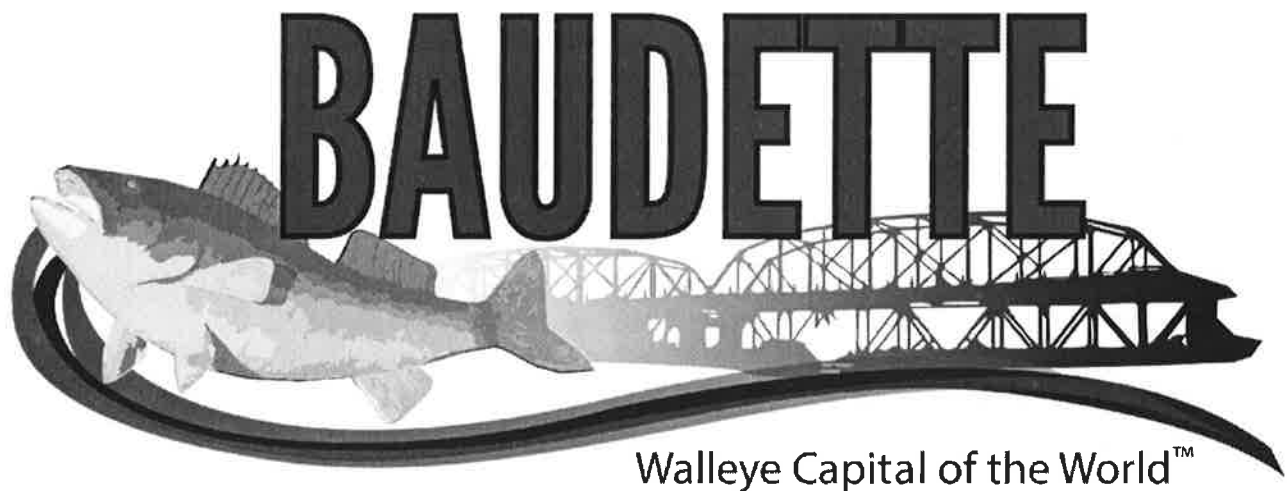


# SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE

CITY OF BAUDETTE



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**CITY OF BAUDETTE**  
**SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE**

**SECTION 1    GENERAL PROVISIONS**

**1.1    Purpose**

The purpose of the City of Baudette Subsurface Sewage Treatment System (SSTS) Ordinance shall be to provide minimum standards and regulation of SSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the City of Baudette and to protect public health and safety by protecting the city's surface water and groundwater quality, and to prevent or eliminate the development of public nuisances. The Baudette City Council ordains this Ordinance, hereby establishing the following:

- A.            Minimum standards for, and regulation of, Individual Sewage Treatment Systems (ISTS) and Midsize Subsurface Sewage Treatment Systems (MSTS), collectively referred to as Subsurface Sewage Treatment Systems (SSTS), in unsewered incorporated and unincorporated areas of the City of Baudette and incorporating by reference minimum standards established by Minnesota Statutes and Minnesota Pollution Control Agency Rules;
- B.            Requirements for issuing permits for construction of SSTS;
- C.            Provisions for Alternative Local Standards (ALS);
- D.            Requirements for all SSTS permitted under the revised Minnesota Rules, Chapter 7080 and 7081, to be operated under an approved Management Plan;
- E.            Standards for upgrade, repair, replacement, and abandonment of SSTS;
- F.            Provisions for the enforcement of these requirements; and,
- G. Standards which promote the health, safety, and welfare of the public as reflected in Minnesota Statutes, Sections 115.55, 145A.07, 412.191, 462.351 - 462.365, 471.82, and the City of Baudette Zoning Ordinance and City of Baudette Nuisance Ordinance.

**1.2    Intent**

It is intended, by the City of Baudette, that this Ordinance will promote the following:

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

contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration;

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

### **1.3 Title**

This Ordinance shall be known and may be cited and referred to as the “City of Baudette Subsurface Sewage Treatment System Ordinance”, when referred to herein; it shall be known as “this Ordinance”.

### **1.4 Authority**

This Ordinance is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Sections 145A.01 through 145A.08; Minnesota Statutes, Section 412.191; or successor statutes, Minnesota Rules 2006, Chapter 7080; and, elements from the 2011 Rules Chapters 7080, 7081, 7082 and 7083 or successor rules.

### **1.5 Jurisdiction**

The jurisdiction of this Ordinance shall include all lands within the city limits of Baudette.

### **1.6 Compliance**

The installation of a SSTS shall be in full compliance with the terms of this Ordinance and other application regulations.

### **1.7 Enforcement**

The Baudette City Council shall bear the ultimate responsibility for the administration and enforcement of this Ordinance. Any violation 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 Section 6 of this Ordinance.

### **1.8 Interpretation**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes. Interpretation shall be made by the Department with approval of the City Council, subject to appeal to the Board of Adjustment.

