

FILED

03 JUL 11 PM 11 54

KAREN COMBS PITCHARD  
CO. & PROBATE CLERK  
WASHINGTON CO. ARK.

ORDINANCE NO. 2003-37

BE IT ORDAINED BY THE QUORUM COURT  
OF THE COUNTY OF WASHINGTON,  
STATE OF ARKANSAS, AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE REQUIRING THE SELLER OF ANY  
RESIDENTIAL OR BUSINESS STRUCTURE OR LAND  
UPON WHICH A RESIDENTIAL OR BUSINESS  
STRUCTURE IS TO BE CONSTRUCTED OR PLACED TO  
BE REQUIRED TO PROCURE A CERTIFICATE FROM THE  
WASHINGTON COUNTY HEALTH DEPARTMENT THAT  
THE SEPTIC SYSTEM IS APPROVED OR THE LAND HAS  
BEEN TESTED AND APPROVED FOR INSTALLATION OF  
A SEPTIC SYSTEM.

**WHEREAS**, with the rapid growth in Washington County, Arkansas,  
it is increasingly difficult to install safe septic systems that not only protect the owner of a  
specific piece of property, but also those surrounding property owners, and the ground  
water throughout the County and the phosphorous levels in rivers, streams, and other  
bodies of water; and,

**WHEREAS**, levels of phosphorous have focused on area farmers  
without adequately addressing other sources that contribute to this problem; and,

**WHEREAS**, the cities in Washington County have been required to  
improve their waste water treatment due to the effect of effluent discharge and its effect  
on water quality; and,

**WHEREAS**, currently existing mechanisms are inadequate to ensure  
the health and safety of the citizens of Washington County with respect to septic systems.

**NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT  
OF THE COUNTY OF WASHINGTON, STATE OF ARKANSAS:**

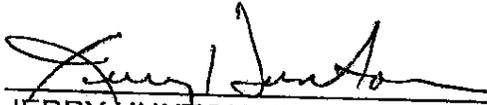
**ARTICLE 1.** No residential or business structure that would require  
a septic system or tract of land upon which such residential or business structure is to be  
constructed or placed with or without an existing system shall be sold until the seller of the  
residential or business structure or tract procures at the seller's expense a certificate or  
permit from the Washington County Health Department.

**ARTICLE 2.** Said certificate or permit shall comply with regulations of the Washington County Health Department so as to ensure that the soil is suitable for a septic system and does not in conjunction with surrounding systems contribute to a danger to public health or the ground water, including but not limited to phosphorus levels.

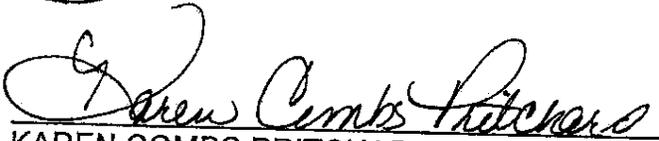
**ARTICLE 3.** The cost of said inspection and approval may be collected at closing of any such sale.

**ARTICLE 4.** This ordinance shall apply to the unincorporated portions of Washington County, Arkansas.

**ARTICLE 5.** A violation of this ordinance shall be punishable by a fine of up to \$500.00 and, if of a continuing nature, \$250.00 per day for each day such violation exists.

  
\_\_\_\_\_  
JERRY HUNTON, County Judge

7-11-03  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
KAREN COMBS PRITCHARD, County Clerk

Sponsor: Earvel Fraley  
Date of Passage: July 10, 2003  
Votes For: 10 Votes Against: 3  
Abstentions: 0 Absent: 0

STATEMENT OF INTENT REGARDING SEPTIC SYSTEM \*

I (we) seller \_\_\_\_\_ and I (we) buyer \_\_\_\_\_ do hereby certify that neither party contemplate or is aware of or has the intention that a septic system is to be installed on the property which is the subject of this real estate transaction; further described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(address or legal description).

