

Hubbard County Individual Sewage System Standards Ordinance

Subdivision 1. General Provisions

1.10 Purpose and Intent.

The purpose and intent of the Hubbard County Individual Sewage Treatment System Standards Ordinance shall be to provide minimum standards for and regulation of individual sewage treatment systems (ISTS) and septage disposal including the proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minn. Stat. Chapters 115 and 145A and Minnesota Rules Chapter 7080 and as amended that may pertain to sewage and wastewater treatment.

1.20 Title

This Ordinance shall be known and may be cited and referred to as the "Hubbard County Individual Sewage Treatment System Standards Ordinance", when referred to herein, it shall be known as "this Ordinance".

1.30 Jurisdiction

The jurisdiction of this Ordinance shall apply to all areas of the county other than cities or towns that have adopted ordinances that are as strict as this Ordinance.

1.40 Compliance

The installation of individual sewage treatment systems shall be in full compliance with the terms of this Ordinance and other applicable regulations.

1.50 Enforcement

The Hubbard County Board of Commissioners shall bear the ultimate responsibility for the administration and enforcement of this Ordinance. Any violations of the provisions of this Ordinance or failure to comply with any of its requirements, including failure to comply with special conditions of variances, shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Subdivision 3 of this Ordinance.

1.60 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 Hubbard County and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

Interpretation shall be made by the Zoning Administrator with approval of the Board of County Commissioners, subject to appeal to the Board of Adjustment.

1.70 Severability

This Ordinance and the various parts, sentences, paragraphs, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is judged to be unconstitutional or otherwise invalid for any reason by a court of competent jurisdiction, such finding shall not affect the remaining portions of this Ordinance.

1.80 Word Usage

Unless specifically defined in Minnesota Rules, Chapter 7080, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application. For the purpose of this Ordinance, the words "must" and "shall" are mandatory; the word "may" is permissive. All distances, unless otherwise specified, shall be measured horizontally. Words used in the present tense shall include the future, and words in the singular number shall include the plural number as well.

1.90 Effective Date

This Ordinance shall take effect and be in force from July 27, 2011 and after the date of passage, approval, and publication, as provided by law.

1.100 Objectives.

The principal objectives of this Ordinance shall include the following:

- 1.101** The protection of Hubbard County's lakes, wetlands, rivers and streams and supplies of groundwater essential to the promotion of public health, safety and welfare; the protection of the County's environment and its socioeconomic growth and development of the County in perpetuity.
- 1.102** Given the extensive resources and numerous supplies of surface water and groundwater and their susceptibility to contamination, regulation of proper ISTS construction, reconstruction, repair and maintenance and proper septage disposal is essential to prevent the entry and migration of contaminants, thereby ensuring the non-degradation of surface water and groundwater;
- 1.103** The provision of establishing minimum standards for ISTS placement, design, construction, re-construction, repair and maintenance to prevent contamination and, if contamination is discovered, to identify and control its consequences and abate its source and migration.
- 1.104** The provision of establishing minimum standards for septage removal, transport, treatment and disposal;

1.105 The utilization of privies and other non-water carried ISTS;

1.106 The prevention and control of water-borne disease, lake degradation, groundwater related hazards, and public nuisance conditions through plan reviews, inspections, ISTS surveys and complaint investigation, as well as through technical assistance and education.

1.110 Scope.

This Ordinance shall regulate the design, construction and repair of ISTS in Hubbard County, including but not necessarily limited to individual on-site and cluster or community ISTS privies and other non-water carried ISTS, repair and/or replacement of failing ISTS and septage disposal.

Subdivision 2. Administration

2.10 Standards adopted by reference. Minnesota Rule Chapter 7080, relating to individual sewage treatment systems, is hereby adopted in its entirety by reference and made a part of this ordinance as if fully set forth herein. The above adopted rules are hereby amended as follows.

2.11 More Restrictive Standards.

The following more restrictive standards shall apply:

- A.** An inspection pipe of six inches in diameter must be located over the inlet and outlet devices of septic tanks and shall conform to all other requirements of Minnesota Rules, Chapter 7080.
- B.** An inspection pipe of six inches in diameter must be located between the inlet and outlet baffles for the purpose of evaluating scum and sludge accumulations and shall conform to all other requirements of Minnesota Rules, Chapter 7080.
- C.** A vertical inspection pipe of four inches in diameter must be installed in each drainfield layer of every mound, trench, at grade rock bed or seepage bed and shall conform to all other requirements of Minnesota Rules, Chapter 7080.
- D.** An inspection pipe of four inches in diameter shall be installed on every drop box, cross pipe used to top load gravelless pipe or distribution box.
- E.** All onsite sewage treatment systems servicing new residential dwellings being constructed shall be sized for a Type I dwelling. A Type I dwelling shall be defined as having a total floor area divided by the number of bedrooms of more than 800 square feet per bedroom, or more than two of the following water-use appliances are installed or anticipated: automatic washer, dishwasher, water conditioning unit, whirlpool bath, garbage

disposal, or self-cleaning humidifier in furnace.

