

MORGAN COUNTY ONSITE SEWAGE SYSTEM ORDINANCE

Section 1: Title and Purpose

- A) Morgan County Onsite Sewage System Ordinance 4-3-3.2 hereby repeals Morgan County Health Department Ordinances 1979-4 and 4-3-3.1.
- B) This ordinance regulates the location, installation, construction, maintenance and replacement of all residential and commercial onsite sewage systems in Morgan County and provides for the administration and enforcement of the provisions contained herein, and fixes penalties for violation.
- C) This chapter shall be known and may be cited as the Morgan County Onsite Sewage System Ordinance.
- D) The general purpose of this chapter is to promote the public health, safety, and welfare and to further the following related specific objectives.
 - 1) To preserve and improve the environmental quality of the county.
 - 2) To minimize and eliminate contamination of ground and surface water resources.
 - 3) To control the utilization of private onsite sewage systems based on the limitations of the site for such use as determined by a soil profile analysis based on the criteria set forth by the Natural Resource Conservation Service.

Section 2: Incorporation by Reference

- A) The following documents are incorporated by reference as a part of this Ordinance and shall include any later amendments, repeals, and replacements to those regulations as the same are published in the Indiana Administrative Code with the effective dates as fixed herein.
 - 1) The requirements found in Rule 410 IAC 6-8.2.
 - 2) Bulletin SE 11, The Sanitary Vault Privy, 1986 Edition.
 - 3) Rule 410 IAC 6-10, Bulletin SE 13, Commercial Onsite Wastewater Disposal

Section 3: Definitions

- A) Except as provided below, the terms defined in Rule 410 IAC 6-8.2-1 et seq. and Rule 410 IAC 6-10-1 et seq. shall carry the same definition whenever used in this ordinance as the definition provided in those regulations. For the purpose of this Ordinance, the terms below shall be defined as follows:
 - 1) "Board of Health" shall mean the Board of Health having jurisdiction in Morgan County, State of Indiana.
 - 2) "Dormant" shall mean an OSS which has not been used for a period of time sufficient enough to lower the hydraulic load on the system.
 - 3) "IOWPA" is the Indiana Onsite Wastewater Professional's Association.
 - 4) "Onsite Sewage System or OSS" shall mean all equipment and devices necessary for the proper conduction, collection, storage, treatment, and onsite disposal of sewage from a residence or commercial facility.

- 5) "Onsite Sewage System Failure" shall mean a residential on-site sewage system that exhibits one (1) or more of the following:
 - a. The system refuses to accept sewage at the rate of design application thereby interfering with the normal use of residential plumbing fixtures.
 - b. 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.
 - c. Effluent is discharged from the system causing contamination of a potable water supply, ground water, or surface waters.

Section 4: Licensing of Installers

- A) Any person engaged in the installation or repair of an onsite sewage system shall obtain an installer license from the Morgan County Health Department.
 - 1) The person must complete an application.
 - 2) Submit to a written open book examination given by the Morgan County Health Department, which will cover state and local regulations governing OSS, and receive a score of 70% or greater. A person who participated in IOWPA's training and testing and successfully passed their certification test will not be required to submit to a written examination given by the Morgan County Health Department if documentation of the IOWPA certification is furnished to the Morgan County Health Department.
 - 3) If the person fails the examination, the person may re-apply for an installers license and examination no earlier than one (1) month following the previous examination date.
- B) Once the criteria in Section 4A 1-3 of this ordinance are met, the applicant shall pay a set fee for such license as found in the Morgan County Health Department fee schedule ordinance # 1-4-18, 2.
 - 1) Such license shall be valid for three (3) years, and is non-transferable. The license shall bear the name and address of the company, the name of the licensee, and the expiration date.
 - 2) The licensee shall maintain in his/her possession, during the installation of onsite sewage systems, a copy of the permit, a copy of the installer's license and a copy of the septic design approved by the Morgan County Health Department.
 - 3) A homeowner that wishes to install an onsite sewage system on his/her own property must submit to an examination, which will cover state and local regulations of OSS.
- C) The Morgan County Health Officer or the Morgan County Environmental Health Specialist may remove the name of any person from the list of Morgan County registered installers who have demonstrated an inability or unwillingness to comply with all Morgan County Health Department and/or all Indiana State Department of Health rules, regulations, and ordinances. The Morgan County

Health Officer or a Morgan County Environmental Health Specialist must first give such person written notice of his intention to take such action, and the reason(s) for such action. The affected person has a right to a hearing before the Morgan County Health Officer or a Morgan County Environmental Health Specialist if the person makes written request to the Morgan County Health Officer within ten (10) days of receipt of the notice. The person may appeal an adverse decision to the Morgan County Health Board by sending written notice of appeal to the Morgan County Health Officer within ten (10) days of receipt of the Health Officer's decision. All notices, whether by the Health Officer, the Environmental Health Specialist, or the affected person, must be delivered in person or sent by certified mail, return receipt requested. In all cases, a receipt must be obtained that indicates the date and to whom the notice was delivered.

