

BARTON COUNTY

**ON-SITE DISPOSAL
SYSTEMS**

ORDINANCE

PASSED JANUARY 4, 1996

AMENDED November, 2000

Gary Frieden, Presiding Commissioner
Dennis Wilson, Commissioner
John Stockdale, Commissioner

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ORDER

PERTAINING TO THE REGULATION OF CERTAIN ON-SITE DISPOSAL SYSTEMS WITHIN THE COUNTY.

BE IT ORDERED AND ENACTED by the Commissioners of the County of Barton, State of Missouri, as follows:

Section 1. The Barton County On-Site Disposal Systems Order, hereto attached, is hereby enacted pursuant to the authority of 701.025 to 701.059 RSMo.

Section 2. Any county order or parts of county orders in conflict with this Order are hereby repealed.

Section 3. This order shall be in force and effect from and after its passage and approval.

PASSED by the Commissioners of the County of Barton, State of Missouri, this 5th day of February, 1996.

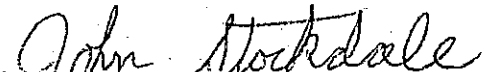
By



GARY FRIEDEN

Presiding Commissioner

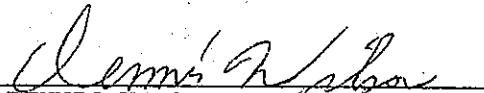
By



JOHN STOCKDALE

Commissioner

By



DENNIS WILSON

Commissioner

ATTEST:

By



BONDA RAWLINGS, County Clerk

BARTON COUNTY ON-SITE DISPOSAL SYSTEMS ORDINANCE

§ 1. Short title.—

This ordinance may be cited as the "Barton County On-Site Disposal Systems Ordinance".

§ 2. Definitions.—

As used in this ordinance, unless the context otherwise requires, the following terms mean:

- (1) "Department", the Barton County Department of Health;
- (2) "Director", the director of the Barton County Department of Health or the designee of the director;
- (3) "Existing system", an on-site sewage disposal system in operation prior to January 1, 1996;
- (4) "Human excreta", undigested food and by-products of metabolism which are passed out of the human body;
- (5) "Imminent health hazard", a condition 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;
- (6) "Major modification" or "major repair", the redesigning and alteration of an on-site sewage system by relocation of the system or a part of the system, replacement of the septic tank or construction of a new absorption field;
- (7) "Nuisance", sewage, human excreta or other human organic waste discharged or exposed on the owner's land or any other land from an on-site sewage disposal system in a manner that makes it a potential instrument or medium 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 waters or groundwater;
- (8) "On-site sewage disposal system", any system handling or treatment facility receiving domestic sewage which discharges into a subsurface soil absorption system and discharges less than three thousand gallons per day;
- (9) "On-site sewage disposal system contractor", any person who constructs, alters, repairs, or extends an on-site sewage disposal system on behalf of, or under contract with, the property owner;
- (10) "Person", any individual, group of individuals, association, trust, partnership, limited liability company, corporation, person doing business under an assumed name, the state of Missouri or any department thereof, or any political subdivision of this state;
- (11) "Property owner", the person in whose name legal title to the real estate is recorded;

(12) "Sewage" or "domestic sewage", human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste and other similar waste from household or establishment appurtenances. Sewage and domestic sewage waste are further categorized as:

(a) "Blackwater", waste carried off by toilets, urinals and kitchen drains;

(b) "Graywater", all domestic waste not covered in paragraph (a) of this subdivision, including bath, lavatory, laundry and sink waste;

(13) "State standard", those standards contained in 19 CSR 20-3.060, as hereafter amended;

(14) "Subdivision", land divided or proposed to be divided for predominantly residential purposes into such parcels as required by local ordinances, or in the absence of local ordinances, "subdivision" means any land which is divided or proposed to be divided by a common owner or owners into three or more lots or parcels, any of which contains less than three acres, or into platted or unplatted units, any of which contains less than three acres, as a part of a uniform plan of development;

(15) "Subsurface soil absorption system", a system for the final renovation of the sewage tank effluent and return of the renovated wastewater to the hydrologic cycle, including the lateral lines, the perforated pipes, the rock material and the absorption trenches. Included within the scope of this definition are: sewage tank absorption systems, privies, chemical toilets, single-family lagoons and other similar systems; except that a subsurface sewage disposal system does not include a sewage system regulated pursuant to chapter 644, RSMo;

(16) "Waste", sewage, human excreta or domestic sewage.

§ 3. Scope of coverage.—

The provisions of this ordinance pertain to maximum daily flows of sewage of three thousand gallons or less and to sewage treatment facilities that have a designed maximum daily flow or an actual maximum daily flow of three thousand gallons or less.

