

LAND USE ORDER FOR MARION COUNTY

APRIL 14, 1975
REVISED MARCH, 1987
REVISED NOVEMBER, 1997
REVISED FEBRUARY, 2000
REVISED APRIL, 2002
REVISED JUNE, 2011
REVISED AUGUST, 2013

SECTION 100.00 TITLE

101.0 This County Commission Order shall be known as the **Land Use Order of Marion County, Missouri.**

SECTION 200.0 AUTHORITY

201.0 The Land Use Order of Marion County, Missouri is authorized and is in compliance with Chapter 64 of the Revised Statutes of the State of Missouri.

SECTION 300.0 PROCEDURE TO FOLLOW

301.0 The procedure for residents, prospective developers, and other interested parties to follow in matters pertaining to constructing new buildings additions to existing buildings or changing land uses within the unincorporated areas of Marion County, Missouri shall be as follows:

- .1 Personally contact the Administrative Officer. (Appointed by the County Commission.)
- .2 Have a legal description of the property in question.
- .3 Have a sketch of the property showing how proposed use will be situated on property.
- .4 Describe proposed use.
- .5 Administrative Officer shall check the Official Land Use District Map.
- .6 If use conforms to permitted uses and minimum lot and yard widths, the Administrative Officer collects the required fee and uses permit. (All uses of land must provide the necessary off-street parking.)
- .7 The Administrative Officer shall collect the fee before issuing a permit. (To be established by the County Commission.)
- .8 The Administrative Officer shall notify appropriate agencies of the issuance of a permit and it will be the agency's responsibility to see that laws and regulations are carried out.

- .9 If use does not conform to permitted uses, the applicant may make a request to the County Commission for a Land Use District change.
- .10 If use does not conform to minimum lot or yard standards, the applicant may make an application for a modification of the requirements to the Board of Adjustment.
- .11 Upon receiving a change in Land Use District or a modification of the lot or width standards go through Steps 1, 2, 3, 4, 5 and 6.

SECTION 400.0 ESTABLISHMENT OF LAND USE DISTRICTS

401.0 Marion County is hereby classified into 5 districts:

A-1,	Agricultural - Residential
R-1,	Residential
RR,	Rural Residential
C-1,	Commercial
M-1,	Industrial
FP,	Flood Plain

402.0 Additional districts may be added from time to time upon the recommendation of the County Planning and Zoning Commission to the County Commission. This may be initiated by either the Commission or interested parties.

403.0 The land use districts referred to in this Order shall be designated on the Official Land Use District Map of Marion County.

404.0 The land use districts appearing on the Official Land Use District Map of Marion County shall follow road centerlines, stream or river centerlines, section lines or be clearly noted in feet on the Official Land Use District Map, the distance from the above lines with other necessary dimensions for a clear interpretation of the boundary lines.

405.0 The Official Land Use District Map of Marion County shall be kept on file with the County Clerk and change shall be clearly shown on this map when officially adopted by the County Commission.

SECTION 500.0 AGRICULTURAL DISTRICTS

510.0 A-1, Agricultural - Residential Districts

511.0 Permitted uses, lot size and yard area.

Permitted Use	Minimum Lot Size	Minimum Yard Area
.1 Raising Crops	1 acre	None
.2 Raising Livestock	1 acre	None
.3 Livestock sewage lagoon	800' from Res. Dist.	None
.4 Livestock feet lot	400" from Res. Dist.	None
.5 Farm Dwelling plus one other dwelling per farmstead**	Second dwelling must be on a minimum of 1 acre	Front: 80' *** Side: None * Rear: None *
.6 Churches and related religious buildings	1 acre	Front: 80' *** Side: None * Rear: None *
.7 Non-commercial park and recreation areas	1 acre	Front: 80' *** Side: None * Rear: None *
.8 Cemeteries	1 acre	None
.9 Nurseries and greenhouses sale of products raised on premises	1 acre	Front: 80' *** Side: None * Rear: None *
.10 Country Clubs	1 acre	None
.11 Country Club Buildings	1 acre	Front: 80' *** Side: None * Rear: None *

* The yard distances are measured from the edge of properties and/or right-of-way lines. If use adjoins a Residential District, then the same front, side and rear yard shall be required as in the Residential District. All County roads are designated as Major Highways thus all farm buildings constructed, reconstructed, or enlarged after the effective date of this Order must comply with this front yard requirement. (Ch. 64.600. R.S.Mo.)

