

**CITY OF DUNES CITY
LANE COUNTY, OREGON
ORDINANCE NO. 228**

**AN ORDINANCE AMENDING TITLE XV OF THE DUNES CITY CODE OF
ORDINANCES BY REPEALING CHAPTER 157 ENTITLED “SEPTIC SYSTEM
MAINTENANCE,” AMENDING TITLE XIV OF THE DUNES CITY CODE OF
ORDINANCES BY ADDING CHAPTER 142 ENTITLED “SUBSURFACE SANITATION,”
AND REPEALING ORDINANCE NO. 203**

WHEREAS, on January 14, 2010, the City Council of Dunes City adopted Ordinance Number 203, which established Chapter 157 within the Dunes City Code of Ordinances entitled “Septic System Maintenance;” and

WHEREAS, Ordinance Number 203 established a mandatory five (5) year time period within which periodic septic evaluations are to be made and reported to Dunes City; and

WHEREAS, many residences in Dunes City are second homes, vacation homes, or are only inhabited by one or two persons, while others may be occupied by large families or multi-families; and

WHEREAS, the five (5) year mandatory time period may be unnecessary in some circumstances, while not frequent enough in others; and

WHEREAS, it would be in the best interests of Dunes City and its residents if the time period within which periodic septic system evaluations are to be made were to be set by an expert in the field of septic system evaluations; and

WHEREAS, proper system maintenance prevents the adverse impacts of failing systems that may result in improper discharge of sewage effluent-threatening surface water, groundwater, and public health, safety and welfare; and

WHEREAS, Dunes City desires to ensure that all onsite wastewater disposal systems or septic systems are operated in a safe, healthful and environmentally responsible manner; and

WHEREAS, on August 18, 2015, as per ORS 197.610, OAR Chapter 660, Division 18, and Section 155.4.1.7.B.2.d a notice of the proposed amendment of the Dunes City Code was sent to DLCD; and

WHEREAS, no exceptions to applicable statewide planning goals numbers 2, 5 and 6 are proposed; and

WHEREAS, in accordance with ORS 227.186 (Ballot Measure 56) notice of the proposed changes to the Dunes City Code of Ordinances was mailed to owners of real property in Dunes City on October 8, 2015, 21 days prior to the first evidentiary hearing, which was first publicly announced on September 12, 2015, 40 days prior to the Planning Commission hearing scheduled for October 22, 2015; and

WHEREAS, on September 24, 2015, the Planning Commission canceled the October 22, 2015 hearing and rescheduled the public hearing for October 29, 2015; and

WHEREAS, first notice of a public hearing before the Planning Commission was published in *The Siuslaw News* on September 12 and September 16, 2015, and again on October 10 and October 14, 2015 as required by Section 155.4.1.7.B.2.b of the Dunes City Development Code; and

WHEREAS, the Planning Commission held a public hearing on the proposed amendments to the Dunes City Code of Ordinances on October 29, 2015, adopted recommended findings of fact, and recommended to the City Council that the Dunes City Code of Ordinances be amended as presented in this ordinance; and

WHEREAS, notice of a public hearing before the City Council was published in *The Siuslaw News* on October 24 and October 28, 2015, as required by Section 155.4.1.7.B.2.b of the Dunes City Development Code; and

WHEREAS, the City Council held a public hearing on the proposed amendments to the Dunes City Code of Ordinances on November 12, 2015; and

WHEREAS, the Council has considered materials relevant to the proposed amendments, including staff reports the finds made by the Planning Commission, and testimony and comments submitted at both public hearings, both orally and in writing;

NOW, THEREFORE, THE CITY OF DUNES CITY ORDAINS AS FOLLOWS:

Section 1. Findings of Fact

The City Council hereby adopts the Findings of Fact attached to this Ordinance as **Exhibit A**.

Section 2. Repeal of Chapter 157, Title XV, of the Dunes City Code of Ordinances is amended to repeal Chapter 157 in its entirety, Ordinance Number 203 is also hereby repealed. The repeal of Ordinance Number 203 and Chapter 157 shall not affect any action occurring before the repeal takes effect.