## **1.9 Severability**

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

## **1.10 Abrogation and Greater Restrictions**

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

## **1.11 Scope**

This Ordinance regulates the siting, design, installation, alteration, maintenance, monitoring, and management of all SSTs within the City's jurisdiction; including, but not limited to, individual SSTs, cluster or community SSTs, privy vaults, and other non-water carried SSTs. All sewage generated in unsewered areas of the City shall be treated and dispersed by an approved SSTs that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a sewage treatment system that has been permitted by the Minnesota Pollution Control Agency (MPCA).

## **1.12 Liability**

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

# **SECTION 2 ADMINISTRATION**

## **2.1 City**

The Department shall administer the SSTs program and all provisions of this Ordinance. The Department shall review and recommend revisions and updates to this Ordinance as necessary, and shall employ, retain under contract, or utilize qualified and appropriately registered or licensed professionals to administer the SSTs program.

## **2.2 State of Minnesota**

Where a single SSTs or group of SSTs under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a State Disposal System permit from MPCA. For any SSTs that has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a State Disposal System permit is required.

Any SSTs serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance.

## **2.3 Appeals**

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 Department an Application to Appeal form, which is available upon request from the Department. Such appeal shall be heard by the Board of Adjustment with sixty (60) days of the date that such application is submitted to the Department and found complete and accepted by the Department.

## **2.4 Amendments**

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

- A. An amendment may be initiated by a property owner, the Planning Commission, or the City Council. Property owners wishing to initiate an amendment shall fill out an application for amendment form, available from the Department. Such application shall be filled out and submitted to the Department together with the appropriate fee.
- B. The applicant shall appear before the Planning Commission to answer any questions that the Planning Commission members may have concerning the amendment request.
- C. A public hearing on the amendment request shall be conducted by the Planning Commission. The public hearing shall be conducted in accordance with Minnesota Statutes, Chapter 394.26.
- D. The Planning Commission shall make a recommendation to the City Council after the proceedings of this public hearing.
- E. The City Council shall consider the recommendation of the Planning Commission.

### SECTION 3     DEFINITIONS

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

**Alternative Local Standards (ALS):** Are individual sewage treatment system standards that are less restrictive than the State’s technical standards and criteria. ALS contains the adopted standards from the 2006 MN Rules for systems using less than 2500 gallons of water per day.

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

**As-Built:** Drawings and documentation specifying the final in-place location, elevation, size, and type of all system components. These records identify the results of materials testing and describe conditions during construction. Information provided must be verified by a certified statement.

**Authorized Representative:** An employee or agent of the Department.

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

**Board of Adjustment:** A board established by the City Zoning Ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any Ordinance adopted pursuant to the provision of Minnesota Statutes, sections 462.351 to 462.365 and perform such other duties as required by the official controls.

**Certificate of Compliance:** A document written and issued after a compliance inspection, from a State of Minnesota licensed sewage treatment inspector or a qualified employee of the Department, which gives notice that an ISTS is in compliance with applicable requirements at the time of inspection.

**City:** The City of Baudette, Minnesota.

**City Council:** The Baudette City Council.

**Class V Injection Well:** A shallow well used to place a variety of fluids directly below the land surface including a domestic SSTS serving more than twenty (20) people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

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

**Compliance Inspection:** Any evaluation, investigation, inspection, or other such process to make conclusions, recommendations, or statements regarding an SSTS to reasonably assure an individual sewage treatment system is in compliance as specified under part 7080.0060.

**Department:** The City of Baudette Zoning Administrator.

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

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

**Failing System:** Any SSTS that discharges sewage to a seepage pit, cesspool, drywell, leaching pit and any system with less than the required vertical separation distance between the bottom of the distribution medium and the saturated soil level or bedrock.

**Graywater or Greywater:** Sewage that does not contain toilet wastes.

**Imminent Threat to Public Health or Safety (ITPHS):** Any SSTS that discharges sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a State licensed inspection business.

**Individual Subsurface Sewage Treatment System (ISTS):** An individual sewage treatment system having a design flow of 5,000 gallons per day or less. ISTS includes holding tanks and privies.

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

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

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

**Mottling (Redoximorphic Features):** As applied to soils, means a zone of oxidation 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”: 11th Edition, 2010, which is hereby incorporated by reference.

**MPCA:** Minnesota Pollution Control Agency.

**Midsize Subsurface Sewage Treatment System (MSTS):** A midsize subsurface sewage treatment system under single ownership that receives sewage from dwellings or other establishments having a design flow of greater than 5,000 gallons per day to 10,000 gallons per day.

**Notice of Noncompliance:** A document written and issued after a compliance inspection, from a State of Minnesota licensed sewage treatment inspector or a qualified employee of the Department, which gives notice that an ISTS is not in compliance with applicable requirements.

**Other Establishments:** Any public or private structure other than a dwelling that generates sewage that discharges to an MSTS.

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

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

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

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

**Subsurface Sewage Treatment System (SSTS):** Subsurface sewage treatment system including an ISTS, and MSTS.

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

**State:** The State of Minnesota.

**SWF:** Shoreland areas, wellhead protection areas, or food, beverage, or lodging establishments

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

**Type II System:** An "alternate" SSTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. This type includes systems on lots with rapidly permeable soils Minnesota Rules Chapter 7080.0170, Subpart 4, or lots in floodplains, and systems called privies or holding tanks, 7080.0172.

