

ORDINANCE NO 2012-BC- 03
OF THE BOARD OF COMMISSIONERS OF
MADISON COUNTY INDIANA

AN ORDINANCE ADOPTING A MADISON COUNTY
SEWAGE DISPOSAL ORDINANCE REPEALING ORDINANCE DATED
JUNE 22, 1993
ORDINANCE NO 2012-BC-

WHEREAS, The Madison County Board of Health did on January 12, 2012 recommend for approval a county sewage disposal ordinance repealing previous ordinance dated June 22, 1993 regulating private disposal systems and

WHEREAS, the Indiana State Board of Health did review the proposed ordinance against the provisions of Indiana Codes on sewage disposal and Indiana State Department of Health rules 410 IAC 6-8.2 and 6-10 and

WHEREAS, the Board of Commissioners concur in the recommendations of the County Health Board regulating the installation, construction, maintenance and operation of residential and commercial on-site systems in Madison County and providing penalties for violations thereof.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF MADISON COUNTY AS FOLLOWS:

MADISON COUNTY SEWAGE DISPOSAL ORDINANCE

Section 1. DEFINITIONS

A. **“Commercial facility.”** “Commercial facility” means any building or place not used exclusively as a residence or residential outbuilding. A commercial facility includes but is not limited to:

1. an office building;
2. a manufacturing facility;
3. a single structure used or intended to be used for permanent or seasonal human habitation for sleeping three (3) or more families (apartment, multiplex, townhouse, or condominium);
4. a motel;
5. a restaurant;

6. A regulated facility; and any grouping of residences served by a cluster onsite system.
- B. **“Health Officer.”** “Health Officer” means the health officer of the Madison County Health Department.
- C. **“Onsite system.”** “Onsite System” means all equipment and devices necessary for proper onsite conduction, collection, storage, and treatment of sewage, and absorption of sewage in soil, from a residence or commercial facility.
- D. **“Onsite system failure.”** “Onsite system failure means an onsite system that exhibits one (1) or more of the following:
- 1 .Soil absorption field refuses to accept sewage at the rate of application, thereby interfering with the normal use of plumbing fixtures or resulting in the discharge of effluent to the ground surface or to surface waters.
 2. Failure of, or damage to, any component of an onsite system, thereby interfering with the normal use of plumbing or resulting in the discharge of effluent to the ground surface, or surface water.
 3. Effluent discharged from the onsite system causing contamination of a potable water supply, ground water, or surface water.
- A failed residential onsite sewage system is a health hazard.
4. **“Onsite system, new.”** “Onsite system, new” means the construction of an onsite system to serve a new residence or new commercial facility where the residence or commercial facility will not be connected to a wastewater treatment plant or to an existing onsite system.
 5. **“Onsite system operating permit.”** “Onsite system operating permit” means written, renewable approval by the Madison County Health Department for the continued use of an onsite system.
 6. **“Onsite system repair/replacement.”** “Onsite system repair/replacement” means the repair, replacement, or expansion of any onsite system component.
 7. **“Residence.”** “Residence” means a single structure used or intended to be used for permanent or seasonal human habitation for sleeping one (1) or two (2) families.
 8. **“Residential outbuilding.”** “Residential outbuilding” means a building for the private use of the owner not intended to be used for permanent or seasonal human habitation or sleeping.

9. **“Sewage.”** “Sewage” means all human excrement and water-carried waste derived from ordinary living processes. For the purposes of the Madison County Sewage Disposal Ordinance, sewage is wastewater.
10. **“Sanitary sewer.”** “Sanitary sewer” means any sewer constructed, installed, maintained, operated, and owned by the state, a municipality, or a person, firm, or corporation.
11. **“Soil.”** “Soil” means natural, non-filled, mineral or organic matter on the surface of the earth that shows the effects of genetic and environmental factors. These factors include climate (water and temperature effects), micro-organisms, macro-organisms, and topography acting on a parent material over time.
12. **“Soil Scientist.”** “Soil Scientist” means an individual registered as a professional soil scientist with the Indiana Registry of Soil Scientists (IRSS) as provided for under Indiana Code 25-31.5.

