

Callaway County  
Sewer Ordinance  
Adapted from Missouri Revised Statutes Chapter 701  
State Standards sections as numbered  
Below, changes reflect a higher stringency  
Effective Date March 1, 2006

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Section 701.025

Definitions:

- (1) “Administrator”, The Administrator of the Callaway County Health Department or the designee of the Administrator;
- (2) “CCHD” Callaway County Health Department
- (3) “Department”, Callaway County Health Department;
- (4) “DHSS” Missouri Department Of Health and Senior Services
- (5) “Existing System”, an on-site sewage disposal system in operation prior to September 1, 1995;
- (6) “ Human Excreta”, undigested food and by-products of metabolism which are passed out of the human body;
- (7) “Imminent Health Hazard”, a condition which is likely to cause an immediate threat to life or a serious risk to the health, safety, and welfare of the public if immediate action is not taken;
- (8) “ Minor Modification’ or “Minor Repair”, any act of preventative maintenance (i.e.: pumping out a septic tank, pumping out a lagoon) or an above ground repair (i.e.: repairing a broken clean-out, repair or replacing fencing around a lagoon, or a small section of underground piping)
- (9) “ Major Modification” or “Major Repair”, the redesigning and alteration of an on-site sewage system by relocation of the system or a part of the system, replacement of the septic tank or construction of a new absorption field;
- (10) “ Nuisance”, sewage, human excreta or other human organic waste discharged or exposed on the owner’s land or any other land from an on-site sewage disposal system in a manner that makes it a potential instrument or medium for the breeding of flies and mosquitoes, the production of odors, or the transmission of diseases to or between a person or persons, or which contaminates surface waters\* or groundwater;
- (11) “On-site sewage disposal system”, any system handling or treating facility receiving domestic sewage which discharges into a subsurface soil absorption system or a single family lagoon system and discharges less than 3000 gallons per day;
- (12) “ On-site sewage system contractor”, any person who constructs, alters, repairs, or extends an on-site sewage disposal system on behalf of, or under contract with, the property owner;

- (13) “Person”, any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, the state of Missouri or any department thereof, or any political subdivision of this state;
- (14) “Property owner”, the person in whose name legal title to the real estate is recorded;
- (15) “ Sewage” or “Domestic Sewage”, human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from household or establishment appurtenances. Sewage and domestic sewage waste are further categorized as:
  - (a) “ Blackwater”, waste carried off by toilets, urinals, and kitchen drains;
  - (b) “ Graywater”, all domestic waste not covered in paragraph (a) of this subdivision, including bath, lavatory, laundry, and sink waste;
- (16) “Subdivision”, land divided or proposed to be divided predominantly residential purposes into such parcels as required by local ordinances, or in the absence of local ordinances, “subdivision” means any land which is divided or proposed to be divided by a common owner or owners into three or more lots or parcels, any of which contains less than 5 acres, or into platted or unplatted units, any of which contains less than 5 acres, as a part of a uniform plan of development;
- (17) “ Subsurface soil absorption system”, a system for the final renovation of the sewage tank effluent and return of the renovated wastewater to the hydrologic cycle, includes the lateral lines, the perforated pipes, the rock material, and the absorption trenches. Included within the scope of this definition are: sewage tank absorption systems, privies, chemical toilets, single-family lagoons, and other similar systems; except that a subsurface sewage disposal system does not include a sewage system regulated pursuant to chapter 644,RSMo;
- (18) “Waste”, sewage, human excreta or domestic sewage.

#### Section 701.027

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##### **Scope of Coverage.**

701.027. Sections 701.025 to 701.059 pertains to maximum daily flows of sewage of three thousand gallons or less and to sewage treatment facilities that have a designed maximum daily flow or an actual daily flow of three thousand gallons or less.

#### Section 701.029

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##### **Operation of on-site sewage disposal system, restrictions.**

701.029. No person or property owner may operate an on-site sewage disposal system or transport and dispose of waste removed therefrom in such a manner that may result in the contamination of surface waters or groundwater or present a nuisance or imminent health hazard to any other person or property owner and that does not comply with the requirements of sections 701.025 to 701.059 and the on-site disposal rules promulgated under sections 701.025 to 701.059 of the Callaway County Sewer Ordinance.

