

ORDINANCE NO. 2012-153

AN ORDINANCE REGULATING PRIVATE ON-SITE SEWAGE SYSTEMS
IN ELKHART COUNTY, INDIANA

WHEREAS, Indiana Code S36-1-3-1 et seq. permits any County in the State of Indiana to exercise any power or to perform any function necessary to the public interest in the context of its County or internal affairs, which is not prohibited by the Constitution of the United States or the State of Indiana, or denied or preempted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS, the Board of Commissioners of the County of Elkhart, Indiana is the County legislative body and is by law authorized to adopt ordinances for the performance of functions in the County of Elkhart, Indiana;

WHEREAS, the Elkhart County Board of Health has received public comment concerning this Ordinance regulating private on-site sewage systems in Elkhart County, Indiana, and has recommended the adoption of this Ordinance to the Board of Commissioners of the County of Elkhart, Indiana;

WHEREAS, the Board of Commissioners of the County of Elkhart, Indiana deem it to be reasonable, appropriate, and in the best interests for the public health, safety, and general welfare of the citizens of the County of Elkhart, Indiana to adopt an ordinance regulating private on-site sewage systems in Elkhart County, Indiana and establishing minimum standards designed to provide assurances that private on-site sewage systems do not contaminate any drinking water supplies; are not accessible to insects, rodents, or other possible carriers of diseases which may come into contact with persons, food or drinking water; do not pollute or contaminate the water of any bathing beach or surface waters used for public or domestic water supply or recreational purposes; do not give rise to a nuisance due to odor, discharge, or unsightly appearance; and will not violate any other laws or regulations governing control of sewage treatment;

NOW, THEREFORE, BE IT ORDAINED, ORDERED, AND ESTABLISHED by the Board of Commissioners of the County of Elkhart, Indiana, as follows:

SECTION 1. Title.

This Ordinance may be referred to as the "Elkhart County Private On-site Sewage System Ordinance."

SECTION 2. Adoption of Regulations by Reference.

The regulations of the Indiana State Department of Health located at 410 IAC 6-8.2 et seq. entitled "Residential On-Site Sewage Systems," as amended from time to time, and 410 IAC 6-10 et seq. entitled "Commercial On-Site Wastewater Disposal," as amended from time to time, and as promulgated by the Indiana State Department of Health, are hereby incorporated and adopted by reference. One copy of these regulations shall be on file with the Elkhart County Health Department.

SECTION 3. Definitions.

Except as provided below, the terms defined in 410 IAC 6-8.2 et seq. and 410 IAC 6-10 et seq. shall carry the same definition whenever used in this Ordinance as the definition provided in those regulations. For purposes of this Ordinance, the terms below shall be defined as follows:

(a) "Aerobic sewage treatment system" shall mean National Sanitation Foundation (NSF) Standard 40 certified or approved Class I, or its equivalent, equipment or devices for treatment of sewage by the forced addition of air or oxygen.

(b) "Alternative private on-site sewage system" shall mean all systems other than conventional private on-site sewage systems.

(c) "Available" shall mean located within the territorial limits of the town or city or other entity providing the utility and within three hundred (300) feet of the property line of the affected property, as measured along accessible easements or right-of-ways, or connectable at a construction cost estimated by the Health Officer not to exceed one hundred fifty percent (150%) of the cost estimated by the Health Officer for installing a private on-site sewage system to serve the affected property if a private on-site sewage system were otherwise acceptable to the Health Officer.

(d) "Bedroom" shall mean a room within a dwelling that might reasonably and regularly be used as a sleeping room and which contains a closet, has a window or egress window, and shares a common hallway or floor with or adjoins a $\frac{1}{2}$ or full bathroom. A "bedroom" may include but is not limited to those rooms designated as dens, studios, offices, or libraries if such rooms otherwise meet the above definition.

(e) "Component part" shall mean a septic tank, sewage tank, lift station, pump, distribution box, seepage pit, dry well, pipe, or more than fifty percent (50%) of an absorption field associated with a private on-site sewage system.

(f) "Construction permit" shall mean a written permission which is issued by the Health Officer or the Commissioner of the Indiana State Department of Health to proceed with specified installation work with respect to a private on-site sewage system.

(g) "Conventional private on-site sewage system" shall mean only those systems with trenches or beds installed within the top 10 to 48 inches of natural, undisturbed soil and not containing a pumping system, but may or may not include a subsurface drain.

(h) "County" shall mean the County of Elkhart, Indiana.

(i) "Credentials" shall mean identification issued by the County of Elkhart, Indiana.

(j) "Effluent filter" shall mean a device installed at the outflow/outlet of a septic tank which complies with NSF Standard 46, is designed to screen and collect solids suspended in the effluent, and consists of a single filter or filters arranged in a series which must be NSF Certified at 1,500 GPD or greater flow rate.

(k) "Facility" shall mean any building, structure, improvement, or other property, other than a dwelling, which is required to have a sanitary sewerage system or private on-site sewage system.

(l) "FIRM" shall mean the Flood Insurance Rate Map.

(m) "GPD" shall mean gallons per day.

(n) "Health Department" shall mean the Elkhart County Health Department.

(o) "Health Officer" shall mean the Elkhart County Health Officer and his or her duly authorized representatives.

(p) "Isolation distance" shall mean the horizontal distance from component parts to structures, wells, property lines, and right-of-ways as well as the vertical distances from component parts to limiting layers and the 100 year flood plain as designated on the FIRM.

