

**Jay County Sewage Ordinance
No. 2011-04**

**ORDINANCE REGULATING THE INSTALLATION, CONSTRUCTION,
MAINTENANCE, OPERATION, AND REPAIR OF RESIDENTIAL AND
COMMERCIAL ON-SITE SEWAGE DISPOSAL SYSTEMS IN JAY
COUNTY, INDIANA AND PROVIDING PENALTIES FOR VIOLATIONS
THEREOF.**

**JAY COUNTY SEWAGE ORDINANCE NO. 2011-04 HEREBY
REPEALS
JAY COUNTY ORDINANCE NO. 2-1981.**

Be it ordained and enacted by the Board of Commissioners of Jay County, State of Indiana as follows:

ARTICLE I

ADMINISTRATION

SECTION 101: The regulations and requirements of Indiana State Department of Health Rule 410 IAC 6-8.2 "Residential On-Site Sewage Systems" are hereby incorporated by reference in this Ordinance and shall include any later amendments to these 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 Jay County Health Department.

SECTION 102: The regulations and requirements of Indiana State Department of Health Rule 410 IAC 6-10 "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 Jay 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 S.E. 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 Jay County Health Department.

ARTICLE II

DEFINITIONS

In addition to, or to otherwise supplement those definitions contained in Rule 410 IAC 6-8.2, Rule IAC 6-10, Bulletin S.E 11 and Bulletin S.E. 13, which are herein incorporated by reference, this Ordinance shall include the additional definitions.

SECTION 201: "Aeration Tank" shall mean any tank or device designed to receive and treat sewage by causing or inducing air to circulate or combine with the contents creating an aerobic bacterial condition to exist.

SECTION 202: "Board of Health" shall mean the Board of Health having jurisdiction in Jay County, State of Indiana.

SECTION 203: "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 204: "Health Officer" shall mean the Health Officer having jurisdiction in Jay County, State of Indiana, or the Health Officer's designated agent.

SECTION 205: "Installer" shall mean any person engaged in or intending to engage in the installation, construction and repair of on-site systems or equipment in Jay County.

SECTION 206: "On-Site System" shall mean any commercial on-site wastewater disposal or residential 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 207: "Owner" shall mean the owner of a dwelling or building (or the agent of the owner).

SECTION 208: "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 209: "Sanitary sewerage system" be defined as such term is defined by 410 IAC 6-8.2-34, as amended from time to time, and which term currently shall mean a sewer or system of sewers that convey sewage away from the lot on which it originates to a wastewater treatment facility owned and operated by:

- (1) An incorporated city or town;
- (2) A conservancy district;
- (3) A regional sewer district; or
- (4) A private utility.

SECTION 210: "Soil Survey" shall mean the book entitled "Soil Survey of Jay County, Indiana" published by the United States Department of Agriculture, Soil Conservation Service as updated or amended from time-to-time.

SECTION 211: "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 SYSTEMS REQUIREMENTS

SECTION 301: Where a sanitary sewerage system or combined sewer is not available in Jay 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 into any of the surface waters or ground waters of the County of Jay, 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 sewage system that would cause or contribute to a health hazard or water pollution.

SECTION 303: Any public, commercial or business building situated within the County of Jay, State of Indiana, where on-site systems may be approvable and where a sanitary sewerage system is not available, said on-site systems shall be installed, constructed and maintained with the minimum requirements of Bulletin S.E. 13, Rule 410 IAC 6-10 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 Jay County Board of Health.

SECTION 304: A privy situated within the County of Jay, State of Indiana, shall be of the sanitary vault type and shall be installed, constructed, maintained and disposed of in compliance with the minimum standards set forth in Bulletin S.E. 11, as may be amended from time-to-time by the Indiana State Department of Health. All privies shall be kept in a clean condition so that insects and rodents cannot enter the vault and shall be located properly to protect water supplies from contamination.

SECTION 305: All on-site systems shall be installed, constructed and maintained in a manner approved by the Jay County Health Officer and in compliance with the minimum standards set forth in Rule 410 IAC 6-8.2, Rule 410 IAC 6-10, Bulletin S.E. 11, 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 Jay County Board of Health.

SECTION 306: The installation of any other on-site systems not described in Rule 410 IAC 6-8.2, Rule 410 IAC 6-10, Bulletin S.E. 11 or 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 (when required) and the Jay 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 remedied to the satisfaction of the Jay County Health Officer by the owner or the occupant of the premises or their agents within the time required by the Jay County Health Officer.

