

**STONE COUNTY HEALTH CODE  
ONSITE WASTEWATER TREATMENT SYSTEMS ORDINANCE**

**DIVISION 5. ONSITE WASTEWATER TREATMENT SYSTEMS**

AN ORDINANCE GOVERNING THE CONSTRUCTION, MODIFICATION, INSTALLATION, AND OPERATION OF ONSITE WASTEWATER TREATMENT SYSTEMS WITH MAXIMUM FLOWS OF 3000 GALLONS PER DAY WITHIN STONE COUNTY REQUIRING CERTAIN PERMITS FOR INSTALLATION AND OPERATION, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

ONSITE WASTEWATER TREATMENT SYSTEMS, WHICH ARE PROPERLY FUNCTIONING AND NOT IN VIOLATION OF SECTIONS 701.025 through 701.059 RSMo., OR SECTIONS 644.006 through 644.141. RSMo., WHEN THIS ORDINANCE BECOMES EFFECTIVE SHALL NOT BE REQUIRED TO OBTAIN A PERMIT FOR OPERATION. HOWEVER, ALL SYSTEMS SHALL BE MAINTAINED FREE OF NUISANCES, POTENTIAL HEALTH HAZARDS, OR VIOLATIONS OF MISSOURI LAW REGARDLESS OF WHEN THE SYSTEM WAS ORIGINALLY INSTALLED.

IT IS HEREBY ORDERED BY THE STONE COUNTY HEALTH DEPARTMENT BOARD OF TRUSTEES AND THE STONE COUNTY COMMISSION AS FOLLOWS:

**SECTION 5.1. AUTHORITY AND SCOPE OF REGULATIONS**

This ordinance is enacted pursuant to Sections 192.300, RSMo, 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 as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such 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 and Senior Services in accordance with this chapter or by the Department of Social Services under chapter 198, RSMo.

- 5.1.1 The administrative authority shall be the Stone County Health Department, or its designated representative.
- 5.1.2 The permit system established through these regulations governs only the installation and repair of onsite wastewater treatment systems. The permit is not to be construed as being a building permit, zoning compliance permit, or any other permit that may be required by other agencies or offices to erect a structure in Stone County.
- 5.1.3 These rules establish the minimum sizes and distances adopted in Stone County. The County does not design the system nor does the permit bind or obligate the County to guarantee the successful or proper function of any system.
- 5.1.4 Property owners of any property where people live, work or assemble shall provide for sanitary disposal of all domestic wastewater.
- 5.1.5 It shall be a violation of these regulations to own, operate or make available for use a malfunctioning or failing onsite wastewater treatment system.
- 5.1.6 It shall be a violation of these regulations to operate an onsite wastewater treatment system or transport and dispose of waste removed in such a manner that may result in

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 this regulation.

5.1.7 It shall be a violation of these regulations to construct, repair or modify an onsite wastewater treatment system without a permit regardless of lot size.

5.1.8 It shall be a violation of these regulations to construct, repair or modify an onsite wastewater treatment system when the permit has expired or has been suspended or revoked.

5.1.9 It shall be a violation of these regulations to fail to comply with a STOP ORDER issued pursuant to this regulation.

5.1.10 It shall be a violation of these regulations to construct or perform major modification of an onsite wastewater treatment system unless the installer is registered with the Stone County Health Department and the Missouri Department of Health and Senior Services. A homeowner who constructs, or effects a major modification of an onsite wastewater treatment system for his or her own residence upon his or her own property shall not be required to be registered as allowed in section 5.7.3 of this regulation and 701.025 – 701.059 RSMo.

5.1.11 It shall be a violation of these regulations to evaluate the site/soil for an onsite wastewater treatment system unless the Onsite Soil Evaluator is registered with the Missouri Department of Health and Senior Services and the Stone County Health Department.

5.1.12 The administrative authority, bearing proper credentials and 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.

## **SECTION 5.2. DEFINITIONS**

As used in this ordinance, the words and terms listed below shall have the following meanings. (See the publication "Missouri Laws Accompanied by Department of Health and Senior Services Rules Governing Onsite Sewage Systems" for additional definitions that may apply.)

5.2.1 Administrative Authority – Shall mean the Stone County Health Department or its designated representative.

5.2.2 Advanced System – Alternative and/or engineered treatment or distribution systems including, but not limited to:

sand filters, other media bio-filters, and aerobic treatment unit (ATU);

constructed wetlands;

sand mounds; low-pressure distribution systems;

drip irrigation systems; and modified shallow placed gravity lateral trenches and other systems using fill soil material.

5.2.3 Applicant - Any person, institution, public or Private Corporation, partnership or other entity that submits an application for a permit to install, construct, or repair an onsite wastewater treatment system.

5.2.4 Approved - The official consent given in writing by the Stone County Health Department and/or his or her designated representative.

5.2.5 Bedroom – Any room within a dwelling that might reasonably be used as a sleeping room.

5.2.6 Construction and/or Installation - Any act of building and/or installing a new onsite wastewater treatment system in order to make it operational and functional, or any act

(other than routine maintenance) of repairing or replacing any portion of an existing onsite wastewater treatment system.

