

**BOARD OF SUPERVISORS  
TRANSPORTATION AND LAND USE COMMITTEE  
ACTION ITEM**

**SUBJECT:** General Revision and Update of Chapter 1066 of the Codified Ordinances of Loudoun County

**ELECTION DISTRICT:** Countywide

**CRITICAL ACTION DATE:** At the pleasure of the Board

**STAFF CONTACTS:** Jerry Franklin, Health Department  
Dr. David Goodfriend, Health Department  
Gwen Kennedy, County Administration

**PURPOSE:** To recommend amendments to Chapter 1066 of the Codified Ordinances of Loudoun County and establish guidelines for the process of granting waivers as proposed in 1066.20 of the proposed amendments.

**RECOMMENDATION:** Staff recommends that the Transportation and Land Use Committee (TLUC) recommend that the Board of Supervisors (Board) forward amendments to Chapter 1066 of the Codified Ordinances of Loudoun County (Attachment 1) to a future Board Public Hearing.

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**BACKGROUND:** Chapter 1066 of the Codified Ordinances of Loudoun County (Chapter 1066) regulates onsite sewage treatment systems. Authority for Chapter 1066 is found in §15.2-2157A of the Code of Virginia. Chapter 1066 was enacted in 1976, then amended and re-enacted in its entirety on February 16, 1994. Although Chapter 1066 has been amended several times (see Table 1 below), it has not had a comprehensive update since its enactment in 1976.

**Table 1: Chapter 1066 Amendments**

<b>Date Amendment Approved</b>	<b>Description of Amendment</b>
December 15, 2009	Provided requirements aimed at preventing septic tank collapse and leakage
May 4, 2010	Increased setbacks in Limestone Overlay District
October 4, 2011	Provided requirements for pump-out of septic tanks
September 9, 2015	Provided an inspection provision that may be utilized in lieu of the required five (5) year pump-out of septic tanks

In addition to Chapter 1066, there are additional state and local regulations that govern septic systems. The Virginia Administrative code (12VAC 5-610-10 et seq. and 12VAC5-613-10 et seq.) contains regulations governing onsite sewage treatment systems statewide that are more comprehensive than Chapter 1066. In addition, Chapter 1067 of the Codified Ordinances of Loudoun County regulates alternative onsite sewage systems. The requirements of Chapter 1066 are in addition to the requirements of Chapter 1067 of the Codified Ordinances of Loudoun County and are intended to implement the regulations of the State Board of Health regarding private sewage disposal systems.

On October 7, 2015, the Board approved (9-0) a work plan to amend Chapter 1066. Concurrent with the work plan, a series of stakeholder engagement meetings were held to receive comments on proposed ordinance changes and the ordinance as a whole. Stakeholder groups include the homeowners group, the environmental and conservation group, the building and development group, and the industry professionals group.

During the May 13, 2016 TLUC meeting, Staff presented issues related to the proposed amendments identified by stakeholders during the stakeholder engagement process. During that meeting, TLUC made voted 4-0-1 (Randall absent) for staff to bring a set of recommended guidelines on the waiver process back to a future TLUC meeting. This item provides an additional amendment to 1066.20 and 1066.21 to reflect TLUC's request, and provides a draft Health Department Policy to waive requirements of Chapter 1066 (Attachment 2).

**ISSUES:** Attachment 2 presents a draft policy to evaluate waiver requests. This waiver process was discussed in length during the May 13 TLUC meeting as part of a conversation on sanitary sewer connection requirements found in 1066.09. The current draft of Chapter 1066.20 (Attachment 1) states that "The Director may grant a waiver if a thorough investigation reveals that the hardship imposed by this ordinance outweighs the benefits that may be received by the public and that the granting of such waiver does not subject the public to unreasonable health risks. The Health Department shall have a written policy approved by the County Administrator detailing the administration of waivers." A procedure for processing waivers is included in the policy. Recipients of waiver denials can request a meeting with the Health Director, and if unsatisfied a review by County Administration.

**FISCAL IMPACT:** Amendments to Chapter 1066 require no additional resources or changes in staffing levels.

**ALTERNATIVES:**

1. The TLUC may recommend that the Board forward Chapter 1066 amendments as proposed to a future Board Public Hearing.
2. The TLUC may recommend that the Board forward Chapter 1066 as amended by the Committee to a future Board Public Hearing.

3. The TLUC may choose to not recommend the Board forward Chapter 1066 amendments to a future Board Public Hearing.

**DRAFT MOTIONS:**

1. I move that the Transportation Land Use Committee recommend that the Board of Supervisors forward the amendments to Chapter 1066 of the Codified Ordinances of Loudoun County as found in Attachment 1 of the June 17, 2016 Action Item to a future Board of Supervisors Public Hearing.

OR

2. I move that the Transportation Land Use Committee recommend that the Board of Supervisors forward Chapter 1066 of the Codified Ordinances of Loudoun County as amended by the Transportation Land Use Committee on June 17, 2016 to a future Board of Supervisors Public Hearing.

OR

3. I move an alternate motion.

**ATTACHMENTS:**

1. Proposed Amendments to Chapter 1066
2. Draft Health Department Policy to Waive Requirements of Chapter 1066

CHAPTER 1066  
Private Onsite Sewage Disposal Treatment Systems

EDITOR'S NOTE: This chapter was re-enacted in its entirety by Ordinance 94-05, passed February 16, 1994.

- 1066.001 Intent.**
- 1066.01 Definitions.
- 1066.02 Approved method of sewage disposal required.
- 1066.03 Permit required for individual systems.
- 1066.04 License and bond requirements.
- 1066.05 Inspections.
- 1066.06 ~~Neglect or misuse of systems~~  
**Alternative discharging systems.**
- 1066.07 Responsibility of owner of system.
- 1066.08 Fees.
- 1066.09 Installation, replacement or repair of individual systems within 300 feet of a sanitary sewer.
- 1066.10 ~~Effluent pump systems.~~  
**Construction requirements.**
- 1066.11 Determining suitability of **soil/sites for onsite sewage treatment** ~~subsurface disposal systems.~~
- 1066.12 Design and location requirements for **onsite sewage treatment systems.** ~~subsurface disposal fields.~~
- 1066.13 **Privies and portable toilets.** ~~Permit required for pit privies.~~
- 1066.14 ~~Construction of other individual systems.~~  
**Existing system reuse and abandonment.**
- 1066.15 Construction of other individual systems.** ~~Community Systems.~~
- ~~1066.15~~ Notice to correct.
- ~~1066.16~~ Equitable remedies.
- 1066.17 Septic tanks, holding tanks, pump tanks, treatment units and tanks for other onsite wastewater uses.
- 1066.18 Individual sewage ~~disposal~~ treatment systems within the limestone overlay district approved prior to February 17, 2010.
- 1066.18 Notice of violation.**
- 1066.19 Equitable remedies.**
- 1066.20 Waivers.**
- 1066.21 Administrative reviews.**
- 1066.22 Schedule of civil penalties.**
- ~~1066.99~~ Penalty.
- Appendix I: ~~Bond requirements.~~
- Appendix II: Minimum distances.

## CROSS REFERENCES

Approval of sewerage systems by counties **and civil penalties** - see Code of Va. § 15.2-2157~~26~~ et seq.

**Sewage Disposal** - see Code of Va. §§ 32.1-163 et seq. and 12 Virginia Administrative Code § 610-10 and § 613-10 et seq.

Construction of sewers generally - see S.U. & P.S. Ch. 1060

Use of sewers; building sewers and connections - see S.U. & P.S. Ch. 1064

Pretreatment of wastewater - see S.U. & P.S. Ch. 1068

Sewerage facilities in subdivisions - see P. & Z. 1245.08

**Alternative discharging systems** - see 12VAC5-640 et seq.

**Alternative system inspection and establishment of alternative discharging systems**-see Ch. 1067

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### 1066.001 INTENT.

The provisions of this chapter are in addition to the requirements of Chapter 1067 of the Codified Ordinances and are intended to implement the regulations of the State Board of Health regarding private onsite sewage treatment systems. To the extent that any provision of Chapter 1066 conflicts with any other provision of State or local law, the more stringent provision shall apply; provided, however that, to the extent that any provision of Chapter 1066 as applied to an alternative onsite sewage system (AOSS) is deemed to be additional to or more stringent than the requirements and standards for alternative onsite sewage systems of the State Board of Health, then this chapter shall apply to the greatest extent possible and the said State requirements and standards shall apply if (i) sewers or sewerage disposal facilities are not available in the area of the subject property, and (ii) the alternative onsite sewage system used on the subject site has been approved by the State Board of Health for use in the particular circumstances and conditions in which it is to be operating.

### 1066.01 DEFINITIONS.

As used in this chapter:

(a) **“Alternative discharging sewage system”** shall mean any device or system which results in a point source discharge of treated sewage for which the State Board of Health may issue a permit authorizing construction and operation when such system is regulated by the State Water Control Board pursuant to a general Virginia Pollutant Discharge Elimination System (VPDES) permit issued for an individual single family dwelling with flows less than or equal to 1,000 gallons per day.

**“Alternative onsite sewage system AOSS”** shall mean a treatment works that is not a conventional onsite sewage system or an alternative discharging sewage system.

~~“Approving authority” means the Loudoun County Health Director or his or her duly authorized agent.~~

(b) **“Approved method of the disposal of sewage”** means water carriage disposal of sewage to an approved public or private sewage treatment system; water carriage disposal of sewage to an approved **onsite sewage** ~~septic tank system or other approved individual disposal~~ **treatment** system; or non-water carriage disposal of human excrement only to an approved pit privy, **portable toilet**, or other approved privy facility.

**“Conventional onsite sewage system”** shall mean a treatment works consisting of

one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drain field.

