

REVISED McDONALD COUNTY WASTEWATER TREATMENT SYSTEM ORDINANCE

AN ORDINANCE GOVERNING THE CONSTRUCTION, MODIFICATION, INSTALLATION, AND OPERATION OF WASTEWATER TREATMENT SYSTEMS WITHIN THE COUNTY, REQUIRING CERTAIN PERMITS AND QUALIFICATION, AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

SECTION 1. AUTHORITY. This ordinance is enacted pursuant to Section 192.e300, RSMo 1986, which provides, in part as follows: The county commissions and the county health center boards of the several counties may make a promulgate orders, ordinances, rules or regulations respectively, and will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable, or dangerous disease into such a county, but any orders, ordinances, rules, or regulations shall not be in conflict with any rules or regulations authorized and made by the Department of Health in accordance with this chapter or by the Department of Social Services under Chapter 198 RSMo.

SECTION 2. APPLICABILITY. These regulations apply to all wastewater treatment systems in the county. Regulated wastewater treatment systems operated by or on behalf of an incorporated municipality are exempt from this ordinance.

SECTION 3. DEFINITIONS. The following words and phrases included in this ordinance shall have the following meanings:

3.01 Addressing System: A method of keeping information needed by the Health Department as stated in the specifications and rules adopted under this ordinance.

3.02 Aggrieved Party: A person who has a legitimate cause for concern for their health caused by a nuisance, an imminent health hazard or environmental hazard such as surfacing sewage effluent, sewage effluent not contained on the property, environmental contamination of surface or groundwater, direct contamination of well or other conditions deemed as a potential health hazard by the Health Department.

3.03 Approved Tank: Any tank approved by the Health Department. Metal tanks are not allowed.

3.04 As-Installed Drawing: A drawing, with the installer's signature, showing how the wastewater treatment system was installed.

3.05 As-Repaired Drawing: A drawing, with the installer's signature, showing the repairs made to the wastewater treatment system.

3.06 Board of Appeals: Board of Appeals as defined in Section 12.

3.07 Governing Board: The McDonald County Commission.

3.08 Contractor: Any person building a house or a building for the purpose of selling, renting, or leasing.

3.09 County Operating Permit: A permit issued by the McDonald County Health Department under Section 6 of this ordinance.

3.10 Easements: A legal right held by one person to make use of the land of another, specifically, the agreed-to right of a homeowner to use the land of someone else for a portion of their wastewater treatment system. In general, the wastewater treatment system shall be on the property owned by the person owning the system. However, easements may be necessary at times and may be obtained permitting the use and unlimited access for inspection and maintenance of all portions of the system with voluntary agreement of the adjoining landowner. Easements shall remain valid as long as the system is required and shall be recorded with the County Recorder of Deeds. Wastewater treatment systems installed under easements shall comply with the requirements of the ordinance.

3.11 Emergency Condition: A condition of such extreme nature which presents an immediate danger to public health, requiring immediate correction without the necessary time to apply for the required permit as set forth herein.

3.12 Existing System(s): An existing system is a wastewater treatment system that has been installed prior to 1996 and is not currently in the county permit process.

3.13 Existing System(s) in conjunction with rebuilding or replacing structures: A wastewater treatment system that had been in use at the time the home or structure was destroyed.

3.14 Health Department: The McDonald County Health Department.

3.15 Health Hazard: Any condition which is known to cause disease or harm to a person, community, or the environment, now, or in the future.

3.16 Health Officer: An authorized representative of the McDonald County Health Department appointed by the county commission.

3.17 Homeowner: Any person(s) who owns and occupies the house for the purpose of residence there. Any person may obtain a homeowner installation permit for one (1) home within a two (2) year period.

3.18 Imminent Health Hazard: A nuisance which is likely to cause an immediate threat to life or a serious risk to the health, safety, and welfare of the public if immediate action is not taken, and/or a condition resulting when a wastewater treatment system has failed and may be contamination the surface water or groundwater or causing a nuisance and is likely to cause threat to life due to prolonged exposure. For purposes of the definition, prolonged exposure is defined as the amount of time given for correction of the violation.

3.19 Installer: Any person excavating the land for the purpose of, or with the intent to, installing, modifying, repairing, or replacing a wastewater treatment system.

