



BENTON CO IA- LEXA S SPEIDEL, RECORDER
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**BENTON COUNTY ORDINANCE #73
PRIVATE SEWAGE DISPOSAL SYSTEMS**

PURPOSE

THIS ORDINANCE IS CREATED TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF BENTON COUNTY AND ITS RESIDENTS BY REGULATING ON-SITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS. ORDINANCE #38 IS HEREBY REPEALED AND ORDINANCE #60 IS ADOPTED IN LIEU THEREOF.

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF BENTON COUNTY, IOWA:

SECTION I. ENACTMENT. This ordinance adopts by reference and incorporates herein Chapter 69, "Private Sewage Disposal Systems" of the Iowa Administrative Code 567 (Iowa Code Chapter 455B.173 (3), and all subsequent amendments or revisions thereto. This ordinance also incorporates certain additional administrative requirements and additional construction requirements as prescribed by Benton County, Iowa.

SECTION II. DEFINITIONS. For use in this ordinance the following terms are defined:

1. **"Approved Contractor"** shall mean persons that are engaged in the business of installing private sewage disposal systems, and are a holder in good standing of an Iowa Onsite Wastewater Association (IOWWA) certification as a Certified Installer of Onsite Wastewater Treatment Systems (CIOWTS), either Basic or Advanced. These contractors are recognized as being standardized with the requirements adopted within this ordinance, have filed the required certificate of insurance, and have received approval of the Department of Health.
2. **"Board of Health"** shall mean the Benton County Board of Health.
3. **"County Health Officer"** shall mean the Benton County Health Officer who is an employee of the Board of Health.
4. **"Department of Health"** shall mean the Benton County Department of Health.
5. **"Public Sanitary Sewer"** shall mean a wastewater treatment and disposal facility owned and operated by a corporate public entity such as a City or sanitary sewer district.
6. **"Private Sewage Disposal System"** shall mean a system that provides for the treatment or disposal of domestic sewage from four (4) or fewer dwelling units or the equivalent of less than sixteen (16) individuals on a continuing basis. This includes domestic waste, whether residential or nonresidential, but does not include industrial waste of any flow rate.
7. **"Public Sewage Disposal System"** shall mean a system that provides for the treatment or disposal of domestic sewage from five (5) or more dwelling units or the equivalent of sixteen (16) or more individuals on a continuing basis. This includes domestic waste, whether residential or nonresidential, but does not include industrial waste of any flow rate.
8. **"Subdivision"** shall mean any tract of land which has been subdivided or shall hereafter be subdivided into three (3) or more parts, any of which is less than forty (40) acres for the purpose of laying out an addition, subdivision, or building lots.
9. All other terms defined within Chapter 69.1(2) (455B) of the Iowa Administrative Code 567 not heretofore mentioned have the same definitions in this ordinance.

SECTION III. PERMIT REQUIREMENTS.

1. **Permit Application.** Any person desiring a permit to construct, reconstruct, alter or repair a private sewage disposal system must file an application with the Department of Health stating information as required by the Board of Health on the most current application form available.
2. **Soil Tests Required.** Applications for a permit to construct, reconstruct, alter or repair a private sewage treatment system within the county shall also include results of a percolation test, soil profile information, or professional soils analysis. Soil testing procedures (ie: percolation tests) shall be performed by approved contractors or by licensed professional engineers, or by a person approved by the Department to conduct a professional soils analysis.
3. **Sketch Required.** The application for a permit must also include a sketch of the property drawn by the person performing the required soil tests, that give approximate dimensions of the property, dwelling location on the

property, the location of any wells on the property and wells on neighboring properties which might be affected by the system, the location of any streams, ponds, and ravines, and the location of where the soil testing occurred on the property.