(q) "Limiting layer" shall mean any site or soil feature by which system functioning may be adversely affected or sewage treatment inhibited including compact till, poor filter, fill, compacted, soil, and/or a seasonal high water table.

(r) "Mottling" shall mean a zone of chemical oxidation and reduction activity that appears in the soil as spotty patches of red, brown, orange, and gray.

(s) "NSF" shall mean the National Sanitation Foundation.

(t) "Nuisance" shall mean any condition created by sewage which may transmit, generate, or promote disease, create a health hazard, or cause a distasteful odor or unsightly condition.

(u) "Operating permit" shall mean a written permission issued by the Health Officer to proceed with the use and operation of a secondary treatment device.

(v) "Owner" shall mean the owner of a dwelling, the owner of a facility, or the agent of any such owner.

(w) "Private on-site sewage system" or "system" shall mean a residential on-site sewage system as defined in 410 IAC 6-8.2-30, as amended from time to time, and as promulgated by the Indiana State Department of Health, or a commercial on-site wastewater disposal facility as defined in 410 IAC 6-10-2, as amended from time to time, and as promulgated by the Indiana State Department of Health.

(x) "Private on-site sewage system failure" shall mean a private on-site sewage system which exhibits one (1) or more of the following conditions:

(1) The system refuses to accept sewage at the rate of design application thereby interfering with the normal use of plumbing fixtures;

(2) Effluent discharge exceeds the absorptive capacity of the soil, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters; or

(3) Effluent is discharged from the system causing contamination of a potable water supply, groundwater, or surface waters.

A private on-site sewage system failure constitutes a health hazard.

(y) "Privy" shall mean a sanitary, waterless device for the collection and storage of human excreta, but does not include chemical, composting, commode, or other portable receptacles.

(z) "Seasonal high water table" shall mean the highest level to which the soil is saturated as indicated by soil colors and or mottling having a Munsell Color Chart Color with a value greater than 4 and Chroma 2 or less.

(aa) "Secondary treatment device" shall mean any device or equipment that converts an anaerobic system to an aerobic system.

(ab) "Soil description" shall mean direct soil observations made by the Health Officer or by an IRSS registered soil scientist containing sufficient depth, clarity, and scope to document all limiting layers in order for the Health Officer to provide minimum requirements to the owner for a private on-site sewage system.

(ac) "Static water table" shall mean the upper limit of the portion of soil which is continuously saturated with water.

(ad) "Subsurface drain" shall mean one of a class of drains installed to intercept lateral movement of surface and shallow subsurface water at a minimum depth of at least thirty-six (36") inches from the ground surface to rapidly lower an existing water table in permeable soils from the absorption field area. Interceptor drains, perimeter drains, and segment drains are types of subsurface drains.

(ae) "Water line" shall mean any buried pipe or conduit used to transport water from the water supply source to its final destination including, but not limited to, waterwell lines, building plumbing, and geothermal heat pump piping.

(af) "Well" shall mean any excavation, whether drilled, bored, driven, Jetted, or dug for the purposes of obtaining water from the ground, or returning water to the ground, or for the purpose of testing the quantity or quality of such water.

Section 4. Private On-site Sewage Systems: General Requirements.

(a) Credentials: The Health Officer shall carry proper credentials and present said credentials to any and all who may ask prior to the performance of duties enumerated under this Ordinance.

(b) The design, construction, installation, location, repair, maintenance, replacement, expansion, alteration, and operation of private on-site sewage systems including but not limited to conventional private on-site sewage systems, alternative private on-site sewage systems, aerobic treatment

systems, or any parts thereof shall comply with this Ordinance and shall comply with engineering practices acceptable to the Indiana State Department of Health.

(c) All persons owning real estate in areas where a sanitary sewerage system is not available shall comply with the provisions of this Ordinance concerning private on-site sewage systems.

(d) Any dwelling or facility which is not connected to a sanitary sewerage system and which has no sanitary sewerage system available to it shall have its own separate private on-site sewage system which complies with the applicable standards of 410 IAC 6-8.2 and 410 IAC 6-10. No on-site system permit may be issued for the construction of an on-site system within the territorial limits of a town or city or other entity furnishing a sanitary sewerage system without express written authorization of the entity to the Health Department stating its non-objection to the system installation.

(e) Every commercial on-site wastewater disposal facility shall be designed, constructed, installed, located, maintained and operated in accordance with the requirements of 410 IAC 6-10 et seq.

(f) Every residential on-site sewage system shall be designed, constructed, installed, located, maintained, and operated in accordance with the requirements of 410 IAC 6-8.2 et seq.

(g) Fill shall not constitute a suitable installation media. Fill deposited over existing undisturbed soil does not have a predictable, uniform permeability rate. Use of filled areas as an installation repair or replacement location for a private on-site sewage system or field absorption area is prohibited. Spec 23 highway sand does not constitute fill when placed as part of permitted system installation.

(h) System maintenance. All private on-site sewage systems, both existing and new, must be maintained in a safe and sanitary condition. All components, devices, alarms and equipment required by this Ordinance or previous ordinances and permits shall be maintained in a proper working, functioning, non-failing condition as when installed or replaced. Nuisance and health hazard conditions are prohibited and require abatement immediately upon documentation of failure via a permitted, inspected, system which is approved by the Health Officer. All septic tanks should be pumped and cleaned by a licensed pumper/hauler once every three (3) to five (5) years as part of regular system maintenance.

