

**NOTICE**  
**Of the Adoption of an Individual Septic Treatment System Ordinance**  
**for Kittson County**

NOTICE IS HEREBY GIVEN That the Kittson County Board of Commissioners did, on December 3, 1998, adopt an Individual Septic Treatment System Ordinance for Kittson County.

Provisions in the adopted ordinance include permitted use, variances, standards, enforcement and appeals. A copy of the ordinance is on file in the office of the Kittson County Auditor, the Kittson County Environmental Services Office, Kittson County SWCD Office and the Kittson County Extension Office during business hours for public inspection. This notice shall serve as a summary of the ordinance as provided for in MS 331A.01 and is published in accordance with MS 375.51.

Dated at Hallock, Minnesota, this 8<sup>th</sup> day of December, 1998

Marilyn Gustafson  
Kittson County Auditor

12/3/98

## **NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held on Thursday, December 3, 1998 at 1:00 P.M. by the Kittson County Board of Commissioners in the Kittson County Courthouse meeting room for the purpose of hearing all written or oral comments on the proposed Individual Septic Treatment System Ordinance for Kittson County. Provisions in the proposed ISTS Ordinance include permitted use, variances, standards, enforcement and appeals. A copy of the proposed regulation is on file in the office of the Kittson County Auditor, Kittson County Extension Office, Kittson County SWCD Office and the Kittson County Environmental Services Office during business hours for public inspection.

Dated at Hallock, Minnesota this 3<sup>rd</sup> day of November, 1998.

Marilyn Gustafson  
Kittson County Auditor

*Please publish week of November 15, 1998.*

# *Kittson County*

## **Sewage and Wastewater Treatment Ordinance**

**Kittson County Courthouse  
Hallock, MN 56728  
September, 1998**

## TABLE OF CONTENTS

<u>SUBDIVISIONS</u>			<u>Page #</u>
<b>Subdivisions</b>	<b>1</b>	<b>Purpose and Objectives</b>	<b>3</b>
	1.10	Purpose	3
	1.20	Objectives	3
	1.30	Scope	3
<b>Subdivisions</b>	<b>2</b>	<b>Definitions</b>	<b>4</b>
	2.10	Administration by Kittson County	4
	2.20	Definitions	4-5
<b>Subdivisions</b>	<b>3</b>	<b>Administration</b>	<b>6</b>
	3.10	Standards Adopted by References	6
	3.20	Administration by State Agencies	6
	3.30	Administration by Kittson County	6-7
<b>Subdivisions</b>	<b>4</b>	<b>Permitting</b>	<b>7</b>
	4.10	Permits Required	7
	4.20	Permits Not Required	7
	4.30	Property Owners Doing Own Work	7
	4.40	Permit Application Requirements	8
	4.50	Fees	8
	4.60	Variances	8
	4.70	Permit by Rule Requirements	8
<b>Subdivisions</b>	<b>5</b>	<b>Standards for Site Selection of New ISTS Systems or Alterations to Existing Systems</b>	<b>8</b>
	5.10	Site Suitability for Repair, Replacement or Installation Of a Trench Type ISTS	8-9
	5.20	Local Standards-Alteration of Existing ISTS Systems	9
	5.30	Local Standards-New ISTS Trench System Installation	9
<b>Subdivisions</b>	<b>6</b>	<b>Inspection Requirements</b>	<b>9</b>
	6.10	General Requirements	9
	6.20	Inspections	9-10
	6.30	Inspection Requirements for Existing Systems	10
	6.40	Inspection Reports	10-11
<b>Subdivisions</b>	<b>7</b>	<b>Licensing Requirements</b>	<b>11</b>
<b>Subdivisions</b>	<b>8</b>	<b>Enforcement</b>	<b>12</b>
	8.10	Stop Work Orders	12
	8.20	Notice of Violations	12
<b>Subdivisions</b>	<b>9</b>	<b>Force and Effect</b>	<b>13</b>

## **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 Kittson County, except in those areas which itself have adopted standards that comply with Minn. St. 115.55 and are at least as restrictive as this ordinance; incorporating by reference minimum standards, local standards, and requirements established by Minnesota Statutes and rules of the Minnesota Pollution Control Agency; requiring individual and/or general permits for installation, alteration, repair or extension of ISTS within 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 Floodplain and Shoreland Ordinance(s).

The Kittson County Board of Commissioners does ordain:

### **SUBDIVISION 1-Purpose and Objectives**

**1.10 Purpose.** The purpose of the sewage and wastewater treatment ordinance shall be to provide minimum standards for the 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 potable water 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. State. Chapters 115 and 145A and Minnesota Rules Chapter 7080 and to local standards amending state law pertaining to sewage and wastewater treatment.

**1.20 Objectives.** The principal objectives of this section shall include the following:

**1.21** The protection of Kittson County's lakes, wetlands, rivers and streams and supplies of potable water 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.

**1.22** Given the extensive resources and numerous supplies of surface water and potable water 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 potable water.

**1.23** 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.

**1.24** The prevention and control of water-borne disease, lake degradation, potable water related hazards, and public nuisance conditions through plan reviews, inspections and compliant investigation, as well as through technical assistance and education.

**1.25** Provide rules, regulation, enforcement and design standards for areas of the county which previously have not been ordinances. Specifically those areas which are not in a designated Floodplain/Shoreland area, a well head protection area or a business otherwise regulated by stricter state standards.

**1.30 Scope.** This ordinance shall regulate the design, construction and repair of ISTS located within Kittson County including, but not limited to, new individual on-site and cluster or community ISTS, privy vaults and other non-water carried ISTS, and the repair and/or replacement of failing existing ISTS.

## **SUBDIVISION 2-Definitions**

**2.3 Administration By Kittson County.** The County will regulate ISTS and seepage disposal in Kittson County pursuant to this section.