§ 4. Operation of on-site sewage disposal system, restrictions.—

No person or property owner may operate an on-site sewage disposal system or transport and dispose of waste removed therefrom in such a manner that may result in the contamination of surface waters or groundwater or present a nuisance or imminent health hazard to any other person or property owner and that does not comply with the requirements of the provisions of this ordinance and the state standard.

§ 5 Disposal of sewage, who, how, exception.—

Property owners of all buildings where people live, work or assemble shall provide for the sanitary disposal of all domestic sewage. Except as provided in this section, sewage and waste from such buildings shall be disposed of by discharging into a sewer system regulated under chapter 644, RSMo, or

shall be disposed of by discharging into an on-site sewage disposal system operated as defined by the state standard. The owner of a single-family residence lot consisting of three acres or more, except lots adjacent to lakes operated by the Corps of Engineers or by a public utility, shall be excluded from the provisions of this ordinance and the state standard, including provisions relating to the construction, operation, major modification and major repair of on-site disposal systems, when all points of the system are located in excess of ten feet from any adjoining property line and no effluent enters an adjoining property, contaminates surface waters or groundwater or creates a nuisance as determined by a readily available scientific method. Except as provided in this section, any construction, operation, major modification or major repair of an on-site sewage disposal system shall be in accordance with rules promulgated under the provisions of this ordinance, regardless of when the system was originally constructed.

§ 6. Department of health—powers and duties—rules, procedure, review.—

The department shall have the power and duty to:

1. Cause investigations to be made when a violation of any provision of this ordinance or the state standard is reported to the department;
2. Enter at reasonable times, after receiving a complaint and determining probable 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 the provisions of this ordinance and the state standard;
3. Authorize the trial or experimental use of innovative systems for on-site sewage disposal, after consultation with the staff of the Missouri clean water commission, upon such conditions as the department may set.

§ 7. Private right to action not preempted.—

The provisions of this ordinance shall not be interpreted so as to preempt any private right of action which might otherwise exist.

§ 8. Violations, notice of, contents, prosecuting attorney to institute proceedings, when—emergency situation, when.—

1. Whenever the director determines, after receipt of a complaint, that there are reasonable grounds to believe that there has been violation of any provision of this ordinance or the state standard, the director shall give notice of such alleged violation to the person responsible, as herein provided. The notice shall:

- (1) Be in writing;
- (2) Include a statement of the reasons for the issuance of the notice;
- (3) Allow reasonable time as determined by the director for the performance of any act it requires, but not less than 30 days nor more than 60 days;

(4) Be served upon the owner, operator or contractor, as the case may require, provided that such notice or order shall be deemed to have been properly served upon such person when a copy thereof has been sent by registered or certified mail to the person's last known address, as listed in the local property tax records concerning such property, or when such person has been served with such notice by any other method authorized by the laws of this state;

(5) Contain an outline of remedial action which is required to effect compliance with the provisions of this ordinance and the state standard.

2. Existing systems, as defined in §2, shall not be inspected, unless the director determines, upon receipt of a complaint, that there are reasonable grounds to believe that there has been a violation of any provision of this ordinance.

3. The department may require a property owner to abate a nuisance or repair a malfunctioning on-site sewage disposal system on the owner's property not later than the thirtieth day from which the owner receives notification from the department of the malfunctioning system or a final written order from the director. If weather conditions prevent the abatement of the nuisance or repair of the system within the thirty-day period or if the owner is unable, after reasonable effort, to obtain the services of a contractor or repair service within the thirty-day period, the abatement of the nuisance or repair of the system shall be made, weather permitting, no later than sixty days after notification. Such extension for abatement or repair shall be subject to approval by the city, county or department. The department may assess an administrative penalty on the property owner of no more than fifty dollars per day for each day that the on-site sewage disposal system remains unrepaired beyond the last day permitted by this section for the abatement or repair. All administrative penalties collected by the department under the provisions of this section shall be deposited to the credit of the department to be used towards the implementation and enforcement of this ordinance and for no other purpose.

4. The prosecuting attorney of the county in which any noncompliance or violation of any provision of this ordinance or the state standard is occurring shall, at the request of the county or department, institute appropriate proceedings for correction in cases of noncompliance with or violation of the provisions of this ordinance and the state standard.

5. When it is determined by the department, after receipt of a complaint, that an emergency exists which requires immediate action to protect the health and welfare of the public, the department is authorized to seek a temporary restraining order and injunction. Such action shall be brought at the request of the director of the department by the prosecuting attorney of the county in which the violation occurred. When such conditions are corrected and the health of the people of the state of Missouri is no longer threatened, the department shall request that such temporary restraining order and injunction be dissolved. For the purposes of this subsection, an "emergency" means any set of circumstances that constitute an imminent health hazard or the threat of an imminent health hazard as defined in §2.

