

**ORDINANCE
No. 2018-10**

SHORT TITLE: AN ORDINANCE AMENDING AND RESTATING THE ADAMS COUNTY, INDIANA SEWAGE ORDINANCE.

WHEREAS, the Board of Commissioners of Adams County, State of Indiana, as the legislative body of the County, has deemed it necessary for the purpose of promoting the public health, safety, comfort, convenience and general welfare of Adams County to enact and enforce a Sewage Ordinance, and

WHEREAS, the Adams County Board of Health has recommended changes and amendments to the existing Adams County Sewage Ordinance and desires to implement a new County Sewage Ordinance; and

WHEREAS, the Adams County Health Department has submitted its recommendation to the Board of Commissioners of the County of Adams and the Commissioners hereby approve and adopt such recommendation.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF ADAMS, STATE OF INDIANA, THAT THE ADAMS COUNTY INDIANA SEWAGE ORDINANCE NO. 2018-3 IS HEREBY AMENDED AND RESTATED IN ITS ENTIRETY AS Ordinance 2018-10 as follows:

**ADAMS COUNTY SEWAGE ORDINANCE
NO. 2018-10**

ORDINANCE REGULATING THE INSTALLATION, CONSTRUCTION, MAINTENANCE, OPERATING AND REPAIR OF RESIDENTIAL AND COMMERCIAL ON-SITE SEWAGE SYSTEMS AND PRIVIES IN ADAMS COUNTY, INDIANA, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

ARTICLE I ADMINISTRATION

SECTION 101: The regulations and requirements of the Indiana State Department of Health Rule 410 IAC 6-8.3 "Residential On-site Sewage Systems" are hereby incorporated by reference in this Ordinance and shall include any later amendments to those regulations and requirements as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of the applicable IAC regulations and requirements are available and are on file in the office of the Adams County Health Department.

SECTION 102: The regulations and requirements of Indiana State Department of Health Rule 410 IAC 6-10.1 "Commercial On-site Wastewater Disposal" are hereby incorporated by reference in this Ordinance and shall include any later amendments to those regulations and requirements as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of the applicable IAC regulations and requirements are available and are on file in the office of the Adams County Health Department.

SECTION 103: All other regulations and requirements duly promulgated by the Indiana State Department of Health as found in Title 410 IAC and various bulletins relative to the subject matter of this Ordinance are further incorporated herein and made a part hereof. Specifically, Bulletin 11 "The Sanitary Vault Privy", as updated or amended from time to time, and Bulletin S.E. 13 "On-Site Water Supply and Wastewater Disposal for Public and Commercial Establishments", as updated or amended from time-to-time, and any bulletin or publication which may hereafter be published by the Indiana State Department of Health as a supplement or successor to said Bulletin S.E. 11 or Bulletin S.E. 13 are hereby incorporated herein and made a part hereof. Copies of the respective bulletins are available in the office of the Adams County Health Department.

ARTICLE II DEFINITIONS

In addition to, or to otherwise supplement those definitions contained in Rule 410 IAC 6-8.3, Rule 410 IAC 6-10.1, the Adams County, Indiana Privy Mandatory Regulations and Bulletin S.E. 13, which are herein incorporated by reference, this Ordinance shall include the following additional definitions:

SECTION 201: "Board of Health" shall mean the Board of Health having jurisdiction in Adams County, State of Indiana.

SECTION 202: "Building" shall mean a structure having a roof supported by columns or walls built or used for the enclosure, shelter, protection or occupancy of persons, fixtures or personal property, and from which there emanates any sewage.

SECTION 203: "Health Officer" shall mean the Health Officer having jurisdiction in Adams County, State of Indiana, or the Health Officer's designated agent.

SECTION 204: "Installer" shall mean any person engaged in or intending to engage in the installation, construction and repair of on-site systems or equipment in Adams County.

SECTION 205: "On-Site System" shall mean any commercial on-site wastewater disposal, residential or on-site sewage system NOT constructed, installed, maintained, operated, and/or owned by an incorporated city or town, conservancy district, regional sewer district, or private utility.

