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ORDINANCE

AN ORDINANCE ADOPTING RULES AND REGULATIONS FOR ONSITE WASTEWATER TREATMENT SYSTEMS IN COLE COUNTY TO BE ADMINISTERED BY THE COLE COUNTY HEALTH DEPARTMENT

WHEREAS, §193.300, RSMo., provides that the Cole County Commission and Cole County Health Department may make and promulgate orders and ordinances or rules and regulations as will tend to enhance public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into Cole County; and

WHEREAS, the Cole County Commission recognizes that ensuring that Cole County onsite wastewater treatment systems are installed, maintained, and functioning properly is necessary to protect the health and safety of Cole County residents and that a Cole County Wastewater Treatment Systems Ordinance is a proper and necessary means to ensure these protections.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSION OF
COLE COUNTY, MISSOURI, AS FOLLOWS:**

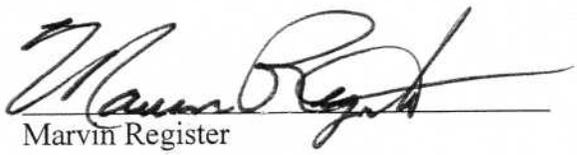
Section One: The Cole County Commission hereby promulgates and adopts rules and regulations regarding the administration of the Cole County Wastewater Treatment Systems Ordinance by the Cole County Health Department, and these rules and regulations are attached and incorporated by reference herein.

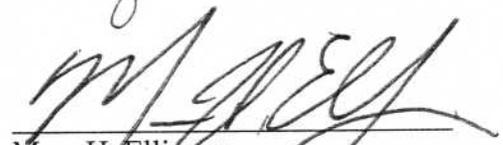
Section Two: These rules and regulations will go into effect on October 1, 2014.

Section Three: A copy of this order shall be published in a newspaper in this County on three successive weeks, within thirty (30) days after the passage of this order.

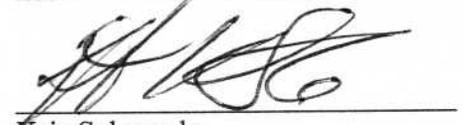
ADOPTED AND APPROVED THIS 27 DAY OF August, 2014.

ATTEST:


Marvin Register
County Clerk


Marc H. Ellinger
Presiding Commissioner


Jeff Hoelscher
Eastern District Commissioner


Kris Schepeler
Western District Commissioner

COLE COUNTY ONSITE WASTEWATER TREATMENT SYSTEMS ORDINANCE

AN ORDINANCE GOVERNING THE CONSTRUCTION, MODIFICATION, INSTALLATION, AND OPERATION OF ONSITE WASTEWATER TREATMENT SYSTEMS WITH MAXIMUM FLOWS OF THREE-THOUSAND (3000) GALLONS PER DAY WITHIN COLE 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, AND VIOLATIONS OF MISSOURI LAW REGARDLESS OF WHEN THE SYSTEM WAS ORIGINALLY INSTALLED.

IT IS HEREBY ORDERED BY THE COLE COUNTY HEALTH DEPARTMENT AND THE COLE COUNTY COMMISSION AS FOLLOWS:

SECTION 1. AUTHORITY AND SCOPE OF REGULATIONS

This ordinance is enacted pursuant to Section 192.300, RSMo, which provides in part as follows: The county commissions health 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.

- 1.1 The administrative authority shall be the Cole County Health Department, or its designated representative.
- 1.2 The permit process 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 Cole County.
- 1.3 These rules establish the minimum sizes and distances adopted in Cole 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.
- 1.4 Property owners of any property where people live, work or assemble shall provide for sanitary disposal of all domestic wastewater.
- 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.
- 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.
- 1.7 This regulation is applicable to all construction of new onsite wastewater treatment systems or repairs to existing onsite wastewater treatment systems within the County of Cole with a daily flow rate of three-thousand (3000) gallons or less per day or a lagoon serving a single family dwelling.
- 1.8 It shall be a violation of these regulations to construct, repair or modify an onsite wastewater treatment system without first obtaining a construction permit, if one is required, or when the permit has expired or has been suspended or revoked.
- 1.9 It shall be a violation of these regulations to fail to comply with a STOP ORDER issued pursuant to this regulation. A stop order may be issued by the Cole County Health Department. Reasons for issuing a stop order may include, but not be limited to:

