

**ORDINANCE REQUIRING CONNECTION TO A MUNICIPAL SEWER SYSTEM,  
IF AVAILABLE**

**WHEREAS**, the County of Martin has deemed it advisable and necessary that sources of flowable sewage be connected to a sewer system, if available, in order to protect the general health and to promote the general welfare of the people of Martin County, and

**WHEREAS**, Martin County has actively participated in the Pride Program sponsored by Congressman Hal Rogers and as part of that Pride Program all straight pipes flowing into rivers, streams and creeks are being identified so that sewer facilities can be provided in the future to all citizens of Martin County, and

**WHEREAS**, public sewer facilities are found to be the most economical and practical way to establish proper disposal of sewage waste,

**NOW, THEREFORE**, be it ordained by the Fiscal Court of Martin County, the following Ordinance:

**SECTION 1: TITLE:** The title of the Ordinance shall be Sanitary Waste Disposal Ordinance.

**SECTION 2: CONNECTION:** Any person owning any occupied building now erected within the County upon premises accessible to the public sanitary sewage system, who is not already connected to such system, shall, at such person's own expense, make a sewer service connection to the public sanitary sewage system within three months from the date such sewer line is installed and placed in operation.

Any person owning any premises within the County that is accessible to the public sanitary sewage system, and upon which an occupied building is erected following adoption of this Ordinance shall, at such person's own expense, make a sewer service connection to the public sanitary sewage system in accordance with the provisions of Ordinance.

Any person owning any occupied building within the County upon premises which subsequently becomes accessible to the public sanitary sewage system shall, at such person's own expense, make a sewer service connection to the public sanitary sewage system.

Each sewer service connection required under this Ordinance shall be made according to all applicable federal, state and local laws and regulations and all requirements of such system and failure to do so is hereby declared to be unlawful and to constitute a nuisance.

For purposes of the Ordinance: (1) one's premises shall be deemed to be "accessible to the public sanitary sewage system" if the public sewer is within 100 feet of the property line of the premises, and (2) the term "person" or "persons" shall be defined to mean an individual, partnership, corporation, limited liability company or other legal entity.

Tetra Tech, Inc.  
FEB 28 2003

**SECTION 3: PUBLIC SEWER CONNECTION EXCEPTION:** Notwithstanding anything contained in Section 2 of this Ordinance to the contrary, any person owning property within the County upon which there is any existing, occupied building which is accessible to the public sewer system, or any person owning any occupied building within the County upon premises which at a future date becomes accessible to the public sewer system shall not be required to connect to the public sewer system, as provided herein, if such person has a fully functioning septic tank, wetlands, aerator system, or other system that has been approved by the County Health Department and, if required, the Division of Water as being in compliance with all applicable rules and regulations of the County Health Department and Division of Water, if applicable. If, at any time, such person's septic tank, wetlands, aerator system, or other system is found to be not in compliance with the County Health Department's, and if applicable, the Division of Water's rules and regulations, such person shall be required to comply with Section 2 of this Ordinance.

**SECTION 4: PROHIBITED FACILITIES:** It shall be unlawful for any person owning any building within the County on premises accessible to the public sanitary sewage system to erect or construct any straight pipe, cesspool, sinkhole, septic tank or other receptacle for receiving sanitary sewage on such premises.

The erection or construction of any such straight pipe, cesspool, sinkhole, septic tank or other receptacle for receiving sanitary sewage on premises within the County that are accessible to the public sanitary system shall be deemed and is hereby declared to be a public nuisance which may be abated in the manner provided by law.

**SECTION 5: PUBLIC SEWER NOT ACCESSIBLE:** In the event any person's premises are not accessible to the public sanitary sewage system, any buildings located on such premises shall be connected, until the public sewer is available, to a private waste, water disposal system complying with the rules and regulations of the County Health Department and all other applicable federal, state and local laws and regulations.

The type, capacity, location and layout of a private sewage disposal system shall comply with all federal, state and local laws and regulations. All private waste water disposal systems must obtain a permit from the County Health Department prior to installation. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the county, local and state authorities.

The owner shall operate and maintain the private sewage disposal facility in a sanitary manner at all times, at no expense to the County. Discharge of septic tank effluent or cesspool overflow to any open drain, ditch, stream or well penetrating water bearing formation is prohibited.

Notwithstanding anything contained in this Section 5 to the contrary, persons with current NPDES/KPDES permits may discharge sewage at permitted discharge points provided they are within compliance of the issuing authority.