**“County” means Loudoun County, Virginia.**

- (d) ~~“CrR horizon” means weathered or soft bedrock and is used to indicate root restrictive layers of bedrock or saprolite. the mineral horizons or layers of poorly weathered bedrock and/or saprolite, such as granite or partly consolidated soft bedrock., such as sandstone, siltstone or shale, with bulk density or consolidation such that roots cannot enter. The material can be dug with difficulty with a spade., and chunks of gravel size will disperse more or less completely in overnight slaking with water or sodium hexametaphosphate solution. The horizon layer is equivalent to the material underlying the paralithic contact of soil taxonomy.~~
- (d) **“Drainage way” means the concave portion of the landscape in which surface water or rain water runoff gathers intermittently to flow to a lower elevation.**  
**“Enhanced flow distribution” means a pumping system designed to have a minimum capacity of 36 gallons per minute at system head per 1200 linear feet of percolation piping.**
- (e) **“Flood plain” means the land bordering a stream, built-up to unconsolidated sediments from overflow of the stream and subject to inundation when the stream is at flood stage.**
- (f) **“Health Department” means the same as the approving authority Health Director.**
- (g) **“Health Director” means the Loudoun County Health Director or his or her duly authorized agent.** ~~means the same as the approving authority.~~
- (h)
- (i) ~~“Individual sewage disposal system” means a complete system for the collection, treatment and/or disposal of sewage.~~
- (j) **“Inspection” means surveillance procedures as used by the Health Department to determine compliance with the provisions of this chapter and State regulations.**
- (k) ~~“Limestone outcrop belt” means those areas underlaid by carbonate bedrock, including, but not limited to, Triassic-Jurassic Leesburg limestone conglomerate and Cambrian limestones and dolomites, and which have landscapes with carbonate bedrock outcrops, sinks, sinkholes and solution channels in bedrock, and which often exhibit aspects of Karst or Karren topography.~~
- (l) **“Limestone Overlay District” means those areas of the County, as shown on the County's Zoning Map, which are subject to the Limestone Overlay Zoning District, as set forth in the Loudoun County Revised 1993 Zoning Ordinance, as amended from time to time.**
- (m) **“Lithic rock” means partially weathered rock material which cannot be bored using a standard, hand-operated three and one-quarter inch barrel auger and sixteen-inch cross handle.**
- (n) ~~“Marshes and swamps” means periodically wet or continually flooded areas with the land surface not deeply submerged.~~  
**“Microbial induced corrosion” means corrosion caused or promoted by microorganisms, usually chemoautotrophs.**
- (o) ~~“Micro topography” means small scale, local differences in topography, including mounds, swales or pits that are only a few feet in diameter and with elevation differences of up to six feet.~~  
**“Onsite Sewage Treatment System” means a complete system for the collection, treatment and disposal of sewage constructed on the property it serves or by easement on another parcel. This includes conventional, alternative and alternative discharging systems.**

- “Onsite soil evaluator” means a person licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia**
- (p) ~~“Paralithic rock” means weathered rock material which may be found above lithic rock and below the natural soil (surface and subsoil) and which conforms to the U.S. Department of Agriculture, Soil Conservation Service (USDA SCS) definition of “CR horizon,” excluding the slaking requirements.~~
- (q) ~~“Percolation test” means a standardized water test used to determine the rate of water absorption by soil.~~
- “Pit privy” means a pit for receiving non-water carriage of human waste, over which is placed a privy house with seats.**
- “Portable Toilet” means a manufactured, portable structure maintained by a licensed operator containing chemicals to neutralize odors, and made specifically for the use of waste disposal.**
- “Professional Engineer” means a person licensed or certified under Chapter 4 (§ 54.1-400 et seq.) as a professional engineer.**
- ~~“Impervious Restrictive strata” means soil or soil materials with an estimated or measured percolation rate in excess of 120 minutes per inch, including lithic rock, paralithic rock and CrR horizons.~~
- (r) ~~“Sanitary pit privy” means a pit and/or chamber for receiving non-water carriage of human waste, over which is placed a privy house with seats.~~
- “Sanitary sewer or public sewer” is an underground carriage system specifically for transporting sewage from houses and commercial buildings through pipes to a public sewage treatment plant.**
- (s) ~~“Seasonal water table” means an observed water table and/or that portion of the soil profile where a color change has occurred as a result of saturated soil conditions. Typically gray and other low chroma redoximorphic deletions as described in Munsell soil color charts. Typical colors are gray, black or less than Chroma 2 on the Munsell Soil Color Chart.~~
- “Septage” means the mat of grease and scum on the surface of septic tanks, the accumulated sludge at the bottom of tanks and the sewage present at the time of pumping.**
- (t) ~~“Septic tank” means a settling tank in which part of the heavy solids are settled and the organic solids decompose by anaerobic bacterial action.~~
- (u) ~~“Sewage” means human excrement and the liquid wastes derived from dwellings, business establishments, institutions and other structures or places used for human habitation, employment or congregation, exclusive of those wastes derived from industrial processes.~~
- (v) ~~“Sewage treatment system” means a complete system for the collection of sewage and the process of biological and/or chemical reduction of the waste with a subsequent discharge into a receiving stream.~~
- (w) ~~“Slope” means the incline surface of a hill, mountain, etc., or any part of the surface of the earth. “Slope” also means the angle at which such surfaces deviate from the horizontal, commonly expressed in percent.~~
- (x) ~~“Soil/site evaluation investigation analysis” means a systematic approach to evaluation of soil conditions by a qualified professional soils technician Commonwealth of Virginia Department of Professional and Occupational Regulation (DPOR) licensed onsite soil evaluator.~~
- (y) ~~“Soil absorption area or soil absorption system” Subsurface disposal field (drainfield)” means the process of sewage disposal in which the effluent from a septic tank is applied to the land by distribution beneath the ground surface. p means a physical location in the naturally occurring soil medium where final treatment~~

and dispersal of effluent occurs.

“Standard disinfection” means a disinfection process that results in a fecal coliform concentration of less than or equal to 200 colonies/100 ml.

“Stream” a body of water with a current that contains water year round during average rainfall conditions.

“Time dose distribution” means a pumping system designed to dose effluent evenly throughout a given time period.

“Treatment level 2 effluent” or “TL-2 effluent” means secondary effluent that has been treated to produce five-day biochemical oxygen demand BOD<sub>5</sub> and total suspended solids TSS concentrations equal to or less than 30 mg/l each.

“Treatment level 3 effluent” or “TL-3 effluent” means effluent that has been treated to produce BOD<sub>5</sub> and TSS concentrations equal to or less than 10 mg/l each.

(z) ~~“Temporary privy” means a portable privy with a vault used for the collection and storage of human excrement for a specified period of time.~~

“Vault privy” means a watertight chamber for receiving non-water carriage of human waste, over which is placed a privy house with seats.

“Virginia pollutant discharge elimination system permit VPDES” means a permit issued by the State Water Control Board SWCB under the authority of the federal National Pollutant Discharge Elimination System NPDES program.

(Ord. 94-05. Passed 2-16-94; Ord. 10-02. Passed 2-17-10; Ord. 10-05. Passed

5-4-10.)

#### 1066.02 APPROVED METHOD OF SEWAGE DISPOSAL REQUIRED.

(a) No person shall use or occupy, or rent or lease for use or occupancy, any house, trailer, mobile home, whether self-propelled or not, warehouse, public or private building or other structure or gathering place in which there is human habitation, employment or congregation, until such house, trailer, mobile home, warehouse, public or private building or other structure or gathering place is supplied with an adequate, approved method for the disposal of sewage as provided for in this chapter.

(b) Following the effective date of this chapter, no person shall construct a new dwelling unit unless and until it can be furnished with minimum sanitary facilities to include a toilet, hand lavatory, tub and/or shower and kitchen sink, inasmuch as these minimum facilities are necessary to ~~proper good~~ sanitation. All such fixtures shall be supplied with hot and cold running water, with the exception of the flush toilet. In new units intended for purposes other than use as dwelling units where tubs and/or showers are not necessary for sanitation, minimum facilities shall consist of at least a toilet and hand lavatory with hot and cold running water. (Ord. 94-05. Passed 2-16-94.)

#### 1066.03 PERMIT REQUIRED FOR INDIVIDUAL SYSTEMS.

(a) General. No person shall install, construct, alter, repair or extend, or allow to be installed, constructed, altered, repaired or extended, any ~~onsite individual sewage disposal and/or~~ treatment system in the County without first applying for and obtaining a valid permit therefor in the name of a specific person for a specific location. Permits for installation, construction, alteration, repair or extension of ~~onsite sewage treatment disposal~~ systems shall be issued by the Health Department. In addition, no person shall change, renovate, alter or remodel any structure served by an ~~individual sewerage~~ **onsite sewage treatment** system unless and until such is done in accordance with a valid health permit or under written approval of the Health Department stating such will not cause **damage to or exceedance of the onsite sewage treatment system design capacity.** ~~an increased loading on the sewerage system.~~

(b) Application for Permit. Application shall be made on forms furnished by the Health Department and shall contain a clear description of the location and dimensions of the land or lot on which the sewage disposal system is to be installed, altered or repaired. ~~Transfer of property may include transfer of the permits provided that all conditions of the permit remain in effect and provided that any change in the proposal requires the written approval of the Health Department.~~ The Health Director shall require such tests, plans and/or specifications as the Health Director deems necessary to determine the adequacy and desirability of the proposed system, and such information shall be made a part of the permit records.

(c) Approval or Denial of Permit. When the Health Director is satisfied that a proposed system is adequate for the conditions under which a system is to be installed and used, a written permit to proceed with construction shall be issued. Otherwise, a permit shall be denied in writing stating the specific reason for denial.

(d) Voidance of Permits. Material changes in site conditions upon which a permit to install a sewage disposal and/or treatment system was based shall automatically void the permit. No person shall proceed with construction until such time as further written approval has been obtained from the Health Department, in accordance with this chapter. Notwithstanding any other provision of this chapter, permits ~~may shall be automatically cancelled~~ **voided** should the Health Director later determine that a potential health hazard would be created by continuing installation.

(e) Building Permit. No person shall be entitled to obtain a building permit in the County until such time as he has obtained a valid **onsite sewage disposal treatment system** permit from the Health Department where such a permit is required to provide for adequate sewage disposal. (Ord. 94-05. Passed 2-16-94.)

#### 1066.04 ~~LICENSE AND BOND~~ REQUIREMENTS.

(a) Installation License. No person shall install, repair or contract to install or repair individual **onsite sewage disposal and/or treatment systems** or parts thereof without first obtaining an installation license therefor from the Health Department. ~~Such license requirement shall not apply to an individual person who installs not more than three one such systems on his own property within one year or twelve consecutive months.~~ The installation license is to be issued by the Health Department upon written application, payment of a license fee and presentation of a **Commonwealth of Virginia Department of Professional and Occupational Regulation (DPOR) installer's license**. ~~satisfactory evidence that the applicant has a working knowledge of the installation of sewage disposal and/or treatment systems as well as the provisions of this chapter, as shall be determined by the passage of a standard written examination administered by the Health Department, provided that bonding requirements as set forth in subsection (d) hereof have been met.~~

~~The aforesaid requirement of a written examination shall not apply to those persons who installed three systems approved by the Health Department within six months prior to the adoption of this chapter or to those persons who installed five systems approved by the Health Department within twelve months prior to the adoption of this chapter, provided that such persons comply with all other requirements of this chapter, provided, further, that such persons attend a special course in instruction as to the provisions of this chapter conducted by the Health Department, and provided, further, that such persons obtain their license within six months following the effective date of this chapter.~~

(b) Septic Tank Cleaner's License. No person shall engage in the business of cleaning septic tanks, settling tanks and/or vaults designed to hold or retain solids and/or liquids in conjunction with any sewage disposal system, by whatever name called, without first obtaining a septic tank cleaner's license from the Health Department. **All pump-outs of sewage containment vessels for onsite sewage treatment systems, alternative discharging sewage systems, pump and haul tanks and vault privies shall be reported to the Health Department in a manner acceptable to the Health Director.**

The septic tank cleaner's license shall be issued by the Health Department upon written application and payment of a license fee, provided that the applicant gives evidence that he can comply with the following requirements.