This is to further certify that there is not an existing septic system on said property that the parties contemplate will be utilized.

The execution of this document does not prohibit installation or utilization of a septic system in the future but is being executed for the purposes of the Washington County Ordinance No. 2003-37.

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\* If a person buys acreage to build a home for himself and a relative (not for resale), only one test will be required. (Note: If this is sold, the ordinance will apply.) If a person buys acreage for development, no test will be required until resale of a tract for a residential or business structure. As you know, state law already requires there be a permit for any new system and requires failing systems to be remedied.



JERRY HUNTON  
County Judge

280 North College, Suite 210  
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS  
County Courthouse

August 13, 2003

TO: ALL REALTORS, LENDERS AND TITLE COMPANIES AND CERTIFIED  
INSPECTORS OF THE HEALTH DEPARTMENT

RE: Ordinance No. 2003-37 Regarding Septic System Approval Upon Sale

Ladies and Gentlemen:

Please find enclosed the above ordinance and forms for your use. These executed forms should be returned to the Washington County Health Department and the Washington County Environmental Affairs Office.

This ordinance will not go into effect until **August 15, 2003**, and thus will have no effect on contracts pending prior to that date. Of course, it is only applicable to the unincorporated areas of Washington County.

It is my hope that not only will this ordinance be beneficial to the public health and water quality but will also decrease the number of disgruntled buyers.

If a person buys acreage to build a house for himself and a separate house for a relative (not for resale), then only one test will be required; unless it is determined by a certified inspector that the location of the second house is significantly different such that a separate test should be done. (**Note:** In any event, if this second house is sold, the ordinance will apply.) If a person buys acreage for development, no test will be required until resale of a tract for a residential or business structure. As you all know, state law **already** requires there be a permit for any new system and requires failing systems to be remedied.

A list of inspectors certified by the Arkansas Department of Health may be obtained from Rick Johnson at the Health Department (521-8181). Only certified inspectors may be utilized.

Please share this information with your associates. If you have any questions, feel free to contact George E. Butler, County Attorney, at 973-8415.

Sincerely,

Jerry Hunton  
County Judge

FILED

'03 SEP 5 AM 8 14

KAREN COMBS PRITCHARD  
CO. & PROBATE CLERK  
WASHINGTON CO. ARK.

**OFFICE OF THE COUNTY JUDGE  
WASHINGTON COUNTY, ARKANSAS**

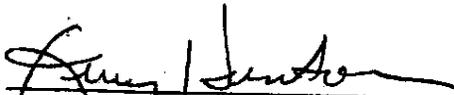
**EXECUTIVE ORDER NO. - 2003-03**

The following administrative decisions have been made regarding the enforcement and applicability of Ordinance No. 2003-37 regarding septic tank approval upon sale:

As time goes by, there may be a need to modify or add to these; comments or questions are invited at any time.

1. This Ordinance was effective August 15, 2003, but will have no affect on contracts that were pending prior to that date.
2. This Ordinance is applicable only to the unincorporated areas of Washington County; cities may pass their own ordinances in this regard.
3. If a person buys acreage to build a house for himself and a separate house for a relative (not for re-sale), then only one (1) test will be required unless it is determined by a certified inspector that the location of the second house is significantly different such that a separate test should be done. (Note: In any event, if the second house is sold, this Ordinance will apply.)
4. If a person buys acreage for development, no test will be required until re-sale of the tract for a residential or business structure. It is already state law that there be a permit for any new system and any failing system must be remedied.
5. The Ordinance contemplates that this will be a seller cost; however, it may be negotiated so as to be a buyer cost. In any event, the proper testing must be done before closing.
6. The fine set out in Article 5 of this Ordinance commences from the date the sale is closed without having procured a certificate of permit.
7. The party who has the responsibility to procure and pay for the certificate or permit will be the responsible party for any fines.

**IT IS SO ORDERED.**

  
JERRY HUNTON, County Judge