DRAFT  
11/18/2002

**SECTION 6: EXCLUSION OF STORM WATER RUNOFF:** The discharge of storm water runoff to separate sanitary sewers is hereby prohibited. All persons proposing to connect to the public sanitary sewage system shall provide adequate means for excluding storm water runoff in the event the connection is to be made to a sanitary sewer.

No person connected to a sanitary sewer shall connect any roof drain or foundation drain thereto or permit any such drains to remain connected thereto or shall such person allow or cause to enter into any sanitary sewer any spring water or surface water from any other source.

The provisions of this Ordinance do not prohibit the present or future discharge of storm water runoff to any combined sewers or directly to any natural water courses within the service area of the County.

**SECTION 7: PENALTIES:** Any person violating any of the provisions of this Ordinance or failing or refusing to comply with same, whether or not such person shall be the owner or the occupant of the property involved shall be fined not less than \$50.00 nor more than \$500.00 for each offense. Each day such person fails or refuses to connect the sanitary sewer drain pipes from any property or building owned or occupied by him, her or it with the public sewer facility and each day any such well, pool, cistern, septic tank or sink into which any such sewage is cast or permitted to be disposed of, is kept or maintained in violation of this Ordinance shall constitute a separate offense.

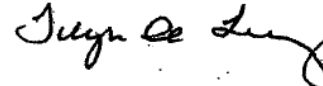
In addition thereto, all applicable city, county and state agencies shall have the right to seek injunctive relief from the circuit court of the county to enforce this Ordinance and any orders administratively issued in connection with this Ordinance.

**SECTION 8: INVALIDITY:** If any portion of this Ordinance shall be declared to be invalid by a court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance not declared to be invalid.

This 21<sup>st</sup> day of January, 2003.

  
MARTIN COUNTY JUDGE EXECUTIVE

State of Kentucky, County of Martin, SCT  
I, Carol Sue Mills, Clerk of the County and  
State aforesaid, do certify that on the 26  
day of Feb 20 03 at 10:00 AM  
the foregoing Ordinance was lodged in my  
office for record, and that I truly have  
recorded it, together with this and the  
foregoing Certificate, thereon endorsed.  
Witness my hand this the 26 day of  
Feb 20 03  
CAROL SUE MILLS, Martin County Clerk

BY  D.C.

**AN ORDINANCE RELATING TO ONSITE AND CENTRALIZED SEWER SYSTEMS  
AND  
THE CREATION OF A SANITATION DISTRICT IN MARTIN COUNTY, KENTUCKY**

**WHEREAS**, the Martin County Fiscal Court recognizes the need to correct and prevent the pollution of its creeks, streams, lakes and other water resources, and finds that responsive action is necessary to safeguard and improve the public health, safety, and welfare of its citizens; and,

**WHEREAS**, the Martin County Fiscal Court finds that the establishment of a Sanitation District to plan for sewer service, regulate the development of sewer systems as well as to construct, acquire, own, operate and maintain onsite and centralized collection and treatment facilities for sewage will protect and enhance the natural environment and economic well being of the entire County and constitutes a valuable and necessary governmental service; and,

**WHEREAS**, the Kentucky Revised Statutes (KRS) Chapter 67 provides for the establishment of local agencies to provide necessary governmental services as authorized by the County Judge Executive and approved by the Fiscal Court, and Chapter 220 allows for the creation of such an agency, namely, a sanitation district, to plan, operate and manage onsite and centralized sewer systems to serve all of Martin County.

**NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF MARTIN COUNTY, COMMONWEALTH OF KENTUCKY, AND SO ORDERED, THAT:**

**SECTION 1: DEFINITIONS**

- A. "Affected property owner" means any person owning property in Martin County and has not been granted a centralized sewer connection waiver.
- B. "Centralized Sewer System" means a system comprised of collection pipes that convey raw sewage from occupied buildings in a community to a sewage treatment plant, for processing and eventual discharge of treated water into an adjacent surface water.
- C. "Certified Installer" means a specific individual person who has met the requirements for certification contained in KRS 211.357 and the certification maintenance requirements contained in Kentucky Administrative Regulations.
- D. "Effluent" means the liquid discharge of a septic tank or other sewage pretreatment unit.
- E. "Inflow" means water other than wastewater that enters a sewer system from means such as roof drains, yard drains, area drains, drains from springs or swampy areas, openings in manhole covers, cross connections with storm sewers, catch basins,

cooling towers, storm waters, source runoff, street wash waters, drainage or any other source which directs rainwater into the sewer system.