(1) Equipment requirements.

- A. The tank into which sewage is pumped or delivered and carried is to be fully watertight.
- B. All inlets and outlets to such tanks shall be fully enclosed and provided with watertight valves.
- C. Suction and discharge hoses shall be watertight and provision shall be made for carrying such hoses in a manner that will prevent any spillage or leakage.
- D. All exposed surfaces shall be painted and maintained in a clean and sanitary condition by frequent washings.
- E. The name and address of the person owning or operating such equipment shall be ~~painted~~ **affixed on** to the vehicle in letters at least four inches high so as to be visible from either side of the vehicle.
- F. A copy of the septic tank cleaner's license shall be carried in the glove compartment of each vehicle operated.

(2) Disposal sites. **Septage, sewage, grease or other material from septic or other sewage retention tanks may only be disposed of at receiving facilities approved by local wastewater authorities or the Health Department.** (~~EDITOR'S NOTE: Paragraph (b)(2) was repealed by Ordinance 94-05, passed February 16, 1994.~~)

~~(c) License to Conduct Percolation Tests. No person shall conduct a percolation test for purposes of this chapter without first obtaining a percolation test license from the Health Department. Such license shall be issued upon written application and payment of a license fee, provided that the applicant has a satisfactory knowledge of percolation testing procedures, as shall be determined by the passage of a standard written examination to be administered by the Health Department.~~

~~(d) Bonding. All persons required to have a license under this chapter shall furnish bond payable to the County in the amount specified in Appendix I following this chapter for specific licenses, with surety approved by the Treasurer of the County and conditioned to indemnify and save harmless the County, as well as any other person, from all expenses and damages that may be caused by any neglect, omission or defective or inadequate work done by such licensee, his agent, employee or representative. Where such work is deemed defective or inadequate by the Health Department and is not corrected within ten days of written notice to do so, the Health Department may declare the bond forfeited and shall use the proceeds therefrom to correct such work and, in addition, to pay all damages which may have been occasioned to any person by reason of such neglect, omission or defective or inadequate work. Such bond shall be deposited with the County Treasurer and shall be in force for a period of not less than the period of the license.~~

~~(e) Revocation of Licenses. Any person having a license required by this chapter who is convicted of a violation of any of the provisions of this chapter or who fails to correct a violation of any of the provisions of this chapter, upon written notice to do so, shall, in addition to forfeiture of bond, be subject to a suspension or loss of his license and/or a refusal to renew his license by the Health Department.~~

(cf) Renewal of Licenses. All licenses are annual and shall be renewed between January 1 and January 15 of each year and are not proratable. A request for renewal is to be submitted to the Health Department in writing and is the responsibility of the license holder. ~~Examination shall not be necessary for renewal.~~  
(Ord. 94-05. Passed 2-16-94.)

#### 1066.05 INSPECTIONS.

The ~~County~~ Health Director may inspect the entire system of sewage disposal and/or treatment maintained at all premises in the County for the purpose of determining if such is being operated and maintained in a sanitary manner. Such inspection shall be done at reasonable times and, whenever practical, in the company of the owner or occupant of the premises. **Repairs, and significant component replacements of existing onsite sewage treatment systems shall be permitted and inspected by the Health Director.**

In addition, the Health Director or his authorized agent shall make such inspections as may be deemed necessary during the construction of any sewage disposal and/or treatment system installed in the County to determine compliance with ~~the requirements of this chapter~~ **and State Board of Health regulations**. No person shall use, allow to be used or cause to be used, any system until after the Health Department has inspected and approved the same in writing. No part of any system shall be covered until it is inspected and approved by the Health Department, and any such part which has been covered prior to inspection shall be uncovered for inspection upon order of the Health Director. In extraordinary circumstances, the Health Director ~~or his authorized agent~~ may ~~give final approval~~ **of any system installations, although incomplete,** when reasonable professional judgment indicates a revisit is not practical or feasible **or an inspection has been conducted by an onsite soil evaluator or professional engineer.** The inspection form shall indicate such waiver **and the circumstances leading to the decision.**  
(Ord. 94-05. Passed 2-16-94.)

#### 1066.06 ~~NEGLECT OR MISUSE OF ALTERNATIVE DISCHARGING SYSTEMS.~~

~~No owner, tenant or lessee of any premises properly supplied with an approved method of disposal of sewage shall misuse or neglect such a system or any part thereof so as to cause it to cease to be sanitary~~ **functioning as designed in a sanitary manner.**

**Alternative discharging sewage systems shall be maintained in accordance with requirements of the State Board of Health, 12VAC5-640 et seq. or successor. Owners of Virginia Pollutant Discharge Elimination System (VPDES) permitted facilities up to a permitted limit of 40,000 gpd shall permit the Health Director to enter the property to inspect such systems and for alternative discharging sewage systems to determine whether such systems are installed, operated and maintained in accordance with the applicable regulations of the State Board of Health. Required reporting must be in a form approved**  
by the Health Director.

1066.07 RESPONSIBILITY OF OWNER OF SYSTEM.

(a) **No owner, tenant or lessee of any premises properly supplied with an approved method of disposal of sewage shall misuse or neglect such a system or any part thereof so as to cause it to cease functioning as designed in a sanitary manner.** The issuance of a permit, subsequent installation and acceptance of the ~~onsite individual sewage disposal treatment~~ system upon inspection by the Health Department does not denote or imply any guarantee of **operation of** such system, and it shall be the responsibility of the owner, or any subsequent owner of the system, to maintain, repair or replace any system which has ceased to function **as designed** in a sanitary manner.

(b) Except as provided herein, for all individual sewage disposal systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit, the owner shall cause a maintenance pump-out of the septic tank of each such system to be performed by a septic tank cleaner licensed by the Loudoun County Health Department at least once every 5 years and shall provide documentation of the subject maintenance at the request of the County. Licensed septic tank cleaners shall report all pump-outs in a manner acceptable to the Loudoun County Health Department ~~on a biweekly basis~~ **by the 15<sup>th</sup> of the following month** and shall provide the homeowner with a copy of the information reported. Notwithstanding the foregoing, for Alternative Onsite Sewage Systems (AOSSs), in lieu of the required 5-year pump-out, the owner may submit documentation annually, certified by an individual who is licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia as being qualified to operate, monitor, and maintain an AOSS, that the system has been inspected, is functioning properly, and the tank does not need to be pumped out. For conventional systems, the owner may submit documentation certified by an individual who is licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia as being qualified to operate, monitor, and maintain an AOSS or conventional system, that the tank has been inspected, is functioning properly, and the tank does not need to be pumped out for at least the next two (2) years. This documentation, including sludge and scum accumulation depths, must be submitted every two (2) years after the initial five (5)-year report ~~unless~~ **until** the tank is pumped. ~~The Health Director may also develop procedures for granting waivers to this requirement.~~ **Once the tank is pumped, the 5 year pump-out cycle is re-initiated with the inspection in lieu of pump-out option as stated herein.**

(Ord. 94-05. Passed 2-16-94; Ord. 11-12. Passed 10-4-11.)

1066.08 FEES.

The County shall establish, set and charge such fees as it deems necessary and reasonable to defray the cost of permits and/or licenses as are required to be issued under this chapter.

(Ord. 94-05. Passed 2-16-94.)

1066.09 INSTALLATION, REPLACEMENT OR REPAIR OF INDIVIDUAL SYSTEMS WITHIN 300 FEET OF A SANITARY SEWER.

If an approved public ~~or private~~ sewer is within 300 feet of any new building or structure for which sewage disposal is required, the property owner shall connect to the sewer, provided that the owner of the sewer permits such a connection.

Should an existing ~~onsite sewage treatment individual sewerage~~ system **deteriorate to a point where there is a public health risk** ~~cease to operate in a sanitary manner requiring substantial repairs to the system or replacement or enlargement of the soil absorption area~~

~~or should alterations be required to provide safe and adequate treatment, and the building or structure to be served is within 300 feet of an approved public or private sewer, the property owner shall connect to the sewer, provided that the owner of the sewer allows such a connection. (Ord. 94-05. Passed 2-16-94.)~~

#### 1066.10 CONSTRUCTION REQUIREMENTS ~~EFFLUENT PUMP SYSTEMS~~

~~(a) Pump Systems. The use of sewage ejectors, lift stations or pumps on raw sewage lines to septic tanks **when exterior to the structure** are prohibited **unless designed by a professional engineer. Pumps must be hardwired outside the pump chamber. A flow velocity reducing device must be installed on force mains prior to entering the distribution box. For systems producing septic tank effluent, pump systems may be designed for time dose and/or enhanced flow distribution.** This shall not apply to effluent from the septic tank which may be collected in a separate tank and pumped to the subsurface disposal field distribution box, provided a check valve and flow velocity reducing device are used prior to entering the distribution box. For lifts in excess of fifteen feet, the applicant may be required to submit plans and a manufacturer's guarantee of performance. All such installations shall provide for the ability to fill the subsurface disposal field tile to six tenths capacity and shall be installed according to manufacturer's specifications.~~

~~(b) Corrosion of distribution boxes. All interior portions of distribution boxes must be resistant or treated to be resistant to corrosion including microbial induced corrosion. Treatments for corrosion shall incorporate a dye or inherent color to identify that treatment has occurred.~~

~~(c) Non-concrete distribution boxes. Header lines must be attached to the distribution box using approved fittings. Concrete shall be poured around the sides of the box from the base to the top of the box allowing room for the lid to be secured. The concrete shall surround the box completely.~~

~~(d) Gravity building sewers. Gravity building sewers shall have a minimum inside diameter (ID) of four inches.~~

~~(e) Sewer and conveyance lines. The minimum slope for four-inch gravity sewers is 1-1/4 inches per 10 feet, and for a six-inch sewer is 3/4 inch per 10 feet. Ells on gravity sewer lines shall not exceed 45 degrees. Gravity conveyance lines shall have a slope of not less than six inches per 100 feet.~~

~~(Ord. 94-05. Passed 2-16-94.)~~

#### 1066.11 DETERMINING SUITABILITY OF SOIL/SITES FOR ONSITE SEWAGE TREATMENT ~~SUBSURFACE DISPOSAL SYSTEMS.~~

~~(a) Subdivisions. The owner shall submit plans and specifications of the sewage disposal and/or treatment system where such is required, together with the plans and specifications of the proposed water supply system, to the Health Department for approval, and such plans and specifications shall be approved prior to the start of any construction or building.~~

~~The ~~Director~~ of Health **Director** shall develop procedures to evaluate subdivisions served by on-site sewage disposal **treatment** systems, consistent with the ~~LSDO~~ *Land Subdivision and Development Ordinance* and *Facilities Standards Manual*. ~~Standard Regulations.~~~~

~~Approval of a lot by the Health Department does not denote, nor is it intended to imply, final approval; it merely represents initial findings in accordance with the criteria at such time. Prior to construction on any lot, it shall be necessary to apply for and obtain a permit from the Health Department, and such permit shall be issued in accordance with the standards at the time~~

the application is made. The Health Department shall take into consideration the specific proposal and the previous findings, but shall not be obligated by those findings should it later be determined that a health hazard would result by allowing installation of a **soil absorption system** ~~subsurface disposal field~~.