Section 2. **GENERAL ONSITE SYSTEM REQUIREMENTS**

- A. No person may cause or contribute to a health hazard or water pollution by disposing of any organic or inorganic matter from an onsite system into surface water, ground water, or onto the ground surface.
- B. The point source discharge of sewage, treated or untreated, from a residence or its associated sewage system to surface water, ground water, or the ground surface is prohibited.
- C. Any residence or residential outbuilding that generates sewage, that is not connected to a wastewater treatment plant shall comply with this rule and Indiana State Department of Health, hereafter referred to as ISDH, 410 IAC 6-8.2 or as may be amended, and all local ordinances.
- D. Any commercial facility that generates sewage, that is not connected to a wastewater treatment plant shall comply with this rule and ISDH Rule 410 IAC 6-10 or as may be amended, and all local ordinances.
- E. Any residence or residential outbuilding, which generates sewage, not connected to a wastewater treatment plant, must have an onsite system which is not in failure.
- F. Any commercial facility not connected to a wastewater treatment plant and which does not have a point source discharge permit under Indiana Code 13-18-19 must have an onsite system which is not in failure.

- G. The point source discharge of sewage, treated or untreated, from a commercial facility shall comply with 327 IAC 5.
- H. The Health Officer or agents of the department shall be permitted to enter upon all properties at reasonable times to:
 - 1. inspect facilities, equipment, or records;
 - 2. investigate allegations;
 - 3. determine soil characteristics;
 - 4. conduct tests; and
 - 5. collect samples;
to determine if a person is subject to, or in violation of, this ordinance.
- I. The onsite system absorption field area shall not be disturbed or altered, except as approved by the conditions of the permit, between the time of collection of information for the written site evaluation report and commencement of construction of the onsite system. Disturbance or alteration of the site includes but is not limited to, the following:
 - 1. the addition of fill.
 - 2. the cutting, scraping, or removal of soil.
 - 3. compaction of soil at the site resulting in densic material.
 - 4. erosion or sedimentation.
 - 5. the removal of tree root balls.
- J. A valid license or permit bond of \$10,000 dollars (ten thousand dollars) or as may be amended, payable to the Madison County Health Department, shall be required for installers making onsite system installations in Madison County. The purpose and benefit of said bond shall be to protect all persons damaged by illegal, improper, or faulty installation or repair in connection with work performed by the installer. Such bond shall be further conditioned upon the performance of all services in a workman-like and legal manner.
- K. Minimum lateral absorption field size permitted for installation is 800 (eight hundred) square feet.

Section 3. **ONSITE SYSTEM PERMITS**

- A. The property owner or his agent shall submit to the Health Department a completed application and a complete plan submittal for construction of a new onsite system and for an onsite system repair or replacement.

- B. A professional soil scientist registered as such with the Indiana Registry of Soil Scientists (IRSS) shall provide the onsite soils evaluation for the property for any new residence and new onsite system construction. The Madison County Health Department may require the onsite soils evaluation be performed by an IRSS certified soil scientist for a repair or replacement of an onsite system.
- C. The property owner or his agent shall obtain a written sewage disposal system permit from the Madison County Health Department prior to the following:
 - 1. The start of construction or the placement of a residence that will not be connected to a wastewater treatment plant.
 - 2. The start of construction of a residential onsite system repair or replacement.
 - 3. The start of construction or the placement of a commercial facility that will not be connected to a wastewater treatment plant.
 - 4. The start of construction of a commercial onsite system repair or replacement.
 - 5. The start of construction of any replacement, reconstruction, or expansion of a residence which may increase the number of bedrooms.
 - 6. The start of construction of any replacement, reconstruction, or expansion of a commercial facility which may increase the amount of sewage and/or wastewater generated.
 - 7. The start of construction of any residential outbuilding which will generate sewage, or the addition of plumbing to an existing residential outbuilding, when the residential outbuilding is not connected to a wastewater treatment plant.
- D. Any proposed changes, alterations, or additions to an onsite system plan for which the Health Department has issued a sewage disposal system permit, shall be approved, in writing, by the Health Department prior to implementation of the changes, alterations, or additions.
- E. A residential or commercial sewage disposal system permit shall expire upon completion of the onsite system construction and final approval by the Health Department or within one hundred-twenty (120) days after issuance, whichever comes first.
- F. The Health Department shall issue or deny, in writing to the owner, a residential onsite system permit within forty-five (45) days of receipt of a completed application and complete plan submittal in accordance with Indiana Code 16-41-25-1.
- G. The approval of a plat by the local plan commission or the county recorder does not constitute approval by the health department for the construction of an onsite system.

