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MARSHALL COUNTY SEWAGE AND WASTEWATER TREATMENT ORDINANCE

An ordinance authorizing and providing for sewage and wastewater treatment: establishing minimum standards for and regulation of individual sewage treatment systems (ISTS) within the incorporated and unincorporated areas of the County of Marshall incorporating by reference minimum standards, "local standards", and requirements established by Minnesota Statutes and rules of the Minnesota Pollution Control Agency; requiring permits for installation, alteration, repair or extension of ISTS in the County; establishing standards for upgrade, repair, replacement, or discontinuance of use of ISTS; imposing penalties for failure to comply with these provisions; providing for enforcement of these requirements; and promoting the health, safety and welfare of the public pursuant to Minnesota Statutes Chapters 115, 145A, 375,394, and 471, specifically §§ 115.55, 145A.05, 375.51,394.21 through 394.37, and 471.82; and in furtherance of County policy and the County Shoreland Zoning Ordinance.

The County Board of Marshall County, Minnesota, does ordain:

SUBDIVISION 1. PURPOSE AND INTENT

The purpose of the Sewage and Wastewater treatment Ordinance shall be to provide minimum standards and "local standards" for the regulation of individual sewage treatment systems (ISTS) and septage disposal including the proper location, design, construction, operation, maintenance and repair to protect surface water and potable water from contamination by human sewage and waterborne household and commercial waste; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes Chapters 115 and 145A and Minnesota Rules Chapter 7080 as amended that may pertain to sewage and wastewater treatment.

SUBDIVISION 2. DEFINITIONS.

For the purposes of this ORDINANCE, the following terms shall have the definitions given them in this section.

BEDROOM - Any room used principally for sleeping purposes. A room planned and intended for sleeping.

DEPARTMENT - The Marshall County Environmental Administrator, or other designated agent who is a qualified employee or licensee.

MOTTLING/RESIDUAL MOTTLING - As applied to soils, means a zone of chemical and reduction activity, appearing as splotchy patches of red, brown, or gray in the soil. (Reference "Keys to Soil Taxonomy" 5th Edition 1992 Soil Management Support Services, technical monograph No. 19) Mottling occurring in undeveloped areas may

accurately define the seasonal high water table and shall be considered as a criteria for determining the type of ISTS to be installed. Mottling occurring in developed, (drained), areas may be considered residual mottling and most likely will not accurately define the seasonal saturation zone; however, residual mottling must be considered along with drainage, vegetation, system densities, and soil type when determining the type of ISTS to be installed. (reference subdivision 4).

SHORELAND/FLOOD PLAIN DEVELOPMENT APPLICATION - The term includes, but not limited to applications for the following: construction permits, ISTS permits, vegetative or land alteration permits, Ordinance amendment request, request for a conditional use and variance, subdivision approval. The application is not considered complete and will not be accepted by the Department unless all fees are paid, preliminary information and documents completed, and such other information as required by the Department.

SUBDIVISION 3. GENERAL PROVISIONS

3.10 STANDARDS ADOPTED BY REFERENCE. The County hereby adopts, by this reference, Minnesota Rules Parts 7080.0010 to 7080.0315 (and discretionary 7080.0910) as now constituted and from time to time amended. This adoption does not supersede the counties right or ability to adopt local standards that are in compliance with Minn. Stat. 115.55, as stated or amended in this ordinance.

3.20 PERMITS. No person shall install, alter, repair or extend any individual sewage treatment system in areas designated as Shoreland/Flood Plain without first applying for and obtaining a permit from the Department and at the same time paying a fee as listed in the fee schedule of the Zoning Ordinance. Such permits shall be valid for a period of twelve (12) months from the date of Issuance.

Areas covered under Section 4 "Local Standards" of this ordinance, require a completed Permit by Rule certificate, available from the Department, and Certificate of Compliance signed by a person with a valid license from the Minnesota Pollution Control Agency to perform inspections, and shall be submitted to the Department within 30 days after construction.

3.30 LICENSE REQUIREMENTS. No person shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance or pumping of on-site individual sewage treatment systems without first obtaining a license to perform such tasks from the Minnesota Pollution Control Agency, except as provided under part 7080.0700, subpart 1.

