.1720, subpart 5, item F.

Qualified Employee: An employee of the state or a local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual’s employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.

Record Drawings: A set of drawings which to the fullest extent possible document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system.

Replacement: The removal or discontinued use of any major portion of an ISTS and reinstallation of that portion of the system, such as reinstallation of a new sewage tank, holding tank, dosing chamber, privy, or soil dispersal system.

Septage: Solids and liquids removed from an SSTS, including solids and liquids from cesspools, seepage pits, other pits, or similar systems or devices that receive sewage. Septage also includes solids and liquids that are removed from portable, incinerating, composting,, holding, or other toilets. Waste from Type III marine sanitation devices, as defined in Code of Federal Regulations, Title 33, Section 159.3, and material that has come into contact with untreated sewage within the past 12 months is also considered septage.

Septic Tank: Any watertight, covered receptacle that is designed and constructed to receive the discharge of sewage from a building sewer or preceding tank, stores liquids for a detention period that provides separation of solids from liquid and digestion of organic matter, and allows the effluent to discharge to a succeeding tank, treatment device, or soil dispersal system.

Sewage: Waste from toilets, bathing, laundry, or culinary activities or operations or floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.

Shop: Any building more than 1000 square feet used for storage or repair that has a floor drain.

SSTS: Either an individual subsurface sewage treatment system (ISTS) as defined in subpart 45 or a midsized system as defined in MN Rules Chapter 7081, Part 7081.0020, subpart 4, as applicable.

State: State of Minnesota.

Toilet Waste: Waste commonly disposed of in toilets, including fecal matter, urine, toilet paper, and water used for flushing.

Treatment Level: Treatment system performance levels defined in MN Rules Chapter 7083, Part 7083.4030, Table III for testing of proprietary treatment products, which include the following:

Table III

Level A: cBOD₅ ≤ 15 mg/L; TSS ≤ 15 mg/L; fecal coliforms ≤ 1,000/100 mL.

Level A-2: cBOD₅ ≤ 15 mg/L; TSS ≤ 15 mg/L; fecal coliforms N/A.

Level B: cBOD₅ ≤ 25 mg/L; TSS ≤ 30 mg/L; fecal coliforms ≤ 10,000/100 mL.

Level B-2: cBOD₅ ≤ 25 mg/L; TSS ≤ 30 mg/L; fecal coliforms N/A.

Level C: cBOD₅ ≤ 125 mg/L; TSS ≤ 60 mg/L; O&G ≤ 25mg/L; fecal coliforms N/A.

Type I System: An ISTS that follows a standard trench, bed, at-grade, mound, or graywater system design in accordance with MPCA rules, MN Rules, Chapter 7080, Parts 7080.2200 through 7080.2240.

Type II System: An ISTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots in floodplains and privies or holding tanks in accordance with MPCA rules MN Rules Chapter 7080, Parts 7080.2250 through 7080.2290.

Type III System: A system designed according to the requirements with MN Rules Chapter 7080, Part 7080.2300.

Type IV System: An ISTS, having an approved pretreatment device that is capable of providing suitable treatment for use in accordance with MPCA rules MN Rules Chapter 7080, Part 7080.2350. The system must be designed by an Advanced Designer and inspected by an Advanced Inspector.

Type V System: An ISTS, which is a custom engineered design to accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and other relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented in accordance with MPCA rules and MN Rules Chapter 7080, Part 7080.2400. The system must be designed by an Engineer with an SSTS Advanced designer license and certification or an Advanced Designer in cooperation with an Engineer and inspected by an Advanced Inspector.

Wellhead Protection Area: The surface and subsurface area surrounding a well or well field that supplies a public water system, through which contaminants are likely to move toward and reach the well or well field as regulated under MN Rules Chapter 4720. For the purpose of MN Rules Chapter 4720, wellhead protection area is that area bounded by the drinking water supply management area as regulated under MN Rules Chapter 4720.

15% Reduction Rule: Allows for a 15% reduction in the required vertical separation to account for settling of soil, normal variation of measurements, and interpretations of the limiting layer conditions. This pertains only to systems requiring 36 inches of vertical separation.

SECTION 7: General Provisions

1. **Scope:** This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within Cottonwood County's applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.
2. **Jurisdiction:** The jurisdiction of this Ordinance shall include all lands of Cottonwood County except for incorporated areas that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their incorporated jurisdiction, which is at least as strict as this Ordinance and has been approved by the County. The Cottonwood County Environmental Office shall keep a current list of local jurisdictions within the County administering an SSTS program.

SECTION 8: Administration

1. **County Administration:** The Cottonwood County Environmental Office shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County shall review, revise, and update this Ordinance as necessary. The County shall employ, or retain under contract, qualified and appropriately licensed professionals to administer and operate the SSTS program.
2. **State of Minnesota:** Where a single SSTS or group of SSTS under common ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a State Disposal System permit from MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a State Disposal System permit is required.

SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance.
3. **Cities and Townships:** Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.
4. **Validity:** The validity of any part of this Ordinance shall not be affected by the invalidity of any other parts of this Ordinance where the part can be given effect irrespective of any invalid part or parts.
5. **Liability:** Any liability or responsibility shall not be imposed upon the Agency, County, or Department, or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster treatment system regulated under this rule by reason of standards, requirements, or inspections authorized hereunder.

