

**ORDINANCE NO. 784**

**AN ORDINANCE OF THE COLUSA COUNTY BOARD OF SUPERVISORS  
ADDING CHAPTER 36 TO THE COLUSA COUNTY CODE  
ADOPTING STANDARDS FOR THE APPROVAL, INSTALLATION, AND  
OPERATION OF ONSITE WASTEWATER TREATMENT SYSTEMS**

**WHEREAS**, In California the regulation of Onsite Wastewater Treatment Systems (OWTS) is within the jurisdiction of the State Water Resources Control Board (SWRCB);

**WHEREAS**, In June of 2012, the SWRCB adopted the Water Quality Control Policy for Siting, Design, Operation and Maintenance of OWTS and the OWTS Policy became effective in May of 2013 establishing a statewide, risk-based tiered approach for the regulation and management of OWTS for the first time;

**WHEREAS**, the Colusa County Environmental Health Division has been the County's local enforcement agency with respect to OWTS under the authority granted to it by the Regional Water Quality Control Board (RWQCB);

**WHEREAS**, the State's OWTS Policy allows local enforcement agencies to continue to implement a local program, either under conservative, largely prescriptive low risk Tier 1 standards, or alternative, largely performance-based Tier 2 standards in a Local Agency Management Plan (LAMP);

**WHEREAS**, a local OWTS program under the Tier 1 standards would severely limit the ability of Colusa County to issue permits for new and replacement OWTS in many areas of the county due to various site constraints and conditions, and alternate methods from Tier 1 standards are required;

**WHEREAS**, the OWTS Policy allows Colusa County to propose standards for new and replacement OWTS as a Tier 2 LAMP to the RWQCB for approval, to provide an alternate method from Tier 1 prescriptive programs to achieve the same overall level of protection of water quality and public health;

**WHEREAS**, The Colusa County Board of Supervisors wants to continue providing local oversight of OWTS that are suited to the conditions in Colusa County, that meet or exceed the environmental protections of the "default" siting and design requirements for OWTS, and that ensure the best opportunity for coordinated and comprehensive management of OWTS in Colusa County;

**WHEREAS**, the Colusa County Environmental Health Division has reviewed the local program including procedures, handbooks and ordinances and has determined that the development of a new ordinance is necessary to meet the Tier 2 requirements of the OWTS Policy;

**WHEREAS**, The Colusa County Environmental Health Division has developed the

Local Agency Management Program (LAMP) and enabling ordinance to allow the continued use of onsite wastewater treatment systems (OWTS) within the jurisdiction of Colusa County as well as to expand the local program to permit and regulate alternative OWTS under the Tier 2 requirements while protecting water quality and public health;

**WHEREAS,** The Colusa County Environmental Health Division has conducted a public outreach effort of the draft LAMP and during which time all comments were considered; and

**WHEREAS,** The adoption of the LAMP and enabling ordinance will ensure the protection of the environment by establishing standards consistent with State law and such actions do not have the possibility of negatively impacting the environment.

**NOW THEREFORE,** the Board of Supervisors of the County of Colusa ordains as follows:

#### SECTION 1

Chapter 36 is added to the Colusa County Code to read as shown in Exhibit "A" attached hereto this ordinance and incorporated by reference.

#### SECTION 2

If any provision of this Chapter 36 of the Colusa County Code, or its application to any person or circumstance, is held invalid, the remainder of this Chapter will not be affected and will continue in full force.

#### SECTION 3

The Board of Supervisors finds that the adoption of the LAMP and this ordinance is an action of the County for the protection of the environment consistent with State law and, thus, qualifies as a Class 8 Categorical Exemption pursuant to CEQA Guidelines Section 15308 and is an action covered by the general rule exemption pursuant to Section 15061(b)(3) of the CEQA Guidelines that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

#### SECTION 4

This ordinance shall become effective thirty (30) days after its passage. It shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Colusa, State of California, within fifteen (15) days after its passage.