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3.40 FAILING SEPTIC SYSTEMS. A Notice of Noncompliance shall be issued and copies provided to the property owner and to the County within 30 days under the following conditions;

A. A failing **ISTS** shall be upgraded, replaced or its use discontinued within five(S) years.

B. An **ISTS** posing an imminent threat to public health or safety shall be upgraded, replaced or repaired, or its use discontinued, within an appropriate time no greater than 10 months.

3.50 ADDITIONAL SOIL TREATMENT AREA REQUIREMENTS. On all lots created after January 23, 1996, the system design shall include at least one designated additional soil treatment area which can support a standard soil treatment system.

SUBDIVISION 4. LOCAL STANDARDS Minnesota Rules Chapter 7080 are hereby modified by the following technical standards to allow for the continuance or construction of, trench systems within Marshall County. "Local Standards" shall not apply in the following areas:

(1) systems in Shoreland areas, regulated under Minn. Stat. sections 103F.201 to 103F.221;

(2) well construction and location regulated under Minn. Ch. 1031; and

(3) systems used in connection with food, beverage and lodging establishments, regulated under Minn. Ch. 157.

4.10 SITE SUITABILITY FOR INSTALLATION, REPLACEMENT OR ALTERATION OF A TRENCH TYPE ISTS. Site suitability requirements must be met whenever an **ISTS** is installed, replaced, or altered. Listed below are the parameters which must be met to allow the use of a trench type **ISTS**.

4.11 Soil types: Local Standards shall not apply in the following soil types as delineated in the Soil Survey of Marshall County, 205, 2458, 387,540, 543, 544, 547, 1006, 1804, 1808, 1878, and 1882. Construction or the continuance of **ISTS** within these soil types shall comply with Minn. R. Ch. 7080. The use of the Soil Survey of Marshall County in conjunction with percolation tests is required to size systems and determine site suitability.

4.12 Vegetation: Native or natural vegetation is an indicator of soil saturation frequency. Installation of trench type systems on areas where wetland plants and trees exceed 50% of the site vegetation is prohibited. Wetland plants and trees shall be defined by the U.S. Department of the Interior. Fish and Wildlife Service National List of Plant Species that Occur in Wetlands.

4.13 SITE DENSITY: Trench type systems shall not be permitted to exceed one system per acre. All sites to be developed must have room for at least two drain fields and must meet all setbacks stated within this ordinance. Setback requirements from wells shall meet those established by the MN Department of Health.

4.14 NATURAL OR ARTIFICIAL DRAINAGE: A drainage plan will be submitted with the system design materials which shows distances to public water or to public or private drainage systems. The plan will specify how rain and excess surface water will be removed from the ISTS drain field area. If ditching or tile is used, the locations of said ditches or tile will be designated in the plan and submitted to the owner with the system design. The distance from any ditch or tile to the trench will not be less than ten (10) feet.

4.15 SITE SUITABILITY INFORMATION: Soils suitability shall be determined by the Soil Survey of Marshall County. Determination of the Flood Plain within Marshall County shall be determined by the National Flood Insurance Program: Flood Insurance Rate Map. These maps are available at the Department upon request.

SUBDIVISION 5. INSPECTION REQUIREMENTS

5.10 INSPECTIONS. The installation and construction of the ISTS shall be in accordance with the permit requirements and application design. If any ISTS component is covered before being inspected by a State licensed Inspector, it shall be uncovered upon the direction of the Inspector, unless acceptable photographs or video documentation is provided. Proposals to alter the permitted construction shall be reviewed and the proposed change accepted by the Inspector prior to construction. Inspections shall be conducted at least once during the construction of the ISTS at such time as to assure that the system has been constructed per submitted and approved design. All ISTS construction, alteration, repair and extensions require an inspection by a state licensed inspector.

5.20 INSPECTION REPORT. A Certificate of Compliance or Notice of Noncompliance shall be prepared by the Inspector following an inspection or review of as-built plans and submitted to the Marshall County Environmental Office for all new ISTS construction which requires an inspection within Marshall County. A Certificate of Compliance or Notice of Noncompliance shall be provided to the property owner and the County Environmental office within 30 days of the compliance inspection.