- D) Once removed, such person may not engage in the installation, construction, or repair of any sewage disposal system or equipment in Morgan County until such person complies with the requirements of this subsection. Said person must also satisfactorily demonstrate his or her ability and willingness to comply with these regulations and post a surety bond with the Morgan County Board of Health, State of Indiana, with the surety acceptable by said Board, in the penal sum of not less than five thousand (\$5,000.00) dollars. This bond must be in favor of the Morgan County Board of Health conditioned upon the registrant's faithful compliance with this ordinance and with the rules and regulations which may be established periodically by the Morgan County Board of Health relating to the installation of sewage disposal devices or equipment.

Section 5: Onsite Sewage System Permit

- A) The owner or agent of the owner shall obtain a written permit from the Morgan County Health Department, signed by the Health Officer, for the construction of a residential or commercial OSS prior to the following:
- 1) The start of construction on a residence or placement of a mobile home that will not be connected to a sanitary sewer system.
 - 2) Any replacement, reconstruction, expansion or remodeling of a residence that may increase the number of bedrooms. If the Morgan County Health Department determines that it has on file a permit showing that the current OSS will handle the overall design daily flow, a permit will not be required.
 - 3) Any addition to, alteration of, or repair of an existing OSS unless deemed unnecessary by the Morgan County Health Department.
- B) The owner shall obtain all necessary federal, state, and local permits and approvals before construction begins on an OSS.
- C) Any proposed changes, alterations or additions to an OSS plan submittal for which a permit has already been issued shall be approved by the Morgan County Health Department prior to implementation of the changes.
- D) An OSS permit shall expire upon compliance of the OSS installation, or within two (2) years of the issue date, whichever comes first.
- E) The owner or agent shall request an inspection by the Morgan County Health Department at least two (2) working days before any portion of the OSS is covered.

- F) The septic installer or company shall notify the Morgan County Health Department the day of beginning excavation on the OSS.
- G) The Health Department may modify or revoke a permit which it has issued. The reasons for modification or revocation include, but not limited to, any of the following:
 - 1) The soil absorption field site has been disturbed or altered after collection of information for the written site evaluation report. Disturbance or alteration of the site includes, but is not limited to the following:
 - a) The addition of fill material.
 - b) The cutting, scraping, or removal of soil.
 - c) The compaction of the site.
 - 2) False information has been submitted to obtain a permit.
 - 3) Information submitted in the written site evaluation report, plot plan, or OSS plan is found to be erroneous.
 - 4) Errors or omissions are discovered after the permit has been issued.
 - 5) The OSS does not comply with the requirements of 410 IAC 6-8.2, 410IAC 6-10 and all of the provisions of this ordinance.
 - 6) The owner or agent of the owner failed to request an inspection by the health department at least two (2) working days before any portion of the OSS was covered.
- H) If a permit is revoked or modified, the owner shall be advised, in writing, of the basis for the modification or revocation, the right for appeal, and the deadline for appeal.
- I) If a permit has been revoked, the following shall occur for a new permit to be issued:
 - 1) The owner shall provide, as necessary, a revised site evaluation, and a revised plot plan and OSS plan.
 - 2) The proposed OSS shall comply with the requirements of 410 IAC 6-8.2, 410 IAC 6-10 and all of the provisions of this ordinance.
 - 3) If a permit is revoked, construction may not proceed on the OSS, or the residence or commercial facility it serves, until a new permit is issued.

Section 6: OSS Permit Requirements and Plan Submittal

- A) The following requirements must be met before the issuance of a permit for an OSS.
 - 1) A completed application.
 - 2) A written site evaluation report, performed by an IRSS certified soil science consultant, containing soil absorption field site characteristics, a soil profile report, and the soil profile characteristics, which include at least two soil borings per septic site, unless more borings are deemed necessary by the health department.
 - 3) A plot plan that includes:
 - a) Legal description of the property.
 - b) Property boundaries.
 - c) Utility and drainage easements.