§9. Sewage complaints, investigation by department, when—right to inspect adjoining property, procedure requiring notice, exception.—

1. The department of health or any of its agents may not investigate a sewage complaint except when necessary as part of a communicable disease investigation unless the complaint is received from an aggrieved party or an adjacent landowner. The department of health or any of its agents may enter any adjoining property if necessary when they are making an inspection pursuant to this section. The necessity for entering such adjoining property shall be stated in writing and the owner of such property

shall be notified before the department or any of its agents may enter, except that, if an imminent health hazard exists, such notification shall be attempted but is not required.

2. If the department or its agents make an investigation pursuant to a complaint as described in subsection 1 of this section and find that a nuisance does exist, the property owner shall comply with state and local standards when repairing or replacing the on-site sewage disposal system.

§10. Clean water commission may take action.—

Nothing in the provisions of this ordinance shall be construed as prohibiting the clean water commission from taking appropriate action under chapter 644, RSMo, on violations of that chapter or regulations promulgated under that chapter.

§11. Inspection results, requirements, content.—

1. If the department determines that an on-site sewage disposal system meets the requirements of the state standards, the department may not impose any additional requirement before such on-site sewage disposal system is approved for operation.

2. The department shall inspect, in the aggregate, up to sixty percent of on-site sewage disposal systems constructed, modified or repaired by contractors registered under §§18 to 20 and at least seventy-five percent of on-site sewage disposal systems constructed, modified or repaired by persons not registered under sections §§18 to 20 for which notice of construction, repair or modification is given under §§12, 13 and 15.

3. The department may accept certification without on-site inspection under §§12,13 and 15, from a registered contractor not required to provide a performance bond under §17, that a system is properly designed and installed, modified or repaired pursuant to the state standard.

§12. Modification or major repair to on-site sewage disposal system, requirements—form—fee, how set—additional fee may be set for training contractors performing percolation tests.—

Except as otherwise provided in §5, no person may, on or after January 1, 1996, construct or make a major modification or major repair to an on-site sewage disposal system without first notifying the department and completing an application, upon a form provided by the department, and submitting a fee in the amount established by the department. The fee shall be set at an amount no greater than that necessary to cover the cost to implement the state standard for on-site sewage disposal systems and the registration of contractors. The department may charge an additional fee, as necessary, to cover the expenses of training those contractors electing to perform the percolation tests. The application form shall require such information necessary to show that the on-site sewage disposal system will comply with the state standard. Such fees, when collected by the department, shall be deposited to the credit of the department to be used towards the implementation and enforcement of this ordinance and for no other purpose. The department shall provide technical assistance regarding the type and location of the system to be installed when processing applications received under §§12, 13 and 15. Fees collected by the department shall be deposited to the credit of the department to be used towards the implementation and enforcement of this ordinance and for no other purpose.

§13. Modifying or repair of on-site sewage disposal system, noncompliance with standards prohibited.—

Except as otherwise provided in §5, no person may construct, modify or repair an on-site sewage disposal system in a manner which does not comply with the state standard.

§14. Fees collected by department.—

1. All moneys collected by the department pursuant to the provisions of this ordinance, shall be deposited to the credit of the department to be used towards the implementation and enforcement of this ordinance and for no other purpose. All interest earned on the funds, if any, shall accrue to the funds.

2. The director may, upon appropriations from the general assembly, use money from the Missouri public health services fund for development of innovative sewage systems and pilot programs.

§15. Construction or repair notice—requirements and inspection—failure to comply with standards, effect.—

No person required to provide notice and apply to the department under §12 may complete the construction, major modification or major repair of an on-site sewage disposal system without providing notice and an opportunity for inspection by the department as provided in this section. The person shall notify the department prior to 9:00 a.m. on the day preceding completion, in the case of contractors registered under §§18 to 20, or prior to 9:00 a.m. on the second day preceding completion, in the case of persons not registered under §§18 to 20, and the system shall be maintained in a condition which allows for a complete inspection, pursuant to the state standard, until 3:00 p.m. on the day of completion, unless the department provides confirmation that the system has been inspected and approved prior to that time. The system shall not be closed or completed if the department determines upon inspection that the system does not meet the state standard, and the department shall provide, at the time of inspection, a conspicuous marker or other form of notice indicating that the system does not meet the state standard. The department shall provide written confirmation of the results of the inspection or confirmation that the department did not inspect the system to the property owner within three working days of the day of completion.

§16. Lending institutions may request inspection when providing loans—fee—department may license contractors to inspect.—

The department may charge a fee of up to fifty dollars for an inspection of an on-site sewage disposal system conducted pursuant to a request from a lending institution. Inspections may be made at the request of a lending institution providing either a government loan or a conventional loan. The fees collected by the department pursuant to this section shall be deposited to the credit of the department to be used towards the implementation and enforcement of this ordinance and for no other purpose. The department of health may license and use private contractors to carry out the provisions of this section.