BARRY COUNTY
WASTEWATER TREATMENT SYSTEMS ORDINANCE
Adopted April 19, 1999, Effective May 10, 1999; amended April 11, 2008, effective May 15, 2008

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 192.300, RSMo 1986, which provides, in part as follows: The county commissions and the county health center boards of the several counties may make and 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 diseases 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 on an incorporated municipality are exempt from this ordinance.

SECTION 3. DEFINITIONS. As used in Section 1 to 16 of this ordinance, the following words and phrases 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 of 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 Tanks: 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: A board of five non judicial members, appointed by the county commissioners and board of trustees to hear appeals.

3.07 Board of Trustees: The Barry County Health Department Board of Trustees.

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

3.09 Operating Permit: See 3.22 under Part Two.

3.10 Easement: A legal right that one property owner gives to another property for a specific use. An 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 County Recorder of Deeds. Wastewater treatment systems installed under easements shall comply with the requirements of this ordinance.

3.11 Enforceable Agreement: - A signed and notarized agreement between the buyer of a property and the Health Department to replace or repair the system of the property being purchased within the next year

3.12 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.

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

3.14 Health Department: The Barry 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: the Administrator of the Barry County Health Department or authorized representative.

3.17 Homeowner: Any person(s) who owns and occupies the house for the purpose of residence there. A person may obtain a homeowner installation permit(s) for (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 contaminating the surface water or groundwater or causing a nuisance and is likely to cause a threat to life due to prolonged exposure. For purposes of this 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 of 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 which is no longer functioning as permitted.

3.21 Nuisance: Sewage, human excreta or other 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 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 water or groundwater.

3.22 Permit: A two (2) part written authorization issued by the Health Department. Part One of the permit is the Permit to Install which authorizes the permitee to construct, install, or modify a wastewater treatment system. Part Two of the permit is the Permit to Use, which allows the owner to operate/use the wastewater treatment system. A permit will not be issued unless part one and part two have been signed by the Health Officer.

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

3.24 Department of Natural Resources (DNR) Regulated Wastewater Treatment System: A method of handling or receiving wastewater with a flow of more than three thousand (3,000) gallons per day.

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 installation and/or replacement of wastewater treatment system, 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 Board of Trustees 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, liquid waste produced by bathing, laundry, food preparation or processing, ware washing, toilets, sinks or floor drains.

3.29 Barry County Health Department (BCHD) Onsite Wastewater Treatment System: A wastewater treatment system or part of a system, serving a dwelling(s) or other establishment(s) with a daily flow of three thousand gallons (3,000 gal) or less, which utilizes subsurface treatment and dispersal.

3.30 Variance: An allowance to install or repair a wastewater treatment system when the requirements for setback distances, minimum areas 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 Board of Trustees 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-COMPLICANCE 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 in 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 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 system or transport and dispose of septage 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.

SECTION 5 PERMIT TO INSTALL

5.01 Any person engaged in construction, installation, renovation or repair of any wastewater treatment system or part of a wastewater treatment system shall obtain a permit from the Barry 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 19 CSR 20-3.060, Missouri Clean Water Act, and the Barry County Onsite Wastewater Treatment System Regulations.

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 An as-installed or as-repaired drawing is required prior to issuing Part Two (Permit to Use) of the permit.

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

5.10 A Special Use Permit may be granted by the Board of Trustees upon written application by the homeowner on a case by case basis.

SECTION 6. VARIENCE REQUEST

6.01 Variance requests shall be a written request submitted by the homeowner.

6.02 The Environmental Supervisor shall have the authority to review and approve wastewater variance requests in accordance with applicable laws, regulations, and the provisions of this ordinance concerning property platted prior to January 1, 1996, with the below listed site limitations. If the variance application is determined to present concerns, unusual circumstances, or other issues warranting additional review it will be referred to the Board of Trustees for review and final approval. Site limitations as follows:

6.02(1) Setback requirements for the system cannot be met.

6.02(2) Reduction to the total square footage of the absorption field based on recorded meter readings.

6.02(3) The setback to a restrictive horizon cannot be met.

6.03 All approved variances shall be reported to the Board of Trustees at it's next regularly scheduled meeting.

SECTION 7. SPECIAL USE PERMITS

Any special use permit issued by the Health Department will require a renewal period determined by the Board of Trustees. The issuance and renewal of special use permits will be based on the following requirements:

7.01 A maintenance agreement with a registered wastewater professional and all maintenance records maintained.

7.02 Current mechanical operating condition.

7.03 Absence of any substantiated complaints received at the Health Department about malfunctioning of the system.

SECTION 8. REGISTRY OF PERSONS AND BUSINESSES ENGAGED IN WASTEWATER TEATMENT SYSTEMS PROJECTS

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

8.01(1) Lists of person so registered shall be provided. The lists will show the category under which the person is registered: a) Conventional Systems Installer; b) Advanced Systems Installer; c) Suspended or revoked Registrations; d) Soil Scientist; e) Engineer; f) Tank Cleaner; g) Existing On-Site System Evaluator.

