

**Ordinance No. 58-07**

**AN ORDINANCE REPEALING CHAPTERS 24.04, 24.08, 24.12, and 24.16 OF TITLE 24, ENTITLED “WATER AND SEWERS”, OF THE ST. JOSEPH COUNTY CODE AND REPLACING THOSE CHAPTERS ENTIRELY WITH A NEW CHAPTER 24.04.**

**Department 055 Health**

**Statement of Purpose and Intent**

The purpose and intent of this Ordinance is to protect public health, safety, welfare, and property in St. Joseph County by repealing Chapters 24.04, 24.08, 24.12, and 24.16 of Title 24, entitled “Water and Sewers”, and replacing those chapters entirely with a new Chapter 24.04.

This is an Ordinance pertaining to the design, installation, repair, inspection, protection, and maintenance of septic systems in St. Joseph County.

NOW THEREFORE IT IS ORDAINED BY THE ST. JOSEPH COUNTY COUNCIL THAT:

Section 1, Title 24, Chapters 24.04, 24.08, 24.12, and 24.16 are repealed and Title 24, Chapter 24.04 is revised as herein attached:

Section 2, This ordinance shall be in full force and effect ninety (90) days from and after its enactment, publication, and approval by the St. Joseph County Council.

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Member, St. Joseph County Council

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## 1. Purpose

The purpose of this Ordinance is to protect the quality of drinking water supplies and public health, safety, welfare, and property by establishing requirements for the design, installation, repair, inspection, protection, and maintenance of onsite septic systems in St. Joseph County.

## 2. Conflicting Ordinances

The provisions of this Ordinance shall be deemed as additional requirements to the minimum legal requirements of other governmental entities. In case of conflicting requirements, the most restrictive shall apply.

## 3. Incorporation by Reference

All rules, regulations, and requirements of the Indiana State Department of Health (ISDH) related to septic systems as amended from time to time are hereby incorporated by reference. Any violation of these laws, regulations, or requirements shall also be a violation of this Ordinance.

## 4. Reporting Requirement Substitution

In the case where a report requiring information of the same character must be filed to meet a Federal or State requirement, the report may be copied and submitted to the Health Department in lieu of otherwise applicable reporting requirements under this Ordinance. Any information required by this Ordinance that is not included in the Federal or State report, must be submitted additionally.

## 5. Definitions

Except as defined below, the terms of Rule 410 IAC 6-8.1, as amended from time to time, shall have the same definition whenever used in this Ordinance. For purposes of this Ordinance, the terms below shall be defined as follows:

- A. **Abandonment:** The process of rendering a septic system which is no longer in use safe and sanitary.
- B. **Aquifer:** A geologic formation, group of formations, or part of a formation that yields economically significant quantities of water to wells.
- C. **Board of Health:** The St. Joseph County Board of Health.
- D. **Cluster System:** An onsite septic system shared by two (2) or more residences, two (2) or more commercial facilities, or any combination thereof. A cluster system is an onsite commercial system.
- E. **Commercial Facility:** Any building or place not used exclusively as a residence, residential outbuilding, or a single family farm. A commercial facility includes, but is not limited to:
  - An office building,
  - A manufacturing facility,
  - 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),
  - A motel,
  - A restaurant,
  - A regulated facility, or
  - Any grouping of residences or businesses served by a cluster system.
- F. **Commercial Septic System:** Any septic system that receives septic effluent from a commercial facility.

- G. Contractor:** An organization that possesses a current septic contractor license from the Health Department.
- H. Conveyance:** Any structural process for transferring storm water between at least two (2) points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways
- I. Contractor License:** A license issued by the Health Department, after specific conditions are met, to a company, partnership, or corporation that authorizes the entity to install or repair septic systems in St. Joseph County under permits issued by the Health Department. Septic systems may only be installed or repaired by persons employed by a company, partnership, or corporation that possesses a current contractor license.
- J. Dry Well:** Any manmade structural cavity usually extending from or near the ground surface into the soil and used or intended to be used primarily to transmit wastewater to the soil or to dispose of the wastewater. Dry wells are typically made of concrete or rock, placed individually or stacked, and may or may not be surrounded or filled with gravel. The construction or repair of a dry well to receive septic effluent is not allowed in St. Joseph County.
- K. Fill:** Material placed by any person and usually characterized by one (1) or more of the following:
- No soil horizons,
  - Depositional stratification created by the movement of soil by any person,
  - A soil horizon that has been covered by any person, or
  - Materials not indigenous to a soil horizon, such as cinders, refuse or construction materials.
- L. Experimental Systems:** Any onsite technology not described in current state rules but approved for use by ISDH under the provisions of 410 IAC 6-8.1-31(g) or 410 IAC 6-10-8.
- M. Floatables:** Any combination of solid to semi-solid materials consisting of, but not limited to, grease, oils, fats, human excrement, soap scum, garbage disposal waste and other buoyant materials found in wastewater or septic effluent.
- N. Health Department:** The Health Department of St. Joseph County, Indiana.
- O. Health Officer:** The Health Officer of the St. Joseph County Health Department or their duly authorized representative.
- P. IAC:** Indiana Administrative Code.
- Q. IC:** Indiana Code.
- R. ISDH:** Indiana State Department of Health.
- S. Installer license:** A license issued by the Health Department, after specific conditions are met, to an individual that authorizes the individual to install and repair septic systems in St. Joseph County under permits issued by the Health Department. A person with an installer license must be employed by an entity with a contractor license to install or repair septic systems. A person with an installer license must be onsite at all times when a septic system is being installed or repaired.
- T. Installation:** The act of constructing a new or replacement septic system.
- U. Municipal Sewer System or Public-Owned Treatment Works (POTW):** Any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a "State" or "Municipality", including a water and sewer district authorized by IDEM, as such device or system is defined by Section 502(4) of the

Clean Water Act. This definition includes sewers, pipes or other conveyances only if they convey wastewater to a POTW where treatment is provided.