5.2.7 Dosing Chamber (or pump pit or wet well) – A tank or separate compartment following the sewage tank that serves as a reservoir for the dosing device.

5.2.8 Effluent Screen - An easily removable, cleanable or disposable device installed on the outlet piping of a septic tank for the purpose of retaining solids of a specific size and conforming to a recognized industry standard.

5.2.9 Emergency - Any set of circumstances that constitute an imminent health hazard or the threat of an imminent health hazard as defined in this ordinance.

5.2.10 Emergency Repair- An act or work done to correct a system due to failure which has created an immediate health hazard or the threat of an immediate health hazard, and when the administrative authority has given prior verbal consent to start repair.

5.2.11 Homeowner – A person who owns the property on which that property owner is constructing the onsite wastewater treatment system for occupancy.

5.2.12 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.

5.2.13 Installer – Any person engaged in the construction, installation or renovation of any onsite wastewater treatment system. May also be referred to as “contractor” or “registered installer.”

5.2.14 Maintenance- Actions taken to keep the system properly functioning. It shall include, but not be limited to: adjusting the flow from the distribution box, repairing baffles, replacing pumps, cleaning or replacing an effluent screen or pumping accumulated solids out of the sewage tank.

5.2.15 Major Modification – The redesigning and alteration of an onsite 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.

5.2.16 Malfunctioning or Failing Onsite Wastewater Treatment System- Any wastewater treatment system not properly performing, which shall include but not be limited to: Subsurface systems that have sewage or effluent overflow from any of their component part that ponds or flows on the ground surface.

Systems that cause sewage or effluent to back-up into any system components, the plumbing system or building.

Sewage treatment systems with failed structural components.

Systems that result in the contamination of surface waters or groundwater or present a nuisance or imminent health hazard to any person or property owner.

5.2.17 Modification - Any act or work done to an existing onsite wastewater treatment system, other than routine maintenance, which changes the size, design, or function of the system. It shall include, but not limited to: the redesigning and alteration of an onsite wastewater treatment system by relocation of the system or a part of the system, replacement of the septic tank, construction of a new absorption field, placement of any structure over the system, or changing the flow into a system by changing or adding dwelling units. May also be referred to as “major modification”.

5.2.18 Nuisance – sewage, human excreta or other human organic waste discharged or exposed on the owner’s land or any other land from an onsite wastewater treatment 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.

5.2.19 Onsite Wastewater Treatment System - Any system handling or treatment facility receiving domestic sewage which discharges three thousand (3000) gallons per day or

less into a subsurface soil absorption system, or a lagoon serving a single family dwelling.

5.2.20 Onsite Wastewater Variance Committee - A committee as further described in these regulations charged with determining variance requests and appeals authorized by these regulations.

5.2.21 Operating Permit – A permit issued by the Stone County Health Department that verifies maintenance of an advanced system.

5.2.22 Permit, Permit for Construction or Onsite Wastewater Permit - Written authorization issued, under the provisions of this ordinance/regulation, by the Stone County Health Department or its representative allowing construction, installation, modification, or repair of an onsite wastewater treatment system. This permit does not regulate the operation of an onsite wastewater treatment system.

5.2.23 Property Owner- The person in whose name legal title to the real estate is recorded.

5.2.24 Repair - Work on the onsite wastewater treatment system, which is necessary to restore the proper functioning of the system, but does not change its size or location.

5.2.25 Single Family Dwelling – A residential property designed for occupancy by one family.

5.2.26 Site Visit/Inspection - An investigation required prior to approval for a permit, and performed by the Stone County Health Department at a proposed soil absorption/ onsite wastewater treatment system installation site. The investigation "site visit/inspection" may be done in cooperation with the property owner or their representative, i.e., the installer, engineer etc.

5.2.27 Soil Morphology Evaluation - A report of site suitability and soil characteristics for the proposed soil absorption/septic installation site which includes texture, structure, porosity, consistency, color and other physical, mineral and biological properties of various horizons, and the thickness and arrangement of the horizons in the soil profile.

5.2.28 Soil Profile- A vertical section of the soil through its horizons as read by a registered onsite soil evaluator wherein at least one of the required observations must be taken from a soil pit excavated at least forty-eight inches deep or to a non-penetrable layer if one is encountered. The pit(s) must represent the soils in the proposed location of the system. Additional profiles may be required.

5.2.29 Stop Order – A written order issued by the Administrative Authority to stop all construction, installation, modification or operation of a onsite wastewater treatment system.

### **SECTION 5.3. ADOPTION**

The Stone County Board of Health Trustees and the Stone County Commissioners hereby adopts an ordinance establishing minimum construction standards and procedures for onsite wastewater treatment systems as outlined in the current Missouri Department of Health and Senior Services regulations relating to Onsite Wastewater Treatment Systems with the following exceptions:

5.3.1 All references to the “People of the State of Missouri” in the referenced rules and regulations shall mean citizens of Stone County.