SECTION 9: General Requirements

1. Retroactivity:

- A. All SSTS. Except as explicitly set forth in Section 9, B, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.
- B. Existing Certificates. Unexpired certificates which were issued prior to the effective date shall remain valid under the terms and conditions of the original certificate until the original expiration date.
- C. SSTS on lots created after January 23, 1996. All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds, at-grade systems as described in MN Rules, Chapter 7080, Parts 7080.2200 through 7080.2230 or site conditions described in MN Rules Chapter 7081, Part 7081.0270, Subp. 3 through 7.

2. **Construction Activity:** No construction or repair requiring excavation of soil before April 15, or after October 15, shall be allowed in any portion of the drainfield or soil absorption system without the written permission of a Qualified Employee of the Cottonwood County Environmental Office.
3. **Upgrade/Expansion:** Repair/Replacement (see Section 11: SSTS Permitting)
 - A. **SSTS Capacity Expansion.** Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.
 - B. **Additions to Dwellings:** Prior to the issuance of a Setback Permit for an addition to a dwelling that increases the number of bedrooms or bathrooms in the dwelling, the owner must submit a valid Certificate of Compliance or a Certified Inspection Report stating the system is in compliance, or obtain a valid SSTS Septic Permit.
4. **Abandonment:** Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with MN Rules, Chapter 7080.2500. Additionally, any SSTS or any component thereof which has been serving a dwelling that has been abandoned or destroyed must be abandoned in accordance with MN Rules Chapter 7080, Part 7080.2500 within two (2) years of abandonment or destruction.
5. **Failure to Protect Groundwater:** An SSTS that is determined not to be protective of Groundwater in accordance with MN Rules, Chapter 7080, Part 7080.1500, Subp.4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 12 months of receipt of a Notice of Noncompliance. See Section 17 of this ordinance for exceptions to Section 9(3)(5).
6. **Imminent Threat to Public Health or Safety:** An SSTS that is determined to be an imminent threat to public health or safety in accordance with MN Rules Chapter 7080, Part 7080.1500, Subp.4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 10 months of receipt of a Notice of Noncompliance.
7. **SSTS in Floodplains:** SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain shall be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in MN Rules Chapter 7080, Part 7080.2270 and all relevant local requirements are met.
8. **Class V Injection Wells:** All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.
9. **SSTS Practitioner Licensing:** No person shall engage in site evaluation, inspection, design, installation, construction, alternation, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with MN Rules Chapter 7083 except as exempted in Part 7083.0700.
10. **Property owners exempted from SSTS licensing requirements** under MN Rules Chapter 7083, Part 7083.0700, must comply with the following additional provisions:
 - A. A property owner must follow all applicable County, State, and Federal requirements for permitting and construction of an SSTS. All self installed systems must be designed by a licensed SSTS designer.
 - B. A property owner shall not construct an SSTS that requires a pump, or any SSTS to be located on soil textures ending in the word sand, in a wellhead protection area, or in a floodplain area without the assistance of a licensed installation business or a certified installer at the site.
 - C. The property owner shall provide a signed agreement to the Department which indemnifies and saves the County holding it harmless from all losses, damages, costs, and charges that may be incurred by the County due to failure of the permit holder to comply with the provisions of this section.

- D. The licensed design business or certified designer of the SSTS must be present at the site during the compliance inspection conducted by the Department.
- E. A property owner utilizing any low-interest septic loan funds, or any other County sponsored financial program shall not be allowed to install or construct their own septic system.

11. Prohibitions

- A. **Occupancy or Use of a Building without a Compliant SSTS:** It is unlawful for any person to maintain, occupy, or use any building intended for habitation that does not provide a wastewater treatment system that disposes of wastewater in a manner compliant with the provisions of this Ordinance.
- B. **Sewage Discharge to Ground Surface or Surface Water:** It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.
- C. **Sewage Discharge to a Well or Boring:** It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in MN Rules Chapter 4725, Part 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.
- D. **Discharge of Hazardous or Deleterious Materials:** It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

SECTION 10: SSTS Standards

- 1. **Standards Adopted by Reference.** The County hereby adopts by reference MN Rules, Chapters 7080, 7081, 7082 and 7083 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County’s right or ability to adopt local standards that are more restrictive and in compliance with MN Statute Chapter 115, Section 115.55.
- 2. **Amendments to the Adopted Standards.**
 - A. **Depth of Tank Burial**
 - 1) The top of sewage tanks shall not be buried deeper than six feet from the final grade for new dwellings and must not exceed the tank manufacturers maximum designed depth for the tank. The minimum depth of soil cover over the insulation on the top of the tank is six inches.
 - B. **Determination of Hydraulic Loading Rate and SSTS Sizing**
 - 1) Tables IX from MN Rules Chapter 7080, Part 7080.2150, Subpart 3(E) entitled “Loading Rates for Determining Bottom Absorption Area and Absorption Ratios Using Detail Soil Descriptions” and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this Ordinance.
 - 2) The Department will make the determination whether a backhoe pit will be required for soil verification for an ISTS. A backhoe pit will be required for all systems with 5,000 gallons or more per day design flow, MSTs or LSTS.
 - C. **Compliance Criteria for Existing SSTS**
 - 1) SSTS built before April 1, 1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments shall have at

least two (2) feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

2) SSTS built after March 31, 1996, or SSTS located in a shoreland area, wellhead protection area, or serving a food, beverage, or lodging establishment as defined under MN Rules Chapter 7080, Part 7080.1100, Subp. 84, shall have a three (3) foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. When determining vertical separation distance, a variance reduction of up to 15% or five (5) inches will be allowed to account for settling of sand or soil, normal variation of separation distance measurements, and interpretation of limiting layer conditions.

