



## ORDINANCE NO. 5049

AN ORDINANCE IMPLEMENTING standards and specifications for Onsite Wastewater Treatment Systems in compliance with State Water Resources Control Board Resolution 2012-0032.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN AS FOLLOWS:**

**Section 1.** Effective May 13, 2018, Ordinance No. 568, adopted April 1, 1963, which added what is now codified as Chapter 13.12 of Title 13 of the El Dorado County Ordinance Code entitled "Sewage Disposal Ordinance" is hereby rescinded and repealed in its entirety and shall be of no further force and effect.

**Section 2.** Effective May 13, 2018, Ordinance No. 4542, adopted November 23, 1999, which added what is now codified as Chapter 110.32 of Title 110 of the El Dorado County Ordinance Code entitled "Private Sewage Disposal Systems" is hereby rescinded and repealed in its entirety and shall be of no further force and effect.

**Section 3.** Effective May 13, 2018, Chapter 110.32 of Title 110, entitled "Onsite Wastewater Treatment Systems," is hereby enacted to read as follows:

### **CHAPTER 110.32**

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

##### **110.32.010. - Title.**

This chapter shall be known as "Onsite Wastewater Treatment Systems" and may be cited as the "County of El Dorado Septic Ordinance."

##### **110.32.020. - Purpose.**

The purpose of this chapter is to establish standards for the siting, design, installation, operation, and maintenance of Onsite Wastewater Treatment Systems (OWTS) in the County that are consistent with the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (State OWTS Policy), adopted by the State Water Resources Control Board (SWRCB) on June 19, 2012 pursuant to SWRCB Resolution 2012-0032, which became effective May 13, 2013. The State OWTS Policy has been incorporated into the California Regional Water Quality Control Board, Central Valley Region (RWQCB) standards and basin plans. These standards and specifications

are adopted to prevent the creation of health hazards and nuisance conditions and to protect surface water and groundwater quality.

**110.32.030. - Findings.**

The Board of Supervisors of the County of El Dorado finds that:

- A. Subsurface discharge of effluent from OWTS constitutes a discharge that could affect the quality of water of the state and is therefore subject to compliance with Waste Discharge Requirements of the California Water Code, which are designed to ensure that the beneficial uses of waters of the state are not impaired by wastewater discharges.
- B. The State OWTS Policy establishes a risk-based, tiered approach for the regulation and management of OWTS installations and replacements statewide and sets the level of performance and protection expected from OWTS. The State OWTS Policy allows local enforcement agencies to continue to implement a local program, either under conservative, largely prescriptive Tier 1 siting and design requirements or, alternatively, largely performance-based Tier 2 standards in a local agency management plan.
- C. A local OWTS program under the Tier 1 siting and design requirements would severely limit the ability of El Dorado County to issue permits for new and replacement OWTS in many areas of the County due to various site constraints and conditions and therefore alternate methods from Tier 1 siting and design requirements are necessary.
- D. Standards for new replacement OWTS under a Tier 2 local agency management plan with a water quality assessment program will provide an alternate method from Tier 1 standards while achieving the same overall level of protection of water quality and public health and safety. The El Dorado County Local Agency Management Plan for Onsite Wastewater Treatment (LAMP), as implemented and enforced through this chapter, meets the Tier 2 requirements of the State OWTS Policy.

**110.32.040. - Effective Date.**

This chapter, the LAMP, and the Standards for the Site Evaluation, Design, and Construction of Onsite Wastewater Treatment Systems (OWTS Manual) implemented herein shall become effective on May 13, 2018. This chapter shall govern any permit application submitted on or after May 13, 2018.

**110.32.050. - Definitions.**

The definitions set forth in the LAMP and State OWTS Policy, as amended, shall be effective as the definitions of the words, terms, and phrases used in this chapter. All words, terms, and phrases used herein, other than those specifically defined elsewhere in this chapter, shall have the respective meanings ascribed to them in the LAMP and State OWTS Policy, as amended, and shall have the same scope and effect that the same words, terms, and phrases have where used in the LAMP and State OWTS Policy, as amended. If there is any conflict between the definitions provided in the LAMP from the State OWTS Policy, the definitions in the State OWTS shall control.