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

**Type IV System:** A SSTS, having an approved pretreatment device and incorporating pressure distribution and dosing. It is sometimes referred to as an advanced treatment system.

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

**Type ALS System:** An SSTS designed with alternative local standards. See ALS definition.

## **SECTION 4 GENERAL REQUIREMENTS**

### **4.1 Retroactivity**

#### **4.1.1 All SSTS**

Except as explicitly set forth in Section 4.12 and 4.13 all provisions of this Ordinance shall apply to any SSTS regardless of the date of it was originally permitted.

#### **4.1.2 Existing Land Use Permits**

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

#### **4.1.3 Existing SSTS**

A SSTS constructed prior to April 1, 1996, outside the designated floodplain, shoreland, wellhead protection areas or servicing a food, beverage, or lodging establishment, which met the minimum requirements at the time it was constructed, shall be allowed to continue in use, except, if it is determined to be a failing system or an ITPHS, or is determined that it is required to be connected to the City of Baudette municipal sewer system.

A SSTS constructed after March 31, 1996, or located within the designated floodplain, shoreland, wellhead protection areas or servicing a food, beverage, or lodging establishment, which met the minimum requirements at the time it was constructed, shall be allowed to continue in use except if it is determined to be a failing system or an ITPHS, or is determined that it is required to be connected to the City of Baudette municipal sewer system.

#### **4.1.4 SSTS on Lots Created After January 23, 1996**

All lots created after January 23, 1996 shall include a minimum of two (2) soil treatment and dispersal areas that can support a Type I system as described in Minnesota Rules, Chapter

7080.0170, Subparts 2 and 5-6 or site conditions described in 7081.0270, Subparts 3-7, for MSTs systems.

## **4.2 Upgrade, Repair, Replacement, and Abandonment**

### **4.2.1 SSTS Capacity Expansions**

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

### **4.2.2 Bedroom Additions**

When a bedroom addition is planned for construction, a SSTS compliance inspection is required on the existing SSTS. If a Notice of Noncompliance is issued on the existing SSTS, a Land Use Permit may be issued with or without conditions to upgrade, repair, replace or abandon the existing septic system. The owner is allowed two (2) years from the date of issuance of the Notice of Noncompliance to replace a failing system and ten (10) months for systems that are an ITPHS.

### **4.2.3 Failure to Protect Groundwater**

A SSTS that is determined to be a failing system shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within two (2) years of the date of issuance of the Notice of Noncompliance.

### **4.2.4 Imminent Threat to Public Health or Safety (ITPHS)**

A SSTS that is determined to be an ITPHS, shall be upgraded, repaired, replaced or abandoned by the owner within ten (10) months of the date of issuance of the Notice of Noncompliance.

### **4.2.5 Abandonment of SSTS**

Any SSTS, or components thereof, which are no longer intended to be used as part of the SSTS, must be abandoned in accordance with Minnesota Rules, Chapter 7080.0176.

## **4.3 SSTS Located in Floodplain**

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no options exist to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rules, Chapter 7080.0172 are met.

## **4.4 Class V Injection Wells**

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit

SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

## **4.5 SSTS Practitioner Licensing**

### **4.5.1 License Required**

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS in the City without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules, Chapter 7083, unless exempted as outlined in part 7083.0700 or Section 4.52 of this Ordinance.

### **4.5.2 License Exemption**

A license is not required for:

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

## **4.6 Prohibitions**

### **4.6.1 Sewage Discharge to Ground Surface or Surface Water**

It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

### **4.6.2 Sewage Discharge to a Well or Boring**

It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rules, Chapter 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.

#### **4.6.3 Discharge of Hazardous or Deleterious Materials**

It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

### **SECTION 5 SSTS STANDARDS**

#### **5.1 Standards Adopted by Reference**

The following documents, which identify specific standards, procedures and protocols are hereby adopted in their entirety by reference and made a part of this Ordinance.

- A. Minnesota Rules 2006, Chapter 7080, as Alternative Local Standards for new and replacement systems with a design flow of less than or equal to 2,500 gallons per day.
- B. City of Baudette Zoning Ordinance and Sewer Use Ordinance

The following elements from Minnesota Rules 2011, Chapter 7080 and 7081, are hereby adopted in their entirety by reference and made a part of this Ordinance:

- A. Minnesota Rules 2011, Chapters 7080 and 7081 for new and replacement systems with a design flow greater than 2,500 gallons per day.
- B. Minnesota Rule 2011, Chapter 7081.0130, Flow and Waste Concentration Determination for Other Establishments
- C. Tank Strength Requirements, 7080.1910, Subp 1
- D. Poured-in-place concrete tanks, 7080.1910, Subp 2
- E. Septic Tank Design, 7080.1920 A – E
- F. Septic Tank Capacity 7080.1930
- G. Multiple Septic Tanks, 7080.1940
- H. Septic Tank Baffles, 7080.1960 A – G
- I. Compartmentalization of Single Tanks, 7080.1950 A - E
- J. Sewage Tank Access, 7080.1970 A - D
- K. Tank Construction, 7080.1980 A – B
- L. Tank Storage, Transport and Use, 7080.1990 Subp 1 and 2

M. Location and Installation of Tanks, 7080.2000 A – K

N. Tank Assessment, 7080.2010 Subp 1, 2 and 3

O. Tank Identification, 7080.2020 A – D

## 5.2 New or Replacement SSTS

Any structure that generates sewage and is served by a pressurized water supply system must be served by the City of Baudette municipal sewer system where available. If City sewer is not available, then a compliant SSTS must be utilized. New or replacement of existing SSTS servicing a residential dwelling shall be sized and constructed for a Type 1 dwelling.