- F. "Big Sandy Area Water Management Planning Council" means that regional planning council authorized by the Kentucky General Assembly that includes Martin County.
- G. "Onsite sewer system" means a complete system installed on a parcel of land under the control or ownership of any person, which accepts sewage for treatment and ultimate disposal under the surface of the ground. The common terms "on-site sewage system" or "on-site system" also have the same meaning.
- H. "Open ditch or drain" a paved or unpaved linear depression made in the surface of the earth that allows polluted water to collect and flow away illegally from an occupied building's sewer system or sewer system component.
- I. "Person" means any individual, firm, corporation, association, organization, partnership, business trust, company or governmental unit.
- J. "Sinkhole" means a naturally occurring topographic depression in a karst area. Its drainage is subterranean and serves as a recharge source for groundwater and it is formed by the collapse of a conduit or the solution of bedrock.
- K. "Straight pipe" means an illegal sewage disposal system that transports raw or partially settled sewage directly to an open ditch on ground surface, creek or creek branch, lake, or other surface water.
- L. "Surface water" means those waters having well-defined banks and beds, either constantly or intermittently flowing; lakes and impounded waters; marshes and wetlands; and any subterranean waters flowing in well-defined channels and having a demonstrable hydrologic connection with the surface. Effluent ditches and lagoons approved for use in sewage treatment which are situated on property owned, leased, or under valid easement by a permitted discharger are not considered to be surface waters of the Commonwealth.
- M. "Wastewater" mean and is used interchangeably with the terms "sewage" and "sewers".
- N. "Water Resource Information System" ("WRIS") means Kentucky's database of all water and sewer projects proposed by all water and sewer systems.

## **SECTION 2: PROHIBITED FACILITIES**

From the effective date of this Ordinance, it is recognized and deemed to endanger the public health and it is unlawful for any person owning an occupied building in the County to construct, install, use, or maintain a straight pipe, open drain or ditch, sinkhole, or other unapproved method or receptacle for the purpose of receiving or discharging sewage from the building. The owner of a building connected to such facilities and any person(s) that performs the work in making such a connection shall be subject to the penalties set out herein.

### SECTION 3: WHERE CENTRALIZED SEWER IS AVAILABLE

- A. All affected property owners having property upon which there is a building that is or becomes occupied and that is accessible to a centralized sewer system, shall make a sewer service connection to that system, at the owner's expense, using material and workmanship in accordance with the regulations of the Sanitation District, created herein.
- B. The Sanitation District shall notify all affected property owners and the Martin County Health Department by letter when centralized sewer service becomes available to areas within the County, and provide information regarding how to apply for service.. Connection to the sewer system shall be made by the affected property owner within one hundred and eighty (180) days from the notification letter date line. Subsequently, any onsite system shall be removed to avoid any danger to the health and welfare of any individual or to the environment, as directed by the Martin County Health Department.
- C. An occupied building is deemed *accessible* to a centralized sewer if:
- 1) the building is located at a distance not greater than 1,500 linear feet from a sewer collection line; and
  - 2) the construction cost for the connection is not anticipated to be abnormally high due to site characteristics.

If circumstances warrant, the Sanitation District, at its expense, may engage a licensed engineer to perform a twenty (20) year present worth cost analysis of the proposed connection. If this analysis illustrates that total costs of connection are not expected to be more than 20% above the normal cost per linear foot for such connection the connection shall be considered *accessible*, and the connection shall be installed by the owner, at the owner's expense. If, after the connection is complete, the actual, verified cost to the owner is greater than 20% above the normal connection cost per linear foot, the Sanitation District shall pay the overage. The normal cost per linear foot standard shall be determined by the Sanitation District.

- D. Permanency of connection: Once a building is connected to a centralized sewer system the owner may not remove, disconnect, or otherwise interrupt the flow of sewage to that system for any purpose unless directed by the Martin County Health Department, the Sanitation District, or the Kentucky Division of Water.
- E. Failure to connect to a centralized sewer system under the conditions outlined within this Section is hereby declared to endanger the public health and is unlawful.

### SECTION 4: WHERE CENTRALIZED SEWER IS NOT AVAILABLE

- A. From the effective date of this Ordinance, where a centralized sewer system is not available, it is the responsibility of a property owner to connect or have connected any

and all newly constructed and/or substantially renovated buildings intended for occupancy, to an approved, onsite sewer system, including those designed to serve individual buildings or to serve groups or clusters of buildings. The type, capacity and location of any onsite sewer system to serve any such building intended for occupancy shall comply with the regulations of the Sanitation District, created herein, whose regulations shall also conform to applicable regulations of the Martin County Health Department, the Kentucky Department for Public Health Protection and Safety and the Kentucky Division of Water.