**2.4 Definitions** For the purposes of this ordinance, the terms and definitions listed in 7080 are adopted by reference; the following terms are exceptions to 7080 and shall have the definitions given them in this section.

**Actual Public Health Threat-** Serious threat to life and health or public resource.

**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 the conditions during construction. As-builts contain a certified statement.

**Bedroom-** Any room used principally for sleeping purposes, an all-purpose room, a study, or a den. A room planned and intended for sleeping.

**Certificate of Compliance (ISTS)-** A document from an MPCA licensed sewage treatment inspector, or a qualified employee, provided to the County and the owner of the property on which a dwelling is located which is required to have an ISTS, indicating that the existing ISTS is not a failing system nor an imminent public health threat (IPHT) and, for new construction and replacement, the ISTS is in compliance with 7080 as amended, and/or the local standards provisions of this ordinance.

**Compliance Inspection-** Any evaluation, investigation, inspection, or other such process to make conclusions, recommendations, or statements regarding an ISTS to reasonably assure an ISTS is in compliance with Minn. Rules Chapter 7080 as amended and/or applicable local standards specified in this ordinance. Compliance inspections must be conducted by an MPCA licensed inspector and under a license independent of the owner and the system installer.

**Department-** The Kittson County or other designated agent who is a qualified employee or licensee.

**Failing System-** Any ISTS that discharges sewage to a seepage pit, cesspool, dry-well or leaching pit, or any system with less than two feet of soil between the bottom of the distribution medium and groundwater, as defined by either mottling or relict mottling and/or other local standard provisions. In addition, any ISTS posing an imminent public health threat as defined in 7080.0020, subp.19a shall be considered failing.

**Floodplain / Shoreland 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 Floodplain/Shoreland permits such as conditional use permits, amendments to this Ordinance, variances from the provisions of the Ordinance, and the subdivision of real estate. The application is not considered complete and will not be accepted by the 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 Department.

**Floodplain/Shoreland Districts (FPSL)-** Areas of the county as defined by the County Floodplain and Shoreland Ordinances. Development in FPSL requires construction, ISTS, and other applicable individual permits from Kittson County and other regulatory agencies both local and non-local.

**General Permit Provisions-** Applies to areas of the County outside the designated FPSL districts only. An ISTS constructed, replaced, repaired, altered or extended outside of the FPSL shall be considered a permitted system by the County upon receipt of a completed Notice of Compliance, issued by a licensed ISTS Inspector.

**Incorporation**- The mixing of manure or septage with the topsoil, concurrent with the application or immediately thereafter, by means such as disking, plowing, rototilling, injection or other mechanical means. Current application rates and BMP's will apply to any incorporation practice.

**Individual Permit**- A document issued to new construction, replacement, repair, alteration or extension of ISTS within the designated County FPSL districts.

**IPHT - Imminent Public Health Threat.** Subp. 19a. Imminent threat to public health or safety. "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, groundwater or surface water discharges and any system causing sewage backup into a dwelling or other establishment shall constitute an imminent threat.

**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 meet the licensure and registration requirements of the Minnesota Pollution Control Agency.

**Mottling/Relict Mottling**- 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 relict mottling and most likely will not accurately define the seasonal saturation zone; however, relict mottling must be considered along with existing drainage, vegetation, system densities, and soil type when determining the type of ISTS to be installed. (reference Subdivision 5 of this ordinance).

**MPCA**- Minnesota Pollution Control Agency.

**Notice of Noncompliance**- A document prepared by a licensed ISTS Inspector or qualified employee after conducting a compliance inspection which gives notice that an ISTS is not in compliance with 7080.0060 and/or the local standards provisions contained in this ordinance (reference Subdivision 6 Part 6.42 of this Ordinance).

**Permitted ISTS**- An ISTS meeting the requirements of 7080 and/or the local standards criteria outlined in this ordinance.

**Qualified Employee**- A person 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.

**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.

**Toilet Waste Treatment Devices**- Privies and other devices including incinerating, composting, biological, chemical, re-circulating or holding toilets.

### **SUBDIVISION 3 - Administration**

**3.10 Standards Adopted By References.** This ordinance hereby adopts by reference Minnesota Rules Parts 7080.0010 to 7080.0315 (and discretionary 708.0910) as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minn. Stat. 115.55, as stated or amended in this ordinance.

#### **3.20 Administration By State Agencies.**

**3.21** 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 (MPCA) if the on-site ISTS or group of systems are designed to treat an average flow greater than 10,000 gallons per day.

**3.22** 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.

**3.23** 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 all state and local requirements and require approval by the State of Minnesota.

**3.24** Any ISTS requiring approval by the State of Minnesota shall also comply with all local codes and this section.

**3.25** Plans and specifications must receive appropriate state and local approval before construction is initiated.

**3.26** This ordinance shall apply to only those areas of Kittson County which are considered to be "Permit by Rule". Any areas of the County which are already ordinance through a designated FPSL area, well head protection area or business licensed through the MN Dept. of Health shall be governed by the stricter state standards and will not be allowed use of this ordinance.

#### **3.30 Administration By Kittson County.**

**3.31** The Kittson County Zoning office shall regulate ISTS within Kittson County pursuant to this section. The authority shall have the following duties and responsibilities:

- A)** To review all applications for ISTS within the designated FPSL districts of the County, as specified in the County Floodplain and Shoreland Ordinances.
- B)** To issue all permits required by this ordinance.
- C)** To investigate complaints regarding ISTS.
- D)** To review Certificates of Compliance or Notices of Noncompliance, as applicable.
- E)** To issue Stop Work Orders and Notices of Violation pursuant to this ordinance, as applicable.
- F)** To maintain proper records for ISTS construction, reconstruction and repair in the Floodplain/Shoreland areas of Kittson county and inspection reports for ISTS constructed outside of the FPSL area.