3) The vertical separation measurement for 1) and 2) above shall be made outside the area of system influence but in an area of similar soil.

3. Holding Tanks may be used for single family homes and other buildings with limited water use and are required for any shop with a floor drain under the following conditions:
- A. The holding tank shall be installed in accordance with MN Rules Chapter 7080, Part 7080.2290.
 - B. A remote reading water meter shall be installed to continuously record indoor water use (excluding holding tanks for shop floor drains). Holding tanks, including shops must have an alarm device to minimize the chance of an accidental sewage overflow. The alarm device shall identify when the holding tank is at 75% of its holding capacity.
 - C. The owner shall state who the licensed liquid waste hauler will be to pump and haul the waste to a licensed treatment facility or approved land application site. This requirement of having a contract with a licensed maintenance business is waived if the owner is a farmer who is exempt from licensing under MN Statutes, Chapter 115, Section 115.56, subd. 3, paragraph (b), clause (3).
 - D. The holding tank shall be regularly pumped. Records shall be kept for a period of three (3) years and presented to the department upon request.
 - E. The pumper shall certify each date the tank is pumped; the volume of the liquid waste removed, the treatment facility or land application to which the waste was discharged, and the water meter reading at the time of pumping, and any maintenance work, or repairs conducted.
 - F. Failure to meet these requirements will result in a violation of the Cottonwood County Planning and Zoning Ordinance.

SECTION 11: Variances

1. **Variance Requests:** A property owner may request a variance from the standards as specified in this ordinance pursuant to county policies and procedures.
2. **Affected Agency:** Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State Agency.
3. **Board of Adjustment:** The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance where there are practical difficulties in meeting the strict letter of this Ordinance. Variance requests to deviate from the design flow determination procedures in MN Rules, Chapter 7081.0110 if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day, or to provisions in MN Rules 7080, Part 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through 5 regarding the

vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in 7082.1700, Subp. 4D) must be approved by MPCA. Variances to wells and water supply lines must be approved by the Minnesota Department of Health (MDH),

4. Any property owner requesting relief from the strict application of the provisions in this Ordinance must complete and submit an Application for Variance to the Department on a form provided by the Department. The variance request must include, as applicable:
 - A. A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;
 - B. A description of the practical difficulty that prevents compliance with the rule;
 - C. The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions;
 - D. The length of time for which the variance is requested;
 - E. Cost considerations only if a reasonable use of the property does not exist under the terms of the Ordinance; and
 - F. Other relevant information requested by the Department as necessary to properly evaluate the variance request.
5. The appropriate fee shall be paid at the time of submittal of the application to receive consideration by the Board of Adjustment
6. Upon receipt of the variance application, the Department shall decide if a site investigation conducted by the Department will be necessary. After the necessary information has been gathered, the Department shall make a written recommendation to approve or deny the variance to the Board of Adjustment.
7. The Board of Adjustment shall make the final decision after conducting a Public Hearing. The variance may be granted provided that:
 - A. The condition causing the demonstrated practical difficulty is unique to the property and was not caused by the actions of applicant;
 - B. The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the vicinity;
 - C. The property owner would have no reasonable use of the land without the variance;
 - D. The granting of the variance would not allow a prohibited use; and
 - E. The granting of the variance would be in accordance with MN Rules, Chapters 7080, 7081, and 7082.
8. In granting a request for a variance, the Board of Adjustment may attach such conditions as it deems necessary to conform to the purpose and intent of this Ordinance.
9. Any violation of the terms and conditions of a variance issued pursuant to this Ordinance, or any violation of any provision of this Ordinance relating to the specific issue of the variance, shall result in immediate revocation of the variance.
10. Any variance granted shall automatically expire if the system is not installed within two years of the granting of the variance.
11. An appeal from any order, requirement, decision, or determination of the Board of Adjustment must be in accordance with its policies and procedures.