- A. Use of substandard materials in construction, installation, or modification of the onsite wastewater treatment system; and
 - B. Construction, installation and/or modification of an onsite wastewater treatment system in violation of this ordinance.
- 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 Missouri Department of Health and Senior Services. A property owner 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 Sections 701.025-.059, RSMo.
- 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.
- 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 2. DEFINITIONS

As used in this ordinance, the words and terms listed below shall have the following meanings. (See 19 CSR 20-3.060-.080, for additional definitions that may apply.)

- 2.1 **Administrative Authority** – The Cole County Health Department or its designated representative.
- 2.2 **Advanced System** – Alternative and/or engineered treatment or distribution systems including, but not limited to:
- A. Sand filters and other media bio-filters,
 - B. Constructed wetlands,
 - C. Sand mounds,
 - D. Low-pressure distribution systems,
 - E. Drip irrigation systems, and
 - F. Modified shallow placed gravity lateral trenches thirty-five (35) inches or less from a restrictive horizon,
- 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.
- 2.4 **Approved** - The official consent given in writing by the Cole County Health Department and/or his or her designated representative.
- 2.5 **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.
- 2.6 **Dosing Chamber (or pump pit or wet well)** – A tank or separate compartment that serves as a reservoir for a dosing device.
- 2.7 **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.
- 2.8 **Emergency** - Any set of circumstances that constitute an imminent health hazard or the threat of an imminent health hazard as defined in this ordinance.

- 2.9 **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.
- 2.10 **Homeowner** – A person or entity who owns the property on which the onsite wastewater treatment system is being constructed or maintained for occupancy by the property owner.
- 2.11 **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.
- 2.12 **Installer (or contractor or registered installer)** – Any person engaged in the construction, installation or renovation of any onsite wastewater treatment system.
- 2.13 **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 effluent screens, or pumping accumulated solids out of the sewage tank.
- 2.14 **Major Modification** – 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 or construction of a new absorption field.
- 2.15 **Malfunctioning or Failing Onsite Wastewater Treatment System**- Any wastewater treatment system not properly performing, which shall include but not be limited to:
- A. Subsurface systems that have sewage or effluent overflow from any of their component parts that ponds or flows on the ground surface,
 - B. Systems that cause sewage or effluent to back-up into any system components, the plumbing system or building,
 - C. Sewage treatment systems with failed structural components, or
 - D. 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.
- 2.16 **Modification** - Any act or work performed on 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 be limited to: building structures over the system and changing the flow into a system by changing or adding dwelling units.
- 2.17 **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.
- 2.18 **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.
- 2.19 **Onsite Wastewater Treatment System Board of Review** - A committee as further described in these regulations charged with determining approval for variance requests and appeals authorized by these regulations.
- 2.20 **Permit, Permit for Construction or Onsite Wastewater Permit** - Written authorization issued, under the provisions of this ordinance/regulation, by the Cole 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.
- 2.21 **Property Owner**- the person in whose name legal title to the real estate is recorded.
- 2.22 **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.
- 2.23 **Single Family Dwelling** – A residential property designed for occupancy by one family.

- 2.24 **Site Visit/Inspection** – An investigation required prior to approval for a permit, and performed by the Cole County Health Department at a proposed soil absorption/ onsite wastewater treatment system installation site. The investigation, or site visit/inspection is usually conducted in cooperation with the property owner or their representative, i.e., the installer, engineer etc.
- 2.25 **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.
- 2.26 **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 (48) 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 profile observations may be required.
- 2.27 **Stop Order** – A written order issued by the Administrative Authority to stop all construction, installation, or modification of an onsite wastewater treatment system.

