

ORDINANCE NO. 203

AN ORDINANCE TO AMEND CHAPTER 157 WITHIN THE DUNES CITY CODE OF ORDINANCES ENTITLED "SEPTIC SYSTEM MAINTENANCE" AND REPEALING ORDINANCE NO. 173

WHEREAS, on March 09, 2006, the City Council of Dunes City adopted Ordinance No. 173, which established Chapter 157 within the Dunes City Code of Ordinances entitled "Septic System Maintenance" and;

WHEREAS, the Dunes City Planning Commission and City Council have considered an amendment to Chapter 157 of the Dunes City Code; and

WHEREAS, the Planning Commission and the City Council wish to ensure that all onsite wastewater disposal systems, also known as sewage disposal systems or septic systems, are operated in a safe, healthful, and environmentally responsible manner; 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, on August 19, 2009, as per ORS 197.610 and OAR Chapter 660, Division 18, 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, no exceptions to applicable Dunes City Comprehensive Plan policies B8, E1, E2, E3, E5, E6, and I10 are proposed; and

WHEREAS, in accordance with ORS 227.186 (Ballot Measure 56), notice of the proposed changes to Chapter 157 of the Dunes City Code was mailed to owners of real property in Dunes City on September 09, 2009, 15 days prior to the first evidentiary hearing, which was publicly announced as postponed to October 22, 2009, 28 days prior to the first evidentiary hearing; and

WHEREAS, the City Council is ready to consider adoption of amendments to Chapter 157 of the Dunes City Code.

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

Section 1. Amendment to Chapter 157 within the Dunes City Code of Ordinances entitled "Septic System Maintenance"

Chapter 15, Title 15, Land Usage, of the Dunes City Code of Ordinances is amended and is attached hereto as Exhibit A to this Ordinance and included by reference herein.

Section 2. Administrative Fees

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

Section 3. Severability Clause

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and that holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Effective Date

This Ordinance shall take effect thirty (30) calendar days after adoption and publication of a Notice of Adoption in accordance with Dunes City law.

Section 5. Repeal

The repeal of Ordinance 173 shall not affect any action occurring before the repeal takes effect. Ordinance Number 173 is hereby repealed.

Passed at the first reading in a regular meeting of the City Council of Dunes City, Oregon on this 10th day of, December, 2009

Ayes: 4 Nays: 0 Abstain: 0 Absent: 2

Passed at the second reading and placed on final passage, and adopted by the City Council of Dunes City, Oregon on this 14th day of, January, 2010

Ayes: 6 Nays: 0 Abstain: 0 Absent: 0

APPROVED BY THE MAYOR OF THE CITY OF DUNES CITY, OREGON, THIS 14th DAY OF, JANUARY, 2010

[Signed copy available at City Hall]

Eric Hauptman, Mayor

ATTEST:

[Signed copy available at City Hall]

Amy Graham, City Recorder

EXHIBIT A

Title XV: LAND USAGE

Chapter 157

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CHAPTER 157
SEPTIC SYSTEM MAINTENANCE

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§157.005 Definitions

The following terms used in these regulations shall have the meanings set forth below.

Access port / cleanout port - The opening at the top of the septic tank usually fitted with a tight fitting lid or plug that gives access to the interior of the tank for inspection and cleanout.

Distribution box - A watertight structure that receives septic tank or other treatment facility effluent and distributes it into one (1) or more header pipes leading to the absorption area.

Drainfield / absorption field - A system of absorption trenches, a seepage trench, or a system of seepage trenches.

Effluent - The fluid discharged from the septic tank to the drainfield.

Inspection - A critical examination to meet the standards of the code.

Map - A scale drawing of the property to include the entire septic system relative to the lot lines, outbuildings, dwellings, driveways, and parking areas. A map shall also include riparian areas, shoreland zones, and wetlands when present.

Olfactory observation - The possible detection of sewage odor whereby the indication of a failing septic system could be ascertained (also referred to as the smell test).

Septic system - The system that may be composed of piping, septic tank, distribution boxes, filters, pumps and electrical connections, 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 - 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.

Visual observation - Inspection of the drainfield and surrounding area for soggy soil or unusual plant growth.

(Ord. 203, passed 12/10/09)

§157.010 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 are operated in a safe, healthful and environmentally responsible manner. Proper system inspection and 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.

(Ord. 173, passed 03/09/06; A m. Ord. 203, passed 12/10/09)

§157.020 Purpose

The purpose of this ordinance is to establish local rules for the periodic inspection and maintenance of onsite wastewater disposal systems to determine compliance with the Lane County adopted standards for septic system evaluation or more rigorous standards adopted by the Dunes City Council.