** A farmstead is defined as tract of land owned by a person or group of people at the time this Order becomes law.

*** Building set back must be at least 80 feet from center of road.

**** Any parcel of land sold in smaller than a 10 acre tract needs to come before Planning and Zoning for possible rezoning. Also, any parcel of land sold in greater increments of 10 acres but creating anything smaller than 10 acres must also come in for possible rezoning.

512.0 The following land uses may be permitted in the A-1 Agricultural - Residential District upon the favorable recommendation of the County Planning and Zoning Commission and approval of the County Commission: landfills, billboards, oil drilling, quarry operations, educational buildings and uses, airports or landing strips or salvage yards.

513.0 The County Planning and Zoning Commission shall recommend to the County Commission that the proposed used or expansion of an existing use will not adversely affect the character of the area, adversely affect traffic, and place undue restraints on utilities or conflict with the future plans of the area.

SECTION 600.0 RESIDENTIAL DISTRICTS

610.0 R-1, Residential District

610.1 To provide for high and low population density in close proximity to the cities in Marion County.

610.2 To achieve the higher density population of this classification, this area will be required to be served by a municipal sewer, sewer district, or collection system. Should the parcels of land created under this zoning classification require to be served by an individual on-site wastewater disposal system, the lot size will be required to meet the minimum lot area or as required by the wastewater disposal system, whichever is greater.

610.3 This zoning classification option is limited to an area within a 1/2 mile distance from the following cities' corporate limits: Hannibal, Monroe City, Palmyra, and unincorporated Philadelphia's platted boundaries.

610.4 Residential housing developments shall conform to requirements of 10 CSR 20-6.030 "Disposal of Wastewater in Residential Housing Developments" (see Appendix A).

611.0 Permitted uses, lot area and yard area

Permitted Use	Minimum Lot Area	Minimum Yard Area
.1 One-family dwelling	1 acre, with a minimum lot width of 200'	Front: 80' * Side: 30' * Rear: 40' *
.2 Public or private educational institutions	Elementary: 5 acres Junior: 10 acres Senior: 30 acres	Front: 80' * Side: 30' * Rear: 40' *
.3 Churches and related religious buildings	1 acre, with minimum of 150' frontage	Front: 80' * Side: 30' * Rear: 40' *
.4 Single mobile home	1 acre, with minimum of 150' frontage	Front: 80' * Side: 60' * Rear: 40' *
.5 Accessory buildings for above uses	Must be on the same lot as above use	Front: 80' * Side: ** Rear: ***

Notes:

* The side/rear yard distances are measured from the edge of properties and/or right-of-way lines to buildings, whichever is greater.

612.0 Additional compatible land uses may be permitted in the Residential District upon the review of the County Planning and Zoning Commission and approval of the County Commission. The County Planning and Zoning Commission and the County Commission shall determine that the proposed use will not adversely affect the character of the area, adversely affect traffic, place undue restraint on utilities or conflict with future plans of the area.

613.0 This District establishes minimum land uses. Usually land, in order to be used for residential purposes, will have to be divided into lots and meet the Marion County Subdivision Regulations.

614.0 Due to the higher population density and close proximity of houses, a stormwater management plan for these lots will be required from the developer/owner.

615.0 Developments proposed to be served by a water district and/or sewer district shall be reviewed by the respective district(s). Water and/or sewer districts shall

acknowledge the ability to provide services to the development and their acceptance of the system.

620.0 R-R, Rural-Residential

620.1 To provide area for development of rural single-family dwelling.

621.0 Permitted uses, lot area and yard area.

Permitted Use	Minimum Lot Area	Minimum Yard Area (Setbacks) See Notes
.1 Single-family dwelling	3 acres, with minimum lot width of 200'	Front: 80' Side: 50' Rear: 80'
.2 Public or private educational institutions	Elem: 5 acres Junior: 10 acres Senior: 40 acres	Front: 80' Side: 50' Rear: 80'
.3 Churches and related religious buildings	3 acres, with minimum lot width of 200'	Front: 80' Side: 50' Rear: 80'
.4 Single mobile home	3 acres, with minimum lot width of 200'	Front: 80' Side: 50' Rear: 80'
.5 Accessory buildings for above uses	Must be on same lot as above uses	Front: Same as above Side: principal use Rear:

Notes:

- ** Yard distances shall be measured from property lines and/or right-of-way lines to buildings whichever is greater.
- *** Where R-R abuts a different land use (or zoning classification: agricultural, commercial, industrial), the minimum setback from the common border shall be 150'.