4. **Permit Fee Required.** The required permit fee must be paid at the time of the permit application. The fee is payable to the Benton County Department of Health. The permit application will not be approved until the fee is paid, nor may any work commence toward construction of the system until the required fee is paid. The fee for a permit to construct, reconstruct, alter or repair a private sewage disposal system shall be determined and set by the Board of Health.
5. **Permit Validity.** Permits shall be valid for a period not to exceed one (1) year from the time of issuance. Permit application fees are not refundable if a site evaluation has been completed by the Department of Health during the application period, or if the one (1) year time period has expired.
6. **Permit Requirement.** No work shall commence on any construction, reconstruction, alteration or repair of any private sewage disposal system until the permit application has been approved, and the permit has been issued by the Department of Health. All work must commence in accordance with the provisions of the permit.
7. **Site Evaluations.** A preconstruction site evaluation shall be conducted by the Department of Health prior to the issuance of a construction permit. It shall be conducted in accordance with IAC Chapter 69.3(1).
8. **Right-of-Way (ROW) Permits.** Any work proposed to be done in the county ROW requires a ROW permit from Benton County Secondary Roads Department. Notification of the local IDOT office is required if working in a State ROW.

SECTION IV. GENERAL REQUIREMENTS.

1. **Approved Contractors.** All construction, reconstruction, alteration or repair of private sewage disposal systems shall be performed by an approved contractor. Required soil testing procedures (ie: percolation tests, soil profiles, and soil analyses) shall also be performed by approved contractors, or by registered professionals. The Department of Health shall approve contractors. Any contractor desiring to construct, reconstruct, alter or repair any private sewage disposal system within Benton County shall file with the Department of Health proof of certification as a Certified Installer of Onsite Wastewater Treatment Systems in good standing with the Iowa Onsite Wastewater Association, either Basic or Advanced, and a certificate of liability insurance indicating that the contractor is carrying liability insurance and that the contractor and his/her agents and/or employees are covered while carrying out actions governed by this ordinance. Benton County shall be named as additional insured. The policy shall also provide for at least ten (10) working days advance notice by the insurer to the Department of Health of termination of the policy by the insured, or the insurer. The Board of Health shall set contractor liability insurance limits.
2. **Maintenance Contracts.**
 - A. A maintenance contract for the proper monitoring and servicing of the entire treatment system for biofilters, recirculating textile filters, and aerobic treatment units shall be established between the owner of such systems and a certified technician for the life of the system.
 - B. A copy of the executed maintenance contract shall be provided to the Department of Health at the time the contract is put in force.
 - C. The person conducting maintenance and service on the unit shall maintain records of such, and shall provide a copy of those records to the Department of Health within thirty (30) days of said service or maintenance.
3. **Protection of Subsurface Absorption Trench Area.**
 - A. Upon completion of a satisfactory percolation test or soils analysis done for new construction, the septic system contractor shall erect a physical barrier that will protect the approved absorption field area from any disruption prior to, or during construction on the building site. The barrier shall be clearly marked with warnings to keep the area undisturbed. All absorption system trenches shall be located within the test area to the maximum extent possible.
 - B. The septic contractor shall notify the building contractor that the area inside the barrier is to remain undisturbed in regard to potential compaction and/or mixing of soils.
 - C. The County Health Officer may, upon finding that the approved area has been disturbed, require that requisite soil testing be performed in an alternative area if one exists, or be redone in the original area.
4. **Mound System and At-Grade System Design.** All mound systems and at-grade systems shall be designed by a registered professional engineer.
5. **Minimum Lot Sizes.** Any parcel of land in Benton County for which a private sewage disposal system is proposed shall not be less than one (1) acre in size, except within subdivisions.
6. **Joint Use of Private Sewage Disposal Systems.** With the exception of subdivisions, no more than one (1) structure used for human occupancy or business may be connected to a private sewage disposal system unless approval is granted by the Department of Health.
7. **Sewage Disposal Within Subdivision Plats for Residential or Non-residential Use.**
 - A. If a subdivision plat is proposed where an existing public sanitary sewer is available within two hundred (200) feet from any edge of the proposed subdivision boundary, the developer shall connect to the existing public sewage disposal system. If the entire proposed subdivision boundary is greater than two hundred (200) feet from an existing public sanitary sewer system, or the governing body of the system denies access, the

developer shall provide for sewage disposal systems in a manner prescribed by the Department of Health based upon an evaluation that shall be conducted by a licensed Professional Engineer prior to submittal of a preliminary plat.