5.3.2 The Stone County Health Department or its designated representative shall be the authority for administering this Onsite Wastewater Treatment Systems Ordinance, for issuing permits for construction or repairs, and shall investigate alleged violations of this ordinance and Sections 701.025 through 701.059 RSMo.

5.3.3 The property owner or agent shall obtain a permit from the Stone County Health Department prior to any construction, installation, modification, or repair of any onsite wastewater treatment system as required in Section 5.1.7 of this ordinance.

5.3.4 At least sixty-percent (60%) of onsite wastewater treatment systems constructed, modified or repaired, by registered installers that are required to have a permit, will be inspected by the Stone County Health Department or its designated representative and one-hundred percent (100%) of onsite wastewater treatment systems constructed, modified or repaired by homeowner non-registered installers, that are required to have a permit, will be inspected by the Stone County Health Department or its designated representative. As allowed by 701.025 – 701.059 RSMo, certification without onsite inspection may be accepted from a registered installer in lieu of a final inspection, when the Stone County Health Department or its representative grants the backfilling of the onsite wastewater treatment system components without an onsite inspection, provided that the registered installer shall provide on the Certification of onsite wastewater treatment system without onsite inspection form issued by the Stone County Health Department that the onsite wastewater treatment system was installed, modified or repaired pursuant to the state standard and this ordinance.

5.3.5 Soil morphology evaluations shall be the standard method of determining conditions of soil, sizing and selection of onsite wastewater treatment systems. Percolation tests are not an approved method of soil evaluation in Stone County.

5.3.6 Metal Septic Tanks shall NOT be used in Stone County for the construction, modification, or repair of any onsite wastewater treatment system.

5.3.7 No permit will be issued for a lagoon or evaporation pond.

5.3.8 All septic tanks shall be equipped with a properly sized effluent screen as defined in section 5.2.8.

5.3.9 All septic tanks and dosing chambers shall be equipped with a properly sized watertight riser and lid that is at least 20-inches in diameter and be made of approved material that is consistent with septic tank materials. The riser and lid must terminate above grade and shall have either an effective locking device or otherwise be adequately sealed in a manor to prevent accidental access.

#### **SECTION 5.4. PERMITS**

It shall be unlawful for any person, partnership, company, corporation, or other business entity to construct, modify or repair an onsite wastewater treatment system within Stone County unless that person holds a valid onsite wastewater permit as required by this ordinance issued by the Stone County Health Department.

5.4.1 The permit shall be in the name of the property owner for which the specific construction, repair, or modification is proposed.

5.4.2 The permit requirement may be waived by the Stone County Health Department when procedures are deemed to be minor repairs or modifications.

5.4.3 A permit fee must be submitted to the Stone County Health Department.

5.4.4 All permit applications shall include plans and specifications to demonstrate in writing and graphically that the proposed onsite wastewater treatment system to be constructed, repaired, or modified shall conform to, or be in compliance with, the design standards and requirements included in these regulations. Design specifications must be submitted on a form provided by the Stone County Health Department.

5.4.5 A soil morphology evaluation done by a soil evaluator, registered with the Missouri Department of Health and Senior Services and the Stone County Health Department, must be obtained for the specific area of the proposed soil absorption system for new construction, repair, or modification.

5.4.6 The Stone County Health Department shall review all permit applications for completeness. Incomplete applications shall be returned to the applicant, but may be resubmitted to the Stone County Health Department after completion.

5.4.7 Pre-site visit(s) by the Stone County Health Department are required to evaluate or determine the suitability of the property for the installation of the proposed onsite wastewater treatment system prior to approving issuance of the permit for new construction, repair, or modification.

5.4.8 The applicant shall grant the Stone County Health Department rights of ingress and egress to the property for the purposes of conducting an inspection, and determining site suitability. The installer and/or property owner may be present during the site visit.

5.4.9 The location of the onsite wastewater treatment system components and other necessary features as listed in the setback requirements shall, at the discretion of the administrative authority, be marked by field markings, such as paint, flags, etc. with the location of proposed soil absorption trenches indicated along the length of the trenches.

5.4.10 The Stone County Health Department shall take final action on all completed permit applications following the site visit by either (1) approving the proposed plan for the site by issuing the permit to construct, or (2) by denying the permit.

5.4.11 Any permit denied by the Stone County Health Department shall be accompanied by written reasons for the denial and may include recommendations for corrective action or a request for additional information.

5.4.12 When the application is adequately completed and reviewed by Stone County Health Department, and when the site inspection conducted by Stone County Health Department is satisfactory, the Stone County Health Department will issue the permit for construction of the onsite wastewater treatment system.

5.4.13 The Permit for Construction must be posted and visible at the specific site during construction of the system.

5.4.14 It is required that notification of installation be given to Stone County Health Department PRIOR to beginning the installation of an onsite wastewater treatment system.

5.4.15 Final and/or partial inspections of the installation may be required for approval of the system.

5.4.16 No onsite wastewater treatment system shall be constructed, modified or repaired in deviation from the terms and conditions set forth in the original approved application and permit to construct without amending the original application documents. The Stone County Health Department must approve the amendment prior to starting the modification work.