Section 3. Amendment of Title XIV

Title XIV of the Dunes City Code of Ordinances, entitled “Water Quality Protection,” is amended to add a new Chapter 142, entitled “Subsurface Sanitation,” which shall read as provided in the attached **Exhibit B** to this Ordinance.

Section 4. Administrative Fees

The City Council shall, by resolution, establish and amend fees to cover all or a portion of the expense of implementing and administering this Ordinance.

Section 5. Severability

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is judicially declared to be invalid, unenforceable, and/or void by a court of competent jurisdiction, such decision shall not have the effect of invalidating or voiding the remainder of this Ordinance, and the part(s) of this Ordinance so held to be invalid, unenforceable, and/or void shall be deemed stricken, and the remainder of this Ordinance shall have the same force and effect as if such stricken part(s) had never been included.

Section 6. Effective Date

This Ordinance shall take effect on the thirtieth day after its enactment.

The first reading of this Ordinance was conducted in a regular meeting of the City Council of Dunes City, Oregon, on the 12th day of November 2015.

The second reading of this Ordinance was conducted in a regular meeting and adopted by the City Council of Dunes City, Oregon on this ____th day of _____ 2015.

Ayes: _____ Nays: _____ Abstain: _____ Absent: _____ Vacant: _____

ADOPTED BY THE DUNES CITY COUNCIL THIS ____th DAY OF _____, 2015.

EXHIBIT B
Title XIV: WATER QUALITY PROTECTION
Chapter 142
SUBSURFACE SANITATION
Table of Contents

§ 142: SUBSURFACE SANITATION

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§ 142.005 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not specifically defined herein, the definitions located in OAR Chapter 340, Division 071 shall apply:

ABSORPTION FIELD. A system of absorption trenches, a seepage trench, or a system of seepage trenches.

ALTERNATIVE SYSTEM. Any onsite wastewater treatment system approved by the Oregon Environmental Quality Commission or the Oregon Department of Environmental Quality for use in lieu of the standard subsurface system.

ALTERNATIVE TREATMENT TECHNOLOGIES. Any alternative system that incorporates aerobic and other treatment technologies or units not specifically described elsewhere herein.

COMMERCIAL FACILITY. Any structure or building or portion thereof other than a single-family dwelling.

DRAINFIELD. The entire area for underground dispersion of the liquid portion of sewage including the area designated for future replacement system. The drainfield includes an absorption field.

EVALUATION. An evaluation, investigation, inspection, recommendation, or other process performed by a qualified inspector.

INSPECTION. A critical examination performed by a qualified inspector to ensure a wastewater disposal system meets the standards of the Oregon Revised Statutes and Oregon Administrative Rules.

LAKEFRONT PROPERTY. Any real property that is abutting a lake, river or stream, also known as waterfront or riparian property.

MAP. A scale drawing of the property that includes the entire septic system relative to the lot lines, outbuildings, dwellings, driveways, parking areas, and replacement drainfield areas. Such map shall also include the location of any riparian areas and shoreland zones, and the location of any wellheads and septic systems within 100 feet of the existing or proposed new septic system, including those wellheads and septic systems on adjoining properties.

NOTICE. A written notification from the City to the owner of a wastewater disposal or septic system within the city limits. A notice shall be considered given when deposited in the United States mail, certified mail, return receipt requested, addressed to the owner, or when personally served on the owner.

OWNER. A person who has ownership or control of a wastewater disposal system.

PERSON. An individual, corporation, association, partnership, trust, firm, or other private legal entity.

QUALIFIED / CERTIFIED INSPECTOR. A person who is licensed by the City pursuant to §142.090 and Chapter 120 of the Dunes City Code of Ordinances, is registered in accordance with ORS Chapter 700, and possesses a current NSF International Onsite Wastewater Inspector accreditation; or

A person who is a Lane County Sanitation Department inspector, is a State of Oregon Department of Environmental Quality Inspector, or is otherwise approved by the Oregon Department of Environmental Quality to perform wastewater or septic system inspections.

