

## **Section 1 Jurisdictional Boundaries**

The jurisdiction of the OTWMD is defined as follows:

1. All property on the map dated April 1981 prepared by Ulteig Engineers, Inc. within one thousand (1,000) feet of Blanche Lake (56024000), Deer Lake (56029800), the portion of Long Lake (56021000) in Amor Township and Otter Tail Township, Otter Tail Lake (56024200), Round Lake (56029700) and Walker Lake (56031000).
2. All property on the map dated April 1981 prepared by Ulteig Engineers, Inc. within three hundred (300) feet of the section of the Dead River between Walker Lake and Otter Tail Lake, the section of the Otter Tail River between Otter Tail Lake and Deer Lake and Blanche Creek between Otter Tail Lake and Blanche Lake.
3. All properties deemed within the jurisdictional boundaries of the Otter Tail Water Management District as established in the year 2023 pursuant to the MEMORANDUM OF AGREEMENT ESTABLISHING JURISDICTION BOUNDARIES AND DUTIES OF THE OTTER TAIL WATER MANAGEMENT DISTRICT signed between Otter Tail County and the Otter Tail Water Management District.

## **Section 2 Title, Purpose, and Intent**

### **Title**

This ordinance shall be known as the Sanitation Code of Otter Tail Water Management District (OTWMD) and shall regulate the location, design, installation, use and maintenance of subsurface sewage treatment systems in all areas of OTWMD (hereinafter referred to as the district/and or OTWMD). This ordinance is authorized under Minnesota Statute §115.55 and Minnesota Statute §145A.

### **Purpose and Intent**

This ordinance is adopted for the following purposes:

1. To protect the public health, safety, and general welfare by the discharge of adequately treated sewage to the groundwater via the proper location, design, installation, use, and maintenance of individual sewage treatment systems (ISTS) and mid-sized subsurface sewage treatment systems (MSTS).
2. These environmental protection standards shall be adopted within the OTWMD boundaries and administered by the OTWMD as directed by Minnesota Rules, Chapter 7082, and Minnesota Statute §115.55.
3. This ordinance regulates all subsurface sewage treatment systems (SSTS) as defined in Minnesota Rules, Chapter 7080 and 7081. This ordinance does not regulate systems that will not receive sewage as defined in Minnesota Rules, Chapter 7080. If systems receive both sewage and nonsewage, the requirements of this ordinance apply, plus any additional requirements governing the nonsewage portion of the wastewater.
4. Systems serving two or more dwellings, systems serving other establishments that serve over 20 persons, and systems receiving nonsewage are also regulated under Code of Federal Regulations, title 40, parts 144 and 146.
5. This ordinance does not allow systems to discharge to the ground surface or surface waters. Those systems require a National Pollutant Discharge Elimination System permit.
6. Technology and products employed in system design shall adequately protect the public health and the environment as determined by Minnesota Rules, Chapter 7083, and be approved for use by OTWMD.

7. This ordinance sets forth the requirements for accruing revenues to enable the OTWMD to comply with State and Federal laws and to provide sufficient revenues to financially balance expenditures for the administration of all septic systems within the district.
8. This ordinance provides that any property within the jurisdictional boundaries of the OTWMD that has sewage utilities within the OTWMD shall be assessed annually in an equitable manner, fees commensurate with the property’s usage of the sewage utilities within the District.
9. This ordinance shall apply to the OTWMD, the properties within the jurisdictional boundaries of the OTWMD, and to any persons outside the district who may be users of sewage utilities within the District by contract or agreement with the District.
10. Except as otherwise presented herein, the District Administrator shall implement and enforce the provisions of this Ordinance.

**Standards Adopted by Reference**

The district hereby adopts Minnesota Rules, Chapter 7080,7081,7082 and 7083 and the Otter Tail County Sanitation Code for Subsurface Sewage Treatment Systems as constituted and from time to time amended, except as those rules are modified by provisions of this ordinance.

**Section 3 Definitions**

**Certain Terms.**

For the purposes of this ordinance, certain terms or words used are interpreted as follows: the words “shall” and “must” are mandatory and the words “should” or “may” are permissive.

**For the purpose of this Ordinance, the certain words and phrases are defined as follows:**

1. **Permit.** “Permit” means a permit issued for the installation, replacement, repair, alteration, extension, or operation of an SSTS.
2. **Board-** means the Board of Directors , OTWMD.
3. **Commercial User-** means a user of the OTWMD sewage utilities discharging wastewater from a place of business which is distinct from residential user but includes industrial wastewater.
4. **Debt Service-**means the annualized cost for capital expenditures by the District, said cost covering the principal and interest on outstanding District loans obtained for construction of new or expanded facilities. Debt service is distinct from annual administrative, maintenance, or replacement costs.
5. **Debt Service Charge-**means the quarterly fee charged each user of the sewer utility to cover the District’s debt service for that individual user.
6. **District Administrator-**means District Administrator or his authorized agent or representative appointed by the Board of OTWMD to manage affairs of the District in the best interests of the residents of the District.
7. **District-**means the OTWMD.
8. **Maintenance-** means all labor, equipment, materials, and power required to maintain the sewage utilities sufficient for continuous, reliable service to the Districts users. Maintenance includes inspection, pumping, repairing, replacing, and overhauling all part of the septic system.
9. **National Pollutant Discharge Elimination System (NPDES) Permit-** Any permit or requirement issued by the Minnesota Pollution Control Agency (MPCA) pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.); for purpose of

regulating the discharge of sewage, industrial wastes, or other wastes under the authority of section 402 of the Act.