622.0 Subsequent splits of the parcels (lots) of land created under this zoning classification shall be brought before the County Planning and Zoning Commission for review and recommendation to the County Commission and the County Commission's approval.

622.1 Each parcel or lot created under this zoning classification shall have individual on-site wastewater or centralized disposal systems designed to fit and meet the site requirements.

622.2. Rural residential housing developments shall conform to requirements of 10 CSR 20-6.030 “Disposal of Wastewater in Residential Housing Developments” (see Appendix A).

622.3 Developments proposed to be served by a water district and/or sewer district shall be reviewed by the respective district(s). Water and/or sewer districts shall acknowledge the ability to provide services to the development and their acceptance of the system.

SECTION 700.00 COMMERCIAL DISTRICTS

710.0 C-1, Commercial District

711.0 Permitted uses, lot area and yard area

Permitted Use	Minimum Lot Area	Minimum Yard Area
.1 Retail stores (enclosed buildings)	Minimum lot area to be governed and determined by the proposed use of the property. Lot shall be of sufficient size to provide for the commercial building(s), operation of the business, wastewater disposal, stormwater management and adequate off-street parking for customers and employees.	Front: 80' *
.2 Commercial recreation buildings		Side: 50' *
.3 Repair shops and garages		Rear: 80' *
.4 Automobile sales and service		
.5 Service stations		
.6 Drive-In restaurants		
.7 Trailer and camper sales		
.8 Motels		
.9 Retail lumber yards		
.10 Animal hospitals		
.11 Carpenter shops		
.12 Sheet metal shops		
.13 Welding shops		
.14 Machine shops		
.15 Trailer or mobile home parks (see 712.0 below)		

* The yard distances are measured from the edge of properties and/or right-of-way lines to buildings.

712.0 All manufactured home parks (also known as trailer or mobile home parks) established after the effective date of this Order shall comply with the following requirements:

- .1 A trailer or mobile home park is defined as a tract of land designed for two (2) or more trailers or mobile homes.
- .2 All trailers or mobile homes shall set back from all public roadways at least 80 feet.
- .3 No trailers or mobile homes shall be closer than 20 feet from one another and from all property lines other than those along a public roadway.
- .4 Off-street parking spaces shall be provided on the park property at the rate of two (2) spaces per trailer or mobile home.
- .5 Additional open land for leisure or recreation purposes shall be provided in the park four (4) times the total ground area occupied by all trailers or mobile homes for which the park is designed.
- .6 All trailer or mobile home parks shall meet health requirements and be designed by a professional engineer.
- .7 No inoperative motor driven vehicles shall be permitted to remain in the park for more than two (2) months.
- .8 It is the intent of this Order to bring existing trailer or mobile home parks in compliance with these minimum standards. Therefore when trailer or mobile homes existing at the effective date of this Order may remain as is until they are replaced at which time the plans for said replacement shall be brought before the County Planning and Zoning Commission for recommendation to the County Commission.
- .9 Manufactured housing developments shall conform to requirements of 10 CSR 20-6.030 "Disposal of Wastewater in Residential Housing Developments" (see Appendix A).

713.0 Additional land uses may be permitted in the Commercial District upon the favorable recommendation of the County Planning and Zoning Commission to the County Commission. The County Planning and Zoning Commission and the County Commission shall determine that the proposed use will not adversely affect the character of the area, adversely affect traffic, and place undue restrictions on utilities or conflict with future plans of the area.

714.0 Regulations pertaining to a Wind Energy Conversion Systems (WECS) will be found in Appendix B of this ordinance. Wind Energy Conversion Systems must be located on Commercial (C-1) zone property. To rezone for a Wind Energy Conversion System

(WECS), regulation in Appendix B must be met. A minimum of one (1) acre will be required per tower.

SECTION 800.0 INDUSTRIAL DISTRICT

810.0 M-1, Industrial District

811.0 Permitted uses, lot area and yard are

Permitted Use	Minimum Lot Area	Minimum Yard Area
.1 Wholesale Business	Minimum lot area to be governed and determined by the proposed use of the property. Lot shall be of sufficient size to provide for the industrial building(s), operation of the industry, wastewater disposal, stormwater management, necessary buffers and adequate off-street parking for customers and employees.	Front: 80' *
.2 Storage Firms		Side: 50' *
.3 Canning and Packing		Rear: 80' *
.4 Lumber Manufacturing		
.5 Clothing Factories		
.6 Cement Plants		
.7 Rendering Works		
.8 Foundries		
.9 Slaughterhouses		
.10 Stockyards		
.11 Animal Shelter		
.12 Bottling Works		
.13 Dairy		
.14 Ice Plants		

* The yard distances are measured from the edge of properties and/or right-of-way lines to buildings. Where use adjoins a Residential District, there shall be an additional 20 feet buffer area provided on the side yard with landscaping to screen out industry from adjoining residential area.

