

STATE OF NEW MEXICO  
COUNTY OF LEA  
ORDINANCE NO. 83

LIQUID WASTE

AN ORDINANCE ESTABLISHING THE COUNTY'S AUTHORITY TO ENFORCE LAWS APPLICABLE TO ON-SITE LIQUID WASTE SYSTEMS, ISSUE CITATIONS FOR UNPERMITTED OR NON-COMPLIANT LIQUID WASTE SYSTEMS AND APPROVE INSTALLATION AND OPERATION OF CERTAIN LIQUID WASTE SYSTEMS

**WHEREAS**, the County of Lea has the power and authority to provide for the health, safety, welfare, and comfort of its inhabitants; and

**WHEREAS**, the County of Lea desires to protect the health and welfare of present and future residents by providing for the prevention and abatement of public health hazards and surface and ground water contamination from on-site liquid waste disposal practices; and

**WHEREAS**, the County of Lea desires to safeguard, protect and preserve its environment, lands, wildlife and ground water resources from liquid waste pollution, contamination and/or the risks thereof; and

**WHEREAS**, the County of Lea recognizes unsafe and unhealthy conditions would result from unlawful or non-compliant disposal of liquid waste in Lea County; and

**WHEREAS**, the County of Lea desires to minimize the negative community impacts associated with certain types of liquid waste systems which rely upon or utilize evaporation, such as a wastewater lagoon; and

**WHEREAS**, the County of Lea encourages cooperation between the County and the New Mexico Environmental Department, which has certain responsibilities related to the permitting of liquid waste systems and discharge permits.

**NOW THEREFORE**, be it ordained by the Board of Commissioners of Lea County, New Mexico that the following policies, terms and conditions governing the proper storage, treatment and disposal of liquid waste generated within the County shall have the force of law. Further, the County Manager and Staff are hereby authorized to take all actions they deem necessary to affect and carry out the policies, terms and conditions of this Ordinance.

**Section 1. Short Title**

This Ordinance shall be known and may be cited as the "Lea County Liquid Waste Ordinance."

**Section 2. Authorization**

This Ordinance is adopted pursuant to the authority granted to Lea County under NMSA 1978, Section 4-13-1 et seq.

**Section 3. Jurisdiction**

This Ordinance applies to all residential and commercial properties located in the unincorporated areas of the County.

**Section 4. Definitions**

For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**"adjacent properties"** means properties that are contiguous to the discharge site or property that would be contiguous to the discharge site but for being separated by a public or private right of way, including roads and highways.

**"cesspool"** means an excavation or non-watertight unit that receives untreated water-carried liquid waste allowing direct discharge to the soil.

**"department"** means the New Mexico Environmental Department or any successor agency with responsibility for regulating liquid waste.

**"discharge permit"** means a discharge plan approved by the department.

**"enclosed system"** means a watertight on-site liquid waste system that does not discharge to the soil, including, but not limited to, holding tanks and lined evapotranspiration systems.

**"liquid waste"** means the discharge of wastewater from any residential or commercial structure and includes without limitation human excreta and water carried waste from plumbing fixtures, including, but not limited to, wastes from toilets, sinks, showers, baths, clothes- and dish-washing machines and floor drains; liquid waste also includes non-water carried wastes discharged into holding tanks, privies and vaults; specifically excluded from the definition of liquid waste are industrial process wastewaters, roof drainage, mine or mill tailings or wastes.

**"liquid waste system"** means all liquid waste treatment units and associated disposal systems, or parts thereof, serving a residential or commercial unit on a lot, including enclosed systems, holding tanks, vaults and privies but do not include systems or facilities designed to receive or treat mine or mill tailings or wastes.

**"on-site liquid waste system"** means a liquid waste system located on the lot where the liquid waste is generated.

**"owner"** means any person who owns an on-site liquid waste system or any component thereof, or any lot upon which any on-site liquid waste system or any component thereof is located.

**"permit/permitted"** means a written approval from the Department to install, modify or operate an on-site liquid waste system.

**"wastewater"** means **"blackwater"**, which is waste from any liquid flushing toilet, urinal, kitchen sink, dishwasher or laundry waste from the washing of material soiled with human excreta, such as diapers, from both residential and commercial structures that have sewage producing fixtures, as well as **"graywater"**, which is untreated water from a residential or commercial structure that has not come in contact with toilet waste; **"graywater"** includes wastewater from bathtubs, showers, washbasins, clothes washing machines and laundry tubs, but does not include wastewater from kitchen sinks, dishwashers or laundry water from the washing of material soiled with human excreta, such as diapers.

### Section 5. Liquid Waste Disposal Requirements

- 5.0 Every owner shall be responsible for the storing, treating and disposing of liquid waste generated on that property in compliance with all applicable federal, state and local laws, regulations, rules and requirements. Where multiple different requirements apply, the owner shall comply with the most stringent requirements.
- 5.1 On-site liquid waste systems that are designed to receive and do receive two thousand (2,000) gallons or less of liquid waste per day, and that do not generate discharges that require a discharge plan pursuant to applicable law shall be subject to the requirements of 5.2 below.
- 5.2 No person shall discharge untreated liquid waste except into:
- (i) an enclosed system permitted by the Department;
  - (ii) a liquid waste treatment unit permitted by the Department; or
  - (iii) a public sewer system, except for the discharge, as otherwise allowed under applicable New Mexico law, of "gray water" as such term is defined under applicable law.

