

# SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE

Roseau County

DRAFT

June 2014

**ROSEAU COUNTY SSTS ORDINANCE**  
**TABLE OF CONTENTS**

<b>SECTION 1</b>	<b>PURPOSE, INTENT AND SCOPE</b> .....	<b>1</b>
<b>1.1</b>	Purpose.....	<b>1</b>
<b>1.2</b>	Intent .....	<b>1</b>
<b>1.3</b>	Scope.....	<b>2</b>
<b>SECTION 2</b>	<b>GENERAL PROVISIONS</b> .....	<b>2</b>
<b>2.1</b>	Authority .....	<b>2</b>
<b>2.2</b>	Jurisdiction .....	<b>2</b>
<b>2.3</b>	Interpretation.....	<b>2</b>
<b>2.4</b>	Severability .....	<b>2</b>
<b>2.5</b>	Liability.....	<b>3</b>
<b>2.6</b>	Abrogation and Greater Restrictions.....	<b>3</b>
<b>SECTION 3</b>	<b>ADMINISTRATION</b> .....	<b>3</b>
<b>3.1</b>	County Administration.....	<b>3</b>
<b>3.2</b>	State Administration .....	<b>3</b>
<b>3.3</b>	Cities and Townships.....	<b>3</b>
<b>3.4</b>	Board of Adjustment.....	<b>3</b>
3.41	Rules .....	<b>3</b>
3.42	Appeals.....	<b>4</b>
3.43	Administrative Review .....	<b>4</b>
<b>SECTION 4</b>	<b>DEFINITIONS</b> .....	<b>4</b>
<b>SECTION 5</b>	<b>GENERAL REQUIREMENTS</b> .....	<b>7</b>
<b>5.1</b>	Existing SSTS and Permits .....	<b>7</b>
5.11	Existing Permits.....	<b>7</b>
5.12	Existing SSTS .....	<b>7</b>
<b>5.2</b>	Upgrade, Repair, Replacement and Abandonment .....	<b>7</b>
5.21	SSTS Capacity Expansions .....	<b>7</b>
5.22	Bedroom Additions .....	<b>7</b>

5.23	Failure to Protect Groundwater.....	8
5.24	Imminent Threat to Public Health or Safety .....	8
5.25	Abandonment of SSTS.....	8
<b>5.3</b>	<b>SSTS Located in Floodplains.....</b>	<b>8</b>
<b>5.4</b>	<b>Class V Injection Wells.....</b>	<b>8</b>
<b>5.5</b>	<b>SSTS Licensing Requirements.....</b>	<b>8</b>
5.51	License Required.....	8
5.52	License Exemption.....	9
<b>5.6</b>	<b>Prohibitions .....</b>	<b>9</b>
5.61	Sewage Discharge to Ground Surface or Surface Water .....	9
5.62	Sewage Discharge to a Well or Boring.....	9
5.63	Discharge of Hazardous or Deleterious Materials .....	9
<b>SECTION 6</b>	<b>SSTS STANDARDS.....</b>	<b>10</b>
<b>6.1</b>	<b>Standards Adopted by Reference.....</b>	<b>10</b>
6.11	MN Rules Chapter 7080-7081 .....	10
6.12	MN Rules, Chapters 4715 and 4725 SSTS Setbacks.....	10
6.13	Federal Regulations Code 40, Part 503 Septage Disposal .....	11
<b>6.2</b>	<b>Alternative Local Standards (ALS).....</b>	<b>11</b>
6.21	Compliance Criteria: Existing SSTS with ALS Vertical Separation .....	11
6.22	ALS Vertical Separation for New and Replacement SSTS .....	12
6.23	Locations Where Alternative Local Standards Do Not Apply.....	13
6.24	Soil Dispute Resolution .....	13
6.25	Holding Tanks.....	13
6.26	Privies .....	14
6.27	Lot Size for Treatment Area .....	14
6.28	Standards Must Comply with other Laws and Rules .....	14
<b>6.3</b>	<b>2011 MN Rule Elements Included in this Ordinance .....</b>	<b>14</b>
6.31	Sewage Tanks .....	14
6.32	Registered Products.....	15
6.33	Vertical Separation Flexibility .....	15
6.34	Trench and Seepage Bed Design.....	16
<b>6.4</b>	<b>List of Technical Differences.....</b>	<b>16</b>

