

CHAPTER 15.18

County of Alameda Onsite Wastewater Treatment Systems Ordinance

The Alameda County Board of Supervisors hereby finds and declares:

- A. Modifications to Chapter 15.18 of the Alameda County General Ordinance Code are necessary to comply with new standards and regulations mandated by the California State Water Resources Control Board and the appropriate California Regional Water Quality Control Board standards and basin plans.
- B. Chapter 15.18 is hereby rescinded in its entirety and in its place, the following Chapter 15.18 of the Alameda County General Ordinance Code is adopted:

15.18.010 Title.

This Chapter (Chapter 15.18) shall be known as the Onsite Wastewater Treatment Systems Ordinance.

15.18.020 Purpose.

The purpose of this Ordinance is to provide for the safe and sanitary treatment and disposal of Wastewater from structures and buildings not served by public sewer systems as allowed by the California State Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (**State Policy**). The purpose is also to establish standards for the approval, installation, and operation of Onsite Wastewater Treatment Systems (**OWTS**) and Onsite Wastewater Containment Units (OWCU) within Alameda County, consistent with the State Policy and consistent with the appropriate California Regional Water Quality Control Board standards and basin plans. The standards are adopted to prevent the creation of health hazards and nuisance conditions and to protect surface and groundwater quality. The OWTS and OWCU that this Ordinance authorizes shall safely treat and dispose of Wastewater in order to prevent environmental degradation including pollution of surface water and groundwater and to protect public health, safety and welfare to the greatest extent possible.

15.18.030 Applicability.

- A. This Chapter shall apply to all territory within the County of Alameda, State of California to the extent permitted by applicable law.
- B. If the amount of Wastewater received by an OWTS is more than ten thousand (10,000) gallons per day, or where a community system serving multiple discharges under separate ownership is proposed, or where the Wastewater includes Industrial Process Waste, the method of treatment and dispersal must be submitted for review and approval by the San Francisco Bay Regional Water Quality Control Board (**Regional Water Board**) or other appropriate Regional Water Quality Control Board.

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15.18.040 Administration.

- A. **Standards.** Standards and guidelines, including policies, procedure and technical details, to implement this Chapter, are contained in the Alameda County Onsite Wastewater Treatment Systems Manual (**the Manual**). The Local Agency Management Program (**the LAMP**), describing the geographical terrain and environmental conditions of the County and the administration and management program for OWTS and OWCU oversight, this Chapter and the Manual (collectively the **LAMP Documents**) have been reviewed and approved by the Regional Water Board in accordance with the State Policy.
- B. **Authority.** The authority to administer and enforce this Chapter shall be held by the Alameda County Department of Environmental Health (the **Department**).
- C. **Application and Fees.** Fees for permits and other services performed by the Department pursuant to this Ordinance shall be established by resolution of the Board of Supervisors. The applicable fees shall be paid at the time of filing a permit application, renewal of a permit, and/or a request for service. All applications shall be submitted in writing to the Department on a form supplied by the Department.
- D. **Standards, Guidelines and Onsite Wastewater Treatment Systems Manual.** The type and manner of design and construction of OWTS and **OWCU** shall conform to the standards as required by this Chapter and the Manual. Every OWTS and OWCU must also adhere to all other relevant Federal, State and local jurisdiction requirements including, without limitation: Building Code, Mechanical Code, Electrical Code, Plumbing Code, Floodplain Management, Stormwater Management and Discharge Control, Watercourse Protection and Grading, Erosion and Sediment Control.
- E. **Extraordinary Hazards.** If a proposed or existing OWTS or OWCU presents unusual or significant hazards to surface waters, groundwater or human health, the Department independently or with the Regional Water Board may impose requirements that are necessary to address those hazards to protect public health, safety or welfare.
- F. **Conflicts.** When the requirements of this Chapter or the Manual conflict with the requirements of any part of the California Building Standards Code, Title 24, State or Federal requirements or any local ordinance the most restrictive requirements shall prevail.

15.18.050 Definitions.

Terms used in this Chapter shall have the same definition as in the State Policy. For purposes of this Chapter, and other LAMP Documents, the following additional terms have the meanings given:

“Abandonment Permit” is the administrative document issued by the Department allowing abandonment of an existing OWTS or OWCU.

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“Board” is the Alameda County Board of Supervisors.

“Department” is the Alameda County Department of Environmental Health.

“Director” is the director of the Department of Environmental Health or his or her designated representative.

“Installation Permit” is the administrative document issued by the Department that conveys approval of and conditions for the installation of an OWTS or OWCU or component thereof.