Section 701.031

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**Disposal of Sewage, who, how.**

701.031 Property owners of all buildings where people live, work or assemble shall provide for the sanitary disposal of all domestic sewage. Sewage and waste from such buildings shall be disposed of by discharging into a sewer system regulated pursuant to chapter 644, RSMo, or shall be disposed of by discharging into an on-site sewage disposal system operated as defined by rules promulgated pursuant to sections 701.025 to 701.059. Any person installing on-site sewage disposal systems shall be registered to do so by the Department of Health and Senior Services. Any construction, operation, major modification, or major repair of an on-site sewage disposal system shall be in accordance with rules promulgated pursuant to sections 701.025 to 701.059, regardless of when the system was originally constructed. **All new construction shall have a final inspection of the sewer system completed before occupancy of the building.** The provisions of subdivision (2) of subsection 1 of section 701.043 shall not apply to lots located in subdivisions under the jurisdiction of the Department of Natural Resources which are required by a consent decree, in effect on or before May 15, 1984, to have class 1, National Sanitation Federation (NSF) aerated sewage disposal systems.

Subdivisions under County jurisdiction (3) to (6) lots shall provide a soil morphology test for each lot, and if the soil proves to be non-conductive to on-site sewage, a referral will be made to Missouri Department of Natural Resources for a central collection and treatment system to be installed.

Section 701.033

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**Callaway County Health Department – Powers and Duties-Rules, Procedure.**

701.033.

1. The Callaway County Commission, or its representatives shall have the power and duty to:
  - (a) Promulgate such rules and regulations as are necessary to carry out the provisions of sections 701.025 to 701.059;
  - (b) Cause investigations to be made when a violation of any provision of sections 701.025 to 701.059 or the on-site sewage disposal rules promulgated under sections 701.025 to 701.059 is reported to the department;
  - (c) Enter at reasonable times and determining probable cause that a violation exists upon private or public property for the purpose of inspecting and investigating conditions relating to the administration and enforcement of sections 701.025 to 701.059 and the on-site disposal rules promulgated under sections 701.025 to 701.059;
  - (d) Authorize the trial or experimental use of innovative systems for on-site sewage disposal, after consultation with the staff of the Missouri Clean Water Commission, upon such conditions as the department may set;

Section 701.035

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**Local Regulations and Standards, Requirements—Private Right to Action Not Preempted.**

701.035 Sections 701.025 to 701.059 shall not prohibit the enforcement of ordinances of political subdivisions establishing a system for the regulation and inspection of on-site disposal contractors and a

minimum code of standards for design, construction, materials, operation, and maintenance of on-site sewage disposal systems, for the transportation and disposal of wastes there from and for on-site sewage disposal systems servicing equipment, provided such ordinance establishes a system at least equal to Callaway County Health Department regulation and inspection. Nor shall sections 701.025 to 701.059 be interpreted so as to preempt any private right of action that might otherwise exist. Nothing in sections 701.025 to 701.059 shall be construed to prohibit a political subdivision from enacting and enforcing standards, which are more stringent than the provisions of sections 701.025 to 701.059 and rules, promulgated pursuant thereto.

Section 701.037

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**Violations, notice of, contents, prosecuting attorney to institute proceedings, when—emergency situation, when.**