**110.32.060. - Administration and Enforcement.**

This chapter shall be administered and enforced by the County of El Dorado, Community Development Agency, Environmental Management Division (CDAEMD) under the direction of the Division Director of Environmental Management or his/her designee (Director). In the event of a fire or natural disaster, the Director may grant temporary exceptions to the provisions of this chapter for permitted structures that have been destroyed.

**110.32.070. - County Not Responsible for Damage.**

The standards set forth in this chapter, the LAMP, and the OWTS Manual are minimum standards and the County, its officers, agents, employees, representatives, and volunteers are not liable or responsible for any damage resulting from the design, construction, or use of an OWTS permitted under this chapter or any other decision, inspection, action, or inaction made under this chapter. This chapter shall not create any liability on the part of the County, its officers, agents, employees, representatives, and volunteers for any damage that results from reliance on this chapter, the LAMP, the OWTS Manual, or any decision, inspection, action, or inaction made thereunder.

**110.32.080. - California Plumbing Code.**

The most current sections of the California Plumbing Code pertaining to OWTS and as adopted by the County of El Dorado, Community Development Agency, Development Services Division (CDADSD) are incorporated by reference into this chapter and shall be enforced through this chapter.

**110.32.090. - Pollution Prohibited.**

- A. Pursuant to California Health and Safety Code section 114197, all wastewater shall be disposed of by an approved method of collection, treatment, and effluent discharge. Wastewater or sewage effluent shall not be disposed of in any manner that may cause pollution of any surface water, groundwater, well, spring, stream, river, lake, or pollution of any other watercourse. Wastewater shall not be discharged into any abandoned or unused well or into any crevice, sinkhole, or other opening, either natural or artificial.
- B. Pursuant to California Health and Safety Code section 5411.5, any person who, without regard to intent or negligence, causes or permits any sewage or other waste, or the effluent of treated sewage or other waste, to be discharged in or on surface water, groundwater, well, spring, stream, river, lake, or any other watercourse, or discharged in or deposited where it is, or probably will be, discharged in or in any manner that may cause pollution of the ground surface, groundwater, well, spring, stream, river, lake, or any other watercourse, shall, as soon as that person has knowledge of the discharge, immediately notify CDAEMD.

**110.32.100. - Public Health Hazard.**

- A. No person may construct, add to, alter, repair, replace, or maintain any septic tank, dispersal system, or any other type of OWTS or any other conduits for the treatment or discharge of

sewage, impure waters, or any matter or substance offensive, injurious, or dangerous to health so as to cause any of the following to occur:

1. Sewage to empty, flow, seep, or drain onto the surface of any land;
  2. Sewage to empty, flow, seep, drain into, or affect any surface water, groundwater, well, spring, stream, river, lake, or any other watercourse; or
  3. The creation of any condition which CDAEMD determines to be unsafe, dangerous, or amount to a nuisance.
- B. Any existing OWTS which, based on inspection or evaluation by CDAEMD, 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 as ordered by CDAEMD.

**110.32.110. - Prohibition of Installation of Cesspools.**

The installation of Cesspools and similar excavations are prohibited in the County.

**110.32.120. - Holding Tanks, Portable Toilet, and Vaults.**

- A. The installation of holding tanks is not an approved method of sewage disposal in the County. Exemption to this prohibition may be granted by CDAEMD if it is necessary to use a holding tank to abate a nuisance or health hazard caused by an OWTS failure while that OWTS is properly repaired. Such exemption shall be granted only for a limited time as determined by CDAEMD. This prohibition does not apply to pre-existing approved holding tanks whose continued use may be allowed unless the Director determines that the holding tank poses a risk to public health and safety or risk of pollution.
- B. Portable Toilets are intended to serve non-residential, limited use activities, such as field labor operations, special events, and temporary construction sites where connection to a sanitary sewer system or installation of an OWTS is not practicable. Portable Toilets must be removed within seven (7) days of conclusion of operations, events, or construction. Any other use of portable toilet(s) will require approval by the Director.
- C. The use of vault toilets or semi-permanent portable toilets at a publicly owned, non-residential facility (i.e., seasonal cabins on federal land or state, county, or city parks) may be allowed by CDAEMD where the vault toilet or semi-permanent portable toilet is necessary for the public health, safety, or welfare, where installation of an OWTS is not feasible, and when CDAEMD determines that a vault toilet or semi-permanent portable toilet provides the safest and most acceptable method of sewage disposal and complies with the OWTS Manual and LAMP.