10. **Operation-** means all labor, equipment, materials, and power required to operate the sewage utilities on a continuous basis.
11. **Permit-** means a permit issued for new construction, replacement, repair, alteration, or extension of an individual or shared sewage treatment system, including collector systems.
12. **Residential User-**means a user whose primary purpose and use is for residential and living purposed which discharges wastes carried in the amount of approximately 75 gallons per capita per day containing approximately 270 mg/L BOD<sub>5</sub>, approximately 300 mg/L suspended solids, and approximately 16 mg/L phosphorous, consistent with that emanating from a typical household.
13. **Sanitary Sewer-**shall means a sewer, which carries sanitary waste to which storm, surface and groundwater are not intentionally admitted.
14. **Sewage Treatment Area-**means the area meeting or exceeding the onsite requirements of the OTWMD Ordinance for the purpose of soil treatment areas and future additional sites.
15. **Sewer Service Charge-**means the fee, charged to each user of the utility, which is the sum of the user charge and debt service charge.
16. **Sewer system ( system)-** means all of the parts of an onsite sewage treatment system or cluster system not including the delivery system from the structure to the downstream side of the inlet baffle of the first tank.
17. **Sewer Utility-**means a system of septic systems and wastewater treatment facilities administered and controlled by the District.
18. **User Charge (User Fee)-** means the proportionate annual fee charged to each user of the sewer utility to cover all Operation, Maintenance and Equipment Replacement (OM&R) costs incurred by the District. For the purpose of this ordinance, OM&R will be distributed proportionately among all users on the Active Maintenance Program. In addition, all costs for the administration of the system will be distributed proportionately to all users on Both Active and Passive Maintenance Programs.
19. **Users (Property Owners)-**means those places or establishments, which are connected to the sewer utility.

**Section 4 Administration**

**Subp. 1. Administrative Scope**

This ordinance shall apply and be in effect in all areas of OTWMD. The OTWMD shall be the administrator of these regulations. SSTS must be designed, constructed, and operated according to this Ordinance.

**Subp. 2. Qualifications**

SSTS, including both ISTS and MSTs, must be designed, installed, inspected, operated, repaired, and maintained by appropriately licensed businesses and certified individuals according to Minnesota Rules, Chapter 7083.0700 and any other applicable state requirements. A property owner that does not currently hold an Installation License as described in Minnesota Rule, Chapter 7083.0760 is prohibited from installing an SSTS.

**Subp. 3. Federal Regulations**

SSTS that are designed to receive sewage or nonsewage from a two-family dwelling or greater or receive sewage or nonsewage from an other establishment that serves more than 20 persons per day, are regulated by the United States Environmental Protection Agency as Class V injection wells under Code of Federal Regulations, title 40, parts 144 and 146. Code of Federal Regulations, title 40, parts 144 and 146, prescribe additional design regulations applicable to certain systems designed under this ordinance. In addition, single family dwellings that receive nonsewage wastewater are regulated by those federal regulations. All systems that receive hazardous wastes are regulated by the Environmental Protection Agency as Class IV injection wells. Disposal of hazardous waste must be according to state and federal regulations. The owner or owner’s agent of a new or replacement system classified as a Class V injection wells shall submit to the commissioner of the MPCA and the United States Environmental Protection Agency the inventory information specified in the Code of Federal Regulations, title 40, section 144.26. All Class V injection wells must be identified as such in property transfer disclosures. All septage generated from SSTS must be treated and dispersed according to applicable standards for septage in Code of Federal Regulations, title 40, part 503, and any local requirements.

**Subp. 4. Variance Procedures OTWMD**

1. Appeal Board
  - a. The Otter Tail Water Management District Board of Directors shall, hear and decide appeals and requests for variances from the requirements of this Ordinance.
  - b. The Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the administrator in the enforcement or administration of this Ordinance.
  - c. Those aggrieved by the decision of the Board, or any taxpayer may appeal such decision to the County District Court, as provided by Minnesota Statutes within 30 days after service of the decision.
2. Variance from Standards
  - a. In any case where, upon application of any responsible parties to the Otter Tail Water Management Board of Directors, it appears, that by reason of exceptional circumstances, the strict enforcement of any provision of the standards would cause unnecessary practical difficulty or that strict conformity with the standards would be unreasonable, impractical or not feasible under the circumstances, the Otter Tail Water Management District Board of Directors may permit a variance there from upon such conditions as it may prescribe consistent with the general purposes of this Ordinance and the intent of this and all other applicable State and local regulations, provided that:
    1. The condition causing the practical difficulty is unique to that property.
    2. The variance is proved necessary in order to secure for the applicant a right or rights that are enjoyed by other owners in the same area or district.
    3. The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the neighborhood.

4. The granting of the variance will not be contrary to management policies of the area or district.
5. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do, nor for any other reason than a proven practical difficulty.
6. A copy of all variances granted shall be forwarded to the Commissioner of Natural Resources within ten ( 10) days of such action.
7. The applicant for a variance shall file his application in the office of the District not less than seventeen { 17} days prior to the next scheduled meeting of the Otter Tail Water Management District Board of Directors and pay a fee as indicated on fee schedule when the application is filed.
8. Property owners within five hundred (500) feet of the property in question and the Commissioner of Natural Resources shall be given not less than fourteen {14} days written notice of the date OTWMD Board of Directors will consider the application, although failure of any property owner to receive such notification.  
shall not invalidate the proceedings. Written notice shall be given the governing body of any city or village the incorporated limits of which lie within two (2) miles of the proposed variance. Written notice shall also be given to the Town Board of the township wherein the variance is proposed.
9. A scale drawing of the land showing the location of any proposed structure and existing structures located on the property shall accompany each application for variance. The site plan shall indicate all structures, side yard, road setbacks, and lake setback distances in feet and the payment of a fee as determined in the fee schedule.
10. The Otter Tail Water Management District Board of Directors shall consider the application at its next regular meeting after compliance with the provisions of notice above specified.
11. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
12. The OTWMD District board will not grant variations described in Minnesota Rules listed in Chapter 7082.0300 Subpart 2.
13. All variances before being approved or denied must be judged based off of the listed questions below:
  - a. Is the variance in harmony with the general purposes and intent of the official Control?
  - b. Is the property owner proposing to use the property in a reasonable manner not permitted by the official control?
  - c. Is the need for a variance due to the circumstances unique to the property not created by the landowner?