Introduced at a regular meeting of the Board of Supervisors held on the 21<sup>st</sup> day of February 2017, and passed and adopted by the Board of Supervisors of the County of Colusa, State of California, on the 21st day of March, 2017, by the following roll call vote:

**AYES:** Denise J. Carter, John D. Loudon, Kim Dolbow Vann, Kent S. Boes, and Gary J. Evans.

**NOES:** None.

**ABSENT:** None.



  
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Gary Evans, Chairman

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Marcos Kropf, County Counsel

**ATTEST:** Wendy G. Tyler, Clerk to  
the Board of Supervisors

By:   
\_\_\_\_\_  
Melissa Kitts, Deputy Clerk

## **EXHIBIT “A”**

### **CHAPTER 36.**

#### **ONSITE WASTEWATER TREATMENT SYSTEMS**

#### **ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

##### **36.1.1. Purpose.**

The purpose of this Chapter is to establish standards for the approval, installation, and operation of onsite wastewater treatment systems (OWTS) within Colusa County, consistent with plans, policies, and standards of the California State Water Resources Control Board and Central Valley Regional Water Quality Control Board (Regional Water Board). The standards are adopted to prevent the creation of health hazards and nuisance conditions and to protect surface and groundwater quality.

##### **36.1.2. Applicability.**

This Chapter is applicable to all existing and new OWTS in the unincorporated area of Colusa County having a wastewater design flow of ten thousand (10,000) gallons per day (gpd) or less. If the amount of wastewater produced is more than ten thousand (10,000) gpd, or if the wastewater system is dedicated to receiving significant amounts of wastes dumped from RV holding tanks, or where the wastewater system includes above-ground discharge of effluent (e.g., surface irrigation, percolation or evaporation pond), the method of treatment and dispersal must be approved by the Regional Water Quality Control Board. Notification will be provided to the Regional Water Quality Control Board and review comments solicited for: (a) any proposed OWTS with a projected daily wastewater flow of more than two thousand five hundred gallons per day (2,500) gpd; and (b) any proposed community OWTS serving multiple discharges under separate ownership. Where a governmental entity has entered into an agreement with the Board of Supervisors to assume responsibility for regulating or issuing permits to construct, alter, modify or replace OWTS, then the provisions of this Chapter shall not apply within the jurisdictional limits of that entity for the scope of responsibility assumed by the entity.

##### **36.1.3. Administration and enforcement.**

The director of the Environmental Health Division or his/her assign(s) , on behalf of the County’s Health Officer, shall administer and enforce all provisions of this Chapter relative to installation, maintenance, operation and abandonment of OWTS, including but not limited to septic tanks, cesspools, holding tanks, supplemental wastewater treatment systems, subsurface dispersal systems or other matters regulated or provided in this Chapter not expressly delegated to some other department or agency.

##### **36.1.4. County not responsible for damage.**

The County, its officers, agents and employees are not liable or responsible for damage resulting from the defective construction of any OWTS as herein provided, nor will the County or any

official or employee thereof be liable or responsible by reason of any inspection authorized hereunder.

### **36.1.5. Standards, guidelines and Onsite Systems Manual.**

- (A) The Director is authorized to issue standards and guidelines, including policies, procedures and technical details, to carry out the purposes of this Chapter, which shall be contained in a document titled the Onsite Systems Manual.
- (B) The Onsite Systems Manual shall be developed, maintained and amended as necessary by the Director and shall provide a reasonable process for seeking input from the affected public and OWTS practitioners in connection with its development and when changes are made.
- (C) The Onsite Systems Manual and any amendments shall be subject to approval by the Regional Water Board in accordance with applicable State requirements and policies for OWTS.
- (D) The type and manner of design and construction of OWTS shall conform to the standards as required by this Chapter and the Onsite Systems Manual.
- (E) The Director shall maintain records pertaining to the permitting, installation, inspection, repairs and variances issued in regard to OWTS and prepare and submit applicable reports and information to the Regional Water Quality Board in accordance with provisions of the State OWTS Policy.

### **36.1.6. Definitions.**

- (A) The following terms used in this Chapter have the same definition as in the State OWTS Policy, which is available on the Colusa County Environmental Health Division's website: Basin Plan, Beneficial Uses, Cesspool, Domestic Wastewater, Groundwater, Major Repair, Onsite Wastewater Treatment System (OWTS), Qualified Professional, Regional Water Quality Control Board, Replacement OWTS, Seepage Pit, Septic Tank, Site Evaluation, Soil, Supplemental Treatment, and Waste Discharge Requirements (WDR).
- (B) The following terms used in this Chapter are defined as follows:
  - 1. "Alternative OWTS" means any OWTS that does not meet the criteria of a conventional OWTS, but is allowed under conditions prescribed in this Chapter and approved by the Director.
  - 2. "Community system" means an OWTS that provides for the collection, treatment and dispersal of wastewater from multiple discharges under separate ownership.