RAW WASTEWATER. Wastewater that has not been treated by physical, chemical, or biological means, or a combination thereof, to alter the quality of the wastewater to reduce the potential degradation of water quality or the environment and risk to public health.

SEPTIC SYSTEM. The system that may be composed of piping, septic tank, distribution boxes, filters, pumps and electrical connections, and other components, including the drainfield, necessary to treat sewage.

SEPTIC TANK. A watertight receptacle that receives sewage from a sanitary drainage system and is designed to separate solids from liquids, digest organic matter during a period of detention, and allow the liquids to discharge to a second treatment unit or to a soil absorption field.

SEWAGE/WASTEWATER. Water-carried human and animal wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments, or other places, together with any groundwater infiltration, surface waters, or industrial waste that may be present.

TREATED WASTEWATER/PARTIALLY TREATED WASTEWATER. Wastewater, the quality of which has been altered by physical, chemical or biological means, or a combination thereof, to reduce potential degradation of water quality or, the environment, and risk to public health.

WASTEWATER DISPOSAL SYSTEM. A system for disposing of wastes, either by surface or underground methods and includes domestic sewerage systems, treatment works, and other systems.

§ 142.010 INTENT.

It is the intent of the Dunes City Septic System Maintenance Ordinance to ensure that all onsite wastewater disposal systems, also known as sewage disposal systems or septic systems located in the City, are operated in a safe, healthful and environmentally responsible manner.

§ 142.020 PROHIBITIONS.

It is unlawful for a person to:

A. Maintain, occupy, or use any building intended for habitation that disposes of wastewater in a manner that does not comply with the laws, rules, regulations, ordinances or orders of the State of Oregon, Lane County, and Dunes City.

B. Construct, maintain, or use any wastewater disposal system that results in raw or partially treated wastewater escaping the confines of the wastewater disposal system and seeping into the ground or flowing into any surface water.

C. Discharge raw or treated wastewater into any well or boring or any other excavation in the ground if the discharge is not in compliance with the laws, rules, regulations, ordinances and orders of the State of Oregon, Lane County and Dunes City.

D. Discharge into any septic system any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or adversely affects groundwater quality.

§ 142.030 OWNERS' RESPONSIBILITIES

A. Initial Inspection and Mapping.

1. Owners of existing buildings served by onsite wastewater disposal systems are responsible to have those systems initially mapped, inspected and evaluated, at their expense, by a qualified inspector.

2. Copies of the initial map, inspection and evaluation must be filed with the Dunes City Recorder on or before March 31st, 2016. Owners who file wastewater disposal system maps, inspections and evaluations in accordance with prior Ordinance No. 173, passed March 9, 2006, and prior Ordinance No. 203, adopted January 14, 2010, are considered to be in compliance with the requirements of this paragraph.

B. Periodic Inspections.

Owners of existing buildings served by onsite wastewater disposal systems, except those systems identified in paragraph (D) below, are responsible to have those systems periodically inspected and evaluated at their expense by a qualified inspector. The time period for the required inspection and evaluation shall be the interval identified by the qualified inspector in the prior inspection and evaluation report. Within forty-five (45) calendar days after said periodic inspection and evaluation, the owner shall cause a copy of the inspection and evaluation report to be filed with the Dunes City Recorder, together with the appropriate fee. If the qualified inspector fails to provide said inspection and evaluation report to the property owner within thirty (30) calendar days following the date of inspection as provided in §142.060(A) herein, the owner shall notify the

Dunes City Recorder who shall investigate the reason for the delay by the inspector in providing the report to the property owner.

C. Notification of System Failure.

Owners are responsible to install, operate and maintain their wastewater disposal systems in accordance with the laws of the State of Oregon and Oregon Administrative Rules. Owners shall notify the City in the event the inspector's report indicates a failure of the system or the owner observes a failure of a system at any time.

D. Alternative Systems.

Owners of alternative systems that utilize alternative treatment technology are responsible to have those systems inspected and evaluated at their expense in accordance with Oregon Revised Statutes and Oregon Administrative Rules. Such owners shall provide a copy of the Department of Environmental Quality annual inspection report to the City Recorder. No fee for submission of this report will be required.