SECTION 12: SSTS Permitting

1. **Septic Permit Requirement:** It is unlawful for any person to construct, install, modify, replace, or operate an SSTS without the appropriate permit from the Cottonwood County Environmental Office. The issuing of

any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

2. **SSTS Permit:** An SSTS permit shall be obtained by the property owner or an agent of the property owner from the County prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion of an SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by appropriately certified and/or licensed practitioner(s).
3. **Activities Requiring a Construction Permit:** An SSTS permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.
4. **Construction Permit Required to obtain a Setback Permit:** For any construction for which an SSTS Permit is required, approval and issuance of a valid SSTS Construction Permit must be obtained before a Setback Permit may be issued by the Department.
5. **Conformance to Prevailing Requirements:** Any activity involving an existing system that requires an SSTS Construction Permit shall require that the entire system be brought into compliance with this Ordinance.
6. **Permit Application Requirements:** SSTS Permit applications shall be made on forms provided by the Cottonwood County Environmental Office and signed by the applicant and an appropriately certified practitioner including the practitioner's certification number and date of expiration. The applications shall include the documents listed in items A through G below.
 - A. Name, mailing address, and telephone number, of property owner.
 - B. Property Identification Number, address and legal description of the property location.
 - C. Site Evaluation Report as described in MN Rules Chapter 7080, Part 7080.1730
 - D. Design Report as described in MN Rules Chapter 7080, Part 7080.2430.
 - E. Management Plan as described in MN Rules Chapter 7080, Part 7082.0600.
 - F. Name, mailing address, telephone number, and SSTS license number of the system designer and of the system installer.
 - G. Any other information requested by the Department that is pertinent to the application.
7. **Application Review and Response:** The Department shall review a permit application and supporting documents.
 - A. Upon satisfaction that the proposed plan and design information conform to the provisions of this Section, the Department shall issue a septic permit authorizing construction of the SSTS as designed, within 15 business days of receipt of the plans and design.
 - B. In the event there is a significant change to the approved application, the designer must file an amended application to the Department detailing the changed conditions for review and approval or denial prior to initiating or continuing construction, modification, or operation. The Department shall complete the review of the amended application within 15 business days of receipt of the amended application.
 - C. If the permit application is incomplete or does not meet the requirements of this section, the Department shall deny the application. A written notice of denial shall be provided to the applicant, which must state the reason for the denial, within 15 business days of receiving the permit application.
8. **Appeal:** The applicant may appeal the Departments decision to deny the SSTS Permit in accordance with the County's established policies and appeal procedures: Cottonwood County Zoning Ordinance No 28, Section 5, Subdivision 6.
9. **Permit Expiration:** The Septic Permit is valid for a period of two (2) years from its date of issue. Satisfactory completion of construction shall be determined following a final inspection. After the final inspection, a Certificate of Compliance will be issued to the property owner by the Department. The

Certificate of Compliance confirms that the construction or installation of the system was completed in reasonable conformance with the approved design.

10. **Extensions and Renewals:** The Department may grant an extension of the Construction Permit if the construction has commenced prior to the original expiration date of the permit. The permit may be extended for a period of no more than 12 months.
11. **Transferability:** An SSTS Permit shall not be transferred to a new owner. The new owner must apply for a new Construction Permit in accordance with this section.
12. **Suspension or Revocation:** The Department may suspend or revoke a Construction Permit issued under this section for any false statements, misrepresentations of facts on which the Construction Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Construction Permit is obtained.
13. **Posting:** The Construction Permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

SECTION 13: Operating Permit

1. **SSTS Requiring an Operating Permit:** An Operating Permit shall be required of all owners of new holding tanks, MSTs, Type IV systems, Type V systems, or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank or MSTs until the Cottonwood County Environmental Office certifies that the MSTs or holding tank was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTs, and a valid Operating Permit is issued to the owner.
2. **Permit Application Requirements:** Application for an Operating Permit shall be made on a form provided by the Cottonwood County Environmental Office including:
 - A. Property owner name, mailing address, and telephone number.
 - B. Property Identification number, address and legal description of the property.
 - C. SSTS Permit number and date of issue
 - D. Final record or as-built drawings of the treatment system
 - E. Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business.
 - F. Any other information requested by the Department that is pertinent to the application.
3. Owners of holding tanks shall provide to the Cottonwood County Environmental Office a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with MN Rules, Chapter 7082.0100. This requirement of having a contract with a licensed maintenance business is waived if the owner is a farmer who is exempt from licensing under *MN Statutes, section 115.56, subdivision 3, paragraph (b), clause (3)*.
4. SSTS existing prior to the effective date of this ordinance: All SSTS existing prior to the effective date of this ordinance that required an operating permit shall be required to secure an updated operating permit if the SSTS is modified, expanded, replaced, upon ownership transfer, or following any enforcement action.
5. **Department Response:** The Department shall review the design and record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the

submitted documents fulfill the requirements, the Department shall issue an operating permit within 15 business days of receipt of the permit application.

6. **Operating Permit Terms and Conditions:** The Operating Permit shall include the following (see MN Rules, Chapter 7080, Part 7082.0600, Subp.2.B):
 - A. System operating and performance requirements;
 - B. System monitoring requirements;
 - C. System maintenance requirements and schedules;
 - D. System compliance limits and boundaries;
 - E. Reporting requirements;
 - F. Department notification requirements for non-compliant conditions;
 - G. Valid contract between the owner and a licensed maintenance business;
 - H. Disclosure, location and condition of the additional soil treatment and dispersal system site;
 - I. Descriptions of acceptable and prohibited discharges.
7. **Operating Permit Expiration and Renewal.**
 - A. Operating Permits shall be valid for five (5) years.
 - B. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within ninety (90) calendar days of the expiration date, the County may require that the system be abandoned in accordance with MN Rules Chapter 7080.2500.
 - C. The Department shall notify the holder of an operating permit at least ninety (90) calendar days prior to expiration of the permit. The Owner must apply for renewal at least thirty (30) calendar days before the expiration date.
 - D. Application shall be made on a form provided by the Department including:
 - 1) Applicant name, mailing address and phone number;
 - 2) Property address and legal description;
 - 3) Operating permit and SSTS permit number;
 - 4) Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit;
 - 5) Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the County;
 - 6) Any revisions made to the operation and maintenance manual;
 - 7) Payment of application review fee as determined by the County;
 - 8) Description of type of maintenance or repair, and date performed.
8. **Amendments to existing permits not allowed:** The County may not amend an existing permit to reflect changes in this Ordinance until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.
9. **Transfers:** The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with Subdivision 16 of this Ordinance. The Department shall not terminate the current permit until 60 calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.
10. **Suspension or Revocation of Operating Permit:**
 - A. The Department may suspend or revoke any operating permit issued under this Section for any false statements or misrepresentations of facts on which the Operating Permit was issued.