<b>SECTION 7</b>	<b>VARIANCES</b> .....	<b>16</b>
7.1	Variance Requests.....	16
7.2	MPCA – State Notification.....	16
7.3	Board of Adjustment.....	16
<b>SECTION 8</b>	<b>SSTS PERMITS AND PLANS</b> .....	<b>17</b>
8.1	SSTS Permits Required.....	17
8.2	Activities Requiring a SSTS Permit.....	17
8.3	Activities Not Requiring a SSTS Permit.....	17
8.4	SSTS Permit Requirements in Floodplain and Shoreland.....	17
8.5	SSTS Permit Applications.....	17
8.6	Permit Application Review and Response.....	18
8.7	Appeal.....	18
8.8	SSTS Permit Expiration.....	18
8.9	Transferability.....	18
8.10	Suspension or Revocation.....	18
<b>SECTION 9</b>	<b>MANAGEMENT PLANS</b> .....	<b>18</b>
9.1	Purpose.....	18
9.2	Management Plan Requirements.....	19
9.3	Management Plan Contents.....	19
<b>SECTION 10</b>	<b>SSTS INSPECTION REQUIREMENTS</b> .....	<b>19</b>
10.1	Compliance Inspection Program.....	19
10.2	New Construction or Replacement.....	20
10.3	Existing Systems.....	20
10.4	Disclaimer.....	21
<b>SECTION 11</b>	<b>ENFORCEMENT</b> .....	<b>21</b>
11.1	Violations.....	21
11.11	Cause to Issue a Notice of Violation.....	21
11.12	Notice of Violation.....	21
11.13	Cease and Desist Orders.....	22
11.14	Administrative Fees.....	22
11.15	Reimbursements for Restoration.....	22

**11.2** Prosecution.....22

**SECTION 12 FEES**.....22

**SECTION 13 ADOPTION** .....23

DRAFT

**ROSEAU COUNTY**  
**SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE**

An Ordinance authorizing and providing for sewage treatment and soil dispersal in unsewered areas of Roseau County; establishing:

- 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 unincorporated areas of Roseau County, and incorporating by reference minimum standards established by Minnesota Statutes and Minnesota Pollution Control Agency Rules;
- 2) Requirements for issuing Permits for construction of SSTS;
- 3) Providing for Alternative Local Standards (ALS);
- 4) Requirements for all SSTS permitted under the revised Minnesota Rules, Chapter 7080 and 7081, to be operated under an approved Management Plan;
- 5) Standards for upgrade, repair, replacement and abandonment of SSTS;
- 6) Provisions for the enforcement of these requirements; and
- 7) Standards which promote the health, safety and welfare of the public as reflected in Minnesota Statutes, Sections 115.55, 145A.05, 375.51, 394.21-394.37, 471.82, and in conjunction with the Roseau County Floodplain and Shoreland Ordinances.

**SECTION 1: PURPOSE, INTENT AND SCOPE**

**1.1 Purpose**

The purpose of this Ordinance is to establish minimum standards for regulation of SSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the County, to protect public health and safety, surface water and groundwater quality, and to 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.

**1.2 Intent**

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

- A. The protection of lakes, rivers and streams, wetlands, and groundwater in the County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County .
- B. The regulation of proper SSTS construction, reconstruction, repair, maintenance, and location of SSTS to prevent the entry and migration of contaminants, thereby preventing the degradation of surface water and groundwater quality.
- C. The establishment of minimum and alternative local standards for SSTS placement, design, construction, reconstruction, repair, maintenance and proper septage disposal

to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.

- D. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
- E. The provision of technical assistance and education, SSTS permitting, inspections, and enforcement to prevent and control water-borne diseases, lake and stream degradation, groundwater-related hazards, and public nuisance conditions.

### **1.3 Scope**

This Ordinance regulates the siting, design, installation, alteration, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction; including, but not necessarily limited to, individual SSTS, 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 sewage treatment system that has been permitted by the MPCA.

## **SECTION 2: GENERAL PROVISIONS**

### **2.1 Authority**

This Ordinance is adopted pursuant to MN Statutes, Section 115.55; MN Statutes, Sections 145A.01 through 145A.08; MN Statutes, Section 375.51, or successor statutes; MN Rules 2006, Chapter 7080; and, elements of MN Rules 2011, Chapters 7080, 7081, 7082 and 7083, or successor rules.

### **2.2 Jurisdiction**

The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas that administer a SSTS program by Ordinance within their incorporated jurisdiction, which is at least as strict as this Ordinance. The Department shall keep a current list of local jurisdictions within the County administering a SSTS program.

### **2.3 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 MN Statutes.

### **2.4 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.

## **2.5 Liability**

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

## **2.6 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 3: ADMINISTRATION**

## **3.1 County Administration**

The Roseau County Environmental Office (Department) shall administer the SSTS program and all provisions of this Ordinance. The County shall review, revise, and update this Ordinance as necessary, and shall employ, or retain under contract, qualified and appropriately licensed professionals to administer the SSTS program.

## **3.2 State Administration**

Where a single SSTS, or group of SSTS under single 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 the MPCA. For any SSTS that has a measured daily flow for a consecutive seven (7) 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.

## **3.3 Cities and Township**

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.

## **3.4 Board of Adjustment**

**3.41 Rules.** The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Board by MN Statutes, Chapter 394, and the procedures contained in the Roseau County Floodplain / Shoreland Ordinance(s).