See Madison County Indiana Land Use & Development Code, Subdivision Control Ordinance, Article 3.2(i) or as may be amended.

- H. The permit shall be posted in a conspicuous place at or near the building site where the onsite system construction is taking place.
- I. A permit fee of \$165.00 (One-Hundred and sixty-five dollars) or as may be amended, will be charged for any residential or commercial site installing an onsite system, new construction or repair and replacement. The permit fee is established at \$75.00 dollars (seventy-five dollars) or as may be amended. An application fee is established at \$50.00 dollars (fifty dollars) or as may be amended. An inspection fee is established at \$40.00 dollars (forty dollars) or as may be amended.
- J. A residential or commercial sewage disposal system permit which expires after one hundred-twenty days (120) and without final approval by the Madison County Health Department may be renewed at the permit fee of \$75.00 dollars (seventy-five dollars) or as may be amended.
- K. All fees collected under the terms of this ordinance shall be receipted and credited to the Madison County Health Fund for services rendered in enforcing this ordinance.

Section 4. **INSPECTIONS**

- A. The onsite system, when constructed, shall comply with the requirements of 410 IAC 6-8.2, or Rule 410 IAC 6-10 or as may be amended, all local ordinances, and the requirements of the onsite sewage disposal system permit.
- B. No portion of the residential onsite system may be covered, prior to inspection, that would preclude the Health Department from making a determination that the residential onsite system was installed in compliance with 410 IAC 6-8.2, all local ordinances, and the requirements of the onsite sewage disposal system permit.
- C. No portion of the commercial onsite system may be covered, prior to inspection, that would preclude the Health Department and the design engineer or architect from making a determination that the commercial onsite system was installed in compliance with 410 IAC 6-10, all local ordinances, and the requirements of the onsite sewage disposal system permit.
- D. The owner or agent shall notify the Health Officer when the onsite system is ready for final inspection. The final inspection shall be made within the shortest reasonable time, but not to exceed two (2) working days from the time of notice to the Health Officer.

Section 5. **POWER FOR INSPECTION**

- A. The Health Officer or his agent bearing proper credentials and identification shall be permitted to enter upon all properties subject to the provisions of this ordinance at reasonable times for purposes of inspections, observations, measurements, sampling, and testing necessary to carry out the provisions of this ordinance.
- B. The Health Officer or his agent may compel the immediate suspension of any work, completed, or in progress, or planned, that is in violation of any provisions of this ordinance. Such suspension notice shall be posted at the construction site and be provided by written notice to the owner of the premises.

Section 6. APPLICATION DENIAL AND PERMIT REVOCATION

- A. After review of an application and plan submittal, the Health Department may deny approval for construction of a new onsite system, repair, or replacement of an onsite system. Reasons for denial include, but are not limited to, any of the following:
 - 1. false information was submitted on the application.
 - 2. the plan submittal does not comply with the requirements of 410 IAC 6-8.2, or 410 IAC 6-10, or this ordinance or as may be amended.
 - 3. the plan submittal does not address the demands and limitations of the onsite system site.
 - 4. the owner or agent failed to demonstrate that the proposed onsite system can be designed, located, constructed, maintained, and operated in compliance with 410 IAC 6-8.2, or 410 IAC 6-10, or this ordinance or as may be amended.
 - 5. information submitted in the written site evaluation report, plat plan, or onsite system plan is found to be incomplete or erroneous.
 - 6. the owner failed to respond to a written request for a revised plan submittal or for additional information within forty-five (45) calendar days.
- B. The Health Department may also deny an application for construction of a new onsite system or an onsite system repair or replacement if:
 - 1. a sanitary sewer of a wastewater treatment plant is located within three hundred (300) feet of the property line of the affected property, or the estimated cost of the sewer connection does not exceed one hundred fifty percent (150 %) of the estimated cost of an onsite system, and