Where no feasible alternatives exist as determined by the licensed designer and confirmed by the Department, installation of a Type 1 system creates a practicable difficulty, the Department may administratively authorize a smaller designed and installed system without a variance according to Section 9 of this Ordinance.

## 5.3 Design Flow

Average design flow shall be used to size soil treatment systems. The estimated average design flow for any dwelling shall provide for at least two (2) bedrooms. For multifamily dwellings, the average design flow shall consist of the sum of the average design flow for each individual unit. For Other Establishments the design flow shall be in accordance with Minnesota Rule Chapter 7081.0130.

Average Design Flow (GPD)				
# of Bedrooms	Classification of Dwelling			
	I	II	III	IV
2 or less	300	225	180	*
3	450	300	218	*
4	600	375	256	*
5	750	450	294	*
6	900	525	332	*

\* Flows for Classification IV dwellings shall be 60% of the values as determined for Classification I, II, or III.

The Table above is based on the following formulas:

Classification I: Classification I dwellings are those with more than 800 square feet per bedroom, when the dwelling's total floor area is divided by the number of bedrooms, 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. The average design flow for classification I dwellings is determined by multiplying 150 by the number of bedrooms.

Classification II: Classification II dwellings are those with 500 to 800 square feet per bedroom, when the dwelling's total floor area is divided by the number of bedrooms, and no more than two of the water-use appliances are installed or anticipated as listed in Classification I. The average design flow for classification II dwellings is determined by adding one to the number of bedrooms and multiplying this result by 75.

- Classification III: Classification III dwellings are those with less than 500 square feet per bedroom, when the dwelling's total floor area is divided by the number of bedrooms, and no more than two of the water-use appliances are installed or anticipated as listed in Classification I. The average design flow for classification ID dwellings is determined by adding one to the number of bedrooms, multiplying this result by 38, then adding 66.
- Classification IV: Classification IV dwellings are dwellings designed under part 7080.0170, subpart 7.

## **5.4 Alternative Local Standards (ALS)**

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

### **5.4.1 “ALS” Vertical Separation for New or Replacement SSTS**

For new or replacement “ALS” systems, a minimum of two (2) feet vertical separation shall be allowed between the bottom of the dispersal system and the seasonal saturation or bedrock located in areas outside the protected areas designated as floodplain, shoreland, wellhead protection, or areas where SSTS provide sewage treatment for food, beverage, or lodging establishments

Site suitability requirements must be met whenever a SSTS is installed, replaced, altered, or extended. The following parameters shall be met:

- A. **Soil Separation:** For unsaturated soil separation, three (3) separate soil samples from three (3) field locations are taken for observation by the designer and referenced to the NRCS Soils Survey, visual determination for mottling features and/or percolation tests must be conducted to determine sizing of the system. The soil evaluation results must be verified onsite by the Department.
- B. **Soil Types:** ALS systems shall not be allowed in poorly drained and rapidly permeable soils, as delineated by the NRCS Soil Survey for Lake of the Woods County, which is the official City soil classification reference.
- C. **Wells:** Placement and construction of wells in proximity to the SSTS shall be setback according to the requirements of the Minnesota Department of Health, as identified in Section 5.9 of this Ordinance.
- D. **Density of SSTS:** A SSTS constructed to the “ALS” standards shall not be permitted to exceed one (1) system per one (1) acre parcel. All sites to be developed must have space for at least two (2) systems and must meet the setbacks as outlined in Section 5.9 of this Ordinance and the City of Baudette Zoning Ordinance.
- E. **Existing natural and constructed drainage systems:** A drainage plan shall be provided to the Department with each SSTS permit application. The plan must designate existing drainage features and any proposed new drainages. The plan must specify surface and/or groundwater flows relative to the proposed SSTS, as well as the locations of all public and private drainage systems. If additional ditching or tile systems are proposed, a minimum of a ten (10) foot setback must be maintained from all components of the SSTS.

