

ARTICLE III. ON-SITE TREATMENT AND SEWAGE DISPOSAL SYSTEMS

Sec. 98-61. Short title.

This article shall be known and may be cited as "Escambia County On-site Sewage Treatment and Disposal Systems Ordinance."

(Code 1985, § 1-29-176; Ord. No. 99-24, § 1(1-29.176), 5-6-99)

Sec. 98-62. Authority.

This article is adopted pursuant to the general laws of the state and all provisions and sections contained in this article shall be construed as having been adopted in the interest of public health, safety and general welfare of the people of the county.

(Code 1985, § 1-29-177)

Sec. 98-63. Applicability.

Except as otherwise specified herein, this article shall apply to and be enforced in all incorporated and unincorporated areas of Escambia County. Escambia County recognizes the Florida Statute provision for the Florida Department of Health to adopt rules and regulations relating to public health; and of the ability of Escambia County to enact health regulations and ordinances which are not inconsistent with the provisions adopted by the Florida Department of Health. This article incorporates by reference the State of Florida "Standards for On-site Sewage Treatment and Disposal Systems" as set out in Chapter 64E-6, Florida Administrative Code, and Escambia County Ordinance 81-10 (chapter 54, article II of this Code) relating to permits for on-site sewage disposal systems, unless otherwise provided herein. In the event there is a conflict between any standards provided in this article and Chapter 64E-6, Florida Administrative Code, the more restrictive requirements shall apply.

(Code 1985, § 1-29-178; Ord. No. 99-24, § 2(1-29.178), 5-6-99; Ord. No. 99-36, § 1(1-29.178), 7-15-99)

Sec. 98-64. Definitions.

The following words, phrases, or terms used in this article, unless the context indicates otherwise, shall have the following meanings:

Aerobic treatment unit. A sewage treatment unit which introduces air into sewage to provide aerobic biochemical stabilization within a treatment receptacle.

Available. As applied to an Escambia County Utilities Authority (ECUA) wastewater collection main, means that the wastewater collection main exists in a public easement or right-of-way abutting the property line of the establishment or residence to be served; is not under a department of environmental protection moratorium; has adequate permitted capacity to accept the sewage to be generated by the establishment or residence; and the plumbing system of the establishment or residence can be connected to the collectionmain.

ECUA retrofit prioritized areas. Those areas scheduled for gravity or low pressure wastewater system installation in the ECUA service area whose priority is identified and updated periodically by the ECUA board and incorporated by reference into this division.

Enforcement agency. The Florida Health Department shall enforce all provisions of this article.

Lot. That portion of a parcel of land that is within the boundaries of such parcel whether such parcel is

described by recorded plat, metes and bounds or any other legal method.

Mean high water line. The intersection of the tidal or nontidal plane of mean high water with the shore.

On-site sewage treatment and disposal system (OSTDS). Any domestic sewage treatment and disposal facility, including standard subsurface systems, graywater systems, laundry wastewater systems, alternative systems or experimental systems, installed on land of the owner or on other land to which the owner or owners have the legal right to install a system.

Person. Includes the words owner, agent of an owner, firm, association, partnership, trust, company, corporation, as well as individual.

Plat. A map or drawing depicting the division of lands and blocks, parcels, tracts or sites being a complete exact representation of the subdivision; and other information in compliance with all applicable sections of the state plat act and this article.

Sale or transfer. Transmission of real property from one person to another by voluntary act and agreement between the seller and buyer founded on a valuable consideration. The following transfers shall be exempt from this definition:

- (1) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain and transfers resulting from a decree for specific performance.
- (2) Transfers to a mortgagee by a mortgagor or successor in interest who is in default; transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default; transfers by any foreclosure sale after default, in an obligation secured by a mortgage; transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale; or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure.
- (3) Transfer by a bank, savings and loan association, mortgage banker, the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, or other institutional lender who has acquired the property through foreclosure or deed in lieu of foreclosure.
- (4) Transfers of condominiums, as defined in F.S. (1993) ch. 718, or as subsequently amended; cooperatives, as defined in F.S. (1993) ch. 719, or as subsequently amended; and time share plans, as defined in F.S. (1993) ch. 21, or as subsequently amended.
- (5) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.
- (6) Transfers from one co-owner to one or more other co-owners.
- (7) Transfers made to a spouse or to a person or persons related by consanguinity to one or more of the transferors.
- (8) Transfers between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree.
- (9) Transfers under F.S. (1993) ch. 197, or as subsequently amended, as a result of failure to pay property taxes.
- (10) Transfers or exchanges to or from any governmental entity.

Seller. Owner or title holder of real property or person or entity who has authority to enter into a contract for sale of the property.

Written corrective action. A written statement issued to the violator of any provision of this article, or his agent, identifying and specifying the violation, date and time of issuance, corrective measure to be taken and date and time correction is to be completed.

(Code 1985, § 1-29-179; Ord. No. 99-24, § 3(1-29.179), 5-6-99; Ord. No. 99-36, § 2(1-29.179), 7-15-99)

Cross references: Definitions generally, § 1-2.

Sec. 98-65. Standards for on-site sewage treatment and disposal systems.

(a) No septic tank or other on-site sewage treatment and disposal system may be installed until a permit is obtained as provided in Escambia County Ordinance 81-10 (chapter 54, article II of this Code), from the Florida Department of Health. Issuance of the permit is subject to the rules of the Florida Department of Health and the following provisions:

(1) All on-site sewage disposal systems in the unincorporated areas of the county shall be located laterally no less than 100 feet from the mean high water line (MHW) of lakes, streams, canals or any other tidal or nontidal surface waters.