SECTION 308: Wherever a sanitary sewerage system approved by the Indiana State Department of Health or Indiana Department of Environmental Management is available and is within 300 feet of the property line of the residential or business property and the estimated cost of sewer construction and connection does not exceed one hundred fifty percent (150%) of the estimated cost of an on-site system, which property is served by an on-site system or privy, situated within the County of Jay, State of Indiana, a direct connection shall be required to said sanitary sewerage system (provided that the sanitary sewerage system will accept the connection) with all privies, septic tanks, aeration tanks and on-site systems being filled and abandoned in a safe and sanitary manner as approved by the Jay 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 Jay County that will utilize an on-site system, the building site shall consist of an area not less than two (2) acres. The provisions of Section 309 shall not be applicable to any subdivisions or lots platted before the effective date of Jay County Sewage Ordinance No. 2-1981, only if an on-site system can be installed in compliance with Rule 410 IAC 6-8.2 and Rule 410 IAC 6-10.

SECTION 310: Notwithstanding any other provisions of this Ordinance, the Jay 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 registered 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.

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 of an existing on-site system or privy is planned, the owner shall first obtain a written permit signed by the Jay County Health Officer. The application for such permit shall be made on a form provided by the Jay County Health Officer. Said application shall be supplemented by all plans, specifications and other information required by the Jay County Health Officer. A permit and inspection fee as established by the Jay County Commissioners shall be paid to the Jay County Health Department for deposit into the Jay County Health Fund.

SECTION 402: The Jay 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 Jay 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 or privy 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 Jay County Health Officer. The Jay County Health Officer shall be permitted to inspect the work at any stage of construction; and in any event, the owner shall notify the Jay 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 Jay County Health Officer, excluding weekends, legal holidays, and days when the weather is unfit to make an inspection as reasonably determined by the Jay County Health Officer.

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

SECTION 406: Any installer engaged or intending to engage in the installation, construction or repair of on-site systems or equipment shall make application to the Jay County Health Officer to have their name 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 such other information as the Jay 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: Any installer 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 Jay County Health Department or an entity approved by the Jay County Board of Health.

SECTION 408: Any installer making application to have the installer's name placed on the "Register for those engaged in the installation, construction and repair of on-site systems or equipment" shall pay an application fee as established by the Jay County Commissioners per calendar year to the Jay County Health Department for deposit into the Jay 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, corporation 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 Jay County Board of Health with the surety bond in the penal sum of not less than twenty thousand dollars (\$20,000) in favor of the Jay County Board of Health and liability insurance with the minimum amount of one hundred thousand dollars (\$100,000) per occurrence. The company issuing the surety bond or liability insurance shall be registered with the State of Indiana and be acceptable to the Jay 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 Jay County Board of Health and the Indiana State Department of Health relating to the installation of on-site systems.

SECTION 410: The Jay 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 Jay 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 Jay County Treasury and credited to the Jay County Health Fund.

ARTICLE V

POWER TO INSPECT

SECTION 501: The Jay 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 Jay 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. Therefore 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 shall be served a written notice by the Jay County Health Officer stating the nature of the violation and providing a time limit for satisfactory correction thereof.

ARTICLE VII

APPEALS

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

- a) Denial of an application for a permit to construct, install, alter or repair an on-site system or privy;
- b) Failure to approve an application to have name placed on “Register for those engaged in the installation, construction, or repair of on-site systems or equipment”;
- c) Removal of name from “Register for those engaged in the installation, construction and repair of on-site systems or equipment”;
- d) 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;
- e) Order to make direct connection with a sanitary sewerage system and to abandon an on-site system or privy under Section 308 of this Ordinance;
- f) Prohibition against use of an on-site system where 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 Jay County Board of Health by any person aggrieved or affected by any decision of the Jay County Health Officer as set forth in Section 701. Such appeal shall be submitted in writing at the office of the Jay County Board of Health within ten (10) days after the applicable decision of the Jay County Health Officer (unless the appellant obtains an extension of time in writing from the Jay County Board of Health). Said appeal shall specify the adverse decision being appealed and the grounds for said appeal. The Jay County Health Officer shall forthwith transmit to the Jay County Board of Health all of the papers in the Health Officer’s possession constituting the record of the case. The Jay 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 Jay County Board of Health shall hear and decide the appeal, and may overrule or modify the decision or determination of the Jay County Health Officer if the Board determines that the Jay County Health Officer decided incorrectly on the matter. The Jay County Board of Health shall overrule or modify the decision of the Jay County Health Officer only if the appellant shows by clear and convincing evidence that:

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

SECTION 704: A quorum (a majority of the total members of Jay County Board of Health) of the Jay 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 Jay County Health Officer.

ARTICLE VIII

PENALTIES

SECTION 801: Any person, firm or entity that shall violate any provision of this Ordinance shall pay 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 Jay 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 Jay County Board of Health shall be entitled to the payment by the violator of 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.

ARTICLE IX
ORDINANCE IN FORCE

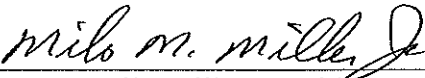
SECTION 901: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

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 Jay County, State of Indiana, on this
1st day of August, 2011.


Jay County Commissioners



Milo Miller, President



Faron Parr



James Zimmerman

ATTEST



Nancy Culy
Jay County Auditor