- B. If the proposal is deemed by the Department of Health to be favorable to individual private sewage disposal systems, then such systems may be considered. Individual private sewage disposal systems shall be designed by a Licensed Professional Engineer in accordance to specifications contained within Iowa Administrative Code Chapter 69. Plans and specifications shall be submitted to the Department of Health prior to approval and permit issuance.
- C. If individual sewage disposal systems are to be utilized with the subdivision then all lot sizes shall be a minimum of two (2) acres.
- D. In the event that the development proposal is deemed by the Department of Health to be unsatisfactory for individual private sewage disposal systems then the developer shall provide for the construction of a central sewage disposal system.
- E. A central sewage disposal system that provides for the treatment and disposal of domestic sewage from four (4) or less dwelling units, or the equivalent of less than sixteen (16) individuals on a continuing basis, shall be considered as private. Private central sewage disposal systems shall be designed by a licensed Professional Engineer with plans and specification submitted to the Department of Health for approval and permitting.
- F. A central sewage disposal system that provides for the treatment and disposal of domestic sewage from five (5) or more dwelling units, or the equivalent of sixteen (16) or more individuals on a continuing basis, shall be considered as public. Public central sewage disposal systems shall be designed by a licensed Professional Engineer with plans and specifications submitted to the Iowa Department of Natural Resources (IDNR) for approval and permitting.
- G. Private central sewage disposal systems shall be required to have a system management and maintenance plan approved by the Department of Health.
- H. Public central sewage disposal systems shall be subject to any maintenance provisions as mandated within the IDNR permit.

8. **Wells.** If a private sewage disposal system is to be constructed, reconstructed, altered or repaired on a property and a well is located less than the minimum distance as required in Chapter 69.3(2) of the Iowa Administrative Code, then the well must be abandoned and properly plugged in accordance to Chapter 39 of the Iowa Administrative Code if no other means are available to achieve the required minimum separation distance.

SECTION V. INSPECTIONS.

- 1. No private sewage disposal system shall be covered or so constructed so as to deny final inspection by the Department of Health unless approval is granted by the County Health Officer. The Department shall be given at least twenty-four (24) hours advance notice by the installer when the job is going to commence.
- 2. Whenever the Department of Health has reasonable grounds to believe that a violation of this ordinance exists, it may enter upon and make an inspection of such premises, dwelling or other building, and gather other necessary information, including water samples or other necessary specimens for the purpose of laboratory analysis, or introduce specimens of the necessary testing materials for tracing the source of any apparent sewage discharge to the surface of the ground. The owner or occupant of such premises shall permit the County Health Officer, or his/her authorized representative, to enter such premises, make such inspection, and obtain such samples.
- 3. Inspections by the Department of Health shall be made during normal business hours of the Department, unless it is determined that an emergency situation may exist.
- 4. **Refusal of Admittance.** In the event that Department of Health personnel are refused entry upon a property where a violation of this ordinance is alleged to exist, the County Health Officer shall make application to the Court for an administrative search warrant.
- 5. **As-built Drawing Required.** When a private sewage disposal system has been completed a drawing shall be made of the system showing the exact layout of the septic tank, all distribution boxes, the secondary treatment system, and the location of the structure to be served by the system. This drawing must have dimensions perpendicular and at right angles from a corner(s) of the dwelling or structure to the center of the septic tank(s) and the center of the distribution box(es). If for any reason the system cannot be inspected by the County Health Officer prior to closure then the required drawing must be completed by the approved contractor that performed the installation. A copy of the drawing shall be submitted to the Department of Health.

SECTION VI. TIME OF TRANSFER INSPECTIONS.