3.20 Notice of Non-Compliance: A written notice issued by the Health Officer if a wastewater treatment system has not been installed according to the minimum standards of this ordinance, has failed and is creating a nuisance, or has been installed with a variance requiring a specific procedure or specific equipment with is no longer functioning as permitted.

3.21 Nuisance: Sewage, human excreta, or human organic waste discharged or exposed to the owner's land or any other land from a wastewater treatment system, a regulated wastewater treatment system or a component of a wastewater system, in a manner that makes it a potential instrument for the breeding of flies and mosquitoes, the production of odors, or the transmission of disease to or between a person or persons, or which contaminates surface water or groundwater.

3.22 Permit: A written authorization issued by the McDonald County Health Department which authorizes the permittee to construct, install, modify, repair, or operate a wastewater facility as set forth in this ordinance.

3.23 Person: An individual, corporation, or other legal entity.

3.24 Regulated Wastewater Treatment System: A method of handling or receiving wastewater with a flow of more than 3,000 gallons per day and which is regulated by the Missouri Department of Natural Resources.

3.25 Site Evaluation: An evaluation to determine soil conditions (properties and permeability), slope, existence of lowlands, surface depressions, rock outcrops and sinkholes, set back distances, depth of water table, location of easements and underground utilities, amount of available area for installations and/or replacement of wastewater treatment systems, location of dwellings, runoff water potential, and any potential for significant groundwater contamination.

3.26 Special Use Permit: An allowance to install or repair a wastewater treatment system for a specified limit of time on special terms and conditions other than those granted under a variance. A special use permit may be granted by the Health Officer on a case by case basis upon written application by the homeowner.

3.27 Stop Order: A written order issued by the Health Officer to stop all construction, installation, modification, or operation of a wastewater or regulated wastewater treatment system.

3.28 Wastewater: Any domestic or commercial water-carried waste including, but not limited to, waste produced by bathing, laundry, food preparation or processing, warewashing, toilets, sinks, or floor drains.

3.29 Wastewater Treatment System: A method of handling or receiving wastewater which serves a dwelling(s) or other establishment(s) with a daily flow of 3,000 gallons per day or less.

3.30 Variance: An allowance to install or repair a wastewater treatment system when the requirements for setback distances, minimum areas for infiltrative surface, or the minimum distance between the infiltrative surface and restrictive feature or bedrock cannot be complied with. A variance may be granted by the Health Officer upon written application by the homeowner on a case by case basis. A variance cannot be granted on lots platted after January 1, 1996.

SECTION 4. PROHIBITIONS. No person shall:

4.01 Construct, install, or modify any wastewater treatment system without the permit required herein.

4.02 Construct, install, or modify any wastewater treatment system when the permit has expired, or has been suspended or revoked.

4.03 Fail to comply with a STOP ORDER or NOTICE OF NON-COMPLIANCE issued pursuant to this ordinance.

4.04 Construct, install, modify, or operate any wastewater or regulated wastewater treatment system in violation of this ordinance or a violation of any construction, modification, or operation permit issued by the Missouri Department of Natural Resources or any other Federal or State Agency.

4.05 Live, work, or assemble in any building or assemble at any public gathering place for six (6) or more hours in duration where sanitary disposal of all wastewater and human excreta is not provided by methods or devices approved by the Health Department. It shall be the responsibility of the property owner to comply with this section.

4.06 Operate a wastewater or regulated wastewater treatment system or transport and dispose of septage removed therefrom, in such a manner that may result in the contamination of surface water or groundwater, or present a nuisance or imminent health hazard to any person or property owner, and that does not comply with the specifications adopted under this ordinance.

4.07 Knowingly allow an existing or newly constructed wastewater or regulated wastewater treatment system to violate any portion of this ordinance, or specifications and rules adopted under this ordinance, or present a nuisance or health hazard as defined in this ordinance.

4.08 Remove, deface, destroy, damage, or alter any sign, notice, or order posted by the Health Officer.

4.09 Install an electric meter loop and/or meter (permanent power) to serve a new commercial, residential, or mobile structure until clearance for such installation has been received in written form from McDonald County Health Department. Such clearance will be issued to the electrical utility upon issuance of a permit for on-site sewage septic.

