ON-SITE WASTEWATER SYSTEMS ORDINANCE

OF

LINCOLN COUNTY, SOUTH DAKOTA

ADOPTED BY ORDINANCE OF

LINCOLN COUNTY BOARD OF COUNTY COMMISSIONERS

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# TABLE OF CONTENTS

**ARTICLE 1: GENERAL PROVISIONS**
- Section 101. Title
- Section 102. Purpose and Intent
- Section 103. Authority
- Section 104. Severability
- Section 105. Definitions

**ARTICLE 2: ON-SITE WASTEWATER SYSTEM CERTIFICATE OF COMPLIANCE**
- Section 201. Certificate of Compliance Required
- Section 202. Certificate of Compliance
- Section 203. Activities Requiring a Certificate of Compliance
- Section 204. Emergency Repairs
- Section 205. Activities Not Requiring a Certificate of Compliance
- Section 206. Certificate of Compliance Application Requirements
- Section 207. Certificate of Compliance Application Review and Response
- Section 208. Certificate of Compliance Required to Obtain Building Permit
- Section 209. Construction and Inspection in Compliance with Issued Certificate of Compliance
- Section 210. Certificate of Compliance Application Fee

**ARTICLE 3: ADMINISTRATION AND ENFORCEMENT**
- Section 301. Powers and Duties
- Section 302. Record Keeping
- Section 303. Right of Entry
- Section 304. Stop Order and Injunction
- Section 305. Violation and Penalty
ARTICLE 1
GENERAL PROVISIONS

Section 101. Title

These regulations shall be referred to as the On-Site Wastewater Systems Ordinance of Lincoln County.

Section 102. Purpose and Intent

The regulations in this Ordinance incorporate the law and regulations adopted by the State of South Dakota, and its agency, South Dakota Department of Environment and Natural Resources, for purposes of governing the installation, use and operation requirements applicable to "on-site wastewater systems" within the unincorporated areas of the County. The intent is to protect the ground waters and surface waters of the County, and downstream users, from pollution or contamination.

Section 103. Authority

This Ordinance is enacted pursuant to the authority granted in SDCL Chapters 7-8 and 7-18 to protect the public health, safety and welfare of the citizens of Lincoln County.

Section 104. Severability

If any section, clause, provision or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.
Section 105. Definitions

For the purposes of this Ordinance, certain terms and words are hereby defined. Unless otherwise noted, all terms contained in this Ordinance are defined by their plain meaning.

1. **ADMINISTRATIVE OFFICIAL.** The Planning Director or agent is responsible for the administration and enforcement of this Ordinance.

2. **AS-BUILT.** Drawings and documentation specifying the final in-place location, elevation, size and type of all system components. These records identifying the results of materials testing and describe conditions during construction. Information provided must be verified by a certified statement.

3. **BOARD.** The Board of Lincoln County Commissioners.

4. **CERTIFICATE OF COMPLIANCE.** A written authorization, which authorizes a person to construct, install or modify an on-site wastewater treatment system in compliance with this Ordinance.

5. **DEPARTMENT.** The Lincoln County Planning and Zoning Department.

6. **EMERGENCY REPAIR.** The modification, extension or replacement of an on-site wastewater system requiring more than a minor repair due to a sudden structural or mechanical failure which prevents the disposal of sewage from plumbing fixtures.
7. **INSTALLER.** Any person that has received certification through the State of South Dakota’s Department of Environment and Natural Resources Installer Certification Program prior to any installation of on-site wastewater systems in Lincoln County.

8. **ON-SITE WASTEWATER SYSTEM.** A system designed to contain, distribute, or treat wastewater on or near the location where the wastewater is generated, including sewers, septic tanks, absorption fields, No dak systems, seepage pits, vault privies, holding tanks, subsurface sand filters, graywater systems, pumping stations, dosing chambers, and related equipment.

9. **OWNER.** A person who is the owner of record of the land on which an individual or small on-site wastewater system is to be or has been designed, constructed, installed, altered, extended, or operated.

10. **PERCOLATION TEST.** A soil test at the depth of a proposed absorption system to determine the water absorption capability of the soil, the results of which are normally expressed as the rate at which one inch of water is absorbed over an interval of time.

11. **PERSON.** An individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission or political subdivision of a state.
ARTICLE 2
ON-SITE WASTEWATER SYSTEM CERTIFICATE OF COMPLIANCE

Section 201. Certificate of Compliance Required

It is unlawful for any person to construct, install, modify or replace an on-site wastewater treatment system without the appropriate Certificate of Compliance from the Department. The issuing of any Certificate of Compliance under the provisions of this Ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

Section 202. Certificate of Compliance

A Certificate of Compliance shall be obtained by the property owner or an agent of the property owner from the County prior to installation, construction, replacement, modification, alteration or capacity extension of an on-site wastewater treatment system. The purpose of the Certificate of Compliance is to ensure that the proposed construction activity is sited, designed and constructed by an appropriately certified and/or licensed practitioner(s).