**3.42 Appeals.** An appeal of any administrative decision made in the enforcement of this Ordinance shall be made by filling out and submitting to the Department an Application for Appeal. Such an appeal shall be filed within thirty (30) calendar days after the date of the Department's decision and specify the grounds thereof. Such appeal shall be heard by the Board of Adjustment pursuant to MN Statute 394.27, Subd 6.

**3.43 Administrative Review.** The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Ordinance.

## **SECTION 4: DEFINITIONS**

The following words and phrases shall have the meanings ascribed to them in this Article. If not specifically defined in this Article, terms used in this Ordinance shall have the same meaning as provided in the standards adopted by reference. For purposes of this Ordinance, the words "must" and "shall" are mandatory and the words "may" and "should" are permissive.

**Alternative Local Standards (ALS):** ALS are individual sewage treatment system standards that are less restrictive than the State's technical standards and criteria. ALS contains the adopted standards from the 2006 MN Rules for systems using less than 2,500 gallons of water per day. In addition, the "local standards" vertical separation provisions adopted by the County in 1998, are also included in the ALS.

**Alternative Local Standards Vertical Separation:** Standards that allow less than three (3) feet vertical separation, but not less than two (2) feet, in appropriate locations of the County.

**As-Built:** Drawings and documentation specifying the final in-place location, elevation, size, and type of all system components. These records identify the results of materials testing and describe conditions during construction.

**Authorized Representative:** An employee or agent of the Roseau County Environmental Office.

**Bedroom:** Any room or unfinished area within a dwelling that might reasonably be used as a sleeping room.

**Board of Adjustment:** A Board established by the County Floodplain / Shoreland Ordinance(s) 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.

**Class V Injection Well:** A shallow well used to place a variety of fluids directly below the land surface including domestic SSTS serving more than twenty (20) people. 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 common ownership that collects wastewater from three (3) or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.

**County:** Roseau County, Minnesota.

**County Board:** The Roseau County Board of Commissioners.

**Department:** The Roseau County Environmental Office.

**Design:** The site evaluation, all system components, and record drawings.

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

**Failing System:** At a minimum, an SSTS that fails to protect groundwater is one that discharges sewage to a seepage pit, cesspool, drywell, leaching pit, or other pit; an SSTS with less than the required vertical separation distance as described in Chapter 7080.0060 Subp 3; less than three (3) feet vertical separation in systems located in floodplain and/or SWF; and, a system not abandoned in accordance with part 7080.0176. The determination of the threat to groundwater for other conditions shall be made by a Qualified Employee or MPCA-licensed professional.

**Grey Water:** Sewage that does not contain toilet wastes.

**Imminent Threat to Public Health or Safety (IPHT):** At a minimum, a 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 MPCA-licensed professional.

**ISTS:** An individual sewage treatment system having a design flow of no more than 5,000 gallons per day. ISTS includes holding tanks and privies.

**Lot:** “Lot” means a parcel of land in a plat recorded in the office of the County Recorder or Registrar of Titles or a parcel of land created and conveyed, using a specific legal description.

**Management Plan:** A Plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment and testing; and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.

**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. A minor repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS.

**Mottling:** As applied to soils, means a zone of chemical and reduction activity, appearing as splotchy patches of red, brown or grey in the soil. In sub soils with a color value of four or more, the term mottling also includes soil having matrix colors with a chroma of two or less as described in “Keys to Soil Taxonomy”: 11<sup>th</sup> Edition, 2010, (ie. Munsell Chart/Descriptions).

**MPCA:** Minnesota Pollution Control Agency.

**MSTS:** A mid-sized 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 written document issued by the Department notifying a system owner that the owner's onsite or cluster treatment system has been observed to be noncompliant with the requirements of this Ordinance.

**Qualified Employee:** An employee of the State or a local unit of government, who performs design review, soil verification, and/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, (ie. as-built).

**Septage:** Solids and liquids removed during periodic maintenance of an SSTS or solids and liquids which are removed from toilet waste treatment devices, holding tanks or privies.

**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.

**SSTS:** Subsurface sewage treatment system including an ISTS, MSTS or LSTS.

**Soil Dispersal System:** A system where sewage effluent is dispersed into the soil for treatment by absorption and filtration and includes, but is not limited to, trenches, seepage beds, at-grade systems, mound systems and drip dispersal systems.

**State:** The State of Minnesota.

**SWF:** Shoreland; wellhead protection areas; and, food, beverage, lodging establishments.

**Type I System:** A "standard" SSTS that follows a standard trench, bed, at-grade, mound, or gray water system design in accordance with MN Rules, Chapter 7080.0170 Subp 2, 3, 5, 6 and 7.

**Type II System:** An "alternate" SSTS 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. This type includes systems on lots with rapidly permeable soils per MN Rules Chapter 7080.0170, Subp 4; lots located in floodplains; and, privies or holding tanks per MN Rules, Chapter 7080.0172.

**Type III System:** An "other" SSTS that uses soil to treat sewage but does not meet the tank, size or distribution requirements for a Type I system, per MN Rules Chapter 7080.0178. Type III systems are designed for use on lots that cannot accommodate a standard Type I soil treatment and dispersal system.