3.32 Neither the issuance of permits, certificates of compliance or notices of noncompliance as requested or issued shall be construed to represent a guarantee of warranty or 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.

#### **SUBDIVISION 4-Permitting**

##### **4.10 Permits Required.**

**4.11 Construction Permits.** A permit shall be obtained whenever any ISTS in Kittson County is installed, replaced, altered, repaired or extended within designated floodplain or shoreline areas. 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 3.2 of this Ordinance. Such permits are not transferable as to person or place. Such permits shall expire 12 months after date of issuance.

**4.12 Posting of Permits.** Permits shall be provided by permittee at the time of inspection upon request of inspector.

**4.13 Permit By Rule.** Any ISTS system repaired, replace, altered, extended or installed within Floodplain/Shoreland designated areas must have a permit issued by the Department. However, ISTS systems in Kittson County which are outside the designated Floodplain/Shoreland areas and which do not conflict with existing well management, well head protection areas or to systems regulated by the Department of Health, or to systems regulated by a city or township may construct through PERMIT BY RULE.

Any ISTS system repaired, replaced, altered, extended or installed within the PERMIT BY RULE designated area will be considered permitted, upon receipt of a copy of the notice of compliance, delivered to the Department and which was issued by an MPCA licensed inspector. All ISTS designs or alteration to design shall be submitted to the MPCA Inspector for review prior to construction.

**4.20 Permits Not Required.** Permits shall not be required only for the following:

**4.21** Repair or replacement of pumps, floats or other electrical devices of the pump or baffles in a septic tank within the designated Floodplain/Shoreland District.

**4.22** ISTS work done outside the designated Floodplain/Shoreland District with direct application to Subdivision 4.13.

**4.30 Property Owners Doing Own Work.** Property owners are permitted to construct or repair ISTS on their own properties without a State license; however, owners doing their own work must comply with Subdivision 4.10 as well as all applicable provisions of this ordinance. A property owner shall consult with a State licensed ISTS Designer I or II if they wish to design and/or install their own systems. Following installation, the system must be inspected by a State licensed ISTS Inspector and a Certificate of Compliance must be submitted to the County..

**4.40 Permit Application Requirements.** All applications for a ISTS permit shall include the following information:

(This section applies only to Floodplain/Shoreland Designated areas)

- A. Name and address of property owner;
- B. Legal description of the property;
- C. ISTS designer name, address, phone number and State ISTS license number; (or Department qualified employee name and number)
- D. Site evaluation report on a form as provided by the State
- E. System design with full information including applicable construction information on forms as provided by the State and
- F. Any other information requested pertinent to the Floodplain/Shoreland designated areas.
- G. 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.
- H. Any other pertinent information as required by the county.

**4.41 Application Review and Approval.** If, after consideration of the application for a permit, the Department is 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.

**4.42 Incomplete Application Information.** If, after consideration of the application for a permit, the Department is satisfied that the work proposed will not conform to or comply with the provisions of this Ordinance, or other County Ordinances, 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.

**4.50 Fees.** The Kittson County Board of Commissioners shall establish fees for permits required by this Ordinance. Fees shall be due and payable at the time of permit application.

**4.60 Variances.** An affected property owner may request a variance from standards as specified in the Kittson County ISTS Ordinance for an additional administrative fee.

**4.70 Permit By Rule Requirements.** In areas outside the Floodplain/Shoreland designated areas, ISTS must be installed either to the local standards provisions of this section or Minn. Rules Chapter 7080, as applicable. Following installation of ISTS under permit by rule, an inspection report, prepared by a State licensed inspector, must be submitted to the Department. There shall be no application forms, design review, permit fees or variances required for ISTS work done under permit by rule.

#### **SUBDIVISION 5- Standards For Site Selection of New ISTS Systems or Alterations to Existing Systems**

**5.10 Site Suitability For Repair, Replacement or Installation of a Trench Type ISTS.** Site suitability requirements must be met whenever an ISTS is installed, replaced, altered, repaired or extended. Listed below are the parameters which must be met to allow the use of a trench type ISTS.

**5.11 Local Standard Provisions.** The standards which allow for the continuance of, or construction of, trench systems within Kittson County are as follows:

**5.12 Soil types:** Trench type ISTS shall not be allowed in Kittson County in the following soil types (very poorly drained) as delineated in the Soil Survey of Kittson County: 111, 117, 187, 384, 424, 433, 435, 438, 543, 544, 547, 993, 994, 1002 and 1053. Additional soil types (rapid permeability) which must also adhere to 7080 include: 45, 64, 116, 148, 205, 242 and 245.

Trench-type ISTS may be allowed in the remaining soil types delineated in the Soil Survey provided the other standards listed in this subdivision are met.

**5.13 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.

**5.14 Site density:** Trench-type ISTS allowed under this subdivision shall not be permitted to exceed on (1) system per two (2) acre parcel. All sites to be developed must have room for at least two (2) drainfields and must meet all the setbacks outlined in the Kittson County Shoreland Ordinance. The separation distance from an ISTS and a well shall meet Minnesota Department of Health standards.

**5.15 Natural or Artificial Drainage:** A drainage plan will be submitted with the system design materials which shows distances to water sources 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 10 feet.

**5.20 Local Standards-Alteration of Existing ISTS Systems.** Site suitability requirements must be met whenever an existing ISTS is repaired, altered or extended, (reference section 5.10 and the map).

**5.21 Existing ISTS Systems** which do not present an imminent public health threat and have at least 2 feet of vertical separation between the bottom of the soil treatment system and groundwater, as defined by either mottling or residual mottling and/or other local standard provisions, are considered working systems and require no upgrading or alteration.