All temporary meter loop installations shall be reported by the utility to the Department within seven (7) working days after installation. Temporary meter loops shall not supply electricity to mobile home, prefabricated buildings, etc. moved in as a residence or commercial facility.

SECTION 5. PERMIT TO INSTALL.

5.01 Any person engaged in construction, installation, or modification of any wastewater treatment system shall obtain a permit from the McDonald County Health Department.

5.02 The applicant shall provide the information needed as stated in the rules and regulations for this county.

5.03 Wastewater treatment systems shall be approved as to the type, design, and capacity of system by the Health Department prior to issuance of the permit to install in accordance with the current MODOH 19CSR 20.060, Missouri Clean Water Act, and the specifications and rules adopted under this ordinance.

5.04 Wastewater treatment systems shall be constructed by an installer registered by the Health Department, except as specified in Section 7.03.

5.05 The permit application shall be signed by the homeowner or representative and the installer.

5.06 Any applicant knowingly providing false information on the application shall be in violation of this ordinance.

5.07 The system shall be constructed according to the Permit to Install.

5.08 A written request for a variance or a special use permit must be submitted by the homeowner.

SECTION 6. OPERATIONS OF SYSTEMS.

6.01 Applicability. This section shall apply to any wastewater treatment system installed under a permit issued by the Health Department where a variance was issued contingent with the proper operation and maintenance of the installed system or any regulated wastewater treatment system.

6.02 Issuance and renewal of operating permits for wastewater treatment systems will be based on the following requirements:

6.02(1) Maintenance Records

6.02(2) Current mechanical operating condition

6.02(3) Absence of any substantiated complaints received at the Health Department about malfunctioning of the system.

6.03 Issuance and renewal of operating permits for regulated wastewater treatment systems will be based on the following requirements:

6.03(1) Operation in accordance with all requirements of the Missouri Department of Natural Resources.

6.03(2) Absence of nuisance or imminent health hazard caused by operation of the system.

6.04 Operating permits may be revoked only when operation of the system presents an imminent health hazard.

SECTION 7. REGISTRY OF PERSONS AND BUSINESSES ENGAGED IN WASTEWATER TREATMENT SYSTEMS PROJECTS.

7.01 Every person engaged in the design, construction, installation, or modification of wastewater treatment systems, sale or manufacturing of tanks, tank cleaning, or evaluation of existing on-site disposal systems, must be registered with the Health Department.

7.01(1) Lists of persons so registered shall be provided. This list(s) will show the category under which the person is registered:

- (A)** Basic system installer
- (B)** Advanced system installer
- (C)** Suspended or Revoked registrations
- (D)** Soil Evaluator
- (E)** Inspector/Evaluator
- (F)** Tank Cleaner

7.01(2) Tank suppliers shall provide a list to the Health Officer of all tanks purchased for installation in this county. The list shall be provided on a monthly basis.

7.02 The Health Officer may adopt specifications establishing qualifications and minimum standards of experience and knowledge for persons desiring to register under this ordinance.

7.03 A homeowner may install the wastewater treatment system serving their own residence once the homeowner demonstrates proper knowledge of installing such system. The system must meet all permit requirements.

7.04 An applicant shall demonstrate thorough knowledge of the Health Department's minimum standards for construction of wastewater treatment systems. The applicant is required to complete a refresher training program annually as provided by the Health Department or the State.

7.05 An installer shall be registered specifically for construction of advanced systems. The applicant is required to complete refresher training program annually as provided through the Health Department or hold a current State license.

7.06 An applicant shall be able to guarantee the workmanship and materials on all installations for one (1) year.

7.07 An applicant providing false information or failing to comply with any and all regulations, rules, orders, and decisions of the Health Department relative to the type of systems installed, constructed, or maintained shall be subject to suspension of license or probation.

7.08 An applicant installing any system without the proper permit shall be subject to suspension of license or probation.

7.09 An applicant shall provide any and all installation or construction data requested by the Health Department and shall maintain complete and accurate records of each installation or repair for a period of not less than one (1) year.

7.10 An applicant shall report promptly to the Health Officer any conditions not in accordance with the permit.

7.11 Any person whose application for registration under this section has been denied will be notified in writing as to the reasons for denial, and said person may appeal pursuant to Section 12 of this ordinance.

