

79-061295

CERTIFIED COPY OF ORDINANCE

(Rev. Stat. 1939, Sec. 1864.)

May Term, 1995

STATE OF MISSOURI

County of MARION

In the County Court of said County, on the 12th day of June, 1995, the following, among other proceedings, were had, viz:

The County Commission now takes up the matter an ordinance requiring permits to be issued to construct, install or modify small on-site wastewater treatment systems, establishing registration of persons qualified for performing such and penalties for non-compliance herewith. Present systems in use at time of passage of this ordinance are grandfathered and do not require permitting unless they shall become a nuisance, public health hazard, or in violation of Sections 701.025-701.039, RSMo or Sections 644.006-644.141, RSMo, or other Missouri or Federal environmental law.

Be it ordained by the County Commission of the County of Marion, State of Missouri, under the provision of Section 192.300, RSMo, as follows, to-wit:

Section One: That there is hereby enacted a health code for the County of Marion, State of Missouri, to be known as the "Marion County Code of Health Regulations," which shall apply to all persons and geographic sites within the County of Marion, State of Missouri, in unincorporated areas (and in incorporated areas if successfully petitioned for inclusion).

Section Two: That the Marion County Code of Health Regulations as enacted herein shall be divided into major subject areas of public health concern by chapters, and Chapters I and II are hereby reserved for future use and enactment.

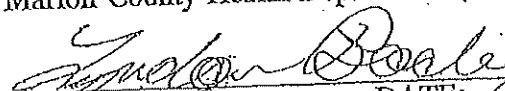
Section Three: That there is hereby enacted the following chapter to become part of the Marion County Code of Health Regulations and to be designated as Chapter III.

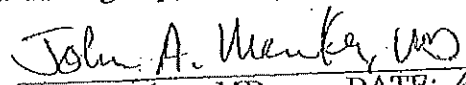
Section Four: The Marion County Commission may from time to time convene a hearing on proposed or desired changes or revisions to the Marion County Code of Health Regulations, and may adopt such changes, revisions and amendments as the Commission shall determine are in the interest of promotion of the public health and welfare and permitted by the Law of Missouri.

Section Five: The matters contained in this ordinance are hereby declared to be necessary to the public health and welfare of the citizens of the county of Marion, State of Missouri, and the passage of this ordinance is deemed to be an emergency measure. This ordinance shall be in full force and effect from and after the date of its passage.

BE IT ORDAINED by the Commissioners of the County of Marion that the aforementioned Ordinance was duly adopted and passed by the County of Marion on this 12th day of June, 1995.

SIGNED by the Commissioners of Marion County, Missouri and the Board of Trustees of the Marion County Health Department (Center) and Home Health Agency, as follows:


Lyndon Bode
Presiding Commissioner
DATE: 6-29-95


John Menken, MD
Chairman of the Board
DATE: 6-29-95

Brock Phillips
Brock Phillips
Western District Commissioner
DATE: 6-19-95

William Richmond
William Richmond
Eastern District Commissioner
DATE: 6-19-95

Michael Tompkins
Michael Tompkins
Treasurer
DATE: 6-24-95

Corinne Fessenden
Corinne Fessenden
Secretary
DATE: 7-5-95

Jeffrey Curl
Jeffrey Curl
Board of Trustees
DATE: 6-29-95

Laura Adams
Laura Adams
Board of Trustees
DATE: 6-29-95

IN THE MATTER OF THE APPLICATION OF [Name] FOR A [Type] [License/Permit] UNDER THE [Act/Code]

AND TO ENFORCE THE [Act/Code] AND TO ENFORCE THE [Act/Code]

AND TO ENFORCE THE [Act/Code] AND TO ENFORCE THE [Act/Code]

AND TO ENFORCE THE [Act/Code] AND TO ENFORCE THE [Act/Code]

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AND TO ENFORCE THE [Act/Code] AND TO ENFORCE THE [Act/Code]

AND TO ENFORCE THE [Act/Code] AND TO ENFORCE THE [Act/Code]

No. 79-061295

Certified Copy of Order
- OF -

Marion County Court,
MADE AT
May Term, 1995

IN THE MATTER OF
Marion County Code of

Health Regulations

(Wastewater Treatment Systems)

TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE</u>
3.1	Purpose.....	1
3.2	Authority.....	1
3.3	Definitions.....	1
3.3.1	Administrative Authority.....	1
3.3.2	Board of Review.....	1
3.3.3	Permit.....	1
3.3.4	Person.....	2
3.3.5	Small On-site WasteWater System.....	2
3.3.6	Class I Sewage Treatment System.....	2
3.3.7	Construction.....	3
3.3.8	Modification.....	3
3.4	Small On-site WasteWater System Design and Construction Standards.....	3
3.4.1	Exceptions to Design and Construction Standards.....	3
3.4.1.1	Soil Scientist.....	3
3.5	Permit Required for Construction or Modification of Small On-site WasteWater Systems.....	4
3.5.1	Permit Applications.....	5
3.5.2	Permit Application Processing Procedures	5
3.5.3	Compliance with Permit.....	6
3.5.4	Operation of Small On-site Waste Water System Permit.....	6
3.5.5	Permit Modification.....	7
3.5.6	Waiver of Permit Modification.....	7
3.5.7	General Permit Conditions.....	8
3.5.7.1	Expiration of Permit.....	8
3.5.7.2	Transfer of Permit.....	9
3.5.8	Permit Denial.....	9
3.5.8.1	Denial Due to Violation of Design and/or Construction Standards.....	9
3.5.8.2	Denial Due to Violation of Building, Subdivision or Zoning Regulations..	10
3.5.8.3	Denial Due to Location Within 225 Feet of Sanitary Sewer.....	10
3.5.9	Permit Suspension and Revocation.....	10

3.6	Board of Review.....	12
3.6.1	General Variances.....	13
3.6.2	Class I System Variances.....	13
3.7	Certification of Small On-site WasteWater System Installers and Percolation Test Technicians.....	14
3.7.1	Certification Requirements for Installers.....	15
3.7.2	Requirements for Percolation Test Technician Certification.....	15
3.7.3	Homeowner Exemption for Installer Certification.....	16
3.7.4	Revocation of Certification.....	16
3.8	Nonconforming Small On-site WasteWater Systems.....	17
3.9	Interpretation and Severability.....	18
3.10	Jurisdiction.....	18
3.11	Penalties and Remedies.....	19
3.12	Fees.....	19
3.13	Effective.....	19

CHAPTER III

SMALL ON-SITE WASTEWATER SYSTEMS

3.1 Purpose: These regulations are enacted for the purpose of regulating the design, construction and modification of small on-site wastewater systems as the term is defined in these regulations in order to protect and promote the public health and to prevent the entrance of infectious, contagious, communicable or dangerous diseases into Marion County, Missouri.

3.2 Authority: These regulations are enacted under authority vested in the County Commission of Marion County, Missouri by Section 192.300 RSMo. (Supp. 1989) as enacted by Senate Bill 68 of the 85th General Assembly.

3.3 Definitions: As used in this chapter, unless the context clearly indicates otherwise or the definition of the term is found in a regulation adopted by reference in this regulation, the following words and terms shall have the following meanings:

3.3.1 Administrative Authority - The administrative agency or agencies appointed by the Marion County Commission to administer these regulations or portions thereof.

3.3.2 Board of Review - A committee of five persons as further described in these regulations charged with determining requests for variances and appeals authorized by these regulations.

3.3.3 Permit - Written authorization issued by the Marion County Health Department which authorizes the permittee to

construct or modify the small on-site wastewater systems regulated under this chapter. This permit is not intended to be construed to be a permit regulating the operation of a small on-site wastewater system after completion of construction or modification.

3.3.4 Person - Any natural person, business entity of any type, corporation, trust, association of any type, or any agent, officer or employee of any of the foregoing.

3.3.5 Small On-site Wastewater System - Any subsurface sewage treatment system, lagoon disposal system or other waterborne waste disposal method employing basic hydrologic or engineering principles which receives 1500 gallons or less of waterborne waste per day.