812.0 Adult Cabaret

.1 Intent and Purpose

Adult entertainment establishments, including Adult Cabarets as defined below, are hereby acknowledged to have special characteristics and impacts upon their surroundings, and upon the use and enjoyment of adjacent property. It is the

intent of these regulations to provide for the confinement of adult entertainment establishments, including Adult Cabarets as defined below, to those industrial areas in which these special impacts are judged to be least disruptive to the use and enjoyment of adjacent properties. These regulations are further intended to require that adult entertainment establishments, including Adult Cabarets as defined below, shall not be permitted to locate in such concentration that their operational features may establish the dominant character of any industrial area.

These regulations are further intended to protect and balance lawful rights of expression with other lawful rights to the enjoyment and use of property. Adult entertainment uses, including use as an Adult Cabaret as defined below, are recognized as having serious objectionable operational characteristics, particularly if several such uses are concentrated, thereby having deleterious effect upon adjacent areas, and could contribute to blight and degradation of the surrounding neighborhood. The special regulation of adult entertainment establishments, including Adult Cabarets as defined below, is necessary to ensure that the adverse effects of such uses will not contribute to the blighting or downgrading of surrounding neighborhoods, whether residential or non-residential, by location or concentration and to ensure the stability of such neighborhoods.

- .2 Definitions: As used in this chapter, the following words shall be defined as follows: (1) Adult Cabaret, a nightclub, bar, restaurant, or similar establishment in which persons appear in a state of nudity in the performance of their duties; (2) Nudity, the showing of either: (a) the human male or female genitals or pubic area with less than a fully opaque covering; or (b) the female breast with less than a fully opaque covering on any part of the nipple.
- .3 Any business operating as an Adult Cabaret shall only be permitted in an Industrial District and shall be subject to the following additional requirements:
 - (1) No business operating as an Adult Cabaret shall be located or expanded within one thousand (1000) feet from the closest property line of the adjacent R-1 Residential District, RR-1 Rural-Residential District, A-1 Agricultural District, C-1 Commercial District or uses. Said distance shall be measured in a straight line without regard to intervening structures from the closest property line of the Adult Cabaret to the closest property line of the R-1 Residential District, RR-1 Rural-Residential District, A-1 Agricultural District or C-1 Commercial District.
 - (2) No business operating as an Adult Cabaret shall be located or expanded closer than one thousand (1000) feet to any pre-existing place of worship, daycare facility, public or private school or college.

- (3) No Adult Cabaret shall be allowed to locate or expand within two thousand (2000) feet of any other Adult Cabaret. Said distance shall be measured in a straight line without regard to intervening structures from the closest property line of each Adult Cabaret.

813.0 Additional land uses may be permitted in the Industrial District upon the favorable recommendation of the County Planning and Zoning Commission to the County Commission. The County Planning and Zoning Commission and the County Commission shall determine that the proposed use will not adversely affect the character of the area, adversely affect traffic, place undue restriction on utilities or conflict with future plans of the area.

SECTION 900.0 FLOOD PLAIN

910.0 FP-Flood Plain District

911.0 Refer to the Marion County Flood Plain Ordinance and Marion County Flood Plain Map for further details. These will be found at the Land Use Coordinator's Office.

SECTION 1000.0 NON-CONFORMING USES

1001.0 Definition

- .1 A non-conforming use is any land use and/or building use existing at the date this Order becomes law which does not conform to the permitted use, minimum lot area or minimum yard area of the district in which it is located.

1002.0 Continuation of Non-Conforming Uses

- .1 The use can be continued if:
 - a. Not left vacant for over one year.
 - b. Not destroyed by more than 50% of its fair market value from fire, flood or wind.

1003.0 Expansion or Enlargement of Non-Conforming Uses

- .1 A non-conforming use cannot be expanded or enlarged unless it conforms to the regulation of the District in which it is located.
(See Section 300.0 for procedure.)

SECTION 1100.0 POWERS AND DUTIES OF THE ADMINISTRATIVE OFFICER

1101.0 Interpretation of the Land Use Order

- .1 Determine if the proposed by the applicant for a building permit is permitted in the District in which it is located.
- .2 Determine if the use proposed by the applicant for a building permit provides the minimum lot area and/or yard areas.