#### **5.4.2 Prohibited Locations of “ALS” Vertical Separation**

The following locations are prohibited from utilizing “ALS” Vertical Separation:

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

#### **5.5 Soil Dispute Resolutions**

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

#### **5.6 Holding Tanks**

The use of (a) holding tank(s) may be permitted only where there is no other reasonable alternative(s) to treating and disposing of sewage. The use of (a) holding tank(s) may be permitted by the Department as replacement for a SSTS that is failing or poses an imminent threat to public health, on lots existing as of the effective date of this Ordinance, and in structures where it can be shown that a SSTS cannot be feasibly installed, under the following conditions:

- A. A licensed designer must submit a site design indicating that the use of (a) holding tank(s) is the only alternative, with the concurrence of the Department and state the reasons why a drainfield is not viable
- B. A Maintenance and Monitoring Agreement signed by the property owner and a licensed maintainer is submitted to the Department;
- C. The property owner shall maintain a valid Maintenance and Monitoring Agreement with a licensed maintainer;
- D. A cleanout pipe of at least four (4) inches in diameter shall extend to the ground surface and be provided with seals to prevent odor emissions and exclude insects and vermin. A maintenance hole of at least twenty (20) inches in diameter shall extend through the cover to a point within twelve (12) inches, but no closer than six (6) inches, below finished grade. If the maintenance hole is covered with less than six (6) inches of soil, the cover must be secured to prevent unauthorized access;
- E. The minimum size shall be 1,000 gallons or 400 gallons times the number of bedrooms, whichever is greater;
- F. The holding tank(s) shall be located in an area readily accessible to the maintainer under all weather conditions and where accidental spillage, from maintenance, will not create a nuisance;

- G. The holding tank(s) shall meet setbacks as specified in Section 5.9 of this Ordinance and the City of Baudette Zoning Ordinance;
- H. Holding tanks shall have an alarm device to minimize the chance of accidental sewage overflows unless regularly scheduled pumping is used. Mechanical or electrical monitoring shall identify when the holding tank is at seventy-five (75) percent capacity;
- I. A water meter is to be installed and the meter readings recorded monthly and submitted to the Department prior to December 31 each year as per the Maintenance and Monitoring Agreement;
- J. Holding tank(s) must be inspected and solids removed, if needed, at a minimum of every three (3) years or when it reaches 75% capacity. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.0175.
- K. The Maintainer shall record the date the holding tank(s) is maintained, volume of waste removed, and discharge location. The record shall be provided to the owner and made available to the Department upon request.

## 5.7 Privies

Privies that meet all of the following criteria may be designed with “ALS” vertical separation; however, the use of a holding tank is the preferred method of treatment or at least a tank under the privy.

- A. A site design must be submitted by a licensed designer;
- B. The privy is in a remote area with a minimum lot size of one (1) acre;
- C. Must not be located within a floodplain, shoreland or on hydric soils as indicated by the NRCS Soil Survey for Lake of the Woods County;
- D. The privy shall be located at least 100 feet from any existing well; and,
- E. If a tank is installed under the privy it shall meet setbacks as specified in Section 5.9 of this Ordinance and the City of Baudette Zoning Ordinance.

## 5.8 2011 MN Rule Elements

### 5.8.1 Sewage Tanks Capacity

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

### 5.8.2 Registered Products

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

### 5.8.3 Trench and Seepage Bed Design, 7080.2210, Subp 4D

The minimum depth of soil cover, including topsoil borrow, over the distribution medium is twelve (12) inches.

## 5.9 Technical Differences in Ordinance from 2011 MN Rules 7080 and 7081

The following is a list of the technical differences.

- A. Alternative Local Standards “ALS” Vertical Separation, (reference 5.3 and 8.2).
- B. Location where Alternative Local Standards are prohibited, (reference 5.32).
- C. 2006 MN Rules used as Alternative Local Standards
  - (1) Pressure lateral spacing, defined in 2006 Minnesota Rules 7080.0150, Subp 3F;
  - (2) Clean outs on ends of pressure laterals, as stated in 2011 Minnesota Rules 7080.2050, Subpart 4, item J, are not mandatory however, highly recommended;
  - (3) Flow measurement when a pump is installed, is not required in 2006 Minnesota Rules; therefore, the 2011 Minnesota Rules Sections 7080.2210, 2220, 2230, 2240, 2270, and 2300 concerning flow measurements is not mandatory.
  - (4) Should technical differences exist that are not listed in the 2011 Minnesota Rule elements, (reference Section 5.1), the 2006 Minnesota Rules Chapter 7080 provisions shall prevail.

## 5.10 Minimum Setback Distances for Sewage Treatment Systems

<i>Minimum Setback Distances (feet) for Sewage Treatment Systems</i>		
<b>Feature</b>	<b>Sewage tank, holding tank, or sealed privy</b>	<b>Absorption area or unsealed privy</b>
Water supply Wells (Deep Well)	50	50
Water supply Wells with less than 50 feet of casing (Shallow well)	100	100
Buried water lines - suction	50	50
Buried water lines-under pressure	10	10
Buried lines – electric line, LP tank, gas pipe	10	10
Occupied Buildings	10	20
Property lines	10	10
OHWL of public waters		
- Agricultural and Tributary River Segments	100	100

### **5.10.1 Administrative Allowance**

The Department may administratively, without a variance according to Section 9 of this Ordinance, allow a lesser setback in the following circumstances:

- A. A lot line setback where no feasible alternative exists and the landowner and adjacent landowner(s) enter into a Reduced Setback Agreement which attests to the location of the property line or a certified survey establishes the property line. The Reduced Setback Agreement document is available upon request from the Department.
- B. For River Segments, identified in Section 201 of the City of Baudette Zoning Ordinance, where no feasible alternative exists as determined by a licensed designer and confirmed by the Department, the following Ordinary High Water Mark (OHWM) setback may apply:
  - (1) Agricultural – 75 feet
  - (2) Tributary – 75 feet

All other deviations from the setback requirements must be approved by a variance according to Section 9 of this Ordinance.