3.3.6 Class I Sewage Treatment System - A sewage treatment system meeting standard 40-1990 for Individual Aerobic Wastewater Treatment Plants published in 1990 by the National Sanitation Foundation (ANSI/NSF40-1990) made a part hereof by reference and which meets Class I effluent results prescribed by EPA Secondary Treatment Guidelines, Federal Register, Vol. 49, Sept. 20, 1987, Title 40-Protection of Environment Chapter 1 - EPA, Subchapter D, Water Programs, part 133, Secondary Treatment Information, Item 133.102 Secondary Treatment, made a part hereof by reference and both maintained on file in the Marion County Health Department, Marion County Planning and Building Inspection Dept. and Office of the Marion County Clerk.

3.3.7 Construction - Any act of building and/or installing a new small on-site waste system in order to make it operational and functional or any act of repairing or replacing a small on-site wastewater system other than routine maintenance.

3.3.8 Modification - Any act or work upon an existing small on-site wastewater system which changes the design or function of system other than routine maintenance.

3.4 Small On-site Wastewater System Design and Construction Standards: All small on-site wastewater systems shall be designed, constructed or modified in accordance with the standards set forth in 10 CSR 20-8.021 Individual Sewage Treatment System Standards, effective April 15, 1989, the same being incorporated by reference as if fully set out in this regulation verbatim and maintained on file in the office of the Marion County Health Department, Marion County Planning & Building Inspection Department and Marion County Clerk's office except to the extent the same is modified by these regulations.

3.4.1 Exceptions to Design and Construction Standards - The Regulations 10 CSR 20-8.021 Individual Sewage Treatment System Standard effective April 15, 1989, are hereby amended for purposes of this chapter as follows:

3.4.1.1 Soil Scientist - The term "soil scientist" defined in 10 CSR-20-8.021 shall be defined as follows -
A soil scientist shall have a minimum of 15 semester

credit hours of courses in soil sciences including a minimum of 3 credit hours in the area of soil morphology and interpretation as well as a minimum of 3 years field experience by employment or otherwise in interpreting soil texture, color, structural and stratigraphic properties relative to temporal fluxes of water in soil landscapes.

3.5 Permit Required for Construction or Modification of Small On-site Wastewater Systems: From and after the effective date of these regulations no small on-site wastewater system shall be constructed or modified except in accordance with the terms and conditions of a valid permit issued pursuant to these regulations. Except as provided in section 3.6.2, nothing in these regulations is intended or is to be construed to require a permit to operate a small on-site wastewater system once the construction or modification of such a system under permit has been finally inspected and approved by the Administrative Authority. The issuance of a permit in accordance with these regulations does not relieve the permittee of the responsibility to properly plan, design, construct, install, modify, operate or maintain the system as may be otherwise regulated by law, rule or regulation, nor does issuance of such permit guarantee that the system will function in compliance with these regulations or other applicable laws, rules or regulations.

3.5.1 Permit Applications - Any person seeking a permit to construct or modify a small on-site wastewater system shall submit a written application for same on forms provided by the administrative authority; such application shall be accompanied by plans, including site plans indicating the location of percolation test holes or soil profile holes, test results, lot lines, proposed location of treatment systems in relation to buildings and lot lines, specifications, design data and other pertinent information required by the administrative authority. All plans and specifications shall conform to the design standards required under these regulations. All permit applications including site plans shall demonstrate in writing and graphically that the proposed small on-site wastewater system to be constructed or modified is in compliance with the requirements of these regulations.

3.5.2 Permit Application Processing Procedures - The administrative authority shall review all permit applications initially for completeness; incomplete applications shall be returned to the applicant for completion. The administrative authority shall take final action on all completed permit applications within fifteen (15) calendar days of submission by either approving the application and issuing the permit, issuing the permit with modifications necessary for compliance with these regulations or denying the permit. Any permit issued with modifications or denied shall be accompanied by written reasons for such modification or denial and in the

case of denial, the administrative authority at its discretion may recommend corrective action. Any applicant aggrieved by the issuance of a permit with modifications or denial of a permit may appeal such issuance or denial to the Board of Review within 30 days of such issuance or denial in accordance with the provisions of these regulations.

3.5.3 Compliance with Permit - No small on-site waste water system shall be constructed or modified except in compliance with the terms and conditions of the permit issued for same and approved application therefor; unauthorized changes, deviations or modifications shall constitute a violation of the permit and subject the permittee to permit suspension, revocation and/or prosecution.