SECTION 206: "Owner" shall mean the owner or his or her agent of a dwelling or building.

SECTION 207: "Privy" shall mean a fly tight and rodent proof structure designed for the disposal of human waste erected on or over a properly constructed sanitary vault.

SECTION 208: "Quorum" shall mean a majority of the Adams County Board of Health, or at least four of the seven members.

SECTION 209: "Soil Survey" shall mean the book entitled "Soil Survey of Adams County, Indiana" published by the United States Department of Agriculture, Soil Conservation Service as up dated or amended from time-to-time. Copies of said publication and of any supplemental or successor publication shall be on file in the office of the Adams County Health Officer for public inspection during regular business hours.

SECTION 210: "Subdivision" shall mean divisions of any parcel of land shown as a unit or as contiguous units created for dwelling or building sites.

ARTICLE III

RESIDENTIAL AND COMMERCIAL ON-SITE SYSTEM REQUIREMENTS

SECTION 301: Where a sanitary sewerage system is not available in Adams County, all persons owning or leasing property shall comply with the following provisions of the Ordinance for on-site systems.

SECTION 302: It shall be unlawful for any person to throw, run, drain, seep, or otherwise dispose onto the open ground or into any of the surface waters or ground waters of the County of Adams, State of Indiana, or cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise disposed into such waters, any organic or inorganic matter from a dwelling, building or on-site system that would cause or contribute to a health hazard or water pollution.

SECTION 303: At any public, commercial or business building situated within the County of Adams, State of Indiana, where on-site systems may be available and where a sanitary sewerage system is not available, said on-site systems shall be installed, constructed and maintained in compliance with the minimum requirements of Rule 410 IAC 6-10.1 and Bulletin S. E. 13, or such other standards as may be adopted from time-to-time by the Indiana State Department of Health, the Indiana Department of Environmental Management and the Adams County Board of Health.

SECTION 304: A privy situated within the County of Adams, State of Indiana, shall be of the sanitary vault type and shall be installed, constructed, maintained and disposed of in accordance with the mandatory minimum standards as set forth in the Adams County, Indiana Privy Mandatory Regulations, which Regulations are attached to and incorporated into this Adams County Sewage Ordinance, and as said Regulations may be revised from time to time. The provisions of the Adams County, Indiana Privy Mandatory Regulations are a part of this Ordinance and shall have the same full force and effect as this Ordinance.

SECTION 305: All on-site systems shall be installed, constructed and maintained in a manner approved by the Adams County Health Officer and in compliance with the minimum standards set forth in Rule 410 IAC 6-8.3, Rule 410 IAC 6-10.1, Bulletin S. E. 13, and such other standards and policies as may be adopted from time-to-time by the Indiana State Department of Health and the Adams County Board of Health.

SECTION 306: The installation of any other on-site systems not described in Rule 410 IAC 6-8.3, Rule 410 IAC 6-10.1, or Bulletin S. E. 13, and which operate by mechanical, chemical, or other means shall be approved in advance by the Indiana State Department of Health, the Indiana Department of Environmental Management (where required) and the Adams County Health Officer.

SECTION 307: If any failure exists or occurs with any on-site system or privy and said system fails to meet the standards and requirements of Section 302, Section 303, Section 304, Section 305 or Section 306, the failure shall be corrected to the satisfaction of the Adams County Health Officer by the owner or the occupant of the premises or their agents within the time required by the Adams County Health Officer.

SECTION 308: Wherever a sanitary sewerage system is or becomes approved by the Indiana State Department of Health or Indiana Department of Environmental Management and is available within 300 feet of the property line of a residential or business property, a direct connection may be required to said sanitary sewerage system, provided direct access is reasonably available via easement or other appropriate means, and provided that the sanitary sewerage system will accept the connection. An order to connect is subject to the appeal rights in Section 701(e) of this Ordinance. On-site sewerage systems installed with the approval of the Adams County Health Officer, or his/her designee, after January 1, 1990 which are not in failure and are regularly maintained, are not required to make a direct connection to said sanitary sewerage system. Upon connection to a sanitary sewerage system, all privies, septic tanks and on-site systems shall be filled and abandoned in a safe and sanitary manner as approved by the Adams County Health Officer. 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.