5.4.17 Unauthorized changes, deviations or modifications shall constitute a violation of the permit and may subject the applicant to permit suspension, revocation and/or prosecution.

5.4.18 The following general conditions shall be applicable to all onsite wastewater treatment system permits for construction:

All onsite wastewater treatment system permits shall be valid for one year after date of issuance. If the septic system is not constructed, modified, or repaired within one year, the permit is void and a new permit must be issued.

If an onsite wastewater treatment system is installed, modified, or repaired after the initial permit has been officially voided, this shall constitute a violation.

The Stone County Health Department is not obligated in any way to issue a second permit, should the initial permit be allowed to expire. If reapplication for another permit is made, additional information may be required to be in full compliance with the regulations that exist at that time.

Any changes in plans, details or specifications of construction, modification or repair of the onsite wastewater treatment system not approved by the Stone County Health Department representative after the permit has been issued, will invalidate the permit. There will be no reimbursement of fees received with an application for any permit from any applicant.

5.4.19 Onsite wastewater permits for construction may be transferred to successor property owners prior to completion of construction, modification, or repair for which the permit is issued upon amending the permit application to show transfer of ownership. All terms and conditions of permits issued for construction repair, or modification shall be automatically applicable to any successor property owner upon transfer of ownership of said property.

5.4.20 Emergency repairs shall meet or exceed the requirements of this ordinance and the current Missouri Department of Health and Senior Services regulations relating to onsite wastewater treatment systems. The property owner or agent shall obtain prior verbal consent from the administrative authority to start repair, and submit a permit application and permit fee within five (5) working days after beginning emergency repairs. If possible, no part of the emergency repairs shall be backfilled without the approval of the Stone County Health Department.

5.4.21 The Stone County Health Department may deny any onsite wastewater permit application. In the event the Stone County Health Department denies issuance of a permit the applicant shall be notified in writing of the reason(s) for denial. Reasons for denial may include, but not be limited to:

Violation of design and/or construction standards.

Incomplete application.

Problems and inconsistencies found during site visit.

Location within 200 feet of a sanitary sewer or community wastewater system if connection is allowed/approved by the authority for such system.

5.4.22 For every six hundred square feet of unfinished living area or significant percentage thereof, the equivalent of one bedroom will be added to the design of a wastewater treatment system.

5.4.23 The Stone County Health Department may suspend or revoke a permit before construction, repair, or modification of an onsite wastewater treatment system is completed due to noncompliance with the terms of the permit or current regulations and will give written notice of the suspension or revocation. Construction, modification, or repair of an onsite wastewater treatment system must cease when a permit is **SUSPENDED OR REVOKED**.

Reasons for suspension and revocation shall include but not be limited to the following:

Unapproved modifications in design or construction.

Incorrect information submitted in the application for permit.

Changing site conditions.

Incorrect soil morphology/landscape data.

Misrepresentation concerning compliance with these regulations or any other reasons necessary for protection of the public health or safety.

For installation of lines too deep, trenches not level, system placed in a part of the landscape that was not evaluated or approved.

A suspension will be rescinded when the conditions causing the suspension are removed.

If the conditions cannot be corrected, the permit will be revoked.

When a permit is revoked, the applicant may apply for a new permit by submitting an application adequately completed and paying the required permit fee. After review and approval by the Stone County Health Department, a site inspection will be conducted by

the Stone County Health Department, and if it is satisfactory, then the Stone County Health Department will issue a new permit for construction of the onsite wastewater treatment system.

#### **SECTION 5.5. OPERATING PERMITS FOR SYSTEMS REQUIRING MAINTENANCE**

Operating permits required.

5.5.1 Any onsite wastewater treatment system installed after the effective date of this ordinance that incorporates an advanced system as defined in section 5.2.2 as a component of the onsite wastewater treatment system must have an operating permit issued by the Stone County Health Department.

5.5.2 Any onsite wastewater treatment system installed after the effective date of this ordinance that serves more than a single family dwelling, and utilizes any system other than a septic tank and laterals must have an operating permit issued by the Stone County Health Department.

5.5.3 Applicants will complete an operating permit application as provided by the Stone County Health Department.

5.5.4 All operating permits will be for a period of two years.

5.5.5 Effective September 1, 2009 - Any person failing to renew an operating permit as required by this section shall be subject to a fee of \$100.

#### **SECTION 5.6. STOP ORDER**

A stop order may be issued by the Stone County Health Department for the following reasons:

5.6.1 When substandard materials are being used in construction, installation, or modification of the onsite wastewater treatment system.

5.6.2 When an onsite wastewater treatment system is being constructed, installed, modified or operated in violation of this ordinance.

5.6.3 When an imminent health hazard has been declared by the Administrative Authority as defined in section 5.2.11.

#### **SECTION 5.7. REGISTRY OF PERSONS AND BUSINESSES ENGAGED IN WASTEWATER TREATMENT SYSTEM PROJECTS**

Every person engaged in the design, construction, installation, maintenance, or modification of onsite wastewater treatment systems, soil evaluation, or septic tank pumping within Stone County must apply for registration with the Stone County Health Department. (Nothing in this section shall apply to homeowners.)