3.5.4 Operation of Small On-site Wastewater System - No small on-site wastewater system shall be operated unless and until a final inspection of same is conducted by the administrative authority and the system is approved and found to be in compliance with these regulations. No final inspection shall be conducted or approval granted unless the system is exposed for inspection without backfilling so that the system can be examined for compliance with these regulations. Any small on-site wastewater system which has been backfilled in whole or part or otherwise covered such that a complete inspection for compliance cannot be conducted shall upon request of any representative of administrative authority be uncovered, re-excavated or otherwise exposed at

the sole expense of the permittee such that a complete inspection can be conducted for purposes of determining compliance with these regulations. Any permittee who shall fail to expose a small on-site wastewater system for inspection under the provisions of these regulations shall be subject to permit suspension or revocation. Any permittee who shall fail to expose a small on-site sewage system to inspection after construction or modification within thirty (30) days after request of a representative of the administrative authority shall be subject to permit revocation.

3.5.5 Permit Modification - No small on-site wastewater system shall be constructed or modified in deviation from the terms and conditions of the permit and approved application therefor unless a new application or amended application for such permit has been first filed with the administrative authority and approved by such authority or a waiver of permit modification has been granted pursuant to section 3.5.6.

3.5.6 Waiver of Permit Modification - Submission of a new or amended application for small on-site wastewater system permit may be waived by the administrative authority in cases where approved materials and/or procedures cannot be used under the terms and conditions of the existing permit and alternative materials or procedures will meet minimum standards without substantial change in the small on-site wastewater system approved under the existing permit and which

will not result in any violation of these regulations. The administrative authority may grant such waiver orally upon oral request provided the request and waiver is documented on forms approved by the Administrative Authority and signed by the permittee and a representative of the Administrative Authority granting the waiver. Failure or refusal of the administrative authority to grant an oral waiver shall not entitle the permittee to appeal such decision to the Board of Review.

3.5.7 General Permit Conditions - The following general conditions shall be applicable to all small on-site wastewater system permits:

3.5.7.1 Expiration of Permit - All small on-site wastewater system permits shall be valid for six months after date of issuance and the administrative authority shall record the expiration date on each such permit. Permits may be renewed for additional ninety (90) day periods after the initial period of validity for good cause provided there have been no changes in the plans for construction or modification of the system under the initial permit and application for renewal is made prior to the expiration date of the permit. No small on-site wastewater system permit shall be renewed except by the administrative authority making a written endorsement of renewal upon the existing permit prior to the expiration date of such permit. Failure to request or obtain

renewal prior to the expiration date shall require the permittee to submit an application for new permit.

3.5.7.2 Transfer of Permit - Small on-site wastewater system permits may be transferred only to successor property owners prior to completion of construction or modification for which the permit is issued by completion of ownership transfer documents issued and approved by the administrative authority. All terms and conditions of issued permits for construction or modification shall be automatically applicable to any successor property owner upon transfer of ownership.

3.5.8 Permit Denial - The administrative authority may deny an on-site wastewater system permit for any of the reasons enumerated in sections 3.5.8.1 through 3.5.8.4. In the event the administrative authority denies issuance of a permit the applicant shall be notified in writing of the reason or reasons for denial. An applicant denied a permit may request in writing a hearing before the Board of Review stating the grounds in support of the request within thirty (30) days of the notification of denial. The ruling of the Board of Review shall be final; any further appeal or review of the decision shall be as provided by Chapter 536 RSMo.

3.5.8.1 Denial Due to Violation of Design and/or Construction Standards - A small on-site wastewater system permit may be denied because application for such permit is incomplete or does not meet applicable minimum

design and/or construction standards established by these regulations.

3.5.8.2 Denial Due to Violation of Applicable Building, Subdivision or Zoning Regulations - A small on-site wastewater system permit may be denied if the system to be constructed or modified will cause a violation of applicable building, subdivision or zoning regulations.

3.5.8.3 Denial Due to Location Within 225 Feet of Sanitary Sewer - A small on-site wastewater system permit may be denied because the building lot upon which it is to be located is within 225 feet of a sanitary sewer to which connection is practical and is permitted by the governmental agency or utility responsible for the sanitary sewer, or in the case of a nonconforming on-site wastewater system under section 3.8, no such permit shall be issued where such a system constitutes a nuisance as otherwise prohibited in these regulations and the building lot upon which such system exists is located within 225 feet of a sanitary sewer to which connection is practical.