Section 203. Activities Requiring a Certificate of Compliance

A Certificate of Compliance is required for installation of a new on-site wastewater treatment system, for replacement of an existing on-site wastewater treatment system or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system or otherwise change the original system’s design, layout or function.
Section 204. Emergency Repairs

Emergency repairs or the removal of stoppages in an on-site wastewater system may be performed without a Certificate of Compliance provided such work is reported to the Department within five (5) working days after beginning emergency repairs. The installer hired by the applicant is encouraged to file information regarding the repairs and/or an As-Built with the Department when the emergency repairs of the system are complete.

Section 205. Activities Not Requiring a Certificate of Compliance

A Certificate of Compliance is not required for:

1. Installation or repair of the solid sewer pipe from the building to the septic or holding tank. Including sewer mains and collection systems installed in front of on-site wastewater treatment systems.

2. Installation or repair of the solid sewer pipe from the septic tank to the first distribution or drop box.

3. Repair or replacement of pumps, floats or other electrical devices of the pump.

4. Repair or replacement of baffles in the septic tank.
Section 206. Certificate of Compliance Application Requirements

Certificate of Compliance applications shall be made on forms provided by the Department and signed by the applicant and an appropriately certified practitioner including the practitioner’s certification number and date of expiration. The applications shall include the items listed below.

A. Name, mailing address, telephone number of the owner, engineer and installer.

B. Property identification number and address or other description of the property.

C. A design and engineer report prepared by a State of South Dakota Registered Engineer.

D. Design data, percolation tests or soils analysis test and one (1) copy of the plan, specifications and other pertinent information pertaining to supplies and equipment to be used in construction of the on-site wastewater treatment system.

E. A certified statement that the on-site wastewater treatment system is designed in conformity with applicable state law and regulations, and the requirements of this Ordinance.

F. Other relevant information requested by the Department as necessary to properly evaluate the application.
Section 207. Certificate of Compliance Application Review and Response

The Department shall review an application and supporting documents. Upon satisfaction that the application conforms to the provisions of this Ordinance, the Department shall issue a written Certificate of Compliance. If the application is incomplete or does not meet the requirements of this Ordinance the Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.

Section 208. Certificate of Compliance Required to Obtain Building Permit

For any property on which a Certificate of Compliance is required, approval of a valid Certificate of Compliance application must be obtained before a building or zoning permit may be issued by the Department.

Section 209. Construction and Inspection in Compliance with Issued Certificate of Compliance

All construction, installation or modification of any on-site wastewater treatment system shall be in accordance with the design and engineer report, South Dakota Codified Laws, Administrative Rules of South Dakota and the design and engineer report. Inspections shall be conducted at least once by the applicant’s engineer during the construction of the on-site wastewater treatment system at such time as to ensure that the system has been constructed per submitted and approved design or acceptable changes. The installer hired by the applicant shall file a signed As-Built, including photographs of the system prior to covering, with the Department when the installation of the system is complete. The As-Built shall include a certified statement that the work was installed in accordance with the acceptable design and that it was free from defects. In order to aid in the location of below ground components, all new or replacement on-site wastewater treatment systems shall have a tracer wire system installed.
Section 210. Certificate of Compliance Application Fee

A non-refundable fee for the filing of Certificate of Compliance applications may be established and adjusted by resolution by the Lincoln County Board of Commissioners.
ARTICLE 3
ADMINISTRATION AND ENFORCEMENT

Section 301. Powers and Duties

The Administrative Official is hereby authorized and directed to enforce all the provisions of this Ordinance and establish rules for its administration. The Administrative Official may designate technical officers and/or inspectors or other employees that shall be authorized to assist in the administration and enforcement of this Ordinance.

Section 302. Record Keeping

The County shall maintain a current record of all Certificate of Compliance systems. The record shall contain all Certificate of Compliance applications, issued Certificate of Compliance, fees assessed, site evaluation reports, design reports, record drawings and other records relevant to each system.
Section 303. Right of Entry

Whenever necessary to make an inspection to enforce any of the provisions of this Ordinance, or whenever the Administrative Official or an authorized representative has reasonable cause to believe that there exists upon any premises an Ordinance violation, the Administrative Official or an authorized representative may enter such premises at all reasonable times to inspect the same or to perform any duty imposed upon the Administrative Official by this Ordinance, provided that if such property be occupied, the Administrative Official shall first present proper credentials and request entry; and if such property be unoccupied, the Administrative Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the property and request entry. If such entry is refused, the Administrative Official or an authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Administrative Official or an authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any property shall fail or neglect, after proper request is made as herein provided, to promptly permit entry thereon by the Administrative Official or an authorized representative for the purpose of inspection and examination pursuant to this Ordinance.

Section 304. Stop Order and Injunction

Whenever any work is being done contrary to the provisions of this Ordinance, the Administrative Official may order the work stopped by notice in writing served on any persons engaged in or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Administrative Official to proceed. In the event of a violation or threatened violation of this Ordinance, the Administrative Official, may institute injunction or other appropriate action or proceedings, in addition to other remedies, to prevent the unlawful construction or modification of any on-site wastewater treatment system.
Section 305. Violation and Penalty

Any person or his contractor constructing or modifying an on-site wastewater system without a Certificate of Compliance, if a Certificate of Compliance is required under the provisions of this Ordinance, is punishable by a fine and/or imprisonment pursuant to SDCL 7-18A-2. Each day the violation continues shall constitute a separate violation. The date of the first violation shall be the date upon which the property owner first received notice of violation.