3. “Conventional OWTS” is a type of OWTS consisting of a septic tank for primary treatment of sewage followed by a system of dispersal trenches for subsurface dispersal of effluent into the soil. A conventional OWTS may utilize gravity flow or a pump system to convey effluent from the septic tank to the drain-field.
4. “Cumulative impacts” means the persistent and/or increasing effect of OWTS resulting from the density of such discharges in relation to the assimilative capacity of the local environment. Examples include, but are not limited to: (a) nitrate or salt additions to ground water or surface water; and (b) rise in groundwater levels (“mounding of the water table”) that interferes with the performance of an OWTS, causes drainage problems or results in other adverse hydrological or soil conditions affecting public health, water quality or public safety.
5. “Department” means the Colusa County department consisting of the Planning and Building Units and the Environmental Health Division.
6. "Director" means the director of the Environmental Health Division or his or her designated representative acting on behalf of the County of Colusa’s Health Officer.
7. “Dispersal system” means a series of trenches, beds, subsurface drip lines, or other approved method for subsurface infiltration and absorption of wastewater effluent, including all component parts, such as piping, valves, filter material, chambers, dosing pumps, siphons and other appurtenances.
8. “Failure” means the ineffective treatment and dispersal of waste resulting in the surfacing of raw or inadequately treated sewage effluent and/or the degradation of surface or groundwater quality.
9. “Hearing Officer” means the person or body authorized by the Board of Supervisors to conduct hearings under the provision of this Chapter.
10. “Holding tank” means a watertight receptacle used to collect and store wastewater prior to it being removed from a property by means of vacuum pumping and hauling, or other approved method. The use of holding tanks in Colusa County is authorized for limited circumstances, including, but not limited to, for the abatement of health hazards or for certain public use facilities.
11. “Installation permit” means a document issued by the Director that conveys approval of and sets forth applicable conditions for the installation of an OWTS, or component thereof.

12. “Onsite Systems Manual” means the document developed, maintained, and amended by the Colusa County Environmental Health Division containing policy, procedural and technical details for implementation of this Chapter, as prescribed by the Director and approved by the Regional Water Board.
13. “Onsite wastewater maintenance provider” means a person capable of operating, monitoring and maintaining an OWTS in accordance with the requirements of this Chapter, and possessing minimum experience and qualifications as established by the Director in the Onsite Systems Manual.
14. “Onsite wastewater treatment system” or “OWTS” means a system of pipes, tanks, trenches and other components used for the collection, treatment and subsurface dispersal of domestic wastewater at or near the building or buildings being served. 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. Wastewater systems that discharge effluent above ground (e.g., via surface irrigation, percolation/evaporation pond) are not covered within the definition of an OWTS and are not authorized under this Chapter.
15. “Operating permit” means the administrative document issued by the Director authorizing the initial and/or continued use of an alternative OWTS in conformance with the provisions of this Chapter, intended to aid in verification of the adequacy of alternative OWTS performance, and that may contain both general and specific conditions of use. An operating permit may also be issued for circumstances other than alternative OWTS, such as in connection with holding tank exemptions or where, in the opinion of the Director, the type, size, location or other aspects of a particular OWTS installation warrant the additional level of oversight provided by an operating permit.
16. “Registered Septic Tank Pumper” means a person with an active liquid waste pumper permit issued by the Director in accordance with California Health and Safety Code, division 104, part 13, sections 117400 – 117450, as qualified to pump and haul septic tank sludge (“septage”).
17. “Sanitary sewer” means a system for collecting residential or municipal wastewater and directing the collected wastewater to a treatment works prior to dispersal.
18. “Site evaluation” means an assessment of the characteristics of the site sufficient to determine its suitability for an OWTS to meet the requirements of this Chapter. Site evaluations shall be in accordance with

procedures and criteria established by the Director and contained in the Onsite Systems Manual.

19. "Sewage" or "sewage effluent" means waste as defined in Section 5410(a), California Health and Safety Code.
20. "State OWTS 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.

## **ARTICLE 2. GENERAL REQUIREMENTS AND PROHIBITIONS**

### **36.2.1. Connection to sanitary sewer.**

Every property where there is proposed a residence, place of business, or other building or place which people occupy, or where persons congregate, reside or are employed, and which proposed structures requiring sewage disposal are within two hundred (200) feet of an approved available sanitary sewer, must be connected to the sanitary sewer in the most direct manner possible, provided a right-of-way and any necessary approval from the appropriate sewer authority and the Colusa County Local Agency Formation Commission (LAFCO) can be first obtained.

On property where an OWTS exists, and which structures served by an OWTS are within two hundred (200) feet of an approved available sanitary sewer, connection to the available sanitary sewer will be required at the time of system failure or when major repair, septic tank replacement, or addition to the OWTS is required or proposed, provided that said connection is feasible and any necessary approval from the appropriate sewer authority and the Colusa County LAFCO can first be obtained as determined by the Director.