5.7.1 Before registering with the Stone County Health Department, any contractor installing onsite wastewater treatment systems shall be registered to do so by the Missouri Department of Health and Senior Services. Proof of State registration must be on file with the Stone County Health Department.

5.7.2 The Stone County Health Department may adopt rules and regulations, establishing qualifications and minimum standards of experience and knowledge for persons desiring to register under this ordinance.

5.7.3 Registration is not required for homeowners to install, add to, alter, repair or perform maintenance to the onsite wastewater treatment system that serves his permanent residence, however, he must obtain a construction and/or operating permit. The homeowner is required to meet all other requirements of this ordinance. The term 'homeowner' does not apply to builders who may own several parcels of land, who build



structures on these parcels for sale, rent or lease and is not for the purpose of their residing structure.

5.7.4 An applicant for registration shall demonstrate a thorough knowledge of the Stone County Health Department's minimum standards for construction. The installer is required to complete a training program every two (2) years within the county, which will be provided by the Stone County Health Department.

5.7.5 An applicant shall be able to guarantee workmanship and materials on all installations for one year.

5.7.6 Any Installer failing to comply with any and all regulations, rules, orders, and decisions of the Stone County Health Department relative to the type of systems installed, constructed or maintained shall be subject to revocation or suspension.

5.7.7 Any Installer failing to comply with the stated provisions for inspection of the system shall be subject to revocation or suspension.

7.8 Any installer, installing any system for which no permit exists shall be subject to a fee equal to two times the required permit fee.

5.7.9 The Installer shall provide any and all installation or construction data requested by the Stone County Health Department and shall maintain complete and accurate records of each installation for a period of not less than three (3) years.

5.7.10 The Installer shall report promptly to the Stone County Health Department any conditions not in accordance with the system permit and shall cease construction of any installation until approval is obtained.

5.7.11 Any person whose application for registration is denied will be notified in writing as to the reasons for denial, and said person may appeal pursuant to Section 9 of this ordinance.

5.7.12 Whenever the Administrative Authority determines that a holder of a valid registration under this section has violated any provisions of this ordinance, or any provisions, rules or regulations adopted by the Stone County Health Department, the administrative authority may recommend to the Variance Committee that said registration be suspended or revoked. If the Variance Committee finds that the Administrative Authority recommendation has merit, then the Variance Committee shall schedule a hearing on the proposed suspension or revocation after giving the said holder not less than ten (10) days notice of said hearing and reasonable opportunity to be heard. The Variance Committee shall set the term of the revocation or suspension within ten (10) days of said hearing.

## **SECTION 5.8. SEPTIC TANK PUMPING STANDARDS**

Refer to Section 5.1.6

## **SECTION 5.9. VARIANCE COMMITTEE**

The Stone County Commission, after receiving board member recommendations by the Stone County Health Department Board of Trustees, shall appoint a Variance Committee consisting of five (5) members to be known as the Onsite Wastewater Variance Committee which shall review and determine a ruling on applications for variances as authorized by the adopted regulations, hear and determine appeals from Administrative Authority decisions as are authorized and prescribed by these regulations, and have oversight powers to maintain this ordinance in a current status as state laws change and as may be deemed otherwise necessary. The specifications contained within the standards adopted pursuant to Sections 701.025 through 701.059 RSMo and Sections 644.006 through 644.141 RSMo are minimum regulations mandated by the State of Missouri and are not subject to challenge through the request for variance process.

The Variance Committee member qualifications shall include:  
working knowledge and/or experience with onsite wastewater treatment systems and regulations  
not currently employed as a politically elected official  
available to attend hearings at their own expense for their appointment period.  
Members on the Variance Committee shall be initially appointed for staggered terms to cover one, two, and three years; thereafter each successive term shall be for a period of three years. Members of the Variance Committee shall be residents of Stone County or work extensively in the county; members shall attend at their own expense, reimbursement for expenses will be according to the Stone County Health Department expense reimbursement policy. A member of the Stone County Health Department shall provide administrative support to the Variance Committee and serve as a non-voting ex-officio member of the board. The Variance Committee shall be entitled to establish rules of procedure and bylaws for the conduct of its business consistent with statutes of the State of Missouri to establish and maintain such, and subject to review, modification and approval by the Stone County Commission.  
The general public may request a ruling from the Variance Committee by completing an Application For Variance Form. The Stone County Health Department staff will inform the public of their right to submit an Application For Variance Form if their application for an on-site wastewater treatment application is denied. Upon request, the Stone County Health Department staff will provide the Application For Variance Form to the individual, as well as written instructions to submit the form to the Stone County Health Department Administrator within ten (10) calendar days of the decision in question. The Stone County Health Department Administrator will then have five days to submit the application to the Variance Committee.