- B. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
- C. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with MN Rules Chapter 7080, Part 7080.2500.
- D. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

11. Compliance Monitoring:

- A. Performance monitoring of an SSTS shall be determined as indicated in the management plan.
- B. A monitoring report shall be prepared and certified as indicated in the monitoring plan. The report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
 - 1) Owner name, address and telephone number;
 - 2) Property address and legal description;
 - 3) Operating Permit number;
 - 4) Average daily flow since last compliance monitoring report;
 - 5) Description of type of maintenance and date performed;
 - 6) Description of samples taken (if required), analytical laboratory used, and results of analyses;
 - 7) Problems noted with the system and actions proposed or taken to correct them;
 - 8) Name, signature, business license, and license number of the licensed professional who performed the work.

SECTION 14: Abandonment Certification

- 1. **Purpose:** The purpose of the System Abandonment Certification is to ensure that a treatment system no longer in service is abandoned, within 2 years, following decommissioning, and in a manner that protects public health, safety and water quality. It also terminates all permits associated with the system.
- 2. **Abandonment Requirements:**
 - A. Whenever the use of an SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance shall be prohibited.
 - B. Continued use of a sewage tank where the tank is to become an integral part of a replacement system or a sewage treatment system requires certification of the tank by a licensed inspection business that the tank is watertight and in compliance with all applicable SSTS tank standards.
 - C. An owner of an SSTS must retain a licensed business to abandon all components of the treatment system whenever the use of a SSTS or any system component is discontinued. System abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500. No prior notification of the Department of an owner's intent to abandon a system is necessary.
 - D. A report of abandonment certified by the licensed business shall be submitted to the Department within 30 calendar days of system abandonment. The report shall include:
 - 1) Owner's name, mailing address and telephone number;
 - 2) Property address;

- 3) System SSTS permit and operating permit numbers;
 - 4) The reason(s) for abandonment;
 - 5) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals;
 - 6) A certified statement from a licensed business that the abandonment was completed in accordance with Minnesota Rules, Chapter 7080.2500.
3. **Abandonment Certificate:** Upon receipt of an abandonment report and its determination that the SSTS has been abandoned according to the requirements of this Ordinance, the Department shall issue an abandonment certificate. If the abandonment is not completed according to the requirements of this ordinance the County shall notify the owner of the SSTS of the deficiencies, which shall be corrected within thirty (30) calendar days of the notice.

SECTION 15: Management Plans

1. **Purpose:** The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.
2. **SSTS Requiring Management Plans:** Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the septic construction permit application for review and approval. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification
3. **Required Contents of a Management Plan:** Management plans shall include the following: MN Rules Chapter 7082, Part 7082.0600, Subp.1:
 - A. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
 - B. Monitoring requirements;
 - C. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
 - D. Statement that the owner is required to notify the Department when the management plan requirements are not being met;
 - E. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence;
 - F. Other requirements as determined by the Department.
4. **Requirements for Systems not operated under a Management Plan** MN Rules Chapter 7082, Part 7082.0100, Subp. 3.(L)
 - A. SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids every three (3) years if needed.
 - B. Solids must be removed when their accumulation meets the limit described in MN Rules, Chapter 7080.2450.

SECTION 16: Compliance Management

1. Public Education Outreach:

Programs shall be provided by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.