- V. **Onsite Septic System:** For purposes of this ordinance, any septic system that is not regulated by the Indiana Department of Environmental Management.
- W. **Permit Stipulations:** Permit-specific requirements issued by the Health Department to address unique issues raised by site specific conditions or situations.
- X. **Person:** Any of the following or their authorized representative. Any individual, trust, firm, joint stock company, non-profit organization, church, Federal agency, corporation (including a government corporation), limited liability company, partnership, co-partnership, company, estate, municipal corporation, City, School City, Town, School Town, School District, School Corporation, County, State Agency, association, State, municipality, commission, political subdivision of the State, any interstate entity or any other legal entity or their legal representative.
- Y. **Potable Water:** Water intended and suitable for drinking or culinary purposes.
- Z. **psi:** Pounds per square inch.
- AA. **Property Owner:** Any person or their authorized representative who owns a property or part of a property or a facility or part of a facility subject to the requirements of this Ordinance.
- BB. **Pump Assisted Septic System:** Any septic system that conveys septic effluent by force to a distribution box or manifold via a pressure delivery line, including but not limited to flood dose, pressure distribution, and mound septic systems.
- CC. **Repair:** Any activity, other than routine maintenance, that alters the effectiveness of or replaces any part of a septic system including any addition to or alteration of the system.
- DD. **Residential Septic System or Residential Sewage Disposal System:** All equipment and devices necessary for the proper conduction, collection, storage, treatment, or onsite disposal of sewage from a one (1) or two (2) family dwelling.
- EE. **Rule 410:** The Indiana State Department of Health Rule 410 IAC 6-8.1, 410 IAC 6-10, Bulletin S.E.-11 and S.E.-13, as amended from time to time, and any lawful orders and requirements issued by ISDH pursuant to the Rule 410 IAC 6-8.1 and 410 IAC 6-10.
- FF. **Sanitary Privy:** A small enclosed structure for the purpose of serving as an outdoor toilet.
- GG. **Septic Effluent or Wastewater:** Any combination of liquid and water-carried wastes from residence(s), commercial building(s), industry(s), institutions, or any other facility generated by ordinary living processes or other waste approved by ISDH. Also includes any groundwater, surface water, or storm water that may be present in the distribution system.
- HH. **Septic System:** Any portion of a residential, commercial, experimental or cluster septic system outside of the structure it serves which is used to distribute, hold, treat or dispose of wastewater.
- II. **Septic System Failure:** Any system that meets one or more of the following criteria:
  - The system refuses to accept sewage at the rate of design application,
  - Effluent discharge exceeds the absorptive capacity of the soil, resulting in ponding, seepage, or other discharge of effluent to the ground surface or to surface waters, or
  - Effluent is discharged or released from the system causing contamination of a potable water supply, ground water or surface water.
- JJ. **Septic Tank:** A structure into which sewage is discharged for settling and solids digestion.

- KK. Siting:** The process of selecting an appropriate and lawful location for the installation of a septic system.
- LL. Start of Construction:** Any onsite construction activity involving the erection of the structure to be served by a septic system or the delivery of manufactured housing.
- MM. Surface Impoundments:** A facility or part of a facility which is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of water or wastes containing liquids, and which is not an approved injection well.
- NN. Wastewater Administrative Control Area:** A geographic area established by the Health Department where septic systems have caused drinking water supplies to exceed Federal Drinking Water Standards and where the Health Department has established requirements related to septic systems to protect the quality of the groundwater and public health.
- OO. Well:** Any artificial excavation that penetrates or derives water from the interstices of the rocks or soil it penetrates including wells for potable or non-potable purposes.

## 6. Applicability

This Ordinance applies to the design, installation, repair, inspection, protection, and maintenance of any septic system installed or proposed to be installed in St. Joseph County.

## 7. Prohibitions:

- a. A septic system that has failed or fails to operate as designed is a threat to the quality of the groundwater and surface waters and is thereby a threat to public health. Any person who owns a property with a failed septic system shall:
  - i. Inform the Health Department of the failure.
  - ii. Comply with any lawful orders of the Health Department to repair or replace the failed system.
- b. Dry wells that receive septic effluent are a potential threat to the quality of the groundwater and are thereby a threat to public health.
  - i. No person may install, replace, or repair a dry well that receives or is intended to receive septic effluent.
  - ii. The Health Department shall assess penalties and suspend or cancel the contractor license of any person who installs, replaces, or repairs a dry well that receives or will receive septic effluent.
- c. The discharge of septic effluent to the ground surface, ditch, waterway, conveyance, or tile that discharges to the surface or a waterway or conveyance is a threat to the quality of the surface water and is thereby a threat to public health.
  - i. No person may install or repair any device which facilitates the discharge of septic effluent as described in Section 7.c.
  - ii. The Health Department shall assess penalties and suspend or cancel the contractor license of any person who installs any device to facilitate the discharge of septic effluent as described in Section 7.c.
- d. The County Building Department shall provide any applicant proposing to increase the number of bedrooms in a residence or move a structure, including a manufactured home, to a new location with a notice prepared by the Health Department explaining the requirements and recommendations for modifications to their septic system.

Any person applying to increase the number of bedrooms in a residence or move a structure, including a manufactured home, to a new location which is or will be served by an onsite septic

system shall obtain a septic permit or a written opinion from the Health Department stating that the existing septic system appears to be adequate to meet the requirements of the proposed structure.

- e. Any county, city, or town government agency receiving an application to rezone a property which has a structure served by an onsite septic system shall notify the Health Department of the application at least ten (10) working days prior to taking final action on the application. When reasonable and necessary, the Health Department may: 1) provide comments on the application, 2) require the applicant to submit any reasonable and necessary information required to assess the adequacy of the septic system, and 3) require that the septic system be modified or replaced to meet current State and County requirements for the intended use.
- f. The discharge or release of any material other than human waste, waste generated from culinary processes, and other waste generated by normal living processes or waste approved by the Indiana State Department of Health to a septic system is a threat to the quality of the groundwater and public health. No person shall discharge any waste other than that described above to a septic system of any kind.
- g. No person may pump, haul, dispose, discard, or release septic effluent that has been pumped from a septic tank, dry well, or any other item used to hold or store septic effluent in a manner that is not in compliance with the requirements of the Indiana Department of Environmental Management.

## **8. Licenses and Registrations**

### **a. Contractor Licenses**

- i. Any company, partnership, or corporation that installs or repairs a septic system in St. Joseph County shall first obtain a contractor license from the Health Department except as provided in Section 8.a.ii.6.
- ii. Any person applying for a contractor license shall:
  - 1. Complete an application as prescribed by the Health Department,
  - 2. Pay a non-refundable license fee annually to the Health Department as prescribed by the County Commissioners, and
  - 3. Provide a bond made payable to the Health Department according to the following requirements.
    - a. The bond shall be made payable to cover the costs when the contractor fails to pay for:
      - 1. Repairing work performed in violation of this Ordinance, and the lawful orders of the Health Department,
      - 2. Penalties applied to a contractor for violation of Rule 410, County Code 24, and the lawful orders of the Health Department as assigned by the Health Department consistent with Sections 20 and 22, or
      - 3. The Health Department's cost of enforcing violations consistent with Sections 20 and 22.
    - b. The amount of the bond shall be:
      - 1. \$10,000 for persons installing gravity feed septic systems only and
      - 2. \$20,000 for persons installing gravity feed and other types of septic systems.
  - 4. The term of the bond shall be one year and shall be renewed each year on January 31.
  - 5. Only one bond shall be required for any company, partnership, or corporation applying for a contractor license.
  - 6. Residential property owners may install their own septic systems without obtaining a contractor or installer license or providing a bond to the Health Department if they:
    - a. Obtain the appropriate septic installation permit,