#### **SECTION 5.10. EXISTING ONSITE WASTEWATER TREATMENT SYSTEMS**

All onsite wastewater treatment systems existing as of the effective date of this ordinance shall be presumed to be in compliance with these regulations unless, upon receipt of a complaint, there are reasonable grounds to believe that such system is presenting an imminent health hazard, malfunctioning or is in violation of the Stone County Health Department rules pertaining to onsite wastewater treatment systems. Upon verification of violation, the owner of the property shall then be subject to the provisions of these regulations and shall be required to apply for an onsite wastewater treatment system permit in order to modify or repair the existing system within such time as prescribed by the Stone County Health Department.

#### **SECTION 5.11. PROPERTY TRANSFER CERTIFICATES**

The purpose of a property transfer certificate is to, at the time of property transfer (i.e. sale of property), verify the adequacy of the existing onsite wastewater treatment system (OWTS) if it was previously approved and permitted, or assure that an unapproved OWTS will be permitted and approved within one year of the property transfer. At the time of property transfer, properties with an approved OWTS that is 10 years old or older will need to pass an onsite wastewater treatment system inspection to ensure that the OWTS operates properly. If the OWTS does not pass this inspection, the property owner will be required to obtain a repair permit to correct deficiencies or obtain an agreement signed by the new owners acknowledging they have accepted responsibility for repairing

##### **5.11.1 Applicability**

A. Effective July 1, 2009, prior to the sale or transfer of ownership of a property served by an onsite wastewater treatment system the owners of the dwelling or occupied building shall obtain, or have in their possession, a property transfer certificate and subsequent certificate of operation for that system unless exempted or waived as noted below.

If the onsite wastewater system serving the dwelling or structure was installed and given final approval by Stone County Health Department (SCHD) ten (10) years or less prior to the date of closing on the property sale, a property transfer certificate shall not be required. But if an OWTS Inspection is requested by the buyer or lending institution, a copy of the inspection is to be filed with SCHD for their records, but shall not be used for requiring action on the part of the seller.

A property transfer certificate and certificate of operation will be issued to any owner of a property with an OWTS upon completion of a property transfer application and submission of the required documents verifying compliance with these regulations.

D. All properties serviced by an OWTS must have an existing approved OWTS permit from SCHD. Property owners without an existing permitted and approved OWTS will need to go through a verification process and/or apply for a repair permit, and therefore would not need to obtain a property transfer certificate. Verification and repair of an unapproved OWTS are both done by way of a repair permit. In order to be exempt from these property transfer certificate requirements, owners of a property with an unapproved OWTS must apply for a repair permit to either verify that the OWTS works adequately or have it replaced.

E. Property owners that have a permit for their OWTS but did not receive final approval from SCHD will need to contact SCHD to determine the necessary steps to obtain the OWTS approval.

F. The following additional situations will not require a property transfer certificate:

1. The change in ownership is solely to include or exclude a spouse.
2. The transfer is creating or ending a joint ownership if at least one person is an original owner of the property and/or his/her spouse.
3. The transfer of property contains a building or buildings connected to an OWTS that will be demolished (or already has been), and the building/buildings will not be occupied after the property transfer.
4. The transfer of property is to a trust.
5. The transfer of property is to effect foreclosure or forfeiture of real property.
6. The owner of the property or the person acquiring title has signed an enforceable agreement with SCHD to upgrade the system.
7. The owner of the property will connect the dwelling or occupied building to a sanitary sewer or a shared system within the next two years following the transfer of title, provided that such agreement has been disclosed to and is binding on the subsequent owner(s).
8. The property owner is part of a community plan or management district for his/her onsite wastewater treatment system that has been approved in writing by SCHD, and the system has been inspected as required by the plan.

### 5.11.2 Application Requirements

A. Applications for a property transfer certificate shall be made on the appropriate form furnished by SCHD and shall include:

1. Name, address, and phone number of current owner.
2. Name, address, and phone number of current occupant, if different from owner.
3. Address of the property.
4. Legal description of the property.
5. Size of the property in acres, rounded to the nearest tenth acre (1/10).
6. Type of water supply.
7. Type of existing building or structure (if commercial, list all uses or tenants).
8. Number of bedrooms in the dwelling, including one bedroom per every 600 square feet of unfinished living area.
9. Statement from the current property owner regarding the present operational status of the onsite wastewater system.
10. A non-refundable certificate fee, as established by SCHD Board of Trustees.
11. A septic tank pumping receipt from a licensed cleaner and a SCHD OWTS inspection report form from a certified inspector (as identified in #13 below).
12. Where required, a copy of a maintenance contract and inspection report dated not more than thirty (30) days prior to the date of application if the system contains any mechanical components, such as an aeration or secondary treatment system, and an inspection report from the service provider.
13. A report on the appropriate form provided by the Missouri Department of Health and Senior Services from an inspector who has been certified and licensed by the Missouri Department of Health and Senior Services (MDHSS). The form cannot be dated more than ninety (90) days prior to the date of the property transfer certificate application and must contain the information required for an inspection by MDHSS and include the following:
  - a) A drawing showing the location of the dwelling or structure with two-point triangulated distance measurements to the septic tank lid(s) or global positioning system (GPS) coordinates. This requirement may be waived if such a drawing or data is already on file with SCHD.
  - b) An inspection report for the onsite wastewater treatment system which states whether each component is in good repair and proper working order, and that the inspection was conducted to meet all SCHD requirements, as outlined in guidance provided by SCHD.
  - c) Any other information as required by SCHD.
  - d) If vacant, a statement of when the vacancy occurred.