(b) Individual Lots. A permit for construction of a **an onsite sewage treatment system** ~~subsurface disposal field~~ on an individual lot or property shall be issued after completion of a satisfactory ~~investigation~~ evaluation which indicates that such a system can be installed and is expected to perform in a sanitary manner so as not to create a health hazard. ~~The following information may be used in determining suitability:~~

- ~~(1) The experience of the Health Department as supported by field investigation and soil evaluations;~~
- ~~(2) Information submitted on behalf of an applicant by a qualified professional consultant in the field of waste disposal and/or treatment of domestic waste or related subjects, which information shall be evaluated by the Health Department, as submitted, prior to approval;~~
- ~~(3) Results of actual percolation tests conducted on the property in the area of the proposed subsurface disposal field, which tests are to be conducted by the Health Department or by a qualified field representative licensed to conduct such tests in the County; and~~
- ~~(4) Information on file with the Health Department as to previous evaluation and/or tests on the property.~~

(c) Evaluation; Conflicts. ~~Soil evaluations for a subsurface absorption system shall follow a systematic approach. R~~ reports submitted for **onsite sewage treatment system approval** ~~subsurface absorption systems shall be~~ **contain** detailed soil/site investigations, as described in subsection (hg) hereof. Evaluations shall indicate whether or not the soils meet the criteria specified herein for the installation of the type of on-site sewage ~~disposal~~ **treatment** system proposed. In addition to information gathered during the soils and geotechnical investigation, the topography, available area, proximity to ground and drinking water supplies, proximity to bodies of water, rates of water absorption by the soil horizon proposed for use, or a combination of any of the above, shall also be considered in such evaluation. If absorption rate problems are suspected ~~and there is no indication of a water table~~, percolation tests **or other infiltration tests** may be required, but their results shall not be presumptive, prima-facie or conclusive evidence as to the suitability for effluent absorption. **Soil reports shall be field reviewed by the Health Department unless administratively denied or deemed approved. Backhoes are required for Health Department soil/site evaluations and verifications of private sector submitted soil/site evaluations unless waived by the Health Department.**

~~When discrepancies exist between these and other State or local agency codes or regulations, the more restrictive will apply.~~

(d) Site and Plot and Structure Identification. A **plot site sketch**, prepared by the applicant, is to accompany all applications for permits to construct on-site sewage ~~disposal~~ **treatment** systems and must show accurately:

- (1) The dimensions of the property.
- (2) Proposed and/or existing structures and driveways.
- (3) Underground utilities.

- (4) Adjacent **sewage treatment systems** ~~soil absorption sewage disposal systems.~~
- (5) Bodies of water.
- (6) Drainage ways **and floodplains**.
- (7) Wells and springs within a 200-foot radius of the **edge center** of the proposed ~~drain field~~ onsite sewage treatment system.

(e) Physical Features.

- (1) **Subsurface Pad and trench soil** absorption systems shall not be placed on slopes greater than twenty-five percent.
- (2) ~~Unfavorable micro\_topography may preclude the use of certain sites which have otherwise favorable soil characteristics.~~
- (3) Placement of subsurface soil absorption systems in **disturbed soil non-engineered** fill material is prohibited.
- (4) Outside of the Limestone Overlay District no ~~individual sewage disposal~~ **onsite sewage treatment** system shall be placed closer than 100 feet from the low point of a sinkhole nor closer than fifty feet from the outer edge of a sinkhole. Sinkholes will be considered to exist with or without knowledge of the size, orientation or presence of subterranean voids, since the surface collapse evidences subsidence into such a void. Distances from rock outcrops may be imposed and additional geologic information required in accordance with a geotechnical report, as described in Section 6.150 of the Loudoun County *Facilities Standards Manual*, where limestone or other environmentally critical rock formations are encountered.
- (5) Within the Limestone Overlay District no ~~individual sewage disposal~~ **onsite sewage treatment** system shall be placed closer than 100 feet from the rim of a sinkhole/swallet/closed depression, from a cave opening, or from a ~~P~~erennial ~~S~~sinking ~~S~~stream. **Nor shall an onsite sewage treatment system be placed closer than fifty feet from a rock outcrop, or underground solution channel within 45 feet of the surface.** ~~provided, however, that s~~ Such setbacks may be reduced by up to fifty percent if a geophysical study, **as required by Section 4-1905 of the Revised 1993 Zoning Ordinance, as amended**, conducted in accord with Section 6.151 of the *Facilities Standards Manual*, concludes that the risks of collapse and groundwater contamination are non-existent or insignificant for the proposed location and use, ~~except that n~~ **No setback** reduction shall be allowed for any ~~P~~erennial ~~S~~sinking ~~S~~stream, nor for any ~~S~~sinkhole, ~~S~~swallet, ~~C~~losed ~~D~~epression or ~~C~~ave ~~O~~pening that receives an intermittent or ~~P~~erennial ~~S~~sinking ~~S~~stream. **No onsite sewage treatment system shall be placed closer than: (1) one hundred (100) feet from a developed spring, measured from the first emergence of the spring or (2) two hundred (200) feet from a developed spring when the first emergence of the spring is on a slope greater than 15% and is downslope from the proposed sewage disposal system.** However, for a lot of record existing on February 17, 2010, an ~~individual~~ **onsite sewage disposal treatment** system for a principal residential structure may be permitted within the setback if it is constructed in compliance with all recommendations of the ~~G~~eophysical ~~S~~study and such ~~individual~~ **sewage disposal** system is sited on the lot so as to be located as far from the ~~feature rim~~ **feature rim** of the sinkhole/swallet/closed depression, cave opening, or ~~Perennial Sinking~~

~~Stream~~ as is feasible. No such ~~individual~~ **onsite** sewage disposal **treatment** system shall be allowed if the geophysical study shows subsidence or groundwater contamination poses a serious risk to public health or safety or to the safety of residents or users of the residential structure unless the design of the ~~individual sewage disposal~~ system is certified, both structurally and geotechnically, by a professional engineer.

~~(6) Within the Limestone Overlay District no individual sewage disposal system shall be placed closer than fifty feet from a rock outcrop, underground solution channel within 45 feet of the surface, or other Karst/Sensitive Environmental features, (except Springs or features identified in Section 1066.11(e)(5)). Distances from such features maybe reduced by up to fifty percent if a geophysical study, conducted in accord with Section 6.151 of the *Facilities Standards Manual*, concludes that the risks of collapse and groundwater contamination are not a concern for the proposed location and use. However, for a lot of record existing on February 17, 2010, an individual sewage disposal system for a principal residential structure may be permitted within the setback if it is constructed in compliance with all recommendations of the geophysical study and such individual sewage disposal system is sited on the lot so as to be located as far from the rock outcrop, underground solution channel within 45 feet of the surface, or other Karst/Sensitive Environmental feature, (except Springs or features identified in Section 1066.11(e)(5)), as is feasible. No such individual sewage disposal system shall be allowed if the Geophysical Study shows subsidence or groundwater contamination poses a serious risk to public health or safety or to the safety of residents or users of the residential structure unless the design of the drainfield is certified, both structurally and geotechnically, by a professional engineer.~~

~~(7) Within the Limestone Overlay District no individual sewage disposal system shall be placed closer than: (1) one hundred (100) feet from a spring, measured from the first emergence of the spring or (2) two hundred (200) feet from a spring when the first emergence of the spring is on a slope greater than 15% and is downslope from the proposed sewage disposal system. However, for a lot of record existing on February 17, 2010, an individual sewage disposal system for a principal residential structure may be permitted within the setback if it is constructed in compliance with all recommendations of a geophysical study conducted for such site, and such drainfield is sited on the lot so as to be located as far from the Spring, as is feasible. No such individual sewage disposal system shall be allowed if the geophysical study shows subsidence or groundwater contamination poses a serious risk to public health or safety or to the safety of residents or users of the residential structure unless the design of the individual sewage disposal system is certified, both structurally and geotechnically, by a professional engineer.~~

(f) Soil Profiles and Patterns.

(1) Depth of profile hole. The minimum depth of the profile hole shall be six feet, **or deep enough to verify all stand offs** unless prevented or made unnecessary by some physical feature of the soil, such as ~~gray coloration~~ **redoximorphic features**, rock or when a potential horizon is found at a lesser

depth. When a potential soil horizon is considered for use, the soil evaluation shall be extended below the soil horizon, with potential for use, to insure that there is no interference with seasonal water tables, lithic rock, paralithic rock or other impervious strata **within the vertical offset limitation**.

- (2) Number and location of profile holes. A minimum of five holes is necessary to determine the design requirements of an area for the placement of any soil absorption **area**. ~~trenches. The size of the area investigated shall be based on the soil class encountered.~~ Holes shall be evenly placed to bound the area under consideration with one hole installed in the center. If more than one area is required in which to install the soil absorption **area** ~~trenches~~, each area shall be evaluated with at least three soil borings. The actual area and number of borings necessary shall be determined on a case-by-case basis.

~~(g) Characteristics of Soils That Determines Suitability.~~

- ~~(31) Estimation of soil texture. The soil texture shall be estimated by field testing. The field test that shall be applied is contained in Appendix F of the Sewage Handling Regulations and is entitled "Field Guide to Soil Texture Classes." Laboratory estimation of texture by sieve and sedimentation and analysis may be substituted for the field test at the owner's request and expense. Samples shall be collected by the laboratory under supervision of the local Health Department or the Department of Environmental Resources.~~
- ~~(2) CR horizons. See the definition in Section 1066.01(c).~~
- ~~(3) Class IV soils. The use of soils exhibiting characteristics of Class IV soils, as described in the Interpretive Guide to the Use of Soils Maps, Loudoun County, Virginia, for on-site sewage disposal systems, is prohibited.~~

~~(gh) Requirements for a Detailed Soil/Site evaluation investigation. Detailed soil/-site investigation **evaluation** reports generated for any proposed on-site sewage **treatment system** disposal facility are required by and are to be submitted to the Loudoun County Health Department. A detailed soil/-site investigation report is required for any land development sewage effluent proposals and may be required by the Health Department for any other on-site sewage disposal facility which is not exclusively regulated by the State. Technical standards for such investigations are contained in this chapter and current State regulations on this subject. This investigation shall be submitted to the Health Department for review and recommendation in accordance with Section 8.110.D.2 of Chapter 8 of the Loudoun County Facilities Standards Manual.~~ A detailed investigation may also be required by the **Health** Director for specialized land use applications such as solid waste operations, composting facilities or other similar uses.