7.12 Whenever the County Health Officer determines that a holder of a valid registration under this section has violated any provision of this ordinance, or any provisions, rules, or regulations adopted by the County Commission, the Health Officer may recommend to the Commission that said registration be suspended or revoked. If the Commission finds that the Health Officer's recommendation has merit and the findings are supported by the County Commission, then a hearing will be scheduled on the proposed suspension or revocation after giving the said holder not less than ten (10) working days of said hearing. Any person aggrieved by the decision of the Health Officer may appeal to the board of Appeals as stated in Section 12.02.

SECTION 8. TANK CLEANING STANDARDS.

8.01 Inspection of equipment and dumping site. The Health Officer shall inspect or cause to be inspected the equipment and dump site of any Registered Tank Cleaner for the purpose of determining if the equipment and dump site are in good operating condition, and if the same are being operated and maintained in a sanitary and healthful manner, and in compliance with this ordinance. The discharge of wastewater or septage from the tank truck shall be accomplished by the use of hoses and connections that are approved by the Health Department. An inspection of the dump site will be conducted at the time of registration and periodically as the Health Department deems appropriate.

8.02 The property owner of the dumping site and the Registered Tank Cleaner shall have an agreement, on file with the Health Department, to use the property as a wastewater disposal site, and said dumping site shall be approved by the Department of Natural Resources and the McDonald County Health Department for proper wastewater disposal. The Registered Tank Cleaner must use one of the following methods for disposal:

8.02(1) Land application permitted by Department of Natural Resources.

8.02(2) Lagoon permitted by Department of Natural Resources.

8.02(3) Discharge in municipal treatment plant permitted by the Department of Natural Resources.

SECTION 9. POWER AND AUTHORITY OF INSPECTORS.

9.01 The Health Officer, bearing proper credentials or identification, shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance.

9.02 The Health Department and Health Officer shall have the power and duty to:

9.02(1) Adopt specifications regarding wastewater treatment systems as are necessary to carry out provisions of this ordinance.

9.02(2) Adopt procedural rules regarding the administration of the provisions of this ordinance.

9.02(3) Cause investigations to be made when a violation of any provision of this ordinance or the specifications and rules adopted under this ordinance is reported to the Health Department

9.02(4) Enter at reasonable times, after receiving a complaint an determining probably cause that a violation exists, upon private or public property for the purpose of inspecting and investigating conditions relating to the administration and enforcement of this ordinance and the rules and regulations promulgated under this ordinance.

9.02(5) Authorize the trial or experimental use of innovative systems for wastewater treatment with such conditions as the Health Department may set.

9.02(6) Issue a "Notice of Imminent Health Hazard" when any of the conditions defined in Section 3.18 exist.

SECTION 10. STOP ORDER, NOTICE OF NON-COMPLIANCE.

10.01 A STOP ORDER may be issued by the Health Officer when a wastewater or regulated wastewater treatment system is causing an imminent health hazard as declared by the Health Officer.

10.02 A NOTICE OF NON-COMPLIANCE may be issued by the Health Officer nor non-compliance with this ordinance. This notice may be attached to the property deed at the County Recorder of Deeds office.

SECTION 11. PENALTIES.

11.01 Any person found to be violating any provision of this ordinance shall be served by the Health Department with a written notice, via certified mail, or in person, stating the nature of the violation and providing a reasonable time for satisfactory correction

thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation of this ordinance. Notice shall be deemed to have been given if sent by certified mail to the last known address of the person found in violation, even if such mail is returned.

11.02 Any person who shall continue in violation beyond the time limit provided for in Section 11.01 shall be guilty of a misdemeanor and, on conviction thereof, may be fined in an amount not exceeding One Thousand Dollars (\$1000.00) per day for each day of violation and/or be sentenced to serve up to one (1) year in the county jail for each violation.

11.03 Any person violating any of the provisions of this ordinance shall become liable to the Health Department for any expenses, loss, or damage incurred by the Health Department by reason of such violation.

SECTION 12. APPEALS.

12.01 The Board of Appeals shall consist of five members appointed by the McDonald County Commission. Each member of the Board of Appeals shall attend training equivalent to that required for installer registration. The training will be provided by the Health Department.