- B. Discharge of effluent from any onsite sewer system to any open drain, ditch, pit, sinkhole, stream or well is prohibited, with the exception that holders of current NPDES/KPDES permits may discharge at permitted discharge points.
- C. The property owner is responsible for and must assure that the onsite sewage system is in working condition at all times, and shall properly operate and maintain the system or contract with qualified individuals or firms, approved by the Sanitation District to provide this service.
- D. Failure to connect to an approved onsite sewer system when a centralized sewer system is not accessible is hereby declared to endanger the public health and is unlawful.
- E. The Sanitation District may establish rules for periodic monitoring of all onsite systems to assure their proper functioning and may promulgate a schedule for periodic pumping for septic tanks.

## **SECTION 5: CENTRALIZED SEWER CONNECTION WAIVER**

- A. An affected property owner owning property upon which there is a building that is occupied or that becomes occupied and that is accessible, or becomes accessible to a centralized sewer system, may apply for a centralized sewer connection waiver ("connection waiver") from the Sanitation District, if the person can provide documentation that the building is connected to an onsite sewer system approved by the Martin County Health Department or the Kentucky Division of Water. If such documentation is not available, the individual may request the Martin County Health Department to conduct an inspection of the onsite system to determine whether the system is functioning properly. Upon presentation of documentation verifying approval of the onsite sewer system, the Sanitation District shall grant a connection waiver affecting the specific building.
- B. If and when any approved onsite sewer system fails, for the waiver to remain in force, the affected property owner must apply within thirty (30) days of such system failure to the Martin County Health Department for an onsite sewer system repair permit. Should the affected property owner receive a repair permit, he shall arrange with a certified installer to complete such repairs within sixty (60) from the date of issuance of the repair permit. Once repairs are completed and approved by the Martin County Health Department, the Sanitation District shall allow the waiver to continue in force. Failure by the affected property owner to comply with Section 5 of this Ordinance shall result in



withdrawal of the connection waiver and the affected property owner shall be required to connect to the centralized sewer system within sixty (60) days of the issuance of the notice of withdrawal of the connection waiver and no additional waiver for that building shall be granted.

- C. A person owning a parcel of property in Martin County consisting of ten (10) or more acres, located outside the corporate boundaries of a municipality, that is either zoned or designated by the County Property Valuation Administrator as agricultural or horticultural pursuant to KRS 134.010(9) or (10) shall be granted a connection waiver by the Sanitation District, upon presentation of documentation from the Martin County Property Valuation Administrator verifying same. Such waiver shall cover all single family dwellings, farm buildings and other structures incident to the operation and maintenance of the farm.

## **SECTION 6: EXCLUSION OF STORM WATER AND OTHER SURFACE WATER**

- A. It is the responsibility of a property owner to assure that storm water or other surface water is not allowed to inflow or otherwise enter a centralized sewer system or onsite sewer system.
- B. All affected property owners making application to connect to any sewer system, either an onsite or centralized system, shall provide adequate means for excluding storm water and other surface water inflow, provide copies of approved building construction plans or other documents illustrating elements designed to exclude such water and shall allow an agent of the Martin County Health Department or the Sanitation District or both the Martin County Health Department and the Sanitation District right of entry for timely inspection to verify compliance.
- C. Once a building is connected to an onsite or centralized sewer system, no person shall subsequently connect any roof drain or foundation drain to that sewer system or permit, allow or cause water from any source other than the sanitary plumbing of the building to enter the sewer system.

## **SECTION 7: CREATION OF SANITATION DISTRICT**

- A. In accordance with and pursuant to KRS Chapter 67.715 (2) and KRS Chapter 67.083 (3) (c) (h) and (r), the Martin County Fiscal Court grants its approval for the County Judge Executive to establish a special district to be known as the Martin County Sanitation District (Sanitation District). Further, the Sanitation District shall be structured and formed such that it shall have all powers and duties to reasonably, efficiently and effectively implement the provisions of and carry out the duties prescribed by KRS Chapter 220. Further, the Sanitation District shall coordinate Martin County's initial and on-going watershed planning effort to protect and enhance area water resources. The Sanitation District shall serve as the County's representative in region-wide watershed planning implementation.