The detailed soil/site ~~investigation~~ **evaluation** report should include the following, where appropriate, unless determined by the **Health** Director, at the request of the developer, to be inapplicable based upon sound engineering principals:

- (1) Results of field investigation.
  - A. A map, drawn to 1:2,400 scale (1 inch = 200 feet) and larger, as requested on a sheet twenty-four inches by thirty-six inches. Where small tracts are involved, an eight by eleven-inch sheet may be acceptable, provided it complies with all other requirements set forth herein.
  - B. Existing water supplies within ~~2~~**100** feet of the property and **200 feet of** sewage ~~disposal~~ **treatment** systems on the property.

- C. The location of all borings and backhoe pits. Test holes/pits are to be numbered and located dimensionally, including surface elevations.
- D. The location of all numbered proposed on-site **soil absorption areas** ~~sewage disposal systems~~, if applicable. All ~~subsurface~~-soil absorption **areas** ~~systems~~ must be shown ~~in~~ contour and delineated by five borings or pits. In addition, site locations within the Limestone Overlay District and those underlain by limestone/limestone conglomerate, shall be examined in cross section to a depth of 45 feet minimum, using technology such as electrical resistivity, to determine the presence of karst features. Karst features, such as voids and solution channels, may be grounds for denial of the site.
- E. The following items as they relate to the proposal, if required:
  - 1. The landscape type and position, the slope, **topography** and the surface drainage.
  - 2. The soil morphology, including the texture, color, structure, consistency, depth, lithologic discontinuities, boundaries, etc.
  - 3. The permeability, internal drainage and perched water tables.
  - 4. The parent material and associated problems.
  - 5. Restrictive strata ~~layers~~.
- F. The soil evaluation form.
- ~~(2)G. Recommendation and conclusions.~~
  - ~~(2)A.~~ The following items shall be ~~included~~ **required** in the report when ~~drainfields~~ **soil absorption areas** are proposed:
    - ~~1A. Recommendations for use as on-site sewage disposal sites, including~~ **Depth** of installation, type of system, relative suitability and modifications.
    - ~~2B. Recommendations and conclusions for repairing existing malfunctioning on-site sewage treatment disposal systems or designing modified on-site sewage disposal systems.~~
    - ~~3. Where on-site sewage disposal is proposed, p~~ **Potential impacts on ground and surface water, loading rates and vegetative cover.**
  - ~~B.~~ The following shall be included in the report where applicable to other proposed uses:
    - ~~1. Recommendations for vegetative stabilization (lime, fertilization/seeding types and rates, stockpiling topsoil).~~
    - ~~2. Conclusions on soil mineralogy.~~
    - ~~3. Recommendations on the suitability of the site for land application of Class A sewage sludge. (See Article 7 of the Virginia Sewerage Regulations and Chapter 1090 of these Codified Ordinances.)~~
    - ~~4. Conclusions on soil chemistry.~~
    - ~~5. Recommendations regarding the suitability of the site for spray irrigation.~~
    - ~~6. Recommendations for additional tests for geotechnical study.~~
- (3) ~~Appendix A: field logs~~ **Field logs**. Soil profile descriptions taken from soil boring/backhoe pits ~~shall~~ **should** include:
  - A. The boring/pit number.
  - B. The depth, thickness and description of each horizon, including paralithic

- and lithic contacts encountered.
- C. Locations of all samples taken and analyses to be conducted on each sample.
- D. The depth to perched water and/or the ground water table if observed (or if indicated by soil color patterns).
- E. The name of the person responsible for the description and sampling.
- (4) ~~Appendix B:~~ **Field testing.** If field tests, such as percolation tests or **other** permeability tests, have been conducted, the results **shall** ~~should~~ be included.
  - A. Percolation tests.
  - B. Permeability tests, including a description of the profile.
  - C. Piezometer observations, including readings, depth, date of readings, rainfall data and soil profile (if available for the site).
- (5) ~~Appendix C:~~ **Laboratory data.** Laboratory data produced to support the report shall be included.  
(Ord. 94-05. Passed 2-16-94; Ord. 10-02. Passed 2-17-10; Ord. 10-05. Passed 5-4-10.)

1066.12 DESIGN AND LOCATION REQUIREMENTS FOR ONSITE SEWAGE TREATMENT SYSTEMS ~~SUBSURFACE DISPOSAL FIELDS.~~

(a) Design.

- (1) Distance to rock. The minimum acceptable separation distance, both vertical and horizontal, from the absorption trench bottom and sidewalls to lithic rock, rock outcroppings, ~~CrR~~ horizons and pans, is **12 inches** ~~one foot~~. However, in the limestone **overlay district** ~~outer belt~~, horizontal and vertical separation between **limestone** lithic rock and trench bottoms and sidewalls is ~~four feet~~ **48 inches for septic tank effluent, 36 inches for TL-2 effluent and 24 inches for TL-3 effluent with ultraviolet or other approved standard disinfection.** (see Table 4.4 of the Virginia Sewage Handling and Disposal Regulations, "Minimum Separation Distances").
- (2) Depth to seasonal water table. As used herein, "seasonal water table" means that portion of the soil profile where a color change has occurred in the soil as a result of saturated soil conditions or where soil concretions have formed. Typical colors are gray mottlings, solid gray or black. The depth in the soil at which these conditions first occur is termed the "seasonal water table." The minimum separation distance from the absorption trench bottom **or point of effluent release** to the seasonal water table is ~~two feet~~ **24 inches for septic tank effluent, 18 inches for TL-2 effluent, and 12 inches for TL-3 effluent with ultraviolet or other approved standard disinfection.**
- (3) Blasting of lithic rock prohibited. ~~Blasting.~~ The use of **any** explosive materials **for the purpose of removing lithic rock** within 100 feet of the soil **absorption area** ~~disposal system~~ or within fifty feet of any remaining portion of the sewage conveyance, treatment or dosing system **in the limestone overlay district** is specifically prohibited. Lithic rock encountered **in the soil absorption area** during installation **at any location** will necessitate a redesign of the system permitted and will be handled on a case-by-case basis.
- (4) Size. The size of the ~~subsurface disposal field~~ shall be **when soil absorption area** based on the square footage of the trench bottoms ~~and~~ shall consist of a

minimum of 600 square feet, ~~(300 linear feet on a twenty four inch trench) of subsurface disposal trench bottom.~~ **Drip and spray or other surface square footage designed systems shall have a minimum square footage of 1800 sq. ft.**

- (5) **Driveways and parking areas.** Driveways and parking areas shall be a minimum of 5 feet from onsite sewage treatment systems except for sewer and conveyance lines crossing the area and soil absorption areas designed to be placed under paved surfaces.
- (6) **Minimum location requirements.** Minimum location requirements as set forth in Appendix I, following this chapter shall be met.

- (b) **Off Site Easements Location.** ~~The location and installation of the sewage disposal system and each part thereof shall be such that, with reasonable maintenance, the system will function in a sanitary manner and will not create a nuisance or endanger the safety of any domestic water supply. In determining a suitable location for the system, consideration shall be given to the size and shape of the lot, the slope of the natural and finished grade, the depth of the ground water table, the proximity to existing or future water supplies and the possible expansion of the system. Minimum location requirements, as set forth in Appendix II, following this chapter, shall be met.~~

Where a **an onsite sewage treatment disposal** system is located by easement off the lot of the structure it serves, the Health Director ~~or his or her designee~~ shall establish special design and performance standards, procedures and forms necessary to ensure identification, protection and maintenance of the **onsite sewage treatment disposal** system to be located on that easement.

The ~~subsurface disposal field~~ **onsite sewage treatment system** shall be located on the lot, tract or parcel of land which it serves. However, ~~subsurface disposal fields~~ **onsite sewage treatment systems** on off-site easements may be permitted in the following situations:

- (1) A permit was issued for the **onsite sewage disposal treatment** system prior to January 17, 1989.
- (2) The ~~onsite sewage disposal treatment~~ system is proposed to replace a failing **onsite sewage disposal treatment** system.
- (3) The lot was shown to be served by the off-site easement on a preliminary plan of subdivision approved prior to January 17, 1989.
- (4) The lot was shown on a preliminary plan of subdivision or plan of family subdivision accepted for review by the Department of Planning, Zoning and Community Development prior to January 17, 1989.
- (5) The **onsite sewage disposal treatment** system is proposed to serve an existing lot of record as of January 17, 1989, for which no approved on-site ~~disposal sewage treatment system~~ **approvable for a minimum design of 450 gallons per day** can be found.
- (6) ~~Onsite S-sewage disposal treatment~~ systems ~~shall~~ **may** be situated on permanent, dedicated open space, but only where specifically permitted by the Subdivision Regulations and the Zoning Code of the County.
- (7) Multiple existing structures on any parcel currently served by on-site ~~sewage disposal treatment~~ systems may use easements for **onsite sewage treatment disposal** systems if a division of that parcel cannot be reasonably accomplished without the use of easements.

~~(8) For lots in the A-3 or A-10 Zoning District on which an approved sewage disposal site exists, an off-site easement on an adjacent lot located along the common property boundary line may be approved if, in the determination of the Planning Commission, use of such easement will better meet the intent of the Subdivision Regulations through the creation of more orderly lot configurations, better dwelling locations, better buffering between lots or improved road configuration or access.~~

(c) Reserve Absorption Area Sites. Sufficient suitable soils shall be available on each lot, or available to each lot by easement or other device approved by the **Health Department Director**, to allow repair and/or extension of the on-site sewage disposal **treatment** system for a period of time equal to:

- (1) The reasonably anticipated life expectancy of the structure (interpreted as 100 percent repair area); or
- (2) In an area designated by an adopted area plan for future central sewer service by ~~the Loudoun Water County Sanitation Authority~~ or an incorporated town, the planned availability date of that sewer service or fifty percent of the originally required soil area, whichever is greater. Soil **absorption areas** ~~disposal systems~~ are considered, for purposes of this section, to have a life expectancy of thirty years. Lots proposed for approval in these areas shall contain sewer utility easements designed to facilitate future sewer line construction and installation. ~~Evidence of Design~~ consultation ~~regarding design~~ with ~~the Loudoun Water County Sanitation Authority~~ or **other local sewage authorities** ~~treatment plant operator~~ is required prior to Health Department approval.

(d) Site Preparation and Alteration.

