

O R D I N A N C E
NUMBER 2007 - 061

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, AMENDING SECTION 3-8-256 OF THE COUNTY CODE; CLARIFYING ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS REQUIREMENTS; ADDING INSPECTION AND PUMPOUT REQUIREMENTS FOR CERTAIN NON-ATU ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS WITHIN THE UNINCORPORATED AREA OF THE COUNTY; PROVIDING FOR INCLUSION IN THE COUNTY CODE; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the Board of County Commissioners of Charlotte County, Florida, (“Board”) on October 6, 1998, adopted Ordinance No. 98-065 creating the “Onsite Sewage Treatment & Disposal Ordinance” to supplement the minimum Florida State standards pertaining to sewage treatment and disposal, with the stated purpose of ensuring “that all onsite sewage treatment and disposal systems within the unincorporated area of Charlotte County are designed, installed, operated, modified, repaired and maintained in accordance with the standards and provisions of this section so as to protect the health, safety and welfare of the citizens, residents and visitors of the County and to ensure the long term preservation of Charlotte County’s natural resources”; and

WHEREAS, the Charlotte County Health Department, an agency of the State of Florida Department of Health, is responsible for administering and regulating the use of onsite sewage treatment and disposal systems (“OSTDS”) within the County; and

WHEREAS, with the advice and concurrence of the Charlotte County Health Department, the Board now desires to amend the County Code regulations concerning OSTDS, in order to clarify

when aerobic treatment units are required, and to amend the related inspection and reporting requirements; and

WHEREAS, the Board also desires to enact requirements for inspection and pumpout of certain onsite sewage systems located within the unincorporated portion of the County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Charlotte County, Florida:

Section 1. The Code of Laws and Ordinances of Charlotte County, Florida, Section 3-8-256, is hereby amended as follows:

Sec. 3-8-256. Regulations.

(a) *System location and installation:* (See Table 1).

(1) Where the effluent disposal components of the ~~onsite sewage treatment and disposal system (OSTDS)~~ are greater than one hundred (100) feet from surface water or from a delineated wetland whichever is closer and:

a. For a lot or combination of lots equal to, or less than ten thousand (10,000) square feet net land area, a new aerobic treatment unit OSTDS that is approved by the FDOH is required; or

b. For one (1) or more platted lots with a minimum net land area available of more than ten thousand (10,000) square feet and less than twenty thousand (20,000) square feet, that receives potable water from a drinking water system not permitted by the Department of Environmental Protection (DEP), an aerobic treatment unit OSTDS that is approved by the FDOH is required; or

c. For one (1) or more platted lots with a minimum net land area available of more than ten thousand (10,000) square feet, that receives drinking water from a DEP permitted water system, a baseline OSTDS may be installed; or

d. For one (1) or more platted lots with a minimum net land area available of twenty thousand (20,000) or more square feet, a baseline OSTDS may be installed.

(2) Where the effluent disposal components of the OSTDS are less than one hundred (100) feet from surface water or from a delineated wetland whichever is closer and where the setback is less than one hundred (100) feet, an aerobic treatment unit OSTDS approved by the FDOH is required.

(3) When more than one (1) platted lot is needed to achieve the net land area listed in subsection (a)(1) or (2) above, the plats must have a utility easement executed in accordance with Chapter 64E-6, F.A.C. and recorded as such with the clerk of the court.

(b) *Construction of systems:* Design of an OSTDS must be in accordance with Florida law and FDOH rule, and when required by these laws, rules or county ordinance, must be professionally engineered by an engineer registered in Florida.

(c) *Drainfield Sand:* Where ~~digout~~excavation and backfill of onsite soil below the drainfield is required to achieve compliance with the slightly limited soil texture requirement of Chapter 64E-6, F.A.C., the sand used for the backfill shall have a silt plus clay content of a maximum of four (4) percent by weight passing a Number 270 sieve, and a maximum very fine sand content of fifteen (15) percent passing a Number 140 sieve.

(d) *Existing system:* Repairs for failed OSTDS. When an existing failed OSTDS must be repaired by replacement of the existing drainfield, the bottom infiltrative surface of the new effluent disposal drainfield shall be placed no closer than twelve (12) inches to, and above the seasonal high water table. Provisions of section 3-8-256(c) concerning backfill sand shall also apply.