“LAMP Documents” are the Local Agency Management Program (“LAMP”), describing the geographical terrain, environmental conditions of the County and the administration and management program for OWTS oversight, this Chapter and the Alameda County Onsite Wastewater Treatment Systems Manual (“the Manual”) which have been reviewed and approved by the Regional Water Board in accordance with the State Policy.

“Onsite Wastewater Containment Unit” (“OWCU”) is a self-contained, non-discharging unit used to collect and store Wastewater for removal, hauling and disposal at an approved Septage receiving facility, and includes holding tanks, vault toilets, portable toilets and waterless toilets. The short form of the term may be singular or plural.

“Onsite Wastewater Treatment System” (“OWTS”) is an individual or community collection and disposal system consisting of pipes, tanks dispersal systems and other components used for the collection, treatment and subsurface disposal of Wastewater.. The short form of the term may be singular or plural. For the purposes of this Ordinance, OWTS do not include “graywater” systems pursuant to Health and Safety Code Section 17922.12.

“Onsite Wastewater Treatment Systems Manual” (“Manual”) is the document developed, maintained, and amended by the Alameda County Department of Environmental Health containing policy, procedural and technical details for implementation of this Chapter as approved by the San Francisco Regional Water Board.

“Operating Permit” is the administrative document issued by the Department authorizing the initial and/or continued use of an OWTS or OWCU in conformance with the provisions of this Chapter and the Manual and may contain both general and specific conditions of use.

“Premises” means a building and the area of land that it is on.

“Repair/Modification Permit” is the administrative document issued by the Department allowing repairs or modifications to an existing OWTS or OWCU.

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“Qualifying Public Agency” means a public agency with local, full-time sanitation and water quality staff who are trained and have the capability to operate and maintain OWTS and OWCU.

“Special Permit” is the administrative document issued by the Department for approval and conditions for use of portable toilets and waterless toilets.

“State Policy” means the Water Quality Control Plan for Siting, Design, Operation and Maintenance of Onsite Wastewater Treatment Systems adopted by the State Water Resources Control Board on June 19, 2012, which became effective May 13, 2013.

“Wastewater” is water-carried waste that is intended to be removed and generally produced by fixtures such as toilets, sinks, showers or bathtubs, clothes washing machines, dish washing machines, floor drains or other fixtures or fittings intended to drain organic or inorganic waste material from residential and non-residential (including commercial and industrial) processes.

15.18.060 Connection to Public Sewer.

- A. **Connection to Public Sewer Required.** Every building or other structure having plumbing for Wastewater drainage, or which creates, collects or stores Wastewater must have a connection to a public sewer, except as provided in part B of this section.
- B. **Exceptions to Requirement to Connect to Public Sewer.**
 1. **OWTS.** Where there is not a public sewer available, Wastewater drainage piping may be connected to a permitted OWTS. A public sewer is not available when the public sewer, or any building or exterior drainage facility connected to the public sewer, is located more than 200 feet from any proposed building or exterior drainage facility on any lot or Premises that abuts and is served by such public sewer. The requirement to connect to a public sewer does not apply to replacement OWTS where the connection fees and construction cost are greater than twice the total cost of the replacement OWTS and the owner submits documentation from a Qualified Professional that the discharge will not adversely affect groundwater or surface water. All OWTS must be designed, installed operated, used and maintained in compliance with this Ordinance and the Manual.
 2. **OWCU**
 - a. **Non-Discharging Toilet Units.** Non-discharging toilet units including portable, vault and waterless toilets may be allowed in limited circumstances and must meet all applicable requirements in this Chapter and the Manual, including permitting requirements through an Operating Permit or Special Permit.

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- b. **Holding Tanks.** Holding tanks are prohibited except in very limited circumstances. The use of holding tanks must be approved by the Department, comply with all requirements in the Manual and is only allowed in the following instances:
- (i) To abate a nuisance or health hazard caused by a failing OWTS or installation of an OWTS, or connection to a public sewer is not feasible and a holding tank is appropriate for the location.
 - (ii) For industrial, commercial, or recreational facilities where installation of an OWTS for Wastewater is not feasible or allowed.
- c. All OWCU must be designed, installed, operated, used and maintained in compliance with this Ordinance and the Manual. The use of OWCU requires applying for and obtaining Installation, Operating, Abandonment and Special Permits, or a Qualifying Public Agency Permit, from the Department in accordance with the requirements in this Chapter and the Manual. Permits for Holding Tanks may also require evidence of financial responsibility and a posting of a bond.
- C. **Dangerous Conditions.** Notwithstanding provisions above, the Department may require that a building or Premises be connected to an existing public sewer if the Department determines that the existing plumbing, OWTS or OWCU is dangerous, unsanitary or a nuisance.