- F. The inlet pipe to the septic tank to the undisturbed soil beyond the tank must meet the strength requirements of American Society for Testing and Materials (ASTM), schedule 40 plastic pipe and must be supported in a manner that there is no deflection during the backfilling and subsequent settling of the soil between the edge of the septic tank and the edge of the excavation.
- G. The setback distance from an ISTS to classified lakes and rivers shall be as specified in the Hubbard County Shoreland Management Ordinance.
- H. The setback distance from an ISTS to the delineated boundary of a Type 4 or Type 5 wetland greater than 10 acres in size shall be one hundred fifty (150) feet and the bottom and sides of trenches and beds shall be in original soils at least four feet above the saturated soil or bedrock when a lot is created through platting. In cases where a property owner can demonstrate through legal description, or plat, or certified survey that there is insufficient depth on a lot to accommodate placement of the drainfield at the 150 foot setback the Zoning Administrator may vary the setback administratively but in no case shall the setback be less than 75 feet.

A Type 4 wetland shall be defined as a wetland or deep fresh meadow in a shallow lake basin that contain a mixture of open water and emergent vegetation. The soil is covered by six inches to three feet of water during the growing season. Vegetation typical to this wetland type include bulrush, cattail, burreed, phragmites, wild rice and floating vegetation such as pondweed, coontail, watermilfoil, and waterlily.

A Type 5 wetland shall be defined as a wetland or open water shallow lake or reservoir. The water is usually less than 10 feet deep and is fringed by a border of emergent vegetation. Vegetation typical to this wetland type included bulrush, cattail, and floating vegetation such as pondweed, coontail, watermilfoil, and waterlily.

2.12 Special Provisions.

The following special provisions shall apply:

- A. Existing septic systems constructed prior to April 1, 1996 which do not present an imminent public health threat and have at least two (2) feet of vertical separation between the bottom of the soil treatment system and the depth to the seasonally high water table or other limiting factors need not be upgraded. This does not apply to systems in shoreland areas, wellhead protection areas, or to systems servicing facilities licensed by the Minnesota Department of Health.
- B. Certificates of Compliance for systems installed prior to April 1, 1996 remain valid for three (3) years unless an imminent public health threat is identified

by Hubbard County. Hubbard County may at its discretion rely on information submitted by a licensed inspector to make the determination.

- C. Certificates of Compliance for new and replacement septic systems remain valid for five (5) years unless an imminent public health threat is identified by Hubbard County. Hubbard County may at its discretion rely on information submitted by a licensed inspector to make the determination.
- D. The Hubbard County Zoning Administrator may allow administrative variances to technical requirements of the code when there are practical difficulties that prohibit installation. This authority shall not extend to drainfield separation requirements or setback requirements except as outlined in the Hubbard County Shoreland Management Ordinance or any state mandated setbacks.

2.20 Administration by State Agencies.

- 2.21 For an on-site ISTS, or group of systems that are located on adjacent properties and under single ownership, the owner or owners shall make application for and obtain a State Disposal System permit from the Minnesota Pollution Control Agency if the on-site ISTS or group of systems are designed to treat an average design flow greater than 10,000 gallons per day.
- 2.22 For dwellings including apartments, townhouses, resort units, rental cabins and condominiums, the sum of the flows from all existing and proposed sources under single management or ownership will be used to determine the need for a State Disposal System permit.
- 2.23 ISTS serving establishments or facilities licensed or otherwise regulated by the State of Minnesota including, but not limited to, campgrounds, resorts, mobile home parks, and eating and drinking establishments, shall conform to state and local requirements.
- 2.24 Any ISTS requiring approval by the State of Minnesota shall also comply with all local codes and this Ordinance.
- 2.25 Plans and specifications must receive appropriate state and local approval before construction is initiated.

2.30 Administration by Hubbard County. The Hubbard County Environmental Services Department shall regulate ISTS and septage disposal in Hubbard County pursuant to this Ordinance.

2.31 The Department shall have the following duties and responsibilities:

- A. To review all applications for ISTS;
- B. To review all proposals for the land application of septage;

- C. To issue all permits required by this Ordinance;
- D. To inspect work in progress and to perform the necessary tests to determine its conformance with this Ordinance;
- E. To investigate complaints regarding ISTS and septage disposal;
- F. To perform compliance inspections;
- G. To issue certificates of compliance or notices of noncompliance where appropriate;
- H. To issue Stop Work Orders and Notices of Violation, pursuant to this Ordinance;
- I. To take complaints to the County Attorney for violations of this Ordinance;
- J. To maintain proper records for ISTS and septage disposal including site evaluation records, design records including calculations and summaries for all system component sizing and as-builts, and;
- K. To submit annual reports to the MPCA to demonstrate enforcement of the local ordinance per Chapter 7080.0310.

2.32 Neither the issuance of permits, certificates of compliance or 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.