2. Inspection Program:

- A. Department Responsibility: It is the responsibility of the Department, or its agent, to perform various SSTS inspections to assure that the requirements of this Ordinance are met:
 - 1) To ensure compliance with applicable requirements;
 - 2) For all new SSTS construction or replacement;
- B. SSTS compliance inspections must be performed:
 - 1) To ensure system compliance before issuance of a permit for addition of a bedroom or a bathroom unless the permit application is made during the period of October 15 to April 15, provided a compliance inspection is performed before the following June 1 and the applicant submits a certificate of compliance by the following September 30;
 - 2) For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with MN Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.
- C. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
 - 1) It is the responsibility of the installer to notify the Cottonwood County Environmental Office (also referred to as Department) at least two (2) business days prior to any permitted work on the SSTS. The installer shall confirm the inspection time with the Department on the morning of the business day of the scheduled inspection.
 - 2) The installation and construction of the SSTS shall be in accordance with the approved construction permit requirements and design. If any SSTS component is covered before being inspected by the Department, it shall be uncovered upon the direction of the Department. Proposals to alter the design shall be reviewed and approved by the Department prior to construction. An inspection shall be conducted at least once during the construction of the SSTS at such time as to assure that the system has been constructed per submitted and approved design.
 - 3) If the installer provides proper notice as described above and the Department does not appear for an inspection within two (2) hours after the time set for an inspection, the installer may complete the installation if photographs are taken during each phase of the installation process and are submitted to the Department within 15 days of installation completion.
 - 4) The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, “property” does not include a residence or private building. The Department shall notify the owner of the Department’s intent to inspect the SSTS in advance of the intended inspection.
 - 5) No person shall hinder or otherwise interfere with the Department’s employees in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.
 - 6) As-Built drawings are the responsibility of the installer, and shall be submitted to the Department within 15 business days of completion of the work on the SSTS.
 - 7) Neither the issuance of permits, Certificates of Compliance, nor notices of non-compliance as requested or issued shall be construed to represent a guarantee or warranty of the system’s operation or effectiveness. Such certificates: signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

3. New Construction or Replacement:

- A. Compliance inspections must be performed on new or replacement SSTS to determine compliance with MN Rules, Chapters 7080 or 7081. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department’s requirements.
- B. MN Rules Chapter 7082.0700, Subp. 3(2) requires that a vertical separation report include verifications by two independent parties, which may be a licensed inspection businesses and/or a qualified employee

inspector with jurisdiction. If there is a dispute between the two verifying inspectors, the disputing parties must follow the local dispute resolution procedures. If no local dispute resolution procedures exist, the dispute resolution procedure described in 7080.0700, Subp. 5 must be followed.

- C. It is the responsibility of the SSTS owner or the owner's agent to notify the Department two (2) calendar days prior to any permitted work on the SSTS.
- D. A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) years, shall be issued by the Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.
- E. The Certificate of Compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the Ordinance requirements.
- F. The Certificate of Compliance or Notice of Noncompliance must be submitted to the Department no later than 15 calendar days after the date the inspection was performed. The Department shall deliver the Certificate of Compliance or Notice of Noncompliance to the owner or the owner's agent within 15 business days of receipt from the certified inspector.
- G. Certificates of Compliance for new construction or replacement shall remain valid for five (5) years from the date of issue unless the Department finds evidence of noncompliance.

4. Existing Systems:

- A. Compliance inspections shall be required when any of the following conditions occur:
 - 1) When a construction permit is required to repair, modify, or upgrade an existing system;
 - 2) Any time there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
 - 3) Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
 - 4) At the time of property sale or transfer if the current owner does not have a valid Certificate of Compliance;
 - 5) During systematic lake or area-wide SSTS surveys by the Department, and/or;
 - 6) Anytime the Department deems appropriate such as upon receiving a complaint or other information of system malfunction or failure that would require enforcement action;
 - 7) Before a setback permit will be issued for an addition of a bedroom or bathroom.
 - 8) Section 17, Subdivision 9 of Ordinance #28 regarding the Shoreland Regulations states the following: A sewage treatment system not meeting the requirements of this section must be upgraded, at a minimum, anytime a permit or variance of any type is required for any improvements on, or use of, the property.
- B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions must be assessed, or verified:
 - 1) Water-tightness assessment of all treatment tanks including a leakage report;
 - 2) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including vertical separation verification report. As referenced in MPCA Rules Chapter 7080.172, the determination of the location of the periodically saturated soils must be done on unfrozen soils. Any compliance inspection triggered between October 15th and April 15th will have until the following June 1st of that year to be completed.
 - 3) MN Rules, Chapter 7082.0700, Subp. 4,B (2) requires soil separation compliance assessments be completed by a licensed inspection business or a qualified employee inspector with jurisdiction. Compliance must either be determined by conducting new soil borings or by prior soil separation documentation made by two independent parties. If the soil separation has been determined by two

independent parties, a subsequent determination is not required unless requested by the owner or the owner's agent. If there is a dispute between the two verifying inspectors, the disputing parties must follow the local dispute resolution procedures. If no local dispute resolution procedures exist, the dispute resolution procedure described in 7082.0700, Subp. 5 must be followed.

- 4) Sewage backup, surface seepage, or surface discharge including a hydraulic function report;
 - 5) The requirements for the inspection reports in this section are described in MN Rules Chapter 7082, Part 7082.0700, Subp. 4(B).
- C. The certificate of compliance must include a certified statement by a qualified employee or licensed inspection business, indicating whether the SSTS is in compliance with the ordinance requirements. A construction permit application must be submitted to the Department if the required corrective action is not a minor repair.
- D. The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (15) calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within fifteen (15) business days of receipt from the licensed inspection business.
- E. SSTS on properties sold or transferred to new owners should be repaired, replaced, or upgraded as determined by a compliance inspection, records search, or other means acceptable to the Department that are conducted prior to ownership transfers. The determination of need to repair, replace, or upgrade should proceed in a manner that does not needlessly delay or otherwise interfere with the property sale transaction.
- F. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. The Department shall notify the owner of the Department's intent to inspect the SSTS in advance of the intended inspection.