1102.0 Refer Applicant for Proper Action

- .1 Applicants proposing a use that is not permitted in the District designated for the property in question as it appears on the Official Land Use District Map, refer to the County Commission who in turn will refer the application to the County Planning and Zoning Commission for a recommendation on a Land Use District change within 60 days.
- .2 Applicants proposing a use that does not provide the minimum lot area or yard area to the Board of Adjustment.

1103.0 Take Applications for Building Permits

- .1 Get name and address of applicant.
- .2 Get name and address of developer if different from above.
- .3 Get description of proposed use and a legal description or a metes and bounds of property in question.
- .4 Applicant to provide a sketch or diagram of the property in question and property line dimensions and showing proposed building(s) and distances from building(s) to property line.
- .5 Applicant to provide estimate of development cost.
- .6 Applicant to provide copy of wastewater permit issued by Marion County Health Department or if applicable, provide documentation of permit to connect to municipal sewer or sewer district system.

1104.0 Issue Building Permit

- .1 Check to see that the proposed use is permitted in the District governing the area in question and meets the lot area and yard area requirements.
- .2 Collect the fee required.

1105.0 Notify County, State and Federal Agencies

- .1 From a list of agencies possibly needing to be informed of land use changes, notify them of the issuance of each building permit. These agencies will be responsible for the enforcement of local, state and federal regulations unless specifically agreed to by the County Commission.

1106.0 Keep Records of Zoning Matters

- .1 Keep records of all requests to the County Planning and Zoning Commission and Board of Adjustments.
- .2 Keep records of all building permits issued.

1107.0 Enforce Land Use Order Regulations

- .1 Make periodic checks for land use changes being made without a building permit and violations of issued permits.
- .2 Upon failure of efforts to have permits applied for or compliance by violators of issued permits, refer information to the County Prosecuting Attorney for legal procedures.

SECTION 1200.0 POWERS AND DUTIES OF THE COUNTY COMMISSION

1201.0 Appointments

- .1 Appoint members of the County Planning and Zoning Commission. Members shall be residents of the unincorporated area of Marion County. Membership shall consist of one representative of each political township, the County Highway Engineer or his equivalent, one member of the County Commission.
- .2 Appoint members of the Board of Adjustment. Membership shall consist of five (5) members. No more than two (2) can be residents of any incorporated city, town or village and no more than one (1) can be a member of the County Planning and Zoning Commission. The term shall be appointed as follows: 1 for 1 year, 1 for 2 years, 1 for 3 years, and 2 for 4 years.
- .3 Hire or appoint the Administrative Officer. This person may be a present County employee or a person to fill a newly created position.

1202.0 Adoption of Regulation

- .1 Adopt the County Land Use Order and Official Land Use District Map of Marion County by Commission Order after a public hearing giving 15 days notice in a county-wide read newspaper.
- .2 Adopt changes to the Official Land Use District Map by Commission Order after a public hearing giving 15 days notice in a county-wide read newspaper.

- .3 Adopt amendments to the provisions of the Land Use Order after a public hearing giving 15 days notice in a county-wide read newspaper.

SECTION 1300.0 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT

1301.0 Hear and Decide Appeals

- .1 To hear and decide appeals where it is alleged that there is an error to any order, requirement, decision or determination of the Administrative Officer in the enforcement of this Order.
- .2 To hear and decide on appeals where a building permit is denied by the Administrative Officer because of insufficient lot area or yard area if the strict application of the requirements would result in peculiar and exceptional practical difficulty or exceptional and undue hardship upon the applicant and the modification would not adversely affect the intent of this Order.

SECTION 1400.0 POWERS AND DUTIES OF THE COUNTY PLANNING AND ZONING COMMISSION

1401.0 Make Recommendations to the County Commission

- .1 Make recommendations to the County Commission concerning proposed changes in the Official Land Use District Map. When the County Commission receives a request for a Land Use District change, the County Planning and Zoning Commission will have sixty (60) days to make such recommendations upon the Comprehensive Plan of Marion County.
- .2 Make recommendations to the County Commission concerning proposed changes in the Marion County Land Use Control Order. When the County Commission receives a request for an amendment or change in any part of the Land Use Control Order, the County Planning and Zoning Commission will have sixty (60) days to make such recommendations upon the effects such a change would have upon the Comprehensive Plan of Marion County.
- .3 Keep an up-to-date evaluation of the effectiveness of this Land Use Control Order toward the implementation of the Comprehensive Plan of Marion County. Where changes are needed, make such recommendations to the County Commission.