SECTION 309: Notwithstanding any other provisions of this Ordinance, where a residence or commercial business is constructed within Adams County that will utilize an on-site system, the building site shall consist of an area not less than two (2) acres, if a sanitary sewerage system is not available to serve such a residence or commercial business. Sewage there from shall be disposed of in accordance with the provisions described in Section 302, 303, 304, 305, and 306 of this Ordinance. The provisions of this Section 309 shall not be applicable to any subdivisions or lots platted before February 13, 2018 only if an on-site system can be installed in compliance with Rule 410 IAC 6-8.3.

SECTION 310: Notwithstanding any other provisions of this Ordinance, the Adams County Health Officer may limit or prohibit the use of an on-site system for residences or businesses in areas that are seasonably wet, pond water, or which periodically flood during any part of the year, or in areas where the size or topography of the site, or where information contained in an evaluation by a soil scientist indicates a reasonable likelihood that an on-site system will not function properly and will dispose of sewage in an unsanitary manner in violation of the terms of this Ordinance.

SECTION 311: All onsite sewage systems shall be sized according to the number of bedrooms or bedroom equivalents of the proposed or existing home. Regardless of the number of bedrooms or bedroom equivalents, the minimum size requirement for an onsite sewage system shall be based upon a three bedroom home. The minimum size requirement can be appealed to the Health Officer or his or her designee. If the Health Officer denies the appeal, the applicant may appeal to the Health Department Board.

SECTION 312: Pursuant to 410 IAC 6-10.1-8, all onsite sewage systems for any parcel of real estate containing two or more residences and six (6) or more bedrooms, shall be under the jurisdiction of and shall be approved by the Indiana State Department of Health Commercial Division for a commercial onsite system.

ARTICLE IV

PERMITS, PERMIT FEES, INSPECTIONS, INSTALLERS REGISTRATION

SECTION 401: Before the start of construction of any public, commercial or business building or private residence where an on-site system or privy is to be installed or where any alterations, repairs, or additions to an existing on-site system is planned, the owner shall first obtain a written permit signed by the Adams County Health Officer. The application for such permit shall be made on a form provided by the Adams County Health Officer. Said application shall be supplemented by all plans, specifications and other information required by the Adams County Health Officer. A permit and inspection fee as established by the Adams County Commissioners shall be paid to the Adams County Health Department for deposit into the Adams County Health Fund when the application is filed.

SECTION 402: The Adams County Health Officer shall examine said application, together with all information accompanying the same, and if determined, consistent with the provisions of this Ordinance, that such applications should be approved, the permit shall be issued. Otherwise, the Adams County Health Officer shall deny such application and shall notify the applicant in writing of the reason or reasons for such denial. In any case, an application shall be denied if the information submitted therewith is incomplete or inaccurate. The permit, if issued, shall be posted prior to the start of construction in a conspicuous place at or near the building where the on-site system is under construction. The permit shall be plainly visible from the public thoroughfare serving the building.

SECTION 403: If the on-site system for which the permit was issued has not been constructed, installed, altered, or repaired within two years from the date of issuance, the permit shall automatically expire and become void.

SECTION 404: A permit for the construction, installation, alteration or repair of an on-site system or privy shall not constitute final approval of such system until the same is completed to the satisfaction of the Adams County Health Officer. The Adams County Health Officer shall be permitted to inspect the work at any stage of construction; and in any event, the owner shall notify the Adams County Health Officer before the start of construction of any component of the on-site system, before any components of the on-site system are covered, and when the work is ready for final inspection. The final inspection shall be made within the shortest reasonable time, but not to exceed two (2) working days after receipt of notice by the Adams County Health Officer, excluding weekends, legal holidays, and days when the weather is unfit to make an inspection as reasonably determined by the Adams County Health Officer.