E. Commercial Facilities.

1. Owners of existing commercial facilities served by onsite wastewater disposal systems, except those systems identified in paragraph (D) above, are responsible to have those systems periodically inspected and evaluated at their expense by a qualified inspector. The time period for the required inspection and evaluation shall be the interval identified by the qualified inspector in the prior inspection and evaluation report. Within forty-five (45) calendar days after said periodic inspection and evaluation, the owner shall cause a copy of the inspection and evaluation report to be filed with the Dunes City Recorder, together with the appropriate fee. If the qualified inspector fails to provide said inspection and evaluation report to the property owner within thirty (30) calendar days following the date of inspection as provided in §142.060(A) herein, the owner shall notify the Dunes City Recorder who shall investigate the reason for the delay by the inspector in providing the report to the property owner.

2. Owners of commercial facilities are responsible to have sanitation inspections at their expense in accordance with Oregon Revised Statutes and Oregon Administrative Rules. Such owners shall provide a copy of the annual sanitation inspection report to the City Recorder. No fee for submission of this report will be required.

§ 142.040 DUNES CITY'S RESPONSIBILITIES

A. The City shall establish records of individual wastewater disposal systems and the City shall maintain such records in accordance with Oregon records retention laws, rules and regulations.

B. The City shall maintain a register of qualified inspectors who have acknowledged receipt of and agree to abide by this Ordinance. The City will remove an inspector's name from the register for failure to comply with the provisions of this Ordinance including, but not limited to:

1. Failure to provide inspection results to an owner within thirty (30) calendar days; or
2. Providing inspection results that are deemed by the City to be incomplete or unacceptable.

C. The City shall send periodic reminder notices, together with information describing recommended septic tank maintenance, to wastewater disposal system owners not later than thirty (30) calendar days prior to the expiration of the time interval identified by the qualified inspector on the prior inspection and evaluation report. Upon receipt of the qualified inspector's inspection and evaluation report, the City shall send the wastewater disposal system owners an acknowledgement of the qualified inspector's inspection and evaluation report.

D. Semi-annually, the City shall prepare and present a septic system maintenance compliance report to the City Council.

§142.050 FEES.

At the time of filing of any reports, maps, evaluations, inspections, or other data required under the terms of this Section, Dunes City shall charge and collect an administration fee to cover the costs of administration and implementation of this Ordinance. Said fee shall be established by resolution adopted by the Dunes City Council and may be amended from time to time.

§142.060 INSPECTION AND EVALUATION STANDARDS; FORM REQUIRED.

A. Inspections and evaluation standards shall meet those as required by Oregon Revised Statutes Chapter 454 and the Oregon Administrative Rules. If a periodic inspection indicates a fully functioning system, pumping of the septic tank is not required unless the qualified inspector deems it necessary. The qualified inspector shall use the inspection and evaluation form required by the Department of Environmental Quality to prepare a report of the system's current condition including the reason or reasons supporting a decision to require pumping of the septic tank, and shall include a recommendation as to when the system should be evaluated again in the future. The completed inspection and evaluation form shall be delivered to the owner within thirty (30) calendar days from the date of inspection and evaluation.

B. When determining the time frame to establish the date for the next periodic evaluation, qualified inspectors shall utilize the most current Oregon State University Extension Service Septic Tank Maintenance Table in Section 142.110, or such other document or documents as may be adopted by the City Council by resolution from time to time, as a guideline.

§ 142.070 COPY OF INSPECTION, EVALUATION AND APPROVAL REQUIRED; INSPECTORS' RESPONSIBILITIES.

Any owner of property upon which a new, replacement, or existing septic system is required to be inspected, approved, or evaluated pursuant to Oregon Revised Statutes Chapter 454, or any provision of the Oregon Administrative Rules, shall file a copy of the document evidencing said inspection, approval, or evaluation, as well as a map of the property as defined in §142.060(A), with the Dunes City Recorder within forty-five (45) calendar days of the date of issuance thereof.