- d. Will the issuance of the variance maintain the essential character of the locality?
- e. Does the need for variance involve more than just economic considerations?

**Subp. 5. Adherence to These Standards**

All SSTS installed subsequent to the adoption of this ordinance and all alterations, extensions, modifications, or repairs to existing systems irrespective of the date of original installation shall be regulated in accordance with all requirements of this ordinance.

**Subp. 6. Work Done Without a Permit**

Where work requiring a permit under this ordinance has commenced without first having obtained such permit, work shall be ordered to stop by OTWMD until all required permits have been approved and issued.

**Subp. 7. Authorized Access**

To enforce this ordinance, OTWMD may enter on to a property or place where there is reason to suspect that an SSTS is failing to protect groundwater or is an imminent threat to public health and safety.

**Subp. 8. Permit Fees**

Fees for permits, operating permits, inspections required, or services rendered under this ordinance shall be set by the OTWMD Board of Directors.

**Section 5 Compliance Criteria**

**Subp. 1. Treatment Required**

Sewage discharged from a dwelling, group of dwellings, or other establishment that is not served by a system issued a permit by the agency that contains effluent and discharge limits or specific monitoring requirements must be treated according to applicable requirements.

**Subp. 2. Compliance Criteria for New Construction**

An SSTS regulated under a current construction permit is considered compliant if it meets the applicable requirements of Minnesota Rules, Chapter 7080.2150 to 7080.2400

**Subp. 3. Compliance Criteria for Existing Systems**

- A.** To be in compliance, an existing SSTS must meet the provisions of this subpart.
- B.** The SSTS must be protective of public health and safety. A system that is not protective is considered an imminent threat to public health or safety. At a minimum, a system that is an imminent threat to public health or safety is a system with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; systems that cause a reoccurring sewage backup into a dwelling or other establishment; systems with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance hole covers. A determination of protectiveness for other conditions must be made by a qualified employee inspector or licensed inspection business.
- C.** The SSTS must be protective of groundwater. A system that is not protective is considered a system failing to protect groundwater. At a minimum, a system that is failing to protect groundwater is a system that is a seepage pit, cesspool, drywell, leaching pit, or other pit; a system with less than the required vertical separation distance described in item E; and a system not abandoned in accordance with Minnesota Rules, Chapter 7080.2500. A determination of the threat to groundwater quality for other conditions must be made by a qualified employee or licensed inspection business.

**D.** The SSTS must be operated, meet performance standards, and be managed according to its operating permit.

**E.** SSTS must have at least a three-foot vertical separation or a vertical separation in compliance with Minnesota Rules, Chapter 7080.2350, Subp. 2 Table XI. No more than 15 percent reduction in the vertical separation distance is allowed to account for settling of sand or soil, normal variation of measurements, and interpretations of the limiting layer conditions. SSTS built before April 1, 1996, in areas that are not SWF areas as defined in Minnesota Rules, Chapter 7080.1100, Subp. 87, must have at least three feet of vertical separation.

**F.** The licensed Inspection business must consult with OTWMD staff before conducting an inspection of an existing system for an SSTS built after June 1, 2018 to determine if soil separation must be considered during the inspection.

**G.** If OTWMD makes the decision per Paragraph F that MN Rule 7082.0700, Subp. 4 (B)(2) has been met and soil separation does not need to be determined and the licensed inspection business decides to conduct soil observations to determine soil separation, the licensed inspection business must contact OTWMD and schedule a time for a qualified employee with the District to conduct the soil observation alongside the licensed inspection business.

**H.** The vertical separation measurement for items D and E must be measured outside of the area of system influence in an area of similar soil. The distance that the soil observation was conducted from the soil treatment area must be represented on the site plan included with the compliance inspection form.

**I.** A compliance inspection for a system that serves an Other Establishment must include the results of a waste strength test conducted by a business holding a current license with the MPCA as a Service Provider in accordance with Minnesota Rules, Chapter 7083.0780.

**Subp. 4 Upgrade Requirements**

**A.** An existing SSTS which is found to be an imminent threat to public health and safety as described in Subp. 3 (B) must be:

- 1) Abated to no longer be an imminent threat to public health and safety within ten (10) days; and,
  - a. Repaired, replaced, upgraded or its use discontinued within 90 days: or,
  - b. Repaired, replaced, upgraded or its use discontinued by next June 1 if the system is found to be an imminent threat to public health and safety between November 15 and April 15.

**B.** An existing SSTS which is found to be failing to protect groundwater must obtain an SSTS permit within 12 months of notice and order to comply from the OTWMD and must be replaced or otherwise brought into compliance within the lifetime of the septic permit (12 months from the date of issuance).

**C.** A system that serves an other establishment that is deemed compliant, but has a waste strength test that demonstrates that the effluent exceeds waste standards set forth in Minnesota Rules, Chapter 7081.0130, Subp. 2 must:

- 1) Get an operating permit with a stipulation that the system be inspected by a service provider at a frequency reviewed and approved by OTWMD; and,
- 2) The existing system must be modified to allow for flow measurement.

3) These requirements listed above are for a compliant other establishment septic system that passes a standard compliance inspection but after testing is determined to have high strength waste.

**Subp. 5 Upgrade Requirements**

A. MSTs in compliance with this part shall be issued a certificate of compliance. Systems found not in compliance with this part shall be issued a notice of noncompliance.

B. MSTs issued a notice of noncompliance based on criteria in Minnesota Rules, Chapter 7081.0080, Subp. 3 shall be repaired or replaced in accordance with Section 4, Subp. 4 (A) of this ordinance.