- b. Comply with all applicable laws, regulations, and lawful orders of the Health Department,
  - c. Participate in a preconstruction meeting with the Health Department, and
  - d. Perform 100% of the installation work themselves.
- b. Installer and Inspector Licenses
  - i. Any person that installs or repairs gravity feed septic systems shall first obtain a Gravity Feed Septic System Installer License from the Health Department.
  - ii. Any person that installs a pump assisted septic systems shall first obtain a Pump Assisted Septic System License from the Health Department. A Pump Assisted Septic System License shall also include a Gravity Feed Septic System License.
  - ii. Any person who conducts a septic inspection for compliance with the property transfer provisions of the Source Water Protection Ordinance, County Code 24.22., shall first obtain a Septic System Inspector License from the Health Department.
  - iii. Any person applying for a license identified above shall:
    - 1. Complete an application as prescribed by the Health Department,
    - 2. Pay a non-refundable license fee annually to the Health Department as prescribed by the County Commissioners, and
    - 3. Pass the appropriate test administered by the Health Department.
  - iv. Any person applying for a license shall first pass an open book test administered by the Health Department consistent with the following requirements:
    - 1. Separate tests shall be administered for Gravity Feed, Pump Assisted Systems Licenses, and Septic Inspector Licenses.
    - 2. The tests shall address the laws, regulations, and technical principals associated with installing, repairing, and inspecting septic systems, as appropriate.
    - 3. Any person who passes the appropriate test shall be exempt from any requirement to retake the test for a period of three years unless ordered by the Health Department to retake the test as part of a corrective action order.
    - 4. There shall be no cost for the test.
    - 5. Any person failing a test may retake the test after a period of seven (7) calendar days.
    - 6. Any person who has a current Pump Assisted Installation License shall be exempt from taking the test for an Inspector's License.
    - 7. Any person who holds a current contractor or installer license shall be exempt from the fee for an inspector license.
    - 8. The Health Department may, at its discretion, accept a testing and certification process implemented by another party in place of testing required herein.
  - v. At least one person with the appropriate installer license shall be onsite at all times when a septic system is being installed, replaced or repaired except as provided in Section 8.a.ii.6.
- c. Tank and Distribution Box Manufacturer Registration
  - i. No tank or distribution box may be used in a septic system unless the specifications for the tank or distribution box have been registered with and approved by the Health Department.
  - ii. An applicant for approval of a tank or distribution box shall:
    - 1. Submit an application to the Health Department on forms provided by the Health Department.
    - 2. Provide the specifications for the design upon request, and
    - 3. Provide a copy of the manufacturer's ISDH approval, if ISDH approval is required.
  - iii. There shall be no fee to register as a septic tank or distribution box manufacturer.

d. Soil Scientist Registration

- i. Only soils data collected, analyzed, and reported by persons registered with the Indiana Registry of Soil Scientists and approved by the Health Department shall be accepted for use in developing specifications for septic systems.
- ii. The Health Department shall approve any soil scientist that:
  1. Submits a written request to the Health Department to be on the list of approved soil scientists,
  2. Is in good standing with the Indiana Registry of Soil Scientists,
  3. Does not have a history of repeatedly submitting deficient or incorrect soils information, as determined by the Health Department, and
  4. Does not have any unresolved violations of this Ordinance.
- iii. Soil scientist shall be required to reregister with the Health Department every three years.
- iv. The Health Department may issue policies and procedures for collecting and reporting soils data to be used for septic permit applications and septic decisions and recommendations issued by the Health Department.
- v. Any soil scientist who fails to follow the provisions of this Ordinance or the lawful orders of the Health Department shall be subject to the enforcement provisions contained in Section 20 and the penalties contained in Section 22.

**9. Permits**

a. General Requirements

- i. Any person who installs or repairs any septic system shall first obtain the appropriate permit from the Health Department.
- ii. Any person who operates a cluster system or other system where the Health Department has determined that an operating permit is required shall first obtain an operating permit from the Health Department.
- iii. A fee shall be required for all permits and shall be:
  1. Prescribed by the County Commissioners,
  2. Paid at the time the permit application is submitted, and
  3. Non-refundable.
- iv. Obtaining the appropriate permit from the Health Department does not release any person from obtaining any other required permit or approval.

b. Types of Permits

- i. Any person desiring to install a septic system shall first obtain one of the following septic installation permits, as appropriate:
  1. Residential Septic System Permit for new construction, a replacement system, or connection to a cluster system.
  2. Commercial/Experimental Septic System Permit for new construction, a replacement system, or connection to a cluster system.
  3. Cluster System Permit for new construction or a replacement system.
  4. Sanitary Privy Permit.
- ii. Any person desiring to operate one of the following septic systems shall first obtain an operating permit from the Health Department, as appropriate:
  1. Any proposed cluster system,
  2. Any cluster system that exists when this ordinance is approved,
  3. Any residential or commercial septic systems included in an administrative control area established pursuant to Section 16 and where an operating permit has been determined to be necessary by the Health Department, or
  4. Any other system determined by the Health Department to require an operating permit.

- iii. The owner(s) of a cluster system that exists when this ordinance is approved shall have 120 days from the date of the effective date of this ordinance to submit the required information and apply for an operating permit.
- iv. The following repair permits shall be issued by the Health Department:
  - 1. Residential, Commercial/Experimental/Repair Permits.
  - 2. Cluster System Repair Permit.
- c. General Permit Application Requirements:
  - i. All permit applications shall:
    - 1. Be submitted on forms prescribed by the Health Department,
    - 2. Contain the data prescribed by the Health Department assessing the suitability of the soils at the site to support the proper functioning of an onsite septic system, and
    - 3. Contain other data prescribed by the Health Department necessary to process the application.
  - ii. All designs, drawings, and site plans submitted as part of a septic permit application shall:
    - 1. Include an accurate drawing made to scale and containing the information prescribed by the Health Department and
    - 2. Be prepared by a person with a current St. Joseph County Installer License, certified soil scientist, professional engineer, professional geologist, or licensed surveyor except when a system is to be installed subject to Section 8.a.ii.6.
  - iii. Any application for a septic permit for new construction shall show the location of the proposed septic system and a set aside area suitable for a replacement system subject to the following requirements.
    - 1. The set aside area shall be assumed to be the same size and type as the first system unless otherwise specified by the Health Department.
    - 2. The set aside area shall be in a suitable landscape position and have suitable topography.
    - 3. The set aside area shall be used for site planning purposes and no guarantee shall be made or implied that the set aside area will be suitable for a future replacement septic system.
    - 4. The Health Department shall not deny a septic system application for any lot platted by the Area Plan Commission prior to the effective date of this ordinance because there is insufficient space to designate a replacement system as described above.
- d. Cluster System Permit Application Requirements
  - i. An application for a permit to install a cluster system shall include the following:
    - 1. The name, business address, and business telephone number of the owner.
    - 2. One (1) set of detailed construction plans and specifications certified and sealed by an engineer or architect currently registered in Indiana. Plans shall be drawn to scale and have sufficient clarity to be reproduced.
    - 3. A map showing the location of the property.
    - 4. A plot plan, drawn to scale, showing the location of the cluster system with respect to property lines, existing and proposed structures, roads, and parking lots, any drinking water supply facilities within three hundred (300) feet of the cluster system and topography with contours at intervals of two (2) feet or less.
    - 5. The maximum design capacity of the cluster system.
    - 6. A list of properties that are expected to be connected to the cluster system.
    - 7. A soil report detailing the evaluation of soils observed in the area of the proposed absorption field. A minimum of six (6) borings within fifty (50) feet of the absorption field, with no less than three (3) of the six (6) borings within the absorption field are required. Boring locations shall be evenly distributed throughout the absorption field area.