**110.32.130. - Standards for the Site Evaluation, Design, and Construction of OWTS (OWTS Manual).**

- A. The OWTS Manual shall contain standards and specifications for the siting, design, installation, operation, and maintenance of OWTS, including the prepared design standards for septic tanks,

drain lines, disposal fields, and any other facilities normally found in conjunction with an individual OWTS.

- B. The CDAEMD shall maintain the OWTS Manual and may amend the OWTS Manual to reflect current engineering concepts and legal requirements only upon a written finding that the amendment is consistent with the LAMP and the State OWTS Policy. Prior to any amendment, the CDAEMD shall provide a reasonable process for seeking input from the RWQCB and affected public and OWTS designers and installers.
- C. In the event there is any material inconsistency between the standards and specifications in the OWTS Manual and the LAMP, the LAMP shall control.

**110.32.140. - When OWTS May Be Used.**

- A. Every building in which plumbing fixtures are installed and every premises having drainage piping thereon shall be connected to a public sewer unless the public sewer is unavailable because:
  - 1. The public sewer or any exterior drainage facility connected thereto is located more than two hundred (200) feet from any proposed building or exterior drainage facility on any lot or premises which abuts and is served by such public sewer, unless the connection fees and construction costs for the public sewer are greater than two (2) times the total cost of a replacement OWTS and the CDAEMD determines that the OWTS will not pose a threat to public health or safety or risk of pollution; or
  - 2. There is insufficient grade or fall to permit drainage to the sewer by gravity, the single-family residence is already connected to an approved private OWTS, and the Director determines that the OWTS will not pose a threat to public health or safety or risk of pollution.
- B. If a public sewer is unavailable under the prior subsection, every building, structure, or appurtenance that contains one or more waste producing fixtures, such as toilets, sinks, showers or bathtubs, clothes washing machines, dish washing machines, animal wash pads, floor drains, or other fixtures or fittings intended to drain organic or inorganic waste material, must be connected to an OWTS approved under this chapter.
- C. Subject to local zoning restrictions and planning approval, multiple buildings on the same parcel, such as a main house and detached living unit or two or more agricultural housing units, may be served by a common OWTS located on that parcel, provided the OWTS is determined to have sufficient treatment and dispersal capacity for the expected wastewater flow from all buildings or facilities connected to the OWTS. If the existing OWTS does not have sufficient capacity, the OWTS may be expanded if the proposed expansion is approved under this chapter.
- D. The rearrangement or subdivision into smaller parcels of a lot that abuts and is served by a public sewer shall not be deemed cause to permit the construction of a private OWTS, and all plumbing or drainage systems on any such smaller parcel or parcels shall connect to the public sewer. For any subdivision of land proposed to be served by OWTS, the subdivider must obtain approval of the OWTS under this chapter prior to subdividing the lot.

**110.32.150. - Temporary Mobile Homes.**

Temporary mobile homes, as approved by the CDADSD under chapter 130.52, shall provide additional sewage disposal system capacity sized for the second dwelling added to the property if the second dwelling will be occupied for over six (6) months.

**110.32.160. - Compliance with the LAMP and OWTS Manual.**

Any approval under this chapter shall require compliance with all of the standards and specifications of the LAMP and the OWTS Manual, which are incorporated by reference and hereby made enforceable under this chapter. The CDAEMD shall ensure that the most current versions of the LAMP and OWTS Manual are available on its website and that a copy is provided to any person upon request. Nothing in this chapter shall be construed to prevent the Director from requiring compliance with higher requirements than those contained and incorporated herein if the Director determines that such higher requirements are necessary to protect public health and safety and prevent pollution.