## **SECTION 6 SSTS PERMITS AND PLANS**

### **6.1 SSTS Permits Required**

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

### **6.2 Activities Requiring a SSTS Permit**

All contractors, property owners or other persons having charge of the SSTS construction, replacement (including tanks and dispersal systems), repair, or modification of components of SSTS, shall obtain a Land Use Permit from the Department prior to starting construction. Land Use Permits shall be granted upon receipt of a completed application.

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

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

### **6.4 SSTS Permit Requirements**

For development in the jurisdictional areas of the City, a valid SSTS Land Use Permit for a new system and/or Certificate of Compliance for the existing SSTS must be submitted to the Department prior to approval and issuance of any Building Land Use Permit, variance or Conditional Use Permit.

## **6.5 SSTS Permit Applications**

Land Use Permit applications shall be made on forms provided by the Department and signed by the applicant or an authorized agent. The application shall include but is not limited to the information and documents listed in items A through E below. A complete application shall be examined and approved or denied by the Department.

- A. Name, mailing address, telephone number, (and email address if available.)
- B. Property Identification Number (PIN), address, or other description of property location.
- C. Site Evaluation Report, including soil analysis and verification utilizing at least three (3) soil observations made in exposed pits or by hand auger/probe prior to construction. The depth to the periodically saturated soil shall be determined by parameters set in Section 5 of this Ordinance. The soil verification shall be made by a qualified employee or licensed inspection business authorized by the Department. The soil boring log with soil verification signature shall be submitted with design by contractor to the Department.
- D. Design Reports, as-built drawings, operating permits and any documents described in Minnesota Rules, Chapter 7080.0110-7080.0115.
- F. Management Plan (see Section 7 of this Ordinance).

## **6.6 Permit Application Review**

The Department shall review the Land Use Permit application, supporting documentation and site design in order to determine if a complete application has been submitted. The Department shall notify the applicant and/or site designer within fifteen (15) business days if an incomplete application has been submitted and state the reasons of incompleteness.

Upon determining a complete application has been submitted, the Department shall issue a permit in compliance with Minnesota Statute 15.99, authorizing the construction of the SSTS as per the submitted site design. In the event the applicant and/or site designer makes a significant change to the approved application, the applicant or site designer must file an amended application and/or site design with the Department detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for consideration. The Department shall complete the review of the amended application within fifteen (15) business days of receipt of the amended application and notify the applicant and/or site designer of the approval in compliance with Minnesota Statute 15.99.

If the Land Use Permit application, supporting documents and site design do not meet the requirements of this Ordinance, the Department shall deny the application and state the reason(s) for denial in compliance with Minnesota Statute 15.99.

The Department may suspend or revoke an issued Land Use Permit under this Section for any false statements, misrepresentation of facts on which the permit was issued, or unauthorized changes to the system design that alter the original function, treatment capacity, location, or otherwise change the original system's design, layout, or function. A Notice of Suspension or Revocation, and the reasons for

the suspension or revocation, shall be conveyed in writing to the permittee. If suspended or revoked, installation or modification of a system may not commence until a valid permit is obtained.

#### **6.7 Permit Expiration**

The Land Use Permit shall expire one (1) year from the date of approval unless a written extension for extenuating circumstances is granted by the Department. Such extension shall not exceed a period of one (1) year. No more than one (1) extension may be granted from any Land Use Permit.

#### **6.8 Transferability**

The approved Land Use Permit may be transferred, as long as it has not expired, to the new property owner provided the site design and conditions of the Land Use Permit are met.

#### **6.9 Operating Permits**

An Operating Permit shall be required of all owners of new holding tanks, Type IV, Type V and MSTs.

### **SECTION 7 MANAGEMENT PLANS**

#### **7.1 Purpose**

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

#### **7.2 Management Plan Requirements**

Management Plans are required for all new or replacement SSTs. The Management Plan shall be submitted to the Department with the site design for review and approval.

#### **7.3 Management Plan Contents**

Management Plans shall include the following:

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

## **7.4 Requirements for Systems Not Operated Under a Management Plan**

An SSTS that is not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids, if needed, every three (3) year. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

## **SECTION 8 COMPLIANCE INSPECTIONS**

### **8.1 Compliance Inspection Program**

It is the responsibility of the Department, or its agent, to perform various SSTS compliance inspections periodically to assure that the requirements of this Ordinance are met.