8. A statement of how financial resources will be obtained to cover the cost to maintain and replace the system.
  9. Any other information deemed appropriate and necessary by the Health Department.
- e. Cluster System Operating Permit Application Requirements
- i. An application for a cluster system operating permit shall include the following:
    1. Proof of registration with the Indiana Utility Regulatory Commission (IURC) or documentation to the satisfaction of the Health Department that registration is not required.
    2. A maintenance agreement that shall include the following, as applicable:
      - a. Contact information for the organization responsible for maintenance,
      - b. Vegetation and erosion measures,
      - c. Monitoring well sampling and inspection,
      - d. Schedule for pumping and cleaning of septic tanks,
      - e. Wastewater flow recording,
      - f. A statement binding the owner to report all malfunctions of the systems to the Health Department, and
      - g. Other information deemed reasonable and necessary by the Health Department.
  - ii. An executed maintenance agreement must be in place prior to connecting any residence to the cluster system.
- f. Non-cluster System Operating Permit Application Requirements
- i. If an operating permit is determined to be required by the Health Department pursuant to Section 13.a.iv or Section 16, the requirements for operating permits shall be made on a case by case basis by the Health Department and shall include the requirements that are reasonable and necessary to ensure the correct operation of the system.
  - ii. The requirements for the operating permit shall be specified by the Health Department in the permit to construct the septic system for which the operating permit is required.
- g. Permit Approval Process Where the Health Department is the Sole Permitting Agency
- i. The property owner or their duly authorized agent shall:
    1. Apply for a permit and submit the soils information prescribed by the Health Department and
    2. Designate and protect the septic area as per the requirements of Section 12.
  - ii. The Health Department shall then:
    1. Review the soils data and other site information, and
    2. Issue minimum specifications for the design of the septic system, as appropriate.
  - iii. The property owner shall then submit a design consistent with the requirements of the Health Department that:
    1. Meets or exceeds the minimum design specifications of the Health Department,
    2. Contains all information prescribed by the Health Department, and
    3. Contains a variance request on forms provided by the Health Department for any deviation from the minimum design specifications issued by the Health Department. Any such variance request shall be in compliance with the provisions of the Rule 410.
  - iv. The Health Department shall then:
    1. Conduct an onsite inspection, as necessary,
    2. Review and assess the acceptability of the proposed design,
    3. Require modifications of the designs as necessary to meet specifications, site conditions, and regulatory requirements, and
    4. Issue a permit upon the receipt and approval of all required information and after determining that the application meets all applicable State and County requirements.

- v. The permit shall consist of:
  - 1. An approval sheet,
  - 2. The approved specifications,
  - 3. The approved site plan and designs, and
  - 4. Any required permit stipulations.
- h. Permit Approval Process (Other than Cluster Systems)Where Both ISDH and Health Department are Permitting Agencies
  - i. The property owner shall first make application to ISDH for approval to install or replace a septic system.
  - ii. Upon receiving ISDH approval of an application, the property owner shall submit a permit application to the Health Department along with a copy of the ISDH approval.
  - iii. The process as described in Section 9.g shall then be followed to issue a permit.
  - iv. If the state decides to delegate the permit approval process to the Health Department during their approval process, the property owner or their authorized agent shall submit a copy of the delegating letter from ISDH and follow the process defined in 9.g.
- i. Permit Approval Process for Cluster System Installation Permits
  - i. The property owner shall submit an application to the Health Department for an installation permit at the same time an application is submitted to either the ISDH or the Indiana Utility Regulatory Commission (IURC), as appropriate.
  - ii. Within 30 calendar days of receipt of written approval by the IURC or ISDH, the applicant shall notify all owners of properties, residences and other structures within 500 feet of cluster system of the planned construction of the cluster system and shall provide a list of recipients of the notice to the Health Department.
  - iii. The Health Department shall follow the process described in Section 9.g to process an application for an installation permit.
  - iv. A permit application for each facility to connect to the cluster system shall be obtained from the Health Department prior to connecting the facility to the cluster system.
- j. Duration of permits:
  - i. An installation permit for new construction shall expire one year after issuance.
  - ii. An installation permit to replace or repair a system shall expire six months after issuance except as provided for in Section 9.j.iv.
  - iii. An operating permit shall be renewed every three years and shall be applied for at least 60 days prior to the expiration of the existing permit.
  - iv. If the Health Department determines that it is necessary to install, or repair a septic system within a specified schedule to protect public health, the Health Department shall specify the schedule for installation in the permit. Such schedule shall be binding on the property owner and any septic installer who agrees to perform the installation. The permit shall expire as indicated in the permit.
- k. Requirements Applicable to All Permits
  - i. All septic systems shall be installed in compliance with the following requirements:
    - 1. Applicable ISDH requirements,
    - 2. St. Joseph County Code 24.04,
    - 3. The approved design and site plan,
    - 4. The specifications and permit stipulations issued by the Health Department, and
    - 5. Any other lawful direction provided by ISDH or the Health Department.
  - ii. A copy of the applicable permit with all attachments must be onsite at all times during construction of any septic system.

## 10. Siting

### a. Waste Disposal Systems

- i. All structures in which wastewater is generated shall be served by one of the following.
  1. A municipal sewer system,
  2. A facility under the authority of the St. Joseph County Regional Water and Sewer District, or IDEM,
  3. A septic system that is:
    - a. Located on the property on which the structure is located,
    - b. Located on a property with an applicable septic system easement, or
    - c. Connected to an approved cluster system.

### b. Information Requirements for Building Permits and Rezoning

The Health Department may require any person applying to replat a property, rezone a property, or remodel an existing property to provide any appropriate and reasonable information, inspections, and data necessary to comply with Sections 7.d and e.

### c. Connection to Municipal Sewer

- i. The Health Department shall encourage the connection of residences and businesses to municipal sewers whenever practical, economical or in the interest of public health.
- ii. Decisions concerning whether to require new subdivisions to be connected to municipal sewer systems shall be made through the procedures established by County Code 20.
- iii. If new construction is proposed or a residential or commercial septic system fails and a municipal sewer is available adjacent to the property or adjacent to an easement or right of way which is adjacent to the property:
  1. The property owner shall connect to the municipal sewer system unless a written waiver is provided by the municipality to the Health Department.
- iv. The Health Department may grant a variance of the requirement to connect to municipal sewer if the Health Department determines the costs to connect to be prohibitive.
- v. The Health Department may require that any structure be connected to municipal sewer if there is a compelling public health reason to do so.

## 11. Soil Investigations and Reports

The Health Department may issue policies and procedures concerning the preparation and submittal of soil reports to support any decision concerning septic systems and such policies and procedures shall be binding on all soil scientists and permit applicants.