**110.32.170. - Construction Permit Applications and Inspections.**

- A. Applications for construction permits from CDAEMD, or for services administered by CDAEMD, are required at certain stages and for certain activities related to OWTS design and installation, as provided for in the OWTS Manual, including but not limited to, Site Evaluation, Percolation Testing, and OWTS installation, alteration, repair, replacement, or destruction. Each application submitted pursuant to this chapter and the OWTS Manual shall include site plans that comply with and contain all information required by the OWTS Manual. If a resubmittal of plans is required upon review and comment by CDAEMD during the application process, a resubmittal fee may be required.
- B. Applicants must notify CDAEMD of all proposed field work to be completed in compliance with any construction permit, as prescribed in the OWTS Manual. CDAEMD will conduct inspections as specified in the OWTS Manual. Additional inspections may be required at the discretion of the CDAEMD.
- C. After a construction permit has been issued and prior to construction, any proposed alterations of the previously approved plans must be submitted to CDAEMD for approval. A revision fee shall be required.
- D. After a construction permit has been issued and construction has commenced, any alterations of the approved plans proposed during construction must be first approved by CDAEMD and must be submitted in as-built plans prior to final approval by CDAEMD as an operable OWTS. Upon submittal of as-built plans to CDAEMD, a revision fee may be required.
- E. Applications for which a construction permit has not been issued due to failure to submit required information shall become null and void after one (1) calendar year from the date of application submittal.
- F. OWTS for minor, limited, or temporary uses shall be approved by the Director prior to use.
- G. The inspection and construction permit requirements apply to Standard and Special Design OWTS.

**110.32.180. - Special Design OWTS: Operating Permits.**

- A. For sites that cannot support the use of a Standard OWTS, the owner may seek an operating permit for a Special Design OWTS that complies with the LAMP and OWTS Manual. Operating permits shall include monitoring and inspection requirements and other provisions as prescribed in the LAMP and the OWTS Manual.
- B. Supplemental Treatment may be used with a Special Design OWTS to produce a higher quality of wastewater effluent beyond that provided by a Standard OWTS and improve the performance of, and siting options for, the Dispersal System.
- C. Notwithstanding any other provisions of this chapter, the LAMP, or the OWTS Manual, CDAEMD shall deny or require modifications to any Special Design OWTS proposal where CDAEMD determines that such proposal poses an unacceptable threat to public health and safety or risk of pollution.
- D. Operating permits are valid for one (1) year after issuance. An operating permit must be renewed prior to its expiration and include:
  - 1. Payment of the applicable fees upon receipt of notice from CDAEMD; and
  - 2. Submission of the results of required OWTS inspection and monitoring as prescribed in the OWTS Manual.

**110.32.190. - Destruction.**

Every OWTS that has been abandoned, has been discontinued from further use, or which is no longer connected to a waste discharge pipe or plumbing fixture, must be properly destroyed under a permit issued by CDAEMD as prescribed in the OWTS Manual.

**110.32.200. - Fees.**

- A. No permit shall be issued under this chapter until the applicant has paid the applicable fees as set forth by the County Board of Supervisors.
- B. All application fees are non-refundable.

**110.32.210. - Expiration and Transfer of Permits.**

- A. Each permit issued pursuant to this chapter shall expire and become null and void if the work authorized has not commenced within two (2) calendar years after issuance of the construction permit. The expiration date of a permit may be extended by CDAEMD if an application for extension is made, and the applicable fee paid, prior to the expiration of the original permit.
- B. If, after the commencement of the installation of an OWTS or any part thereof authorized by a permit issued pursuant to this chapter and before the completion thereof, the project is abandoned for a continuous period of one (1) calendar year, the permit shall expire and become null and void.

- C. Upon the expiration of any permit as herein provided, no further work may be done in connection with the installation of an OWTS unless and until a new permit for such purpose is issued in accordance with this chapter.
- D. Permits issued pursuant to this chapter are site specific and may not be transferred from one site to another site. Permits may be transferred from one person or contractor to another person or contractor for the same site so long as a revised application is submitted with all relevant information as set forth in this chapter and the OWTS Manual.