3.5.9 Permit Suspension and Revocation - The administrative authority may suspend or revoke a permit before construction or modification of a small on-site waste water system is completed due to noncompliance with the terms of the permit or these regulations, unapproved modifications in design or construction, false information submitted in the

application for permit, changing site conditions which would result in a violation of one or more of the provisions of these regulations, submission of false percolation test data or false soil morphology/landscape data, permittee misrepresentation concerning compliance with these regulations or any other reasons necessary for protection of the public health or safety. Except in cases where continued construction or modification under permit would present an imminent threat to human health, life or safety, a permittee shall be given at least five (5) days advance written notice of the administrative authority's intent to suspend or revoke a permit which shall contain a written statement of the reasons for the proposed suspension or revocation, duration of suspension (if applicable) together with notice of corrective actions (if applicable) necessary to authorize the permittee to retain the permit. The permittee may appeal a notice of suspension or revocation to the Board of Review by submitting a written notice of appeal to the administrative authority on or before the date suspension or revocation is to take effect. An appeal shall not stay the suspension or revocation of a permit unless so ordered by the Board of Review upon a showing of good cause or with consent of the administrative authority. The Board of Review shall determine the appeal of any suspension or revocation as soon as reasonably practicable; the decision of the Board of Review shall be final and any

further appeal or review shall be as prescribed by Chapter 536 RSMo.

- 3.6 Board of Review: The county commission shall appoint a review committee consisting of five members to be known as the Small On-Site Wastewater System Board of Review which shall review and determine applications for variances as authorized by these regulations and hear and determine appeals from administrative authority decisions as are authorized and prescribed by these regulations. The voting members of the Board of Review shall consist of a representative from the Marion County Planning & Building Inspection Department, a registered engineer or soil scientist, or in the event no such engineer or soil scientist is available, a person actively involved in the design or inspection of small on-site wastewater systems, and three citizens at large owning or possessing real estate containing a small on-site wastewater system. A member of the Marion County Health Department shall provide administrative support to the Board of Reveiw and serve as a non-voting ex-officio member of the board. The governmental representative seat on the Board of Review shall be permanent. Persons occupying seats on the Board of Review shall be subject to removal from the Board by the Marion County Commission for misconduct or neglect of office. The nongovernmental members on the Board of Review shall be appointed for staggered terms by the Marion County Commission with initial terms to cover one, two and three years as deemed

appropriate by the County Commission and thereafter each successive term shall be for a period of three years. The Board of Review shall be entitled to establish rules of procedure and bylaws for the conduct of its business subject to review, modification and approval by the Marion County Commission.

3.6.1 General Variances - The Board of Review may grant variances from the strict application of these regulations in cases where a property owner or occupant would not be able to effectively or properly use a small on-site wastewater system and the grant of a variance would not result in contamination of surface waters or ground water or present a nuisance or health hazard to any person and would not result in the discharge of treated or untreated domestic sewage or human waste off the property subject to the permit. No variance shall be granted on the condition of reduced water usage or maximum specified water usage. The Board may impose such conditions on a variance as it deems appropriate for purposes of preventing contamination of surface waters or ground water or preventing a nuisance or health hazard condition to other persons or preventing discharge of treated or untreated domestic sewage or human waste off the property subject to the permit.

3.6.2 Class I Sewage Treatment System Variances - The Board of Review may grant a variance for a Class I Sewage Treatment System as the term is defined in these regulations

when due to lot size or other extraordinary circumstance no other small on-site wastewater system will be effective and installation or construction of some other system would otherwise result in a reasonable probability of contamination of surface waters or ground water or present a nuisance or health hazard to other persons or result in treated or untreated domestic sewage or human waste discharging off the property for which the permit was issued in an unsanitary condition. No Class I Sewage Treatment System variance shall be granted without issuance of an operating permit conditioned on periodic inspection of the system and maintenance of the system under conditions established by the Board of Review. No Class I Sewage Treatment System shall be operated without a valid operating permit in effect issued by the Board of Review; breach of any condition contained in an operating permit shall authorize the Board of Review to revoke an operating permit after notice of the violation to the permittee and opportunity to be heard. The issuance of a Class I Sewage Treatment System variance shall not authorize the permittee to discharge wastewater on property of another without consent or otherwise impede right or privilege of property ownership to persons not subject to the permit issued under authority of these regulations.