### **36.2.2. Prohibited acts.**

It is unlawful for any person to do any of the following:

- (A) Construct, alter, repair or replace an OWTS or a component element thereof, which system is subject to the provisions of this Chapter, without first obtaining a permit from the Director in accordance with the provisions of this Chapter and standards established hereunder;
- (B) Construct, rebuild, use, occupy or maintain any residence, place of business or other structure where persons reside, congregate or are employed, which is not provided with a means of disposal of sewage by connection to a public sewer system or an individual sewage disposal system, without first obtaining approval and/or a permit from the Director;
- (C) Construct, use, or maintain any privy, cesspool, septic tank, sewage treatment works, chemical toilet, composting toilet, sewer pipes or conduits, or system(s) components in a manner where sewage, 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 within the County of Colusa.

- (D) Install or place a chemical toilet in or upon any property for any purpose other than temporary use in connection with the construction of a building or other structure during the period of such construction without first obtaining a permit from the Director. The Director may waive this requirement for other temporary activities if he/she determines that such use will not create a health or safety issue.

Any OWTS constructed, operated, modified, or maintained in violation of this Chapter is hereby declared to be a misdemeanor and a public nuisance and may be cited and/or abated according to the provisions of this Chapter, the County Code and/or State law as determined by the Director.

### **36.2.3. Building permit approval.**

No building permit, as required by Chapter 5 of this Code shall be issued for any building which is not to be connected to an approved sanitary sewer or an OWTS, without the approval of the Director.

### **36.2.4. OWTS installation permits required.**

No person may construct, build, rebuild or remodel any residence, place of business, or other building or place where persons reside, congregate or are employed which is not to be connected to an approved sanitary sewer without first submitting plans of the OWTS to the Director for approval and either: (1) obtaining approval of the proposed construction, building, rebuilding or remodeling to be served by an existing OWTS; or (2) obtaining an OWTS installation permit pursuant to this Chapter. Failure to obtain an approval or permit from the Director is a violation of this Chapter. The Director may waive this requirement if the property's site evaluation shows that the conditions, soils, topography, etc. of the site will readily support the anticipated system.

### **36.2.5. Permit duration and extension.**

Permits that authorize construction of OWTS shall remain valid for a period of one (1) year from the date initially issued. Renewal procedures shall be as set forth in the Onsite Systems Manual if additional time is required to complete construction.

### **36.2.6. Permits nontransferable.**

All permits are nontransferable.

### **36.2.7. Application and fees**

All applications for OWTS permits shall be submitted in writing to the Colusa County Environmental Health Division, on a form supplied by the Director. The application shall be

accompanied by fees as specified in the current resolution approved by the Board of Supervisors establishing fees for environmental health services.

**36.2.8. Denial, suspension or revocation of OWTS permit.**

The Director may deny, suspend or revoke a permit or approval issued hereunder in the case of any false statement, or misrepresentation of fact in the application or on the plans on which the permit approval was based, or if he or she determines that in any other way the permittee is acting in violation of State law, the provisions of this Chapter, or the conditions of the permit.

**36.2.9. Appeals.**

Any applicant may appeal the decision of the Director in denying, suspending or revoking the permit for an OWTS or in relation to an abatement order.

The appeal shall be made to the Board of Supervisors by submitting to the Director a completed application for appeal and the Department's Board of Supervisor's appeal fee. The appeal application must be submitted within ten (10) calendar days from the date of the Director's decision to deny, suspend or revoke the permit. The Board of Supervisors may reject, affirm or modify Director's decision.

**ARTICLE 3. OWTS SITING, CONSTRUCTION AND OPERATION**

**Section 36.3.1. Siting criteria.**

Siting criteria defining the location and environmental conditions under which OWTS may be permitted shall be developed by the Director and included in the Onsite Systems Manual. Such siting criteria shall be consistent with applicable State and Regional Water Board OWTS policies and requirements, and shall be subject to review and approval by the Regional Water Board.

**36.3.2. Site evaluation.**

- (A) For all locations where an OWTS is proposed to be installed, a site evaluation shall be conducted prior to permit approval to verify conformance with applicable soils, groundwater, ground slope, and horizontal setback requirements as prescribed in the Onsite Systems Manual.
- (B) Site evaluation methods shall include soil profiles, percolation tests and other exploratory tests, as necessary, to verify adequate depth and permeability of soil, and vertical separation between dispersal field and groundwater for both primary and reserve dispersal areas.
- (C) Testing shall be conducted in accordance with standards and guidelines provided in the Onsite Systems Manual.