(Ord. 173, passed 03/09/06; A m. Ord. 203, passed 12/10/09)

§157.030 General Provisions

Onsite wastewater disposal systems are subject to failure due to lack of maintenance, misuse, water infiltration, seismic activity, and other reasons. In order to minimize water quality problems from failed systems and extend the useful life of these systems, the following program has been developed to regularly inspect onsite systems, and seek effective maintenance and repair.

(Ord. 173, passed 03/09/06; A m. Ord. 203, passed 12/10/09)

§157.040 Owners' Responsibilities

Owners of the buildings served by onsite wastewater disposal systems are responsible to have inspections performed at their expense by one of Dunes City's approved inspectors at the time periods specified below in §157.060. Owners are responsible for maintenance of their systems and 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.

(Ord. 173, passed 03/09/06; Am. Ord. 203, passed 12/10/09)

§157.050 Dunes City's Responsibilities

- A. Records of individual septic systems shall be established and the City shall maintain such records.
- B. City shall maintain a register of Dunes City approved inspectors who have personal knowledge of the City's Septic System Maintenance Ordinance. The Register shall include the name of the individual inspector and 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 the City within fourteen (14) calendar days, or 2) providing inspection results that are deemed by the City to be incomplete or unacceptable.
- C. City shall provide forms for all inspection reports.

(Ord. 173, passed 03/09/06; Am. Ord. 203, passed 12/10/09)

§157.060 Inspections Required

Periodic inspection of all onsite wastewater disposal systems within the city limits is required. The inspector shall provide an original copy of the completed inspection form and map to the City with a copy to the property owner within fourteen (14) calendar days of completion of the inspection.

- A. **Initial Inspection** - The initial inspection shall include pumping of the septic tank and mapping of the septic system. The map shall include cleanout port, access port, distribution box, and the drainfield. This initial inspection will not be required if the property owner presents satisfactory evidence that the system has been permitted and installed with a final approved inspection within the previous five years. Such evidence will become the basis for compliance with §157.060(C). The date of the final inspection will serve as a basis for a periodic inspection in 5 years.
- B. **Periodic Inspection** - Periodic inspections include the condition of the septic tank contents, such as the thickness of the scum layer and percent of solids in the tank, the absorption disposal/drainfield and its capacity to accommodate a test volume of water, pumps, filters, and other important features of the system and the preparation of a report. If a periodic inspection indicates a fully functioning system, pumping is not required unless the Inspector deems it necessary.

The Inspector shall use the City's "Septic Maintenance Record and Inspection Report" form to prepare a report of the system's current condition including the reason or reasons the inspector may have used to require pumping and submit it to the City along with a copy of the map of the system.

C. **Frequency of Inspections** - Septic systems shall be inspected at the following frequencies unless it is determined that public health or environmental conditions require more frequent inspections.

1. Every system shall be inspected at a minimum of once every five years following the initial inspection. At the discretion of the City Recorder, extensions may be granted based on individual circumstances for no longer than one year and any requests beyond one year will be at the discretion of the Council.
2. Prior to the sale or transfer of ownership of any existing property the system shall be inspected, mapped, and pumped unless an inspection, mapping, and pumping has been conducted within 5 years of the date of sale or transfer.
3. Onsite sewage disposal systems shall be inspected when the quantity or characteristics of the wastewater discharge change because of an addition to the building or a change in the building's use.
4. Commercial and institutional buildings shall have their onsite sewage disposal systems inspected on an annual basis or at other time intervals specified by the City.
5. By March of 2012, every owner shall submit to the City an inspection report, mapping, and pumping of all septic systems on their property.

(Ord. 173, passed 03/09/06; Am. Ord. 203, passed 12/10/09)

§157.070 System Failure and Use Violations

If an inspection 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 71), a notice shall be sent to the property owner and to the appropriate County and State agencies. 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. All systems with effluent above ground shall be declared an emergency public health hazard by the City Recorder and immediate abatement is required. The person performing the work shall provide a copy of the final inspection report to the City within fourteen (14) calendar days.

(Ord. 173, passed 03/09/06; Am. Ord. 203, passed 12/10/09)

§157.080 Business License Required

Individuals and companies that perform septic system inspections and pumping within the corporate limits of the City shall obtain a business license from the City in accordance to the

licensing procedures established by the City. An annual business license fee shall be established by the City Council.

(Ord. 173, passed 03/09/06; Am. Ord. 203, passed 12/10/09)

§157.090 Compliance

Failure to inspect, pump, map, or repair in accordance with the time frames or the inspection procedures specified by this Chapter constitutes a violation of the Dunes City Code of Ordinances and shall be subject to a penalty of \$250 per calendar day by direction of the City Recorder until the property is in compliance with the requirements of this Chapter.