**Type IV System:** An SSTS having an approved pretreatment device and incorporating pressure distribution and dosing. It is sometimes referred to as "registered" system.

**Type V System:** A “performance” SSTS, designed by a professional engineer that does not meet the prescriptive designs for Types I-IV. Type V systems must meet the public health and safety standards of MN Rules, Chapter 7080.0179.

**Type ALS System:** An SSTS designed utilizing alternative local standards, (per definition).

## **SECTION 5: GENERAL REQUIREMENTS**

### **5.1 Existing Permits and SSTS**

#### **5.11 Existing Permits**

Unexpired Permits which were issued prior to the effective date of this Ordinance shall remain valid under the terms and conditions of the original Permit until the original expiration date or until a change in system ownership, whichever is earlier.

#### **5.12 Existing SSTS**

A SSTS installed prior to the effective date of this Ordinance Revision and meeting the minimum requirements at the time it was installed, shall be allowed to continue in use except if it is determined as a failure to protect ground water or an imminent threat to public health or safety.

### **5.2 SSTS Upgrade, Repair, Replacement, and Abandonment**

#### **5.21 SSTS Capacity Expansions**

Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with MN Rules, Chapter 7080.0060 at the time of the expansion. Expansions may include addition of bedrooms, water using appliances and mobile home replacement with larger home.

#### **5.22 Bedroom Additions**

When a bedroom addition is planned for construction, a SSTS compliance inspection is required of the existing SSTS. If SSTS does not comply with Section 6.21 of this Ordinance, a Permit shall be issued to upgrade, repair, replace or abandon the existing septic system. The owner is allowed five (5) years from the date of issuance of a Notice of Noncompliance to replace a failing system and sixty (60) days for systems that are deemed an imminent public health threat.

### **5.23 Failure to Protect Groundwater**

A SSTS that is determined not to be protective of groundwater shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within five (5) years of receipt of a Notice of Noncompliance.

### **5.24 Imminent Threat to Public Health or Safety**

A SSTS that is determined to be an imminent threat to public health or safety in accordance with the provisions of this Ordinance, shall be upgraded, repaired, replaced or abandoned by the owner within sixty (60) days of receipt of a Notice of Noncompliance.

### **5.25 Abandonment of SSTS**

- A. All systems with no future intent for use must be abandoned in accordance with MN Rules, Chapter 7080.0176.
- B. The continued use of a treatment tank where the tank is to become an integral part of a replacement system requires the prior written approval of the Department.

## **5.3 SSTS Located in Floodplain**

SSTS shall not be located in a designated floodway district and placement within the flood fringe district should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in MN Rules, Chapter 7080.0172 and all relevant local requirements are met.

## **5.4 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.

## **5.5 SSTS Licensing Requirements**

### **5.51 License Required**

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS in Roseau County without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules Chapter 7083, unless exempted as outlined in part 7083.0700, (see also Section 5.52 of this Ordinance).

**5.52 License Exemption.** A license is not required for:

- A. An individual who is constructing a system on land that is owned or leased by the individual and functions solely as a dwelling for that individual based upon a design by a MPCA-licensed designer. A Permit shall be obtained from the Department, the system shall be inspected before being covered and as-built plans submitted in accordance with this Ordinance. A Certificate of Compliance or Notice of Non-compliance will be issued by the Inspector.
- B. An individual who performs labor or services for an MPCA-licensed SSTS Professional.
- C. A farmer who pumps sewage waste from individual sewage treatment systems from dwellings that are owned or leased by the farmer, and disposes of those wastes on land that is owned or leased by the farmer.

**5.6 Prohibitions**

**5.61 Sewage Discharge to Ground Surface or Surface Water**

It is unlawful for any person to construct, maintain, or use any SSTS 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 administered by the MPCA.

**5.62 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 4725.2050, or any other surface excavation that is not in compliance with this Ordinance.

**5.63 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 6: SSTS STANDARDS**

**6.1 Standards Adopted By Reference**

**6.11 Minnesota Rules Chapter 7080 and 7081.**

The County hereby adopts by reference the 2006 Minnesota Rules Chapter 7080, as the alternative local standards for new and replacement residential systems with a flow of less than 2,500 gallons per day. In addition, existing alternative local standards for Roseau County are outlined in Section 6.2 of this Ordinance.

The County hereby adopts by reference the 2011 Minnesota Rules Chapters 7080 and 7081, for new and replacement systems with a flow greater than 2,500 gallons per day. Specific elements required by the 2011 Rules for all sizes of systems are listed in Section 6.3 of this Ordinance.

This adoption does not supersede the County’s right or ability to adopt local standards that are in compliance with MN Statute 115.55.