SECTION 17: Non Compliant Systems

- A. This section pertains only to systems that were installed after April 1st, 1996. Systems that have been determined to be non compliant and an imminent public health threat by county staff or a licensed septic inspector shall be made compliant within 10 months of the issuance of the notice of non compliance. Any system found to be non protective of groundwater shall be subject to replacement within the time frame outlined in B.
- B. The following scale determines the authorized time frame for a system update based on the distance of separation found between the bottom of the system and the periodically saturated soils.
1. <12 inches 1 year
 2. 12-20 inches 10 years
 3. 21-30 inches 20 years
- C. If the system becomes an imminent threat to public health at any time during the time frame referenced in Section 17(B), it shall be replaced within 10 months of that determination.

SECTION 18: Transfer of Property

Property Transfer: The act of a party by which the title to property is conveyed from one party or entity 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 individually, by or without judicial proceedings, as a conveyance, sale, mortgage, gift, or otherwise.

1. Before a conveyance of (a) land upon which a dwelling is located or (b) a tract of land upon which an SSTS is located the following requirements shall be met:
 - A. A Property Transfer Septic System Disclosure/Agreement form has been properly completed and presented including but not limited to a Certificate of Compliance if required and an agreement between the buyer and seller which indicated who is responsible for bringing the septic system into compliance.
 - B. Certificate of Compliance
 1. A Certificate of Compliance for new construction or replacement systems remain valid for five (5) years from the date of issuance unless the local unit of government finds evidence of noncompliance.
 2. A Certificate of Compliance for an existing system inspection is valid for three years from the date of issuance unless the local unit of government finds evidence of noncompliance.
 - C. Whenever the property being conveyed requires an SSTS and does not have a system that complies with MN Rules Chapters 7080, 7081, or 7082 and this Ordinance, the property owner and prospective buyer must sign an agreement to install a complying system within 10 months of property transfer, except where Section 17 of this ordinance applies. A copy of the agreement shall be attached to the Property Transfer Septic System Disclosure/Agreement Form. (*See Property Transfer Septic System Disclosure/Agreement Form, appendix 1*)
2. The Property Transfer Septic System Disclosure/Agreement Form will not require that a Certificate of Compliance be completed if the following exists:
 - A. The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
 - B. The transfer is a foreclosure or tax forfeiture.
 - C. The sale completes a contract for deed or purchase agreement entered into prior to the June 15, 2006. This subsection applies only to the original vendor and vendee on such a contract.
 - D. Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment system; any dwellings or other buildings that are located within the jurisdiction of a County approved agreement requiring exclusive connection to the wastewater treatment facility other than an individual sewage treatment system.
 - E. The property about to be transacted does contain a septic system, however, the system has been disconnected from the plumbing in the house and the Cottonwood County Planning & Zoning Office has been or will be contacted to complete an inspection to verify that. The septic system will either be properly abandoned or permit will be obtained if the septic system is reconnected to the house.
3. Neither the issuance of permits, certificates of compliance, nor notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

SECTION 19: Enforcement

1. Violations

- A. Cause to Issue a Notice of Violation. Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes. Each day that a violation exists shall constitute a separate offense.

- B. **Notice of Violation.** The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Ordinance. The notice of violation shall contain:
- a). A statement documenting the findings of fact determined through observations, inspections, or investigations;
 - b) A list of specific violation(s) of this Ordinance;
 - c) Specific requirements for correction or removal of the specified violation(s);
 - d) A mandatory time schedule for correction, removal and compliance with this ordinance.
2. **Cease and Desist Orders:** Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other County Ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, the work shall not resume until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.
3. **Prosecution:** In the event of a violation or threatened violation of this Ordinance, the County may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations and the County Attorney shall have authority to commence such civil action. The Department and County Attorney may take such actions as may be necessary to enforce the provisions of this ordinance.
4. **Fines:** Fines shall be paid within 30 days. If they are not, they may be assessed along with property taxes to the subject property.
5. **State Notification of Violation:** In accordance with state law, the Department shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this Ordinance.

SECTION 20: Cost and Reimbursements

If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover all costs incurred in removal or abatement in a civil action, including legal fees; at the discretion of the County Board, the cost of an enforcement action under this ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.

SECTION 21: Record Keeping

The County shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the county sorted by licensed installation businesses, and other records relevant to each system.

SECTION 22: Annual Report

The department shall provide an annual report, of the previous calendar year's SSTS permitting activities, to the MPCA by the date specified by the MPCA as required.

SECTION 23: Fees

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

SECTION 24: Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

SECTION 25: Severability

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

SECTION 26: Abrogation and Greater Restrictions

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

SECTION 27: ISTS Section of Zoning Ordinance 28 Repealed

Section 22, ISTS, of the Cottonwood County Zoning Ordinance for the regulation of Individual Sewage Treatment Systems of the County is hereby repealed.

SECTION 28: Effective Date

The Cottonwood County Subsurface Sewage Treatment Program Ordinance is hereby adopted by Cottonwood County Board of Commissioners on the __9th__ day of __April__, 2013.