SECTION 3. ADOPTION

The Cole County Commission hereby adopts an ordinance establishing minimum construction standards and procedures for onsite wastewater treatment systems as outlined in 19 CSR 20 – 3.060, or the most current Missouri Department of Health and Senior Services regulations relating to Onsite Wastewater Treatment Systems, with the following exceptions:

- 3.1 All references to the “People of the State of Missouri” in the referenced rules and regulations shall refer to the citizens of Cole County.
- 3.2 The Cole County Health Department or its designated representative shall be the authority for administering this Onsite Wastewater Treatment Systems Ordinance and for issuing permits for construction or repairs and shall investigate alleged violations of this ordinance and Sections 701.025-.059, RSMo.
- 3.3 The property owner or agent shall obtain a permit from the Cole County Health Department prior to any construction, installation, modification, or repair of any onsite wastewater treatment system as required in Section 1.6 of this ordinance.
- 3.4 At least one-hundred percent (100%) of onsite wastewater treatment systems constructed, modified or repaired, that are required to have a permit, will be inspected by the Cole 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 Cole County Health Department or its designated representative. As allowed by Sections 701.-.059, RSMo, certification without onsite inspection may be accepted from a registered installer in lieu of a final inspection, when the Cole County Health Department or its representative allows completion of the onsite wastewater treatment system construction without an onsite inspection, provided that the registered installer shall certify on the Certification of Onsite Wastewater Treatment System Without Onsite Inspection form issued by the Cole County Health Department that the onsite wastewater treatment system was installed, modified or repaired pursuant to the state standard and this ordinance.
- 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 Cole County.
- 3.6 Metal Septic Tanks shall NOT be used in Cole County for the construction, modification, or repair of any onsite wastewater treatment system.
- 3.7
- 3.8 All septic tanks preceding an absorption field shall be equipped with a properly sized effluent screen.
- 3.9 All septic tanks and dosing chambers shall be equipped with a properly sized watertight riser and lid that is at least twenty (20) inches in diameter and be made of approved material that is compatible with the sewage tank materials.

The riser and lid must terminate above grade and shall have an effective locking device or otherwise be adequately sealed in a manner to prevent accidental access.

- 3.10 Minimum lot size for a septic tank and drain field shall be one acre. Lots less than one acre may have a septic tank and drain field system when designed by a registered professional engineer.

SECTION 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 Cole County unless that person holds a valid onsite wastewater permit as required by this ordinance issued by the Cole County Health Department or its designated representative.

- 4.1 The permit shall be in the name of the property owner for which the specific construction, repair or modification is proposed.
- 4.2 The permit requirement may be waived by the Cole County Health Department when procedures are deemed to be minor repairs or modifications.
- 4.3 A permit fee must be submitted to the Cole County Health Department.
- 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 Cole County Health Department.
- 4.5 A soil morphology evaluation conducted by an onsite soil evaluator, registered with the Missouri Department of Health and Senior Services, must be obtained for the specific area of the proposed soil absorption system or lagoon.
- 4.6 The Cole County Health Department shall review all permit applications for completeness. Incomplete applications shall be returned to the applicant, but may be resubmitted to the Cole County Health Department after completion.
- 4.7 Site visit(s) by the Cole 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 Construction.
- 4.8 The applicant shall grant the Cole 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.
- 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.
- 4.10 The Cole County Health Department shall take final action on all completed permit applications following the required site visit by either approving the proposed plan for the site by issuing the permit to construct, or by denying the permit.
- 4.11 When the application is adequately completed and reviewed by the Cole County Health Department, and when the site inspection conducted by the Cole County Health Department is satisfactory, the Cole County Health Department will issue the permit for construction of the onsite wastewater treatment system.
- 4.12 The Permit for Construction must be posted and visible at the specific site during construction of the system.
- 4.13 It is required that notification of installation be given to Cole County Health Department two (2) days PRIOR to beginning the installation of an onsite wastewater treatment system.
- 4.14 Final and/or partial inspections of the installation may be required for approval of the system.
- 4.15 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 Cole County Health Department must approve the amendment prior to starting the modification work.