§ 142.080 PERIODIC INSPECTION AND EVALUATION REQUIRED; CHALLENGES.

A. Owners of buildings served by onsite wastewater disposal systems shall have their system inspected and evaluated as provided in this Ordinance at such intervals as identified by the qualified system inspector.

B. If an owner of a wastewater disposal system disagrees with the time interval identified by the inspector, that owner shall, at the owner's sole expense, obtain a second qualified inspector's opinion as to the recommended time interval and submit the written second opinion from the second qualified inspector along with the evaluation report. For purposes of enforcement and implementation of this Ordinance, Dunes City shall accept the recommendation that provides for the greatest time interval between inspections that is recommended by either qualified inspector.

§ 142.090 BUSINESS LICENSE REQUIRED.

Any Person, other than a governmental agency, that performs wastewater disposal or septic system evaluations and pumping within the corporate limits of the City shall obtain a business license from the City pursuant to the provisions of Chapter 120 of the Dunes City Code of Ordinances. The annual business license fee shall be established by resolution of the City Council. Prior to the issuance of said wastewater disposal or septic system evaluation, inspection and pumping license, Dunes City shall deliver to the applicant a complete copy of this Chapter 142 and a copies of documents adopted by the City Council for inspectors to utilize to determine the dates of periodic evaluations, and the applicant shall acknowledge receipt and review of said Chapter and other document(s), in writing.

§ 142.100 ORDINANCE VIOLATIONS.

For violations of this Ordinance, the City may take the following actions: issuance of a notice of violation; issuance of a cease and desist order; abatement; execution of a stipulation agreement; and/or commencement of other civil proceedings as provided in Chapter 36 of the Dunes City Code of Ordinances. Upon receipt of a written complaint alleging a violation of the

provisions of §142.020 herein, the City Recorder shall immediately investigate the complaint. If an investigation determines that a system has failed, or is being used in violation of the Dunes City Code or Department of Environmental Quality’s standards for onsite wastewater treatment systems (OAR Chapter 340, Division 071), a notice shall be sent to the property owner. Failed systems or systems being used in violation must be repaired or decommissioned after obtaining all appropriate permits within ninety (90) calendar days of the notification date. At the discretion of the City Recorder, extensions may be granted based on individual circumstances. If the violation is not repaired within the required time period the City Recorder shall immediately notify the Lane County Sanitarian and, if the violation is committed by a business entity, will notify both the Lane County Sanitarian and the Oregon State Attorney General’s Environmental Crimes program.

§ 142.110 OREGON STATE UNIVERSITY EXTENSION SERVICE SEPTIC TANK MAINTENANCE TABLE (April 2000)

OREGON STATE UNIVERSITY/EXTENSION SERVICE SEPTIC TANK MAINTENANCE TABLE (April 2000 EC 1343)

Table 1.—*Estimated septic tank pumping frequencies in years (for year-round residence).*

Tank Size (Gallons)	Household Size (Number of People)									
	1	2	3	4	5	6	7	8	9	10
500	5.8	2.6	1.5	1.0	0.7	0.4	0.3	0.2	0.1	—
750	9.1	4.2	2.6	1.8	1.3	1.0	0.7	0.6	0.4	0.3
1,000	12.4	5.9	3.7	2.6	2.0	1.5	1.2	1.0	0.8	0.7
1,250	15.6	7.5	4.8	3.4	2.6	2.0	1.7	1.4	1.2	1.0
1,500	18.9	9.1	5.9	4.2	3.3	2.6	2.1	1.8	1.5	1.3
1,750	22.1	10.7	6.9	5.0	3.9	3.1	2.6	2.2	1.9	1.6
2,000	25.4	12.4	8.0	5.9	4.5	3.7	3.1	2.6	2.2	2.0
2,250	28.6	14.0	9.1	6.7	5.2	4.2	3.5	3.0	2.6	2.3
2,500	31.9	15.6	10.2	7.5	5.9	4.8	4.0	4.0	3.0	2.6
<i>Note: More frequent pumping is needed if garbage disposal is used.</i>										