2.40 Amendments

The procedure for amendments to this Ordinance shall be as follows:

- 2.41** An amendment may be initiated by a property owner, the Planning Commission or the County Board of Commissioners. Property owners wishing to initiate an amendment shall fill out an Application for Amendment form, available from the Zoning Administrator. Such application shall be filled out and submitted to the Zoning Administrator at least fifteen (15) days before the next regularly scheduled meeting of the Planning Commission together with the appropriate fee;
- 2.42** The applicant shall appear before the Planning Commission to answer any questions that Commission members may have concerning the amendment request;

- 2.43** A public hearing on the amendment request shall be conducted by the Planning Commission within sixty (60) days following such initial meeting. The Public hearing shall be conducted in accordance with M.S. 394.26;
- 2.44** The Planning Commission shall make a recommendation to the County Board of Commissioners after the proceedings of this public hearing. The applicant shall be notified in writing of the recommendation that shall be forwarded to the County Board of Commissioners;
- 2.45** The County Board shall consider the recommendation of the Planning Commission recommendation within thirty (30) days after the public hearing is conducted.

2.50 Variances.

An affected property owner may request a variance from standards as specified in this Ordinance and may be requested pursuant to this Ordinance. Variances to decrease the three feet of vertical separation required beneath the distribution medium and the saturated soil or bedrock must be approved by the MPCA as per the procedures contained in Minnesota Rules Chapter 7080.0305 Subp. 3. Variances to wells and water supply lines require approval from the Minnesota Department of Health.

- 2.51.** An application may be made, and a variance may be granted by the Hubbard County Board of Adjustment pursuant to the provisions of Minnesota Statute Section 394.27, when the applicant/owner establishes the existence of all of the following criteria:
 - A.** the condition causing the plight of the landowner is unique to the property and was not caused by the actions of the landowner/applicant;
 - B.** the variance, if granted, will not alter the essential character of the locality;
 - C.** the granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to the property values in the vicinity;
 - D.** the granting of the variance will be in harmony with the general purposes and intent of the ordinance and consistent with the comprehensive plan;
 - E.** the property owner or owners proposes to use the property in a reasonable manner in light of the essential character of the area;
 - F.** the granting of the variance is not based solely on economic considerations.
- 2.52** No variance shall be granted simply because there are no objections; or

because those who do not object outnumber those who do, nor for any reason other than a proven practical difficulty.

- 2.53** In granting any variance, the Board of Adjustment may impose conditions that it finds necessary or desirable to effect the purposes of this Ordinance and to protect the public interest.
- 2.54** A variance shall expire five (5) years from the date of issuance if the variance is not utilized.
- 2.55** An applicant or landowner cannot request the re-hearing of a variance request or administrative decision appeal for a period of one (1) year from the date of the Board of Adjustment's decision. An applicant or landowner may request the re-hearing of a request for a variance or an administrative decision appeal that has been denied when substantial new information is obtained that is relevant to the issue. The Board of Adjustment shall then re-hear the issue at another duly called public hearing.
- 2.56** If necessary, an extension of a variance shall be requested in writing and filed with the Environmental Services Officer at least thirty (30) days before the expiration date of the original variance. The request for extension shall state facts showing a good faith attempt to utilize the variance in the allowed five (5) years. Upon receipt of a request for a variance extension, the Environmental Services Officer shall review the request and make a decision to grant or deny the extension based on the information submitted. At staff's discretion, the request may be referred to the Board of Adjustment. No extension shall be for more than one (1) year, after which if the variance is not utilized, the variance becomes void. In no case shall more than one (1) variance extension be approved for an individual variance request.
- 2.57** An applicant desiring a variance shall fill out and submit to the Hubbard County Zoning Administrator a Variance Application form, copies of which are available from the Zoning Administrator. The appropriate fee shall be paid in order for the application to receive consideration by the Board of Adjustment.
- 2.58** The Zoning Administrator shall make a staff report, in writing, to the Board of Adjustment who shall make the final decision after conducting a public hearing in accordance with M.S. 394.26 and the provisions of this Ordinance.
- 2.59** An appeal of any administrative decision made in the enforcement of this Ordinance shall be made within fifteen (15) days of the date of the administrative decision by filling out and submitting to the Zoning Administrator an Administrative Decision Appeal Application form, which is available from the Zoning Administrator. Such appeal shall be heard by the Board of Adjustment within sixty (60) days of the date that such application is submitted to the Zoning Administrator.

2.60 The Hubbard County Board of Adjustment has been established by the Hubbard County Shoreland Management Ordinance and is invested with such authority as provided by Minnesota Statutes 394.27 and all acts amendatory thereof and as is hereinafter provided:

The Board of Adjustment shall have the exclusive power concerning the following:

- A.** to grant variances from the strict enforcement of the standards and provisions prescribed by this Ordinance. Variances shall only be granted based upon the criterion prescribed in Section 304 Paragraph A of this Ordinance;
- B.** to hear and decide any appeal from an order, requirement, decision, or determination made by the Zoning Administrator;
- C.** all decisions by the Board of Adjustment in granting variances, or in hearing any appeals from administrative order, requirement, decision or determination shall be final except that any aggrieved person, department, agency, Board or Commission shall have the right to appeal to the District Court within thirty (30) days after receipt of the notice of the decision made by the Board of Adjustment.