**5.22 Repair, alteration, and/or extension of existing systems,** is allowed if the provisions outlined in sections 5.10, 5.21 and 5.31 are met.

**5.30 Local Standards- New ISTS Trench System Installation.** Site suitability requirements must be met whenever a new ISTS trench system is installed or existing system replaced, (reference section 5.10 and the map).

**5.31 Trench-style ISTS systems** are allowed if the provisions of section 5.10 are met or at least three feet of vertical separation exists between the bottom of the soil treatment area and groundwater as defined by either mottling or residual mottling.

## **SUBDIVISION 6 - Inspection Requirements**

### **6.10 General Requirements**

**6.11 Compliance Inspection.** 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.

**6.12 Access To Premises and Records.** 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.

**6.13 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.

**6.20 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 photograph 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.

**6.30 Inspection Requirements for Existing Systems.** When required under section 6.41, the inspection must be conducted by a State licensed inspector. The report must identify the type of ISTS inspected and whether the system is a imminent public health threat or failing system according to Minn. Rules Chapter 7080.0060 and/or the local standards provisions this ordinance. The resulting Certificate of Compliance or Notice of Non compliance must be provided to the owner and the County within 30 days of the inspection date.

**6.40 Inspection Reports.** A Certificate of Compliance or Notice of Noncompliance shall be repaired by the inspector following all ISTS inspections and submitted to the County. 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 Minn. Rules Chapter 7050.0060 and/or the local standards provisions of this ordinance. A copy of the Certificate of Compliance or Notice of Noncompliance shall be provided to the owner and the KCEO within 30 days of the inspection date.

**6.41 Mandatory Compliance Inspections of Existing Systems.** An ISTS shall require a compliance inspection when any one of the following conditions occur:

- A. Any time a construction permit is issued in the FPSL District.
- B. At any time the County has just cause; such as, upon receiving a complaint or any other information that would reasonably indicate system failure.
- C. Addition of a bedroom, or variance request, on a property located within the designated FPSL.
  1. If an application to construct an additional bedroom, or variance request, is received between November 1 and April 30, the County may issue a permit immediately with the requirement that a compliance inspection be conducted by the following June 1 and the applicant submits a Certificate of Compliance with 30 days of the inspection date.
  2. If a system constructed between May 27, 1989 and January 23, 1996, does not comply with the applicable requirements, and is not an imminent public health threat, an owner applying for a permit to construct a bedroom addition in the FPSL district has 5 years from the date of permit issuance to bring the system into compliance with the applicable standards.
  3. Except in the designated FPSL districts, compliance inspections finding not less than 2 feet of separation between the bottom of the soil distribution medium and groundwater, as defined by mottled soil or relicit mottling and other local

standards provisions, and not considered an imminent public health threat, are considered working systems and are not required to be replaced or repaired.

**6.42 Failing Septic Systems.** A notice of Noncompliance shall be issued and copies provided to the owner and the County within 30 days, and must adhere to the following conditions:

A. A failed ISTS, not considered an imminent threat to public health or safety, shall be upgraded, replaced or repaired in compliance with this Ordinance, as applicable within five years.

B. An ISTS posing an imminent public threat shall be upgraded, replaced, or repaired within (60) days, or as conditions allow, as determined by a licensed ISTS professional and/or the County.

C. Upon notification of an actual public health threat, immediate shutdown and containment of discharge from system failure must be accomplished to reduce the impact on human health, animal health and public resources.

D. The owner shall submit an acceptable Replacement Plan to the County for ISTS located with the FPSL Districts, within 30 days of receiving notification of a failing ISTS or an ISTS considered and imminent public health threat. Failure to submit an execute an acceptable Replacement Plan is a violation of this section.

The County appointed authority may not require recertification of an ISTS within 3 years for an existing system, or 5 years for a new system, of its certification date, (Notice of Compliance inspection date, provided the system does not fail or become an imminent public health threat.

## **SUBDIVISION 7 - LICENSING REQUIREMENTS**

**7.51 License Requirements for Inspectors, Designers, Installers, and Pumpers.** No person shall engage in the inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of ISTS within Kittson County without first obtaining a license to perform such tasks from the State.

**7.52 License exemptions.** 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 developed by a State Licensed designer or in consultation with a State Licensed designer. However, following installation, the system must be inspected in accordance with Subdivision 5 of this section.

B. An individual who performs labor or services under a State licensee;

C. A farmer who pumps sewage waste from an ISTS owned or leased by the farmer and disposes of those wastes on land that is owner 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 ISTS disclosure information.

## **SUBDIVISION 8 - ENFORCEMENT**

**8.10 STOP WORK ORDERS.** A Notice of Violation shall contain the following:

Whenever any work is conducted contrary to the provisions of this section, the County may order the work stopped by verbal or written notice personally served upon the installer or owner. The stop work order shall remain in effect until authorization to proceed is received from the County.

### **8.20 Notice of Violations.**

**8.21 Cause to Issue a Notice of Violations.** Unresolved and either separate, recurrent, or continuing violations of this section by an applicant, permittee, installer or other persons, as determined by inspections, reinspections, or investigations shall constitute nonconformance or noncompliance with this section.

**8.22 Serving a Notice of Violation.** A notice of Violation shall be served by Certified Mail upon the applicant, permittee, installer or other persons found to be in violation of this section.

**8.23 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 other investigations;
- B. A list of the specific violation of this ordinance;
- C. A list of the specific requirements and mandatory time schedule for the correction or removal of said violations;
- D. Specific enforcement actions that will be taken if corrective action is not satisfactorily completed.

**8.24 State Notification of Violations.** Any inspection, installation, design, construction, alteration or repair of an ISTS by a state licensed person or any pumping and disposal of septage by a state licensed pumper conducted in violation of the provisions in this ordinance shall be cause for notification to the Minnesota Pollution Control Agency.