C. MSTs issued a notice of noncompliance based on criteria in Minnesota Rules, Chapter 7081.0080, Subp. 4 and Subp. 5 shall be repaired or replaced in accordance with Section 4, Subp. 4 (B) of this ordinance.

D. MSTs issued a notice of noncompliance based on criteria in Minnesota Rules, Chapter 7081.0080, Subp. 6 must immediately be maintained, monitored, or managed according to the operating permit.

**Subp. 6 OTWMD Compliance Criteria**

1. Septic Compliance Inspections must be done by a Minnesota Licensed Business that is licensed for septic inspections.
2. The licensed Inspection Business must schedule an appoint for Septic Compliance Inspections for all Active Maintenance Properties in the OTWMD an appointment with the OTWMD office to meet on the property for the compliance inspection. OTWMD may be paying for the replacement system of a failed compliance inspection for Active Maintenance systems so they must be onsite at the time of the initial inspection.
3. Septic Compliance Inspections on Passive Maintenance Properties in the OTWMD must be done by a Minnesota Licensed Business that is licensed for septic inspections.
4. All septic inspections must use the Minnesota State Compliance inspection form and submit a bird’s eye view drawing of the property showing the location of the system on the property and any wells in the area.
5. The cost of all compliance inspections shall be the responsibility of the user/property owner. This cost is not covered by the annual User Fee.

**Section 6 Permits**

**Subp. 1. Permit Requirements**

No construction of a structure requiring sewage disposal shall be allowed by any local unit of government until a permit for the installation of an SSTS has been issued by the OTWMD.

**Subp. 2. Compliance Inspection of Existing System**

No additions, enlargements, improvements, or remodeling of a structure, or alterations that would affect the water use, such as bedrooms, bathrooms, or additions to living space shall be allowed until the SSTS has been determined to be both adequate in size and compliant or a permit has been issued to upgrade or replaced the SSTS to accommodate the addition. New Structures on a parcel that do not have running water, such as an accessory structure, do not require a compliance inspection on the SSTS before a permit is issued for the structure.

**Subp. 3 Permit Required**

A construction permit for an SSTS is required for the following instances:



- A.** All new installation of sewage tanks, soil dispersal and treatment areas, and components thereof.
- B.** All repair, remediation or rejuvenation, extension, replacement or modification of existing systems and components. Any part of the system not being repaired would need to pass a septic compliance inspection prior to the issuance of a repair permit.
- C.** Any change in use of a facility served by an SSTS where waste strength or flow is to increase as determined by OTWMD or a licensed designer; or,
- D.** A system being abandoned so the structure can be connected to a municipal sewage treatment facility.

**Subp. 4. Permit Application**

Permit application shall be made on forms provided by OTWMD and shall contain data, including, but not limited to the following to be considered a completed permitted application:

- A.** Correct legal description of the property, including Property Identification Number.
- B.** Site plan, drawn to scale with a north arrow, showing the location of all proposed and existing structures, property lines, water supply wells within 100 feet, terrain features, such as bluff lines, water bodies or water ways, buried utilities, easements, and other unique features of the site.
- C.** Design calculations using the most current version of the design forms furnished by the University of Minnesota.
- D.** Soil test date, including soil boring logs, percolation test data with field notes (where required) and location and identification of test area.
- E.** Plans and details of the proposed installation work, including final design.
- F.** A declaration of the number of bedrooms by the owner or owner’s agent must be on the management plan.
- G.** For other establishments, calculated or measured water use rates, occupancy and occupant load.
- H.** Where deemed necessary, a property survey may be required identifying corners and lines and other items such as elevations, contour lines, ordinary high-water levels, and ten (10) year and one hundred (100) year flood elevations as applicable.
- I.** Evidence of compliance with state or other jurisdiction regulations where applicable.
- J.** A management plan for the proposed system, as described in Minnesota Rules, Chapter 7082.0600 signed by the property owner. Active Maintenance is the management plan on all new systems unless noted otherwise on the permit.

**Subp. 5. Requirements for Permit Issuance or Denial**

No permit will be issued until a detailed system design is submitted for the current proposed construction, including site plan, a management plan, current soil observations by a licensed designer and a verification soil observation log conducted by OTWMD staff.

**Subp. 6. Permit Time Limit**

Permits shall be valid upon issuance and shall continue for a period of one (1) year. After one (1) year, the permit may be renewed if no changes are proposed for an additional 12 months. If a permit is past its expiration date, the permit will be nullified, and a new permit application must be submitted to the department for review and approval.

**Subp. 7. Permit Revocation**

Permits issued under this ordinance may be revoked upon written notice by OTWMD when such permit has been issued based on erroneous or inaccurate data supplied by the applicant or erroneous interpretation of the law by OTWMD.

**Subp. 8. Site Protection**

No permit will be issued until the proposed soil treatment and dispersal area is adequately protected from disturbance, compaction, or other damage. Final plats will not be processed for final approval until the proposed soil treatment and dispersal area on each lot is adequately protected from disturbance, compaction, or other damage by use of a protection approved by the OTWMD.

**Section 7 Operating Permits**

**Subp. 1. Operating Permit Required.**

Operating permits are required for the following systems:

- A. Type IV Systems
- B. Type V Systems
- C. All new MSTs
- D. A food, beverage, and lodging establishment on a holding tank
- E. A system that serves a food and beverage establishment after a change of ownership.

**Subp. 2. Operating Permits Issued.**

Operating permits will be issued by OTWMD.

**Subp. 3. Operating Permit Criteria**

Operating Permits must meet Minnesota Rula Chapter 7082.600 Subpart 2 SSTS Operating Permits criteria. An operating template from MPCA is available from the OTWMD office if requested that meets this criteria.

**Subp. 4. Operating Permits**

SSTS for which an operating permit has been issued, must be operated in accordance with the operating permit.

