

# YAMHILL COUNTY CODE

## TITLE 10: BUILDING AND DEVELOPMENT REGULATION

### **Chapter 10.50: Yamhill County Septic System Enforcement Code**

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#### LEGISLATIVE HISTORY

#### **SECTION 1 - PURPOSE AND DEFINITIONS**

**10.50.01.01 Purpose.** The purpose of this Chapter is to implement the County's authority to enforce the subsurface sewage disposal program delegated to Yamhill County by the State of Oregon for onsite septic systems.

[ADOPTED VIA ORDINANCE NO. 940 eff 02/06/25]

**10.50.01.02 Specific Definitions.** As used in this Chapter:

- a) “**Board**” means the Yamhill County Board of Commissioners.
- b) “**County**” means Yamhill County.
- c) “**DEQ**” means the Oregon Department of Environmental Quality, or designee thereof, or its successor in title as applicable.

- d) “**Enforcement Officer**” means the person or persons designated by the Planning Director as the enforcer of this Chapter.
  - e) “**Planning Director**” means the Yamhill County Planning Department Director.
  - f) “**YCC**” means the Yamhill County Code.
- [ADOPTED VIA ORDINANCE NO. 940 eff 02/06/25]

## SECTION 2 - REGULATION OF COUNTY SEPTIC SYSTEMS

**10.50.02.01 Adoption of Statewide Rules and Regulations.** Except as specifically provided herein, all administrative rules which are duly existing and adopted by DEQ pursuant to ORS 454.605 through 454.755, including as amended, are hereby adopted as regulations by the County and shall have full force and effect as law in Yamhill County. Violations of this Chapter shall be measured by the technical and other standards found in said rules and regulations.

[ADOPTED VIA ORDINANCE NO. 940 eff 05/01/97; AMENDED VIA ORDINANCE 911 eff 11/05/20]

**10.50.02.02 Permits Required.** Except as specifically provided in the rules, it is unlawful and a violation of this Chapter to:

- a) Begin construction, installation, or development of any septic system without first obtaining a septic installation or alteration permit from the County;
- b) Place into service, change the use of, or increase the projected daily sewage flow into an existing septic system without obtaining either an authorization notice or an alteration permit, as appropriate, from the County; and/or
- c) Repair a septic system without first obtaining a septic repair permit from the County, except that emergency repairs may be made when sewage is backing up into a dwelling or commercial facility, or when there is a broken sewer pipe and immediate action is necessary, provided that a permit is obtained within three days after the emergency repairs are begun.

[ADOPTED VIA ORDINANCE NO. 940 eff 02/06/25]

**10.50.02.03 Compliance; Prohibited Conduct.**

- a) No person shall construct a subsurface sewage disposal system except in compliance with ORS Chapter 454 and rules promulgated thereunder.
- b) No person shall inhabit on or utilize land except in compliance with ORS Chapter 454 and rules promulgated thereunder.
- c) It is unlawful and a violation of this Chapter for any person to:
  - (i) Except where otherwise connected to a municipal sewer system, fail to treat or dispose of any sewage as required by this Chapter;
  - (ii) Discharge untreated or partially treated sewage or septic tank effluent directly or indirectly onto the ground surface or into any public waters;
  - (iii) Connect any plumbing fixture from which wastewater is or may be discharged into any sewage disposal system that has not been approved by the County;
  - (iv) Obstruct, cover, modify the soil covering, or otherwise affect a system replacement area without first obtaining approval from the County;
  - (v) Fail to abandon an on-site system, including a septic tank and system, when required to under the rules or fail to comply with the procedures and requirements for proper abandonment as provided in the rules;
  - (vi) Backfill, cover, connect to, or use, any system without first obtaining a certificate of satisfactory completion of construction, installation, repair, or alteration unless issuance of the certificate has been waived by operation of law;
  - (vii) Fail to meet requirements for satisfactorily complying with any correction notice within the time required;
  - (viii) Use any materials that do not comply with standards for on-site septic systems set forth in this Chapter, or as otherwise designated by DEQ;

- (ix) Falsify or fail to provide any information requested by the County of any applicant for a permit, variance, or hardship relief with the intent to evade or circumvent the procedures or standards established for regulation of on-site systems; and/or
- (x) Fail to comply with the terms or conditions of any permit including the duties imposed on permit holders by the rules.

[ADOPTED VIA ORDINANCE NO. 940 eff 02/06/25]

### SECTION 3 – ENFORCEMENT

#### **10.50.03.01 Authority to Enforce; Investigation; Right of Entry.**

- a) The Enforcement Officer is hereby delegated the authority to carry out the provisions of the Chapter, including those available to DEQ under the Oregon Revised Statutes and Oregon Administrative Rules.
- b) The Enforcement Officer shall, upon the written complaint of any person or upon the Enforcement Officer's own initiative, make an investigation to determine whether or not there is a violation of this Chapter.
- c) In making an investigation, the Enforcement Officer shall have the right of entry only in accordance with state and federal law and consistent with the following limitations:
  - (i) Entry may only be done at reasonable hours.
  - (ii) Before entering into any buildings or property, the Enforcement Officer shall first make reasonable efforts to notify the owner or occupant and obtain consent to enter.
  - (iii) In the event that consent to enter into buildings or upon property is not granted, or after reasonable efforts the Enforcement Officer is not able to contact the owner or occupant, the Enforcement Officer may seek an administrative inspection warrant as provided in YCC 1.10.05.
- d) If, after completion of the investigation, the Enforcement Officer determines that a violation of this Chapter exists, the Enforcement Officer shall engage in enforcement procedures pursuant to the provisions of this Chapter.