### **8.25 Penalty.**

A person, firm, corporation or other entity who violates any of the provisions of this ordinance, or who makes a false statement on any Certificate of Compliance or any other documents required or allowed to be filed pursuant to the provisions of this ordinance, shall be guilty of a misdemeanor, punishable by imprisonment, fine, or both, as defined by Minnesota law.

In the event of a violation of this ordinance, the County shall also have the right to institute appropriate actions or proceedings in law or in equity to prevent, restrain, correct, abate, or seek monetary recovery for violations of this ordinance. The County may also seek restitution for

damages caused or suffered by reason of violations of this ordinance.

**SUBDIVISION 9 - FORCE AND EFFECT**

The Kittson County Sewage and Waste water Ordinance shall be in full force and effect immediately upon adoption of the Kittson County Board of Commissioners and shall continue to be in full force and effect until amended or discontinued.

Approved and adopted by the Kittson County Board of Commissioners this  
\_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
Chairman, Kittson Co. Board

\_\_\_\_\_  
Kittson County Auditor

Approved as to form and content:

\_\_\_\_\_  
Kittson County Attorney

# FINISHED DRAFT

9-25-98

## TABLE OF CONTENTS

<u>SUBDIVISIONS</u>			<u>Page #</u>
<b>Subdivisions</b>	<b>1</b>	<b>Purpose and Objectives</b>	<b>3</b>
	1.10	Purpose	3
	1.20	Objectives	3
	1.30	Scope	3
<b>Subdivisions</b>	<b>2</b>	<b>Definitions</b>	<b>4</b>
	2.10	Administration by Kittson County	4
	2.20	Definitions	4-5
<b>Subdivisions</b>	<b>3</b>	<b>Administration</b>	<b>6</b>
	3.10	Standards Adopted by References	6
	3.20	Administration by State Agencies	6
	3.30	Administration by Kittson County	6-7
<b>Subdivisions</b>	<b>4</b>	<b>Permitting</b>	<b>7</b>
	4.10	Permits Required	7
	4.20	Permits Not Required	7
	4.30	Property Owners Doing Own Work	7
	4.40	Permit Application Requirements	8
	4.50	Fees	8
	4.60	Variances	8
	4.70	Permit by Rule Requirements	8
<b>Subdivisions</b>	<b>5</b>	<b>Standards for Site Selection of New ISTS Systems or Alterations to Existing Systems</b>	<b>8</b>
	5.10	Site Suitability for Repair, Replacement or Installation Of a Trench Type ISTS	8-9
	5.20	Local Standards-Alteration of Existing ISTS Systems	9
	5.30	Local Standards-New ISTS Trench System Installation	9
<b>Subdivisions</b>	<b>6</b>	<b>Inspection Requirements</b>	<b>9</b>
	6.10	General Requirements	9
	6.20	Inspections	9-10
	6.30	Inspection Requirements for Existing Systems	10
	6.40	Inspection Reports	10-11
<b>Subdivisions</b>	<b>7</b>	<b>Licensing Requirements</b>	<b>11</b>
<b>Subdivisions</b>	<b>8</b>	<b>Enforcement</b>	<b>12</b>
	8.10	Stop Work Orders	12
	8.20	Notice of Violations	12
<b>Subdivisions</b>	<b>9</b>	<b>Force and Effect</b>	<b>13</b>

## **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 Kittson County, except in those areas which itself have adopted standards that comply with Minn. St. 115.55 and are at least as restrictive as this ordinance; incorporating by reference minimum standards, local standards, and requirements established by Minnesota Statutes and rules of the Minnesota Pollution Control Agency; requiring individual and/or general permits for installation, alteration, repair or extension of ISTS within 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 Floodplain and Shoreland Ordinance(s).

The Kittson County Board of Commissioners does ordain:

### **SUBDIVISION 1-Purpose and Objectives**

**1.10 Purpose.** The purpose of the sewage and wastewater treatment ordinance shall be to provide minimum standards for the 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 potable water 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 to local standards amending state law pertaining to sewage and wastewater treatment.

**1.20 Objectives.** The principal objectives of this section shall include the following:

**1.21** The protection of Kittson County's lakes, wetlands, rivers and streams and supplies of potable water 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.

**1.22** Given the extensive resources and numerous supplies of surface water and potable water 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 potable water.

**1.23** 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.

**1.24** The prevention and control of water-borne disease, lake degradation, potable water related hazards, and public nuisance conditions through plan reviews, inspections and compliant investigation, as well as through technical assistance and education.

**1.25** Provide rules, regulation, enforcement and design standards for areas of the county which previously have not been ordinances. Specifically those areas which are not in a designated Floodplain/Shoreland area, a well head protection area or a business otherwise regulated by stricter state standards.

**1.30 Scope.** This ordinance shall regulate the design, construction and repair of ISTS located within Kittson County including, but not limited to, new individual on-site and cluster or community ISTS, privy vaults and other non-water carried ISTS, and the repair and/or replacement of failing existing ISTS.

## **SUBDIVISION 2-Definitions**

**2.3 Administration By Kittson County.** The County will regulate ISTS and seepage disposal in Kittson County pursuant to this section.

**2.4 Definitions** For the purposes of this ordinance, the terms and definitions listed in 7080 are adopted by reference; the following terms are exceptions to 7080 and shall have the definitions given them in this section.

**Actual Public Health Threat-** Serious threat to life and health or public resource.

**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 the conditions during construction. As-builts contain a certified statement.

**Bedroom-** Any room used principally for sleeping purposes, an all-purpose room, a study, or a den. A room planned and intended for sleeping.

**Certificate of Compliance (ISTS)-** A document from an MPCA licensed sewage treatment inspector, or a qualified employee, provided to the County and the owner of the property on which a dwelling is located which is required to have an ISTS, indicating that the existing ISTS is not a failing system nor an imminent public health threat (IPHT) and, for new construction and replacement, the ISTS is in compliance with 7080 as amended, and/or the local standards provisions of this ordinance.