**Section 8 Inspections**

**Subp. 1. Required Inspections**

Inspections to determine compliance with this Ordinance shall be performed by OTWMD or its authorized agent in the following circumstances:

- A. Site inspections to verify and evaluate soil and site conditions and to determine the suitability of soils and system design prior to permit issuance.
- B. Compliance inspections for existing system regulations during remodeling, alterations, or additions to a dwelling or other establishment will be conducted as needed, determined by OTWMD, and overseen by OTWMD.
- C. For all new SSTS construction or replacement.
- D. Type III Systems and require a minimum of three construction inspections:
  - 1) When the disturbed soil has been removed, but prior to placement of the sand fill. Enough of the proposed sand fill must be present to be viewed.
  - 2) After placement of rock and piping, but prior to cover.
  - 3) When the system is completed.

**Subp. 2. Time of Inspections.**

Installation inspections shall be made OTWMD prior to any work being covered by backfill.

**Subp. 3. Inspection Scheduling.**

The licensed installation business shall notify OTWMD by 4:00 PM the business day before the SSTS installation is ready for inspection or reinspection. The licensed design business shall notify OTWMD by 4:00 PM the business day before for a soil verification inspection.

**Subp. 4. Work Backfilled Before Inspection.**

Work which is backfilled prior to a required inspection may be ordered to be uncovered whenever OTWMD deems it necessary to determine compliance.

**Subp. 5. Correction Orders.**

If upon inspection any part of the system is determined not to be in compliance with this Ordinance, notice shall be provided by OTWMD to the owner or owner’s agent indicating the deficiency and the required corrections. Noted deficiencies shall be properly corrected and reinspected before any other work on the project is continued.

**Subp. 6. System Placed into Service**

No system shall be replaced or placed in service until a final inspection has been completed and the system installation has been approved.

**Subp. 7. OTWMD Access.**

The owner or occupant of a property shall provide access to OTWMD or its authorized agent for the purpose of performing inspections required under this Ordinance.

**Subp. 8. As-Builts OTWMD**

As-Builts are required to be submitted by the contractor to the OTWMD office after the completion of a new installation or modification to a system. The District Administrators on-site inspection report/drawing can count as the as-built inspection if it contains all the necessary information required for an as-built and if the contractor signs off.

**Subp. 9. Compliance Inspections; Existing Systems**

**A.** A compliance inspection of an existing system must be conducted:

- 1)** Prior to the transfer of any real property, unless the existing system has been issued a Certificate of Compliance in accordance with Minnesota Rules, Chapter 7082.0700, Subp. 3 G within the last 5 years.
- 2)** When deemed necessary by OTWMD to ascertain the compliance of an existing system.

**Subp. 10. Point of Sale Inspection of Existing System**

No owner, or other person action with legal authority on behalf of an owner, of a tract of land upon which a dwelling, or a structure requiring an SSTS, shall convey to another party said tract of land, unless all of the following requirements are met:

**A.** A currently valid Compliance Inspection Form ( a certificate of compliance on a new system issued by the OTWMD office within the last 5 years or a septic compliance inspection done by a licensed professional within the last 3 years on an existing system) shall be submitted to the OTWMD with the property transfer. If a currently valid Compliance Inspection Form is not submitted to the OTWMD, the buyer shall submit a currently valid Compliance Inspection Form to the OTWMD within 30 days of the property transaction, and is responsible for any required upgrade should the system be found to be noncompliant.

**B.** An Otter Tail County Sewage Treatment System Property Transfer Form shall be signed by the buyer(s) and filed with the Otter Tail County Auditor at the time of sale or transfer of the property.

**C.** Failure to submit a currently valid Compliance Inspection Form for an Otter Tail County Sewage Treatment System Property Transfer Form shall result in any future permits for the site to be denied until a completed Compliance Inspection Form has been submitted to the OTWMD.

**D.** A Compliance Inspection Form and an Otter Tail County Sewage Treatment System Property Transfer Form is not required to be filed with the Otter Tail County Auditor’s office at the time of sale of transfer of property if any of the following conditions exist:

- 1)** The property to be transferred has no structures usable for human habitation.
- 2)** The property to be transferred has no buildings with plumbing fixtures.
- 3)** The dwelling is served by:
  - a)** A municipal sewer.
  - b)** An MSTs that meets Minnesota Rules, Chapter 7081.
  - c)** A system has a State Disposal System (SDS) permit, or a National Pollutant Discharge Elimination System (NPDES) permit.
- 4)** The sale of land is exempt from the requirements that a Certificate of Real Estate Value (CRV) be filed with the Otter Tail County Auditor’s office.
- 5)** The transfer is a foreclosure or tax forfeiture.
- 6)** The system is less than 5 years old and has been issued a Certificate of Compliance by OTWMD in accordance with MN Statute §115.55, Subp. 5.
- 7)** The system received a Certificate of Compliance from an existing system inspection within 3 years in accordance with MN Statute §115.55, Subp. 5

**E.** If transfer of real property occurs between November 15 through April 15, the buyer shall submit a Compliance Inspection Form to the County by the following June 1. The buyer is responsible for upgrading, repairing, or replacing the SSTS if the system is found to be noncompliant.

**F.** If transfer of real property occurs between April 16 and November 14 without a compliance inspection of the existing SSTS submitted to the OTWMD, the current owner must submit with OTWMD the results of a compliance inspection within 30 days of notice from OTWMD.

**Subp. 11. Periodically Saturated Soil Disagreements**

If a documented discrepancy arises in the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purpose, all disputing parties must follow the procedure outlined in Minnesota Rules, Chapter 7082.0700 Subpart 5.