- 4) An OSS plan that includes:
 - a) A drawing of the OSS site or a sketch of the onsite system on a copy of the plat with measurements, identification of the OSS on the property and required consultation with the local health department.
 - b) Property boundaries.
 - c) Footprint of all structures (existing and proposed).
 - d) Setbacks and separation distances required herein.
 - e) Identification of all existing and proposed water supply wells within one hundred (100) feet of the OSS.
 - f) Location of all soil borings.
 - g) One hundred (100) year flood elevations as determined by the Indiana Department of Natural Resources (IDNR) and identification of all portions of the property at and below the one hundred (100) year flood elevation may be required.
- 5) Detailed floor plan of the residence.
- 6) Detailed cross section of the soil absorption field and the subsurface drainage system.
- 7) Elevation of exposed working outlet of perimeter drain.
- 8) Any additional information that is deemed necessary by the Morgan County Health Officer.

Section 7: Repairs

- A) The Health Officer by issuing a permit to repair a private sewage disposal system does acknowledge that the system may not meet all requirements of the County or the Indiana State Department of Health. The Health Officer does recognize that a number of older private sewage disposal 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 must meet acceptable standards in the interests of public health.

Section 8: Inspections

- A) The Morgan County Health Department shall be permitted to enter upon all properties at reasonable times to insure compliance with this ordinance to: inspect facilities, equipment or records, investigate allegations, determine soil characteristics, conduct tests, and collect samples.
- B) The Health Officer or designee shall inspect each OSS, for which a permit is required under provisions of this ordinance.
- C) No portion of the OSS shall be covered before an inspection can take place.
- D) The permit shall be signed in-compliance prior to the utilization of the OSS.
- E) The Health Officer or designee shall make the inspection within two (2) working days of the receipt of notice from the applicant.

Section 9: Connection to Sanitary Sewer

- A) If and when a sanitary sewer approved by the Indiana State Department of Health or Indiana Department of Environmental Management is available and within three hundred (300) feet of the property line of the residential or commercial property and the estimated cost of sewer construction and connection does not exceed one hundred fifty percent (150%) of the estimated cost of an OSS, a direct connection may be required to said sewer, and all septic tanks shall be abandoned in a safe and sanitary manner as approved by the Morgan County Health Department. Such direct connection shall be completed by the owner and/or the occupant of the premises or their agents within ninety (90) days after receipt of written notice ordering such action. Failure of the owner or the occupant to comply with the provisions of this section shall constitute a violation of this ordinance and the violator shall be subject to the penalties prescribed in this ordinance.

Section 10: Connection to Existing OSS

- A) Connection to an existing onsite sewage system shall be permitted if the following conditions are met.
- 1) The connection will not exceed the DDF for the OSS.
 - 2) The existing system has not met the definition of an "OSS failure".
 - 3) The existing system has been permitted and approved for use by the Morgan County Health Department. In the absence of an approved permit, hydraulic testing as described in Section 11 may be undertaken subject to best judgement of the Morgan County Health Officer or his designee.
 - 4) In the event that a system enlargement is proposed, the enlargement must bring the existing system into compliance with the minimum standards of this ordinance.

Section 11: Remodel of existing home with no addition to the number of bedrooms.

- A) Repair of partially destroyed dwellings, routine remodeling or room additions which do not entail the construction of additional bedrooms, will be approved or denied based on the following criteria.
- 1) A site visit by an Environmental Health Specialist indicates no obvious failure of the OSS.
 - 2) Review of a floorplan which verifies bedroom count against other available public records (i.e. tax records).
 - a) If a discrepancy develops regarding the bedroom count, a homeowner may declare the number of bedrooms by recorded affidavit supplied to the local health department as set forth in Rule 410 IAC 6-8.2-6(2).
 - 3) The proposed room addition or remodel must meet the proper setback requirements for an OSS.
 - 4) In instances where the OSS has lain dormant for an extended period of time, the system is suspected to be in failure, or no permit has ever been issued by

the county, hydraulic testing of the system may be required by the local health department in order to verify the functionality of the OSS.

- a) This testing will be comprised of adding water to the existing septic tank until the liquid level reaches the bottom of the outlet pipe.
- b) Dye shall then be added to the tank followed by addition of one half the designed daily flow for a dwelling with the indicated number of bedroom equivalents on three (3) consecutive days.
- c) Following this procedure, the site shall be inspected for sewage and/or dye being discharged at the surface. If no obvious failure is noted the project may proceed using the existing OSS.

Section 12: Violation

- A) Any person found to be violating this ordinance or Indiana State Department of Health onsite sewage system regulation will first be notified verbally by the Health Officer or his designee with an agreement on the time frame for correction and re-inspection.
- B) If verbal communication is not successful in attaining compliance, the property owner or onsite sewage company may be served by the Health Officer or his/her designee with a written order stating the nature of the violation and providing a time limit for satisfactory correction and re-inspection.
- C) After receiving an order in writing form the Health Officer or his/her designee, the owner of the property shall comply with the provisions of this ordinance as set forth in said order and within the time limit specified therein. Said order shall be served on the owner or the agent of the owner, but may be served on any person who by contract with the owner has assumed the duty of complying with the provisions of an order.