**Compliance Inspection-** Any evaluation, investigation, inspection, or other such process to make conclusions, recommendations, or statements regarding an ISTS to reasonably assure an ISTS is in compliance with Minn. Rules Chapter 7080 as amended and/or applicable local standards specified in this ordinance. Compliance inspections must be conducted by an MPCA licensed inspector and under a license independent of the owner and the system installer.

**Department-** The Kittson County or other designated agent who is a qualified employee or licensee.

**Failing System-** Any ISTS that discharges sewage to a seepage pit, cesspool, dry-well or leaching pit, or any system with less than two feet of soil between the bottom of the distribution medium and groundwater, as defined by either mottling or relict mottling and/or other local standard provisions. In addition, any ISTS posing an imminent public health threat as defined in 7080.0020, subp.19a shall be considered failing.

**Floodplain / Shoreland 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 Floodplain/Shoreland permits such as conditional use permits, amendments to this Ordinance, variances from the provisions of the Ordinance, and the subdivision of real estate. The application is not considered complete and will not be accepted by the 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 Department.

**Floodplain/Shoreland Districts (FPSL)-** Areas of the county as defined by the County Floodplain and Shoreland Ordinances. Development in FPSL requires construction, ISTS, and other applicable individual permits from Kittson County and other regulatory agencies both local and non-local.

**General Permit Provisions-** Applies to areas of the County outside the designated FPSL districts only. An ISTS constructed, replaced, repaired, altered or extended outside of the FPSL shall be considered a permitted system by the County upon receipt of a completed Notice of Compliance, issued by a licensed ISTS Inspector.

**Incorporation**- The mixing of manure or septage with the topsoil, concurrent with the application or immediately thereafter, by means such as disking, plowing, rototilling, injection or other mechanical means. Current application rates and BMP's will apply to any incorporation practice.

**Individual Permit**- A document issued to new construction, replacement, repair, alteration or extension of ISTS within the designated County FPSL districts.

**IPHT - Imminent Public Health Threat.** Subp. 19a. Imminent threat to public health or safety. "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, groundwater or surface water discharges and any system causing sewage backup into a dwelling or other establishment shall constitute an imminent threat.

**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 meet the licensure and registration requirements of the Minnesota Pollution Control Agency.

**Mottling/Relict Mottling**- 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 relict mottling and most likely will not accurately define the seasonal saturation zone; however, relict mottling must be considered along with existing drainage, vegetation, system densities, and soil type when determining the type of ISTS to be installed. (reference Subdivision 5 of this ordinance).

**MPCA**- Minnesota Pollution Control Agency.

**Notice of Noncompliance**- A document prepared by a licensed ISTS Inspector or qualified employee after conducting a compliance inspection which gives notice that an ISTS is not in compliance with 7080.0060 and/or the local standards provisions contained in this ordinance (reference Subdivision 6 Part 6.42 of this Ordinance).

**Permitted ISTS**- An ISTS meeting the requirements of 7080 and/or the local standards criteria outlined in this ordinance.

**Qualified Employee**- A person 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.

**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.

**Toilet Waste Treatment Devices**- Privies and other devices including incinerating, composting, biological, chemical, re-circulating or holding toilets.

### **SUBDIVISION 3 - Administration**

**3.10 Standards Adopted By References.** This ordinance hereby adopts by reference Minnesota Rules Parts 7080.0010 to 7080.0315 (and discretionary 708.0910) as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minn. Stat. 115.55, as stated or amended in this ordinance.

### **3.20 Administration By State Agencies.**

**3.21** 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 (MPCA) if the on-site ISTS or group of systems are designed to treat an average flow greater than 10,000 gallons per day.

**3.22** 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.

**3.23** 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 all state and local requirements and require approval by the State of Minnesota.

**3.24** Any ISTS requiring approval by the State of Minnesota shall also comply with all local codes and this section.

**3.25** Plans and specifications must receive appropriate state and local approval before construction is initiated.

**3.26** This ordinance shall apply to only those areas of Kittson County which are considered to be "Permit by Rule". Any areas of the County which are already ordinances through a designated Shoreland/Flood Plain area, well head protection area or business licensed through the MN Dept. of Health shall be governed by the stricter state standards and will not be allowed use of this ordinance.

### **3.30 Administration By Kittson County.**

**3.31** The Kittson County Zoning office shall regulate ISTS within Kittson County pursuant to this section. The authority shall have the following duties and responsibilities:

- A) To review all applications for ISTS within the designated FPSL districts of the County, as specified in the County Floodplain and Shoreland Ordinances.
- B) To issue all permits required by this ordinance.
- C) To investigate complaints regarding ISTS.
- D) To review Certificates of Compliance or Notices of Noncompliance, as applicable.
- E) To issue Stop Work Orders and Notices of Violation pursuant to this ordinance, as applicable.
- F) To maintain proper records for ISTS construction, reconstruction and repair in the Floodplain/Shoreland areas of Kittson county and inspection reports for ISTS constructed outside of the FPSL area.

3.32 Neither the issuance of permits, certificates of compliance or notices of noncompliance as requested or issued shall be construed to represent a guarantee of warranty or 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.

#### **SUBDIVISION 4-Permitting**

##### **4.10 Permits Required.**

**4.11 Construction Permits.** A permit shall be obtained whenever any ISTS in Kittson County is installed, replaced, altered, repaired or extended within designated floodplain or shoreline areas. 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 3.2 of this Ordinance. Such permits are not transferable as to person or place. Such permits shall expire 12 months after date of issuance.