(i) Every privy, when approved by the Health Officer, shall be of the sanitary vault type and shall be designed, constructed, installed, operated, and maintained in a clean condition and in a manner that prevents insects and rodents from entering the vault. Every privy shall be located properly to protect water supplies from contamination and shall be constructed in strict compliance with the requirements of the Indiana State Department of Health Bulletin S.E. 11 entitled "The Sanitary Vault Privy," as amended from time to time, which is hereby incorporated and adopted by reference. A privy may only be considered on a site where there is no indoor plumbing or electricity. Water under pressure is prohibited.

(j) The design, construction, installation, location, maintenance, and operation of any other residential private on-site sewage system not described in 410 IAC 6-8.2 may be approved by the Health Officer after the

plans, specifications, and requirements for such systems have been approved in writing by the State Department of Health prior to construction and installation.

(k) Surface discharges of septic effluent or any type of grey water, laundry discharge, black water, or other wastewater are prohibited and shall not be permitted or allowed to persist.

(l) If any condition or defect exists or occurs that violates subsections (b), (c), (d), (e), or (f) above with respect to any private on-site sewage system or privy, or if a private on-site sewage system failure occurs, the owner shall correct the violation or failure within fifteen (15) days of the violation or failure or as otherwise directed by a written order from the Health Officer.

(m) If a sanitary sewerage system becomes available to any property served by a private on-site sewage system or privy, the owner shall make connection to that sanitary sewerage system as prescribed by the municipality or entity having jurisdiction or in the event of the private on-site sewage system failure. All private on-site sewage systems, privies, and treatment facilities on the property shall be abandoned and filled in a safe and sanitary manner as prescribed by the Health Officer. Permits for private on-site sewage systems shall not be issued where a sanitary sewerage system is available.

(n) Where the local plan commission grants approval of a subdivision designed to be developed on sanitary sewer, no permits for private on-site sewage system will be issued for real estate in that subdivision.

(o) Subject to the approval of the area having jurisdiction, if a subdivision is approved by the local plan commission and other public agencies with the responsibility therefore after the effective date of this Ordinance in an area where a sanitary sewerage system is available, the subdivision developer shall make connection to that sanitary sewerage system and shall extend or allow the municipality or other entity to extend sewer lines throughout the subdivision in order to make the sanitary sewerage system available to all lots in the subdivision.

(p) Well abandonment. All private wells requiring abandonment under this Ordinance or other legal standards shall be properly abandoned in accordance with applicable law and regulation by a licensed well driller and properly documented by providing a copy of the Well Abandonment Log to the Health Department prior to issuance of any permits.

(q) Rough plumbing. No rough plumbing for sanitary facilities is permitted in outbuildings or secondary structures without providing an on-site system design and having a permit issued at minimum sizing of 300 GPD or providing a demonstration with elevations that the sanitary facilities can be connected to the existing residential system without creating an overload or disruption to the permitted residential system. The existing residential system must not be exhibiting apparent signs of failure. Lack of documentation for the existing system will disqualify it for connection and use.

(r) Audio and visual alarms. Audio and visual alarms are required when any effluent filter is installed or replaced after the effective date of this Ordinance. Audio and visual alarms are required for any mechanical pump, aerobic treatment device, secondary treatment device, or other mechanical

equipment as provided in 410 IAC 6-8.2 et seq. and 410 IAC 6-10 et seq., as amended from time to time.

(s) Basal area preparation. The use of implements which achieve deep tillage below compaction or topsoil in the basal preparation area is required. Implements to be used must be authorized by the Health Department prior to use.

(t) Operating permits. Operating permits must be obtained and maintained by owners who install or replace a secondary treatment device after the effective date of this Ordinance. To obtain or to re-new an operating permit will require a copy of a valid and in-force operation and maintenance contract by an authorized service provider for the system in use and payment of the permit fee. Operating permits shall be valid for three (3) years and renewable upon submittal of a valid and in-force operation and maintenance contract, copy of service history, and with the applicable permit fee paid.

(u) Operation and Maintenance Contracts: Operation and maintenance contracts shall be required in conjunction with required operating permits and must remain in effect with an authorized service provider as specified by the service and warranty requirements of the secondary treatment device manufacturer. Operation and maintenance contracts shall be in force at the owner's expense. Property transfers where there is a secondary treatment device in use will require the new owner to secure a valid and in-force operation and maintenance contract by an authorized service provider for the system in use. Failure to obtain and maintain the operating permit will constitute a violation of this Ordinance. Operation and maintenance contracts must be in effect for the life of the operating permit to be considered valid and in-force. The owner shall forward to the Health Department copies of all scheduled and unscheduled maintenance provided within thirty (30) days after work is performed during the term of the operation and maintenance contract. Notice shall be provided by the service provider to the Health Department upon termination or expiration of the operation and maintenance contract.

(v) Siphons: A siphon may be used in lieu of an effluent pump if the dose volume may be shown to be delivered to the absorption field at the prescribed rate in the rule as demonstrated by calculations and elevation data.

Section 5: Private On-site Sewage Systems: General Procedures.

The following general procedures shall apply for private on-site sewage systems being installed and/or reused in the County:

(a) Septic Tanks. New and existing on-site sewage systems requiring a new septic tank shall be fitted with an effluent filter, one (1) riser with a minimum inside diameter of twenty (20") inches positioned over the filter, and fitted with a gas tight lid.

(b) Dosing Chamber and Septic Tank Sizing.

(1) Minimum dosing chamber capacity shall be 800 gallons for pump assisted systems or otherwise shall be sized no less than one (1) bedroom equivalent less than the total number of bedroom equivalents for the dwelling as indicated on the permit application.