2. The sanitary sewer and the treatment facility of the wastewater treatment plant have adequate capacity as defined by the Indiana Department of Environmental Management.
- C. If an application is denied, the owner shall be advised, in writing, of the basis for the denial, the right and procedure for appeal, the deadline for appeal, and the opportunity for a fair hearing.
- D. The Health Department may modify or revoke a permit, in writing, for construction of a new onsite system, repair, or replacement of an onsite system. Reasons for modification or revocation include, but are not limited to, any of the following:
1. the soil absorption field site has been disturbed or altered after collection of information for the written site evaluation report. Alteration of the site includes, but is not limited to the addition of fill; the cutting, scraping or removal of soil; the presence of densic material as a result of compaction of the site.
 2. false information has been submitted to obtain the permit.
 3. information submitted in the written site evaluation, report, plat plan, or onsite system plan, is found to be erroneous.
 4. errors or omissions are discovered after the permit has been issued.
 5. the onsite system does not comply with this ordinance, or Rule 410 IAC 6-8.2, or Rule 410 IAC 6-10, or as may be amended.
- E. If a permit is revoked, the owner shall be advised, in writing, of the basis of the revocation, the right and procedure for appeal, the deadline for appeal, and the opportunity for a fair hearing.
- F. If a permit is revoked, construction may not proceed on the onsite system, the residence, or commercial facility it serves, until a new permit issued.
- G. If a permit has been revoked, the following shall occur for a new permit to be issued:
1. the owner shall provide, as necessary, a new or revised site evaluation, and a revised plat plan, and onsite system plan.
 2. the proposed onsite system shall comply with the requirements of ISDH Rule 410 IAC 6-8.2, or 410 IAC 6-10, or this ordinance, or as may be amended.

Section 7. **ONSITE SYSTEM FAILURE AND CORRECTION**

- A. The owner shall correct the failure of an onsite system or its components, whichever is applicable, within the time limit set by the Health Department.
- B. When replacement of any of the components of the onsite system is required, requirements and procedures pertinent to application, plan submittal, permit, and inspection shall be followed according to this ordinance.
- C. Soil absorption field replacement for a residential onsite system shall be made in accordance with the application of optimum system design based on the site, and the best judgment of the Health Department, except that:
 - 1. the replacement of the soil absorption field cannot be contrary to Section 2 (A) and Section 2 (B) of this ordinance; and
 - 2. no portion of a replacement soil absorption field can be constructed to a depth greater than forty-eight (48) inches below final grade.

Section 8. **ENFORCEMENT**

- A. The Health Officer, stating the nature of the violation and providing a time limit for satisfactory correction thereof, shall serve any person in violation of any of the provisions of this ordinance a written order.
- B. An owner or agent, upon receipt of an order, shall comply with the order and ISDH Rule 410 IAC 6-8.2, or 410 IAC 6-10, and this ordinance, or as may be amended.

Section 9. **APPEALS**

- A. Appeals shall lie from any of the following decisions made or action taken by the Health Officer:
 - 1. denial of any application for a permit to construct, install, alter, or repair a private onsite system; or denial of the reissuance of a permit to construct, alter, or repair a private onsite system; or denial to renew an expired permit to construct, alter, or repair a private onsite system.
 - 2. a determination pursuant to Section 5 (B) or Section 8 (A) of this ordinance that work completed, in process, or planned is in violation of any of the provisions of this ordinance, or that any other violation of the provisions of this ordinance exists.
- B. An appeal may be filed with the Madison County Board of Health by any person aggrieved or affected by any decision of the Health Officer as set forth in Section 9. The appeal shall be submitted in writing within ten (10) days after the applicable

decision of the Health Officer, unless the appellant obtains any extension of time in writing from the Madison County Board of Health; and shall specify the adverse decision appealed from and the grounds therefore. The Health Officer shall transmit to the Madison County Board of Health all of the papers in his office constituting the record of the case. The Madison County Board of Health, upon receipt of such notice and record, shall immediately select a reasonable time and place for the hearing of the appeal and shall give notice in writing to the appellant of the time and place thereof. The hearing of the appeal may be continued if necessary but the Board shall render a decision on the appeal within twenty-one (21) thereafter. Any person may appear and testify at such hearing, either in person or by counsel.

- C. The Madison County Board of Health shall hear and decide the appeal, and may overrule or modify the decision or determination of the Health Officer if the Board determines that the Health Officer incorrectly decided the matter.
- D. The concurring vote of the majority of the members of the Madison County Board of Health shall be necessary to reverse or modify any determination or decision of the Health Officer.

