

ORDINANCE NO. 91

**AN ORDINANCE TO REGULATE PRIVATE SEWER SYSTEMS
WITHIN THE CITY AND TO DECLARE AN EMERGENCY
AND FOR OTHER PURPOSES**

WHEREAS, the City Council of the City of Goshen deems it advisable to establish regulations for the operation of private sewer systems within the City of Goshen.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GOSHEN:

SECTION 1. TITLE.

This Ordinance shall be known as the Private Sewer System Ordinance.

SECTION 2. DEFINITIONS.

For the purposes of this Ordinance, the following definitions shall apply:

a. **Operator of Record (OR):** The Operator of Record shall be an individual licensed at the appropriate level as determined by the Arkansas Department of Environmental Quality and who is responsible for the day to day operations, maintenance, testing, sampling, reporting, decision making and overall general oversight of the system infrastructure and operations of the sewer system. Operational decisions related to the system infrastructure shall be the sole responsibility of the Operator of Record.

b. **Privately-Owned Community Sewer System (POCSS):** Any sewer system serving more than one customer where a sewer treatment component or components services more than one residential, commercial or industrial unit and is owned and operated by an entity other than the City of Goshen, Arkansas or other municipality.

c. **Responsible Management Entity (RME):** Any person, persons, corporation, partnership, improvement district, or other entity that has the managerial, financial, technical, operational and legal oversight over any POCSS, including federal and state regulatory compliance, record keeping, operational control and decision making, reporting, maintenance, customer service and billing. The Responsible Management Entity shall be the managing entity of record on all correspondence, permits, contracts, customer agreements and other documentation.

d. **Sewer System Overflow (SSO):** Any discharge from the POCSS which bypasses approved pipes, treatment units, manholes or collection basins and finds its way onto roadways, drainage ditches or waters of the State.

e. System Infrastructure: All pipes, manholes, lift stations, force mains, treatment units, buildings, electrical equipment, pumps and equipment used to collect, transport, treat and discharge waste water.

SECTION 3. RECORD KEEPING.

All records required to be kept by this Ordinance shall be maintained at the office of the RME and shall be made available for inspection and copying by the public and the City during reasonable, regular business hours. The RME must keep and maintain the following records:

- a. Copies of all POCSS maps, plans, operation & maintenance documents and equipment manuals.
- b. A complete operation & maintenance log shall be kept for all POCSS components, including, but not limited to: frequency of inspection; maintenance performed and by whom; POCSS malfunctions; interruptions; SSOs; and treatment violations.
- c. The RME shall submit the following information and records to the City's Recorder-Treasurer within sixty (60) days of the effective date of this Ordinance or within thirty (30) days after any record is revised, amended or renewed.
 - i. Name and location of the land development to be served by said POCSS and the type of POCSS that is being utilized.
 - ii. Number of lots or units if applicable to be served by said POCSS.
 - iii. State or federal permits.
 - iv. Regulations, ordinances, rules or agreements governing sewer fees, connection fees, customer service fees, or other related charges.
 - v. Rate or fee that will be charged to the property owner or user to be served by said POCSS.
 - vi. Plans to enforce and collect the rate or fee to be charged
 - vii. Analysis of rates, including a breakdown for operations, debt service, administration, depreciation and reserves.
 - viii. Amount of reserves that will be built into any rate or fee along with evidence indicating how these reserves are adequate and appropriate to provide long-term sustainable system performance and compliance with permits.
 - ix. Name of RME that will own and retain the services of the OR of the POCSS.
 - x. Name and contact information for the OR.
 - xi. Names and addresses of all officers, board members and/or commissioners of the RME.

- xii. Names and addresses of all emergency contacts who may be contacted during any 24 hours period for emergency response.
- xiii. Names and contact information for all additional operators.
- xiv. Copy of the contract to be executed for the operation of the POCSS.
- xv. A copy of all plans and specifications for all System Infrastructure located within the City limits.
- xvi. Copies of insurance coverage on all System Infrastructure.
- xvii. An annual budget as approved by the RME
- xviii. An annual report, due by February 1st of every year, detailing the results of all water and soil testing done during the prior calendar year.
- xix. Documentation of all system malfunctions, interruptions of equipment, SSOs and treatment violations within 24 hours of occurrence.
- xx. A copy of all required reporting to ADEQ or Arkansas Department of Health.
- xxi. An annual report, due by February 1st of every year, showing the total amount billed and the total number of customers billed during the prior calendar year.
- xxii. A copy of an annual financial audit, conducted by a Certified Public Accountant. This audit shall be due no later than nine months following the close of a fiscal year.

SECTION 4. OPERATION AND MAINTENANCE.