2.60 Definitions

Application site - Areas managed for septage disposal and utilization in general accordance with sound farm management techniques including runoff, ponding and erosion control.

As-builts - Drawings and documentation specifying the final in-place location, size and type of all system components. These records identify the results of materials testing and describe conditions during construction. As-builts contain a certified statement.

Available water-holding capacity - The capacity of soil to hold water against the force of gravity and available for use by most plants. It is usually expressed in inches of water per inch of soil. It may be found in Soil Conservation soil surveys or Soil Conservation Service soil interpretation sheets, or it may be obtained in the laboratory using the method provided in part 7040.4300, subpart 3.

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

Certificate of compliance, ISTS - A document from a licensed sewage treatment inspector fully licensed by the State of Minnesota or a qualified employee provided to the owner of property on which a dwelling is located which is required to have an ISTS and to Hubbard County, indicating that said ISTS is not a failing system nor an imminent threat to public health or safety and, for new construction and replacement, is constructed in compliance with Minnesota Rules, Chapter 7080, as amended.

Compliance inspection - Any evaluation, investigation, inspection, or other such process to make conclusions, recommendations, or statements regarding an individual sewage treatment system to reasonably assure an individual sewage treatment system is in compliance as specified under part 7080.0060. Compliance inspections must be conducted by a qualified employee or under a license independent of the owner and the installer.

Department - The Hubbard County Environmental Services Department.

Failing system - Any ISTS that discharges sewage to a seepage pit, cesspool, drywell or leaching pit and any system with less than three feet of soil or sand between the bottom of the distribution medium and the saturated soil level or bedrock. In addition any system posing an imminent threat to public health or safety shall be considered failing.

Groundwater - The water contained below the surface of the earth in a saturated zone, including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations, deeper underground.

Imminent threat to public health or safety - Means situations with the potential to immediately and adversely impact or threaten public health or safety. At a minimum, ground surface or surface water discharges, cesspools, and any system causing sewage backup into a dwelling or other establishment shall constitute an imminent threat.

Incorporation - The mixing of manure or septage with the topsoil, concurrent with the application or immediately thereafter, by means such as discing, plowing, rototilling, injection or other mechanical means.

Individual sewage treatment system (ISTS) - A sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal. Individual sewage treatment system includes holding tanks and privies.

Inspector - An individual qualified to review proposed plans and inspect ISTS and who meets the licensure and registration requirements of the Minnesota Pollution Control Agency.

Intermittent stream - Any stream which flows at certain times during the year, such as after a rainstorm or during wet weather. Intermittent streams receive water from surface runoff, springs, or melting snow and have definable banks. Any intermittent stream mapped on Soil Conservation Service soil surveys or United States Geological Survey quadrangle maps may be included within this definition. All Class 7 limited resource value water listed in parts 7050.0380 and 7050.0310 are included in this definition.

Land spreading - The placement of septage or human waste from septic or holding tanks on or into the soil surface.

Land use development application - The term includes, but not limited to applications

for the following: construction permits, ISTS permits, vegetative alteration permits, topographic alterations permits, or other types of zoning permits, conditional use permits, amendments to this Ordinance, variances from the provisions of Ordinance, and the subdivision of real estate. The application is not considered complete and will not be accepted by the Environmental Services Department unless all fees are paid, preliminary reviews and approvals completed, submitted with associated supporting information and documents, and such other information as required by the Environmental Services Administrator.

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 subsoils 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" 5th Edition, 1992 Soil Management Support Services, technical monograph No. 19, which is incorporated by reference.

MPCA - Minnesota Pollution Control Agency.

Qualified employee - An employee of state or local government who conducts site evaluations or designs; installs, maintains, pumps, or inspects individual sewage treatment systems as part of employment duties and is registered on the ISTS professional register with specialty area endorsements applicable to the work being conducted. A qualified employee may be an apprentice if the individual has specialty area endorsements applicable to the work to be completed, has fulfilled the contractual requirement under Chapter 7080, and has been issued performance restrictions.

Place of habitation - Means an able to be occupied house, apartment, manufactured home, dwelling, residence, or other structure, occupied or intended to be occupied on a day to day basis by an individual, groups of individuals, family unit, or group of family units.

Saturated soil - (or seasonal high water table) The highest elevation in the soil where all voids are filled with water, as evidenced by presence of soil mottling or other information.

Septage - Solids and liquids removed during periodic maintenance of an ISTS, or solids and liquids which are removed from toilet waste treatment devices or a holding tank.