#### **A. SSTS Compliance Inspections are performed:**

- (1) To ensure compliance with applicable requirements;
- (2) To ensure system compliance within the designated shoreland areas of the City, prior to issuance of a Land Use Permit, variance, or a conditional use permit, or when there is a change in ownership. The City may temporarily waive the Certificate of Compliance requirement during the period from November 1<sup>st</sup> to May 31<sup>st</sup> with provisions for that a compliance inspection is to be conducted and submitted to the Department no later than July 31<sup>st</sup> of the following year;
- (3) To ensure system compliance outside of the designated shoreland areas of the City, prior to issuance of a Land Use Permit for a bedroom addition, variance, or a conditional use permit, or when there is a change of ownership. The City may temporarily waive the Certificate of Compliance requirement during the period from November 1<sup>st</sup> to May 31<sup>st</sup> with provisions for that a compliance inspection is to be conducted and submitted to the Department no later than July 31<sup>st</sup> of the following year;
- (4) For all new SSTS construction or replacement (including privies);
- (5) For existing system upgrades, repair or modifications;
- (6) To ensure compliance prior to issuance of a Land Use Permit for the addition of a bedroom on properties served by an SSTS; and
- (7) Any time the Department deems appropriate, such as, upon receipt of a written and signed complaint or other reliable notice of a system malfunction.

#### **B. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees with jurisdiction.**

#### **C. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building.**

- D. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

#### **8.1.1 Existing Systems**

- A. Compliance inspections shall be required when any of the following conditions occur:

- (1) When a Land Use Permit is required to repair, modify, or upgrade an existing system;
- (2) When there is a change in the use of the property being served by an existing SSTS which may impact the performance of the system;
- (3) When there is a change in ownership of the property being served by an existing SSTS;
- (4) Prior to issuance of a Land Use Permit within the designated shoreland areas, variance or conditional use permit request; or
- (5) Prior to issuance of a Land Use Permit for a bedroom addition, variance or conditional use permit request outside the designated shoreland areas; or
- (6) As required by this Ordinance, or as deemed appropriate by the Department, such as, upon receipt of a written and signed complaint or other reliable notice of a system malfunction.

- B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA.

- C. If the SSTS is determined not to be in compliance with the applicable requirements, a Notice of Noncompliance must include a statement specifying those requirements with which the SSTS does not comply. SSTS that are deemed an ITPHS shall be upgraded within ten (10) months of the date of issuance of the Notice of Noncompliance and a SSTS that is deemed a failing system shall be upgraded within two (2) years of the date of issuance of the Notice of Noncompliance. The Certificate of Compliance or Notice of Noncompliance shall be provided to the property owner or owner's agent and the original Certificate of Compliance or Notice of Noncompliance shall be submitted with the compliance inspection to the Department by the licensed inspector conducting the inspection within fifteen (15) business days after the date the inspection was performed.

- D. Certificates of Compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless the Department finds evidence of a failing system or an ITPHS.

### **8.1.2 New Construction or Replacement**

Compliance inspections must be performed on new or replacement SSTS during construction and installation of a SSTS before it is covered with soil, unless acceptable photographs or video documentation are provided, to determine compliance with Minnesota Rules, Chapters 7080 or 7081.

- A. It shall be the responsibility of the SSTS owner or the owner's agent to notify the Department to arrange for the inspection.
- B. The Certificate of Compliance must include a certified statement by the licensed inspector who conducted the inspection that the SSTS is or is not in compliance. If the SSTS is determined not to be in compliance with the applicable requirements, a Notice of Noncompliance shall be issued to the owner by the Department which includes a statement specifying those requirements with which the SSTS does not comply.
- C. The Certificate of Compliance or Notice of Noncompliance must be submitted to the Department no later than fifteen (15) business days after the date of the inspection.
- D. The Department shall deliver the Certificate of Compliance or the Notice of Noncompliance to the owner or the owner's agent with ordinance provisions of noncompliance.
- E. Certificates of Compliance for new construction or replacement shall remain valid for five (5) years from the date of issue, unless the Department finds evidence of a failing system or an ITPHS.

### **8.2 "ALS" Vertical Separation for Existing SSTS**

A SSTS installed prior to April 1, 1996, outside of protected areas designated as floodplain, shoreland, wellhead protection, or areas where SSTS provide sewage treatment for food, beverage, or lodging establishments shall have at least two (2) feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock per Minnesota Rules 7080.0060 Subpart 3. Existing systems with less than two (2) feet vertical separation in these areas may fail to protect groundwater and shall be upgraded, replaced, or its use discontinued within two (2) years of the date of issuance of the Notice of Noncompliance or if determined to be an ITPHS in accordance with Minnesota Rules, Chapter 7080.1500, Subpart 4(A), it shall be upgraded, replaced, or its use discontinued within ten (10) months of the date of issuance of the Notice of Noncompliance.

### **8.3 Vertical Separation Flexibility**

In accordance with the 2011 Minnesota Rules 7080.1500, Subpart 4D, a reduced vertical separation for existing systems is allowed for SSTS that were designed with at least a three (3) foot vertical separation distance. The maximum of fifteen (15) percent reduction (a separation distance no less than 30.6 inches) is only allowed, to account for settling of sand or soil, normal variation of measurements, and interpretations of the limiting layer conditions. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil.

A system designed with "ALS" vertical separation is not allowed the fifteen (15) percent reduction.

## **8.4 Disclaimer**

Neither the issuance of the Land Use 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 noncompliance with the provisions of these standards and regulations.

## **SECTION 9 VARIANCES**

### **9.1 Variance Requests**

An affected property owner may request a variance from the standards and provisions as specified in this Ordinance and may be requested pursuant to the procedures and requirements as outlined in Section 1306 of the City of Baudette Zoning Ordinance. Variances to decrease the 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, Subpart 3. Variances to wells and water supply lines require approval from the Minnesota Department of Health.