**110.32.220. - Issuance of Building Permit.**

No building permit may be issued for any building requiring an OWTS until CDAEMD has given written notice to the CDADSD that an appropriate OWTS design has been approved. No property lacking a connection to a public sewer shall be improved in excess of its capacity to properly absorb sewage effluent through an OWTS approved under this chapter.

**110.32.230. - Issuance of Certificate of Occupancy.**

No certificate of occupancy (finalization of building permit) may be issued for any building lacking a connection to a public sewer until CDAEMD has given written notice to the CDADSD that an approved OWTS has been installed for the building.

**110.32.240. - OWTS Subject to RWQCB Waste Discharge Requirements.**

Review and approval by the applicable RWQCB is required for OWTS and will not be permitted under this chapter in cases where:

- A. The peak wastewater design flow handled by the OWTS is projected to be more than ten thousand (10,000) gallons per day;
- B. The State OWTS Policy precludes authorization under a local agency management plan, as detailed in Section 9.4 of the State OWTS Policy;
- C. The RWQCB has otherwise determined that its review and approval is necessary to protect public health and safety or prevent pollution; or
- D. CDAEMD has determined that the proposed OWTS does meet the requirements of the OWTS Manual and/or LAMP.

**110.32.250. - Enforcement.**

- A. CDAEMD in its sole discretion may enforce any provision in this chapter, the LAMP, or the OWTS Manual through any or all of the following means:
  - 1. Issue a written notice of inspection, correction notice, stop work order, or permit suspension; decline to renew a permit; revoke a permit; deny a permit; and/or record a notice of non-compliance with the County of El Dorado Recorder Clerk's Office. Written notification of said decision, including the grounds thereof, shall be sent via certified mail or hand delivered



to the applicant. Any applicant may appeal such decision to the Board of Appeals pursuant to Chapter 110.12. Any appeal shall be submitted within ten (10) calendar days of the date of CDAEMD's challenged decision.

2. Impose administrative citations and fines or seek summary abatement pursuant to Chapter 9.02. The Director may serve as the "Enforcement Officer" for purposes of administrative enforcement under Chapter 9.02.
  3. Seek reimbursement for the necessary and actual costs incurred to mitigate the risk of pollution and to protect the health and safety of the public pursuant to California Health and Safety Code section 5412.5.
  4. Refer the violation to the office of the district attorney for enforcement of any criminal penalty or penalties in accordance with Chapter 1.24.
- B. Personnel authorized by the CDAEMD may enter upon any premises to make inspections and perform tests for the purpose of enforcement of this chapter or the abatement of a public health hazard or public nuisance. Any entry onto private property shall be in accordance with California law.
- C. Enforcement under this chapter may be sought for any requirement in the OWTS Manual or condition of a permit, including but not limited to failing to pay the required fee, submit the specified monitoring and inspection information, renew an operating permit before expiration, or perform required corrective work or providing false or misleading information to CDAEMD under this chapter.
- D. CDAEMD may place a lien on the property for recovery of any associated abatement costs, unpaid fees, administrative fines, or any other amount due under or through enforcement of this chapter.
- E. Any enforcement under this chapter does not limit or affect the RWQCB's right to require the owner of an OWTS to submit a report of waste discharge for evaluation on a case-by-case basis. RWQCB response to such reports of waste discharge may include, but is not limited to, enrollment in general waste discharge requirements, issuance of individual waste discharge requirements, or issuance of waiver of waste discharge requirements.

**110.32.260. - Severability.**

This chapter and the various parts thereof are hereby declared to be severable. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter irrespective of whether one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases is held invalid or ineffective.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 28th day of February, 2017, by the following vote of said Board:

Ayes: Sue Novasel, Brian K. Veerkamp,  
John Hidahl, Shiva Frentzen, Michael Ranalli


ATTEST  
JAMES S. MITRISIN  
Clerk of the Board of Supervisors

Noes: None  
Absent: None

By   
Deputy Clerk

  
Shiva Frentzen, Chair, Board of Supervisors

APPROVED AS TO FORM  
MICHAEL J. CICOZZI  
COUNTY COUNSEL

By:   
Breann M. Moebius  
Deputy County Counsel