- 4.16 Unauthorized changes, deviations or modifications shall constitute a violation of the permit and may subject the applicant to permit suspension, revocation and/or prosecution.
- 4.17 The following general conditions shall be applicable to all onsite wastewater treatment system permits for construction:
- A. All onsite wastewater treatment system permits shall be valid for six months after date of issuance. If the onsite wastewater treatment system is not constructed, modified, or repaired within six months, the permit is void and a new permit application may be required;
 - B. If an onsite wastewater treatment system is installed, modified, or repaired after the initial permit has been officially voided, this shall constitute a violation;
 - C. The Cole 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;
 - D. Any changes in plans, details or specifications of construction, modification or repair of the onsite wastewater treatment system not approved by the Cole County Health Department representative after the permit has been issued, will invalidate the permit; and
 - E. There will be no reimbursement of fees received with a permit application from any applicant.
 - F. 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.
 - G. The Cole County Health Department may deny any onsite wastewater treatment system permit application. In the event the Cole County Health Department denies issuance of a permit the applicant shall be notified in writing of the reason(s) for denial. The notification may include recommendations for corrective action or a request for additional information. Reasons for denial may include, but not be limited to:
 - 1. Violation of design and/or construction standards;
 - 2. Incomplete application;
 - 3. Problems and inconsistencies found during a site visit; and
 - 4. Location within three-hundred (300) feet of a sanitary sewer or community wastewater system if connection is allowed/approved by the authority for such system.

SUSPENDED OR REVOKED PERMITS.

- 4.18 The Cole 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
- A. Reasons for suspension and revocation shall include but not be limited to the following:
 - 1. Unapproved modifications in design or construction,
 - 2. Incorrect information submitted in the application for permit,
 - 3. Changing site conditions,
 - 4. Incorrect soil morphology/landscape data,

5. Misrepresentation concerning compliance with these regulations or any other reasons necessary for protection of the public health or safety, or
 6. Installation of lines too deep, lateral trenches not level, system placed in a part of the landscape that was not evaluated or approved.
- B. A suspension will be rescinded when the conditions causing the suspension are removed. If the conditions cannot be corrected, the permit will be revoked.
- C. When a permit is revoked, the applicant may apply for a new permit by submitting a complete application and the required permit fee. After review and approval by the Cole County Health Department, a site inspection will be conducted by Cole County Health Department, and if it is satisfactory, then the Cole County Health Department will issue a new permit for construction of the onsite wastewater treatment system.
- 4.19 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, maintain emergency repairs in a condition which allows inspection by the Cole County Health Department.

SECTION 5. BOARD OF REVIEW

The Cole County Commission shall appoint a Board of Review consisting of five (5) members to be known as the Onsite Wastewater Treatment System Board of Review which shall review and determine 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-.059, RSMo. and Sections 644.006-.141, RSMo. are minimum regulations mandated by the State of Missouri and are not subject to challenge through the Hearing process.

- 5.1 The Board of Review qualifications shall include: working knowledge and/or experience with Onsite Wastewater Treatment Systems and Regulations, not currently employed as a politically-elected official and available to attend hearings at their own expense for their appointment period.
- 5.2 Members of the Board of Review shall be residents of Cole County or work extensively in the county. Members on the Board of Review shall be initially appointed for staggered terms to cover one, two and three years and thereafter each successive term shall be for a period of three (3) years.
- 5.3 A member of the Cole County Health Department shall provide administrative support to the Board of Review and serve as a non-voting ex-officio member of the board.
- 5.4 The Board of Review shall be entitled to establish and maintain rules of procedure and bylaws for the conduct of its business consistent with statutes of the State of Missouri, and subject to review, modification and approval by the Cole County Commission.
- 5.5 A hearing request shall be in writing and received by the Director of the Cole County Health Department within ten (10) calendar days of the administrative decision in question. If the request for a hearing is granted, an administrative hearing shall be held within thirty (30) calendar days from the receipt of the written request by the Cole County Health Department Director. If the request for a hearing is received and meets the criteria of this rule, the complainant will be notified within ten (10) calendar days of the time and date for the hearing. Failure of the complainant to appear for the scheduled hearing will result in default in favor of the Cole County Health Department.

SECTION 6. 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, public health nuisance, malfunctioning or is in violation of Cole 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 Cole County Health Department.

SECTION 7. ONSITE WASTEWATER TREATMENT SYSTEM COMPLAINTS, INVESTIGATION, NOTICE OF VIOLATION

When the Cole 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 Cole County Health Department or its representative shall conduct an investigation. The Cole 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 Cole 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.