## 12. Site Preparation

### a. New Construction

- i. Initial construction activities.
  1. No construction activity involving the erection of any structure to be served by a septic system may be initiated prior to obtaining a septic permit.
  2. Clearing, grubbing and/or grading a lot prior to obtaining a septic permit is discouraged and subject to the provisions of Section 12.a.i.3 and 4.
  3. Removing vegetation, scraping, cutting, filling, or compacting soil, removing tree root balls or other surface disturbing activities in a designated septic area or on the location of a soil boring may render any soils report obtained prior to such disturbance unacceptable for use in determining soil conditions for any septic permit, approval, or recommendation by the Health Department.
  4. If the surface disturbance activities described in Section 12.a.i.3 occur, the Health Department may require new soil borings and may require any of the following actions to mitigate the impacts to the soil if all State and County requirements concerning the design and installation of septic systems can not be met:

- a. Altering the design of the septic system,
    - b. Designating the proposed septic area unsuitable for any septic system, or
    - c. Designating the entire property unsuitable for any onsite septic system.
  - ii. Protection of septic system and dispersal area prior to construction.
    1. Prior to submitting a design for a septic permit, the property owner or their authorized agent shall designate and protect the septic system location by:
      - a. Placing metal fence posts extending approximately two (2) feet below and four (4) feet above the ground at the corners of the septic area and every fifty (50) feet along the sides of the septic area.
      - b. Extending two lines of durable caution tape, rope, or fence around the system approximately two (2) feet and four (4) feet above the ground and securely fastening it to each fence post so that it remains in place.
      - c. Placing a sign no smaller than approximately one (1) foot by two (2) feet on a post or the tape, rope, or fence which states “Designated Septic Area – Disturbing this area is a violation of County Code 24.04”.
    2. Where an elevated sand mound is to be constructed, the down slope dispersal shall also be protected by the measures described in Section 12.ii.1.
    3. Upon the designation of the site of the proposed septic area by the method described in Section 12.a.ii.1, no person shall disturb the designated area by any of the activities described in Section 12.a.i.3.
    4. The measures described in Section 12.a.ii.1 shall be maintained until installation of the septic system begins.
    5. The Health Department may require any additional measures on a case by case basis as deemed reasonable and necessary to protect the proposed septic area, the installed septic system, and the dispersal area.
  - iii. Protection of septic system and dispersal area after construction of the septic system.
    1. After approval of the installation by the Health Department, the property owner or their authorized agent shall protect the septic system until the start of final site grading by re-erecting and maintaining the posts, caution tape or rope and sign erected pursuant to Section 12.a.ii.
    2. It shall be a violation of this ordinance for any person to:
      - a. Remove the posts, caution tape or rope, or signs erected under Section 12.a.ii. or 12.a.iii. except to install the septic system or to perform final site grading.
      - b. Disturb the soils of a designated septic area, an installed septic system, or their associated dispersal area in any way that could impact the ability of a septic system to function. The prohibited activities include but are not limited to:
        1. Driving on the area except for the minimum amount necessary to install the septic system and for final site grading,
        2. Placing fill material on or over the septic area except as required to meet State or County septic system installation requirements or as topsoil during final grading,
        3. Removing any soil from the septic area,
        4. Using the septic area to temporarily store any equipment or materials including the stockpiling of earthen material,
        5. Compacting the septic area and dispersal area in any manner, or
        6. Removing large tree root balls that damage the area or system.
    3. A permanent fence shall be erected and maintained around any cluster system absorption field to protect the system from damage and vandalism. All fencing must be installed in accordance with existing zoning laws.

- iv. If the Health Department determines that a proposed septic area has been damaged after the submittal of soil borings, the Health Department may take appropriate action to ensure that the site is suitable for installation of a septic system. Appropriate action may include but is not limited to the following:
  - 1. Reworking soils in the septic area,
  - 2. Implementing additional measures to protect the septic area or system,
  - 3. Canceling the septic permit,
  - 4. Requiring additional borings,
  - 5. Increasing the size of the absorption area or otherwise changing the specifications for the system,
  - 6. Preventing the use of the disturbed area for a septic system, and
  - 7. Preventing the installation of an onsite septic system.
- b. Replacement Construction
  - i. Prior to applying for a septic permit the property owner or their authorized agent shall designate the septic system location by marking the proposed location of the:
    - 1. Ends of the trenches, all tank(s), manifold, distribution-box,
    - 2. Four corners of the aggregate bed and the down slope dispersal area, and
    - 3. Utilities in the vicinity of the proposed system.

### **13. System Design**

- a. General Requirements
  - i. The design requirements listed in Rule 410 are the minimum acceptable requirements and the Health Department may issue requirements that exceed these requirements when reasonable and necessary to install a properly designed and sited system.
  - ii. Only equipment and materials approved by ISDH, as required, shall be used in St. Joseph County.
  - iii. If the Health Department determines that any equipment or materials are not suitable for the conditions in St. Joseph County, the Health Department may deny their use.
  - iv. The Health Department may require that the design and construction of any septic system include materials and measures in addition to the materials and measures that are minimally required by Rule 410 and this ordinance when, in the opinion of the Health Department, such measures are reasonable and necessary for a proposed or existing septic system to operate correctly.
    - 1. The Health Department's decision to require additional or different materials and/or measures shall be based on:
      - a. The soil and hydrogeologic conditions in the vicinity of the proposed septic system,
      - b. The history of septic failures in the vicinity of the proposed septic system, and/or
      - c. Other technical information or data that demonstrates a septic system would likely fail prematurely if it were installed with the materials and measures minimally required.
    - 2. Such materials and measures may include but are not necessarily limited to any or all of the following:
      - a. Installation of two compartment septic tanks,
      - b. Installation of an effluent filter,
      - c. Obtaining an operating permit,
      - d. Enlarging the soil absorption area, and/or
      - e. Requiring a pump assisted system to be installed.

3. The Health Department shall identify these materials and measures in the specifications, orders of the Health Department, and/or permit, as appropriate.
- b. Distribution Boxes and Piping
- i. Concrete distribution boxes are the preferred distribution box for use when installing or repairing new or replacement septic systems and the Health Department may require their use in any and all cases.
  - ii. Concrete distribution boxes shall be constructed of 4000 psi concrete and the inside of the box shall be completely covered with a substance to prevent or inhibit corrosion such as a suitable bituminous material sprayed or painted on all inside surfaces. Nicks and scratches in the corrosion inhibitor made during installation shall be repaired.
  - iii. Any material used as a corrosion inhibitor shall be subject to the approval of the Health Department.
  - iv. For gravity distribution systems:
    1. Only ASTM D2665 Schedule 40 pipe or an equivalent approved by the Health Department shall be used from the residence, business, or other structure to the distribution box and for the first five feet after the distribution box .
    2. All connector openings on distribution boxes shall be watertight.
  - v. All piping, except that described in 13,b.iv, used in onsite septic systems shall meet the applicable minimum requirements of Rule 410.
  - vi. All fittings (couplers, elbows, reducers, tees etc.) used on force mains, pressure sewers, laterals, or similar pipe under pressure shall be pressure rated to a standard to meet or exceed that of the piping.
  - vii. If the distribution box is not equipped with a baffle, the effluent line from the septic tank to the distribution box shall terminate inside the distribution box with a sweeping "T" which shall be installed in the vertical position.
  - viii. No distribution box made of plastic or other materials shall be used unless first approved in writing by the Health Department.
- c. Tanks
- i. All septic tanks shall have a minimum size of 1000 gallons.
  - ii. Drain holes in tanks are discouraged, but if included, shall be designed to be watertight and installed in such a manner to prevent the inflow or outflow of water throughout the design life of the tank.
  - iii. Drain hole plugs shall have:
    1. A female-threaded PVC plastic opening cast-in during construction and
    2. A male threaded PVC plastic or rubber plug installed by the manufacturer prior to the delivery of the tank.
  - iv. All effluent ports in tanks shall be fitted with a mechanical sleeve and clamp.
    1. Connector openings shall be watertight, and incorporate a rubber gasket that:
      - a. Is made of polyisoprene or natural rubber,
      - b. Meets or exceeds the requirements of ASTM C-923,
      - c. Has a minimum tensile strength of 1600 psi, and
      - d. Provides hydrostatic sealing to 5 psi and vacuum sealing to ten (100 inches of mercury).
    2. The seal between the connector and the pipe shall be made using an external compression take-up clamp, The clamp must:
      - a. Be constructed of Series 304 or Series 305 non-magnetic stainless steel,
      - b. Not use welds in its construction, and
      - c. Be adjusted using a screw and a torque setting wrench.
  - v. Access riser/manholes shall be included on all tanks and shall be:
    1. At least 12 inches in diameter extending to ground surface,