15.080.070 Permits and Reporting.

- A. **Installation Permit.** In order to construct a new or replacement OWTS or OWCU the property owner or designee shall obtain an Installation Permit from the Department. Unless otherwise expressly stated in writing on the Permit, an Installation Permit shall automatically expire three years after the date of issuance. An Installation Permit may be extended, provided the Permittee complies with all the requirements in effect at the time of the request for an extension, including payment of fees required to process the extension based on an actual hourly basis.
- B. **Repair/Modification Permit.** In order to perform repairs or modifications to any existing OWTS or OWCU the property owner or designee shall obtain a Repair/Modification Permit from the Department. No permit is required by this Chapter to perform minor maintenance work such as, by way of example only, replacing an existing pump with an equivalent new pump or the clearing of blockages. This provision shall not preclude the property owner from performing any temporary or other emergency repair work necessary to protect against an imminent threat to the owner's or the public's health or safety or environment, provided that the property owner immediately thereafter applies for any required permit. Unless otherwise expressly stated in writing on the Repair/Modification Permit, it shall automatically expire one year after the date of issuance. A Repair/Modification Permit may be extended, provided the Permittee complies with all the requirements in effect at the time of the request for an extension, including payment of fees required to process the extension based on an actual hourly basis.

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- C. **Abandonment Permit.** In order to decommission an abandoned OWTS or OWCU the property owner or designee shall obtain an Abandonment Permit from the Department.
- D. **Operating Permit.** Depending on the size and complexity of the OWTS or OWCU, an annual Operating Permit may be required. The property owner is responsible for obtaining the Operating Permit from the Department and complying with permit conditions and renewal requirements. The property owner of any lot or parcel with an Operating Permit must notify the Department in writing of any change in property ownership. When the property changes ownership, the new owner must apply to the Department for a new Operating Permit on or before the anniversary of the Operating Permit issuance date.
- E. **Special Permits.** A Special Permit may be required for the use of portable toilets or waterless toilets. A Special Permit is not required for portable toilets on construction sites with a valid building permit.
- F. **Qualifying Public Agency Permits.** In place of the permits listed above, a public agency with local full-time sanitation and water quality staff may obtain a Qualifying Public Agency Permit from the Department. The Qualifying Public Agency Permit will cover the OWTS and OWCU identified in the permit and identify the installation, operating, repair, modification and abandonment requirements as applicable.
- G. **Application.** All permit applications must include the information and document(s) set forth in the Manual for the type of permit being requested and the appropriate fee.
- H. **Special Conditions.** Any permit may be issued subject to such conditions as the Department or the Regional Water Board deems necessary to insure compliance with this Chapter. Any changes after the issuance of a permit must first be approved by the Department. Failure to obtain prior approval from the Department may invalidate the permit.
- I. **Reporting.**
1. **OWTS and OWCU with Operating Permits.** Any property owner with an OWTS or OWCU that requires an Operating Permit must report to the Department in accordance with the permit conditions and as set forth in the Manual.
 2. **OWTS without Operating Permits.** To assist the County in complying with State reporting requirements, any property owner with an OWTS that does not require an Operating Permit must provide information on its OWTS to the Department and update that information at least once every five years as set forth in the Manual.
 3. **OWCU with Special Permits.** Any property owner with a Portable Toilet that requires a Special Permit must report to the Department in accordance with the permit conditions.

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15.18.080 City and County Land Use and Site Development Requirements.

- A. **Site Development/Building Permit.** No city or County department shall issue a site development/building permit for any site that is not connected to a public sewer unless the Department has issued an approval and/or a permit for the OWTS as it will exist on completion of work under the development/building permit. Minor repairs or upgrades to a structure that do not increase the volume of Wastewater and do not have the potential to impact the OWTS will be exempt from this section as set forth in the Manual.
- B. **Certificate of Occupancy.** No city or County department shall issue a Certificate of Occupancy for a structure where the means of Wastewater disposal is an OWTS unless the Department has issued a Final OWTS Installation Approval Letter and, if applicable, an Operating Permit.
- C. **Subdivision.** For any subdivision of land proposed to be served by an OWTS (1) the subdivider must demonstrate that the OWTS design and siting is consistent with this Chapter and the Manual, and (2) any parcel that will be served by an OWTS must be at least forty thousand (40,000) square feet if served by a public water supply or at least sixty thousand (60,000) square feet if served by an on-site private water supply, unless the property is located in an area where more restrictive requirements must be met. For any subdivision creating five (5) or more parcels, the subdivision proposal must be provided to the respective Regional Water Board for review.