Section 13: Penalties

- A) Any person found to be in violation of this rule or Indiana State Department of Health onsite sewage system rules and regulations shall be fined for the first offense not more than \$500.00 per day; for the second and each subsequent offense not more than \$1,000.00 per day. Any person constructing, installing, replacing, altering, or repairing any OSS who is not certified in Morgan County shall be deemed to be in violation of this ordinance. Each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions as ordered by the Morgan County Health Department shall constitute a distinct and separate offense. Further, any person found to be in violation of the ordinance shall be liable to the Morgan County Health Department for any expense, loss, damages, or attorney fees occasioned by the Morgan County Health Department for reason of the violation.
- B) In the event that any onsite sewage system installed does not meet compliance with this ordinance, after the expiration of the time limit for correction, the installer shall be fined for the first offense not more than \$500.00 per day and/or license may be suspended. For the second offense, after the expiration of the time

limit for correction, the installer shall be fined not more than \$1,000.00 per day and revocation of license.

Section 14: Procedure for Appeal

- A) The Morgan County Health Board shall hear appeals incidental to the issuance and revocation of OSS permits, and installers license if, within 15 days following the date of receipt of an issued OSS permit, OSS permit modification, notice of OSS permit denial, notice of OSS permit revocation or notice of revocation of installers license, any person aggrieved by such action files a petition for review concerning such action with the board.
- B) A petition for review shall state:
 - 1) The name, address and telephone number of the person making the request;
 - 2) Identify the interests of the petitioner which is effected by the OSS permit issuance, denial, modification, or revocation;
 - 3) Identify any persons whom the petitioner represents;
 - 4) State with particularity the reasons for the request;
 - 5) State with particularity the issues proposed to be considered;
 - 6) Include proposed terms or conditions which, in the judgement of the petitioner, would be appropriated to carry out the requirements of law, governed by this ordinance, 410 IAC 6-8.2, 410 IAC 6-10 or the technical specifications governing such OSS permits.

Section 15: Remedies

- A) Upon refusal or neglect of any person to correct an unlawful or unsanitary condition when the abatement of the condition has been ordered in writing by the Health Officer, or designee or an appeal against the order has been sustained by the Health Officer, the Health Officer or designee may, through the office of the Morgan County attorney, or an attorney representing the Health Department, institute proceedings in the judicial court district wherein the offense occurs for enforcement by prohibitory or mandatory injunction to restrain any person from violating the provisions of this ordinance. All of the remedies available to the Department under this Ordinance are cumulative and in addition to any remedies available at law or otherwise. The election of one or more remedies by the department does not limit or waive the Department's ability to pursue any other lawful remedies, whether set forth in this Ordinance or available at law.

Section 16: Fee Schedule

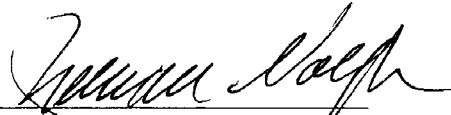
- A) As set forth in the Morgan County Health Department fee collection ordinance and any amendments or revisions hereafter.

Section 17: Conflict of Ordinances

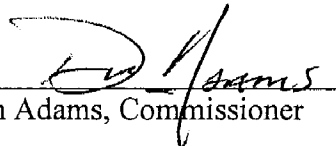
- A) In any case where a provision of this ordinance is found to be in conflict with a provision of any code of Morgan County, Indiana existing on the effective date of this ordinance, the provisions which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of any other code of Morgan County, Indiana existing on the effective date of this ordinance which establishes a lower standard for the promotion and protection of the health and safety of the people, are hereby declared to be repealed to the extent that they may be found in conflict with this ordinance.
- B) If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance, which shall remain in full force and effect, and to the end the provisions of this ordinance are hereby declared to be severable.

So Passed and Ordained this 2 day of April, 2012.

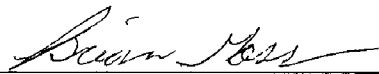
MORGAN COUNTY BOARD OF
COMMISSIONERS



Norman Voyles, Commissioner

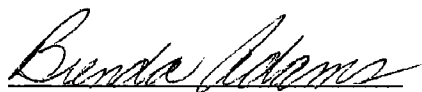


Don Adams, Commissioner



Brian Goss, Commissioner

ATTEST:



Brenda Adams
Brenda Adams
Morgan County Auditor