Sewage - Any water-carried domestic waste, exclusive of footing and roof drainage, from any industrial, agricultural, or commercial establishment, or any dwelling or any other structure. Domestic waste includes liquid waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources, and specifically excludes animal waste and commercial or industrial wastewater.

Soil textural classification - The soil separates: Sand, Silt, and Clay, based on the U.S.D.A. Soil Texture Classification:

1. Course texture - sand and loam soil.
2. Medium texture - sandy loam, silt loam and sandy clay loam.
3. Fine texture - clay loam, silty clay loam, sandy clay, silty clay, and clay.

Surface water - All natural water courses or public waters as defined in Minnesota

Statutes, Section 105.37, Subd. 9, 10, 11, 14 and 15.

Tradesman - Any person engaged in the business of pumping, cleaning and disposing of septage from an individual sewage treatment system and licensed by the County.

Wetland - A surface water feature classified as a wetland in either the United States Fish and Wildlife Service Circular No. 39 (1971 Edition) or in the United States Fish and Wildlife Service publication Classification of Wetlands and Deepwater Habitats of the United States, 1979.

Toilet waste treatment devices - Privies and other devices including incinerating, composting, biological, chemical, recirculating, or holding toilets.

Zoning Administrator - The zoning administrator of Hubbard County or its authorized agent or representative.

Subdivision 3. Permitting

3.10 Permits Required.

3.11 Construction Permits.

A permit shall be obtained by the fee title owner of the property or his/her authorized representative whenever any ISTS in Hubbard County is installed, replaced, altered, repaired or extended. Installation, replacement, alteration, repair, or extension of an ISTS shall not begin without first making an application for a permit and obtaining said permit from the Department for each specific installation, replacement, alteration, repair or extension pursuant to this Ordinance. A permit shall not be required only for the work identified under Subdivision 3.20 of this ordinance. Such permits are not transferable as to person. Such permits shall expire 12 months after date of issuance unless a written extension is granted by the Zoning Administrator prior to date of expiration.

3.12 Posting of Permits.

Permits shall be provided by permittee at the time of inspection upon request of inspector or posted in a prominent location once construction is initiated.

3.13 Drainfield Extension Permits.

A drainfield extension permit may be obtained for a drainfield extension to an existing ISTS providing an approved site evaluation and ISTS design is on file and amended to include the extension.

3.20 Permits Not Required.

Permits shall not be required only for the following:

3.21 Repair or replacement of pumps, floats or other electrical devices of the pump or baffles in a septic tank, or repair of collapsed or clogged building sewers.

3.30 Property Owners Doing Own Work.

Property owners who may be permitted to construct or repair ISTS on their own properties shall be exempted from providing proof a State license but shall be required to execute a signed indemnification agreement pursuant to Subdivision 3.31 of this Ordinance. Property owners doing their own work must comply with Subdivision 3.10 as well as other applicable provisions of this Ordinance. A property owner shall have either a current license issued by the Minnesota Pollution Control Agency for Designer I or II if they wish to perform the site evaluation or design their own ISTS.

3.31 Indemnification Agreement.

The permittee 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 the failure of the permittee to conform to and comply with the provision of this Ordinance.

3.40 Permit Application Requirements.

All applications for a ISTS permit shall be made to the Zoning Administrator on forms to be provided by the County and shall include the following information:

- A.** Site evaluation report on a form as provided by the County;
- B.** System design with full information including applicable construction information on forms as provided by the county, and
- C.** Any other information requested pertinent to the process.
- D.** On 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. If a suitable additional soil treatment area is available on lots created before January 23, 1996, it must be identified in the site evaluation report.

3.41 Application Review and Approval.

If, after consideration of the application for a permit, a qualified employee or authorized licensee of the Department shall be satisfied that the work contemplated conforms to and complies with provisions of this Ordinance, the Department shall issue a written permit granting preliminary approval authorizing initiation of construction of the system as designed. All permit

applications shall be examined and processed within thirty (30) days of receipt of such application.

3.42 Incomplete Application Information.

If after consideration of the application for a permit, the Department shall be satisfied that the work contemplated will not conform to or comply with the provisions of this Ordinance, the Department shall deny the application for a permit. Notice of such denial shall be served on the applicant or permittee. The notice shall state the reason for denial. The permit application may be revised or corrected and resubmitted to the Department at any reasonable time for reconsideration.

3.50 Fees. The County Board shall establish fees for permits required by this Ordinance.

3.51 Fees shall be due and payable at the time of permit issuance.

Subdivision 4. Inspection Requirements

4.10 General Requirements

4.11 Compliance Inspection.

Compliance inspections are required for construction, replacement, alteration or repair work on ISTS and shall be conducted by a qualified employee or under a licensee authorized by the Department who is independent of the owner and installer.

4.12 Access to Premises and Records.

All employees of the Hubbard County Environmental Service Department, members of the County Board of Commissioners, Planning Commission and Board of Adjustment, in the performance of their duties shall have free access to all land included within the jurisdiction of this Ordinance. Access to the land shall be during normal business hours unless an emergency exists.