- 7.1 If the Cole 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.
- 7.2 When the Cole County Health Department or its representative makes an investigation as described in this section and finds reasonable grounds to believe that a violation does exist, the Cole County Health Department or its representative shall give written notice to the person(s) alleged to be in violation. The notice shall 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 Cole 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.
- 7.3 If the person receiving the notice of violation requests a hearing to review the appropriateness of the remedial action, the hearing request shall be in writing and received by the Director of the Cole County Health Department within ten (10) calendar days of the date of receipt of a notice of violation. If the request for the hearing is granted, the Board of Review shall hold the hearing within thirty (30) calendar days from the receipt, by the Cole County Health Department Director, of the written request to review the appropriateness of the remedial action. If the request for the hearing is received and meets the criteria of this rule, the individual(s) requesting the hearing will be notified within ten (10) calendar days of the time and date for the hearing. Failure of the requesting individual(s) to appear for the scheduled hearing will result in default in favor of the Cole County Health Department.
- 7.4 The Cole 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 Cole County Health Department of the malfunctioning system or a final written order from the director, if a hearing or hearings were held pursuant to subsection 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 ninety days after notification. Such extension for abatement or repair shall be subject to approval by the Cole County Health Department.
- 7.5 Pursuant to Section 701.037, RSMo., when it is determined by the Cole County Health Department that an emergency exists, which requires immediate action to protect the health and welfare of the public, the Cole County Health Department is authorized to seek a temporary restraining order and injunction. Such action shall be brought at the request of the director of the Cole County Health Department by the Cole County Prosecuting Attorney. When such conditions are corrected and the health of the citizen of Cole County is no longer threatened, the Cole 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 8. 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 effect the broad remedial purposes for which they are intended.

SECTION 9. FEES

The Cole County Commission and the Cole County Health Department 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 County Health Department, to the County Commission, and approved by the County Commission.

SECTION 10. 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 Cole County Commission, or the Health Center, Board of Trustees or their representatives shall not be liable for damages resulting from the approval by the Cole County Health Department or its representatives for the construction, installation, or modification, maintenance or operation of an individual onsite wastewater treatment system.

SECTION 11. PENALTIES

- 11.1 A person commits the crime of constructing, modifying or repairing an onsite wastewater treatment system without a permit when, in violation of Section 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 Cole County Health Department. This is a class A misdemeanor.
- 11.2 A person commits the crime of constructing, modifying or repairing an onsite wastewater system in deviation from the permit when, in violation of Section 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 Cole County Health Department prior to starting the work. This is a class A misdemeanor.
- 11.3 When a notice of violation is issued as prescribed in Section 7 of this ordinance, failure by a property owner to abate an imminent health hazard or repair a malfunctioning onsite wastewater treatment and dispersal system on the owner's property within the specified timeframe is a class A misdemeanor.
- 11.4 Pursuant to Section 192.300 and 701.037, RSMO. The Cole County prosecuting attorney shall act on behalf of the Cole County Health Department and shall, upon request of the Cole County Health Department, institute appropriate proceedings for correction in cases of noncompliance with or violation of the provisions of this ordinance.
- 11.5 Non-Compliance Deed Notice—when a notice of violation is issued in accordance with section 7 and the Administrative Authority has found an onsite wastewater treatment system installed or operating in non-compliance with any part of this regulation, and the owner or installer has refused to bring the system into total compliance within ninety (90) days of formal notification, the Administrative Authority will record with the Cole County Recorder a notice stating the system in question was installed or is operating in non-compliance with this regulation. A note of compliance will be recorded at the Recorder's office once the on-site sewage system in question is brought into compliance.
- 11.6 The Administrative Authority can refer on-site sewage violations of any part of this regulation to the Cole County Health Department Code Enforcement Program within ninety (90) days of formal notification if the on-site system is not brought into compliance. Nothing in section shall be construed as prohibiting the Prosecuting Attorney from taking appropriate action under section 11.4 of this regulation.
- 11.7 A separate offense is committed for each day a violation occurs.

11.8 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.