(2) Minimum septic tank sizing for all systems shall be 1000 gallons.

(c) Reuse of existing private on-site sewage systems. Requests for re-utilization of existing private on-site sewage systems in conjunction with dwelling reconstruction and/or replacement may proceed as follows:

(1) Continued use of an existing private on-site sewage system may be considered when public health concerns have been demonstrated to have been taken into account and the system is not contributing to a nuisance condition nor exhibiting signs of failure. A review of each individual private on-site sewage system record for the affected address must be made prior to issuance of a zoning clearance and/or building permit for dwelling reconstruction and/or replacement. Permission to use an existing private on-site sewage system does not imply further trouble-free service. The Health Department will require prompt repair and/or replacement upon observation and documentation of any private on-site sewage system failure.

(2) In the interest of public health, application for use of existing private on-site sewage systems will be scrutinized on an individual case-by-case basis and will be prohibited unless all of the following conditions are verified and confirmed:

(aa) A record of a Health Department permit having been issued, inspected, and approved exists for the system.

(ab) Adequate septic tank capacity and absorption field area exists for the proposed use.

(ac) Direct observation of system functioning (no obvious or apparent signs of failure) is required and may be provided by a septic pumper/hauler. The tank(s) must be pumped and cleaned for this evaluation of the tank(s) and absorption field. The septic pumper/hauler must provide a report as to the functioning, capacity, and condition of the existing system.

(ad) A "to scale" drawing must be provided as required to ensure that isolation distances will remain intact.

(ae) A set of floor plans for the dwelling reconstruction and/or replacement must be provided.

(d) Isolation Distances.

(1) Isolation distances and encroachments shall meet the requirements set forth in 410 IAC 6-8.2-56 Separation Distances.

(2) Isolation distances shall remain intact on new construction. Discretion may be utilized on repair or replacement systems on a case by case basis, but never shall well, seasonal high water table, or 100 year flood plain isolation distances be reduced. Isolation distances are specified in Rule 410 IAC 6-8.2 and 410 IAC 6-10-1. The isolation distance from a seasonal high water table shall be twenty-four (24") inches (vertical separation) for conventional systems and twenty (20") inches for elevated sand mound systems.

(e) On-Site Visits. Proposed improvements to property where a building permit is required will necessitate an on-site visit by the Health Department when:

(1) No record of a private on-site sewage system is found or exists within the Health Department permit data files; or

(2) An on-site system resides on the property and is ten (10) years or older in age where the Health Department has an inspection record in the permit data files with measurements but improvements are proposed outside the original foundation of the dwelling.

(f) Minimum private on-site sewage system sizing for stand-alone systems. The minimum sizing requirement for dwellings or outbuildings is three-hundred (300) GPD.

SECTION 6. Subdivision of Land.

The Wastewater Treatment Assessment Matrix (The Matrix) and The Environmental Health Technical Review and Development Standards (The Standards) will be the tools used to evaluate the subdivision of land in regard to sanitary facilities for the County. This Ordinance will abide by and be in concert with respect to The Subdivision Control Ordinance of Elkhart County, Indiana (Ordinance 2009-67). The Matrix and The Standards are hereby incorporated and adopted by reference. One copy of The Matrix and The Standards shall be on file with the Health Department.

SECTION 7. Site Investigation.

(a) Prior to construction permit application or permit issuance, an on-site evaluation must be performed by the Health Officer to evaluate each lot or parcel for suitability for a private on-site sewage system or privy, to establish minimum sizing requirements, and to ascertain any special engineering necessary. Before an on-site evaluation will be performed, all lot corners must be visibly marked so they can be easily located. All existing utilities (gas, electricity, phone, and any or all other utilities present on the property) must be marked prior to providing a soil description.

(b) Soil borings.

(1) Repair and/or Replacement systems. The minimum number of borings required for repair and/or replacement private on-site sewage systems is one per existing lot or parcel in the area of installation for the repair and/or replacement.

(2) New Construction. The minimum number of borings per lot or parcel is one per proposed system location and must include the reserve area(s) or such number as stipulated in The Matrix and The Standards, whichever is greater.

SECTION 8. Construction Permits.

(a) No person shall construct, install, alter, repair, expand, or replace a private on-site sewage system without a valid construction permit issued pursuant to this Ordinance. The owner of any real estate where a private on-site sewage system or privy is to be constructed or installed or where any alteration, repair, expansion, or replacement of an existing private on-site sewage system is planned shall obtain a written construction permit before any construction begins. The construction permit issued by the Health Officer must be obtained prior to issuance of the building permit. The owner shall apply for a construction permit on a form provided by the County. The owner shall

supplement the application form with plans, specifications, and other information deemed necessary by the Health Officer and as required by the applicable State regulations. The applicant shall pay a construction permit and inspection fee as set forth in the Health Department Fee Schedule Ordinance to the Health Department at the time the application is filed. The issuance of a construction permit shall not be construed as authority to violate, cancel, or set aside any of the provisions of this Ordinance. Failure to obtain a construction permit prior to system installation will result in the assessment of a late fee as per the Health Department Fee Schedule Ordinance.

(b) A signed permit application by the owner or his agent will serve as an affidavit to affirm the total number of bedrooms the dwelling will have and must be confirmed with a complete corroborating set of floor plans for each floor of the structure including the basement.

(c) The owner shall post the construction permit in a conspicuous place at or near the dwelling or facility where the private on-site sewage system is under construction. The notice shall be plainly visible from the public thoroughfare nearest this structure.