**6.12 Minnesota Rules Chapters 4715, 4725 and Table 1 define the minimum setback distances for sewage treatment systems.**

*Table 1. Minimum Setback Distances (feet) for Sewage Treatment Systems*

<b>Feature</b>	<b>Sewage tank, holding tank, or sealed privy</b>	<b>Absorption area or unsealed privy</b>
Water supply Wells	<b>50</b>	<b>50</b>
Water supply Wells with less than 50 feet of casing	<b>100</b>	<b>100</b>
Buried water lines – suction	<b>50</b>	<b>50</b>
Buried water lines-under pressure	<b>10</b>	<b>10</b>
Buried lines – electric line, LP tank, gas pipe	<b>10</b>	<b>10</b>
Buildings	<b>10</b>	<b>20</b>
Property lines	<b>10</b>	<b>10</b>
OHWL of public waters	<b>75</b>	<b>75</b>

**6.13 Federal Regulations Code 40, Part 503, MPCA Septage Management Guidelines #4.20, and Table 2 define the Septage Disposal and Treatment Setbacks.**

<i>Table 2. Minimum Separated Distances from the Land Application Site</i>				
Feature	Slope	Separation Distances in Feet		
		Surface Applied	Incorporated within 48 hours	Injected
Private drinking water supply wells		200	200	200
Public drinking water supply wells		1000	1000	1000
Irrigation wells		50	25	25
Residences		200	200	100
Residential Developments		600	600	300
Public Contact Sites		600	600	300
Property Lines		50	50	50
Public Road Right of Ways		50	50	50
Lakes*		1000	1000	1000
Rivers and Streams*		300	300	300
Down gradient wetlands,	Slope 0% to 6%	200	50 feet	50
Intermittent streams, or tile inlets connected to these surface water features*	Slope 6% to 12%	Not allowed	100 feet	100
Grassed Water Ways	Winter 0% to 2%	600	Not Applicable	Not Applicable
	Slope 0% to 6%	100	33	33

*\*Lakes, rivers and streams: Septage shall not be land spread in designated shoreland management areas as identified in the "Roseau County Shoreland Ordinance".*

**6.2 Alternative Local Standards (ALS)**

**6.21 Compliance Criteria for Existing SSTS with "ALS" Vertical Separation**

**A. Existing "ALS" SSTS that are Failing to Protect Groundwater**

SSTS built before April 1, 1996 outside of protected areas designated as floodplain and/or shoreland, wellhead protection, or areas where SSTS provide 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 per Minnesota Rules

Chapter 7080.0060, Subp 3. Existing systems with less than two (2) feet vertical separation in these areas may fail to protect groundwater and shall be upgraded, replaced, or its use discontinued within five (5) years of the owner's receipt of a Notice of Noncompliance.

**B. Existing “ALS” SSTS that are an Imminent Public Health Threats**

Existing “ALS” systems built outside of the protected areas designated as floodplain and/or shoreland, wellhead protection, or areas where SSTS provide sewage treatment for food, beverage, or lodging establishments and determined to be an imminent threat to public health or safety in accordance with Minnesota Rules Chapter 7080.1500, Subp 4A, shall be upgraded, replaced, or its use discontinued within sixty (60) days of the owner's receipt of a Notice of Noncompliance.

**6.22 “ALS” Vertical Separation for New and Replacement SSTS**

- A. For new “ALS” systems, a minimum of two (2) feet vertical separation shall be allowed between the bottom of the dispersal system and the seasonal saturation or bedrock located in areas other than floodplain, shoreland, wellhead protection, and areas with food, beverage or lodging establishments, (see also Section 6.23 of this Ordinance).
- B. Site suitability requirements must be met whenever a SSTS is installed, replaced, altered, or extended. The following parameters shall be met:
  - (1) For unsaturated soil separation, three (3) separate soil samples from three (3) field locations must be taken for observation by the designer and referenced to the NRCS Soils Survey, analyzed for mottling/residual mottling features, and/or percolation tests must be conducted to determine sizing of the system. The analysis results must be verified on-site by the Department.
  - (2) Soil Types. ALS systems shall not be allowed in poorly drained and rapidly permeable soils, as delineated in the NRCS Soils Survey for Roseau County, which is the official County soil classifications reference.
  - (3) Placement and construction of wells in proximity. Setback requirements for wells shall follow the requirements of the Department of Health, (see also Section 6.12 of this Ordinance).
  - (4) Density of SSTS. SSTS constructed to ALS standards shall not be permitted to exceed one (1) system per two (2) acre parcel. All sites to be developed must have space for at least two (2) systems and must meet the setbacks outlined in the Section 6.12 of this Ordinance, and the Roseau County Shoreland Ordinance.
  - (5) Existing natural and constructed drainage systems. A drainage plan shall be provided to the Department with each SSTS permit application. The

Plan must designate existing drainage features and any proposed new drainage. The Plan must specify surface and/or groundwater flows relative to the proposed SSTS, as well as the locations of all public and private drainage systems. If ditching or tile systems currently exist and/or are proposed, a minimum ten (10) foot setback must be maintained from all components of the SSTS.