#### **9.1.1 Criteria**

An application may be made, and a variance may be granted by the City of Baudette Board of Adjustment pursuant to the provisions of Minnesota Statute Section 394.27, when the applicant/owner establishes the existence of all the following criteria:

- A. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and consistent with the comprehensive plan;
- B. The property owner is proposing to use the property in a reasonable manner;
- C. The condition causing the practical difficulty is unique to the property;
- D. The practical difficulty was not caused by the actions of the landowner;
- E. The variance, if granted, will not alter the essential character of the locality;
- F. The granting of the variance is not based solely on economic considerations.

The Board of Adjustment must make finding on all of the six criteria listed above in order to grant or deny a variance. The applicant requesting a variance has the burden of proof to show that all of the criteria listed above have been satisfied.

The Board of Adjustment may impose conditions upon a variance that relate to the purposes and objectives of this Ordinance. If conditions are imposed, the variance shall not be effective until the conditions are fully complied with. A conditional variance shall be in effect only as long as the condition is complied with. If a condition is not complied with, the variance may be revoked by the Board of Adjustment at its next meeting with public notice and the City may pursue the enforcement remedies set forth in Section 10.2 of this Ordinance.

### **9.1.2 Expiration**

A variance shall expire and be considered null and void one (1) year after the Board of Adjustment's final decision to grant the variance, unless a longer timeframe is specified as a condition upon approval, if not acted upon by the applicant or his/her assigns within that time.

## **9.2 Board of Adjustment**

The City of Baudette Board of Adjustment has been established by the City of Baudette Zoning Ordinance and is invested with such authority as provided by Minnesota Statute 462.354 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 upon the criterion prescribed in Section 9.11 of this Ordinance;
- B. To hear and decide any appeal from an order, requirement, decision, or determination made by the Department;
- C. All decisions by the Board of Adjustment in granting variances, or in hearing any appeals from an 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 District Court within thirty (30) days after receipt of the notice of decision made by the Board of Adjustment.

## **9.3 Agency Notification**

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

## **SECTION 10 ENFORCEMENT**

### **10.1 Violations**

#### **10.1.1 Cause to Issue a Notice of Violation**

Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards, including the requirements for the system to be upgraded, replaced or its use discontinued, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, may be guilty of a misdemeanor and upon conviction thereof, shall be punished by such penalties and fines provided by law.

### **10.1.2 Interference with Department Access or Administration/Enforcement Prohibited**

The Department shall be given access to enter a property without prior notice at any reasonable time to inspect and/or monitor the SSTS for any reason the Department deems necessary. As used in this paragraph, "property" does not include a residence or private building.

No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

### **10.1.3 Notice of Violation**

The Department shall serve, in person or by mail, a Notice of Violation to any person determined to be violating provisions of this Ordinance. The Notice of Violation shall contain:

- A. A statement documenting the findings of fact determined through observations, inspections, or investigations;
- B. A list of specific violation(s) of this Ordinance
- C. Specific requirements for correction or removal of the specified violation(s);
- D. A mandatory time schedule for correction, removal and compliance with this Ordinance.

### **10.1.4 Cease and Desist Orders**

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

### **10.1.5 After-the-Fact Fees**

Any application for a Land Use Permit that is made after the work has commenced and which required a Land Use Permit or is done in violation of a permit shall be charged an "after-the-fact" fee in accordance with the City of Baudette Fee Schedule.

### **10.1.6 Reimbursements for Restoration**

The Department may require correction and/or restoration of the property to its original state should the application for a permit be denied or if the action permitted does not include all or part of the work commenced prior to approval of said Land Use Permit. The Department may recover costs incurred in removal or abatement in a civil action; or at the discretion of the City Council, the costs of an enforcement action under this Ordinance may be assessed and charged against the real property on which the public health nuisance was located. The City Treasurer may extend the costs as assessed and be charged on the tax roll against said real property.

## **10.2 Prosecution**

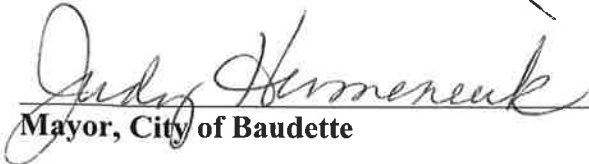
In the event of a violation or threatened violation of this Ordinance, the City may seek other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations, including any criminal prosecution and the City Attorney shall have authority to commence such civil action. The Department and City Attorney may take such actions as may be necessary to enforce the provisions of this Ordinance.

## **SECTION 11 FEES**

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

## **SECTION 12 ADOPTION AND EFFECTIVE DATE**

The City of Baudette Subsurface Sewage Treatment System Ordinance is hereby adopted by the Baudette City Council on the 13<sup>th</sup> day of April, 2015.

  
\_\_\_\_\_  
Mayor, City of Baudette

ATTEST:   
\_\_\_\_\_  
City Clerk/Treasurer, Baudette

**EFFECTIVE DATE: May 1, 2015**