(d) When a construction permit has expired or has been revoked, the work specified on the private on-site sewage system permit shall not commence, continue, or resume unless a new application and fee have been submitted and a new construction permit has been obtained.

(e) Fees. Any fees paid by check or other means which is rejected or returned for insufficient funds will require payment of a Twenty-five Dollar (\$25.00) return fee, require the bearer to make any such future payments on a "cash only" basis, and cause any permit to be suspended until full payment is made to the Health Department.

(f) Permit fees are not refundable. Transfer of ownership of the real estate for which a private on-site sewage system construction permit has been issued shall automatically void the permit for that property; provided, however, the transfer of ownership that occurs as a part of a contractual agreement between builder and/or developer and the buyer shall not void the permit if all other conditions of the permit remain the same.

(g) Construction permits for new construction issued under the provisions of this Ordinance or under any predecessor Ordinance by the Health Officer or the State Department of Health shall be valid for a period of two (2) years from the date of issuance.

(h) Construction permits issued for repair and/or replacement private on-site sewage systems shall be valid for the period of one (1) year.

(i) Construction Permit Expiration.

(1) Construction permits shall expire and become void upon satisfactory completion of the specified work authorized or upon the date of expiration specified by Ordinance, specifically: one (1) year from date of issuance for repair or replacement permits and two (2) years from date of issuance for new construction permits.

(2) Construction permits may be authorized to be extended by the Health Officer beyond the expiration date due to soil conditions being adverse to typical installation methods, i.e., frost/frozen conditions, too

wet, soil moisture demonstrated to be beyond plastic limit, and any other conditions which might arise which would adversely affect system installation and/or functioning or longevity.

SECTION 9. Plot Plans.

(a) The owner shall attach to the application for construction of a private on-site sewage system two (2) plot plans drawn to scale. New construction must be drawn on a recent plat of survey or the survey attached. The application and plot plan must satisfy the following requirements:

- Application must be complete and correct.
- Appropriate permit fee must accompany complete permit application.
- House floor plan (new construction) must be provided.
- Plans must be drawn on a recent plot of survey or other detailed scale drawing and contain the name, address, email address and phone number of plan preparer.
- "To-scale" design plans, i.e., where one (1) inch = x number of feet, where x is 10, 20, 30, 40, or 50 feet.
- Ground surface elevations at the beginning, middle, and ends of all trenches less than 24" deep, and at the four corners, the midpoints, and along the long axis of the upslope and downslope edge of all elevated sand mounds.
- Accurate two foot contours must be provided on slopes $\geq 6\%$.
- Provide elevations for sites with $\geq 6\%$ slope.
- Sketch of geographic location shall be included on the plan.
- Legal description or tax number must be on plot plan.
- Lot line dimensions must be provided.
- Proposed or existing location of house and well must be provided. Include other proposed or existing structures, driveways, parking areas, or other improvements on plan even if they will be removed.
- All trees that are to remain in the proposed absorption areas must be accurately indicated on the plan.
- Location of all underground service, utility lines, and easements must be provided.
- Location of soil evaluation sites must be shown on system design plan. If the system is proposed outside the area of soil borings, then another soil evaluation may be required for the new area before plans are submitted.
- All wells, existing and proposed, on the property and within 50 feet outside property lines in case of residential systems and 100 feet outside property lines in case of commercial systems must be accurately indicated on plan.

- Septic tank location, manufacturer, and liquid capacity must be provided on plan.

- Invert elevation of building sewer must be provided on plot plan unless lift pump is required.

- Trenches must be shown level and placed along the contour.

- Type of trenches being proposed, i.e., stone, chambers (make/model), tire chips, etc., must be indicated in cross sectional view of trench.

- All water lines within 50 feet of the absorption field in case of residential systems and 100 feet of the absorption field in case of commercial systems must be indicated on plan.

- Distances between trenches must be indicated on plan.

- Location of sewer line, absorption trenches, subsurface drains, and distribution boxes.

- Length of sewer lines, header line, absorption lines, and subsurface drains. If subsurface drain is shown, then provide invert elevation at lowest area of field and at the discharge point.

- Distance to septic tank from foundations, lot lines, all wells, and all water lines.

- Distances from private on-site sewage system to all lakes, streams, ponds, marshes, flood plains, swales, drainage ditches or other surface water within 50 feet of system in case of residential systems and 100 feet of system in case of commercial systems must be provided.

- Include ground surface elevations at the subsurface drain, absorption field, and the approved outlet locations for all subsurface drains.

- Cross sectional drawing of subsurface drain with detail must be provided.

- Maximum cover over trench systems shall be twenty-four inches (24") for new systems, thirty-six inches (36") for repair and/or replacement trench systems, and twelve inch (12") minimum and eighteen inch (18") maximum cover for elevated sand mounds systems.

- Flood plain elevation must be provided where property or part thereof is within a flood plain.

- A copy of any recorded easements must be provided, i.e., subsurface drains.

- Pipe specifications must be provided.

(b) The Health Officer may suspend a permit to construct a private on-site sewage system whenever information on the application or a plot plan is found to be inaccurate. The Health Officer may revoke a permit to construct a private on-site sewage system whenever information on the application or a plot plan is found to be inaccurate and the inaccurate information will preclude or eliminate the ability to lawfully install the system as designed.

SECTION 10. Absorption Field.