### **6.23 Locations where the Alternative Local Standards do not Apply**

- A. Systems in the designated Shoreland district regulated under MN Rules Chapters 103F.201 to 103F.221;
- B. Wellhead protection areas regulated under MN Rules Chapter 103I; and
- C. Systems used in connection with food, beverage, and lodging establishments, regulated under MN Rules Chapter 157.

ALS for new or replacement residential systems with a flow of 2,500 gallons per day or less may be applied to systems in part A provided the alternative standards are no less stringent than provisions of Minnesota Rules Chapter 7080, that went into effect on April 3, 2006. In addition, ALS for new or replacement systems with a flow of 2,500 gallons per day or less may be applied to systems in part C provided the alternative standards are no less stringent than provisions of Minnesota Rules Chapter 7080, that went into effect on April 3, 2006, except that the waste strength must meet the standards established in Minnesota Rules, part 7080.2150, subpart 3, item K. If additional treatment of waste is needed to meet this standard, the treatment must be in accordance with Minnesota Rules, part 7080.2150, subpart 3, item A.

### **6.24 Soil Dispute Resolutions**

The Department will determine the final decision on the depth of periodically saturated soils should a disagreement occurs between the designated Department representative and any licensed business.

### **6.25 Holding Tanks**

Holding tanks may be allowed under the following conditions:

- A. Must comply with Minnesota Rules Section 7080.0172, subp 3;
- B. As replacements for SSTS that are failing, or pose an imminent threat to public health, and on lots existing as of the effective date of this Ordinance where it can be shown that a SSTS permitted under this Ordinance cannot be feasibly installed;
- C. Holding tanks must also comply with the following conditional provisions:
  - 1) The owner shall install an alarm in order to adequately manage the system;

- 2) The Maintainer shall record the date the tank is pumped, volume of waste removed, and the discharge location. The record shall be provided to the owner and made available to the Department upon request.

## **6.26 Privies**

Privies that meet all of the following criteria may be designed with ALS vertical separation.

- A. The privy is in a remote area with a minimum lot size of two (2) acres.
- B. Must not be located within a floodplain, shoreland or on hydric soils as indicated in the NRCS Soil Survey for Roseau County.
- C. The privy is not in a wetland as indicated on the National Wetland Inventory Map.
- D. The privy shall be located at least a hundred (100) feet from any existing well.

## **6.27 Lot Size for Treatment Area**

All lots created after January 23, 1996 shall include a minimum of two (2) soil treatment and dispersal areas that can support Type 1 systems as described in Minnesota Rules, Section 7080.0170 Subps 2, 5 and 6.

## **6.28 Standards Must Comply with other Laws and Rules**

Alternative Local Standards must comply with requirements of other applicable State Laws, State Rules and County Ordinances.

## **6.3 2011 MN Rule Elements included in this Ordinance**

### **6.31 Sewage Tanks**

- > Tank Strength Requirements, 7080.1910, Subp 1.
- > Poured-in-place concrete tanks, 7080.1910, Subp 2.
- > Septic Tank Design, 7080.1920 A – E.

> Septic Tank Capacity, 7080.1930, per the following table:

<b>Liquid Capacity of Septic Tanks</b>		
<b># of Bedrooms</b>	<b>Septic Tank Capacity (GPD)</b>	<b>With a Garbage Disposal and/or a Pump (GPD)</b>
3 or less	1000	1500
4 or 5	1500	2250
6 or 7	2000	3000
8 or 9	2500	3750

- > Multiple Septic Tanks, 7080.1940.
- > Compartmentalization of Single Tanks, 7080.1950 A – E.
- > Septic Tank Baffles, 7080.1960 A – G.
- > Sewage Tank Access, 7080.1970 A – D.
- > Tank Construction, 7080.1980 A – B.
- > Tank Storage, Transport and Use, 7080.1990 Subp 1 and 2.
- > Location and Installation of Tanks, 7080.2000 A – K.
- > Tank Assessment, 7080.2010 Subp 1, 2 and 3.
- > Tank Identification, 7080.2020 A – D.

**6.32 Registered Products**

- > Final Treatment and Dispersal, 7080.2150, including soil sizing Tables IX and IXa.

**6.33 Vertical Separation Flexibility: 15% Flexibility, 7080.1500 Subp 4D**

- > A reduced vertical separation for existing systems is allowed for SSTS that were designed with at least a three (3) foot vertical separation distance. The maximum of fifteen (15) percent reduction, (a separation distance no less than 30.6 inches), is only allowed to account for settling of sand or soil, normal variation of measurements, and interpretations of the limiting layer conditions. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil.

### **6.34 Trench and Seepage Bed Design, 7080.2210, Subp 4D**

- > The minimum depth of soil cover, including topsoil borrow, over the distribution medium is six (6) inches, (2006 Rules).