RESOLUTION # 001-08

*A Resolution relating to the management of the Martin County Water District, the Martin County Sanitation District and economies of joint management of these districts.*

**Whereas**, KRS 74.020 authorizes the county judge executive to appoint up to five (5) members to serve on the board of commissioners of a water district with the approval of the Fiscal Court and, at present, the Martin County Water District's board of commissioners is comprised of three (3) members; and,

**Whereas**, by separate act, the Martin County Fiscal Court has created the Martin County Sanitation District, pursuant to KRS 67 and KRS 220, to oversee water quality planning and the development of sewer services in Martin County and such a district is typically managed by a distinct board of commissioners consisting of three members appointed by the judge executive and approved by the Fiscal Court; and

**Whereas**, after review and consideration of various alternatives, the Martin County Judge Executive and Magistrates of Martin County have determined that there are certain economies of scale and conveniences that will benefit the citizens of Martin County to have the water district and the sanitation district managed by a single board of commissioners.

**NOW THEREFORE, BE IT RESOLVED BY THE MARTIN COUNTY FISCAL COURT AND SO ORDERED PURSUANT TO KRS 67.715(2) THAT:**

1. From the date of passage of this Resolution the Martin County Utility Board shall be the title and name of the board of commissioners that manages both the Martin County Water District and the Martin County Sanitation District.
2. The number of commissioners of the Martin County Utility Board shall be five (5), and shall include those individuals who are presently serving as Martin County Water District commissioners being hereby appointed to the Martin County Utility Board, and their respective terms of office shall carry forward from their appointment to the Water District, together with two additional individuals who shall be appointed herein and each shall have a term of four years, as is consistent with Kentucky Statute.
3. As vacancies occur on the Martin County Utility Board, successors shall be duly appointed by the County Judge Executive subject to approval by the Fiscal Court. All future members terms shall be for four (4) years. Care shall be taken to appoint well qualified, bondable individuals, who collectively shall be knowledgeable in the conduct of a public business enterprise, have experience with one or other aspect of utility management and who will honor the public trust placed in them by such appointment.

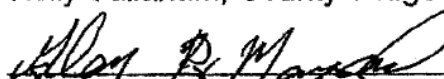
4. Each member of the this board must secure a bond pursuant to KRS 74.020 (5) and KRS 65.067(1) at the beginning of his service, the cost of which shall be equitably borne by the districts.
5. Utility Board members shall give full attention to their respective duties as regards proper management of the water district and proper management of the sanitation district and are hereby charged to search out and use all feasible means to achieve economies through the joint management of these systems.
6. The initial members of the Martin County Utility Board shall be:

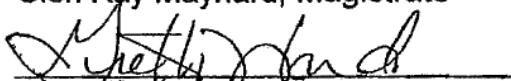
Name	Term Expires
M . Norm Volger	Jan. 1, 2010
M . Greg Cornette	Jan. 1, 2010
M Kevin Davis	Jan. 1, 2011
M . Greg Scott	Jan. 1, 2012
M . Nina Collier	Jan. 1, 2012

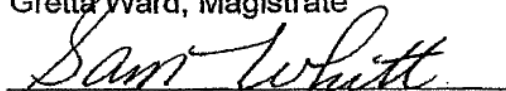
This Resolution duly passed and adopted by the Martin County Fiscal Court in accordance with the laws of the Commonwealth of Kentucky this 10th day of Jan. 2008.

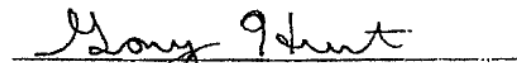
MARTIN COUNTY FISCAL COURT:

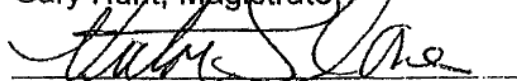
  
Kelly Callahan, County Judge Executive

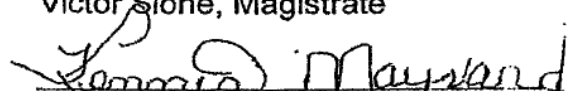
  
Glen Ray Maynard, Magistrate

  
Gretta Ward, Magistrate

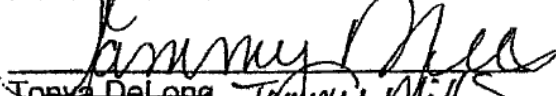
  
Sam Whitt, Magistrate

  
Gary Hunt, Magistrate

  
Victor Slone, Magistrate

  
Kennis Maynard, County Attorney

ATTESTED AND CERTIFIED AS TRUE AND CORRECT

  
Tonya DeLong  
Court Reporter