- a. Every POCSS shall be maintained in a routine and adequate manner to ensure all equipment is operating sufficiently to collect, transport and treat the waste water discharged into the POCSS. Every POCSS shall comply with the rules and regulations of the Arkansas State Health Department and the Arkansas Department of Environmental Quality. All records required to be kept by EPA, ADEQ and Arkansas Department of Health regulations will be maintained. All facilities shall be operated so as to not create a public nuisance, public health hazard, pollution problem or noise problem. All POCSS components, including treatment facilities, pumping and electrical equipment shall be inspected no less than weekly and comply with the National Electrical Code.
- b. Every POCSS shall be maintained to prevent waste water backups, overflows, vector attraction and unhealthy conditions for customers, neighbors and operators of the POCSS.
- c. This section does not authorize the City to take ownership, permanently or temporarily, or to take over operation or maintenance of any POCSS.
- d. No subdivision that will utilize a POCSS may receive final plat approval until the developer has certified to the City Recorder-Treasurer that the POCSS is properly installed, fully licensed and completely operational and the information listed in Section 3 c, sub-paragraphs i

through xv, of this ordinance has been provided to the City's Recorder-Treasurer. The document entitled: "City of Goshen Subdivision Regulations" adopted by Ordinance 34 on June 2, 2003 and subsequently amended by Ordinances 41, 44, 49, 57, 61, 65, 71, 75, and 86 is hereby amended and all changes to said ordinances and regulations are incorporated in the previously adopted "City of Goshen Subdivision Regulations" by including this requirement in Section 2-11 of the City of Goshen Subdivision Regulations.

SECTION 5. FINANCIAL SECURITY.

a. The RME shall charge a sufficient rate or fee that includes reserves for operation and maintenance, emergencies, and capital improvements. The RME must demonstrate to the satisfaction of the City's Recorder-Treasurer, that it maintains adequate funds to effectively deal with any POCSS emergencies.

b. The RME shall create a reserve fund for major repairs and improvements. A minimum of 10% of the annual gross revenues shall be deposited into the fund yearly. This fund shall be used solely for major repairs, equipment replacement or system improvements and may not be used for general operating expenses.

c. The RME shall provide a performance bond, equivalent to one (1) year operating expenses, in the form of cash or surety bond, payable to the City in the event the RME fails to properly operate the POCSS. The bond shall require the bonding company to notify the City a minimum of 60 days prior to the expiration date of the bond.

SECTION 6. TRANSFER OF OWNERSHIP, ABANDONMENT OR MERGER.

The City shall be provided with a notice of intent to transfer ownership, abandon or merge no less than 90 days prior to the proposed transfer, abandonment or merger. The RME shall provide evidence that all POCSS customers have been notified and that all applicable paperwork has been filed with the appropriate regulatory bodies. The RME shall provide to the City the name and contact information for the transferee or merged entity. In addition, the RME must provide to the City a description of the transferee's or merged entity's experience at operating a waste water system, financial records, proof of insurance, copies of all contracts regarding the sale, abandonment or merger, a current inventory of all assets to be transferred and evidence of compliance with all federal, state and city requirements.

SECTION 7. PENALTY.

Any developer, RME or its officers, or owner of property on which a POCSS is situate, subject to this ordinance, who acts contrary to the requirements of this ordinance, shall be considered in violation of this ordinance. Any person who violates this ordinance shall be subject

to a fine or penalty up to \$250 for each violation. For purposes of this ordinance, each day of activity proscribed as unlawful under this ordinance shall be considered a separate violation for which the party violating the ordinance shall be subject. Any violation may form the basis of a citation to be issued by the City Marshal or may be enforceable by appropriate civil action and for such may be referred to the City Attorney who shall apply to the appropriate court for relief, seeking either penalties or injunctive relief as permitted by law. Such civil remedy shall include but is not limited to injunctive relief, civil sanctions, removal of the RME, preventing such RME, developer, owner, or OR from operating or in any other manner managing said POCSS, attorneys fees and any other costs related to any civil action.

SECTION 8. REPEALING CLAUSE.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.


SECTION 9. SEVERABILITY CLAUSE.

In the event any portion of this ordinance is declared inoperative or invalid as a result of a statute or judicial decision, then only that portion expressly so declared to be inoperative or invalid shall be affected thereby and all other provisions hereof shall remain in full force and effect.

SECTION 10. EMERGENCY CLAUSE.

Since there are no current regulations of private sewer systems located within the City of Goshen, this ordinance is deemed important for the immediate protection and preservation of the public peace, health, safety, and welfare of the citizens of Goshen, Arkansas. Therefore, an emergency is hereby declared and this ordinance shall be and take effect and be in full force immediately upon its passage, approval, and publication.

PASSED AND APPROVED this 13th day of July, 2010.



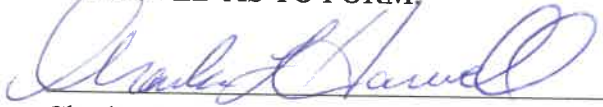
Joe Benson, Mayor

ATTEST:



Sharon Baggett, City Recorder

APPROVED AS TO FORM:



Charles L. Harwell, City Attorney

ROLL CALL VOTE ADOPTING THE ORDINANCE

Names Of Those Voting YEA

Names Of Those Voting NAY

Max Poye
Joshua Lockhart
Richard Seddon
Andy Bethell
Brian Buell

None

Absent

Paula Anderson

ROLL CALL VOTE ADOPTING THE EMERGENCY CLAUSE

Names Of Those Voting YEA

Names Of Those Voting NAY

Max Poye
Joshua Lockhart
Richard Seddon
Andy Bethell
Brian Buell

None

Absent

Paula Anderson