(2) The maximum allowable density where an on-site sewage disposal system is utilized shall be calculated on a basis of lot size alone.

(3) The Florida Department of Health will not approve the usage of an on-site sewage disposal system in an area that appears to be a wetland as defined by F.S. § 403.817, or where the estimated wet season high water table is determined by soil conditions (such as mottling) to be at the ground surface. The applicant will be directed to contact the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers for wetland jurisdiction determination.

(4) Persons using aerobic treatment units, regardless of date installed, shall obtain an annual operating permit from the Florida Department of Health. The fee collected for this permit shall be used to perform periodic monitoring and effluent sampling of the unit. Persons operating an aerobic treatment unit shall permit department personnel right of entry to the property during normal working hours for monitoring and sampling.

(5) a. Existing septic tanks or other on site sewage treatment and disposal systems in both the incorporated and unincorporated areas of Escambia County, Florida south of Well Line Road and Becks Lake Road shall be inspected upon transfer or sale in compliance with an environmental analysis program, to be administered by the Florida Department of Health.

b. Proof of compliance with the inspection requirement set forth herein shall be furnished by the seller or the transferor to the buyer or transferee prior to closing or transfer of the property on a form prepared and executed by the Florida Department of Health. Failure to provide such proof as required herein constitutes a violation of this article by the seller or transferor. The completed form shall be attached to the deed or other instrument of conveyance and shall be recorded in the public records of Escambia County, Florida. Failure to comply with the requirements set forth in this section shall not affect the validity of any transferor's deed nor the date of filing of the deed or other instrument of conveyance, nor shall acceptance for filing of any deed or other instrument be deemed an acknowledgment of compliance with the requirements of this section.

c. Fees for this program shall include a surcharge on permits for onsite sewage treatment and disposal system installation and an inspection fee for inspections made upon transfer or sale of property with an onsite sewage treatment and disposal system, set annually by resolution of the board of county commissioners.

d. Fees collected under this program and other allocated program resources shall be exclusively for an environmental analysis program and a citizen's financial assistance program as defined annually by the Board of county commissioners in the county's annual budget.

e. The results of the environmental analysis program will be used to define new ECUA retrofit prioritized areas and refine the prioritized areas annually.

(Code 1985, § 1-29-180; Ord. No. 99-24, § 4(1-29.180), 5-6-99; Ord. No. 99-36, § 3(1-29.180), 7-15-99)

Sec. 98-66. Variances.

The director of environmental health of the Florida Health Department may grant variances in hardship cases which may be less restrictive than the provisions specified by this article in accordance with the following:

(1) Requests for variances may be made and shall be submitted to the director of environmental health of the Florida Department of Health. A variance may not be granted under this article until the director of environmental health is satisfied that the following criteria has been met:

- a. The hardship was not caused intentionally by the action of the applicant;
- b. No reasonable alternative exists for the treatment of the sewage;
- c. The discharge from the onsite sewage treatment and disposal system (OSTDS) will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters;
- d. Consideration will be given where soil conditions, water table elevation, and setback provisions are determined to be satisfactory.

(2) The director of environmental health shall appoint a variance review and advisory committee, which shall meet as often as needed to recommend action on variance requests to the director of environmental health, who will make the final decision. The committee will be appointed by the director of environmental health and will consist of three members. Two of the members will be technical experts from environmental health and one member will represent Escambia County Utilities Authority (ECUA). Members will serve without remuneration.

(3) If the applicant is not satisfied with the decision of the director of environmental health, a hearing before the committee and director may be requested.

(4) Any applicant denied a variance by the Florida Department of Health may seek judicial review in the circuit court by filing a petition for writ of certiorari within 30 days of such denial.

(Code 1985, § 1-29-181; Ord. No. 99-24, § 5(1-29.181), 5-6-99; Ord. No. 99-36, § 5(1-29.181), 7-15-99)

Sec. 98-67. Notices of correction.

(a) Corrective written notices may be issued to violators of this article to correct an offense, in lieu of arrest or verbal notice. The written notice shall state the date and time issued, nature of the offense committed, corrective measures to be taken and the date and time such corrections shall be made. All such written notices shall be maintained by the county public health unit and be available for public inspection during normal office hours.

(b) Notices mailed by certified mail, return receipt requested, mailed to the violator's last known place of residence shall be deemed personal service upon the person, for the purposes of this article.

(Code 1985, § 1-29-182)

Sec. 98-68. Failure to comply with a notice.

Any person, corporation, company, firm, business, institution, establishment owner, lessee, agent, tenant or occupant who has been served such notice in accordance with the provisions of this article, and who shall neglect or shall refuse or shall fail to fully comply with the corrective notice so ordered and/or within the time frame so ordered therein, shall be in violation of this article.

(Code 1985, § 1-29-183)

Sec. 98-69. Connection of existing on-site sewage treatment and disposal systems to central sewage system.

The owner of a properly functioning onsite sewage treatment and disposal system must connect the system or the building's plumbing to an available publicly owned or investor-owned sewerage system within 365 days after written notification by the Escambia County Health Department that the system is available for connection.

(Ord. No. 99-24, § 6(1-29.184), 5-6-99)

Sec. 98-70. Penalties and enforcement.

Violations of this article shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. Each day any violation of any provision hereof shall continue shall constitute a separate offense, unless otherwise provided.

The Florida Department of Health is authorized to enforce this article with or in addition to enforcement of existing statutes and Florida administrative rules, including, but not limited to, permitting requirements, administrative procedures, civil injunctions and referral to the state attorney.

(Ord. No. 99-24, § 7(1-29.185), 5-6-99)

Secs. 98-71--98-90. Reserved.