

## LEE COUNTY ORDINANCE NO. 07-22

AN ORDINANCE PROVIDING FOR THE REGULATION OF ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS ("OSTDS") WITHIN THE UNINCORPORATED AREA OF LEE COUNTY, FLORIDA; PROVIDING REGULATIONS FOR NEW OSTDS PERMITS; PROVIDING FOR TITLE, SCOPE, AND PURPOSE; PROVIDING FOR JURISDICTION AND ORDINANCE APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR COMPLIANCE AND ENFORCEMENT; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners ("Board"), is the governing body in and for Lee County; and,

WHEREAS, the Florida Department of Health is a State Agency; and

WHEREAS, the Lee County Health Department is a division of the Florida Department of Health; and

WHEREAS, section 64E-6, Florida Administrative Code, relating to Standards for Onsite Sewage Treatment and Disposal Systems ("OSTDS"), required all new septic systems installed to be designed by a licensed professional engineer; and,

WHEREAS, recently enacted revisions to section 64E-6, Florida Administrative Code, Standards for Onsite Sewage Treatment and Disposal Systems ("OSTDS"), have removed the requirement that a licensed professional engineer design all systems serving establishments with proposed domestic sewage flow rates of 2500 or less gallons per day, systems serving establishments with proposed commercial sewage flow rates of 1000 or less gallons per day, and systems where the total required drainfield is greater than 1500 square feet; and,

WHEREAS, the Board finds that a properly functioning septic tank system discharges partially treated sewage to a drainfield system. The drainfield system performs the final effluent treatment; therefore, septic tank and drainfield systems, regardless of the drainfield size or sewage flow rate, must be properly designed to function correctly; and,

WHEREAS, the Board finds that the prevention of the improper installation of septic tank and drainfields systems, caused by poorly designed septic tank and drainfield systems, which may further result in discharge of pathogenic organisms and other pollutants, is important for the protection of the health, safety and welfare of Lee County citizens; and,

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that:

**SECTION ONE:**                    **TITLE**

This Ordinance shall be called the Onsite Sewage Treatment and Disposal System Ordinance.

**SECTION TWO:**                    **SCOPE**

Chapter 64E-6, Florida Administrative Code (F.A.C.), and Chapter 381, Florida Statutes, as administered by the Florida Department of Health, and Chapter 489, Florida Statutes, apply to all construction. This ordinance supplements the minimum standards of Chapter 64E-6, F.A.C., and Section 381.0065, Florida Statutes, pertaining to sewage treatment and disposal, but does not relieve any person from the requirements of obtaining any necessary permits from the Lee County Health Department or the Florida Department of Health. Where the provisions of this ordinance are more stringent than those of Chapter 64E-6, F.A.C., or Section 381.0065, Florida Statutes, the provisions of this ordinance shall apply.

Any citation to a specific provision of the Florida Administrative Code or Florida Statute is intended to apply to amendments or replacements of the cited provision(s) subsequent to the effective date of this ordinance.

**SECTION THREE:**                    **PURPOSE**

The purpose and intent of this section are to ensure that all onsite sewage treatment and disposal systems within the unincorporated area of Lee County are designed and installed in accordance with the standards and provisions of this section so as to protect the health, safety and welfare of the citizens, residents, and visitors of Lee County and to ensure the long term preservation of Lee County's natural resources.

**SECTION FOUR:**                    **JURISDICTION**

This ordinance shall apply to the unincorporated area of Lee County.

**SECTION FIVE:                    ORDINANCE APPLICABILITY**

This ordinance applies to all new construction whether residential, commercial or institutional where sewer is not available. This ordinance and the requirements therein, except where noted, shall be enforced by the Lee County Health Department (“LCHD”), a division of the Florida Department of Health.

**SECTION SIX:                    DEFINITIONS**

Where a word or phrase is not defined in this ordinance, the definition provided in Chapter 64E-6, Florida Administrative Code, or section 381.0065, Florida Statutes, shall be used.