**4.12 Posting of Permits.** Permits shall be provided by permittee at the time of inspection upon request of inspector.

**4.13 Permit By Rule.** Any ISTS system repaired, replace, altered, extended or installed within Floodplain/Shoreland designated areas must have a permit issued by the Department. However, ISTS systems in Kittson County which are outside the designated Floodplain/Shoreland areas and which do not conflict with existing well management, well head protection areas or to systems regulated by the Department of Health, or to systems regulated by a city or township may construct through PERMIT BY RULE.

Any ISTS system repaired, replaced, altered, extended or installed within the PERMIT BY RULE designated area will be considered permitted, upon receipt of a copy of the notice of compliance, delivered to the Department and which was issued by an MPCA licensed inspector. All ISTS designs or alteration to design shall be submitted to the MPCA Inspector for review prior to construction.

##### **4.20 Permits Not Required.** Permits shall not be required only for the following:

**4.21** Repair or replacement of pumps, floats or other electrical devices of the pump or baffles in a septic tank within the designated Floodplain/Shoreland District.

**4.22** ISTS work done outside the designated Floodplain/Shoreland District with direct application to Subdivision 4.13.

**4.30 Property Owners Doing Own Work.** Property owners are permitted to construct or repair ISTS on their own properties without a State license; however, owners doing their own work must comply with Subdivision 4.10 as well as all applicable provisions of this ordinance. A property owner shall consult with a State licensed ISTS Designer I or II if they wish to design and/or install their own systems. Following installation, the system must be inspected by a State licensed ISTS Inspector and a Certificate of Compliance must be submitted to the County..

**4.40 Permit Application Requirements.** All applications for a ISTS permit shall include the following information:

(This section applies only to Floodplain/Shoreland Designated areas)

- A. Name and address of property owner;
- B. Legal description of the property;
- C. ISTS designer name, address, phone number and State ISTS license number; (or Department qualified employee name and number)
- D. Site evaluation report on a form as provided by the State
- E. System design with full information including applicable construction information on forms as provided by the State and
- F. Any other information requested pertinent to the Floodplain/Shoreland designated areas.
- G. 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.
- H. Any other pertinent information as required by the county.

**4.41 Application Review and Approval.** If, after consideration of the application for a permit, the Department is 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.

**4.42 Incomplete Application Information.** If, after consideration of the application for a permit, the Department is satisfied that the work proposed will not conform to or comply with the provisions of this Ordinance, or other County Ordinances, 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.

**4.50 Fees.** The Kittson County Board of Commissioners shall establish fees for permits required by this Ordinance. Fees shall be due and payable at the time of permit application.

**4.60 Variances.** An affected property owner may request a variance from standards as specified in the Kittson County ISTS Ordinance for an additional administrative fee.

**4.70 Permit By Rule Requirements.** In areas outside the Floodplain/Shoreland designated areas, ISTS must be installed either to the local standards provisions of this section or Minn. Rules Chapter 7080, as applicable. Following installation of ISTS under permit by rule, an inspection report, prepared by a State licensed inspector, must be submitted to the Department. There shall be no application forms, design review, permit fees or variances required for ISTS work done under permit by rule.

#### **SUBDIVISION 5- Standards For Site Selection of New ISTS Systems or Alterations to Existing Systems**

**5.10 Site Suitability For Repair, Replacement or Installation of a Trench Type ISTS.** Site suitability requirements must be met whenever an ISTS is installed, replaced, altered, repaired or extended. Listed below are the parameters which must be met to allow the use of a trench type ISTS.

**5.11 Local Standard Provisions.** The standards which allow for the continuance of, or construction of, trench systems within Kittson County are as follows:

**5.12 Soil types:**

**5.13 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.

**5.14 Site density:** Trench-type ISTS allowed under this subdivision shall not be permitted to exceed on (1) system per two (2) acre parcel. All sites to be developed must have room for at least two (2) drainfields and must meet all the setbacks outlined in the Kittson County Shoreland Ordinance. The separation distance from an ISTS and a well shall meet Minnesota Department of Health standards.

**5.15 Natural or Artificial Drainage:** A drainage plan will be submitted with the system design materials which shows distances to water sources 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 10 feet.

**5.20 Local Standards-Alteration of Existing ISTS Systems.** Site suitability requirements must be met whenever an existing ISTS is repaired, altered or extended, (reference section 5.10 and the map).

**5.21 Existing ISTS Systems** which do not present an imminent public health threat and have at least 2 feet of vertical separation between the bottom of the soil treatment system and groundwater, as defined by either mottling or residual mottling and/or other local standard provisions, are considered working systems and require no upgrading or alteration.

**5.22 Repair, alteration, and/or extension of existing systems,** is allowed if the provisions outlined in sections 5.10, 5.21 and 5.31 are met.

**5.30 Local Standards- New ISTS Trench System Installation.** Site suitability requirements must be met whenever a new ISTS trench system is installed or existing system replaced, (reference section 5.10 and the map).

**5.31 Trench-style ISTS systems** are allowed if the provisions of section 5.10 are met or at least three feet of vertical separation exists between the bottom of the soil treatment area and groundwater as defined by either mottling or residual mottling.

**SUBDIVISION 6 - Inspection Requirements**

**6.10 General Requirements**

**6.11 Compliance Inspection.** 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.

**6.12 Access To Premises and Records.** 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.

**6.13 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.

**6.20 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 photograph 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.

**6.30 Inspection Requirements for Existing Systems.** When required under section 6.41, the inspection must be conducted by a State licensed inspector. The report must identify the type of ISTS inspected and whether the system is a imminent public health threat or failing system according to Minn. Rules Chapter 7080.0060 and/or the local standards provisions this ordinance. The resulting Certificate of Compliance or Notice of Non compliance must be provided to the owner and the County within 30 days of the inspection date.