SECTION 405: The Adams County Health Officer shall maintain a register of all approved on-site system installers within Adams County, State of Indiana.

SECTION 406: Installers engaged or intending to engage in the installation, construction or repair of on-site systems of equipment in Adams County shall make application to the Adams County Health Officer to have their names placed on the "Register for those engaged in the installation, construction and repair of on-site systems or equipment." The application form shall contain the name and address of the firm or place of business such installer is associated with, and other information as the Adams County Health Officer may reasonably require to aid in the administration and enforcement of this Ordinance, or to help determine whether there is any reason the application should not be approved.

SECTION 407: New installers applying for registration shall demonstrate knowledge of the applicable laws, rules, technical specifications, and ordinances before becoming registered .by passing a written proficiency examination conducted by the Adams County Health Department, or an entity approved by the Adams County Board of Health. In addition, all installers shall be required to pass a written proficiency examination conducted by the Adams County Health Department at least every three (3) years after their initial approval. On a case by case basis, the Adams County Health Department may approve other certifications / continuing education classes for installers in lieu of the proficiency examination.

SECTION 408: Installers making application to have their names placed on the "Register for those engaged in the installation, construction and repair of on-site sewage systems or equipment" shall pay an application fee as established by the Adams County Commissioners per calendar year to the Adams County Health Department for deposit into the Adams County Health Fund. Only one application is required to be submitted pursuant to Sections 405 and 406 of this Ordinance, if such installer is a firm, partnership, association, or other entity.

SECTION 409: Upon acceptance of the installer's registration, such installer shall post both a surety bond and a certificate of liability insurance with the Adams County Board of Health and the surety bond acceptance in the penal sum of not less than twenty thousand dollars (\$20,000.00) in favor of the Adams County Board of Health and liability insurance with the minimum amount of one hundred thousand dollars (\$100,000.00) per occurrence. The company issuing the surety bond or liability insurance shall be registered with the State of Indiana and be acceptable to the Adams County Board of Health. Acceptance of the installer's registration shall be conditioned upon the installer's faithful compliance with this Ordinance and with rules and regulations, which may from time-to-time be established by the Adams County Board of Health and the Indiana State Department of Health relating to the installation of on-site systems.

SECTION 410: The Adams County Health Officer may remove the name of any installer from the "Register for those engaged in the installation, construction and repair of on-site systems or equipment" who has demonstrated inability

or unwillingness to comply with this Ordinance. Such installer may have his name reinstated on said Register by the Adams County Board of Health after satisfactory demonstration of ability and willingness to comply with these regulations.

SECTION 411: All fees collected under the terms of this Ordinance shall be deposited into the Adams County Treasury and credited to the Adams County Health Fund.

ARTICLE V POWER TO INSPECT

SECTION 501: The Adams County Health Officer, bearing proper credentials and identification, shall be permitted to enter upon all properties subject to the provisions of this Ordinance at reasonable times for purposes of inspections, observations, measurements, sampling and testing necessary to carry out the provisions of this Ordinance.

SECTION 502: The Adams County Health Officer may issue an immediate stop work order of work completed, in process or planned, which is in violation of any provisions of this Ordinance. Thereafter, all work at the worksite shall be suspended immediately. Such stop work order shall be posted at the construction site and confirmed by written notice to the owner or occupant of the premises and any person engaged in the performance of said work or any person causing said work to be performed.

ARTICLE VI NOTICES

SECTION 601: Any person in violation of any of the provisions of this Ordinance, including the Adams County, Indiana Privy Mandatory Regulations shall be served a written notice by the Adams County Health Officer stating the nature of the violation and the fines and penalties for such violation(s). In addition to any and all fines and or penalties, nothing in this Ordinance shall prohibit the Adams County Health Department from taking legal action for enforcement of the provisions of this Ordinance in the Adams Circuit or Superior Courts.