2. Fitted with safely secured, gas-tight cover,
  3. Provided for each tank compartment for service and inspection,
  4. Installed over the first compartment of the septic tank in a manner to facilitate septic tank pumping and cleaning, and
- vi. Tanks constructed of two sections shall be sealed and risers attached in a manner to assure a watertight seal. The joint sealant for concrete tanks shall be installed when all adhesion surfaces are clean and dry and shall be:
1. Composed of 100 percent butyl rubber (not butyl blend) and meet or exceed the requirements of ASTM C-990, Standard Specifications for joints for Concrete Pipe, Manholes, and Precast Sections Using Preformed Flexible Joint Sealants, Section 6.2 Butyl Rubber Sealant,
  2. Installed according to manufacturer's recommendations, and
  3. A minimum of 1.5 inches wide and compressed to 50%.
- d. Effluent filters
- i. If the Health Department requires that an effluent filter be installed pursuant to Section 13.a.iv or Section 16, the septic tank shall be fitted with an effluent filter with a shut off mechanism approved by the Health Department and the filter shall be fitted with a riser consistent with the manufactures recommendations.
- e. Minimum Absorption Area
- i. The absorption area for any onsite septic system shall be based on requirements of Rule 410, however, the a daily design flow shall be no less than 450 gallons per day for a residential system and no less than 150 gallons per day for a non-residential system. The Health Department may grant a waiver to these minimum design flows when determined to be reasonable and necessary and in compliance with Rule 410.
- f. System Replacement
- i. Designs for replacement systems shall meet the new construction standards of Rule 410 whenever possible.
  - ii. When removal of fill and backfilling the site with INDOT Spec 23 sand is necessary, pressure distribution of effluent shall be required.
  - iii. When space for a replacement system is limited, new construction standards may be relaxed for residential systems with the approval of the Health Department. The order of preference when reducing standards shall be to:
    1. Reduce separation distance to buildings or other structures.
    2. Reduce on center separation between absorption trenches.
    3. Reduce the total square footage of absorption trench.
    4. Install a bed system.
  - iv. Bed design shall meet the following requirements:
    1. The size of the absorption area shall be increased according to the requirements of the Health Department.
    2. Multiple beds are preferred over one large bed.
    3. Laterals shall be positioned three (3) feet on center within each bed.
    4. The bottom of a bed shall be excavated to a level elevation.
    5. Distribution boxes may be located within the bed when necessary to increase the total square footage of the bed.
- g. Cluster System Operating Requirements
- i. The Health Department shall be timely notified of any events, including but not limited to system failure pump alarms, pump replacement, collection system failure, electrical failures, and other similar events or proposed changes to the manner in which the system is operated.

- ii. A quarterly inspection of the cluster system must be conducted and a report documenting the condition of the system shall be submitted to the Health Department within 30 days from the date of inspection.
- iii. All monitoring data shall be submitted to the Health Department in accordance with the maintenance agreement.
- iv. The Health Department may require sampling of residential wells considered to be at risk.
- h. Mound Systems
  - i. Mound Systems shall have a one-foot sand berm placed around the aggregate bed.

## 14. System Construction

- a. Installation Hold Points for Health Department Inspections
  - i. The Health Department shall determine installation hold points for construction of any septic system that designate when the installer shall stop construction and contact the Health Department for a partial or final inspection.
  - ii. No contractor shall construct any portion of a septic system beyond the hold point until the Health Department provides a partial or final approval, as appropriate.
  - iii. The contractor installing a septic system shall contact the Health Department within 24 hours of reaching any hold point for an inspection and shall be responsible for protecting the integrity of any partially completed section of the system until construction is complete and the system is inspected and approved by the Health Department.
- b. Distribution Boxes and Headers
  - i. Distribution boxes and all piping leading to and from the distribution box shall be set securely on undisturbed soil.
  - ii. The area around the headers shall be appropriately bedded with earthen material to ensure that headers do not shift during backfilling.
  - iii. All piping carrying effluent from the distribution box shall be level for a distance of five (5) linear feet from the distribution box.
- c. Covering Systems
  - i. All portions of a septic system shall remain uncovered to the maximum extent possible until inspected and approved by the Health Department. At a minimum, both ends of all trenches, all tanks, the distribution box, and all portions of the headers shall remain uncovered until the system is inspected and approved by the Health Department.
  - ii. Gravel in perimeter drains shall remain uncovered to the maximum extent practical until inspected and, in all cases, a section of the drain tile shall be exposed at one location on each side of the drain.
  - iii. Perimeter drain outlets shall not be covered until inspected and approved.
- d. Abandonment and Removal of Septic Systems
  - i. General Requirements
    1. When a septic system or any component thereof must be abandoned or removed, it shall be completed in a safe and sanitary manner.
    2. An onsite septic system or any component thereof must be properly abandoned or removed upon a determination by the Health Department that it has failed or it is to be abandoned.
    3. Abandonment or removal methods shall be noted on the permit application to replace an existing system.
    4. Evidence of the proper disposal of waste materials shall be available upon request.
    5. Upon the approval of the Health Department, an existing system that has been replaced may be left intact and connected to the replacement system with a diverter

box if the replaced system meets all current standards applicable to the installation of a replacement system. The replaced system shall not receive effluent for one year following its replacement.

- ii. Septic tanks, dose tanks and dry wells shall be abandoned according to the following requirements:
  1. The power shall be disconnected at the source from all electrical controls and all controls and panels shall be removed. All electrical lines (including service lines) that will not be used for other purposes shall be removed.
  2. All tanks shall be pumped and cleaned by a person licensed by the Indiana Department of Environmental Management.
  3. Tanks shall be completely removed or filled with debris-free sand, soil or other debris-free earthen material in a manner to prevent settling.
  4. Drywells shall be collapsed and filled or removed.
  5. The area shall be properly graded so that water does not pond over the area and a vegetative cover shall be established.
- iii. Absorption fields.
  1. The components of the absorption field may be left intact.
  2. If effluent has discharged to the surface, the area shall be covered with hydrated lime.
  3. If the absorption field is to be removed:
    - a. The tanks shall be pumped and the absorption field shall be allowed to completely dry.
    - b. Distribution boxes shall be pumped and cleaned.
    - c. The distribution network, aggregate and sand (if any) shall be removed from the site and taken to a licensed landfill for disposal.
    - d. The site shall be graded so that it does not pond water and a vegetative cover shall be established.