Section 10. **PENALTIES**

- A. Any person, firm, or corporation who shall violate any provision of this ordinance shall be subject to penalty hereinafter prescribed in this section. On being found to have violated the provisions of this ordinance, the violator shall be punished for each offense with a civil penalty not to exceed twenty-five hundred (\$2,500) dollars per day, or as may be amended. Each day shall be considered a separate offense.
- B. In addition to any fine levied under this ordinance, the Madison County Board of Health may enjoin any violation of this ordinance by proceeding in any court of legal jurisdiction seeking to abate the public health hazard, nuisance, or violation of this ordinance.
- C. Any sewage disposal system installer who shall violate any provision of this ordinance, ISDH Rule 410 IAC 6-8.2, or Rule 410 IAC 6-10, or as may be amended, in addition to any penalties set forth in Section 10 (A) and Section 10 (B), shall be subject to a revocation of the \$10,000 permit or license bond, or as may be amended, as described in Section 2 (J) and the removal of the installer from the Madison County Health Department installer registry.
 - 1. A single violation of any provision of this ordinance, ISDH Rule 410 IAC 6-8.2, or Rule 410 IAC 6-10, or as may be amended, shall result in a written violation letter documenting the nature of the violation and the corrective measures to be taken.
 - 2. A second violation of any provision of this ordinance or the failure to correct any initial violation of this ordinance, ISDH Rule 410 IAC 6-8.2, or Rule 410 IAC 6-

10, or as may be amended, shall result in the revocation of the \$10,000 permit or license bond or as may be amended, as described in Section 2 (J) of this ordinance by the Madison County Board of Health and the removal of the installer from the Madison County Health Department installer registry. The revocation of the license or permit bond and the removal of the installer name from the registry shall be for a period of time not less than ninety (90) days.

3. A written appeal for reinstatement may be filed with the Madison County Board of Health. The appeal shall include reasons for reinstatement and an agreement to abide by the provisions set forth in this ordinance, ISDH Rule 410 IAC 6-8.2, Rule 410 IAC 6-10, or as may be amended.
4. The Madison County Board of Health, upon receipt of an appeal for reinstatement, shall hear the appeal at the next scheduled Madison County Board of Health meeting, after the ninety (90) day suspension, including the \$10,000 bond or as may be amended, revocation and removal from the installer registry, has elapsed. Any person may appear and testify at such hearing, either in person or by counsel.
5. The Madison County Board of Health shall hear and decide the appeal for reinstatement of the \$10,000 permit or license bond, or as may be amended, and the reinstatement of the installer to the Madison County Health Department installer registry or to continue the revocation.
6. The concurring vote of the majority of the members of the Madison County Board of Health shall be necessary to reinstate the \$10,000 permit or license bond, or as may be amended, and to reinstate the installer to the Madison County Health Department installer registry.
7. Any sewage disposal system installer whose \$10,000 permit or license bond, or as may be amended, has been previously revoked and whose name has been previously removed from the Madison County Health Department installer registry and who is found to be in violation of any provision of this ordinance, ISDH Rule 410 IAC 6-8.2, ISDH Rule 410 IAC 6-10, or as may be amended, shall result in the revocation of the \$10,000 permit or license bond, or as may be amended, and the removal of the installer from the Madison County Health Department installer registry. The revocation of the permit or license bond and the removal of the installer from the installer registry shall be for a period of time not less than one (1) year.
8. An appeal for reinstatement shall follow the provisions set forth in the Madison County Sewage Disposal Ordinance, Section 10 (C) (3-6).

Section 11. **VALIDITY**

- A. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- B. The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance.

Section 12: Repeal and Effective Date

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect thirty (30) days after its adoption and publication as provided by law.

PASSED AND ENACTED by the Board of Commissioners of Madison County, Indiana, this 12th day of March, 2012.

**MADISON COUNTY BOARD OF
COMMISSIONERS**

BY:



JOHN M. RICHWINE, *President*



STEPHANIE OWENS, *Member*



JEFF HARDIN, *Member*

ATTEST:

KATHY STOOPS-WRIGHT, *County Auditor*

Publish:
Anderson Herald-Bulletin
Elwood Call-Leader

PREPARED BY:
Gerald P. Shine, Jr. (#297-48)
Madison County Attorney

Revised 3/16/2012