### **6.4 List of Technical Differences in Ordinance from 2011 MN Rules Chapters 7080 and 7081**

A. Alternative Local Standards “ALS” Vertical Separation, (reference 6.21- 6.22).

B. Locations where Alternative Local Standards do not apply, (reference 6.23).

C. 2006 Minnesota Rules implemented as Alternative Local Standards, as follows:

(1) Pressure lateral spacing, as defined in 2006 Rules Section 7080.0150, Subp 3F.

(2) Flow measurement, per pump installation, is not required in the 2006 Rules; therefore, 2011 Rule Sections 7080.2210, 2220, 2230, 2240, 2270, and 2300 concerning flow measurement are not mandatory.

(3) Should a technical difference exists that is not listed in the 2011 Minnesota Rule Elements, (reference Section 6.3), the 2006 Rules Chapter 7080 provisions shall prevail.

## **SECTION 7: VARIANCES**

### **7.1 Variance Requests**

A property owner may request a Variance from the standards as specified in this Ordinance pursuant to County policies and procedures outlined in the Roseau County Shoreland Ordinance, (adopted by reference as an Attachment to this Ordinance).

### **7.2 MPCA – State Notification**

The County must notify the MPCA at least ten (10) days prior to any public hearing involving a variance request that pertains to the standards and requirements contained in this Ordinance.

### **7.3 Board of Adjustment**

The Board of Adjustment shall administer all variance requests per the policies and procedures outlined in the Roseau County Shoreland Ordinance.

## **SECTION 8: SSTS PERMITS AND PLANS**

### **8.1 SSTS Permits Required**

It is unlawful for any person to construct, install, modify, repair or replace a SSTS without the appropriate Permit from the Department. The issuing of any Permit, Variance, or Conditional Use Permit under the provisions of this Ordinance shall not absolve the applicant of responsibility to obtain any other required Permit.

### **8.2 Activities Requiring a SSTS Permit**

All contractors, property owners or other persons having charge of the SSTS construction, replacement, and/or major modifications of SSTS, shall obtain a SSTS Permit from the Department prior to starting construction. Permits shall be granted upon receipt of a completed application, (reference Section 8.5 of this Ordinance).

### **8.3 Activities Not Requiring a SSTS Permit**

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

### **8.4 SSTS Permit Requirements in Floodplain and Shoreland Districts**

For development in areas regulated by the Roseau County Shoreland and/or Floodplain Management Ordinance(s), a valid SSTS Permit for a new system or a Certificate of Compliance for an existing SSTS, must be submitted to the Department prior to approval and issuance of a Building Permit.

### **8.5 SSTS Permit Applications**

SSTS construction Permit applications shall be made on forms provided by the Department and signed by the applicant. The application shall include, but is not limited to, the information and documents listed in items A through E below. Completed applications shall be examined and approved or denied by the Department.

- A. Name, mailing address, telephone number, (and email address if available.)
- B. Property Identification Number, address, or other description of property location.
- C. Site Evaluation Report, including soil analysis and verification utilizing at least three (3) soil observations made in exposed pits or by hand auger/probe prior to construction. The depth to the periodically saturated soil shall be determined by the parameters outlined in Section 6 of this Ordinance. The soil verification shall be made by a qualified employee or licensed inspection business authorized by the Department. The soil boring log with soil verification signature shall be submitted with the analysis report to the Department.
- D. Design Reports and any documents described in MN Rules Chapter 7080.0110-7080.0115.

E. Management Plan, (reference Section 9 of the Ordinance).

#### **8.6 Permit Application Review and Response**

The Department shall review the Permit application and supporting documentation. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue written Permit authorizing construction of the SSTS as designed within fifteen (15) working days of receipt of all the required documentation. In the event the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for approval or denial. The Department shall complete the review of the amended application within fifteen (15) working days of receipt of the amended application. If the Permit application is incomplete, or does not meet the requirements of the Ordinance, the Department shall deny the application. A Notice of Denial shall be provided to the applicant which must state the reason(s) for the denial.

#### **8.7 Appeal**

The applicant may appeal the Department's decision to deny the Construction Permit in accordance with the County's established policies and procedures.

#### **8.8 SSTS Permit Expiration**

The SSTS Permit is valid for a period of one (1) year from its date of issue. An extension of the permit may be granted at the discretion of the Department.

#### **8.9 Transferability**

A Construction Permit shall not be transferred to a new owner. The new owner must apply for a new Construction Permit in accordance with this Section.

#### **8.10 Suspension or Revocation**

The Department may suspend or revoke a Construction Permit issued under this Section for any false statements, misrepresentation of facts on which the Permit was issued, or unauthorized changes to the system design that alter the original function, treatment capacity, location, 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 permittee. If suspended or revoked, installation or modification of a system may not commence until a valid Permit is obtained.

### **SECTION 9: MANAGEMENT PLANS**

#### **9.1 Purpose**

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

## **9.2 Management Plan Requirements**

Management Plans are required for all new or replacement SSTS. The Plan shall be submitted to the Department with the final Construction Certification for review and approval.