- (D) Where the Director has been provided adequate evidence to demonstrate suitable soil conditions and groundwater separation, testing requirements may be waived.
- (E) For new divisions of land, soil profiles, percolation tests and groundwater determinations will be required on every parcel unless the Director determines, on a case-by-case basis, that such testing is not necessary due to the availability of sufficient information to demonstrate conformance with applicable siting criteria for all proposed OWTS locations.

### **36.3.3. Plans.**

No person may construct, add to, repair or alter any existing OWTS without first submitting plans to the Director for approval and obtaining a permit pursuant to the requirements of this Chapter. Plans shall include the site evaluation results, other relevant site and project information, scaled drawing(s) of proposed OWTS, supporting basis of design, and other information as specified in the Onsite Systems Manual.

### **36.3.4. Operation and maintenance.**

Every OWTS shall at all times be maintained and operated in a sanitary condition and state of good repair. Operation and maintenance guidelines for each OWTS installation shall be provided by the designer and/or the installer, with a copy provided to the Director as well as to the system owner. Final approval of system installation shall be contingent upon confirmation by the Director that required operation and maintenance guidelines have been provided.

### **36.3.5. Cumulative impacts**

Where OWTS may have cumulative impacts on groundwater and/or watershed conditions due to such factors as the constituent levels (e.g., nitrogen content) in the wastewater, the volume of wastewater flow, the density of OWTS discharges in a given area, and/or the sensitivity and beneficial uses of water resources in the discharge area, the Director may require additional technical studies (also termed “cumulative impact studies”) or other information demonstrating to the satisfaction of the Director, that use of the proposed OWTS will not create adverse cumulative effects on water quality or public health. Cumulative impact studies shall be mandatory for any OWTS with wastewater flows of 2,500 gpd or more. In all cases, such cumulative impact studies will be conducted in accordance with guidelines provided in the Onsite Systems Manual.

### **36.3.6. Director review and approval.**

If, after review, the Director determines that the proposed OWTS is in accordance with the terms of this Chapter and applicable requirements in the Onsite Systems Manual, and will not be injurious to the public health and water quality, he or she shall approve or conditionally approve the application. Such approval may be made subject to such conditions as the Director deems necessary to ensure compliance with this Chapter. Any change in the OWTS plans after the

issuance of a permit must first be approved by the Director. Failure to obtain approval from the Director will invalidate the permit.

#### **36.3.7. Installation.**

- (A) No person may install, construct, alter, enlarge, reconstruct, replace, improve, recondition or repair an OWTS pursuant to this Chapter unless: the person possesses a general engineering contractor's license (class A) as defined in section 7056 of the Business and Professions Code, or a Class C-42 sanitation system contractor's license or Class C-36 plumbing contractor's license from the Contractors State License Board of the State of California.
- (B) In the case of a conventional OWTS, the property owner may construct or repair an OWTS on his/her own property, provided: (1) persons hired by the owner to do the subject work must comply with (a) above; or (2) persons hired by the owner must be hired as employees of the owner and the owner must provide workman's compensation insurance, as required by law; and (3) an OWTS permit is obtained.

#### **36.3.8. Installation inspection and approval.**

- (A) OWTS must be installed in accordance with the plans approved by the Director. Any changes in the installation plans must be reviewed and approved by the Director prior to installation.
- (B) Inspection(s) of each OWTS installation shall be made by the Director to ensure compliance with all applicable requirements of this Code and the Onsite Systems Manual. In the event the Director determines there has been an improper installation, a stop-work order may be posted on the jobsite. Before any further work is done on a posted system, clearance from the Director must be obtained.
- (C) An as-built drawing shall be completed by the OWTS designer or contractor upon completion of the OWTS installation, a copy of which shall be supplied to the Director and the system owner.

#### **36.3.9. Conventional OWTS.**

- (A) A conventional OWTS shall, at a minimum, consist of a septic tank and subsurface dispersal system for absorption and leaching of the effluent into the soil. The septic tank and subsurface effluent dispersal system must be constructed to meet the requirements prescribed by this Chapter and the standards and criteria contained in the Onsite Systems Manual.
- (B) The conventional dispersal method approved for use in Colusa County shall be a gravel-filled trench system, sized, designed and installed in accordance with standards prescribed in the Onsite Systems Manual.