(Ord. 173, passed 03/09/06; Am. Ord. 203, passed 12/10/09)

§157.095 Lien Against Property

- A. The City Recorder shall forward to the owner and/or owner's representative (if known by the City), by registered or certified mail, a notice stating:
 1. The amount of the penalty;
 2. That the penalty will be assessed and turned over to a collection agency and possibly become a lien against the property unless paid within thirty (30) calendar days from the date of the notice;
 3. That if the owner and/or owner's representative (if known by the City), objects to the penalty he or she may file a written notice of objection with the City Recorder not more than fourteen (14) calendar days from the date of the notice.
- B. In the event that an objection is received, the Council, in the regular course of business, shall hear and determine the objections to the penalty that is assessed.
- C. If the penalty is not paid within thirty (30) calendar days from the date of the notice of Council decision, the assessment of the penalty stated or determined by the Council shall be turned over to a collection agency and possibly become a lien against the property.
- D. An error in the name of the owner and/or owner's representative (if known by the City), or a failure to receive the notice of the proposed assessment will not void the assessment, and it shall remain a valid collection against the property.

(Ord. 173, passed 03/09/06; Am. Ord. 203, passed 12/10/09)

EXHIBIT B

CHANGES COMPARISONS ON EXHIBIT A		
Section Number	Terms Added	Terms Removed
§157.005	Definitions	None
§157.010	Inspection and	None
§157.020	Inspection	Evaluation
§157.030	Seismic activity	None
	Inspect	Evaluate
§157.040	Responsibilities	Responsibility
	Wastewater disposal	None
	Inspections	Evaluations
	One of Dunes City's approved	State approved
	§	Section
§157.050(B)	Dunes City	State
	Inspection	Evaluation
	Fourteen (14) calendar days	Ten days
	Inspection results	Evaluations
	By the City to be	None
§157.050 (C)	(C)	(D)
	None	Informational pamphlets shall be provided at the time that the septic system owner is notified that an evaluation is due
	Inspection	Evaluation
§157.060	Inspections Required	Evaluations Required
	Inspection form and map to the City	Evaluation form to the owner
	Copy to the property owner	Copy to the City
	Fourteen (14) calendar days of completion of the inspection	10 days of completion of the evaluation
§157.060 (A)	Initial Inspection	Initial Evaluation
	Initial inspection	Initial evaluation
	Pumping of the septic tank and mapping of the septic system. The map shall include cleanout port,	Mapping of the septic tank, including clean-out,
	This initial inspection will not be required if the property owner presents satisfactory evidence that the system has been permitted and installed with a final approved inspection within the previous five years.	However, this evaluation will not be required if the property owner presents a satisfactory map of the system and evidence that the system has been installed or pumped within the previous five years.
	The date of the final inspection will	None

CHANGES COMPARISONS ON EXHIBIT A

Section Number	Terms Added	Terms Removed
§157.060 (A) (cont.)	serve as a basis for a periodic inspection in 5 years.	
§157.060 (B)	Periodic Inspection	Evaluation Standard
	<p>Periodic inspections include the condition of the septic tank contents, such as the thickness of the scum layer and percent of solids in the tank, the absorption disposal/drainfield and its capacity to accommodate a test volume of water, pumps, filters, and other important features of the system and the preparation of a report. If a periodic inspection indicates a fully functioning system, pumping is not required unless the Inspector deems it necessary.</p> <p>The Inspector shall use the City's "Septic Maintenance Record and Inspection Report" form to prepare a report of the system's current condition including the reason or reasons the inspector may have used to require pumping and submit it to the City along with a copy of the map of the system.</p>	<p>All evaluations shall be in accordance with Dunes City standard 157.060 and shall address the following factors:</p> <p>(1) Evaluations will be accepted only from inspectors who are qualified to perform the evaluation and are registered in accordance with ORS Chapters 672 or 700 or have a current NSF International Wastewater System Inspector Accreditation or other certification approved by the Oregon Department of Environmental Quality.</p> <p>(2) The inspector shall conduct a visual and olfactory observation of the ground surface above the system and in the vicinity of the system. Offensive odor and/or surface effluent are evidences of system failure.</p> <p>(3) An examination of the following:</p> <p>(a) The condition of the septic tank and its contents;</p> <p>(b) The absorption/disposal field(s), drainfields;</p> <p>(c) Pumps, filters and other important features of the system; and;</p> <p>(4) Preparation of a report of the system condition and mapping of the drainfield by the inspector.</p>