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.

4.13 Interference Prohibited.

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.

4.20 Inspections.

The permittee or authorized agent shall notify the Department prior to the completion and covering of the ISTS. 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 and approved by the Department, it shall be uncovered upon the direction of the Department. Proposals to alter the permitted construction shall be reviewed and the proposed change accepted by the Department 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.

4.21 Notifications for Inspections.

- A.** It shall be the duty of the permittee or authorized agent to notify the Department on the workday preceding the day inspection is desired or the morning of the workday between the hours of 8:00 a.m. to 9:30 a.m.
- B.** If the permittee or authorized agent provides proper notice as described above and the Department does not appear for an inspection within one hour after time set, the permittee may complete the installation. The permittee shall then file a signed As-Built, including labeled photographs of the system prior to covering, with the Department within five working days. The As-built shall include a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects.

4.22 The designated registered professional shall be present during inspections and shall sign a certified statement on forms provided by the county.

4.23 When required by the Department, holding, septic, or dosing tanks shall be filled with liquid to the discharge invert level for a sufficient period of time to demonstrate they are water tight.

4.24 Inspection Report.

A Certificate of Compliance or Notice of Noncompliance shall be prepared by the Department following an inspection or review of as-built plans submitted in accordance with Subdivision 4.21 B. A Certificate of Compliance or Notice of Noncompliance must include a signed statement by the inspector identifying the type of ISTS inspected and whether the system is in compliance with Minnesota Rules Chapter 7080.0060. A copy of the Certificate of Compliance or Notice of Noncompliance shall be provided to the property owner within 30 days of the compliance inspection and a copy kept on file in the Department.

4.25 When additional inspections are required due to contractor error an additional re-inspection fee may be charged.

4.30 Stop Work Orders.

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 of the land. All installation and construction shall cease and desist until subsequent authorization to proceed is received from the Department.

4.40 Inspection Requirements for Existing Systems.

Only a qualified employee or authorized licensee or licensed Designer I or Inspector shall conduct an inspection when a compliance inspection is required for an existing ISTS. A copy of the Certificate of Compliance or Notice of Non-compliance resulting from a compliance inspection shall be provided to the property owner and the County within 30 days of the inspection.

4.41 Mandatory Compliance Inspections of Existing Systems.

An ISTS shall require a compliance inspection when any one of the following conditions occur:

- A.** In designated Shoreland Management Areas, failing on-site sewage treatment systems shall be reconstructed pursuant to Minnesota Rules Chapter 6120 of 1989, known as "Statewide Standards for Management of Shoreland Areas".
- B.** At any time the Department deems appropriate such as upon receiving a complaint or other information of system failure.
- C.** Addition of a bedroom on the property, or a variance issued in accordance with Minnesota Rules Chapter 7080.0305 Subp. 3 (General Requirements for Local Units of Government). Certificates of Compliance are required prior to the issuance of a permit or variance for a bedroom addition.
 - 1.** If a request for an additional bedroom or variance is received between November 1 and April 30 the county may issue a permit or variance immediately with the requirement that a compliance inspection be completed by the following June 1 and the applicant submits a certificate of compliance by the following September 30.

4.42 Failing Septic Systems.

A Notice of Noncompliance shall be issued and copies provided to the property owner and the County within 30 days under the following conditions:

- A.** A failed ISTS shall be upgraded, replaced or repaired in compliance with Minnesota Rules Chapter 7080.0060, as applicable within one (1) year. The Department will give consideration to weather conditions as compliance dates are established;
- B.** An ISTS posing an imminent threat to public health or safety shall be upgraded, replaced or repaired within 10 months.

Subdivision 5 Additional Standards for Health and Environmental Protection

5.10 Maintenance.

- A.** The owner of an ISTS or the owner's agent shall measure or remove the accumulations of scum and sludge in the septic tank and is responsible for full maintenance of the ISTS as indicated by Minnesota Rules Chapter 7080.0175. Three years is the maximum time interval to measure or remove accumulated scum and sludge.

5.20 Alternative and Experimental Systems.

This subdivision hereby adopts by reference Minnesota Rules Chapter 7080.0910, Alternative and Experimental Systems.

- A.** Alternative systems are allowed only in areas where a standard system cannot be installed or is not the most suitable treatment.
- B.** Experimental systems may be used in areas where a standard system cannot be installed or if a system is considered new technology with limited data on reliability.
- C.** Standards for alternative systems are specified in Minnesota Rules Chapter 7080.0910 subp. 3 for the following conditions:
 - 1.** Slowly permeable soils
 - 2.** Rapidly permeable soils
 - 3.** Artificial Drainage
 - 4.** Floodplain areas
 - 5.** Greywater systems
 - 6.** Privies
 - 7.** Existing dwellings on small lots.
 - 8.** Collector systems
 - 9.** Holding tanks.