15.18.090 Safety.

- A. **Safe Operation.** All OWTS, both existing and new, shall be maintained in safe and sanitary conditions at all times. Every owner, lessee, occupant and user of any property on which an OWTS exists shall be each jointly and severally responsible for the safe and sanitary construction, operation, use, repair or maintenance of such systems, and ensuring that the system complies with the requirements of this Chapter and the Manual.
- B. **Abandonment.** Any OWTS or Holding Tank that is abandoned or has been discontinued from further use or to which no waste or waste discharge pipe from a plumbing fixture is connected, must be properly decommissioned. An Abandonment Permit must be obtained prior to decommissioning the OWTS or Holding Tank.
- C. **Cesspools and Seepage Pits Prohibited.** Cesspools and seepage pits are declared to be a public nuisance and are not authorized for use in Alameda County. Upon discovery, cesspools and seepage pits shall be abated in accordance with the provisions of the Alameda County General Ordinances.
- D. **Prohibited Acts.** It is unlawful for any person to do any of the following:
 - 1. **OWTS.** Construct, alter, repair or replace an OWTS without first obtaining a permit from the Department in accordance with the provisions of this Chapter and the Manual;

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2. **Use.** Construct, use, or maintain any OWTS in a manner where Wastewater, impure water or any other matter or substance will discharge upon the surface of the ground, become injurious or dangerous to health or will empty, flow, seep, or drain into or affect any river, stream, creek, spring, lake, pond, reservoir, marsh, water supply, water system, groundwater, culvert, or drainage.
- E. **Nuisance.** Any OWTS constructed, operated or maintained in violation of this Chapter is hereby declared to be a public nuisance and may be abated according to provisions of the law.

15.18.100 Compliance.

- A. **Conformity.** All work on OWTS shall be performed in accordance with the plans approved by the Department, all permits and inspected in accordance with the Manual. Any changes must be reviewed and approved by the Department prior to performing the work.
- B. **Stop Work Order.** In the event that the Department determines there has been an improper installation, a stop-work order may be posted. Before any further work is done a stop-work order clearance from the Department must be obtained.
- C. **Operations and Maintenance.** Every OWTS shall at all times be maintained and operated in a sanitary condition and state of good repair and in accordance with any permit conditions.

15.18.110 Notice of Operating Permit Conditions.

In order to provide notice to any future owners of a property, a *Notice of Operating Permit Requirements for Onsite Wastewater Treatment System* will be recorded by the Department in the office of the County Recorder of Alameda County after approval of an OWTS and the issuance of an Operating Permit. Certain Special Permits for OWCU may also require recording of a *Notice of Permit Requirements* Properties which had a Deed Restriction recorded under the previous Ordinance requirements may apply to the Department to have the Deed Restriction replaced with a Notice of Operating Permit Requirements.

15.18.110 Right of Entry.

For the purpose of inspecting or monitoring any OWTS or OWCU, the Department may enter any area of any property at reasonable times subject to the Department providing advanced notice to the owner, lessee, occupant, user or designated agent as is reasonable and practicable under the circumstances. This section shall not preclude the Department from entering property without notice, based on reasonable cause to believe that there exists a condition related to an OWTS or OWCU that poses an imminent threat to public safety, health or welfare.

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15.18.120 Variance.

- A. A variance to any requirement may only be granted if the applicant demonstrates all of the following criteria:
1. Special circumstances and conditions exist on the property which deprive the property owner of privileges enjoyed by other property subject to this Ordinance;
 2. The granting of the variance will not constitute a grant of special privileges inconsistent with any limitation on other property subject to this Ordinance;
 3. The granting of the variance will not be detrimental to other persons or property (including but not limited to watercourses or wetlands or the water quality of subsurface water) or to the public health, safety or welfare.
- B. The Department will review any request for a variance and may deny it. If the Department does not deny a variance request, a recommendation to grant the variance will be sent to the Board of Supervisors for final review and approval.