- (1) Removal of vegetation. Vegetation, such as maples, willows and other plant species with extremely hydrophilic (water loving) root systems, shall be removed at least ten feet from the actual absorption areas. All trees should be removed from the absorption area. The local agent of the Virginia Department of Forestry will arbitrate any dispute as to the hydrophilic nature of any tree or shrub.
- ~~(2) Field marking of pretreatment and distribution systems. The preferred method of permanent marking of pretreatment and distribution components is with a ferrous metal pipe sleeve within a corrugated PVC drain pipe to permit electromagnetic location by metal detector.~~
- ~~(3) Drainage. No person shall divert water from his or her property onto that of another person, other than into natural drainageways, unless site grading plans, as described in Chapter 5.000 of the Loudoun County Facilities Standards Manual, are prepared and approved by the Directors of the Departments of Health and Building and Development.~~
- ~~(4) Grass swale. A shallow, man-made drainageway designed to divert and channel surface water run-off, especially sheet flow, covered with permanent vegetation, such as sod or grass, shall be prepared, where necessary. Cross-sectional dimensions are normally six feet wide by one foot deep.~~
- ~~(5) Placement of utilities.~~

- A.—Subsurface soil absorption systems shall not be placed in an underground utility easement. No buried utility services, water lines, electrical lines, gas lines, etc., shall traverse the subsurface soil absorption system area, nor shall the buried service be closer than ten feet to the system.
- B.—~~The placement of subsurface soil absorption systems under overhead utility lines is prohibited where heavy equipment must traverse the system in order to service and maintain the utility line. (Ord. 94-05. Passed 2-16-94.)~~

#### 1066.13 ~~PERMIT REQUIRED FOR PIT PRIVIES AND PORTABLE TOILETS.~~

No person shall erect, install or allow to be erected or installed a pit **privy except to repair or replace an existing pit privy. A permit for such is required from the Health Department.**  ~~without first obtaining a permit therefor from the Health Department in accordance with the following provisions.~~

~~(a) Private Individual Residences; Business Establishments. Subsequent to the effective date of this chapter, no person shall construct pit privy facilities for sanitary waste disposal in an individual residence or business establishment, inasmuch as a complete plumbing system with appropriate fixtures is necessary to good sanitation, and it shall not be satisfactory to the intent of this chapter to construct a dwelling or other structure which should have plumbing and household waste fixtures, in total or in part, present or future, which cannot and will not be able to provide for such wastes. This section shall not apply to the repair of or replacement of existing privies, nor shall it apply to the construction of new facilities where such construction is a temporary method of waste disposal not to exceed six months, in conjunction with a construction site or like use. All privies shall be constructed or repaired in accordance with plans and specifications as provided by the Health Department and are to be inspected and approved by the Health Department prior to use.~~

**(a) Portable Toilets. Portable toilets may be used for temporary uses such as construction sites, special events, and emergencies. They may not be used to facilitate new development or expansions of existing facilities or as a permanent means of sewage disposal. The tank shall be cleaned at least once weekly or more often as necessary to prevent the contents from filling the tank above two-thirds of its capacity. Cleaning of the tank shall be done by a licensed contractor septic tank cleaner with approved equipment as required in Section 1066.04(b). Chemicals approved by the Health Department shall be added as often as necessary to liquefy wastes and prevent objectionable odors. Daily washing of the toilet seat and the inside of the building shall be required. Toilet tissue and hand sanitizer shall be provided at all times. The privy shall be maintained in such a way that it will not endanger public health or create a nuisance.**

~~(b) Temporary Vault Pit-Privy Use. In lieu of a permanent type of structure and for the purpose of disposal of human excrement for temporary use, the following type of holding Vault privies may be used for a specified period of time at a specific location as prescribed by the Health Department Officer on a case by case basis.~~

- (1) ~~Building; vents and door.~~ **Building; vents and door.** A building ~~may~~ **must** be used which may be on skids for movability, so constructed as to be ~~flytight~~ fly tight and ~~rodentproof~~ rodent proof, with vents near the ceiling covered with sixteen mesh copper wire screen, or equivalent, and with a self-closing, ~~flytight~~ fly

tight door.

- (2) Seat box, hole and vent. The seat and seat box shall be so constructed as to be easily cleanable and to cover completely **the opening of** a corrosion-resistant, waterproof, ~~metal or other approved material~~ tank of sufficient capacity. The tank shall have **an** ~~all~~ opening directly under the seat hole. Where necessary, an approved sleeve shall be provided between the seat and the tank. The tank shall be vented through ~~or near~~ the roof with a sixteen mesh screen **or other approved** covering.
- (3) Maintenance. The tank shall be cleaned out at least once weekly or more often as necessary to prevent the contents from filling the tank above two-thirds of its capacity. Cleaning of the tank shall be done by a licensed ~~contractor~~ **septic tank cleaner** with approved equipment as required in Section 1066.04(b). ~~Chemicals approved by the Health Department shall be added as often as necessary to liquefy wastes and prevent objectionable odors.~~ Daily washing of the toilet seat and the inside of the building shall be required. Toilet tissue **and hand sanitizer** shall be provided at all times. The privy shall be maintained in such a way that it will not endanger the public health or create a nuisance.

(Ord. 94-05. Passed 2-16-94.)

#### **1066.14 EXISTING SYSTEM REUSE AND ABANDONMENT**

Existing systems being reused for a new purpose (also known as: change of use, or safe adequate and proper evaluations) may be approved on a case by case basis provided they received previous Health Department approval. A comprehensive evaluation is required, and all components must be in good repair prior to use. Systems may not be used for increased flow or higher strength waste than specified in the original design unless an application and approvable redesign is submitted prior to permit issuance. Systems that are disused, or serving structures to be connected to public sewer are to be abandoned according to procedures approved by the Health Department.

#### **1066.15 COMMUNITY SYSTEMS**

**Reserved**

#### ~~1066.154 CONSTRUCTION OF OTHER INDIVIDUAL SYSTEMS.~~

~~Plans for any sewage disposal and/or onsite sewage treatment system not specifically covered by this chapter shall be submitted in triplicate to the County Health Department for approval. Such systems shall be permitted only when the manner of disposal and/or treatment **and dispersal** is satisfactory to the Health Department and, in the case of discharges, is satisfactory to the Health Department and the State Water Control Board, so as not to create a health hazard and/or undue stream quality degradation, provided that such systems can be demonstrated to provide adequate and safe sewage disposal and/or treatment **and dispersal.**~~

~~(Ord. 94-05. Passed 2-16-94.)~~

#### ~~1066.15 NOTICE TO CORRECT.~~

~~If the Health Officer finds a violation of any of the provisions of this chapter or a violation of any of the provisions of a permit and/or license as issued under this chapter, he shall direct the owner or person to whom the permit and/or license was issued, by written notice, to make the~~

necessary corrections within such reasonable period as specified therein. No person shall fail to comply with such notice within such period.  
(Ord. 94-05. Passed 2-16-94.)

~~1066.16~~ ~~EQUITABLE REMEDIES.~~

~~In addition to the penalty provided in Section 1066.99, the Health Director may initiate injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove a violation of any of the provisions of this chapter.  
(Ord. 94-05. Passed 2-16-94.)~~

1066.167 SEPTIC TANKS, HOLDING TANKS, PUMP TANKS, TREATMENT UNITS  
AND TANKS FOR OTHER ONSITE WASTEWATER USES.

- (a) Depth and size. The maximum cover over a tank containing wastewater shall not exceed 48 inches. **In no case shall septic tank capacity be less than 750 gallons.**
- (b) Location. Tanks shall not be placed in ~~low~~ **concave** areas or **drainage ways**. ~~swales subject to drainage, channeling of rainfall, or ponding of water.~~ Tanks shall be protected with controlled backfill when shrink-swell soil **or rock** is present. If water table indications are observed or measured above penetrations or tank seams, a water table reduction system must be installed to lower the water table below the seam or penetration.
- (c) Structural Soundness. Tanks shall be structurally sound as determined by an engineer design with appropriate safety factors, and watertight verified through appropriate testing and compliance monitored by the ~~Loudoun County~~ Health Department. All tanks shall be designed and certified by a professional engineer, licensed and qualified to perform structural design in the **State Commonwealth** of Virginia. The engineer shall contemplate all reasonably expected loading conditions, including burial depth, tank full to top of riser, an empty tank installed with water table at top of ground, vehicular traffic and any other reasonable expected loading conditions. The manufacturer shall certify that all tanks manufactured meet the engineer design. Tanks may only be installed in accordance with the design standards specified.
- (d) **Buoyancy. Septic tanks and pump chambers ~~are required to~~ shall implement buoyancy controls if seasonal water table or wetness indicators are present in the soil between the ground surface and the tank bottom.**
- (~~d~~e) Penetrations. All tank lids shall be manufactured with **the first section of** risers pre-cast into the top of the tank. Risers shall terminate a maximum of six inches below finished grade. Manufacturers shall install watertight boots at all penetrations. Boots for all tanks must meet ASTM C-923. Boots for concrete tanks must meet ASTM C-923 and have a clamp assembly to resist pipe deformation.
- (e) (~~f~~) Tank Testing. All tanks shall be watertight, including inlet and outlet pipe penetrations, and the riser assembly. The installer shall, on all watertight tanks, complete one of the following tests during, or in conjunction with a ~~Loudoun County~~ Health Department or other approved construction inspection. In high water table

conditions the Health Director is authorized to require a water tightness test of the entire treatment and conveyance system.

- (1) Water test procedure. A water test is to be performed by installing the tank, connecting inlet and outlet piping (~~with caps~~), installing risers as necessary, and filling with water ~~two inches~~ above tank **top outer surface** into the riser for 24 hours. The tank penetrations **and seams** must be visible. The water level is to be marked in the riser. The tank is to be refilled to the mark and observed for one hour. If the level has not dropped the tank passes.
- (2) Vacuum test procedure. A vacuum test is performed by plugging inlet and outlet piping, installing risers, and using a vacuum pump to pull a negative pressure of **two and one half (2.5)** ~~four~~ inches of mercury. The tank must hold this vacuum for five minutes with no more than a 10% variation in pressure.

If tanks fail either test, repairs must be completed **using manufacturer approved materials** and the test repeated until satisfactory.  
(Ord. 09-19. Passed 12-15-09.)

**1066.178 INDIVIDUAL SEWAGE ~~DISPOSAL~~ TREATMENT SYSTEMS WITHIN THE LIMESTONE OVERLAY DISTRICT APPROVED PRIOR TO FEBRUARY 17, 2010.**

After February 17, 2010 all individual sewage ~~disposal~~ **treatment** systems within the Limestone Overlay District shall be installed in conformance with the setback provisions of this chapter except for any ~~individual onsite~~ sewage ~~disposal~~ **treatment** system approved by the ~~Loudoun County~~ Health Department prior to February 17, 2010 by (i) a Sewage Disposal System Construction Permit; (ii) a Health Department Certification Letter; or (iii) a written approval from the Loudoun County Health Department to satisfy subdivision submission or review requirements.

(Ord. 10-02. Passed 2-17-10; Ord. 10-05. Passed 5-4-10.)

**1066.18 NOTICE OF VIOLATION.**

**If the Health Director finds a violation of any of the provisions of this chapter or a violation of any of the provisions of a permit and/or license as issued under this chapter, he shall direct the owner or person to whom the permit and/or license was issued, by written notice, to make the necessary corrections within such reasonable period as specified therein. No person shall fail to comply with such notice within such period.**

(Ord. 94-05. Passed 2-16-94.)

**1066.19 EQUITABLE REMEDIES.**

**In addition to the penalties provided in Section 1066.22, the Health Director may initiate injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove a violation of any of the provisions of this chapter.**

(Ord. 94-05. Passed 2-16-94.)