- D. Standards for experimental system are specified in Minnesota Rules Chapter 7080.0910 subp. 3a.
- E. Any required monitoring plan for an alternative or experimental ISTS is the responsibility of the ISTS Designer. The monitoring plan shall provide information as to:
 - 1. What is the modification from the standard system.
 - 2. What type of monitoring and parameters for monitoring should be conducted to assure the change will protect public health and the environment, including the time period and who is responsible for doing the monitoring and reporting.
 - 3. A mitigation plan detailing what will be done if the system fails to meet the expectations established by the monitoring plan requirements.

The results of the monitoring shall be submitted in accordance with the approved monitoring plan to the Department and the State in a yearly report as required by the Department.

Subdivision 6 Septage Disposal and Treatment.

6.10 Vehicle Identification Requirements

- A. All vehicles used to transport septage from individual sewage disposal system in Hubbard County shall have the business name, telephone number and license number printed on the vehicle in lettering a minimum of three inches (3") in size on both sides of the cab of the truck, that is the drivers' side and the passengers' side. The amount in gallons that the tank can hold, should be provided on both sides of the tank in numbers a minimum of six inches (6") in size.

6.20 Inspection Requirements

- A. It shall be the duty of the landowner to provide access to the premises upon which an individual sewage treatment system exists, or land area where septage is disposed, and to give the Hubbard County Planning and Zoning Administrator or his/her staff or the Hubbard County Soil and Water Conservation District or Natural Resource Conservation Service personnel free access to the premise at a reasonable time for inspections, testing or measurement as may be necessary to fulfill the requirements of this Ordinance.

6.30 Pumping of Septic or Holding Tank Requirements

- A. Any tank vehicle or apparatus used for removal and transportation of septage shall be maintained and operated in such a manner as to avoid spilling or loss of any septage or the creation of a public health hazard. The

scum layer shall be broken up and all solids shall be agitated into suspension to the greatest extent feasible. Then the mixture may be pumped to the tank. All solids shall be removed from the septic tank.

6.40 Land Application Requirements

- A.** Septage disposal shall be done in such a manner as to not create a nuisance or a menace to the public health or any municipal sewage treatment system.
- B.** Septage may be disposed in a municipal sewage treatment system under the following conditions:
 - 1.** Written approval from the municipality stating the gallon amount that can be accepted.
 - 2.** Septage disposal point designated by the municipality.
 - 3.** Disposal point maintained and used in a nuisance free manner.
 - 4.** Septage amount disposed of at the municipal sewage treatment system shall be reported to the municipality.
- C.** Septage may be land spread under the following conditions:
 - 1.** The land area application site is permitted and has been approved by the Hubbard County Planning and Zoning Administrator to be effective January 1, 1993. This provision is not to be applied to one time septage application sites. Also that the application site has been site profiled and inspected by the Hubbard Soil and Water Conservation District or Natural Resource Conservation Service. A permit shall include information from the soil survey maps or obtained from an actual on-site investigation conducted by NRCS or SWCD, including the following items for each soil type present at the land disposal site:
 - a.** Texture and thickness of each soil horizon to sixty inches (60") of depth.
 - b.** Permeability of each soil horizon to six inches (6") of depth.
 - c.** Soil depth required to obtain six inches (6") of available water holding capacity.
 - d.** Depth to seasonal high water table.
 - e.** Slope of land surface.
 - 2.** Application site shall meet the following separation distance and physical characteristics:

a. Setbacks

| Feature | Minimum Separation (feet) |
|---------------------------------------|----------------------------------|
| Private Well | 200 |
| Municipal Well | 1,000 |
| Public Road Right-of Way | 100 |
| Place of Habitation | 600 |
| Residential or Commercial Development | 1/4 mile |
| Property Lines | 25 |
| Public Water, Rivers, Streams | 1,000 |
| Intermittent Stream | 100 |

b. Surface Water Separation. The following separation distances from sinkholes, wetlands, and agricultural drainage ditches must be observed.

| Slope | Soil Texture | Minimum Separation (feet)** | |
|--------------|---------------------|------------------------------------|-----------------------|
| | | May-October | November-April |
| 0-6% | Coarse | 200 | 400 |
| 0-6% | Medium & Fine | 300 | 600 |
| 6-12% | Coarse | 600 | 1,000 |
| 6-12% | Medium & Fine | 300* | Not Allowed |

c. Soil profile shall be of sufficient depth to provide an available water holding capacity of at least three inches (3") above bedrock or the seasonal high water table. In no case shall the soil depth be less than four feet above bedrock or the seasonal high water mark.

d. If the required three inches of available water holding capacity is not provided in the upper two feet of soil of any given soil type, a boring shall be made to the depth in which three inches of available water holding capacity would be provided. If an indication of a seasonal high water table or bedrock is found before this depth is accomplished, that soil type shall not be used for land spreading.

e. Septage shall not be spread on soils with surface permeabilities faster than 20 inches/hour or slower than 0.2 inch/hour.

f. Septage shall not be surface applied on land with a slope greater than 12%.