**Section 9 Site Evaluation and Soil Testing**

**Minimum Size, Soil Treatment Area.**

For new subdivision or lot approval testing, a minimum of three soil observations must be conducted to ensure that an enough area exists for a primary and secondary soil treatment area. This tested area must be a minimum of 5,000 square feet. On previously platted lots that have not been developed, enough area of suitable soil must be identified for two Type I soil treatment and dispersal areas. Percolation tests are not required for subdivision or lot approval testing unless the permeability cannot be estimated or there is reason to believe the soil is not original soil or has been disturbed.

**Section 10 Sewage Flow Determination**

**Subp. 1. Design Flow.**

The estimated design flow for any dwelling must provide for at least two bedrooms. The minimum flow rate for each non-dwelling served by an SSTS is 150 gallons per day.

**Subp. 2. Design Flow for Dwellings**

The design flow is determined by multiplying the number of bedrooms by 150 gallons per day.

**Section 11 Final Treatment and Dispersal****Subp. 1. Setbacks**

- A. This provision only applies to a lot that meets all the following:
  - 1. The lot is a substandard lot that was created before October 15, 1971;
  - 2. The lot currently has a dwelling that was built before April 1, 1996; and,
  - 3. There is insufficient area to meet setbacks in Table 1.
- B. For a lot that meets the conditions in Paragraph A of this subpart
  - 1) The setback to a building or structure for a sewage tank or soil treatment and dispersal area shall be the greatest distance possible, by meeting all other setback requirements, and in no case less than 50% of the setback distance listed for a building or structure in Table II.
  - 2) The setback to a road right-of-way for a sewage tank or soil treatment area shall be the greatest distance possible, by meeting all other setback requirements, and in no case less than 50% of the setback distance listed for a road right-of-way in Table II.
  - 3) The setback from the OWHL of a lake listed in Appendix A of the Otter Tail County Shoreland Management Ordinance or a river in Appendix B of the Shoreland Management Ordinance for a sewage tank or soil treatment area shall be the greatest distance possible, by meeting all other setback requirements, and in no case less than fifty (50) feet from the OHWL.
  - 4) The setback to a property line for a sewage tank only shall be the greatest distance possible, by meeting all other setback requirements, and in no case less than 50% of the setback listed for a tank to a property line in Table 1.
- C. No part of the required berming for an above-ground soil treatment area can be closer than 50% of a required setback in Table II.
- D. The OTWMD office has discretion over the application of this exemption.
- E. This provision cannot be used for a property that tears down and rebuilds an existing dwelling.
- F. The property owner must request the application of this provision.
- G. A written agreement between the road authority and the property owner, signed by both parties, must be obtained prior to the application of this exemption regarding the setback to a road right-of-way.
- H. A survey of the property conducted by a licensed surveyor may be required.

Table 1. Minimum Setback Distances (Feet)

Feature	Sewage & Holding Tank & Sealed Privy	STA & Unsealed Privy
Water Supply well less than 50 ft deep & no encountering at least 10 ft of impervious material	50	100
Any other water supply well	50	50
Buried pipe distributing water under pressure	10	10
Occupied buildings and buildings with a basement or crawl space	10	20
Non-occupied structures, decks, footings	10	10
Top of Bluff	30	30
Property Line	10	10
Road Right-of-Way	10	10
Ordinary High-Water Level		
Natural Environment Lake	150	150
Recreational Development Lake	75	75
General Development Lake	50	50
Transition River Segments	100	100
Urban & Tributary River Segments	75	75
Agricultural River Segments	75	75

\*Setbacks from lakes, rivers and streams are governed by Minnesota Rules, Chapter 6105 and 6120

**Subp. 2. Methods to Determine Soil Hydraulic Loading Rates**

The system's absorption area and mound absorption ratio must be sized according to Table IX or IXa of Minnesota Rules, Chapter 7080.2150

**Section 12 Type II Systems**

**Subp. 1. Systems in Floodplains**

SSTS in floodplains must meet Minnesota Rules, Chapter 7080.2270

**Subp. 2. Holding Tanks**

Holding tanks must meet Minnesota Rules, Chapter 7080.2290 and are allowed in any of the following situations in OTWMD:

- A. A recreational camping unit (RCU)
- B. Non-dwelling
- C. For an Other Establishment-Including Common Interest Community Properties

**Subp. 3. Maintenance Contract**

The owner of a holding tank must provide OTWMD with a contract signed by the owner and a licensed maintenance business to provide maintenance services when needed, except as specifically exempted under Minnesota Statute §115.56, subdivision 2, paragraph (b), clause (3). The contract must guarantee the removal of the tank contents before overflow or any discharge.

**Section 13 Type III Systems**

A Type III System, as described in Minnesota Rules, Chapter 7080.2300, may be used on a previously developed site only when a Type I system cannot be installed. The OTWMD has the ability to make the final decision of whether a type 3 system can be installed on the property.

## Section 14 Type IV & Type V Systems

A Type IV or Type V System, as described in Minnesota Rules, Chapter 7080.2350 and 7080.2400, respectively, may be used on a previously developed site only when a Type I or Type II system cannot be installed or is not the most suitable treatment. Type IV Systems may be allowed for an undeveloped lot only when two Type I soil treatment and dispersal areas as described in Section 8 have been identified on the lot in addition to the area utilized by the Type IV soil treatment and dispersal area.

## Section 15 OTWMD User Fees

### 1. Administration Fees

Each user in the district shall pay an administration fee determined by the Board annually and billed annually. The administration shall be the user's proportionate share of the district's annual administrative expense and shall be based upon all relevant factors including the user's category, type of system, number of units (such as cabins, campgrounds, sites) type of activity conducted on premise (such as residence, restaurant, resort) and any factors determined relevant by the Board. The user fee for the district shall be available for inspection and review at the district office. The user fees will be placed on each homeowner's property tax statement and will be paid along with the property taxes each year.

### 2. Active Systems

- a. Active Maintenance Systems are charged depending on the type of septic system that is located on the property. The OTWMD Board of Directors sets a user fee each year that covers the maintenance/repair/replacement of the septic system.