- (C) Trench system designs utilizing chambers or other filter material in place of gravel may be approved by the Director and addressed with specific criteria in the Onsite Systems Manual as a conventional dispersal system design option.
- (D) At a minimum, all dispersal systems shall include a primary (installed) field, and a reserve area with suitable conditions and sufficient area for 100-percent replacement of the primary field.

#### **36.3.10. Cesspools prohibited.**

Cesspools are declared to be a public nuisance and are not authorized for use in Colusa County. Upon discovery, cesspools shall be abated in accordance with the provisions of this Chapter and in a manner approved by the Director.

#### **36.3.11. Holding tanks.**

- (A) All holding tanks are hereby declared a public nuisance and are prohibited, except for the following instances as may be approved by the Director:
  - 1. If it is necessary to use a holding tank to abate a nuisance or health hazard caused by a failing OWTS; or
  - 2. For a publicly-owned nonresidential facility necessary for the public health, safety or welfare, where installation of an OWTS is not feasible and a holding tank is determined by the Director to provide the safest and most acceptable method of sewage disposal.
- (B) Where exceptions are granted and holding tank(s) approved, an operating permit issued by the Director pursuant to this Chapter will be required, which will provide for approval of the tank pumper, maintenance schedule, tank/sewage level monitoring, and reporting requirements.

#### **36.3.12. Alternative OWTS.**

The use of alternative OWTS in Colusa County will be permitted in accordance with the following:

- (A) Alternative OWTS may be permitted by the Director for the repair or upgrading of any existing OWTS and for new construction on any legally created parcel where: (a) it is determined that sewage cannot be disposed of in a sanitary manner by a conventional OWTS; or (b) the Director determines that an alternative OWTS would provide equal or greater protection to public health and the environment than a conventional OWTS.

- (B) Types of alternative OWTS. Types of alternative OWTS permitted are limited to those identified in the Onsite Systems Manual, and which have been approved by the Director and the Regional Water Quality Control Board.
- (C) Designer and installer qualifications. All alternative OWTS must be designed by a qualified professional (California Registered Civil Engineer, Registered Environmental Health Specialist, or Professional Geologist), and must be installed by a contractor duly licensed by the Contractors State License Board of the State of California to install OWTS (A, C-42 or C-36).
- (D) Operating permit. All alternative OWTS require the issuance of a renewable operating permit, which is in addition to the permit issued for system installation. Operating permits are intended to serve as the basis for ensuring proper maintenance and system performance; associated work is required to be performed by a qualified professional or onsite service provider.
- (E) Monitoring and reporting. Monitoring and reporting requirements to verify adequate performance of alternative OWTS shall be included as conditions of the operating permit. Monitoring requirements will vary depending upon the specific type of alternative OWTS in accordance with guidelines in the Onsite Systems Manual.

### **36.3.13. Operating permits.**

In addition to an installation permit, an operating permit is required for: (a) all alternative OWTS; (b) any OWTS with a design flow of 2,500 gpd or more; (c) holding tank exemptions; and (d) where, in the opinion of the Director, the type, size, location or other aspects of a particular OWTS installation warrant the additional level of oversight provided by an operating permit. Requirements pertaining to operating permits are as follows:

- (A) The operating permit will be issued by the Director following: (a) completion of construction of the alternative OWTS; (b) satisfactory compliance with the installation permit requirements; and (c) payment of applicable fees. Operating permits are non-transferable.
- (B) After initial issuance, the operating permit is required to be renewed periodically, the standard renewal period being one year. The Director may establish conditions allowing the time period between renewals to be extended for certain types of OWTS based on a record of favorable performance or other factors warranting a reduction in system oversight by Environmental Health Division. Operating permits must also be renewed at the time of change in property ownership.
- (C) Operating permits are intended to serve as the basis for verifying the adequacy of OWTS performance and ensuring on-going maintenance. Permit conditions shall include monitoring and inspection requirements, permit duration, and other

provisions as prescribed by the Director in the Onsite Systems Manual or as deemed appropriate by the Director on a case-by-case basis.

- (E) Renewal of an operating permit requires: (1) payment of the applicable fees based on the hourly re-inspection fee rate, upon receipt of notice from the Director; and (2) submission of the results of required system inspection and monitoring.
- (E) 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 Director may be cause for issuance of a citation, penalty fees, non-renewal and/or revocation of the operating permit by the Director. The Director may place a lien on the property for recovery of any associated abatement costs and unpaid fees.
- (F) A certified copy of the following shall be recorded against the property in the office of the County Recorder of Colusa County: (a) initial operating permit issued for the system; (b) reissuance of operating permit to new owners; and (c) notices of withdrawal of any operating permit.