8.01(2) The tank supplier 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. The list shall include physical address, purchaser, and permit to install number issued by the Health Officer.

8.02 The Board of Trustees may adopt specifications establishing qualifications and minimum standards of experience and knowledge for person desiring to register under this ordinance.

8.03 A homeowner may install the wastewater treatment system serving their residence once the homeowner demonstrates proper knowledge of installing such system. A written test shall be given and passed to demonstrate homeowner knowledge.

8.04 An applicant for registration 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 through the Health Department.

8.05 An applicant shall be registered specifically for construction of advanced systems. The applicant is required to complete a refresher training program annually as provided through the Health Department.

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

8.07 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 termination or suspension.

8.08 An applicant installing any system without the proper permit shall be subject to termination or suspension of registration.

8.09 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 not less than one (1) year.

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

8.11 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.

8.12 Whenever the Health Officer determines that a person with a valid registration has violated any provision of this ordinance, or any of the specifications and rules adopted by the Board of Trustees, the Health Officer my recommend to the Board of Trustees, that said registration be suspended or revoked. If the Board of Trustees finds that the Health Officer's recommendation has merit, the Board of Trustees shall schedule a hearing on the proposed suspension or revocation after giving that person not less than ten (10) day notice of said hearing. The Board of Trustees shall set the term of the revocation or suspension within ten (10) day notice of said hearing. Any person aggrieved by the decision of the Board of Trustees may appeal to the Board of Appeals as stated in Section 12.02.

SECTION 9. TANK CLEANING STANDARDS

9.01 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 his 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.

9.02 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 Barry County Health Department for proper wastewater disposal. The Registered Tank Cleaner must use one of the following methods for disposal:

9.02(1) Land application permitted by the Department of Natural Resources.

9.02(2) Lagoon permitted by the Department of Natural Resources.

9.02(3) Discharge in municipal treatment plant permitted by the Department of Natural Resources.

SECTION 10. POWER AND AUTHORITY OF INSPECTORS

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

10.02 The Health Department shall have the power and duty to:

10.02(1) Adopt rules and regulations regarding wastewater treatment systems as are necessary to carry out the provisions of this ordinance.

10.02(2) Cause investigations to be made when a violation of any provision of this ordinance or the specifications and rules adopted under this ordinance are reported to the Health Department.

10.02(3) 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 inspection and investigating conditions relating to the administration and enforcement of this ordinance and the rules and regulations promulgated under this ordinance.

10.02(4) Authorize the trial or experimental use of innovation systems for wastewater treatment with such conditions as the Department may set.

10.02(5) Issue a “Notice of Imminent Health Hazard” when any of the conditions defined in Section 3.18 exist.

SECTION 11. STOP ORDER, NOTICE OF NON-COMPLIANCE.

11.01 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.

11.02 A NOTICE OF NON-COMLIANCE may be issued by the Health Officer for non-compliance with this ordinance. This notice may be attached to the property deed at the County Recorder of Deeds office.

SECTION 12. PENALTIES

12.01 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 limit for the 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.

12.02 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 ($1,000.00) or be sentenced to serve up to one (1) year in the county jail for each violation.

12.03 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 13. APPEALS

13.01 The Board of Appeals shall consist of five members. The Board of Trustees and the County Commission shall appoint one representative each. The remaining three members shall be jointly appointed by the Board of Trustees and the County Commission.

13.02 Any person aggrieved by the decision of the Board of Trustees may appeal to the Board of Appeals by filing a written application with the Health Officer within ten (10) days after being notified of the decision.

13.03 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.

13.04 The appeal hearing to the Board of Appeals shall be conducted in accordance with the Board of Appeals' adopted rules and procedures.

SECTION 14. ORDINANCE FEES. All fees collected in accordance with this ordinance are non-refundable and are subject to annual revision. Fees are required for the following:

14.01 Single family dwelling permit for one single family dwelling per wastewater treatment system.

14.02 Non-single family dwelling permit for systems other than single family dwellings.

14.03 Repair permit for replacing damaged parts only.

14.04 Registration fees are required for Engineers, Soil Scientists, Contractors, Tank Cleaners, and Wastewater Treatment System Installers, Existing System Evaluators. Registration fees are due annually.

14.05 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 undue hardship.

SECTION 15. WATERS OF THE COUNTY

15.01 The Board of Trustees 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 10 CSR 20-7.031 – Water Quality Standards.

15.02 The Health Department may maintain a listing of all classified waters of the county based on water quality standards established under14.01 for the following:

16.02(1) Human Health Protection

16.02(2) Drinking water supplies

16.02(3) Whole body contact for recreational purposes.

16.02(4) Boating and canoeing.

15.03 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.

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

SECTION 16. SEVERABILITY

16.01 If any article, chapter, section, clause or phrase 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 constructed to interfere with any additional requirements that may be imposed by the Health Department.