

St. Louis County Onsite Wastewater Management Ordinance 61

**St. Louis County Board of Commissioners
Public Hearing
February 25, 2014**

**St. Louis County
Environmental Services Department**

Background

- State law charges St. Louis County with onsite wastewater systems permitting and oversight
- County has administered a program for many years
- County administers the program through the onsite wastewater ordinance (current Ordinance 55)
- Recent state law requires County to adopt a revised ordinance by February 2014
- New ordinance (Ordinance 61) must reflect recent changes in state law and rule
- 34,240 Subsurface Sewage Treatment Systems (SSTS) in County; +11% of all SSTS in state

Revision Process

- County has been revising ordinance since 2008
- Extensive input process:
 - Townships
 - General advisory group
 - Technical advisory group
 - Septic Subcommittee review
 - Planning Department review
 - General Public input
 - SLC Planning Commission
- Proposed Ordinance 61 has completed public review

Key Elements of Revisions

- Meet requirements of State Law and Rule while incorporating local considerations
- Remove provisions better found in zoning ordinance
- Maintain some less restrictive compliance criteria
- Afford more flexibility regarding use of system types
- Modify Point of Sale requirements
- Incorporate local system design considerations
- Basic goal: flexibility with accountability

Distinction from Zoning Ordinance

- Reviewed ordinance to ensure that all provisions had specific wastewater treatment purposes
- Removed “limiting factor” provisions
- Retained elements that had specific wastewater treatment purposes (example, replacement areas)

Maintain County-specific Compliance Criteria based upon Local Conditions

- Less restrictive vertical separation from groundwater for systems built before 1996 (1' rather than 2')
- Allow continued use of some systems with between 1' and 2' of separation (failing under state definition) until:
 - addition of bedroom or other water use increase
 - failed compliance inspection after complaint
- Continue to allow some drywells and similar systems in some situations [not in Shoreland, Wellhead protection, or Food beverage and lodging situations (SWF)]
- More flexible system upgrade timetables

Continued use of older system types in certain situations

State rule says some systems “Fail to Protect Groundwater”:

- Seepage pits, cesspools, drywell, leaching pit, or other pit in SWF areas;
- Cesspools, or seepage pits, drywells, leaching pits, or other pits with less than 12 inches of vertical separation in non-SWF areas;
- A system with less than the required vertical separation distance described in Article V, Section 2.01, items D and E; and
- A system not abandoned in accordance with part 7080.2500.

Proposed ordinance allows continued use of some older system types in non-SWF areas if county vertical separation requirements met, until certain triggers occur:

- Water use expansion;
- In response to a variance request; or
- In response to a complaint

Holding Tanks

- Allows use of holding tanks for all properties
 - provide maximum flexibility to residents
 - development of more properties
- Considerations regarding utilization include:
 - oversight system
 - compliance
 - availability of off-site treatment
 - ongoing pumping costs

Point of Sale

- Point of Sale Program has been in place since 2001
- Upgrades protect public health and the environment
- For failing systems identified between 2001 – 2011, 22% not upgraded
- For period 2008 – 2011: 29.2% not upgraded
- Already more flexible replacement timetable:
 - state: systems with less than 2' separation from zone of saturation be upgraded within 2 years
 - county: systems with less than 1' separation be upgraded within 2 years

Point of Sale Revisions

- Incorporate escrow requirement
- Remove family exemption:
 - Shoreland immediately
 - Non-shoreland: Effective five years after adoption
- Require that tax forfeit property purchase (other than repurchase by owner) comply with point of sale
- Contract for Deed purchase triggers point of sale
- Still exempt: Probate actions, divorce, repurchase of tax forfeiture by owner

Additional POS Program Revisions

- Do not require Point of Sale inspections on systems permitted and approved less than 10 years prior to the time of the property transaction
- Reduced required escrow amount from 110% of written estimate to 100% of written estimate
- Established the effective date of the escrow requirement as June 30, 2014

Local System Design Considerations

- Moved from 3% to 5% sand (still more rock than state)
- County-specific soil and contour loading chart
- Continue to not allow sidewall absorption
- Continue to allow “performance mounds” for difficult to develop sites
- Gravity distribution mounds (limited applications)
- Allow innovative pilot gray water proposals
- Minor design amendments

Other changes during and subsequent to Planning Commission review

- Clarified definitions
- Clarified language addressing when system upgrades are needed upon addition of a bedroom
- Expanded holding tank language to clarify administrative procedures
- Amended variance language to mirror statutory changes
- Amended “Substandard Existing Lots of Record” language to clarify relationship to holding tanks
- Amended “Management Plan” to mirror state rules
- Extended timeline to upgrade Imminent Threat to Public Health (ITPH) from 60 days to 10 months to mirror State Rule

Improved Compliance Oversight

- Need to develop holding tank tracking system
- Overall data management system upgrades
- Keeping basic compliance language but need to develop improved implementation process
- Development of Appeals Process

Planning Commission (PC) Recommendation

1. The PC recommended passing Ordinance 61 to the County Board for approval with:

- Changes to variance language dated 1/21/14; and
- Requiring escrow only within Shoreland

2. The PC recommended that the County Board look into giving ESD the latitude, backing, and tools to do more enforcement

3. The PC to revisit the Ordinance on May 1, 2015

Department Recommendation

- ESD continues to recommend that escrow be required for all systems failing point of sale inspection
 - more effectively place responsibility for upgrades on buyer and/or seller at time of property transfer
 - reduce need for taxpayer expenditure to compel compliance
 - avoid patchwork approach to upgrades
- ESD intends to continue to upgrade compliance and enforcement programs, targeting specific enforcement activities to the most needed areas

Current Financial Assistance Programs

- Loan Program
 - Since 1998, 143 low interest loans (3%) for septic system replacement (\$1,734,581)
 - 66 loans repaid to continue revolving fund
 - Annually about \$120,000 available for new loans
- Imminent Threat to Public Health Low-income Grants
 - Since 2012, \$370,818 available (BSWR \$179,616, SLC HRA \$131,000, MPCA \$60,202)
 - To date, 9 completed and 1 in works (about \$135,000)
 - Ongoing challenge: eligible and willing recipients

Future assistance options

The County is exploring financial assistance options for system upgrades, focusing on:

- assistance to low income residents; and
- assistance with more types of upgrades

Conclusion

- Thank you for your consideration of this matter.

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