701.037

1. Callaway County Health Department determines that there are reasonable grounds to believe that there has been violation of any provision of sections 701.025 to 701.059 or the rules promulgated under sections 701.025 to 701.059, the Callaway County Health Department Administrator, or their representative shall give notice of such alleged violation to the person responsible, as herein provided. The notice shall:
  - (a) Be in writing;
  - (b) Include a statement of the reasons for the issuance of the notice;
  - (c) Allow reasonable time as determined by the Administrator for the performance of any act it requires;
  - (d) Be served upon the owner, operator or contractor, as the case may require, provided that such notice or order shall be deemed to have been properly served upon such person when a copy thereof has been sent by registered or certified mail to the person’s last known address, as listed in the local property tax records concerning such property, or when such person has been served with such notice by any other method authorized by the laws of this state;
  - (e) Contain an outline of remedial action which is required to effect compliance with sections 701.025 to 701.059 and the rules promulgated under sections 701.025 to 701.059.
2. Existing systems, as defined in section 701.025, shall not be inspected, unless the Administrator determines that there are reasonable grounds to believe that there has been a violation of any provision of sections 701.025 to 701.059.
3. If an aggrieved person files a written request for a hearing within 10 days of the date of receipt of the notice, a hearing shall be held within 20 days from the date of the receipt notice, by the County Commissioners, to review the appropriateness of the remedial action. The Commissioners shall issue a written decision within 30 calendar days of the date of the hearing. Any final decision of the Commissioners may be appealed to the circuit court of the county wherein the offence is alleged to have occurred for a trial de novo on the merits. Any decision of the Callaway County Commission may be appealed as provided in sections 536.100 to 536.140, RSMo.

4. The Callaway County Health Department shall require a property owner to abate a nuisance or repair a malfunctioning on-site sewage disposal system on the owner's property not later than the 30<sup>th</sup> day from which the owner receives notification from the department of the malfunctioning system or a final written order from the Administrator, if a hearing or hearings were held pursuant to subsections 2 and 3 of this section. If weather conditions prevent the abatement of the nuisance or repair of the system within the 30 day period or if the owner is unable, after reasonable effort, to obtain the services of a contractor or repair service within the 30 day period, the abatement of the nuisance or repair of the system shall be made, weather permitting, no later than 60 days after notification. Such extension for abatement or repair shall be subject to approval by the department. The department may assess an administrative penalty on the property owner of no more than **\$100.00 per day** for each day the on-site sewage disposal system remains unrepaired beyond the last day permitted by this section for the abatement or repair. All administrative penalties collected by the department under the provisions of this section shall be deposited in the Callaway County Health Department fund.
5. The Callaway County Prosecuting Attorney shall, at the request of the department, institute appropriate proceedings for correction in cases of noncompliance with or violation of the provisions of sections 701.025 to 701.059 and any rules promulgated under sections 701.025 to 701.059.
6. When it is determined by the Callaway County Health Department that an emergency exists which requires immediate action to protect the health and welfare of the public, the department is authorized to seek a temporary restraining order and injunction. Such action shall be brought at the request of the Administrator of the department by the Callaway County Prosecuting Attorney. When such conditions are corrected and the health of the people of the state of Missouri is no longer threatened, the department shall request that such temporary restraining order and injunction be dissolved. For the purposes of this section, an "emergency" means any set of circumstances that constitute an imminent health hazard or the threat of an imminent health hazard as defined in section 701.025.

#### Section 701.038

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#### **Sewage complaints, investigations by department, when—right to inspect adjoining property, procedure requiring notice,**

##### 701.038

1. The department of health and or its agents may not investigate a sewage complaint except when necessary as a part of a communicable disease investigation unless the complaint **is received in writing** from an aggrieved party or an adjacent landowner. The department or its agent may enter any adjoining property if necessary when they are making an inspection pursuant to this section. The necessity for entering such adjoining property shall be stated in writing and the owner of such property shall be notified before the department or any of its agents may enter, accept that, if an imminent health hazard exists, such notification shall be attempted but is not required.
2. If the department or its agents make an investigation pursuant to a complaint as described in subsection 1 of this section and find that a nuisance does exist, the property owner shall comply with state and local standards when repairing or replacing the on-site sewage disposal system.

#### Section 701.039

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#### **Clean Water Commission may take action, rules not to conflict.**

701.039 Nothing in sections 701.025 to 701.059 shall be construed as prohibiting the clean water commission from taking appropriate action under chapter 644 RSMo, on violations for that chapter or regulations promulgated under that chapter. The rules and regulations promulgated under sections 701.025 to 701.059 shall not conflict with rules and regulations promulgated under chapter 644 RSMo.