5.30 MANDATORY COMPLIANCE INSPECTIONS OF EXISTING SYSTEMS. An ISTS shall require a compliance inspection when anyone of the following conditions occur;

A. Any time the Department deems appropriate such as upon receiving a complaint or other information of system failure.

B. Any time a construction permit is issued in a designated Shoreland/Flood Plain area.

C. Addition of a bedroom, or a variance request within the County.

1. If the request for an additional bedroom or variance is received between November 1 and April 30, the county may issue the permit or variance at that time subject to a compliance inspection being completed by the following June 1 and the applicant submits a certificate of compliance by the following September 30.
2. If a system constructed between May 27, 1989 and January 23, 1996 does not comply with applicable requirements, and is not an imminent public health threat, a property owner applying for a permit to construct a bedroom addition has five (5) years from the date of issuance of such permit to bring the system into compliance.
3. Except in a designated Shoreland/Flood Plain area, existing systems, not considered an imminent public health threat, that have at least of two (2) feet of soil separation need not be replaced or repaired.

SUBDIVISION 6. ENFORCEMENT

6.10 Compliance inspections for construction, replacement, alteration or repair work on ISTS shall be conducted by a State licensed inspector who is independent of the owner and installer.

6.11 Upon the request of the Department, the applicant, permittee or any other person shall allow access at any reasonable time to the affected premises as well as any related records, for the purpose of regulating and enforcing this Ordinance.

6.12 No person shall hinder or otherwise interfere with the Department in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the Department shall be deemed a

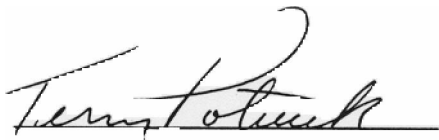
separate and distinct offense, whether or not any other specific violations are cited.

- 6.13 Whenever any work is being done contrary to the provisions of this Ordinance, the Department may order the work stopped by verbal or written notice personally served upon the installer or owner. Work then can not continue until authorization to proceed is received from the Department.
- 6.14 Any person who violates any of the provisions of this Ordinance or who makes any false statement on a Certificate of Compliance, shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both as defined by law.
- 6.15 In the event of a violation of this Ordinance, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.

SUBDIVISION 7. FORCE AND EFFECT


The Septic Ordinance shall be in full force and effect immediately upon adoption by the Marshall County Board of Commissioners and shall continue to be in full force and effect until amended or discontinued.

Approved and adopted by the Marshall County Board of Commissioners this 20 day of January 1998.



Chairman Marsh)1 County Board of Commissioners

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ATTEST: 
Roy G. Swanson
Marshall County Auditor
and Executive Secretary to
the County Board

Amendment To
Marshall County Sewage and Wastewater Treatment Ordinance as Recorded
in Book 85 of Miscellaneous Pages 144-150.

ADD:

SUBDIVISION 3. GENERAL PROVISIONS

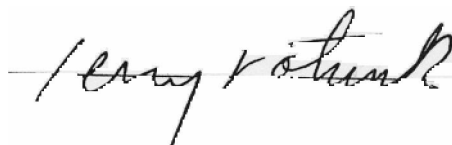
3.60 Board of Adjustment

A. 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 State Law. Reference Minnesota Statutes 2001, Chapter 15.99, Chapter 394 and adopted Rule of Procedures (for Marshall County Board of Adjustment).

B. Administrative Review. The Board 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.

C. Variances. Minnesota Rules Chapter 7080.0305, Subp.3

1. A local unit of government shall not issue a variance for replacement, or for the addition of a bedroom on property served by a system unless the individual sewage treatment system is in compliance with local ordinance, as evidenced by a certificate of compliance.
2. Variances to technical standards and criteria may be granted by the Board of Adjustment if applicable local variance procedures are followed. Less restrictive vertical separation is allowed if the requirements of Minnesota Statutes, section 115.55, subdivision 7, are met or if the requirements in part 7080.0179 are met.
3. Only the governing state agency may issue variances to chapters 4720, 4725, 6105, and 6120.

 Chairperson

MARSHALL COUNTY SEPTIC ORDINANCE
FACT SHEET

The following information illustrates how the Marshall County Septic Ordinance varies from the State 7080 rules. The differences are in subdivision 2, subdivision 3 section 3.20 second paragraph, and subdivision 4.

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