### 3. Passive Systems

- a. Passive Maintenance Systems are charged an Administration Fee set each year by the OTWMD Board of Directors. This fee is charged for being within the jurisdiction of the OTWMD. All costs of replacement/repair/maintenance is the sole cost of the property owner. The district can assist in troubleshooting and record keeping but any cost to the system is the responsibility of the property owner.

### 4. Commercial Users

- a. The assessment of the User Fee attributable to commercial users of the sewer utility shall be based upon the number of units connected and the type of service provided such as drain field, cluster, mound.

### 5. Notification of User Fee Changes to Property Owners

- a. At least annually, following the approval of the user charges by the Board, the website [www.otwmd.org](http://www.otwmd.org) will be updated to notify the property owners in the district of the updated user fee prices for their properties.

## Section 16 Maintenance

### Subp. 1. Management Plan Required

All new and replacement SSTS must be operated in accordance with Minnesota Rules, Chapter 7082.0600.

### Subp. 2. General

SSTS and all components must be maintained in compliance with Minnesota Rules, Chapter 7080.2450 and manufacturer requirements.

**Subp. 3. Reporting**

A completed pumping record must be provided to the OTWMD office within 90 days of the maintenance activity. A completed pumping record is provided to the OTWMD by November 1<sup>st</sup> of each year after the completion of pumping out the Active Maintenance Properties by the contractor hired to do the work by the District.

**Subp. 4 Active and Passive Maintenance OTWMD**

**Active Maintenance**

1. For those properties on the active maintenance program, the District shall be responsible for operating and monitoring the system. This will include all normal repairs to pumps, control, tanks, sewers drain fields and tank pumping. Properties that are connected to a system with a lift station are responsible for the delivery of the effluent to the lift station. The owner of an active system shall be responsible for all costs incurred by the District for the enlargement or relocation of the system done for the convenience of the owner. The owner of an active system is responsible for the delivery system for the sewage, i.e., from the structure to the downstream side of the inlet baffle of the first tank. The property owner will be responsible for providing and paying for the electrical power for running the system. The property owner shall report all problems to the district who will arrange to alleviate the problems at no additional cost to the property owner. Damages caused by the abuse of the system by the property owner will be repaired by the District, but are the responsibility of the property owner, and shall be assessed against the property owner. The District will provide all normal scheduled maintenance and keep records. Freeze ups are the owner's responsibility.
2. Properties under active maintenance may not convert to passive maintenance at any time, including new owners of a property that is on the active maintenance program.
3. All new systems must be placed onto the active maintenance program.

**Passive Maintenance**

1. For those properties on the passive maintenance program the property owner shall be responsible for its operation and maintenance. This will include repairs to pumps, controls, tanks, sewers, drain fields, and the pumping of the sewage tanks. The property owner shall report to the District all problems and the steps taken to alleviate such problems. The District shall notify the passive system owner on a regularly scheduled basis by sending a letter to the passive system property owner recommending pumping when maintenance is due and shall monitor the actions taken by the property owner to maintain the system.
2. The owner of passive maintenance property may only convert to an active maintenance property if the septic system is updated at the time of conversion.
3. All new systems must be placed onto the active maintenance program.

**Subp. 5 Operation and Maintenance OTWMD**

1. All systems shall be operated and maintained in good working order and in accordance with the ordinances of the District, Otter Tail County, Minnesota Rules Chapters 7080 through 7083, and the rules adopted by the Board.
2. A system shall be inspected if it is older than 5 years or it has been 3 years or more since its last compliance inspection. The inspection shall be done by a licensed MPCA Inspection Business or qualified employee. If a system is in compliance as indicated by the Certificate of Compliance issued by the Otter Tail Water Management District within



- the last 5 years on new installations or within the last 3 years on existing systems the system passes a septic compliance inspection, no inspection shall be required.
3. All systems on active maintenance will be pumped on a three-year rotating basis and by judgement of the district administrator. Roughly one-third of the district active systems will be pumped each year. At the time of the pumping the tank will be examined by the contracted pumper, along with the pump and float controls if they are present. Any issues will be brought to the attention of the district administrator for correction.
  4. All systems on passive maintenance will have a pumping letter sent to them every three years on a rotating basis, recommending them to have their septic tanks pumped. One-third of the passive properties in the district will receive this letter each year. This letter can be returned to the district with the maintainer information and date the system was pumped for record keeping purposes. If pumping/inspection reveals needed maintenance, it is up to the homeowner to have that work done at their cost. If the district has to get the maintenance work done on a passive system, the homeowner will be charged by the district. The district reserves the right to inspect and maintain at any time any sewer system under its jurisdiction.
  5. If a property discharges larger amounts of water or contaminants into the system than it was designed for, the owner shall pay all costs incurred to normalize the system. If additional discharge becomes normal and the system must be modified or extended, the owner shall pay all costs to expand or modify the system to meet District requirements for proper sewage treatment.
  6. If a system is determined to be an imminent threat to public health, it must be abated within 10 days to stop the imminent threat to public health. This system must be updated within 90 days. If a system is failing to protect the groundwater, said system shall be brought into compliance by having a permit issued for the replacement system within 12 months of notice from the OTWMD office of non-compliance and then the system must be brought back into compliance by the time that permit expires (12 months from the date of issuance).
  7. The District during active maintenance inspections, repair work, new installations where the tanks are reused have the authority to bring all or any manhole covers to surface at the time of this work. This work will be done at the discretion and timeliness of the District Administrator and or Board of Directors. On all new installations of septic tanks and lift stations the manhole covers must be brought to ground level for access for repair and maintenance.
  8. Pumping Schedule for Active and Passive Maintenance Properties
    - a. **Active Maintenance Systems**
      - i. Pumped on a 3-year rotating basis.
    - b. **Passive Maintenance Systems**
      - i. Letter sent out to homeowners on a 3-year rotating basis recommending that they pump out the septic tanks.