#### Section 701.040

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### **Standards for sewage tanks, lateral lines and operation of on-site sewage disposal systems, duties of department—rules authorized.**

#### 701.040

1. Callaway County Health Department here by adapts the state standards developed by the Department of Health and Senior Services with the following changes: Soil morphology tests are required to be performed for all persons wishing to install an on-site septic system on all properties. Percolation tests are no longer an approved form of soil testing in Callaway County.
2. Callaway County Health Department shall only accept soil morphology tests from individuals who are qualified to perform the test. A soil scientist, as defined, is a person that has successfully completed at least fifteen semester credit hours of soils science course work, including at least three hours of course work in soil morphology and interpretations and has been registered by the State of Missouri Department of Health and Senior Services.
3. ALL contractors who install on-site systems in Callaway County will be State Qualified/Certified.
4. All on-site septic systems shall have a properly sized and installed septic tank preceding any type of secondary treatment system. Tank sizing will be per current state standards.

#### Section 701.043

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### **County standard content.**

#### 701.043

1. The county standard shall consist of the following:
  - (A) **Registration of site:**

Any person applying for an official address shall register with Callaway County Health Department on the form provided. Forms must be filled out and returned to Callaway County Emergency Operation Center (911 addressing) before issuance of an address.
  - (B) **Site selection requirements:**
    - Minimum design standards and specifications for construction, installation, and size of sewage tanks and length of lateral lines;
    - Permit requirements;
    - Inspections of installations;
    - Repairs to failing systems;
    - Require an **engineering design** for areas with a soil morphology determination of poor site suitability and for any new construction on lots of less than 2 (two) acres in size;
    - All engineered designed systems shall be affixed with a State of Missouri certified Professional Engineer's stamp and number.

- Criteria for variances;
- 2. The minimum of 80% of on-site sewage disposal system constructed, modified or repaired by registered shall be inspected.
- 3. The department may accept certification without on-site inspection under sections 701.046 to 701.048 and 701.050, from a registered contractor not required to provide a performance bond under section 701.052, that a system is properly designed and installed, modified or repaired pursuant to the state and county standards.

Section 701.046

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**Modification or major repair to on-site sewage disposal system, requirements.**

701.046

1. Except as otherwise provided in section 701.031, no person may, on or after March 1 2006, construct or make a major modification or major repair to an on-site sewage disposal system without first notifying the Callaway County Health Department, and completing an application, upon a form provided by the department, and submitting a fee in the amount established by the county. The application form shall require such information necessary to show that the on-site sewage disposal system will comply with county standards. Upon receipt of the completed application, the department shall provide technical assistance regarding the type and location of the system to be installed.

Section 701.047

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**City or county may adapt more restrictive standards.**

701.047 As allowed in 701.047 RSMo, Callaway County's standards shall be at least as restrictive or more restrictive than the standards adopted by the State pursuant to sections 701.025 to 701.059.

Section 701.048

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**Modifying or repair of on-site sewage disposal system, noncompliance with standard prohibited.**

701.048 Except as otherwise provided in section 701.031, no person may construct, modify or repair an on site sewage disposal system in a manner which does not comply with the county standards established under section 701.025 to 701.059.

Section 701.050

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**Construction or repair notice—requirements and inspection—failure to comply with standards, effect.**

701.050 No person required providing notice and applying to the county under Section 701.046 may complete the construction, major modification, or major repair of an on-site sewage disposal system without providing notice and an opportunity for inspection by the Callaway County Health Department as provided in this section. The person shall notify Callaway County Health

Department prior to 9:00 AM on the day **preceding** completion, the system shall be maintained in a condition that allows for a **complete** inspection, pursuant to the county standard until **3:00 PM on the day of completion**, unless the county provides confirmation that the system has been inspected and approved prior to that time. The system shall not be closed or completed if the county determines upon inspection that the system does not meet the county standard and the county shall provide at the time of inspection a conspicuous marker or other form of notice indicating that the system does not meet the county standard. The Callaway County Health Department shall supply written confirmation of non-compliance.

#### Section 701.051

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#### **Lending institutions may request inspection when providing loans – fee – department may license contractors to inspect.**

701.051 Callaway County recognizes the State of Missouri program to license septic system inspectors and all inspections made in Callaway County must be performed by a State of Missouri licensed on-site sewage system inspector. Lists of currently licensed inspectors are available online and through the Missouri Department of Health and Senior Services and the Callaway County Health Department.