SECTION 1500.0 VIOLATIONS, EXCEPTIONS AND PENALTIES

1501.0 Violations

- .1 It shall be a violation of this Order to alter or erect any building without obtaining a building permit.
- .2 It shall be a violation of this Order to change the use of land from the use in existence on the date this Order becomes law.

1502.0 Exceptions

- .1 This Order does not pertain to farm buildings prohibited from land use control by State Statute.

1503.0 Penalties

- .1 Any person, persons or organizations violating the building and/or land use provisions of this Order are to be notified by the Administrative Officer in writing and given one week to conform to the provisions of this Order.
- .2 Upon failure to comply with the provision of this Order or respond to the notice form the Administrative Office, the matter will be turned over to the County Prosecuting Attorney.
- .3 Violations are subject to fines in accordance with the Statutes of Missouri.

SECTION 1600.0 AGRICULTURAL AWARENESS SECTION

Due to the increasing urban movement into rural Marion County, the following Agriculture Awareness section has been added to the Marion County Land Use for rural Marion County. A copy of this will be given to everyone requesting a building permit in rural Marion County.

Starting on August 12, 2013, the Agriculture Awareness Section was adopted and will become effective with new zoning changes. This section deals with any type of property being rezoned next to agriculture zoned property.

Residents and other occupants of the property within or near agriculture zoned property should be aware and be prepared to accept efforts of usual and customary farming operations, machinery, facilities and practices. These may include and not be limited to – noise, odors, dusts, smoke, insect, disposal of manure, spraying, seasonal unusual hours of operation of equipment, etc.

APPENDIX A

**Effective Date
March 20, 1999**

**Title 10 – DEPARTMENT OF NATURAL RESOURCES
Division 20 – Clean Water Commission
Chapter 6 – Permitting**

10 CSR 20-6.030 Disposal of Wastewater in Residential Housing Developments

(1) General Requirements.

(A) Definitions:

1. Definitions as set forth in the Missouri Clean Water Law and 10 CSR 20-2.010 shall apply to those terms when used in this rule.
2. Common promotional plan – A plan, undertaken by one (1) or more persons, to offer lots for sale or lease; where land is offered for sale by a person or group of persons acting in concert, and the land is contiguous or is known, designated or advertised as a common unit or by a common name or similar names, the land is presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan.
3. Developer – Any person who directly or indirectly, sells or leases or offers to sell or lease, any lots, but shall not include any licensed broker or licensed salesman who is not a shareholder, director, officer or employee of a developer and who has no legal or equitable interest in the land.
4. Limiting layer – Any soil horizon that will severely limit the soil's ability to treat or dispose of effluent. The limiting layer may include a restrictive horizon, or permanent or seasonal high water table as defined in 19 CSR 20-3.060(1)(A).
5. Lot – Any portion, piece, division, unit or undivided interest in real estate, if the interest includes the right to the exclusive use of a specific portion of real estate, whether for a specific term or in perpetuity.
6. Residential Housing Development – Any land which is divided or proposed to be divided into three (3) or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan.

(B) Unless specifically provided otherwise, this rule shall apply to any developer who owns or controls land and-

1. Develops or divides land into residential housing lots:
2. Resubdivides land into more lots, adds additional lots to which when added to an existing group of lots which are contiguous, or which are known, designated or advertised as a common unit or by a common name, as part of a common promotional plan, will in total constitute a residential housing development; and
3. Any expansion of three (3) or more lots in any subdivision or development will be subject to this rule.

(C) The following subdivisions or residential housing developments are exempted:

1. Subdivisions in which control of more than twenty percent (20%) of the lots was permanently relinquished prior to July 1, 1974;
2. Subdivisions which were approved or exempted by the department under the subdivision regulations which were effective June 30, 1974, June 26, 1975 or May 15, 1984;
3. Residential housing developments with less than 15 lots, in existence prior to the effective date of this rule;
4. Lots of five (5) acres and larger in residential housing developments;
5. Residential housing developments located in areas where the department has determined that the local administrative authority has a local program sufficient to meet the goals of this rule;
6. If a developer proposes a centralized wastewater collection and treatment system, the requirements of this rule shall be considered met, provided that all other requirements of the Missouri Clean Water Law and regulations can be satisfied and continuing authority, in accordance with 10 CSR 20-6.010, will be established prior to the sale or lease of lots or the commencement of construction of residences; and
7. Recreational developments will be subject to section (5) of this rule.