- 3.7 Certification of Small On-site Wastewater System Installers and Percolation Test Technicians: No person shall construct or modify a small on-site wastewater system unless certified

as an installer for such system by the administrative authority or unless otherwise exempt from such certification under these regulations. No person shall administer a soil percolation test for purposes of complying with these regulations unless certified as a percolation test technician. No person shall perform or administer a soil morphology/landscape analysis for purposes of complying with these regulations unless qualified as a soil scientist as defined herein.

3.7.1 Certification Requirements for Installers - An individual may be certified as a small on-site wastewater system installer if such person has attended a training as required by the administrative authority, consisting of instruction on the application of these regulations. The administrative authority is authorized to establish such courses of instruction and/or testing as it may deem appropriate from time to time to insure installer compliance with these regulations.

3.7.2 Requirements for Percolation Test Technician Certification - A natural person may be certified as a soil percolation test technician under these regulations who meets the criteria of 10 CSR 20-8.021 and has a working knowledge of the proper procedure for administering soil percolation tests and the application of these regulations pertaining thereto. The administrative authority may provide training and require testing in proper procedure for administering soil percolation

wastewater system installer or soil percolation test technician who is found to intentionally violate any provision of these regulations or who after written warning of violation of a particular regulation is found to violate the same regulation on one or more subsequent occasions regardless of whether or not such person intended violation. Any certification revoked by the administrative authority may be appealed in writing to the Board of Review within ten (10) days after notice of revocation has been served upon the person whose certification is to be revoked. The Board of Review shall hear and determine such appeal as soon as reasonably practicable and may for good cause shown stay revocation prior to hearing. The decision of the Board of Review shall be final and any appeal thereafter shall be as prescribed by Chapter 536 RSMo.

- 3.8 Nonconforming Small On-site Wastewater Systems: All small on-site wastewater systems existing as of the effective date of this chapter shall be presumed to be in compliance with these regulations unless such system is found to be public health nuisance or hazard or is in violation of state law pertaining to wastewater systems. When any such condition exists the owner of the real estate upon which such system exists shall then be subject to the provisions of these regulations and shall be required to apply for a small on-site wastewater permit in order to modify the existing system within such time as prescribed by the administrative authority.

3.9 Interpretation and Severability: The regulations enacted under this chapter are intended to be supplementary to other provisions or remedies authorized or prescribed by law or rule or regulation enacted thereunder. The invalidity of any particular regulation enacted herein shall not affect the validity of any other provision and all regulations hereunder shall be construed as consistently and harmoniously as possible with each other and other applicable provisions of the law. In the event these regulations irreconcilably conflict with another law, rule or regulation, the law, rule or regulation which affords the greater protection to the public health or safety shall prevail except in the case of conflict with any rules or regulations made by the Missouri Department of Health or the Missouri Department of Social Services pursuant to chapter 198 RSMo, in which case the regulations of the state thereunder shall prevail. These regulations also shall be liberally construed to the fullest extent permitted by law to effectuate the broad remedial purposes for which they are intended.

3.10 Jurisdiction: The regulations contained in this chapter shall be applicable to all unincorporated areas within Marion County, Missouri and by order of the Marion County Commission in incorporated municipalities which petition the Marion County Commission to be included and the Marion County Commission agrees to order their inclusion after public hearing thereon.

3.11 Penalties and Remedies: Any person who violates any requirement or provision of these regulations shall be deemed guilty of a misdemeanor and shall be punished as provided by law; each day's violation of any such regulation shall constitute a separate and distinct offense. The penalty provided in this section shall not be construed to be exclusive but is intended to be supplementary and in addition to any other remedy provided by law or at equity.

3.12 Fees: The County Commission may from time to time impose such user fees such as permit fees or inspection fees as it may deem appropriate so long as such fees comply with the provisions of Section 192.300 RSMo. and are otherwise authorized by law.

3.13 Effective: These regulations shall become effective on and after the date of their passage.