(a) The soil absorption field must be located in an area such that the proposed trench bottom is equal to or higher than the elevation of the 100-year flood plain as designated on the FIRM. The infiltrative surface (i.e., the ground surface) for elevated sand mounds must also be equal to or above the elevation of the 100-year flood plain as designated on the FIRM.

(b) After a proposed soil absorption field installation area has been selected and approved, the area in which it is to be installed shall not be cut, filled, compacted, excavated, altered or disturbed, unless the alterations performed are specified on the construction permit approved by the Health Officer.

(c) In the event that an approved absorption field area is cut, filled, compacted, excavated, altered or disturbed in a way which is not approved by the Health Officer, the construction permit shall be void. If the damage can be overcome or another area used, a new application for a construction permit can be submitted along with a new construction permit fee which will be required.

(d) The area proposed for the soil absorption field shall be protected from vehicular traffic by roping or fencing prior to construction permit issuance. Vehicular traffic in the proposed absorption field area is permitted only in connection with the installation of the absorption field under the supervision of a registered installer. If the proposed absorption field area is damaged, a new on-site evaluation will be required. If the soil characteristics have changed, the construction permit will be void. If the damage can be overcome or another area used, a new application for a permit can be submitted along with a new construction permit fee which will be required.

(e) Property alterations or additions such as garages, driveways, patios, swimming pools, and like structures or improvements shall not be placed on or over the soil absorption field area or in any future expansion or reserve area required under Section 12 of this Ordinance.

(f) Discharges from foundation footing drains, air conditioners, dehumidifiers, downspouts, and other clear water drains shall not be allowed into or onto the absorption field or in the area above the absorption field where such would drain across the absorption field. A subsurface discharge shall be utilized for such clear water discharges.

(g) Where it is necessary to pump sewage from an area below the residential sewer or the facility sewer, a separate leak-proof sump shall be provided exclusively for such purposes.

SECTION 11. Repairs.

The Health Officer by issuing a construction permit to repair a private on-site sewage system does not thereby approve of the system nor acknowledge that the system meets all requirements of the County or the Indiana State Department of Health. The Health Officer does recognize that a number of older private on-site sewage systems in the County cannot meet current requirements due to site or system limitations and that proposals for repair must make the best use of the available space and the system and must meet acceptable standards in the interests of public health. Isolation distances

will be required to be maintained to wells, seasonal high water tables, and the 100-yr flood plain as designated on the FIRM.

SECTION 12. Reserve Area.

(a) Absorption fields for all lots in subdivisions whose plots are fully and formally approved by the local plan commission and other public agencies with the responsibility therefore and recorded with the Elkhart County Recorder prior to September 1, 1991 shall be designed and installed in a manner that best utilizes the existing area and maximizes the potential for replacement, expansion, or repair of the absorption field. No exemptions from the requirements of 410 IAC 6-8.2 et. seq. shall be granted.

(b) Lots in subdivisions that do not qualify under Section 12(a) above shall provide at least two (2) times the required absorption area in suitable soils to allow for the original and one replacement, expansion, or repair of the original absorption field. This area shall be reserved for the installation of the original absorption field and one replacement, expansion, or repair of the absorption field. The use of the reserved area shall be limited to those uses which will not decrease the size of the reserve area and will not decrease the loading rate of the soils. Use of an alternating valve mechanism to utilize both systems is preferred and shall be implemented upon installation of the repair and/or replacement reserve area system. The existing system may not be removed upon its failure, but shall remain intact on one side of an alternating valve mechanism.

SECTION 13. Subsurface Drains.

(a) Subsurface drains must be installed at least six (6) inches into the massive clay, glacial till, or fragipan, and a four (4) inch diameter or greater perforated pipe must be used and backfilled to or within two (2) inches of the surface with washed stone not larger than the stone used in the absorption trenches or with material specified in Rule 410 IAC 6-8.2 for use in subsurface drains.

(b) Subsurface drains may be employed with conventional trenches only where the soils have a loading rate high enough to allow for rapid movement of water to the drain in order to lower and maintain the water table at a depth of twenty-four (24) inches below all absorption field trenches. Soils having a loading rate of less than six-tenths (.6) gallons per day per square foot shall not be suitable for the installation of a subsurface drain to rapidly lower and maintain a water table. Should a person wish to attempt to use a subsurface drain of any description to lower a water table in soils having a loading rate of less than six-tenths (.6) gallons per day per square foot, then such person must demonstrate to the satisfaction of the Health Officer that the proposed subsurface drain can indeed rapidly lower and maintain the water table. To do so, at a minimum, the subsurface drain must be installed at the prescribed-depth and location to potentially allow for the private on-site sewage system installation. Not less than two piezometers will then be installed in the central area of the proposed private on-site sewage system. The piezometers must be constructed of 4-inch schedule 40 PVC with a secure cap. One shall be installed to a depth of at least twelve (12) inches below the level at which the lowered water table is to be maintained. The second piezometer must be installed as directed by the Health Officer in the surface soils and into the first indication of soil mottling. The piezometers must remain available for review by the Health Officer through at least one high water table period (December through June) to verify that the water table can be lowered and

maintained before a permit for the private on-site sewage system will be considered.

(c) A free outfall for the discharge from the subsurface drain shall be provided on-lot. Otherwise, easements for the use and maintenance of any drain used or to be used to transport the water from the subsurface drains or subsurface drain to an outfall located off-lot must be obtained from all owners of adjacent properties through which the underground drain runs to the point of discharge. Copies of the recorded easements must be submitted with the application for a permit to install any private on-site sewage system which has a subsurface drain as a component that discharges off-lot. The use of a legally established, publicly maintained drainage improvement shall be permitted only after written permission for such use is first obtained from the public agency with jurisdiction over such drainage improvement (Surveyor's Office/Drainage Board).

