

AGENDA ITEM FOR ADMINISTRATIVE MEETING ( ) Discussion only  
( X ) Action

FROM (DEPT/ DIVISION): County Counsel

SUBJECT: On-Site Septic Inspection Enforcement Ordinance

<p>Background: To implement the onsite septic system inspection program, an enforcement mechanism will need to be in place. An enforcement ordinance is proposed, based on the remedies provided in the state statutes for the program and the DEQ regulations. In addition, the county can utilize its own enforcement ordinance to address violations. The ordinance is before the Board for reading and potential adoption.</p>	<p>Requested Action: Adopt Ordinance No. 2016-11</p>
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ATTACHMENTS: Proposed Ordinance

Date: (October 13, 2016) Submitted By: Douglas R. Olsen

\*\*\*\*\*For Internal Use Only\*\*\*\*\*

Checkoffs:

- ( ) Dept. Heard (copy)
- ( ) Human Resources (copy)
- ( ) Fiscal
- ( X ) Legal (copy)
- ( ) (Other - List:)

To be notified of Meeting:  
Joseph Fiumara

Needed at Meeting:

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Scheduled for meeting on: October 19, 2016

Action taken:

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Follow-up:

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Adopting )  
Ordinance for Enforcement )  
of the Umatilla County ) ORDINANCE NO. 2016-11  
Onsite Septic System Inspection )  
Program )

WHEREAS ORS 454.725 provides that the State of Oregon Department of Environmental Quality may contract with local units government to perform the duties of the department regarding regulation of subsurface sewage disposal under ORS 454.635 (violations), 454.655 (system installation permits), 454.665 (inspections) and 454.755 (fees);

WHEREAS Umatilla County has entered into an agreement with the Department of Environmental Quality for permitting and inspection of Onsite Wastewater Treatment Systems in Umatilla County and to receive and process applications for evaluation reports and permits for all onsite wastewater treatment systems proposed for construction, alteration, repair, or connection effective November 1, 2016;

WHEREAS Umatilla County is to adopt and maintain ordinances for enforcement of the onsite program, including the authority to take action against any person who commits an onsite program rule violation, except for license and certification violations. The County may meet this obligation by adopting its own enforcement ordinances or by adopting ordinances that incorporate existing DEQ enforcement provisions implementing ORS 454.605 through 454.755 or both.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains as follows:

Umatilla County Code of Ordinances Chapter 116  
Onsite Subsurface Sewage Disposal Program Enforcement

§116.01 PURPOSE.

The purpose of this Ordinance is to implement the County's authority to enforce the subsurface sewage disposal program delegated to Umatilla County by the State of Oregon for onsite

septic systems.

§116.02 ADOPTION.

Except as specifically provided herein, all administrative rules which are duly existing and adopted by the Environmental Quality Commission of the state of Oregon, and the Department of Environmental Quality on the date of enactment of the ordinance codified in this chapter, pursuant to ORS 454.605 through 454.780, including appendices, are adopted as regulations by Umatilla County and shall have full force and effect as law in Umatilla County. These rules include OAR 340-012-0060. The Administrative Rules are adopted as part of this Chapter and are incorporated into this Chapter by this reference. Violations of this chapter shall be measured by the technical and other standards found in said rules.

§116.03 - PERMITS REQUIRED.

(1) All proposed or approved sewage facilities shall comply with all applicable provisions of Oregon Revised Statutes and rules and regulations of the Oregon Department of Environmental Quality.

(2) Except as specifically provided in the rules, it is unlawful and a violation of this chapter to:

- A. Begin construction, installation or development of any system without first obtaining a construction installation permit from the county;
- B. Place into service, change the use of, or increase the projected daily sewage flow into an existing system without obtaining either an authorization notice or alteration permit, as appropriate, from the county;
- C. Repair a system without first obtaining a repair permit from the county, except that emergency repairs may be made when sewage is backing up into a dwelling or commercial facility, or when there is a broken sewer pipe and immediate action is necessary provided that a permit is obtained within three days after the emergency repairs are begun.

§116.04 - VIOLATIONS.

It is unlawful and a violation of this chapter for any person to:

(1) No person shall construct a subsurface sewage disposal system except in compliance with ORS Chapter 454 and rules promulgated under that chapter.