**Section 17 System Abandonment and Septic System Back Up**

1. All systems with no future intent for use must be abandoned according to Minnesota Rules, Chapter 7080.2500

2. All building drains that have had a prior back-up event shall have a backwater valve installed at the owner's expense and it shall be the owner's responsibility to see that the backwater valve is kept clean and workable. The District will assume no liability for any damages resulting from backup.

**Section 18 Vacation Home Rentals in OTWMD**

All Vacation Rentals within the OTWMD Jurisdiction must meet all the district standards. OTWMD will provide the designated licensing authority with the permitted design flow per day to determine maximum occupancy. The additional soil treatment area capacity as required by OTWMD will not be included in the allowable permitted design flow that is provided to the designated licensing authority. Any advertisement or rental of this property that exceeds the maximum occupancy will void the active maintenance plan and the homeowner will be responsible for all repairs, maintenance, and replacement of the system.

**Section 19 OTWMD Standards that Differ from Otter Tail County**

1. Septic Soil Treatment Areas in the OTWMD are required to be sized one bedroom larger than Minnesota Chapters 7080-7083 require. This does not change the classification of that property to make the septic system sized appropriately for that one-bedroom size larger.
2. Septic tanks must be tanks in series or a 2-compartment septic tank in the district. This is mandatory on any new installations or when a tank in a septic system fails a compliance inspection. If the septic tank on an existing passes a compliance inspection it may be reused if sized appropriately until that tank fails. Then it must be updated to meet this requirement.
3. Septic/Lift tanks must be made of concrete in the District unless approved by the District Administrator before installation.
4. The OTWMD only allows septic chambers and appropriately sized drainfield rock that are registered product with the MPCA for the soil treatment area. Any other product used must be approved by the District Administrator And be on the list of approved products from the MPCA.
5. All parts of a sewer system in the District on new installations must be marked with tracer wire.
6. Any costs incurred by the District to obtain an easement for the proper installation of a septic system shall be the responsibility of the owner.
7. Any cost incurred by the District to move a well for the placement/installation of a septic system shall be the responsibility of the owner.
8. Holding Tanks Criteria for Non-Dwellings, Other Establishments and Recreational Camping Unit (RCU)
  - i. Holding tanks are prohibited (not allowed on dwellings) in the OTWMD unless one of these conditions are met:
  - ii. Holding tanks for non-dwelling structures are allowed. It is the responsibility of the property owner to have holding tanks pumped by a licensed maintainer. The district is not responsible for the maintenance and replacement of holding tanks for non-dwellings. Holding tanks are not allowed for dwellings. Holding tanks must be a minimum size of 1500 gallons and be two compartments in the event that a drainfield is ever added in the future. The non-dwelling structure must

meet the criteria for a non-dwelling outlined in the Otter Tail County Shoreland Ordinance.

- iii. Other Establishment- in place of installing a full septic system other establishments as defined by Minnesota Rule 7081 may choose to install holding tanks. These holding tanks would be placed on passive maintenance and be the responsibility of the owner for pumping and maintaining the system. This exemption includes Common Interest Communities.
- iv. Recreational Camping Units (RCU)- in place of installing a full septic system a RCU may install a holding tank. If a dwelling is ever built on the property a full septic system must be installed. This property would remain on the passive maintenance program and the property owner would be responsible for the pumping and maintenance of the holding tank.
- v. All holding tanks are placed on the Passive Maintenance Program and are the sole responsibility of the property owner.

**Section 20 Product Registration and approved products for OTWMD**

- 1. All product registration shall be in accordance with Minnesota Rules, 7083.4000 to 7083.4120
- 2. The OTWMD only allows septic chambers that are registered product with the MPCA or drainfield rock for the septic drainfields. Any other product used must be approved by the District Administrator and be on the approved products list from the MPCA.
- 3. Septic/Lift tanks must be made of concrete in the District unless approved by the District Administrator before installation.
  - 1.Reasons for being able to use plastic tank-concrete tanks are in short supply and or tank delivery trucks cannot reach the area of the tank installation on the property.

**Section 21 Enforcement**

**Subp. 1. Misdemeanor**

It is hereby declared unlawful for any person, firm, or corporation to violate any term or provision of this Ordinance. Any violation of this Ordinance shall be a misdemeanor. Each day that a violation is allowed to continue shall constitute a separate offense.

**Subp. 2. Corrective Actions Required**

In the event of a violation or threatened violation of this ordinance, OTWMD may institute appropriate civil actions including, but not limited to, a request for injunctive relief to prevent, restrain, correct, or abate such violations or threatened violations. In addition, written notice in the form of a license complaint may be made to the Commissioner of the Minnesota Pollution Control Agency.

**Subp. 3. Public Health Nuisance Control**

In cases where a public health nuisance has been determined to exist, OTWMD may institute enforcement action under the Local Public Health Act, Minnesota Statute §145A.

**Section 22 Separability**

It is hereby declared to be the intent that the several provisions of this regulation are separable in accordance with the following:

If any court of competent jurisdiction shall adjudge any provision of the regulation to be invalid,

Such judgement shall not affect other provisions of this regulation not specifically included in said judgement. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this regulation to a particular property, building or structure, such judgement shall not affect the application of said provision to any other property, building or structure not specifically included in said judgement.

**Section 23 Repeal**

OTWMD Sanitation Code for Subsurface Sewage Treatment Systems, as adopted by the OTWMD Board on July 8<sup>th</sup>, 2020, is hereby repealed, and replaced with this Ordinance.

**Section 24 Effective Date**

The regulations contained in this Ordinance shall become effective on TBD upon passage by the OTWMD Board and Otter Tail County Board and publication according to law.

Passed by the OTWMD Board of Directors, this TBD.

Passed by the Otter Tail County Board of Commissioners, this TBD.