[ADOPTED VIA ORDINANCE NO. 940 eff 02/06/25]

#### **10.50.03.02 Notice.**

- a) Whenever the County has reasonable grounds for believing that any subsurface sewage disposal system, alternative sewage disposal system or nonwater-carried sewage disposal facility or part thereof is being operated or maintained in violation of this Chapter, it shall give written notice to the person or persons in control of such system or facility.
- b) The notice required under subsection (a) of this Section shall include the following information:
  - (i) Identification of the property;
  - (ii) Specific description of the alleged violation;
  - (iii) Length of time within which the owner and occupant have to fully comply with this Chapter;
  - (iv) A statement of the party's right to request a public hearing in accordance with YCC 2.65; and
  - (v) A statement that if the violation is not eliminated within the time specified, the violation will be referred to the Board of Commissioners for action, which could result in the County abating the violation and charging the costs of that abatement to the land upon which the violation is found by placing a lien thereon.
- c) The notice shall be served personally or by registered or certified mail and shall be accompanied by an order of the Planning Department requiring remedial action which will, if taken within the time specified in the order, ensure compliance with this Chapter. The order shall become final unless a request for hearing is made by the party receiving the notice within 10 days from the date of personal service or the date of mailing of the notice.

[ADOPTED VIA ORDINANCE NO. 940 eff 02/06/25]

### **10.50.03.03 Public Hearing.**

- a) If a public hearing is requested by the owner or occupant, or if the violation is not otherwise eliminated within the time specific in the notice required under YCC 10.50.03.01, the Enforcement Officer shall arrange for a public hearing with the Board in accordance with the provisions of YCC 2.65. When a public hearing is so required, the Enforcement Officer shall:
  - (i) Make a written report to the Board setting forth the findings of fact and conclusions of the investigation and providing the Board with written recommended actions; and
  - (ii) Not less than 14 days prior to the hearing date, issue notice to the owner and/or occupant, by registered and certified mail, of the time and place of the public hearing. Within such notice, the Enforcement Officer shall include a copy of the written report required under subsection (i).
- b) At the time and place scheduled in the notice, the Board shall hold a hearing on the alleged violation of this Chapter and shall have the power to subpoena witnesses and compel their attendance.
- c) If the Board finds a violation to exist, it shall declare the existence of a violation by order entered in its journal and shall order the violation abated within 30 days after the entry of its order.
- d) If the owner or occupant of the property fails to abate the violation within 30 days of the order, the Board may either refer the matter to the Yamhill County Counsel's office for appropriate legal action, or it may cause the violation to be abated and have the costs thereof charged to the owner of the property through a lien on the property in accordance with YCC 10.50.03.04.

[ADOPTED VIA ORDINANCE NO. 940 eff 02/06/25]

### **10.50.03.04 Abatement; Property Lien.**

- a) In abating a violation of this Chapter, the County and its employees shall not be liable for either trespass or conversion.
- b) The Enforcement Officer shall keep an accurate record of expenses incurred by the County in abating the violation. The Enforcement Officer shall forward to the property owner, by registered and certified mail, a notice of abatement, to include:
  - (i) The total cost of the nuisance abatement;
  - (ii) A statement that the cost will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice; and
  - (iii) An objection to the cost of the abatement may be filed with the Board not more than 14 days from the date of the notice.
- c) If a written statement of objection to the notice of abatement costs is provided to the Board within 14 days of the notice, the Board shall, at the next regularly scheduled Board meeting, hear the objections and shall determine whether an adjustment of the assessment should be made.
- d) If the costs of the abatement are not paid within 90 days from the date of the notice, or else within 90 days from the date of the determination by the Board of the assessed cost, or as otherwise ordered by the Board, an assessment of the costs shall be made by resolution and shall be entered in the lien docket of Yamhill County. The amount of the charges and expenses shall constitute a valid lien upon the land or premises and shall have the same effect and may be enforced as provided in ORS 205.125 and ORS 205.126.

[ADOPTED VIA ORDINANCE NO. 940 eff 02/06/25]

### **10.50.03.05 Appeals; Other Remedies Preserved.**

- a) Appeals from orders of the Board under this Chapter shall be by writ of review to the Yamhill County Circuit Court.
- b) The provisions of this Section 10.50.03.05 are in addition to, and not in lieu of, any other penalties or remedies otherwise provided by law.

[ADOPTED VIA ORDINANCE NO. 940 eff 02/06/25]

## **SECTION 4 – APPLICATION & SEVERABILITY**

**10.50.04.01 Application.** This Chapter shall apply to all of unincorporated Yamhill County and shall also apply within a city when the governing body or the electors of the city have consented to the application of the Chapter.

[ADOPTED VIA ORDINANCE NO. 940 eff 02/06/25]

**10.50.04.02 Severability.** If any section, subsection, clause, or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The County declares that it would have enacted this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

[ADOPTED VIA ORDINANCE NO. 940 eff 02/06/25]

<b>LEGISLATIVE HISTORY</b>
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Adopted via Ordinance No. 940 on 02/06/2025, effective 02/06/2025