(d) Subsurface drains. Subsurface drains, when required, will be installed around the absorption field area or sand mound on the upslope and sides only. Minimum depth for a subsurface drain shall be thirty-six inches (36"). This depth shall be measured from the existing ground surface to the bottom of the drain excavation or six inches (6") into compact till, whichever is greater. All drains shall have an approved outlet with a prescribed two and four tenths inches (2.4") positive slope or greater for every one hundred feet (100') of drain length. Drain outlets to the ground surface shall be fitted with an animal guard approved by the Health Officer.

SECTION 14. Inspections.

No person shall cover any private on-site sewage system or any part thereof unless he or she first obtains written approval from the Health Officer. No person shall place a private on-site sewage system into operation without first obtaining written approval for such operation from the Health Officer. The Health Officer shall be allowed to inspect the work at any stage of construction. The applicant for the construction permit shall notify the Health Officer when the work is ready for final inspection and before any underground portions are covered. The Health Officer shall make the inspection within two (2) working days of the receipt of notice from the applicant. Efforts will be made to inspect on the day requested if the requests are received before 10:00 a.m. the day of inspection and completion will occur during normal Health Department working hours.

SECTION 15. Right of Entry.

The Health Officer shall be permitted to enter upon any property at any reasonable and proper time for the purposes of inspection, observation, measurement, sampling and testing necessary to carry out and review compliance with the provisions of this Ordinance upon producing proper credentials and identification.

SECTION 16. Notices.

Any person found to be violating any provision of this Ordinance shall be served with a written order stating the nature of the violation and providing a time limit for its satisfactory correction. If a person receives a written order from the Health Officer directing compliance with any provisions of this Ordinance, that person shall comply with the provisions of the Order and perform all acts required by the Order within the time limit set forth in

the Order. The Order shall be served by the Health Officer and may be served by Certified Mail or personal delivery. An Order shall also be deemed served when an inspection tag or report indicating the violation shall be attached to any portion of the on-site private sewage system which is the subject of the Order.

SECTION 17. Registration.

(a) Except for the owner working on the on-site private sewage system serving the dwelling in which he or she lives, no person shall construct, install, replace, alter, or repair any private on-site sewage system in the County unless the person is registered with the Health Department. Application for registration shall be on forms provided by the Health Department. Failure to obtain or renew registration prior to system installation will be subject to a late fee per the Health Department Fee Schedule Ordinance.

(b) Every person required to register under this section shall be knowledgeable of all laws, rules, and regulations of both the State of Indiana and the County governing private on-site sewage systems. The applicant for registration must demonstrate knowledge of the applicable laws, rules, and regulations before becoming registered by passing a proficiency exam conducted by the Health Department with a score of eighty (80) or higher. All tests shall be multiple choice, true or false, and non open book format consisting of forty (40) questions. The registration exam shall be reviewed from time to time to determine its applicability to current laws, rules, and regulations. The exam questions shall not be changed except for order or format without review and approval by two designated representatives of the Builders Association of Elkhart County and by two registered on-site private sewage system contractors. After satisfactory completion of two (2) different ECHD examinations, only the registration fee will be required to renew registration. IOWPA Certification may serve as the second satisfactory completion upon presentation of credentials which are valid and in effect for the period of registration. An owner wishing to install, repair, or otherwise work on the private on-site sewage system serving the dwelling in which he or she lives shall be required to demonstrate knowledge of the applicable laws, rules, and regulations by completing the same proficiency exam conducted by the Health Department. Where taking a written exam is not feasible, due to language or reading difficulties, arrangements will be made to allow for a verbal examination to assure proficiency. Opportunity for re-examination of registered installers shall be afforded to an applicant upon request but no more frequently than once every seven (7) days. At the request of the Health Officer, but not more often than once per year, a person registered under this section shall attend a course on private on-site sewage systems and installation conducted by the Health Department or the State of Indiana.

(c) Registrations under this section shall expire annually on June 30.

(d) Whenever the Health Officer determines that there has been a violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health by a person registered under this section, the Health Officer shall give written notice, in person or by certified or registered mail, of the alleged violation to the person to whom registration was granted. Such notice shall include:

- (1) A statement of the alleged violation;

- (2) An Order allowing a reasonable time, up to fourteen (14) days or as otherwise determined by the Health Officer, for the performance of any act required to correct the violation.

(e) If the violation is not corrected within the designated time, the Health Officer may suspend or revoke the registration subject to the provisions for hearing contained in Section 18 of this Ordinance. If the registration is suspended, the registration can be reinstated by the Health Officer upon correction of all violations. If registration is revoked, the requirements for becoming registered including testing and the payment of the registration fee apply prior to re-registration. Re-registration shall not occur until all outstanding violations are corrected to the satisfaction of the Health Officer.

(f) Any person constructing, installing, replacing, altering, or repairing, any private on-site sewage system who is not registered under the provisions of this section shall be deemed to be in violation of this Ordinance and subject to all penalties described herein.

SECTION 18. Hearings.

(a) Any person affected by an order or notice in connection with the enforcement of any provision of this Ordinance may request and shall be granted a hearing on the matter before the Elkhart County Board of Health provided that the person files a written Request for Hearing with the Health Officer within thirty (30) days after receipt of the order or notice. Written requests for hearing shall clearly state the following:

- (1) The name and address of the person affected;
- (2) The provisions of the Ordinance in question;
- (3) The reasons for requesting a hearing;
- (4) The requested relief; and
- (5) The basis for the requested relief.