12.02 Any person aggrieved by the decision of the Health Officer or the McDonald County Commission may appeal to the Board of Appeals by filing a written application with the County Clerk within ten (10) days after being notified of the decision.

12.03 The Board of Appeals shall schedule a hearing for the appeal, and shall notify the aggrieved person at least ten (10) days prior to the hearing.

12.04 The appeal hearing of the Board of Appeals shall be conducted with the Board of Appeals adopted rules and procedures.

SECTION 13. ORDINANCE FEES. All fees collected in accordance with this ordinance are non-refundable. Any system with 3,000 gallons per day or more of flow falls under Department of Natural Resources regulations.

13.01 Permit fees. Fees are required for the following:

13.01(1) Single family dwelling permit for one single family dwelling per wastewater treatment system.

13.01(2) Commercial permit for systems other than single family dwellings.

13.01(3) Repair permit for replacing damaged sections only.

13.02 Registration fees are required for Engineers, Soil Evaluators, Tank Cleaners, Wastewater Treatment System Installers, and System Inspectors/Evaluators.

13.03 The fees for any single family dwelling wastewater treatment system may be waived by the Health Officer if the fees would cause undue hardship on the permit applicant. The applicant shall provide the proof that this will cause an undue hardship.

13.04 All permit fees shall be set by the County Commission and shall reflect the cost of administering the ordinance.

SECTION 14. WATERS OF THE COUNTY.

14.01 The Health Officer of the Health Department may establish water quality standards for the waters of the county. These standards must be equal to or greater than the water quality standards established by the Missouri Department of Natural Resources as set forth in 10CSR20-7.031- Water Quality Standards.

14.02 The Health Department may maintain a listing of all classified waters of the county based on water quality standards established under 14.01 for the following:

14.02(1) Human Health Protection.

14.02(2) Drinking Water Supplies.

14.02(3) Whole body contact for recreational purposes.

14.02(4) Boating and canoeing.

14.03 The Health Department may develop policies and procedures for the monitoring of all whole body contact recreational waters. These policies and procedures may be used for monitoring any of the categories in 14.02.

14.04 The Health Department shall develop a procedure for public notification in the event water quality standards established in 14.01 are exceeded.

SECTION 15. SYSTEMS REGULATED BY MISSOURI DEPARTMENT OF NATURAL RESOURCES

15.01 The Health Department may obtain bacteriological discharge sampling results from systems that have a daily flow of more than 3,000 gallons per day.

15.02 At least two times per calendar year, the Health Department may obtain a sample, concurrent with the system operator, to be analyzed by an independent, certified laboratory.

15.03 Results of such sampling will be provided to the system operator and kept on file at the Health Department.

SECTION 16. SEVERABILITY.

16.01 If any article, chapter, section, clause, or phase of the ordinance is, for any reason, held to be invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

16.02 No statement contained in this ordinance shall be construed to interfere with any additional requirements that may be imposed by the Health Department.

NOTICE

AN ORDINANCE ADOPTING REGULATIONS REGARDING THE ADMINISTRATION OF INDIVIDUAL SEWAGE TREATMENT SYSTEMS RULES AND SPECIFICATIONS BY THE McDONALD COUNTY COMMISSION.

BE IT ORDAINED AS FOLLOWS:

Section 1: The Commission hereby promulgates and adopts the Revised Wastewater Treatment Systems Ordinance and the Rules and Specifications regarding administration of Wastewater Treatment Systems as recommended and requested by the McDonald County Community Development Council and the Noel Community Development Council, Inc. A copy of said Rules and Specifications are attached and made a part by reference.

Section 2: The County Clerk is hereby ordered to have the attached Ordinance and Rules and Specifications printed and available in their office and McDonald County Health Department for distribution to the public.

Section 3: A copy of this order shall be published in a newspaper in this county on three successive weeks, with the first publication occurring not later than thirty (30) days after the passage of this order.

Section 4: The Ordinance and Rules and Specifications will be placed in effect on _____

Approved this _____

Larry Jones
Presiding Commissioner

Sam Gaskill
Eastern Commissioner

Ronnie Walker
Western Commissioner

Attest. Barbara Williams
County Clerk