## **15. System Damage and Maintenance**

- a. Damage to Septic Systems
  - i. The owner of any property on which a damaged septic system is located shall repair or replace the system according to the requirements of the Health Department.
- b. Maintenance of Septic Systems
  - i. Property owners that have grease traps as part of their septic system shall have them pumped as often as necessary to prevent the release of grease, fats, and oils directly into a septic tank.
  - ii. The Health Department or St. Joseph County Regional Water and Sewer District may establish requirements for the pumping of any or all septic tanks and other reasonable and necessary routine maintenance activities. Property owners shall follow the manufacture's maintenance recommendations for any equipment installed.
  - iii. No person shall discharge or release any hazardous material or petroleum products into a septic system or connect the septic system to any tank used to store such materials.
- c. System Protection
  - i. No person may construct any structure or other improvement over any septic tank, distribution box, or absorption area. The types of structures or improvements that are prohibited include but are not limited to a sidewalk, driveway, parking lot, paved or unpaved road, deck, swimming pool, or shed.
  - ii. The Health Department may order the removal of any structure constructed over a septic system and any necessary repair or replacement of the septic system caused by such construction.

## **16. Wastewater Administrative Control Areas**

### **a. Purpose**

To protect drinking water supplies and public health, the Health Officer may establish wastewater administrative control areas where seepage or other releases of septic effluent are causing drinking water wells to exceed Federal Drinking Water Standards.

### **b. Process**

i. An Administrative Control Area may be established by:

1. Issuing a public notice of the intent to establish an Administrative Control Area.
2. Advising the potentially affected residents of the intent to establish an Administrative Control Area.
3. Preparing a draft Administrative Control Plan which shall:
  - a. Identify the area to be included in the Administrative Control Area,
  - b. Summarize the current and potential health threat(s),
  - c. Identify the actions to be taken to reduce the threat to the drinking water supplies and public health, and
  - d. Identify the implementation schedule for the actions.
4. The Health Department shall:
  - a. Hold a public meeting to accept comments on the draft Administrative Control Plan, and
  - b. Consider the public comments and prepare a Final Administrative Control Plan.

ii. The requirements of any Final Administrative Control Plan shall be binding on all persons within the Administrative Control Area.

iii. Among the requirements that the Health Department may consider for inclusion in an Administrative Control Plan are requiring:

1. Routine maintenance programs for septic systems,
2. An annual operating permit be obtained from the Health Department,
3. Pretreatment systems be installed on all systems,
4. New and replacement septic systems in the Administrative Control Area meet more strict design requirements,
5. Structures within the Administrative Control Area be connected to a municipal water system including a system under the jurisdiction of the St. Joseph County Regional Water and Sewer District, and
6. Other measures deemed appropriate and necessary by the Health Officer.

## **17. Elimination of Direct Discharge of Septic Effluent**

When the Health Department becomes aware of any direct discharge of septic waste or effluent from any structure to the surface or a drain tile, ditch, stream, lake, or other surface water, the Health Department shall issue an order of abatement consistent with Section 20 ordering the owner of the structure to install a septic system that meets all current state and county laws and regulations. The Health Department may issue a waiver of this requirement for any direct discharge that is being addressed by the St. Joseph County Regional Water and Sewer District in a plan approved by the Indiana Department of Environmental Management.

## **18. Public Education Program**

a. The Health Department shall perform the following, subject to the availability of funds, to inform the public of the measures necessary to protect drinking water supplies from septic effluent and to improve the useful life of septic systems:

- i. Prepare and implement plans to inform the public of the proper use and maintenance of septic systems and the potential impact of improper maintenance on drinking water quality.

- ii. Seek to partner with other parties that provide or have an interest in providing information to the public concerning the proper use and maintenance of septic systems and their potential impact on drinking water quality.

## **19. Issuance of Standards and Requirements**

- a. The County Board of Health may adopt, amend or rescind any rules, regulations or standards as deemed appropriate and necessary for proper enforcement of and to carry out the purposes and intent of this Ordinance subject to the following requirements:
  - i. Public comment periods, public meetings, and public hearings, as appropriate, shall be used in accordance with State law and
  - ii. The St. Joseph County Onsite Wastewater Advisory Board shall be consulted prior to the issuance.
- b. The Health Department may adopt, amend, or rescind policies and procedures for the appropriate implementation of this Ordinance.
- c. The rules, regulations, standards, policies and procedures issued pursuant to this Ordinance may not:
  - i. Threaten public health or
  - ii. Conflict with any provision of this Ordinance or other applicable federal, state, or county laws or regulations.

## **20. Enforcement**

- a. Enforcement Authority

Except as provided for elsewhere in this Ordinance, the Health Department is authorized and charged with enforcing this Ordinance.
- b. Right-of Entry for Permit Inspections
  - i. Any application for a permit submitted under the provisions of this Ordinance by a property owner or their authorized agent shall constitute permission for representatives of the Health Department bearing proper credentials and identification, to enter the property identified in the application to:
    - 1. Collect data and information necessary to process the application,
    - 2. Inspect any existing septic system, and
    - 3. Inspect the installation or repair of any septic system.
  - ii. In the event a person who has common ownership over a building, structure or land does not allow an inspection after a permit has been applied for, the following shall occur:
    - 1. The application submitted or permit issued pursuant to this Ordinance shall be immediately cancelled,
    - 2. All work being performed under a permit shall be immediately suspended, and
    - 3. The work may only commence upon the issuance of a new permit and a notification by the Health Department that the work can continue.
- c. Right of Entry for Inspecting Conditions that May Threaten Public Health
  - i. When the Health Department has reason to believe that a septic system has failed or septic effluent is otherwise being released to the environment, representatives of the Health Department, bearing proper credentials and identification, may enter upon and inspect any private property for such purposes as inspecting, observing, measuring, sampling, testing, and examining records necessary to carry out the provisions of this Ordinance.
  - ii. In the event a person who has common ownership over a building, structure or land does not permit an inspection, the inspection may be rescheduled and the person shall be notified by certified mail. Failure of such person to thereafter permit an inspection will be sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting, observing, measuring, sampling, testing, or examining records necessary to carry out the provisions of this Ordinance.