CHANGES COMPARISONS ON EXHIBIT A

Section Number	Terms Added	Terms Removed
§157.060 (C)	Frequency of Inspections	Frequency of Evaluations
	Shall be inspected	Shall be evaluated
§157.060 (C) (1)	Shall be inspected	Shall be evaluated
	Following the initial inspection	Following the initial evaluation
	At the discretion of the City Recorder, extensions may be granted based on individual circumstances.	If a building is vacant and the system is due for an evaluation, the evaluation shall be made when the building is reoccupied. Alternative systems, including sand filters systems, shall have an evaluation at time intervals specified by the permit for installation, or as recommended by the system manufacturer
§157.060 (C) (2)	The system shall be inspected	The system shall be evaluated
§157.060 (C) (3)	Systems shall be inspected	Systems shall be evaluated
§157.060 (C) (4)	Inspected on an annual basis	Evaluated on an annual basis
§157.060 (C) (5)	By March of 2012, every owner shall submit to the City and inspection report, mapping, and pumping of all septic systems on their property.	Within five years from the adoption of this ordinance, every owner shall submit to the City an evaluation and mapping of all septic systems on their property.
§157.070	System Failure and Use Violations	System Failure
	If an inspection determines	If an evaluation determines
	Violation of the Dunes City Code	Violation of the Code
	To the property owner and to the appropriate County and State agencies	To the property owner and also to Lane County
	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. All systems with effluent above ground shall be declared an emergency public health hazard by the City Recorder and	After obtaining a permit from Lane County, the failed system may be repaired by a DEQ State approved installer or the homeowner.

CHANGES COMPARISONS ON EXHIBIT A

Section Number	Terms Added	Terms Removed
§157.070 (cont.)	immediate abatement is required.	
	The person performing the work shall provide a copy of the final inspection report to the city within fourteen (14) calendar days.	The person that repaired the system shall notify the City within ten days of the repair completion date.
§157.080	§157.080	§157.085
	Business License Required	Approved Inspectors Responsibilities
	None	City approved inspectors will perform evaluations at the request of the septic system owners or the City and provide a written report including a map giving the location of the entire system to both the owner and the City.
	Septic system inspections	Septic system evaluations
	Business license from the City in accordance to the licensing procedures established by the City. An annual business license fee shall be established by the City Council.	Business license from the City. An annual business license fee shall be established by the City Council. Requirements for obtaining a business license are as follows: (A) Complete and application form. (B) Pay an annual fee. (C) Provide proof of liability insurance. (D) Provide proof of DEQ State Approved licensing. (E) Agree to the terms and conditions regarding remission of fees and reporting to the City.
§157.090	Failure to inspect, pump, map, or repair in accordance with the time frames or the inspection procedures	(A) Failure to inspect and/or map in accordance with the time frames or the evaluation procedures
	And shall be subject to a penalty of \$250 per calendar day by direction of the City Recorder until the property is in compliance with the requirements of this Chapter.	And shall be subject to a fine not to exceed \$250. (B) Each calendar date on which a violation occurs constitutes a separate violation until the

CHANGES COMPARISONS ON EXHIBIT A		
Section Number	Terms Added	Terms Removed
§157.090 (cont.)		property is in compliance with the requirements of this Chapter.
§157.095(A)	The owner and/or owners representative (if known by the City)	The owner or the person in charge of the property
§157.095 (A) (1)	Penalty	Fine
§157.095 (A) (2)	That the penalty will be assessed and turned over to a collection agency and possibly become a lien against the property unless paid within thirty (30) calendar days from the date of the notice;	That the fine will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice;
§157.095 (A) (3)	That the owner and/or owner's representative (if known by the City), objects to the penalty he or she may file a written notice of objection with the City Recorder not more than fourteen(14) calendar days from the date of the notice.	That if the owner or person in charge of the property objects to the fine he or she may file a written notice of objection with the City Recorder not more than ten days from the date of the notice.
§157.095 (B)	In the event that an objection is received,	At least ten days after the date of notice,
	Objections to the penalty that is assessed.	Objections to the fine that is assessed.
§157.095 (C)	If the penalty is not paid within thirty (30) calendar days from the date of notice of the Council decision, the assessment of the penalty	If the fine is not paid within 30 days from the date of the notice, the assessment of the fine
	Shall be turned over to a collection agency and possibly become a lien against the property.	Shall be made by resolution and entered in the docket of city liens, and shall constitute a lien on the property.
§157.095 (D)	(D)	(E)
	None	The lien may be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the legal rate of interest. The interest shall commence to run from the date of the entry of the lien in the lien docket.
	An error in the name of the owner and/or owner's representative (if known by the City)	An error in the name of the owner or the person in charge of the property

CHANGES COMPARISONS ON EXHIBIT A		
Section Number	Terms Added	Terms Removed
§157.095 (D) (cont.)	And it shall remain a valid collection against the property.	And it shall remain a valid lien against the property.