15.18.130 Appeals

- A. **Appeal to Director.** Any property owner or other person aggrieved by any decision made pursuant to this Chapter or other LAMP Documents may appeal to the Director of the Department of Environmental Health. All such appeals shall be heard by the Director or his or her designee. The appeal must be in writing and must specify the grounds for appeal. The written appeal must be actually received by the Department no later than thirty (30) days after actual receipt by the property owner or other person of the decision or thirty (30) days after the date notice of the decision is mailed by the Department, whichever is sooner. A Notice of the Hearing on that appeal shall be mailed within thirty (30) days after receipt by the Department of a timely appeal. The Hearing shall be held within thirty (30) days thereafter or as otherwise scheduled by the Director.
- B. **Appeal to the Board of Supervisors.** If the applicant is not satisfied with the final Departmental decision, the applicant may file an appeal with the Alameda County Board of Supervisors. That appeal to the Board must be made in writing and must specify the grounds for appeal. That written appeal must be actually received by the Clerk of the Board no later than thirty (30) days after the date of mailing by the Director of the final Departmental decision. Thereafter, following receipt by the Clerk of the Board of a timely appeal, the Board shall promptly schedule a Hearing on the appeal. The decision by the Board after the Hearing shall be final.

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15.18.140 Abatement.

- A. Any OWTS or OWCU that fails to meet the requirements of this Ordinance or the Manual is subject to the abatement procedures of Chapter 15.28 of the Alameda County General Ordinance. If the Department determines that any OWTS or OWCU endangers the health, property, safety, or welfare of the public or property occupants, it may issue a notice to abate. The property owner must take prompt, appropriate remedial action. In the event the property owner fails to abate or initiate and complete timely remedial action, the Department may issue a notice to the property owner to immediately cease Wastewater flow into the OWTS or OWCU or to take appropriate interim measures pending completion of remedial action.
- B. In the event the Department receives information indicating that an OWTS or OWCU poses an imminent risk to the public health, safety or welfare, the Department may issue a notice to the property owner to immediately cease Wastewater flow into the OWTS or OWCU and take immediate abatement action to eliminate that risk. In that case, in addition to any other rights provided by this Chapter or the County Ordinance, the Department may enter the subject property to implement reasonable mitigation measures or take other reasonable actions necessary to eliminate or mitigate that risk.
- C. If the Department issues a notice to the property owner to cease flow into the OWTS or OWCU, the Department shall also provide a prompt hearing to the property owner to address issues related to necessary and appropriate remedial action to insure that the OWTS or OWCU is functioning properly and that the OWTS or OWCU does not pose a risk to the public health, safety, welfare or the environment.

15.18.150 Enforcement.

- A. Failure to pay the required fee or submit the specified monitoring and inspection information, or failure to undertake any required corrective work specified by the Department may be cause for issuance of a citation, penalty fees, non-renewal and/or revocation of a permit by the Department.
- B. **Penalties.** In addition to any other fine or penalty that may be imposed by law, any person who fails to obtain a permit required by this Chapter or the Manual is subject to a civil penalty in the amount of double the applicable permit fee which has been established by the Board of Supervisors.

15.18.160 County Not Responsible for Damages.

The County is not liable or responsible for damage resulting from the defective construction of any OWTS or OWCU as herein provided, nor will the County or any official or employee thereof be liable or responsible by reason of any inspection authorized hereunder.

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15.18.170 Indemnity.

Any property owner or other person, including but not limited to any tenant, placing, installing or maintaining an OWTS or OWCU under this Chapter shall be required to execute a written agreement with the County that it, he or she agrees to indemnify, defend and hold harmless the County and its agents and representatives from all claims, demands, lawsuits, liability, damage or judgments (herein collectively referred to as “claims”) arising out of or in any way connected with the placement, installation or maintenance, modification or removal of such OWTS or OWCU. The only exception to this duty to indemnify, defend and hold harmless is for those claims caused solely by the negligence or willful misconduct of the County or its agents or representatives.

15.18.180 Compliance with Areas of Special Concern, Specific Plans, Regulatory and Local Requirements.

In locations where there are special environmental or geographical concerns, additional evaluation, standards and requirements must be followed as set forth in the Manual. The property owner is also responsible for compliance with all other requirements established by other agencies with jurisdiction over the property including but not limited to any requirements contained in General and Specific Plans established by Alameda County.

15.18.190 Severability.

If any part or provision of this Chapter, the Manual or the application thereof to any person or circumstances, is held invalid, the remainder of this Chapter and the Manual, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter and the Manual promulgated hereunder are severable.

These provisions shall take effect and be in force thirty days from and after the date of passage. Before the expiration of fifteen days after its passage it shall be published once with the names of the members voting for and against the same in newspaper of general circulation published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the _____ day of _____ 20____, by the following called vote:

- AYES:
- NOES:
- EXCUSED:

President of the Board of Supervisors
of the County of Alameda, State of California

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Approved as to Form
DONNA R. ZIEGLER, County Counsel

By _____

Clerk of the Board of Supervisors of the County of Alameda, State of California