ARTICLE VII APPEALS

SECTION 701: Appeals may be taken from any of the following decisions made or action taken by the Adams County Health Officer:

- Denial of an application for a permit to construct, install, alter or repair an on-site system or privy;
- Failure to approve an application to have name placed on "Register for those engaged in the installation, construction and repair of on-site systems or equipment";
- Removal of name from "Register for those engaged in the installation, construction and repair of on-site systems or equipment";
- A determination that work completed, in process or planned is in violation of any of the provisions of this Ordinance, or that any other violation of the provisions of this Ordinance exists.
- Order to make direct connection with a public sanitary sewerage system and to abandon an on-site system or privy under Section 308 of this Ordinance;
- Prohibition against use of an on-site system where a building site consists of less than two (2) acres as set forth in Section 309 of this Ordinance.

SECTION 702: An appeal may be filed with the Adams County Board of Health by any person aggrieved or affected by any decision of the Adams County Health Officer as set forth in Section 701. Such appeal shall be submitted in writing at the office of the Adams County Board of Health within ten (10) days after the applicable decision of the Adams County Health Officer (unless the appellant obtains an extension of time in writing from the Adams County Board of Health). Said appeal shall specify the adverse decision being appealed and the grounds for said appeal. The Adams County Health Officer shall forthwith transmit to the Adams County Board of Health all the papers in the Health Officer's possession constituting the record of the case. The Adams County Board of Health, upon receipt of such notice and record, shall immediately select a reasonable time and place for the hearing of the appeal and shall give notice in writing to the appellant of the time and place thereof. The hearing of the appeal may be continued from time-to-time. Following the conclusion of the hearing, the Board shall render a decision within twenty (20) days thereafter. Any person may appear and testify at such hearing, either in person or by counsel.

SECTION 703: The Adams County Board of Health shall hear and decide the appeal and may overrule or modify the decision or determination of the Adams County Health Officer if the Board determines that the Adams County Health Officer incorrectly decided the matter. The Adams County Board of Health shall overrule or modify the decision of the Adams County Health Officer only if the appellant shows by clear and convincing evidence that:

- strict compliance with the provisions of the Ordinance will impose upon such person unusual difficulties and/or hardship; AND
- that overruling or modifying the decision of the Adams County Health Officer:
 - will constitute substantial justice,
 - is in harmony with the general purpose, intent and spirit of this Ordinance,
 - will not serve merely as a convenience to appellant,
 - will alleviate a demonstrable hardship, and
 - surrounding property and the public in general will not be harmed thereby.

SECTION 704: A quorum of the Adams County Board of Health shall be required to hear an appeal under this Ordinance and a concurring vote of a majority of the members present at the hearing shall be necessary to reverse or modify any determination or decision of the Adams County Health Officer.

ARTICLE VIII PENALTIES

SECTION 801: Any person, firm or entity that shall violate any provision of this Ordinance shall be guilty of an -infraction. On conviction, the violator shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500) per offense, and each day the violation continues shall constitute a distinct and separate offense.

SECTION 802: The Adams County Board of Health shall also be entitled to seek any other legal remedy available, including injunctive relief, against any person, firm or entity who shall violate any provision of this Ordinance.

SECTION 803: The Adams County Board of Health shall be entitled to the payment by the violator for all legal fees, court costs and expenses incurred to enforce this Ordinance.

SECTION 804: The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

SECTION 805: In addition to any other fines and penalties contained herein, any firm, person or entity who begins construction, installation or repair of a septic system, privy or any other sewage related matter without first obtaining a permit for the Adams County Health Department shall be required to pay three (3) times the amount of the permit as an additional fine.

ARTICLE IX ORDINANCE IN FORCE

SECTION 901: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 902: The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

SECTION 903: This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed and adopted by the Commissioners of Adams County, State of Indiana, on this 2nd day of October, 2018.

The Board of Commissioners
of the County of Adams, State of Indiana
Douglas Bauman
Kim A. Fruechte
Absent
Rex M. Moore

ATTEST:
Mary B. Beery
Auditor of Adams County, Indiana