Regulation 61-57

DEVELOPMENT OF SUBDIVISION WATER SUPPLY

AND

SEWAGE TREATMENT/DISPOSAL SYSTEMS

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter
Commissioner

Effective April 23, 2004

SOUTH CAROLINA DEPARTMENT OF HEALTH
AND
ENVIRONMENTAL CONTROL

Regulation 61-57
Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems

CONTENTS

SECTION I - Purpose
SECTION II - Definitions
SECTION III - Scope And Applicability
SECTION IV - Need For Public Water and Wastewater Treatment Facility
SECTION V - Application And Approval Procedures
SECTION VI - Public Notices And Public Hearings
SECTION VII - Application Fees.
SECTION VIII - Contested Cases
SECTION IX - Enforcement
SECTION X - Penalties
SECTION XI - Severability Clause

SECTION I - Purpose

To protect public health by preventing the spread of diseases transmitted through wastewater or drinking water. To protect the environment by preventing contamination of ground water and surface waters of the State. To ensure that new subdivisions are provided with safe drinking water supplies and adequate sewage treatment and disposal systems.

SECTION II - Definitions

A. Approval: A written document issued by the Department setting forth the general conditions under which onsite wastewater systems may be used as the method of sewage treatment and disposal within a proposed subdivision. An approval issued under this regulation shall specify the method of water supply that will be required or allowed for the development. An approval shall not constitute a permit to construct or operate an onsite wastewater system, nor shall an approval constitute a permit to construct or operate a public water system.

B. Accessible: For the purpose of this regulation, public water system and/or wastewater treatment facility connection is accessible when it adjoins the property in question, and the authority has granted permission to connect to the system. Where annexation or easements to cross adjacent property are required to connect, the system shall not be considered accessible.

C. Department: The South Carolina Department of Health and Environmental Control acting through its authorized representatives.

D. Lot: A designated parcel of land situated within a subdivision intended for use as a building site.

E. Onsite Wastewater System: A sewage treatment and disposal system as defined in Regulation 61-56.

F. Person: Any individual, firm, company, business or association, or an agent acting on behalf of an applicant.

G. Public Notice: A statement notifying the public that approval is being sought to allow the use of onsite wastewater systems as the method of sewage treatment and disposal for a specific, proposed subdivision and offering the public an opportunity to provide the Department with comments pertaining to the proposed use of onsite wastewater systems within the development. The proposed method of water supply shall also be included in the public notice.

H. Public Water System: Any publicly or privately owned waterworks system, which provides drinking water for human consumption, as defined by Regulation 61-58, State Primary Drinking Water Regulations.

I. Subdivision: Any tract of land divided into five or more lots for the immediate or future purpose of building development where onsite wastewater systems are to be considered except where all of the lots are 5 acres or larger, regardless of the number of lots. This definition shall apply whether the lots are to be sold, rented or leased, but shall not apply to subdivisions that are served by wastewater treatment facilities. This definition shall not include the division, partition, or conveyance of property pursuant to a will, an intestacy statute, or the order of a probate judge.

J. Wastewater Treatment Facility: A publicly or privately owned system of structures, equipment and related appurtenances to treat, store, or manage wastewater.

SECTION III - Scope and Applicability

This regulation establishes procedures for the evaluation, approval and disapproval of subdivisions where the use of onsite wastewater systems is proposed as the method of sewage treatment and disposal. The standards that govern the construction and siting of onsite systems are included in Regulation 61-56.

SECTION IV - Need For Public Water And Wastewater Treatment Facility

A. If approved public water and/or wastewater treatment facility is accessible for connection or if the Department determines that the subdivision is not suitable for use of onsite wastewater disposal systems, subdivisions developed after the effective date of this regulation shall be served by public water and/or wastewater treatment facilities. In making determinations pertaining to the need for public water and wastewater treatment facilities, the Department shall consider the following:

1. The proximity of existing public water systems and/or wastewater treatment facilities to proposed development sites.

2. The condition and status of existing public water systems and/or wastewater treatment facilities. "Condition and status" in this context shall relate to service capacities and potentials, compliance histories and other factors as deemed appropriate by the Department.

3. Documented compliance with zoning, building and other codes and ordinances established by local governmental entities.

4. Documented compliance with the short-term and long-range plans of pertinent cities, towns, counties, public service districts, water and sewer authorities and other local governmental entities.

B. All public water systems and wastewater treatment facilities serving subdivisions shall be installed, operated and maintained in accordance with applicable laws, regulations and standards.

SECTION V - Application and Approval Procedures

A. No approval under this regulation shall be required for subdivisions that are served by wastewater treatment facilities.

B. No lots shall be sold and no permit for an onsite wastewater system shall be issued in any subdivision where onsite wastewater systems are proposed as the method of sewage treatment and disposal until the owner or agent has received a written subdivision approval from the Department.

C. Any person planning to develop a subdivision utilizing onsite wastewater systems shall first submit to the Department an Application for Subdivision Approval. The application shall contain accurate information that is needed in determining the feasibility of onsite systems. Should additional lots be added and/or lots re-subdivided at a later date from the original parent parcel, the proposed changes to the original plat must be submitted to the Department for subdivision review.

1. Each application shall be accompanied by a preliminary or boundary plat of the proposed subdivision. The plat shall be drawn to scale and shall include information needed to evaluate the potential to use onsite wastewater systems in the subdivision. Such information may include, but not be limited to: lot lines with dimensions, roads and streets, easements, location sketch, directional indicators, contours, watercourses and other features as deemed necessary.

2. In order to establish suitability for onsite wastewater systems, the Department may require an applicant to submit tests or information regarding site and soil conditions within the proposed subdivision. These may include, but not be limited to, backhoe pits, soil auger borings, soils classifications and other information as deemed necessary.