#### Section 701.052

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#### **Violator found guilty not to begin construction for another person without bond or letter of credit— forfeiture when, effect—emergency repairs of --effect**

##### 701.052

1. A person who has, within the preceding twenty-four months, been found guilty to a violation of section 701.046, 701.047, 701.048, or 701.050 may not begin construction, major modification or major repair of an on-site sewage disposal system that is owned by another person unless the person constructing, modifying, or repairing the system has provided the county a performance bond or letter of credit as provided under this section.
2. The bond or letter shall be conditioned upon faithful compliance with the county standard for on-site sewage disposal systems established under sections 701.025 to 701.059 and shall be in the amount of 20 thousand dollars.

#### Section 701.053

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#### **Registered on-site disposal systems contractor, form, qualifications—registration issued State of Missouri.**

##### 701.053

1. A person may not represent themselves as a registered on-site sewage disposal system contractor in this county unless they are registered by the Missouri Department of Health and Senior Services.
2. To qualify for registration a contractor must successfully complete the educational training program provided by the Missouri Department of Health and Senior Services.

Section 701.054

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**Registration of contractor may be denied, suspended or revoked, procedure, appeal – reregistration application may be made when—official roster of contractors published by Missouri Department of Health and Senior Services, content.**

701.054

1. A contractor's registration may be denied, suspended or revoked by the county if the contractor violates sections 701.025 to 701.059 or any rule or regulation adopted there under. The contractor may appeal to the County Commission within thirty days of the notice of denial, suspension, or revocation by requesting a hearing or written review of the decision. After the hearing or written review by the County Commission, the county shall issue a final decision which the contractor may appeal as provided by sections 536.100 to 536.140 RSMo. If the county's decision is to revoke, suspend, or deny is upheld or not appealed, the contractor may reapply for registration one year after the date of the county action. Revocation, suspension, or denial of registration within the county shall not affect the contractor ability to operate outside the county. Any action taken by the county shall be reported to the Missouri Department of Health and Senior Services. If the contractor's State registration is revoked or suspended by the Missouri Department of Health and Senior Services it will also be considered invalid in Callaway County.
2. Each contractor shall furnish proof of valid registration if requested by any person, county, or state representative.
3. The county shall use the Missouri Department of Health and Senior Services official roster of registered contractors as the county's list of registered installers pursuant to sections 701.025 to 701.059.

Section 701.055

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**Property owners may clean or repair their own on-site sewage disposal system in compliance with requirements, no permit required for cleaning or minor repairs.**

701.055

1. Nothing in sections 701.025 to 701.059 shall preclude property owners from cleaning or doing minor repairs or minor modifications to their own on-site sewage disposal system as long as they comply with the provisions of sections 701.025 to 701.059.
2. Nothing in sections 701.025 to 701.059 shall be construed so as to require a property owner to obtain a permit to obtain registration as an on-site sewage disposal system in order to clean or do minor repairs or minor modifications to that property's owner's on-site sewage disposal systems.

Section 701.057

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**Violations, penalties and fines.**

701.057

1. Any violation of section 701.052, 701.053, 701.054, or 701.055 is a class **A** misdemeanor.
2. Any violation of section 701.046, 701.047, 701.048, or 701.050 is a class **C** misdemeanor.

3. Any violation of section 701.029 or 701.031 is an infraction, except that a persistent violation after notification by the state or county is a class C misdemeanor.

Section 701.059

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**Creation of a nuisance on certain residential property is an infraction—sewage disposal system in violation, statute of limitations starts to run, when.**

701.059

1. Any person or property owner who creates a nuisance or imminent health hazard as defined in section 701.025 on any single-family residence lot is guilty of an infraction.
  
2. For the purpose of section 516.120 RSMo, the statute of limitations begins to run when an owner knows or should have know that an on-site sewage disposal system contractor had installed a defective system, a system which was inappropriate for the site, or had installed a system incorrectly.