(e) *Permits and operation:*

(1) The owner of each ~~aerobic treatment unit~~OSTDS built with electrical or mechanical components shall be required to acquire an annual operating permit from the CCHD. ~~Baseline OSTDS systems built with these components shall not be required to obtain an annual permit.~~

(2) The OSTDS designer shall provide two (2) copies of the system operating and maintenance instructions in the form of a manual to the ultimate owner of the system. The owner shall provide one (1) copy to the licensed operation and maintenance entity that is contracted to service the system. Three (3) copies will be submitted to the CCHD for review and approval and one copy will be retained by the CCHD.

(f) *Operation and maintenance entities:*

(1) Operation and maintenance entities shall be licensed to conduct business in Charlotte County, and licensed by FDOH as an onsite aerobic treatment unit (ATU) maintenance entity.

(2) A distributor of a specific manufacturer's brand or model of a FDOH approved ATU shall provide to the CCHD written assurance that spare mechanical and structural parts are available, upon request, for purchase, to all other approved maintenance entities. This written assurance must be received by the CCHD prior to the issuance of a construction permit for the brand or model.

(g) *Maintenance contracts:*

(1) A current, unexpired maintenance contract between the property owner or lessee and an approved maintenance entity shall be one of the required conditions of system approval before an ~~onsite treatment and disposal sewage system~~OSTDS is approved for a certificate of occupancy; where property ownership changes; or where an ATU is utilized.

(2) A copy of the signed maintenance agreement between the property owner or property lessee and an approved maintenance entity shall be provided to the CCHD by the maintenance entity. The maintenance agreement shall:

a. Initially be for a period of at least two (2) years and subsequent maintenance agreement renewals shall be for at least one-year periods for the life of the system;

b. Provide that a maintenance entity which desires to discontinue the provision of maintenance services or to discontinue its business, shall, notify in writing the property owners and lessees and the CCHD at least ten (10) days prior to discontinuance of service and such property owners shall, within ten (10) days of the service termination date, contract with an approved maintenance entity and provide the CCHD with a copy of the newly signed maintenance agreement; and

c. Provide that each ATU is inspected by an approved maintenance entity at least two (2) times each year. ATUs serving commercial establishments shall be inspected at least four (4) times per year. The maintenance entity shall furnish to the property owner/lessee and the CCHD a listing of all ATUs inspected or serviced during the respective reporting period but no less than once per year by June 30th copy of any inspection performed, within seven (7) days after the inspection, indicating that all steps and procedures recommended by the manufacturer were performed. As a minimum, Inspection reports shall indicate the system owner or building lessee, the street address of the system, the CCHD permit number, the date of system inspection or service and a statement as to the maintenance or service performed. The maintenance entity shall also include a list of the owners/lessees who have refused to renew their maintenance agreement.

(3) No ATU shall be serviced or repaired by a person or entity engaged in a maintenance service until the service entity has obtained an annual written permit issued on form DH 4013 from the CCHD. Application for a Maintenance Service Permit, form DH 4066, shall be made to the CCHD and shall comply with Chapter 64E-6.

(h) Inspection and pumpout of onsite sewage systems.

(1) All non-ATU onsite sewage systems located on the properties listed in Subsection (4) and on any properties declared subject to a mandatory pumpout requirement during plan review performed by the CCHD shall be inspected by a representative of the CCHD at least once every five (5) years.

(2) All non-ATU onsite sewage systems located on the properties listed in Subsection (4) and on any properties declared subject to a mandatory pumpout requirement during plan review performed by the CCHD shall be pumped empty at least once every five (5) years by a licensed septic tank contractor or plumber equipped and certified to pump onsite sewage systems. Such contractor/plumber shall be licensed by the CCHD and shall obtain a five-year permit from the CCHD before performing the inspection and pumpout. Such contractor/plumber shall furnish a copy of the pumpout certification to the CCHD.

(3) Non-ATU systems that are found to be in a state of disrepair must be corrected in accordance with state rule and county ordinance.

(4) The following lots/properties that contain or may contain non-ATU onsite sewage systems must comply with the inspection and pumpout requirements of this subsection:

[list of properties]

(5) The inspection and pumpout requirements of this Subsection (h) shall begin no later than October 1, 2007.

Section 2. Severability. If any subsection, sentence, clause, phrase, or portion of Section 3-8-256 (h) is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remainder of the Section.

Section 3. Effective Date. This Ordinance shall take effect upon its filing in the Office of the Secretary of State, State of Florida.

PASSED AND DULY ADOPTED this 28 day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By _____
Richard Loftus, Chairman

ATTEST:
Barbara T. Scott, Clerk of Circuit
Court and Ex-officio Clerk to the
Board of County Commissioners

By: _____
Deputy Clerk

**This is a copy of Ordinance 2007-51.
A copy with signatures is available from the BOCC.**

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Janette S. Knowlton, County Attorney