- iii. In the event a building, structure or land appears to be vacant or abandoned and/or the property owner cannot be readily contacted in order to obtain consent for an inspection, the Health Officer may enter into or upon any open or unsecured portion of the premises for purposes of inspecting, observing, measuring, sampling, testing, or examining records necessary to carry out the provisions of this Ordinance.
- d. Corrective Action for Failed Septic Systems
  - i. Whenever the Health Department determines there are reasonable grounds to believe that there has been a violation of any provision of this Ordinance or that a septic system has failed, the Health Department may issue a written order to abate the violation or repair or replace the failed system to the person or persons responsible for the violation and the property owner consistent with the following requirements:
    - 1. The abatement order shall be sent by certified mail to the last known address of the person responsible and the property owner.
    - 2. If the certified letter is returned, a copy of the letter shall be posted at the property where the violation occurred or where the failed system exists.
    - 3. The abatement order shall include a:
      - a. Statement explaining the nature of the violation or condition,
      - b. Description of the remedies required to abate the violation or condition,
      - c. Reasonable time for correcting the violation or condition, and
      - d. Description of the penalty that is imposed for the violation, if any.
    - 4. Any property owner notified of a corrective action requirement by the process identified above shall comply with the order or they shall be in violation of this ordinance and subject to the penalties provided in Section 22.
- e. Order or Abatement for Failure to Properly Install a Septic System
  - i. Whenever the Health Department determines that a violation of this ordinance has occurred during the installation of a septic system by a person possessing a license issued pursuant to Section 8, the Health Department shall require corrective action consistent with the following:
    - 1. If the violation can be readily corrected without changing any permit requirements or altering the suitability of the site to support the septic system being installed or a future septic system that may become necessary, the following shall apply:
      - a. The Health Department shall notify the contractor of the action required to correct the violation by leaving a tag at the site and by similarly verbally informing the licensee.
      - b. The contractor shall perform the required action and contact the Health Department for a reinspection within 24 working hours.
      - c. Failure to perform the action required shall be grounds for the issuance of an abatement order under Section 20.
    - 2. If the violation cannot be readily corrected without changing any permit requirements or altering the suitability of the site to support the septic system being installed or a future septic system that may become necessary, the following shall apply:
      - a. The Health Department shall verbally order the immediate suspension of work and shall issue an order of abatement pursuant to Section 20.
      - b. Upon the receipt of a verbal order to suspend work the licensee shall take the necessary measures and be responsible for protecting the site from any and all damage.
      - c. The contractor shall comply with the order of abatement and pay any reasonable and appropriate penalty determined by the Health Department.
      - d. If a contractor fails to comply with an order of abatement, the penalties shall increase and the Health Department may suspend or cancel the licensee of the offending party.

f. Issuance of Emergency Orders

- i. Whenever the Health Officer finds that an emergency exists which requires immediate action to protect the public health, the Health Officer may, without notice or hearing, issue an emergency abatement order to any person or licensee reciting the existence of such an emergency and requiring that action be taken as the Health Officer deems reasonable and necessary to meet the emergency. Notwithstanding any other provisions of this Ordinance, such order shall be effective immediately. An emergency abatement order may include but not be limited to:
  - 1. Immediately discontinuing the use of any septic system,
  - 2. Removing any septic effluent which has entered the environment, or
  - 3. Ordering any structure served by a failed septic system to be vacated.
- ii. Any person receiving an emergency abatement order:
  - 1. Shall comply with and carry out the order,
  - 2. May seek a hearing under Section 20.g while carrying out such order, and
  - 3. Shall have the right to recover any of its response costs from the County to the extent that the order or any portion thereof is found to have been arbitrary or capricious or not otherwise in accordance with law.
  - 4. If a person fails to perform the lawful measures ordered by the Health Department pursuant to Section 20.f, the Health Department:
    - a. May enter the property without prior notice to take or cause to be taken any emergency order.
    - b. Shall be reimbursed by the person who failed to perform the emergency order for all costs incurred by the Health Department associated with taking the action ordered.

g. Appealing an Order of the Health Department

- i. Any person affected by an abatement order or any decision issued by the Health Department may petition for and shall be granted a hearing on the matter before the Health Officer, provided that such person shall file a petition with the office of the Health Officer by mail postmarked or hand delivered, within fifteen (15) days after service of an order of abatement or issuance of the decision. The request for a hearing shall be written and shall set forth a brief statement of the grounds thereof.
- ii. Upon receipt of such petition, the Health Officer shall arrange a time and place for such hearing and shall give the petitioner written notice thereof. Such hearing shall be held as soon as practicable after the receipt of a petition but in no case shall the hearing be more than thirty (30) days after receipt of the petition. At such hearing the petitioner shall be given an opportunity to be heard and to show cause why such notice should not be complied with.
- iii. The Health Officer shall sustain, modify, or withdraw the notice to the petitioner as soon as practical and in no case later than fifteen (15) days following the hearing. The decision shall be final subject only to review by a court of competent jurisdiction.

**21. Variances**

- a. Any person affected by any provision of this ordinance may petition for a variance of any provision by the Health Officer, provided that such person shall file a petition with the office of the Health Officer by mail postmarked or hand delivered. The variance request shall be written and shall set forth a brief statement of the grounds thereof.
- b. The Health Officer shall approve, amend, or disapprove a written petition for a variance from provisions of this Ordinance as soon as practical after receiving the petition and in no case more than thirty (30) days after the petition is filed.
- c. A decision by the Health Officer to approve, amend, or disapprove a variance may be appealed to the County Board of Health for consideration at their next regularly scheduled meeting. The County Board of Health shall render a decision in the matter as soon as practical and, in no case, later than thirty (30) days after the meeting date.

- d. A decision by the Board of Health shall be final and appealable only to a court of competent jurisdiction.
- e. Neither the Health Officer nor the Board of Health may approve a variance that:
  - i. Materially threatens public health, or
  - ii. Would result in a material violation of any applicable federal, state, or county law, regulation, or rule.

## **22. Penalties**

- a. Any person determined by the Health Officer to be in violation of this Ordinance shall be punished for each offense by a penalty established by the Health Officer of not more than Five Hundred Dollars (\$500.00) for the first offense; not more than One Thousand Dollars (\$1,000.00) for the second; and by not more than One Thousand Five Hundred Dollars (\$1,500.00) for each subsequent offense.
- b. Each day a person fails to perform the corrective action in accordance with the schedule identified in an abatement order issued by the Health Officer shall constitute a distinct and separate violation and said person shall be subject to the penalties identified in 22.a.
- c. Any person violating any provisions of this Ordinance shall be liable to the Health Department for any expense, loss, or damage occasioned it by reason of such violation, including the costs for labor, supplies, equipment, and services.
- d. The Health Officer may restrict, suspend, revoke, or cancel any license or registration issued pursuant to the provisions of this Ordinance for:
  - i. Repeated substantive violations of this Ordinance,
  - ii. Failure to perform a corrective action ordered by the Health Department,
  - iii. Violations of the prohibitions identified in Section 7, or
  - iv. Providing false information to the Health Department.

## **23. Severability**

If any section or part of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, that holding shall not affect the validity of the remaining portions of the Ordinance, and the remaining portions shall be and remain in full force and effect.

## **24. Disclaimer of Liability**

- a. The Ordinance shall not create liability on the part of the Health Department or any officer, employee or agent thereof for any damage that may result from reliance on this Ordinance or on any administrative decision lawfully made thereunder.
- b. All inspections shall be at the discretion of the Health Department and nothing in this Ordinance shall be construed as requiring the Health Department to conduct any inspection nor shall any inspection imply a duty to conduct any other inspection. Nothing in this Ordinance shall be construed to hold the Health Department responsible for any damage to persons or property by any failure to make an inspection or reinspection or for inspections that fail to identify unacceptable conditions or procedures.

## **25. Effective Date**

This Ordinance and all provisions contained herein shall become effective ninety (90) days after approval by the County Council.