

Joseph K. Wood
County Judge



280 North College, Suite 500
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

February 27, 2017

MEETING OF THE
WASHINGTON COUNTY QUORUM COURT
COUNTY SERVICES COMMITTEE

Monday, February 27, 2017
5:30 p.m.
(Immediately following Public Works)
Washington County Quorum Court Room

A G E N D A

1. Call to Order
JP Eva Madison – Chair, County Services Committee.
2. Adoption of Agenda
3. Environmental Affairs
Director Michelle Viney
4. Northwest Arkansas Utility Services
Community Sewer System Ordinance – Tom and Kathy Bartlett (4.1)
5. ORT- Ozark Regional Transit
Joel Garner and Jeff Hatley
6. Selection of Chair
7. Other Business
8. Public Comments
9. Adjournment

2016 APR 25 AM 10:22
DEPUTY CLERK
CO. & PROBATE CLERK
WASHINGTON CO. AR

FILED

ORDINANCE NO. 2016-24

**BE IT ORDAINED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, AN ORDINANCE
TO BE ENTITLED:**

**AN EMERGENCY ORDINANCE CONCERNING
COMMUNITY SEWER SYSTEMS, WASHINGTON
COUNTY CODE 11-99.1.**

WHEREAS, the population growth in Washington County has resulted in a multiplicity of developments utilizing community sewer systems; and,

WHEREAS, said systems have been used in various places across the country for some time and statutes have been enacted regarding such; and,

WHEREAS, said systems are not new to the State of Arkansas and legislation had been passed regarding such; and,

WHEREAS, Washington County once had an extensive ordinance and regulatory system in place regarding community sewer systems, but the Quorum Court repealed the same in reliance on then-existing State law; and,

WHEREAS, the State largely repealed its regulation of community sewer systems with the passage of Act 575 of 2015; and,

WHEREAS, pursuant to ACA § 8-4-203, ACA §14-14-802, ACA §14-14-804, ACA §14-14-805, and ACA §14-236-105, the Quorum Court has the ability to regulate these systems to a certain extent; and,

WHEREAS, the Quorum Court recognizes that community sewer systems have a profound, dramatic and direct impact upon the health, safety and welfare of Washington County residents and upon the economic vitality of the communities they serve; it is therefore the intent of the Quorum Court that this ordinance and the regulations adopted pursuant hereto apply to all community sewer systems operating now and in the future within Washington County.

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF WASHINGTON COUNTY, ARKANSAS:

ARTICLE 1. Community Sewer Systems, also known as Decentralized Sewer Systems, are defined in Washington County Code 11-99.1(a) as follows:

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Any system serving two (2) or more individual lots for the collection and disposal of domestic or industrial wastewater of a liquid nature, including various devices for the collection, conveyance and treatment of the treated wastewater effluent and the monitoring of the affected groundwater quality and the management of the associated solid waste byproducts (septage and sludge).

ARTICLE 2. The Responsible Entities (RES) shall include, without limitation, the owner of the system, the permittee of State agencies with jurisdiction over the system, the person, persons, corporation, partnership or other entity that has the managerial, financial and technical oversight over any system, including without limitation, operations and management, permit compliance, recordkeeping, reporting, customer service, billing and collection and is fully responsible for the long-term cost effective operations in accordance with all applicable laws and regulations and performance requirements.

ARTICLE 3. The RES shall charge a sufficient rate or fee that includes reserves for operation and maintenance, emergencies, and capital improvements; the County Judge is hereby authorized to promulgate rules and regulations concerning such, and is also given the County Public Utilities Coordinator to administer all other terms of this Ordinance; and promulgate any additional regulations it deems necessary.

ARTICLE 4. The RES shall within ninety (90) days from the date of the enactment of this Ordinance report to the County Public Utilities Coordinator the following:

- (a) The name and location of the subdivision to be served by said system and the type of system that is being utilized;
- (b) The number of lots to be served by said system;
- (c) The rate or fee that will be charged to each property owner to be served by said system;
- (d) The 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;
- (e) The legal entity that will own and retain the services of the licensed operator of the system and the exact name, address, email address and phone number of said entity and operator;
- (f) A copy of the contract to be executed for the operation of the system;

- (g) Plans to enforce and collect the rate or fee to be charged; and,
- (h) Any other matter deemed relevant by the County Public Utilities Coordinator.

ARTICLE 5. The RES shall report to the County Public Utilities Coordinator, upon request, any matters relevant to the operation of said system including, but not limited to operation and maintenance issues, environmental issues, financial matters, customer service issues, and any other matter deemed relevant by the County Public Utilities Coordinator. A bond or other sufficient guaranty of financial security in an amount equal to or greater than five (5) years of estimated operating expenses for said system shall be posted by the RES in favor of the County to ensure compliance with this Ordinance and any regulations promulgated hereto.

ARTICLE 6. This Ordinance shall be applicable throughout the unincorporated area of the County including the extra-territorial growth area of any incorporated City. This Ordinance shall not be applicable in the event any such system is or becomes owned, maintained, or operated by an incorporated city or other public entity. In the event that an incorporated city or other public entity enacts ordinances or rules and regulations concerning said systems, then the more stringent provisions shall apply. Construction of any new Community Based Sewer System shall require the engagement of an Arkansas-licensed civil engineer at the contractor's expense. Said engineer shall be on-site during construction and shall provide the County Public Utilities Coordinator with weekly written updates as to the progress of construction until said system is complete. The engineer shall certify to the County that the system was built as designed and approved by ADEQ and/or ADH.

ARTICLE 7. The County is authorized to assess and collect a monthly fee from each RES, not to exceed two dollars (\$2.00) per water meter or tap, to defray the administrative expenses necessitated by enactment of this ordinance.

ARTICLE 8. Before or at the time of Preliminary Plat submittal to the County, the Developer must submit a report summarizing the soil findings and system proposals for review and comment to the Health Department and the Department of Environmental Quality. All comments regarding capacity issues must be addressed and approved prior Preliminary Plat approval.

ARTICLE 9. Each system installed in Washington County shall be designed in such a fashion to allow for a singular connection in the event that a municipal system becomes readily available at a future date.

ARTICLE 10. A violation of this Ordinance or any regulation promulgated hereto by the County Judge shall be enforceable by appropriate civil action by the County Judge. Such civil remedy shall include but is not limited to injunctive relief, civil sanctions, removal of the RES, the owner, and/or the operator from operating

or in any other manner managing said system; attorney's fees and any other costs related to any civil action.

ARTICLE 11. This Ordinance does not authorize the County, any County Department, Board, or Commission to take ownership, permanently or temporarily, or to take over operation or maintenance of any such system.

ARTICLE 12. Severability. If any sentence, clause, article, section, phrase or portion of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance.

ARTICLE 13. Retroactivity. The Quorum Court finds that community sewer systems, when mismanaged, constitute a threat to public health, safety and welfare, and that a lack of oversight of said systems on a local level magnify that threat. Therefore, this ordinance is deemed to be retroactive to the effective date of Act 575 of 2015.

ARTICLE 14. Emergency Clause. It is hereby ascertained and declared that regulations on community sewer systems are immediately needed for the preservation of the public peace, health and safety. Therefore, it is declared that an emergency exists and this Ordinance being necessary for the preservation of the public peace, health and safety shall be in force and take effect immediately upon and after its passage.



MARILYN EDWARDS, County Judge

4/25/16
DATE



BECKY LEWALLEN, County Clerk

Sponsor: Robert Dennis & Rick Cochran
Date of Passage: April 21, 2016
Votes For: 12 Votes Against: 0
Abstention: 0 Absent: 3