B. All reports shall be submitted on the MDHSS onsite wastewater system inspection report forms that have been provided by MDHSS.

C. Unless a property transfer permit is issued, applications shall become void ninety (90) days from the date of application or at the time of closing on the property.

### 5.11.3 Issuance of a Property Transfer Certificate

A. When the conditions in Section 5.11.1 have been met, SCHD shall approve the property transfer certificate and issue a certificate of operation, setting forth the terms and conditions of approval, including:

1. The existence of any permits in SCHD files.
2. Determination of size, type, and capacity of the system.
3. Evidence of past failures or malfunctions within the previous three years, as shown in SCHD records.
4. Any circumstances, such as lack of occupancy, snow coverage, or other factors, that may have affected the ability of the inspector to evaluate the system.
5. Any other information as deemed appropriate by SCHD.

B. The property transfer certificate shall remain valid for a period of four (4) years from the date of issuance.

#### 5.11.4 Waiver of Property Transfer Certificates

If it is determined that an onsite wastewater system does not meet any of the requirements in Section 5.11.2, the requirement for a property transfer certificate may be waived, provided that:

The buyer has executed a written agreement with SCHD agreeing to repair or re-place the onsite wastewater system within one (1) year of the closing date of the sale or transfer of the property.

#### 5.11.5 Revocation of a Property Transfer Certificate

The Stone County Health Department Administrator may revoke a property transfer certificate based upon a determination that the onsite wastewater treatment system is no longer functioning in accordance with these regulations, or if any of the requirements noted in Section 5.11.2 are subsequently violated, or if false or misleading material statements were made on the application or inspection reports.

### **SECTION 5.12. ONSITE WASTEWATER TREATMENT SYSTEM COMPLAINTS, INVESTIGATION, NOTICE OF VIOLATION**

When the Stone County Health Department or its representative receives an onsite wastewater treatment system complaint from an aggrieved party, an adjacent landowner, or has probable cause to believe there is a violation of this ordinance or any adopted rule, regulation, or applicable law, the Stone County Health Department or its representative shall conduct an investigation. The Stone County Health Department or its representative 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 Stone County Health Department or its representative may enter, except that, if an imminent health hazard exists, such notification shall be attempted but is not required.

5.12.1 If the Stone County Health Department or its representative makes an investigation as described in this section and finds that a violation does exist, the property owner shall then be subject to the provisions of these regulations and shall be required to apply for and obtain an onsite wastewater treatment system permit in order to modify or repair the onsite wastewater treatment system.

5.12.2 When the Stone County Health Department or its representative makes an investigation as described in this section and finds that a violation does exist, the Stone County Health Department or its representative shall give written notice to the person(s) alleged to be in violation. The notice should include a statement of the reasons for the issuance of the notice of violation, location where violation occurred, contain an outline of remedial action which is required to effect compliance with this ordinance, or any adopted rule, regulation or applicable law, and allow reasonable time as determined by the Stone County Health Department or its representative for the performance of any act it requires. Such notices shall 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.

5.12.3 If the person receiving the notice of violation requests a ruling from the Variance Committee, the Stone County Health Department staff will provide the Application For Variance Form to the individual, as well as written instructions to submit the form to the Stone County Health Department Administrator within ten (10) calendar days of the decision in question. The Stone County Health Department Administrator will then have five days to submit the application to the Variance Committee.

5.12.4 The Stone County Health Department or its representative, may require a property owner to abate a nuisance or repair a malfunctioning onsite wastewater treatment system on the owner's property not later than the thirtieth day from which the owner receives notification from the Stone County Health Department of the malfunctioning system or a final written order from the Administrator, if a hearing or hearings were held pursuant to subsection 5.12.3 of this section. 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 Stone County Health Department.

5.12.5 When it is determined by the Stone County Health Department that an emergency exists, which requires immediate action to protect the health and welfare of the public, the Stone County Health Department is authorized to seek a temporary restraining order and injunction. Such action shall be brought at the request of the Administrator of the Stone County Health Department by the Stone County prosecuting attorney. When such conditions are corrected and the health of the people of Stone County is no longer threatened, the Stone County Health 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 this ordinance.

### **SECTION 5.13. INTERPRETATION AND SEVERABILITY**

The regulations enacted by this ordinance are intended to be supplementary to other provisions or remedies authorized or prescribed by law or rule or regulation enacted there under. The invalidity of any particular regulation enacted herein shall not affect the validity of any other provisions, and all regulations hereunder shall be construed as consistently and harmoniously as possible with each other and with other applicable provisions of the law. In the event these regulations irreconcilably conflict with another law, rule or regulations, the law, rule or regulations 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 and Senior Services or the Missouri Department of Natural Resources, 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 affect the broad remedial purposes for which they are intended.