1. “Aerobic Treatment Unit (“ATU”) means an advanced onsite treatment and disposal system that is listed as approved by the Florida Department of Health as to compliance with the American National Standards Institute/National Sanitation Foundation (“ANSI/NSF”) International Class I aerobic treatment unit standard # 40, revised July 1990.

2. “FDOH” means the Florida Department of Health.

3. “LCHD” means the Lee County Health Department.

4. “Onsite Sewage Treatment and Disposal System” (“OSTDS”) means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a dosing tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on the land of the owner or on other land to which the owner has the legal right to install a system.

5. “Permit” means an Onsite Sewage Treatment and Disposal System Construction Permit issued by FDOH before an OSTDS may be installed, repaired, altered, modified, abandoned, or replaced.

**SECTION SEVEN:                    REGULATIONS**

No portion of an onsite sewage treatment and disposal system shall be installed in Lee County until an “Onsite Sewage Treatment and Disposal System Construction Permit” has been issued on Form DH-4016. All newly constructed OSTDS, regardless of drainfield size or sewage flow rate, shall be designed by a professional engineer who is registered in the State of Florida. The LCHD is empowered to enforce this requirement. All plans and forms submitted by a registered professional engineer to the LCHD shall be dated, signed and sealed.

Items or issues that are not addressed in this Ordinance are to be handled in accordance with the existing state code, or amendments thereto.

**SECTION EIGHT:                  COMPLIANCE AND ENFORCEMENT**

Failure of any person or entity to comply with any applicable requirement of this Ordinance shall be a violation of the Lee County Code and all remedies available to the LCHD, the FDOH, and Lee County may be used to enforce this law. While any such violation continues, no certificate of occupancy, development permit, or any other permit or approval shall be issued for any use or development of the property and any existing permits may be revoked or suspended.

In addition to any penalty provided by law for the violation of any provisions of this article, the Board, the LCHD, or the FDOH may bring suit to enjoin, restrain, or otherwise prevent the violation of this Ordinance.

The Board, the LCHD, or the FDOH have the authority at all times to take any action necessary to prevent imminent danger to the public health, welfare, and safety.

The foregoing remedies shall not be exclusive and the Board, the LCHD, or the FDOH may invoke other remedies available.

Routine compliance activities, initial notification of violation and preparation of legal referral case reports shall be the responsibility of the LCHD.

**SECTION NINE:                  CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

**SECTION TEN:                  SEVERABILITY**

It is the Board of County Commissioner’s intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

**SECTION ELEVEN:            CODIFICATION AND SCRIVENER'S ERRORS**

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or re-lettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or re-lettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

**SECTION TWELVE:            EFFECTIVE DATE**

The ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner Mann made a motion to adopt the foregoing ordinance, seconded by Commissioner Hall. The vote was as follows:

Robert P. Janes	<u>AYE</u>
Brian Bigelow	<u>AYE</u>
Ray Judah	<u>ABSENT</u>
Tammara Hall	<u>AYE</u>
Frank Mann	<u>AYE</u>

DULY PASSED AND DATED THIS 26TH DAY OF JUNE, 2007.

ATTEST:  
CHARLIE GREEN, CLERK

By: Marcia Wilson  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: [Signature]  
Chair

APPROVED AS TO FORM:

By: [Signature]  
Office of County Attorney





# FLORIDA DEPARTMENT *of* STATE

**CHARLIE CRIST**  
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

**KURT S. BROWNING**  
Secretary of State

July 3, 2007

Honorable Charlie Green  
Clerk of Court  
Lee County  
Post Office Box 2469  
Fort Myers, Florida 33902-2469

Attn: Marcia Wilson, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated July 2, 2007 and certified copy of Lee County Ordinance No. 07-22, which was filed in this office on July 3, 2007.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud  
Program Administrator

LC/lbh

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DIRECTOR'S OFFICE

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