## **1066.20 WAIVERS**

**The Director may grant a waiver if a thorough investigation reveals that the hardship imposed by this ordinance outweighs the benefits that may be received by the public and that the granting of such waiver does not subject the public to unreasonable health risks. The Health Department shall have a written policy approved by the County Administrator detailing the administration of waivers. Upon petition by the property owner ~~in cases of hardship or in order to provide enhanced protection for public health~~ the Health Director has authority to grant waivers to;**

**1066.04, 1066.05, 1066.07, 1066.08, 1066.09, 1066.10, 1066.11, 1066.12, 1066.13, 1066.14, ~~1066.15~~, 1066.16, 1066.17, Appendix I**

## **1066.21 ADMINISTRATIVE REVIEWS**

- (a) Any person aggrieved by **any action taken under the authority of the contents of a notice of violation or enforcement action issued or conducted under** this ordinance may submit a written request for administrative review with the Health Director. The request shall be submitted on a standard form provided by the Health Department. The request shall detail and specify the basis for appeal to the Health Director and requesting the action to be reviewed.
- (b) A written application for administrative review shall be submitted to the Health Director within 30 days of the enforcement action. Upon receipt of such request the Health Director or designee shall notify the person of the date, time and location of such review, which shall be set at a mutually convenient time between 5 and 15 days from the date the ~~order~~ application for administrative review was received.
- (c) The Health Director will issue a written decision concerning the disposition of the administrative review within 30 days of the review date.

## **1066.22 SCHEDULE OF CIVIL PENALTIES**

- (a) There is hereby established a uniform schedule of civil penalties for the following violations of these regulations.
- (1) Failure by an operator to submit a pump-out report within the required time frame in accordance with 1066.07(b) - fifty dollars (\$50.00) for each summons.**
  - (2) Failure by an owner to pump-out a septic tank within the required time frame in accordance with 1066.07(b) - one hundred dollars (\$100.00) for an initial summons and one hundred fifty dollars (\$150.00) for each additional summons.**
  - (3) Failure by an owner to maintain, repair or replace any conventional or alternative discharging system which has ceased to function as designed in a sanitary manner in accordance with Section 1066.07(a) - one hundred dollars (\$100.00) for an initial summons and one hundred fifty dollars (\$150.00) for each additional summons.**
  - (4) Failure by an owner and/or installer to obtain the approval of the Health Department for any modification, alteration, or expansion of an onsite sewage treatment system in accordance with 1066.03(a) - one hundred dollars (\$100.00) for an initial summons and one hundred fifty dollars**

**(\$150.00) for each additional summons.**

- (5) Failure by an operator to obtain a septic tank cleaners license before cleaning septic tanks, settling tanks and or vaults designed to hold or retain solids and/or liquids in conjunction with any sewage disposal system - one hundred dollars (\$100.00) for an initial summons and one hundred fifty dollars (\$150.00) for each additional summons.**
- (6) Failure by an operator to dispose of septage, sewage, grease or other material from septic or other sewage retention tanks at an approved septage receiving facility- one hundred dollars (\$100.00) for an initial summons and one hundred fifty dollars (\$150.00) for each additional summons.**
- (7) Failure by the owner of an alternative discharging sewage system to procure and file an inspection report or required sampling results as required in 1066.06 - one hundred dollars (\$100.00) for an initial summons and one hundred fifty dollars (\$150.00) for each additional summons.**

**Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties exceeding a total of three thousand dollars (\$3,000.00). If the violation is not abated after the imposition of the maximum fine, the locality may pursue other remedies as provided by law. Designation of these particular ordinance violations for a civil penalty are in lieu of criminal penalties, except for any violation that contributes to or is likely to contribute to the pollution of public or private water supplies or the contraction or spread of infectious, contagious, and dangerous diseases.**

**The Health Department may issue a civil summons ticket as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the Treasurer of Loudoun County, Virginia, prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.**

**If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation, the locality shall have the burden of proving by a preponderance of the evidence the liability of the alleged violator. An admission of liability or finding of liability under this section shall not be deemed an admission at a criminal proceeding.**

**(b) Except as otherwise provided in this section, whoever violates any provision of this ordinance is subject to the General Code Penalty provisions in Section 202.99 of the Codified Ordinances of Loudoun County.**

**(c) In addition to the enforcement of the penalties provided in this section, the Health Director may bring a civil action for injunction, abatement or any other legal or**

equitable remedy to prevent, enjoin, abate or remove a violation of the provisions of this chapter.

~~1066.99 — PENALTY:~~

~~(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)~~

APPENDIX I

Bond Requirements

Installation license	
Bond requirement	\$10,000.00
Septic tank cleaner	
Bond requirement	3,000.00
Pereolation test license	
Bond requirement	2,000.00

Note:

- ~~1. Licenses are issued annually and are not proratable.~~
- ~~2. Permit fees are not charged when existing, in use sewage disposal facilities are being upgraded or replaced.~~  
(Ord. 94 05. Passed 2 16 94.)

APPENDIX II

Minimum Distances

	Wells (Water Sources) (in ft.) ***Active Driveways Parking areas (in ft.)	Impound -ed Waters (in ft.)	Streams (in ft.)	Property Lines, (in ft.)	Base- ments Inground Pools (in ft.)	Top Edge of Banks and Cuts (in ft.) >3:1	*Sinkholes; Cave Openings; & Perennial Sinking Streams (in ft.)	*Other Karst/sen- sitive Features (except <b>developed</b> springs) (in ft.)
Subsurface Disposal	400 <b>5 c</b>	50	50 d	10 <b>b</b> ***	20	20 d	100 <b>a</b>	50 <b>a</b>

Field								
Septic Tank	50-5 c	50	50	10 b ***	10	10	100 a	50 a

Note: The above distances are the absolute minimum; where deemed necessary to protect the environment and public health, the Health Department may require greater distances.

**a See Section 1066.11(e)(5) for reduction**

~~applicable only within the Limestone Overlay District; such setback shall be reduced by up to 50% if the geophysical study, as required by Section 4-1905 of the Revised 1993 Zoning Ordinance, as amended, concludes that the risks of collapse and groundwater contamination are non-existent or insignificant for the proposed location and use, except that no reduction shall be approved for any perennial sinking stream, nor for any sinkhole, swallet, closed depression or cave opening that receives either a perennial or intermittent sinking stream. However, for a lot of record existing on February 17, 2010, an individual sewage disposal system for a principal residential structure may be permitted within the setback if it is constructed in compliance with Section 1066.11(e)(5) or 1066.11(e)(6), as applicable. Other Karst/Sensitive Features shall include Rock Outcrops, Underground Solution Channels within 45 feet of the surface, and other underground features that may affect the proposed development.~~

~~In addition, within the Limestone Overlay District subsurface disposal fields and septic tanks shall be located at least 1) one hundred (100) feet from a spring, measured from the first emergence of the spring or 2) two hundred (200) feet from a spring when the first emergence of the spring is on a slope greater than 15% and is downslope from the subsurface disposal field or septic tank, as applicable. However, for a lot of record existing on February 17, 2010, an individual sewage disposal system for a principal residential structure may be permitted within the setback if it is constructed in compliance with Section 1066.11(e)(7).~~

**\*\*\* b Distances to property lines may be reduced to 5 feet if a survey plat is provided and the applicable property lines are clearly marked in the field by a licensed surveyor both during permitting and construction.**

**\*\*\* c See 1066.12(a)5**

**d Distance may be reduced to minimums in the Virginia Administrative Code (VAC) if effluent is pretreated to TL2 or TL3.**

~~In such installations where Class I or Class II wells (as per Section 1040.12(b) of this Streets, Utilities and Public Services Code) are constructed, the 100 feet distance between the well and the subsurface disposal field may be reduced, provided that geological conditions indicate that such would be satisfactory.~~

(Ord. 94-05. Passed 2-16-94; Ord. 10-02. Passed 2-17-10.)

Recommended: \_\_\_\_\_ Date: \_\_\_\_\_.

Jerry Franklin, Supervisor  
Division of Environmental Health

Comments: \_\_\_\_\_.

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Approved: \_\_\_\_\_ Date: \_\_\_\_\_.

Vacant, Manager  
Division of Environmental Health

Comments: \_\_\_\_\_.

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Approved: \_\_\_\_\_ Date: \_\_\_\_\_.

David Goodfriend, MD, MPH  
Director

Comments: \_\_\_\_\_.

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Approved: \_\_\_\_\_ Date: \_\_\_\_\_.

Loudoun County Administration

## **Waivers To The Loudoun County Codified Ordinance 1066**

### **A. PURPOSE:**

To establish procedures for processing requests for waivers to specific requirements of Chapter 1066: Private Sewage Disposal Systems of the Loudoun County Codified Ordinances. Additionally this policy establishes guidelines for the issuance of waivers and standard forms used in applying for waivers. Changes to this policy require concurrence by the County Administrator.

### **B. BACKGROUND:**

[12VAC5-610-80](#) of the Code of Virginia requires that all occupied properties have an approved means of sewage disposal. Virginia’s [Sewage Handling and Disposal Regulations](#) (“Regulations”) (12VAC5-610-10 et seq.) spells out the requirements for approving an onsite sewage disposal system under State law. These regulations do not include waivers per se, but do allow for approval of applications that do not meet all Regulation requirements in two (2) circumstances:

1. [12VAC5-610-190](#) allows the Commissioner of Health to grant a variance to the requirements of an application that substantially complies with the Regulations if “the hardship imposed (may be economic) by this chapter outweighs the benefits that may be received by the public and that the granting of such variance does not subject the public to unreasonable health risks.”
2. [12VAC5-610-280](#) states that for an application for repair of an existing system, the Regulations “shall be complied with to the greatest extent possible.”

In addition to State regulations, localities are permitted to promulgate local ordinances pertaining to the approval and oversight of private sewage disposal systems so long as those ordinances are not less strict than that of the State Regulations. Where local ordinances exist, an onsite sewage disposal system application must meet both the State Regulations and County Ordinance requirements to be approved.

Chapter 1066 of the Loudoun County Codified Ordinances establishes local requirements for approval of onsite sewage disposal systems; the Health Department is required to administer this ordinance under the local government agreement between the Board of Health and Loudoun County. Chapter 1066.20 of the Loudoun County Codified Ordinance grants authority for the Director of Health to grant waivers to Chapter 1066.

**C. SCOPE**

This policy refers only to requests for waivers to Loudoun County Ordinance Chapter 1066 requirements for new construction applications. Repair applications that do not meet Chapter 1066 requirements do not require formal waivers. Variance requests for new construction applications that do not meet State Regulations shall follow the procedures established in [12VAC5-610-190](#).

**D. DEFINITIONS:**

“Environmental Health Specialist” means an employee of the Loudoun County Health Department who reviews environmental health submissions.

"New construction" means initial construction of an onsite sewage treatment system.

“Repair” means replacement of some or all components of an onsite sewage treatment system that are causing the system to fail or otherwise not function as designed.

