

COMMONWEALTH OF KENTUCKY
OLDHAM COUNTY
ORDINANCE NO. KOC 06-830-349

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AN ORDINANCE AMENDING THE EXISTING OLDHAM COUNTY SUBDIVISION REGULATIONS TO REQUIRE THAT THE ADEQUACY OF WASTEWATER TREATMENT CAPACITY TO ACCOMMODATE NEW DEVELOPMENT BE CONSIDERED IN THE APPROVAL PROCESS.

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WHEREAS, Oldham Fiscal Court has the authority pursuant to the provisions of KRS Chapters 67, 100, and other applicable law to amend ordinances; and

WHEREAS, Oldham County, served by sanitary sewer service providers, has for the past several decades been experiencing rapid growth in population; and,

WHEREAS, this rapid growth, and that which is anticipated, creates a demand for additional wastewater treatment capacity to accommodate new developments; and,

WHEREAS, the responsibility for planning and constructing wastewater treatment facilities lies primarily with the various sanitary sewer service providers; and,

WHEREAS, the Oldham County Planning and Zoning Commission desires to provide a mechanism to assure that, to the extent possible, new development will take place when there is adequate wastewater treatment capacity available, or planned, which will accommodate such new development; and,

WHEREAS, the Oldham County Planning and Commission, representing the legislative bodies: Oldham County Fiscal Court, the City of Crestwood, the City of LaGrange, and the City of Pewee Valley, needs to ensure that new growth within Oldham County occurs at a pace that allows sanitary sewer service providers to provide adequate facilities to serve such new developments; and,

WHEREAS, Oldham Fiscal Court did advertise and conduct a hearing on the requested amendment to the Oldham County Subdivision Regulations, and said Fiscal Court having voted to grant requested amendment at it's regular meeting conducted January 3, 2006.

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF OLDHAM, COMMONWEALTH OF KENTUCKY, THAT:

The Oldham County Subdivision Regulations are hereby amended by **adding** a new Section 8.16 as follows:

ADEQUATE WASTEWATER TREATMENT FACILITIES

Section 1: Purpose

The purpose of this section is to ensure that, to the maximum extent practical, approval of new developments will be granted by the Oldham County Planning and Zoning Commission only when it can reasonably be expected that adequate wastewater treatment capacity will be available to accommodate such new developments.

Section 2: Wastewater Treatment Facility and Capacity Consideration

As part of the consideration of any request for major subdivisions, available wastewater treatment facilities and capacity shall be considered. Available wastewater treatment facilities with capacity inadequate to accommodate the average daily flow of wastewater generated by a proposed project may be considered grounds for denial of a subdivision request.

Section 3: Wastewater Treatment Capacity Defined

Wastewater treatment capacity shall be quantified (in gallons per day) using figures, data or other information provided by the applicant's licensed engineer.

The Existing Average Daily Flow shall be calculated by using the average daily flow of the subject wastewater treatment facility from the Discharge Monitoring Report (DMR) for the last twenty-four (24) months. The Approved Average Daily Flow shall be calculated based on the projected average daily flow for all approved developments not yet connected to the subject wastewater treatment facility. The Proposed Average Daily flow shall be calculated based on the projected average daily flow of the proposed development.

When calculating wastewater flow generated by an approved or proposed development, the Ten States Standard of 400 gallons per day per housing unit shall apply as the average daily flow except when the applicable sanitary sewer service provider provides the information necessary to establish a different average daily flow for the proposed development. The Planning and Zoning Commission through its staff will review this information for comprehensiveness as well as other pertinent factors. The projected average daily flow per housing unit to be applied under this regulation shall not be less than the minimum amount annually established by the Planning and Zoning Commission in consultation with sanitary sewer service providers for each wastewater treatment facility that serves Oldham County.

Section 4: Criteria for Subdivision Applications

The following are criteria to be applied by the Planning and Zoning Commission or staff when determining whether an application for subdivision shall be in compliance with these regulations:

If the subject wastewater treatment facility is, at the time of application, under sanction or has a sanction action pending with the Kentucky Division of Water, the

Planning and Zoning Commission shall deny the application unless the application adequately addresses mitigating factors in accordance with Section 5.

If the subject wastewater treatment facility is, at the time of application, subject to an open Notice of Violation issued by the Kentucky Division of Water, the applicant must submit with the application an explanation of the nature and extent of the violation and evidence of the positive resolution of the Notice of Violation.

When the combined Existing, Approved, and Proposed Average Daily Flow (see Section 3, paragraph 2) to the subject wastewater treatment facility exceeds one hundred percent (100%) of the average daily design capacity at the time of application, the Planning and Zoning Commission shall deny the application unless the application adequately addresses mitigating factors in accordance with Section 5.

Section 5: Mitigation

The Planning and Zoning Commission as part of its consideration of wastewater treatment capacity, when evaluating a rezoning request, shall also consider the following mitigating factors potentially altering the overall impact of the proposed development on wastewater treatment capacity:

- A. If the subject wastewater treatment facility is currently under sanction or has a sanction action pending with the Kentucky Division of Water, the applicant must provide documentation that the sanction does not apply to the proposed project in order for the application to be considered.
- B. When the combine Existing, Approved and Proposed Average Daily Flow to the subject wastewater treatment facility exceeds one hundred percent (100%) of

design capacity, the applicant must prove each of the following in order for the application to be considered:

- 1) Plans and funding are in place for a new facility to treat wastewater or for improvements to existing wastewater treatment facility systems as desired by the sewer service provider;
- 2) Evidence of Preliminary approval by the Kentucky Division of Water (i.e. wasteload allocation) must be provided for the construction of a new facility or improvements to an existing facility;
- 3) The proposed construction of a new facility or improvements to an existing facility will be completed within two (2) years of rezoning approval. In cases where the development has to be phased beyond two years due to other capacity factors, then the proposed construction and improvement to the subject wastewater treatment facility may be allowed to correspond with the phasing schedule of the development; and,
- 4) That the new capacity or increased capacity will be sufficient to serve the proposed development.

This ordinance shall become effective upon its passage and advertisement according to law.

Dated this 3rd day of January, 2006.

MARY ELLEN KINSER
Oldham County Judge/Executive

ATTEST:

SHARON L. HERNDON
Oldham County Fiscal Court Clerk

COMMONWEALTH OF KENTUCKY
OLDHAM COUNTY
RESOLUTION NO. 01-01-03-06

WHEREAS, the Oldham County Fiscal Court conducted a 2nd reading and public hearing on the amendment to the Subdivision Regulations and Comprehensive Zoning Ordinance to require that the adequacy of Wastewater treatment capacity to accommodate new development be considered in the approval process. and,

WHEREAS, Oldham County Fiscal Court desires to accommodate the Planning and Zoning Commission on increasing the effective date of said Ordinances.

NOW THEREFORE, Oldham County Fiscal Court, by this resolution, and a unanimous vote the effective date of Ordinance No. KOC 06-830-349, and Ordinance No. KOC 06-830-355 will be March 1, 2006.

This resolution shall become effective upon its passage according to law.
Dated this 3rd day of January 2006.

Mary Ellen Kinser
Oldham County Judge/Executive

ATTEST:

Sharon L. Herndon
Oldham County Fiscal Court Clerk