- 1. **Property Transfer Inspection Requirement.** A building where a person resides, congregates, or is employed that is served by a private sewage disposal system shall have the sewage disposal system serving the building inspected prior to any transfer of ownership of the building, unless specifically exempted by Law.
- 2. **Inspection Requirements.** All inspections shall be conducted by a DNR certified inspector, and be conducted in accordance with the provisions outlined for such inspections within IAC Chapter 69. All costs shall be the responsibility of the property owner or transferor. If an inspection cannot be conducted because of weather or other temporary physical conditions then a binding agreement may be executed between the buyer of the property and the Department of Health that stipulates that an inspection will be conducted at a later date based upon a schedule approved by the Department of Health. Failure to conduct the inspection as agreed upon within the binding agreement shall constitute a violation of this ordinance. Following an inspection, a DNR inspection report form and any related reports shall be provided to the Department of Health, the DNR, and the County Recorder. Any deficiencies identified within the inspection report, such as those that constitute an environmental hazard, or those that show that the system is not functioning properly, shall be remedied by written mandate of the Department of Health. The Department of Health shall issue a repair permit for mandated improvements upon receipt of the required fee, and shall perform a compliance inspection upon completion of the required repairs.

3. **Failure to Complete Inspection.** If the original owner or transferor fails to have the property inspected as required, such failure shall constitute a violation of this ordinance.
4. **Compliance with Chapter 69, Iowa Administrative Code.** All private sewage disposal systems that discharge are not in compliance with the minimum standards set forth in this ordinance and IAC Chapter 69 of the Iowa Administrative Code. Such systems shall be brought into compliance prior to closing of the property transfer, unless a binding agreement has been executed between the buyer of the property and the Department that stipulates that a code compliant system will be installed at a later date based upon a schedule approved by the Department of Health. Failure to install a code compliant system as agreed upon within the binding agreement shall constitute a violation of the ordinance. Systems that discharge untreated wastewater to any source are illegal and may not be transferred and left "as is" under any circumstance.
5. **Exemption From Inspection Requirement.** Any private sewage disposal system that was installed under County permit, or passed a certified inspection within two (2) years previous to sale or transfer, is exempt from further inspection until the next change of ownership.

SECTION VII. ENFORCEMENT. This ordinance shall be enforced by the Department of Health.

SECTION VIII. VIOLATIONS. A violation of any requirement of this ordinance is a county infraction as specified in IOWA CODE Section 331.307, and all subsequent amendments and revisions thereto.

SECTION IX. PENALTIES. Penalties shall be all those available under IOWA CODE Section 331.302(15), and all subsequent amendments and revisions thereto.

SECTION X. VARIANCES. A variance to these requirements may be granted by the Department of Health provided that sufficient and proposed alternative information is afforded to substantiate the need and propriety for such action. All approved variances shall be reported to the Board of Health by the Health Officer at the next regularly scheduled meeting. In the event that a variance request is denied by the Department of Health, the property owner may make an appeal directly to the Board of Health.

SECTION XI. APPEAL. Any person who feels aggrieved by any notice or order made by the County Health Officer or the Board of Health shall have the right to appeal to the Board of Health at the next regular meeting. The Board of Health, by majority vote, may modify, withdraw or order compliance with said notice or order.

SECTION XII. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. Ordinance #60 is hereby repealed in its entirety upon the effective date of Ordinance #73.

SECTION XIII. SEPARABILITY. The provisions of this ordinance are separable, and if any provision, sentence, clause, section, or part thereof should be held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or part of the ordinance.

SECTION XIV. WHEN EFFECTIVE. This ordinance shall be in effect after its final passage, approval and publication as provided by law.

Passed and approved this 25th day of April, 2017.

BENTON COUNTY BOARD OF SUPERVISORS


TODD WILKY, CHAIRPERSON


RICK PRIMMER


GARY BIERSCHENK

ATTEST:


HAYLEY RIPPEL, AUDITOR

April 25, 2017 - Adopted Ordinance #73, by Resolution #17-29
May 5, 2017, May 9, 2017 and May 10, 2017— Published Ordinance #73

I, Hayley Rippel, do hereby certify the above to be a true and correct copy of Ordinance #73 and the dates of consideration and publication are correct.



Hayley Rippel, Benton County Auditor