Effective Date: __April 9_____, 20 13__

John Oeltjenburus
Chairperson, Cottonwood County Board of Commissioners

ATTEST:

Jan Johnson
Jan Johnson, County Auditor/Treasurer

SECTION 29: Repealed

APPENDIX 1: Property Transfer Septic System Disclosure/Agreement Form

COTTONWOOD COUNTY

PROPERTY TRANSFER SEPTIC SYSTEM DISCLOSURE/AGREEMENT FORM

Cottonwood Soil and Water Conservation District (SWCD)
339 9th St. Windom, MN 56101 • Telephone: (507) 831-1153 Ext. 102 • Fax: (507)-831-2928

Instructions for Seller: Complete the name, address, and property information. Determine which *one* of the following statements applies to the septic system and check the appropriate box. Follow specific instructions for the statement. Statements 1, 2, 4, and 5 require supporting documentation, which **MUST** be attached to this form. Statement 3 requires that the exemption, if any, be listed where indicated. ***This completed form and the supporting documentation are required to be presented to the Cottonwood County Recorder at or prior to the closing date. A completed form with the appropriate signatures is then required to be presented to the Cottonwood SWCD Water Resource Technician if applicable.***

Please Print and Complete All Information:

Seller's Printed Name: _____

Buyer's Printed Name: _____

Property Address: _____ City: _____ Zip: _____

Parcel #: _____ Legal Description: _____

Township: _____ Range: _____ Section: _____ Quarters: _____

Please check the appropriate box: (Choose only one response)

- 1. The septic system has been updated within the last five (5) years and a Certificate of Compliance was issued by the Cottonwood SWCD. **Attach Copy.**
- 2. The MPCA Compliance Inspection Form indicates that the septic system is in compliance. A licensed inspector has issued a Certificate of Compliance within the last three (3) years. **Attach Copy.**
- 3. No inspection is necessary because:
 - The tract of land is without buildings or contains no dwelling or other building which would require an SSTS.
 - The sale or transfer completes a contract for deed entered into prior to June 15, 2006. This applies only to the original vendor and vendee on such a contract.
 - Any dwellings or other buildings with plumbing fixtures are connected to a municipal wastewater treatment system.
- 4. The MPCA Compliance Inspection Form indicates that the septic system is FAILING and/or IMMINENT THREAT to public health or safety and shall be replaced or upgraded according to Cottonwood County Ordinance #38 and MN Rules Chapter 7080 within 10 months or the time allowed by the Ordinance as determined by the County Septic System Official. The property sale/transfer may occur with the stipulation that the Seller and Buyer have a signed agreement as to who is responsible for the replacement or upgrade of the septic system. **Attach Copy of Agreement.**
- 5. The MPCA Compliance Inspection Form cannot be completed due to ground conditions occurring between November 1 and April 30. The property sale/transfer may occur with the stipulation that the Seller and Buyer have a signed agreement as to who is responsible for the Compliance Inspection, which inspection must be completed by June 1st, and who is responsible for the replacement or upgrade of the septic system if it is Failing or an Imminent Threat. When the inspection indicates that the septic system is FAILING and/or is an IMMINENT THREAT, replacement of the system shall be within ten (10) months of the inspection. **Attach Copy of Agreement.**
- 6. The present system is not a compliant system. The Seller and the Buyer agree to replace the system within ten (10) months of the property transfer, and have signed an agreement stating responsible person for the replacement of the system. **Attach Copy of Agreement.**
- 7. The property about to be transacted does contain a septic system, however, the system has been disconnected from the plumbing in the house and the Cottonwood County Planning and Zoning Office has been or will be

contacted to complete an inspection to verify that. The septic system will either be properly abandoned or a permit will be obtained if the septic system is reconnected to the house.

PLEASE NOTE: THIS FORM WILL BE RETURNED UNLESS FULLY COMPLETED WITH ALL REQUIRED DOCUMENTATION ATTACHED.

SIGNATURES: (Required by both parties in all cases)

We have read and acknowledge the contents of all sections above that are applicable to the septic system on the property. We understand the compliance requirements that are necessary for the replacement or upgrade of the septic system, present or future; we also understand that the transfer of real property in Cottonwood County shall be responsible to bring the Sewage System into compliance with the requirements of Cottonwood County Subsurface Sewage Treatment System (SSTS) Ordinance #38.

Seller's Signature: _____ **Date:** _____

STATE OF MINNESOTA)
)ss.
COUNTY OF COTTONWOOD)

The foregoing instrument was acknowledged before me on: _____

By _____
NOTARY PUBLIC

Buyer's Signature: _____ **Date:** _____

STATE OF MINNESOTA)
)ss.
COUNTY OF COTTONWOOD)

The foregoing instrument was acknowledged before me on: _____

By _____
NOTARY PUBLIC

If completed by a Third Party (i.e., realtor, attorney, auction company), please complete the following:

Printed Name of Third Party: _____

Address of Third Party: _____

City/State: _____ Zip: _____ Phone: _____

Signature/Date: _____

This form has been reviewed and approved by the Cottonwood SWCD Water Resource Tech.
Date _____ Signature _____

This form has been reviewed and approved by the Environmental/Zoning Administrator.
Date _____ Signature _____

Cottonwood County Zoning Ordinance and forms are available at [the Cottonwood SWCD and the Environmental Office](#).
The MPCA Licensed Business List is available at <http://www.pca.state.mn.us/programs/ists>.