(D) Unless exempted in this rule, the developer of any residential housing development shall obtain approval from the department for the method of sewage treatment and

disposal to be used in the development prior to the sale or lease of any lot, or the commencement of construction on any lot by the developer or any person. To obtain approval the developer must submit to the appropriate DNR office a copy of the geohydrologic evaluation, the soils report and the plat map as described in this rule.

1. The developer may apply for approval to use individual on-site systems in the proposed development provided that the minimum lot size is forty thousand (40,000) square feet. For residential housing developments with lots of less than forty thousand square feet, (0.92 acres) only centralized sewage collection and treatment are acceptable for the development. However, this minimum lot size does not apply to residential housing developments that do not require approval. Construction and operating permits will be required for central sewage collection and treatment systems.
2. Only residential housing developments with seven (7) or more lots must receive approval for the method of sewage treatment and disposal prior to the sale or lease of any lots.

(2) Geohydrologic Evaluation

(A) All developers required to by this rule shall apply for a geohydrologic evaluation pertaining to the use of on-site wastewater treatment facilities from the Department of Natural Resources, Division of Geology and Land Survey, Geological Survey Program (GSP). The evaluation will include a review of available geologic data and may include a field evaluation conducted by the GSP.

- .1 A written request for the geohydrologic evaluation must be submitted on forms provided by the department and within forty-five (45) days the developer will be notified in writing by the department of the results.
- .2 The request for a geohydrologic evaluation shall include a map of the proposed development along with the legal description, total number of acres and type of water supply being proposed.
- .3 The criteria contained in the document entitles *Residential Housing Development Geohydrologic Groundwater Evaluation Ranking, DNR, Division of Geology and Land Survey, Geological Survey Program, October 1997* shall be used to determine the minimum lot size as related to the geology and possibility of groundwater contamination in the area.

(B) Residential housing developments may be exempted from obtaining the geohydrologic evaluation in areas where bedrock and surficial materials exhibit low overall

permeability and groundwater recharge is limited, or the groundwater gradient is low and groundwater velocity is slow. A determination of whether a residential housing development meets the criteria for an exemption from obtaining a geohydrologic evaluation will be determined by GSP based on the information supplied on the request form and data on file at GSP.

(3) Soils Report.

(A) A soils report for each residential housing development must be prepared by a soil scientist as defined in 19 CSR 20-3.080. The report must indicate if the proposed system is a soil absorption system or other system (lagoon). The soils report can be generated only after a thorough, systematic investigation of the soil properties and landscapes in the proposed development. Soil observation pits (backhoe or hand dug) dug to a depth to reveal the major soil horizons shall be utilized. The minimum number of pits shall be one every 10 acres, however, in developments with the majority of lots less than 10 acres, the minimum number of pits shall be one every five acres. These pits may be supplemented by soil borings to help determine the extent of similar soil properties. Profile descriptions which include horizon designations, depth, color, texture, structure, consistence, coarse fragments, mottling and other pertinent features shall be submitted.

1. The soils report shall contain a topographic map delineating the proposed development into the following slope categories: 0-2%, 3-14%, 15-30% and 31% and greater.
2. A map delineating the depth of acceptable soil into the following categories: less than 18 inches, 18 to 30 inches over bedrock, 18 to 30 inches over a limiting layer, and greater than 30 inches shall also be provided.
3. Table 1 shall be used to determine the minimum lot size based on soil properties and site conditions. More than fifty percent (50%) of each lot must be in a single acreage category or more than fifty percent (50%) may be in that and smaller acreage categories in order to use that minimum sized lot.

TABLE 1

Minimum Lot Size (Acres) for Soil Absorption Systems Based on Soil Depth and Slope
Acceptable Soil (inches)

		> 30"	18-30" Limiting Layer	18-30" Bedrock	<18"
	0-2	0.92	2	2	3
Slope (%)	3-14	0.92	1	2	3

	15-30	1	2	3	5
	31+	2	3	5	>5

4. Lots with less than eighteen inches (18”) of acceptable soil should be evaluated carefully to determine if a soil absorption system will function properly on the site. It must be shown that mitigation of the limiting soil condition is a feasible option. Lots with less than twelve inches (12”) of acceptable soil will not be approved for soil absorption systems unless the limiting condition is a high water table and the soil scientist determines that water table lowering schemes may be effective.

(B) Acceptable soil will have the following properties:

1. Any structure except strong platy or massive;
2. Fifty percent (50%) and less coarse fragments (>2 mm);
3. No limiting layer; and
4. Available area and landscape position suitable for an on-site system.