3. Septage shall not be land spread under the following conditions:
 - a. Within a ten year flood plain.
 - b. On soils classified as coarse sand, gravels or on peat or muck soils which have not been adequately drained.
 - c. Where ponding occurs because of saturated soil conditions.
 - d. The soil that has not dried adequately from previous application.
 - e. Within 5,000 feet of an airport without the written permission from the airport and the Federal Aviation Administration.
 - f. Where the site will be used for the growth of crops, which will be consumed directly by humans, within three years after the last septage application.
 - g. Where grazing or harvesting of foraged materials will occur within three weeks of the last spreading date.

* Land spreading not allowed.

**All separation distances may be reduced by 50% if septage is injected, except for the 300 foot separation distance for 6 to 12% slopes with medium to fine soils. Land spreading not allowed without injection so that runoff will not occur.

4. Septage shall be land spread in such quantity so as not to exceed the agronomic rates as approved by the Agency and the Hubbard County Planning and Zoning Administrator.
5. Septage shall be incorporated as necessary to prevent nuisance conditions and excessive accumulation of septage solids on the soil surfaces.

6.50 Reporting Requirements

1. Tradesman shall record and provide septage disposal information to the Hubbard County Planning and Zoning Administrator on a monthly basis on report forms furnished by the Hubbard County Office of Environmental Services. Report shall show:
 - a. The specific sites which were used for disposing of septage.
 - b. Amount of septage disposed at those sites.
 - c. Date that the septage was disposed at the site.

- d. The township(s) that the material was collected from.

6.60 General Requirements

1. Tradesman shall obtain written approval from the legal property owner of any land area for septage disposal in Hubbard County.
2. Disposal of septage must meet all applicable state, county or other local zoning regulations.
3. Disposal of septage within incorporated cities requires prior written approval from the city government.
4. Use of county tax-forfeited lands for septage disposal shall be with permission of Hubbard County Land Commissioner only.

6.70 One Time Septage Application Requirements

1. The crop grown on the site to be used for landspreading of septage cannot be used for crops that are directly consumed by humans or considered a root crop.
2. The site to be used for landspreading of septage cannot be in a drainage way or a river bottom with a frequent flooding hazard.
3. The slope requirements for the site to be used for landspreading of septage for November through April would be 6% or less and for May through October, 12% or less.
4. The site to be used for land spreading of septage must meet all the required setback criteria in Section 10 C2a and Section 10 C2b.
5. Private property owners may engage in pumping and disposal of septage from their individual sewage treatment system provided that adequate equipment is used, suitable land area is available within their property boundaries, and the activity is conducted in a nuisance free manner.

Subdivision 7 Licensing Requirements

7.10 Site Evaluators, Designers, Installers, and Pumpers.

No person shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of on-site sewage treatment systems in Hubbard County without first obtaining a license to perform such tasks from the Minnesota Pollution Control Agency.

7.20 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 or seasonal dwelling for that individual based upon a design by a licensed designer. The system must be inspected before being covered. A certificate of compliance or notice of non-compliance will be issued by the Department;
- B. An individual who performs labor or services under a licensee;
- C. A farmer who pumps sewage waste from individual sewage treatment systems from dwellings or other establishments that are owned or leased by the farmer and disposes of those wastes on land that is owned or leased by the farmer;
- D. A property owner who personally gathers information, evaluates, or investigates the ISTS on or serving the property to provide a disclosure.

Subdivision 8 Enforcement

8.10 Any person, firm, corporation or other entity 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.

8.20 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.

8.30 Notice of Violations

8.31 Cause to Issue a Notice of Violation.

Unresolved and either separate, recurrent, or continuing violations of this Ordinance by an applicant, permittee, installer or other person, as determined by inspections, reinspection, or investigations shall constitute nonconformance or noncompliance with this Ordinance.

8.32 Serving a Notice of Violation.

A Notice of Violation shall be served by mail upon the applicant, permittee, installer or other person found to be in violation of this Ordinance.

8.33 Contents of a Notice of Violation.

A Notice of Violation shall contain the following:

- A. A statement documenting the findings of fact through inspections, reinspection or investigations;

- B. A list of specific violations of this Ordinance;
- C. The specific requirements for correction or removal of said violations;
- D. A mandatory time schedule for correction, removal and compliance with this Ordinance; and
- E. Specific enforcement actions that will be taken if corrective action is not completed.

8.34 State Notification of Violations.

Any inspection installation, design, construction, alteration or repair of an ISTS by a licensed person or any pumping and disposal of septage by a licensed pumper or hauler done in violation of the provisions of this Ordinance may be cause for notification to the Minnesota Pollution Control Agency as determined by the Hubbard County Board of Commissioners.

Subdivision 9 Adoption

The Hubbard County Individual Sewage System Standards Ordinance is hereby adopted by the Hubbard County Board of Commissioners on the 6th day of July, 2011.

Chairperson, Hubbard County Board of Commissioners

Attest: _____

Effective Date: July 27, 2011