#### **SECTION 5.14. IMMUNITY**

The approval of any permits or onsite wastewater system shall not be taken as a guarantee that the system will operate and function as intended. The Stone County Commission, Health Department, Board of Trustees or their representatives shall not be liable for damages resulting from the approval by the Stone County Health Department or its representatives for the construction, installation, or modification, maintenance or operation of an individual onsite wastewater treatment system.

#### **SECTION 5.15. PENALTIES AND REMEDIES**

The following are penalties and remedies of this ordinance:

5.15.1 A person commits the crime of constructing, modifying or repairing an onsite wastewater treatment system without a permit when, in violation of Section 5.4 of this ordinance, any person, firm, partnership, corporation, company or other business entity, constructs, modifies or repairs an onsite wastewater treatment system without having first obtained a valid onsite wastewater permit from the Stone County Health Department. Constructing, modifying or repairing an onsite wastewater treatment system without a valid permit is a class C misdemeanor.

5.15.2 A person commits the crime of constructing, modifying or repairing an onsite wastewater system in deviation from the permit when, in violation of Section 5.4.16 of this ordinance, any person, firm, partnership, corporation, company or other business entity, constructs, modifies or repairs an onsite wastewater treatment system in deviation from the terms and conditions set forth in the original approved application and permit to construct without first amending the application and securing the approval of the Stone County Health Department prior to starting the work.

Constructing, modifying or repairing an onsite wastewater treatment system in deviation from the permit is a class C misdemeanor. (RSMo 701.057.2)

5.15.3 A person commits the crime of engaging in the design, construction, installation, modification or maintenance of onsite wastewater treatment systems, soil evaluation, or septic tank pumping, within Stone County without being registered with the Stone County Health Department as prescribed in Section 5.7 of this ordinance shall be guilty of a class A misdemeanor. (RSMo 701.057.1)

5.15.4 When a notice of violation is issued as prescribed in Section 5.12 of this ordinance, failure by a homeowner/property owner to abate an imminent health hazard or repair a malfunctioning onsite wastewater treatment and dispersal system within the specified timeframe shall be guilty of an infraction except that a persistent violation after a notification by the Stone County Health Department shall be a class C misdemeanor.

5.15.5 The Stone County prosecuting attorney shall, act on behalf of the Stone County Health Department and shall, upon request of the Stone County Health Department, institute appropriate proceedings for correction in cases of noncompliance with or violation of the provisions of this ordinance.

5.15.6 A separate offense is committed for each day a violation occurs.

5.15.7 The penalties provided in this section shall not be construed as exclusive, but are intended to be supplementary and in addition to any other remedies provided by law or equity.

#### **SECTION 5.16. FEES**

The Stone County Commission and the Stone County Health Department Board may establish reasonable fees to pay for any costs incurred in the performance of the duties described in these regulations; any such fees shall be established by a schedule submitted by the Board of Trustees, to the County Commission, and approved by the County Commission; provided however, that the establishment of such fees shall not deny personal health services to those individuals who are unable to pay such fees. It shall be the responsibility of the party charged with such fees to make application to the Stone County Health Department for a variance to reduce or eliminate such fees.

##### **5.16.1 Single Family Dwellings and/or Non-Public Access Structures:**

The fee for a single-family dwelling and/or non-public access structure (such as barn, shed, garage, etc.) wastewater treatment system for new construction is two hundred dollars (\$200).

The fee for a centralized wastewater treatment system for new construction is two hundred dollars (\$200), and an additional one hundred dollars (\$100) for each single-family dwelling connecting to the system.

The fee for a single-family dwelling and/or non-public access structure wastewater repair of septic tank only is fifty dollars (\$50).

The fee for a single-family dwelling and/or non-public access structure wastewater repair of lateral lines only is one hundred dollars (\$100).

The fee for a single-family dwelling and/or non-public access structure wastewater repair of both lateral lines and septic tank is two hundred dollars (\$200).

##### **5.16.2 Non-Single Family Dwellings and/or Public Access Structures:**

The fee for wastewater treatment system permit other than a single-family dwelling and/or non-public access structure wastewater treatment system permit is three hundred dollars (\$300).

5.16.3 Registered Installers, Registered Septic Tank Pumpers, Registered Maintenance Providers, and Registered Soil Evaluators fee shall be one hundred dollars (\$100) biannually.



**SECTION 5.17. EFFECTIVE DATE**

These regulations shall become effective on and after the first (1) day of September 2007

BY ORDER OF The STONE COUNTY COMMISSION and The STONE COUNTY HEALTH DEPARTMENT BOARD OF TRUSTEES passed and approved this thirteenth (13) day of August 2007:

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George Cutbirth                          Presiding Commissioner

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Kenneth Booth                              Northern Commissioner

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Jerry Dodd                                 Southern Commissioner

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Phyllis Knapp                              Chair, Board of Trustees

Effective Date: September 1, 2007

Revised: March 9<sup>th</sup>, 2009