No person shall discharge liquid waste or effluent into a cesspool.

- 5.3 On-site liquid waste systems that are designed to receive or do receive more than two thousand (2,000) gallons of liquid waste per day, or that generate discharges which require a discharge plan pursuant to applicable law shall be subject to the requirements of 5.4 and 5.5 below.
- 5.4 No person shall install an on-site liquid waste system of the type described in Section 5.3, or discharge untreated liquid waste from such a system or otherwise, on the property where such waste is generated, except:
- (i) pursuant to a discharge permit from the Department; and
  - (ii) as approved by the County when such approval is required under Section
- 5.5 Any person required to apply for a discharge permit of liquid waste as stated in paragraph 5.3, who seeks to install an on-site liquid waste system which incorporates in the design some form of evaporative impoundment or lagoon, must also provide a written submittal to the County for review and approval prior to beginning any discharge pursuant to any permit issued by the Department. The written submittal shall be made to the County Environmental Board and shall include the following information regarding the proposed liquid waste system:
- a. measures that will be implemented to mitigate public health concerns
  - b. measures that will be implemented to minimize air borne bacteria or particles
  - c. established vector control plan and schedule
  - d. geographical analysis of the nearest established wastewater connection and the estimated cost to connect to the system
  - e. geographical analysis of existing dwellings or developed subdivisions and adjacent properties
  - f. odor mitigation plan
  - g. safety plan
  - h. ground water protection plan

Within thirty (30) days of receiving the applicant's submittal, the Environmental Board will inform the applicant whether the submittal is deemed complete. The Environmental Board may request additional information if the submittal is deemed incomplete. The Environmental Board will review the submittal once all required information has been provided. Once the submittal is deemed complete and reviewed by the Environmental Board, the submittal will be presented to the Board of Commissioners for final action. Approval of the application may be conditioned upon the implementation of design features and/or operational procedures and safeguards deemed necessary to prevent and abate the public health hazards and negative effects associated with the presence of such a liquid waste system.

### **Section 6. Violations and Enforcement**

- 6.0 Any failure to comply with a requirement or regulation of this Ordinance shall constitute a violation of this ordinance.
- 6.1 Pursuant to NMSA 1978 Sections 4-37-3 and 4-37-4, violation of this Ordinance may be enforced through the issuance of a citation by a Technician of the County Environmental Services Division.
- 6.2 Pursuant to NMSA 1978 Section 4-37-3, violation of this Ordinance may be prosecuted in any court of competent jurisdiction within the County and shall be punishable by a fine of up to five hundred dollars (\$500) for the first offense. For second and subsequent offenses, a fine of up to five hundred dollars (\$500) and imprisonment for up to ninety days or both the fine and imprisonment may be imposed, except where the violation involves the improper or illegal disposal of hazardous materials or waste in any manner other than as provided for in the New Mexico Hazardous Waste Act, which violation is punishable by a fine of up to \$5,000 .00.
- 6.3 In addition to the penalties set forth above, the County may seek an order from any court of competent jurisdiction within the County requiring a violator to perform, or refrain from performing, certain conduct related to this Ordinance.

### **Section 7. Repealer**

All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent with this Ordinance are repealed by this Ordinance but only to the extent of that inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, previously repealed.

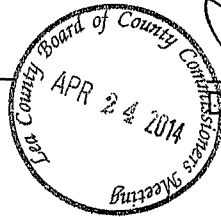
PASSED, APPROVED, SIGNED AND ADOPTED this 24<sup>th</sup> day of April, 2014

LEA COUNTY BOARD OF COUNTY COMMISSIONERS

Gregory H. Fulfer  
Gregory H. Fulfer, Chairman

Ron R. Black  
Ron R. Black, Vice Chairman

Michael S. Whitehead  
Michael S. Whitehead, Member



Dale G. Dunlap  
Dale G. Dunlap, Member

\_\_\_\_\_  
Vacant, Member

ATTEST: Pat Chappelle  
Lea County Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: Kelli Williams  
Kelli Williams, Deputy

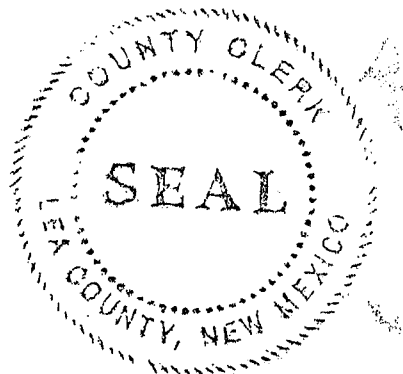
Lee A. Kirksey  
Lee A. Kirksey, County Attorney



STATE OF NEW MEXICO  
COUNTY OF LEA  
FILED

APR 24 2014

at 3:33 o'clock P M  
and recorded in Book \_\_\_\_\_  
Page \_\_\_\_\_  
Pat Chappelle, Lea County Clerk  
By: Sandoval Deputy



18622