

300 GENERAL

301 APPLICATION OF THIS ORDINANCE

301.1 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 governing body and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

301.2 Conflicting Regulations

- A. Whenever any provision of this Ordinance is found to be in conflict with the provisions of any other city Ordinance, the Ordinance containing the more restrictive requirements shall govern.
- B. Where a lot or parcel lies partially within and partially outside the shoreland as defined herein, then, for that portion lying within the shoreland, the provisions of Sections 1200-2200 of this Ordinance shall apply. For that portion lying outside the shoreland, the provisions of Section 2300 of this Ordinance shall apply.
- C. Where a lot in the shoreland zone lies in an area where two lake classifications overlap, lot standards shall be determined as follows:
 - 1. Riparian lots shall be subject to the standards for the lake or river that they abut.
 - 2. Non-riparian lots shall be subject to whichever standards are more restrictive.

301.3 Severability

- A. General application. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically in said judgment.
- B. Specific application. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, use, building, or other structure, such judgment shall not affect the application of said provision to any other property, use, building or other structure not specifically included in said judgment.

301.4 Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

302 RULES OF CONSTRUCTION

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The word "shall" is mandatory and the word "may" is permissive.
- B. Whenever a word or term defined hereinafter appears in the text of this Ordinance its meaning shall be construed as set forth in such definition.
- C. All setback distances are expressed in feet and measured horizontally.

303 ISTS UPGRADE ON CONVEYANCE OF PROPERTY

- A. Any individual sewage treatment system located on real property lying within the City of Chickamaw Beach shall be brought into compliance with the requirements of the current individual sewage treatment systems(ISTS) standard promulgated by the Minnesota Pollution Control Agency (MPCA) in Minn. Rules, Chapter 7080, hereinafter known as "Chapter 7080", upon conveyance of said real property.
- B. Prior to the conveyance of any real property, the seller must disclose in writing to the buyer information about the status and location of all known ISTS on the property by delivering to the buyer either a sworn affidavit by the seller that no ISTS exists on the property to the best of their knowledge after diligent investigation, or a certificate of compliance or notice of non-compliance meeting all provisions of Chapter 7080 being the result of a compliance inspection conducted by a Minnesota state registered inspector holding a Designer I or Inspector Certification. A certificate of compliance (certificate of compliance) or notice of noncompliance (notice of noncompliance) meeting all provisions of Chapter 7080 must be submitted to the Cass County Environmental Services Department and the seller within 30 days after the compliance inspection.
- C. If the seller fails to provide a Certificate of Compliance, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a complying ISTS. The security shall be placed in an escrow with the Department. The amount escrowed shall be equal to 150% of a written estimate to install a complying ISTS provided by a licensed and certified installer, or the amount escrowed shall be equal to 110% of the written contract price for the installation of a complying ISTS provided by a licensed and certified installer. After a complying ISTS has been installed and a certificate of compliance issued, the Cass County Environmental Services Department shall provide the escrow agent a copy of the certificate of compliance.
- D. Liability for Failure to Disclose: Unless the buyer and seller agree to the contrary in writing before the closing of the sale, a seller who fails to disclose the existence of an individual sewage treatment system at the time of sale and knew or had reason to know of the existence of an individual sewage treatment system is liable to the buyer for costs relating to bringing the individual sewage treatment system into compliance with the provisions in Chapter 7080 of the Minnesota Rules , and reasonable attorney's fees for collection of costs from the seller, if the action is commenced within two (2) years after the date the buyer closed the purchase of the real property where the individual sewage treatment system is located. Said civil liability shall in no way impair a criminal prosecution for the same violation.
- E. An individual sewage treatment system not meeting the requirements of Chapter 7080 must be upgraded to meet the standards of Chapter 7080 prior to the issuance of any City of Chickamaw Beach land use permit.
- F. All property conveyances subject to this Ordinance occurring during the period between November 15th and April 15th when ISTS compliance cannot be determined due to frozen soil conditions shall require a winter agreement, which includes an application for an ISTS permit and an ISTS Compliance Inspection Agreement. The compliance inspection must be completed by following June 1st by a state-licensed compliance inspector. If upon inspection the ISTS is found to be in

compliance, the permit fee will be refunded. If upon inspection the system is found to be failed, an escrow agreement must be established in accordance with section C, above, and the system must be upgraded.

304 VESTED RIGHTS

Nothing in this or any referencing Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district land use classification or any permissible activities therein, and they are hereby declared to be subject to subsequent amendment, change, or modifications as may be necessary to the preservation or protection of the public health, safety and general welfare.