#### **36.3.14. Abandoned onsite wastewater treatment systems.**

Every OWTS that has been abandoned or has been discontinued from further use or to which no waste or waste discharge pipe from a plumbing fixture is connected must:

- (A) Have the sewage removed from, and disposed of, in a manner approved by the Director.
- (B) Have the tank top and bottom crushed, backfilled and compacted with material approved by the Director or be removed and disposed of in a manner approved by the Director.

Completion of the above-described work shall require that the property owner obtain a septic tank abandonment permit from the Director as provided in the Onsite Systems Manual.

### **ARTICLE 4. VARIANCES, ABATEMENT AND ENFORCEMENT**

#### **36.4.1. Variances**

Variance from the terms of this Chapter and requirements as prescribed the Onsite Systems Manual may be granted by the Director under the following conditions:

- (A) The variance will not harm the public health, safety and welfare of the people of Colusa County;
- (B) Due to special conditions or exceptional characteristics of the property, its location or surroundings, a literal enforcement of this Chapter and the Onsite

Systems Manual would result in unnecessary hardship as determined at the sole discretion of the Director;

- (C) The hardship was not caused with the intent to avoid the requirements of this Chapter or the Onsite Systems Manual;
- (D) The variance will not have any adverse environmental effect on the use of the adjoining property.

#### **36.4.2. Abatement.**

Any existing OWTS in a state of failure or which, based on inspection or evaluation by the Director, is considered a hazard to safety or health by reason of inadequate maintenance, dilapidation, or obsolescence is hereby declared to be a public nuisance and shall be abated by repair or rehabilitation per notice of violation from the Director. If not corrected within the time designated by the Director in said notice of violation, the Director may cause the abatement of the public nuisance pursuant to County Code public nuisance abatement process.

#### **36.4.3. Violations.**

- (A) No person or entity that is purchasing or that owns, controls, leases, lets, hires or occupies any lands, premises or habitations in the unincorporated area of Colusa County shall construct, reconstruct, place or suffer or permit to exist thereon any installation referred to in this Chapter in violation of any of the provisions hereof or to perform any act or suffer or permit any act to be performed in violation of any of the provisions hereof.
- (B) Any person or entity who does any act declared unlawful in this Chapter or who violates or contributes in any way to the violation of any of the provisions of this Chapter shall be deemed guilty of a misdemeanor. Every violation of any of the provisions of this Chapter shall be construed as a separate offense for each day during which such violation continues.

#### **36.4.4. Administrative Civil Penalty.**

In addition to any other remedies provided by this Code or State Law, there is hereby imposed the following civil penalty for each violation of this chapter, as imposed by the Director or his/her assigns:

- (A) Five hundred dollars (\$500.00) per day for each day that the violation exists beginning on the date that the notice of violation is served and lasting until the expiration of the voluntary correction period specified on the notice of violation s; and
- (B) One thousand dollars (\$1,000.00) per day for each day that the violation exists beginning on the day after the expiration of the notice of violation and continuing



each and every day until the violation has been corrected.

- (C) In the event a property owner, in the opinion of the Director, significantly corrects the violation within the voluntary correction timeframe specified in the notice of violation or prior to any appeal hearing, the Director has the authority to cancel the notice of violation, waive or reduce the amount of penalties specified.
- (D) In the event a property owner, in the opinion of the Director, corrects the violation within the voluntary correction timeframe specified in the notice of violation, the notice of violation and all specified penalties are canceled.

#### **36.4.5. Enforcement.**

In lieu of or in addition to any other enforcement provisions provided for in the Colusa County Code or State law, the Director or authorized representative may invoke the enforcement provisions of this Chapter.

- (A) Every notice of violation of this Chapter shall be posted at the site of the violation and shall be mailed by certified or registered mail to the address of the owner(s) of the site, as determined from the latest equalized assessment roll.
- (B) Except as to an act or condition that constitutes an immediate threat to public health or safety, every notice of violation issued under this section shall permit the owner or possessor of the site upon which the violation exists at least seven (7) calendar days in which to voluntarily correct the violation. Every notice of violation issued under this section shall state:
  1. The act or condition which constitutes the violation and the location of the subject property;
  2. Any provision of this Chapter deemed to have been violated by the commission of the act or the existence of that condition;
  3. The maximum amount of time for voluntary abatement of the nuisance;
  4. The name, address and telephone number of the person who caused the notice to be served;
  5. The amount and basis for any administrative civil penalty and/or administrative costs to be imposed and a statement that the County may seek recovery of its administrative costs to investigate, enforce, and abate the violation if not voluntarily corrected within the time frame provided for in said notice of violation;
  6. That if the violation is corrected as determined by the County within the voluntary correction period specified in the notice of violation, that the

notice of violation and all penalties and administrative costs may be cancelled; and

7. The time within which the owner of the site may request a hearing before the Hearing Officer and that if so requested, a hearing will be held as provided in subsection (E).