“Voluntary Upgrade” means an owner of a non-failing onsite sewage treatment system makes application to improve the system.

“Waiver” means a reduction of the requirements of Chapter 1066.

**E. RESPONSIBILITY:**

It is the responsibility of all Loudoun County Health Department Staff to comply with this policy.

**E. POLICY:**

**1. Intent**

The intent is to review and approve requests in a consistent and defensible manner that best meets the needs of the applicant and the Loudoun County government, while protecting the public’s health.

**2. Application for a Waiver**

Waiver applications should use the attached Waiver Request Form. This form may be submitted along with the application, during the Health Department’s evaluation of the application, or in response to a denial of the application as a result of not complying with sections of Chapter 1066. Any denial based on noncompliance with Chapter 1066 shall include in the notification to the owner a process for requesting a waiver to those requirements (see template letter attached). The Health Department shall make a determination of a request for waiver within ten (10) business days of receipt and shall notify the owner of that determination and rationale.

**3. Criteria for Granting Waivers to Chapter 1066 Sections**

**a. Hardship**

Waivers to Chapter 1066 may be granted when full conformance with the Ordinance would result in severe financial hardship. (example: Cost of the action significantly exceeds the benefits of reduced public health risk achieved by compliance)

**b. Enhanced protection for public health**

If application is for a voluntary upgrade of an existing system that does not meet all requirements of Chapter 1066 and does not meet the definition of “repair”, but is either not functioning as designed or for which the owner is proposing a higher level of treatment. (example: replacement of a conventional system with an alternative system that does not meet all setbacks or standoffs)

**c. Intent of the ordinance is met**

The intent of Chapter 1066 is to establish standards for onsite sewage systems that best protect Loudoun County’s ground water and surface water, increase the likelihood that the systems will continue to function as designed, and minimize any adverse impact to the owner. If the intent of the ordinance is found to be met without strict compliance to all sections of 1066, a waiver may be considered. (Example: reduced setback to a driveway if protective measures are provided)

**4. Department Review of Waiver**

- a. An applicant or his/her designee may request a waiver, either verbally or in writing, to any of the following sections of Chapter 1066: 1066.04, 1066.05, 1066.07, 1066.08, 1066.09, 1066.10, 1066.11, 1066.12, 1066.13, 1066.14, 1066.16, 1066.17, Appendix I.
- b. If a waiver is requested, Health Department staff shall provide the applicant/owner with the attached Waiver Request Form via fax, email, mail or in person.
- c. Once page 1 of the Waiver Request Form is completed, the owner or his/her designee shall return a signed copy of the form to the Health Department by fax, by email, by mail or in person.
- d. The Health Department shall date stamp the Waiver Request Form the first work day it is received.
- e. The Environmental Health Specialist (EHS) assigned the application for that property shall be responsible for reviewing the waiver request, obtaining any additional information he/she may need to render a determination, and completing his/her section on page 2 of the Waiver Request Form, including a recommendation for approval or denial of request. The EHS shall then sign and date the form and submit to his/her supervisor for review.
- f. The EHS’s supervisor is then responsible for reviewing the documentation, obtaining any additional information he/she may need to render a determination, adding any pertinent comments and a recommendation for approval or denial of request, and then signing and dating the form for review by the Health Director.
- g. The Health Director is responsible for reviewing the full Waiver Request Form, including all comments by staff, obtaining any additional information necessary in rendering a decision, and either approving or denying the waiver request. The Health Director shall then sign and date the form and send back to the originating EHS to notify the owner.
- h. The originating EHS is responsible for notifying the owner in writing of the Health Department’s determination of his/her waiver request using the attached Waiver Determination Template, including the process for appealing any denial.
- i. Exceptions to the review process may occur if:
  - a. The EHS or supervisor is on leave or otherwise not available to review within two (2) business days of receiving the Waiver Request Form. In this instance,

that step shall be bypassed, so long as at least one EHS or Supervisor is available to review the waiver request. The Health Director's determination cannot be bypassed and, if not available, a covering Health Director shall make the determination.

- b. The waiver is submitted prior to a determination being made on the application and, in the view of Health Department staff, the waiver review process would put the Health Department out of compliance with the State's [15 day requirement to process an onsite sewage application](#).
- c. Both the applicant and Health Department agree to a different process.

**5. Appeal of Health Department Determination**

If the waiver request is denied, the owner can request a meeting with the Health Director to further discuss the waiver request and rationale for denial. If still unsatisfied, the owner can request that County Administration review the denial with the Health Department Director. Additionally, nothing precludes an owner from submitting additional waiver requests as conditions or justifications change.

**F. KEY WORDS:**

Waiver, chapter 1066

**G. EFFECTIVE DATE: 10/1/2016**

**Waiver Request Form**  
**for waivers to chapter 1066 of the Loudoun County Codified Ordinance**

Date of Request: \_\_\_\_\_

Property owner name: \_\_\_\_\_

Property Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ Email \_\_\_\_\_

Section(s) of the ordinance for which the waiver is requested (check all that apply): 1066.04

- 1066.05     1067.07     1066.08     1066.09     1066.10     1066.11  
 1066.12     1066.13     1066.14     1066.16     1066.17     Appendix 1

Justification for waiver request (check all that apply):

- Hardship  
 Enhanced protection for public health  
 Intent of the ordinance is met  
 Other (describe) \_\_\_\_\_

Please describe how your situation meets the waiver category(ies) checked off above:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of property owner or designee: \_\_\_\_\_

---

*Health Department Completes all Information Below this Line*

Date Received at Health Department: \_\_\_\_\_

How Received (circle one)? Mail    In Person    Email    Fax    Other \_\_\_\_\_

Environmental Health Specialist Review

Name: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Recommendation:

- Approval       Denial  
 Approval with Modification (s) \_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

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Environmental Health Supervisor Review

Name: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Recommendation:

- Approval       Denial  
 Approval with Modification (s) \_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

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Health Director Review

Name: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_

Determination:

- Approval       Denial  
 Approval with Modification (s) \_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

LOUDOUN COUNTY HEALTH DEPARTMENT – DIVISION OF ENVIRONMENTAL HEALTH  
STANDARD OPERATING POLICIES AND PROCEDURES

MM-DD-YYYY

**OWNER/APPLICANT'S NAME**  
**MAILING ADDRESS**  
**CITY, State, ZIP**

**CERTIFIED-RETURN  
RECEIPT REQUESTED**

**DENIAL**

**HEALTH DEPARTMENT PERMIT APPLICATION #: TXXXXXXXXXX**

**PIN NUMBER: XXX-XX-XXXX**

Owner/Applicant's Name:

The evaluation of the above referenced application was conducted in accordance with the applicable requirements set forth in the Commonwealth of Virginia Sewage Handling and Disposal Regulations and Alternative Onsite Sewage System Regulations, current requirements of the Loudoun County Private Sewage Disposal Systems and the Land Subdivision Development Ordinances, and current Virginia Department of Health (VDH) and Loudoun County Health Department (LCHD) policies and procedures for the evaluation of onsite sewage disposal systems. Based on the information filed with your application and the site and soil evaluations conducted by this department, your application does not satisfy the above-mentioned requirements. As a result, I regret to inform you that the **Enter type of submittal package** application package for the above referenced lot, submitted **MM-DD-YYYY**, is denied.

**Example Descriptions of Critical Errors & Code References**

[Example No. 1] Specifically, the proposed on-site system is not in accordance with Loudoun County Codified Ordinance Chapter 1066.12(a)1, since the installation depth in the proposed reserve area does not meet the required minimum four (4) feet setback distance to rock in the limestone overlay district. The design and area chosen must be adjusted to meet the minimum setback distance required

[Example No. 2] Specifically, in accordance with the Loudoun County Codified Ordinance Chapter 1066.12, a (4) the minimum square footage of a disposal system must be 600 square feet. The square footage indicated in your package is 420 square feet. The design and drainfield area must be adjusted to meet the minimum square footage required.

This department has conducted an expedited review of your submittal. Although we have endeavored to include all Health Department comments, additional comments may be forwarded on future revisions of the application package. In accordance with existing policy, you can submit one corrected new application within 90 days of receipt of this letter and avoid paying any additional fees. This fee waiver applies only one time. You may also submit a request to waive those aspects of Loudoun County Ordinance Chapter 1066 cited in accordance with section 1066.20. If you submit a new application and the deficiencies are not corrected or waived, or new deficiencies are identified, then the fee waiver will not apply to future applications. Please be certain that your next application fully complies with the applicable state and county regulations, ordinances and policies so that you can avoid paying additional fees.

The Commonwealth of Virginia Sewage Handling and Disposal Regulations can be found at <http://lis.virginia.gov/000/reg/TOC12005.HTM>. Chapter 1066 of the Codified ordinances of Loudoun County can be found at <http://www.loudoun.gov/DocumentCenter/Home/View/5678>.

If you believe that the denial of your application is not in accordance with applicable County Ordinances, you may challenge this decision before the Circuit Court of Loudoun County. Should a court of competent jurisdiction rule that your application is in conformance with applicable County Ordinances, please provide a copy of the Court's order and a proposed sewage disposal permit will be issued, if all other issues were also addressed.

Please do not hesitate to contact me with any questions that you may have concerning this matter. I can be contacted at **Phone Number**.

LOUDOUN COUNTY HEALTH DEPARTMENT – DIVISION OF ENVIRONMENTAL HEALTH  
STANDARD OPERATING POLICIES AND PROCEDURES

Sincerely,  
EHS Name

Environmental Health Specialist  
Division of Environmental Health

CC: Environmental Health Manager

DRAFT

Template Waiver Determination Letter

MM-DD-YYYY

**OWNER/APPLICANT'S NAME**  
**MAILING ADDRESS**  
**CITY, State, ZIP**

**CERTIFIED-RETURN**  
**RECEIPT REQUESTED**

**WAIVER DETERMINATION**  
**HEALTH DEPARTMENT PERMIT APPLICATION #: TXXXXXXXXXX**  
**PIN NUMBER: XXX-XX-XXXX**

Owner/Applicant's Name:

The evaluation of the above referenced waiver request was conducted in accordance with the applicable requirements set forth in Loudoun County Codified Ordinance Chapter 1066.20. Based on the information provided in your waiver request, the Health Department has determined that the waiver request has been approved/denied/approved with the following modification(s).

As a result of this determination {your application has been approved} {your application has been denied} { approved with the following modifications: \_\_\_\_\_ } {some other result}. If the waiver request has been denied or approved with modifications and you would like to challenge that determination, you can request a meeting with the Health Director to further discuss the waiver request and rationale for denial at the number below. If still unsatisfied, you can request that Loudoun County Administration review the denial with the Health Department Director. Additionally, nothing precludes you from submitting additional waiver requests as conditions or justifications change.

Please do not hesitate to contact me with any questions that you may have concerning this matter. I can be contacted at **Phone Number**.

Sincerely,  
**EHS Name**

**Environmental Health Specialist**  
Division of Environmental Health

CC: Environmental Health Manager