(b) A hearing requested pursuant to this section shall be conducted within thirty (30) working days of the Health Officer's receipt of the request. The hearing shall be conducted by the Elkhart County Board of Health at a time and place designated by the Health Officer. Written notice of the time and place of hearing shall be delivered by regular U.S. mail to the person requesting the hearing at least ten (10) days prior to the hearing. If the person requesting the hearing so requests, the Health Officer may grant a continuance of the hearing date for a period of not more than thirty (30) days.

(c) A tape recording shall be made of the hearing, and the cost borne by the Health Department; however, a transcript of the hearing will be made only if a person requests it and shall be transcribed at the cost of such person. The Elkhart County Board of Health shall make a ruling based upon the complete hearing record and shall sustain, modify, or rescind any order, suspension, revocation, or ruling challenged in the hearing. A written report of the hearing decision including the reason(s) for such decision shall be furnished to the affected person by the Health Officer within ten (10) days of the hearing.

(d) At the request of the Health Officer, staff testimony may be presented at the hearing.

(e) The Elkhart County Board of Health may in its discretion establish a Hearing Board to conduct on-site sewage system violation hearings in the County. Any such Hearing Board would have three (3) members. The members of the Hearing Board would include the Health Officer, one representative of the Builders Association of Elkhart County appointed by the Elkhart County Board of Health to serve at its pleasure, and one private on-site sewage system contractor registered under this Ordinance appointed by the Elkhart County Board of Health to serve at its pleasure. In the event that a Hearing Board is established, the procedures indicated above in Sub-sections (a), (b), (c) shall apply with respect to hearings before the Hearing Board. In the event that either the Health Department or the affected person is not satisfied with the decision of the Hearing Board, either party may appeal to the Elkhart County Board of Health for a further hearing on the matter in accordance with and to be conducted under the provisions of Subsections (a), (b), and (c) above. In such event, the Elkhart County Board of Health may affirm, reverse, or modify the decision of the Hearing Board.

(f) In the event the Health Officer elects to initiate prosecution and enforcement action for violation of the provisions of this Ordinance with the assistance of the Elkhart County Prosecutor and/or the Elkhart County Attorney in accordance with Section 19, the hearing provisions contained within this Section 18 shall not apply and shall not be available to the affected person.

SECTION 19. Fines and Penalties.

Any person who violates any provision of this Ordinance shall be deemed to have committed an ordinance violation and, upon conviction, shall be fined not more than Five Hundred Dollars (\$500.00) for the first offense and not more than One Thousand Dollars (\$1,000.00) for the second and each subsequent offense. Each violation of the Ordinance shall constitute a separate Ordinance violation. Each day that an Ordinance violation continues, after the expiration of the time period set forth in any order for corrections, if applicable, shall constitute a separate Ordinance violation. In addition to the specific enforcement mechanisms contained within this Ordinance, the Health Officer may furnish written evidence of any violation of this Ordinance to the Elkhart County Prosecutor and/or the Elkhart County Attorney for appropriate action against the offending person, including a prosecution and enforcement action, for violation of the provisions of this Ordinance.

SECTION 20. Construction.

(a) In the event that any provision of this Ordinance is ultimately determined by a court of competent jurisdiction to conflict with any provision of 410 IAC 6-8.2 et seq. or 410 IAC 6-10-1 et seq., then and in any such event the more strict provision shall govern.

(b) In the event that any provision of this Ordinance is ultimately determined by a court of competent jurisdiction to be pre-empted by any state or federal law or regulation, this Ordinance shall automatically be deemed amended by eliminating the pre-empted provision and incorporating in its place the applicable provision of the pre-empting state or federal law or regulation.

(c) Each provision of this Ordinance shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

(d) Compliance with the requirements of this Ordinance does not obviate or eliminate the necessity of complying with any other applicable federal, state, or local laws and regulations affecting private on-site sewage systems.

SECTION 21. Authority of Health Officer.

It is hereby acknowledged, understood, and declared by the Board of Commissioners of the County of Elkhart, Indiana, that under this Ordinance the Health Officer is required to exercise and is vested with the authority to exercise his or her discretion and judgment in order to protect and preserve the public health, safety, and general welfare of the citizens of the County of Elkhart, Indiana, in regulating private on-site sewage systems. The authority of the Health Officer to issue, deny, suspend, or revoke or fail or refuse to issue, deny, suspend, or revoke any license, approval, order, registration, or similar authorization under this Ordinance is hereby declared to be discretionary.

SECTION 22. Effective Date and Repeal.

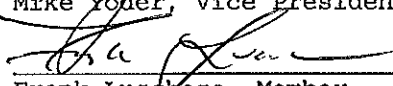
This Ordinance shall take effect on the 1st day of July, 2012 following publication in accordance with the requirements of law. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

Approved by the Board of Commissioners of the County of Elkhart, Indiana this 16th day of April, 2012.

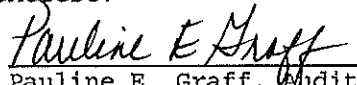
BOARD OF COMMISSIONERS OF THE
COUNTY OF ELKHART, INDIANA

BY 
Terry Rodino, President

By: 
Mike Yoder, Vice President

By: 
Frank Lucchese, Member

Attest:


Pauline E. Graff, Auditor