The failure of any person to receive a notice given pursuant to this subsection (b) shall not constitute grounds for any court to invalidate any subsequent action by the county or any of its officers, agents or employees to abate the nuisance.

- (D) Demand for hearing. If the owner of the site files a written demand with the department for a hearing within seven (7) days from the date that the notice of violation is issued, the Director shall set the matter before the Hearing Officer pursuant to subsection (d).

The hearing shall be set for a date not less than ten (10) days nor more than sixty (60) days from the date that the "demand for hearing" is filed unless the enforcement officer determines that the matter is urgent or that good cause exists for an extension of time.

At least seven (7) days prior to the hearing, written notice of the time and place of the hearing shall be given to the party contesting the citation and anyone else who received notice of the citation. Notice shall be served by personal service, first class mail or by posting a copy of the notice of hearing conspicuously on or in front of the property on which the violation is located.

If no demand for a hearing is made within this time frame, the administrative civil penalty specified in the notice of violation shall become immediately due and payable.

- (E) Hearing procedures.
  1. The Director or authorized representative shall first describe the acts or conditions constituting the violation and the basis for any administrative civil penalty and/or administrative costs to be imposed, and shall then present evidence specifically addressing the grounds set out in the notice of violation. The Director may issue a report detailing the violation in advance of the hearing. Thereafter, the owner or their authorized representative may present evidence to refute the enforcing officer's allegations.
  2. Formal rules of evidence or procedure applicable in judicial actions and proceedings shall not apply in any proceeding subject to this chapter except to the extent that the board of supervisors may otherwise subsequently adopt additional rules of procedure.

3. After the hearing has concluded, the Hearing Officer shall prepare a written order within fourteen (14) calendar days which determines, based on the evidence before it, the following:
  - (a) Whether the acts or conditions specified in the notice of violation exist, or existed when the notice of violation was issued;
  - (b) Whether those acts or conditions constitute a violation of this Chapter;
  - (c) If a violation is determined to exist, or to have existed when the notice of violation was issued, whether the proposed civil penalty and/or administrative costs have been imposed consistent with the provisions of this Chapter; and
  - (d) If a violation is determined to exist, the total amount of the administrative civil penalty and administrative costs assessed pursuant to this Chapter.
  - (e) The order may direct that any occupancy, use or activity cease immediately if its existence or continuation is found to be an immediate threat to health or safety. Otherwise, the order shall specify that the correction of the violation shall be commenced by the owner within five (5) calendar days of the service of the hearing order, or any longer period provided for in the order, and shall continue with reasonable diligence until complete. In all cases it shall be completely abated within thirty (30) calendar days.
4. If the Hearing Officer finds that the alleged violation does/did exist, the payment of the confirmed civil penalties and administrative costs shall be ordered to be paid in full within thirty (30) days from the date of the order. Any such order is final immediately, unless the order or a provision of this code expressly provides otherwise.
5. The Hearing Officer may continue the hearing and request additional information from the enforcement officer or the person issued the citation prior to rendering a written decision.
6. The failure of any recipient of an administrative citation to appear at the administrative hearing shall constitute a waiver of any objections to the imposition and amount of the penalty, administrative costs or other appropriate legal remedy imposed and shall constitute a failure to exhaust administrative remedies.

- (F) The Hearing Officer shall serve the written order by certified mail upon all persons upon whom the notice of violation was served with a copy to the Director.
- (G) Nonexclusive remedy. This section is an alternative to and does not supersede any other provision of law that authorizes a nuisance to be abated or enjoined.
- (H) The failure to pay the penalty imposed by the administrative citation may be enforced by:
  - 1. A civil action as a personal obligation of the violator; and/or
  - 2. Recordation of a lien upon real property provided that the violation is in connection with real property. The lien shall remain in effect until all of the administrative penalties, interest and costs are paid in full.
- (I) If the amount of any penalty and/or administrative costs imposed have not been paid in full within ninety (90) days of the date of the hearing order and/or has not been successfully challenged by a timely writ of mandate and the violation is in connection with real property, the Director may record the unpaid penalty and administrative costs may constitute a lien against the real property on which the violation occurred.