3. Each application shall include or be accompanied by a statement identifying the nearest public water system and wastewater treatment facility. Confirmation regarding the accessibility of these systems may be required by the Department.

D. In determining the feasibility of allowing the use of onsite wastewater systems, the Department shall consider those factors that can potentially affect the operation of such systems, public health and the environment. These factors include, but are not necessarily limited to: wastewater treatment facility accessibility, topographical conditions and natural features, soil conditions, depth to ground water and other restrictive horizons, proximity to surface waters, proposed method of water supply, size of lots, total number of lots, long-term maintenance needs of onsite wastewater systems and other factors as deemed appropriate. An approval under this regulation shall not be issued for any subdivision where the use of onsite wastewater systems is not feasible.

E. Each lot to be considered for an onsite wastewater system shall be of sufficient size to provide for the construction of the system; allow for all proposed buildings, easements, water wells governed by Regulation 61-71 and other improvements; and provide adequate space with suitable soil conditions for the full replacement or repair of soil absorption systems as required in Regulation 61-56.

F. Prior to the issuance of an approval, the owner shall submit to the Department a final, recordable plat of the subdivision. The final plat shall be prepared and signed by a Registered Land Surveyor or other similarly qualified person and shall include all information and features listed in paragraph C. of this Section. Where all lots in a subdivision or in a section of a subdivision contain five or more acres, the respective subdivision or section shall be exempt from the final plat requirements.

G. An approval may be rescinded if any changes are made to the final subdivision plat without prior authorization from the Department.

H. The approval of a subdivision may be rescinded if any site modifications are made that adversely affect the potential to use onsite systems in the development.

I. The re-subdividing of any lot situated within an approved subdivision shall be subject to the requirements of this regulation. The re-subdividing of lots shall not be approved and permits for onsite systems shall not be issued if the resultant increase in the number and density of onsite systems within the area of the subdivision would potentially pose a threat to public health and the environment.

SECTION VI - Public Notices and Public Hearings

A. The Department shall give public notice of applications to approve onsite wastewater systems as the method of sewage treatment and disposal in new subdivisions. Public notices under this regulation shall allow fifteen days for public comment, and all comments shall be considered. No approval or disapproval shall be issued prior to the end of the comment period. Public notice shall not be required for minor revisions to applications.

B. Each public notice of application shall contain the following information:

1. A brief description of the proposed subdivision and a statement that approval is being sought to use onsite wastewater systems as the method of sewage treatment and disposal in the development. The notice shall also specify the proposed method of water supply.

2. The beginning and ending dates of the public comment period.

3. The name of the person seeking approval of the subdivision.

4. The name, address and phone number of the office that is responsible for processing the application and accepting public comment.

C. Public notice of an application shall be given by the following methods:

1. Posting a sign at a conspicuous location at or near the entrance to the subdivision.

2. By mailing a copy of the notice to persons on a mailing list. Persons on a mailing list shall include those who have made written requests to receive public notices under this regulation and any local, state or federal governmental agency having jurisdiction over the area where the proposed subdivision is located. The Department may periodically update mailing lists.

3. The Department may employ additional methods of public notice where needed.

D. During the fifteen-day comment period, any affected individuals may file a petition with the Department for a public hearing on an application for subdivision approval. A petition for a public hearing must be submitted by affected individuals and must indicate the specific reasons why a hearing is requested and shall specifically identify which portions of the application or other information constitutes the necessity for a public hearing. If the petition contains sufficient information to question the proper functioning of onsite wastewater systems, the Department may direct the scheduling of a hearing.

1. Public notice of a hearing shall be issued at least fifteen days prior to the scheduled date of the hearing. Public notice of hearing shall be given by mailing a copy of the notice to persons on a mailing list and by posting the notice at or near the entrance to the proposed subdivision. Other methods of distribution may be used by the Department as needed. All comments submitted during a public hearing shall be considered by the Department.

2. In cases where a public hearing is conducted, the Department shall not approve or disapprove the application for subdivision approval until at least two business days following the conclusion of the hearing.

3. A tape recording or written transcript of the hearing shall be made available to the public.

SECTION VII - Application Fees

A. Each person applying for approval under this regulation shall pay to the Department an application fee. The fee shall be paid at the time of application and shall not be refundable.

B. Funds derived from these fees shall be used only for the provision of services and accompanying expenses associated with Environmental Health programs.

C. The fee shall be based on the number of proposed lots in the section or phase of a subdivision for which approval is sought and shall be in accordance with the following:

1. For subdivisions consisting of five to fifteen lots, the fee shall be $50.

2. For subdivisions consisting of sixteen to forty lots, the fee shall be $100.

3. For subdivisions consisting of more than forty lots, the fee shall be $150.

SECTION VIII - Contested Cases

Approval or disapproval of a subdivision application may be appealed as a contested case pursuant to the Administrative Procedures Act, Regulation 61-72, and procedures established by the Administrative Law Judge Division. Appeals shall be directed to the Clerk of the Board of Health and Environmental Control.

SECTION IX - Enforcement

This regulation is issued under the authority of Section 44-1-140 (11) and Section 48-1-10, *et. seq.* of the 1976 Code of Laws of South Carolina, as amended, and subsequent legislation.

SECTION X - Penalties

Violation of this regulation shall be punishable in accordance with Section 44-1-150, 48-1-320, and 48-1-330 of the 1976 Code of Laws of South Carolina, as amended, and each day of continued violation shall be a separate offense.

SECTION XI - Severability Clause

Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of said regulation shall not be affected thereby.

DHEC/BEH/OWM

04/2004