## **9.3 Management Plan Contents**

Management Plans shall include:

- A. Operating requirements describing tasks that the owner can perform and tasks that a licensed maintainer must perform;
- B. Monitoring requirements;
- C. Maintenance requirements, including maintenance procedures and a schedule for routine maintenance;
- D. Disclosure of the location of the additional soil treatment area(s) on the property;
- E. Other requirements as determined by the Department.

# **SECTION 10: SSTS INSPECTION REQUIREMENTS**

## **10.1 Compliance Inspection Program**

- A. SSTS Compliance Inspections are performed:
  - (1) To ensure compliance with applicable requirements;
  - (2) For all new SSTS construction or replacement; and for existing system upgrade, repair or modification;
  - (3) To ensure system compliance before issuance of a Building Permit for the addition of a bedroom on properties served by an SSTS located in the designated Floodplain and/or Shoreland District(s). The County may temporarily waive the Certificate of Compliance requirement for the permit application made during the period from November 1 to April 30 with provisions for compliance inspection to be made the following June 1<sup>st</sup> ;
  - (4) Any time the Department deems appropriate, such as upon receiving a written complaint or other reliable information of system failure.
- B. All compliance inspections must be performed and signed by licensed inspection business or qualified employee.
- C. 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.
- D. 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.

## **10.2 New Construction or Replacement**

- A. Compliance inspections must be performed on new or replacement SSTS during construction and installation of a SSTS before it is covered with soil, unless acceptable photographs or video documentation are provided, to determine compliance with MN Rules Chapters 7080 or 7081.
- B. It shall be the responsibility of the installer to notify the inspector to arrange for the inspection.
- C. The Certificate of Compliance must include a certified statement by the licensed inspector who conducted the inspection that the SSTS is or is not in compliance with the Ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a Notice of Noncompliance shall be issued to the owner by the Department which includes a statement specifying those Ordinance provisions with which the SSTS does not comply.
- 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.
- E. 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.

## **10.3 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) When there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
  - (3) At the time of a Building Permit or Variance request within the designated Floodplain and/or Shoreland Districts of the County;
  - (4) As required by this Ordinance, or as deemed appropriate by the Department; such as, upon receipt of a written/signed complaint or other reliable notice of a system malfunction.
- B. Compliance inspections of existing non-ALS SSTS shall be reported on the inspection report forms provided by MPCA; inspections of SSTS constructed to ALS shall be reported on forms provided by the Department.
- C. If the SSTS is determined not to be in compliance with the Ordinance requirements, a Notice of Noncompliance must include a statement specifying those Ordinance provisions with which the SSTS does not comply. Non-compliant SSTS that are IPHTs shall be replaced within sixty (60) days of inspection and SSTS that are failing shall be replaced within five (5) years of inspection. The Certificate of Compliance or Notice of Noncompliance shall be provided to the property owner or owner's agent and the original Certificate of Compliance or Notice of Noncompliance shall be submitted with the inspection report to the Department by the licensed inspector

conducting the inspection within fifteen (15) days after the date the inspection was performed.

- D. Certificates of Compliance for existing SSTS shall remain valid for five (5) years from the date of issue unless the Department finds evidence of noncompliance.

#### **10.4 Disclaimer**

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 11: ENFORCEMENT**

#### **11.1 Violations**

##### **11.11 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, including the requirement for the system to be upgraded, replaced or its use discontinued; or, who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, may be guilty of a misdemeanor and upon conviction thereof, shall be punishable as prescribed by the applicable Minnesota Statutes. Each day that a violation exists shall constitute a separate offense.

##### **11.12 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;

### **11.13 Cease and Desist Orders**

Cease and Desist Orders may be issued when the Department has probable cause that an activity regulated by this Ordinance is being conducted without a Permit or in violation of a Permit. When a project has been stopped by an Order, the project shall not resume until the violation has been corrected, any administrative fees paid, and the Order rescinded.

### **11.14 Administrative Fees**

Any application for a Permit that is made after the work has commenced and which requires a Permit, or is done in violation of a Permit, shall be charged an additional “after-the-fact” administrative fee, (reference Section 12 of this Ordinance).

### **11.15 Reimbursements for Restoration**

The Department may require correction and/or restoration of the property to its original state should the application for a Permit be denied or if the action permitted does not include all or part of the work commenced prior to approval of said Permit. The Department may recover the cost incurred in removal or abatement in a civil action; or, 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 may extend the cost as assessed and charged on the tax roll against said real property.

## **11.2 Prosecution**

In the event of a violation or threatened violation of this Ordinance, the County may seek other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations, including any criminal prosecution 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.

## **SECTION 12: 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, (reference Attachment A for the current Fee Schedule).

**SECTION 13: ADOPTION**

The Roseau County Subsurface Sewage Treatment System Ordinance is hereby adopted by the Roseau County Board of Commissioners on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

---

**Chairperson, Roseau County Board of Commissioners**

**Attest:**

---

**Roseau County Coordinator**

**Approved as to form and execution:**

---

**Roseau County Attorney**