(2) No person shall habitate on or utilize land except in compliance with ORS Chapter 454 and rules promulgated thereunder.

(3) Fail to treat or dispose of any sewage as required by this chapter;

(4) Discharge untreated or partially treated sewage or septic tank effluent directly or indirectly onto the ground surface or into any public waters;

(5) Connect any plumbing fixture from which sewage is or may be discharged into any sewage disposal system that has not been approved by the county;

(6) Obstruct, cover, modify the soil covering or otherwise affect a system replacement area without first obtaining approval from the county;

(7) Fail to abandon an on-site system, including a septic tank and system, when required to under the rules or fail to comply with the procedures and requirements for proper abandonment as provided in the rules;

(8) Backfill or cover, connect to or use, any system without first obtaining a certificate of satisfactory completion of construction, installation, repair or alteration unless issuance of the certificate has been waived by operation of law or otherwise;

(9) Fail to meet requirements for satisfactorily complying with any correction notice within the time required;

(10) Use any materials that do not comply with standards for on-site systems set forth in the rules;

(11) Falsify or fail to provide any information requested by the county of any applicant for a permit, variance or hardship relief with the intent to evade or circumvent the procedures or standards established for regulation of on-site systems;

(12) Fail to comply with the terms or conditions of any permit including the duties imposed on permit holders by the rules.

§116.05 VIOLATION PROCEEDINGS.

A. The Public Health Administrator is delegated the authority to designate, from time to time, specific employees of the Umatilla County Public Health Department that are authorized to issue citations for the commission of violations of this Chapter. The employees so designated shall be deemed to be "Enforcement Officers", within the meaning of ORS 153.005 to 153.145.

B. Violations of this Chapter shall be deemed to be "violations", within the meaning of ORS 153.008. Violations of this Chapter are punishable by fines as established by ORS 153.015 for unclassified violations.

D. Violation proceedings shall follow the process set forth in ORS 153.005 to 153.145.

E. Pursuant to ORS 153.058(7), violation proceedings must be commenced by an enforcement officer.

F. Enforcement may be sought as provided under Umatilla County Code of Ordinances Chapter 38.

§113.06 CONTESTED CASE PROCEEDINGS.

Enforcement Officers may enforce violations of this Chapter through the contested case proceedings process set forth in ORS 183.310, 183.413 to 183.502, and 183.745 and OAR 333-012-0050 to 333-012-0070, and 137-003-0001 to 137-003-0092.

§113.07 PUBLIC NUISANCE.

Any facility that is operated in violation of this Chapter is a public nuisance and dangerous to health and may be abated or enjoined in any manner provided by law.

§113.08 AMENDMENTS.

All amendments to the Oregon Revised Statutes and Oregon Administrative Rules adopted and incorporated into this Chapter shall automatically be adopted into this Chapter as well, with the same effective dates as that set forth in such amended statutes and rules.

§113.09 REMEDIES NOT EXCLUSIVE.

None of the remedies available to Umatilla County as set forth in this Chapter are exclusive. Nothing in this Chapter shall preclude any remedy otherwise available to Umatilla County, either

in law or equity, including enforcement under Umatilla County Code of Ordinances Chapter 38.

§113.10 DELEGATION.

A. The Public Health Administrator is delegated the authority to carry out the provisions of this Chapter, including those available to Department of Environmental Quality (or its successor position title) under the Oregon Revised Statutes and Oregon Administrative Rules.

B. The Public Health Administrator shall administer the programs necessary to enforce the rules adopted by the Department of Environmental Quality.

§113.11 SEVERABILITY.

If any section or part thereof of this Chapter shall be held illegal, unconstitutional, or void, this shall not be construed to render void any other provision or requirements of this Chapter.

FURTHER, the Board of Commissioners deems this Ordinance necessary for the immediate preservation of public peace, health, and safety, and therefore, it is adjudged and decreed that an emergency does exist in the case of this Ordinance, it shall be in full force and effect from and after its adoption by the Umatilla County Board of Commissioners.

DATED this            day of October, 2016.

UMATILLA COUNTY BOARD OF COMMISSIONERS

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George L. Murdock, Chair

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W. Lawrence Givens, Commissioner

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William J. Elfering, Commissioner

**ATTEST:**  
**OFFICE OF COUNTY RECORDS**

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**Records Officer**