(C) Wastewater stabilization ponds (lagoons) may be allowed for the single-family residence wastewater treatment facilities if local regulations do not prohibit them.

1. Minimum lot size for lagoons is two and one-half (2.5) acres; larger lot sizes are recommended in order to provide for all wastewater to be contained on the lot and handled in a manner that there will be no violation of the Missouri Clean Water Law and regulations.
2. Report must show that the soils, available area and landscape position is suitable for lagoons. A minimum of four feet (4’) of soil is required if the natural soil is to be used as the liner. Strongly sloping areas should be avoided. Areas with slopes greater than fifteen percent (15%) will not be considered suitable for lagoons.

(4) Plat Map.

(A) A map drawn to a scale of one inch (1”) equals from fifty to two hundred feet (50-200’) showing the location of the individual lots, roads, existing wells, and known easements shall be provided. The number of lots, lot sizes and type of water supply shall also be provided. A copy of the United States Geological Survey topographic map and the soil map and legend from the United States Department of Agricultural County Soil Survey if available must be provided with the area of development clearly outlined.

(5) Recreational Development.

- (A) A development is considered recreational when land is sold or leased for the purpose of camping in recreational vehicles. In order to be considered a recreational development, restrictive covenants must prohibit continuous year round living on the lot and no cabins or other structures will be allowed that could be used for year round residential purposes.
1. The minimum lot size for a recreational development that will use individual on-site wastewater treatment facilities is twenty thousand (20,000) square feet. No reduction will be allowed from the minimum lot size determined by the geohydrological evaluation. A one-half (1/2) reduction in minimum lot size as indicated by the soils report may be allowed.
 2. In recreational developments where sewage collection and treatment is provided by sewage dump stations, the sewage dump stations will be considered centralized sewage collection and treatment for the purposes of compliance with this rule.
 3. The developer must submit a copy of the restrictive covenants along with any plans for sewage dump stations or centralized sewage collection and treatment systems.

(6) Multiple Family Housing Units.

- (A) Residential housing developments that propose to build multiple family housing units (duplexes, quadplexes, etc.) shall submit an engineers report in accordance with 10 CSR 20-8.020 Design of Small Sewage Works. Each housing unit shall be considered equal to a single family residence for the purposes of compliance with this rule.

(7) Department Review.

- (A) The department shall determine if the requirements of this rule are satisfied. Minimum lot size will be the larger of the values calculated in the geohydrologic evaluation if required or the soils report. Approval under this rule does not guarantee that each lot in the residential housing development will be approved for a soil absorption system.
- (B) The developer of any residential housing development required to obtain approval from the department, shall obtain written approval and comply with all conditions and requirements set forth in writing by the department as contained in the Missouri Clean Water Law and corresponding regulations, prior to the sale or lease of any lot or the commencement of construction on any lot by any developer(s) or owner(s).

- (C) There shall be no deviation or change that may adversely affect the geohydrologic evaluation, lot sizes, number of lots or the proposed water supply for a residential housing development following departmental approval without first securing written approval of the proposed changes from the department.
- (D) Within ninety (90) days of receipt of the completed requirements and any other documents or information required in this rule by the department, the department will approve or disapprove the wastewater disposal plans and attach any conditions to an approval which it deems necessary to protect waters of the state in accordance with the Missouri Clean Water Law and regulations.
- (E) Any developer or person owning any residential housing development or lots covered by this rule who has a proposal for wastewater disposal denied, or any condition in an approval in all or in part, may appeal to the Missouri Clean Water Commission within thirty (30) days of issuance of the denial or conditioned approval.
- (F) Nothing in this rule shall preclude any local, municipal, county or other lawful authority from establishing subdivision, sewer or single-family residence on-site systems regulations and ordinances equal to or more stringent than those contained in this rule.
- (G) Compliance With Other Law. Nothing in this rule shall excuse any person from complying with or from liability for violations of the Missouri Clean Water Law and regulations or any other laws of Missouri.
- (H) Severability. If any section, paragraph, sentence, clause or phrase of this rule, or any part of each, be declared unconstitutional or invalid for any reason, the remainder of this rule shall not be affected and shall remain in full force and effect.

Revised & adopted by the Marion County Commission on the ___ day of _____, 2013.

Presiding Commissioner

Eastern District Commissioner

Western District Commissioner

Attest:

County Clerk

This Order has been approved by me as to the content and legality according to the Statutes of Missouri.

County Attorney

Date