**6.40 Inspection Reports.** A Certificate of Compliance or Notice of Noncompliance shall be repaired by the inspector following all ISTS inspections and submitted to the County. 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 Minn. Rules Chapter 7050.0060 and/or the local standards provisions of this ordinance. A copy of the Certificate of Compliance or Notice of Noncompliance shall be provided to the owner and the KCEO within 30 days of the inspection date.

**6.41 Mandatory Compliance Inspections of Existing Systems.** An ISTS shall require a compliance inspection when any one of the following conditions occur:

- A. Any time a construction permit is issued in the FPSL District.
- B. At any time the County has just cause; such as, upon receiving a complaint or any other information that would reasonably indicate system failure.
- C. Addition of a bedroom, or variance request, on a property located within the designated FPSL.
  - 1. If an application to construct an additional bedroom, or variance request, is received between November 1 and April 30, the County may issue a permit immediately with the requirement that a compliance inspection be conducted by the following June 1 and the applicant submits a Certificate of Compliance with 30 days of the inspection date.
  - 2. If a system constructed between May 27, 1989 and January 23, 1996, does not comply with the applicable requirements, and is not an imminent public health threat, an owner applying for a permit to construct a bedroom addition in the FPSL district has 5 years from the date of permit issuance to bring the system into compliance with the applicable standards.
  - 3. Except in the designated FPSL districts, compliance inspections finding not less than 2 feet of separation between the bottom of the soil distribution medium and groundwater, as defined by mottled soil or relicit mottling and other local standards provisions, and not considered an imminent public health threat, are considered working systems and are not required to be replaced or repaired.

**6.42 Failing Septic Systems.** A notice of Noncompliance shall be issued and copies provided to the owner and the County within 30 days, and must adhere to the following conditions:

**A.** A failed ISTS, not considered an imminent threat to public health or safety, shall be upgraded, replaced or repaired in compliance with this Ordinance, as applicable within five years.

**B.** An ISTS posing an imminent public threat shall be upgraded, replaced, or repaired within (60) days, or as conditions allow, as determined by a licensed ISTS professional and/or the County.

**C.** Upon notification of an actual public health threat, immediate shutdown and containment of discharge from system failure must be accomplished to reduce the impact on human health, animal health and public resources.

**D.** The owner shall submit an acceptable Replacement Plan to the County for ISTS located with the FPSL Districts, within 30 days of receiving notification of a failing ISTS or an ISTS considered and imminent public health threat. Failure to submit an execute an acceptable Replacement Plan is a violation of this section.

The County appointed authority may not require recertification of an ISTS within 3 years for an existing system, or 5 years for a new system, of its certification date, (Notice of Compliance inspection date, provided the system does not fail or become an imminent public health threat.

#### **SUBDIVISION 7 - LICENSING REQUIREMENTS**

**7.51 License Requirements for Inspectors, Designers, Installers, Pumpers.** No person shall engage in the inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of ISTS within Kittson County without first obtaining a license to perform such tasks from the State.

**7.52 License exemptions.** 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 developed by a State Licensed designer or in consultation with a State Licensed designer. However, following installation, the system must be inspected in accordance with Subdivision 5 of this section.

**B.** An individual who performs labor or services under a State licensee;

**C.** A farmer who pumps sewage waste from an ISTS owned or leased by the farmer and disposes of those wastes on land that is owner 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 ISTS disclosure information.

## **SUBDIVISION 8 - ENFORCEMENT**

**8.10 STOP WORK ORDERS.** A Notice of Violation shall contain the following:

Whenever any work is conducted contrary to the provisions of this section, the County may order the work stopped by verbal or written notice personally served upon the installer or owner. The stop work order shall remain in effect until authorization to proceed is received from the County.

### **8.20 Notice of Violations.**

**8.21 Cause to Issue a Notice of Violations.** Unresolved and either separate, recurrent, or continuing violations of this section by an applicant, permittee, installer or other persons, as determined by inspections, reinspections, or investigations shall constitute nonconformance or noncompliance with this section.

**8.22 Serving a Notice of Violation.** A notice of Violation shall be served by Certified Mail upon the applicant, permittee, installer or other persons found to be in violation of this section.

**8.23 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 other investigations;

**B.** A list of the specific violation of this ordinance;

**C.** A list of the specific requirements and mandatory time schedule for the correction or removal of said violations;

**D.** Specific enforcement actions that will be taken if corrective action is not satisfactorily completed.

**8.24 State Notification of Violations.** Any inspection, installation, design, construction, alteration or repair of an ISTS by a state licensed person or any pumping and disposal of septage by a state I licensed pumper conducted in violation of the provisions in this ordinance shall be cause for notification to the Minnesota Pollution Control Agency.

### **8.25 Penalty.**

A person, firm, corporation or other entity who violates any of the provisions or this ordinance, or who makes a false statement on any Certificate of Compliance or any other documents required or allowed to be filed pursuant to the provisions of this ordinance, shall be guilty of a misdemeanor, punishable by imprisonment, fine, or both, as defined by Minnesota law.

In the event of a violation of this ordinance, the County shall also have the right to institute appropriate actions or proceedings in law or in equity to prevent, restrain, correct, abate, or seek monetary recovery for violations of this ordinance. The County may also seek restitution for damages caused or suffered by reason of violations of this ordinance.

**SUBDIVISION 9 - FORCE AND EFFECT**

The Kittson County Sewage and Waste water Ordinance shall be in full force and effect immediately upon adoption of the Kittson County Board of Commissioners and shall continue to be in full force and effect until amended or discontinued.

Approved and adopted by the Kittson County Board of Commissioners this  
3rd day of December 1998

\_\_\_\_\_  
Chairman, Kittson Co. Board

Marilyn Gustafson  
Kittson County Auditor

Approved as to form and content:

\_\_\_\_\_  
Kittson County Attorney