

The purpose of this ordinance example is to provide assistance to small and medium sized rural communities in the drafting of ordinances for water, wastewater, and other utility services. The use of this ordinance example beyond the scope for which it was prepared is not recommended without consulting competent government or outside counsel. Users are cautioned to check for changes in the laws of the State of Indiana before implementing any ordinance. Statutory changes may materially affect the ability of an entity to enforce an ordinance.

**ARTICLE 1 - NAME COUNTY ON-SITE
WASTE WATER MANAGEMENT DISTRICT**

**CHAPTER 1
CREATION OF THE DISTRICT**

There is hereby established an on-site waste water management district which shall be known as the NAME County On-Site Waste Water Management District (NAME).

**CHAPTER 2
TERRITORY**

The territory included in the NAME shall include all unincorporated territory of NAME County. Incorporated areas may opt into the NAME by ordinance and approval of the District Board.

**CHAPTER 3
PUBLIC HEALTH CONCERNS**

The Commissioners find that on-site waste water management systems which fail cause polluted water to be discharged into the local environment thereby jeopardizing the health of NAME County residents. Given the soil types of the region, said systems can only work effectively if they are properly installed and maintained. The only way to accomplish same and thereby minimize the discharge and assist local home owners is to establish a district.

**CHAPTER 4
PURPOSE**

The NAME is established for the purpose of improving the overall operation and functioning of systems to improve the water quality in NAME County and improve the health and welfare of its residents. To do so the district shall perform the following functions:

- a) Inventory of systems.
- b) Inspection of systems.
- c) Monitoring the:
 - 1) performance; and
 - 2) maintenance of systems.
- d) Establishing:
 - 1) standards for installation and inspection of systems that are no less stringent than standards established by the state department of health; and
 - 2) procedures for enforcement of the standards.
- e) Seeking grants for:
 - 1) system maintenance; and
 - 2) any other activities described in this article.
- f) Establishing rates and charges for the operation of the district.
- g) Establishing policies and procedures for the use of grants and other revenue of the district for installation, maintenance, and other activities of the district relating to systems in the district.
- h) Seeking solutions for disposal of sludge from systems.
- i) Education and training of system service providers and system owners.
- j) Coordination of activities of the district with activities of:
 - 1) local health departments;
 - 2) the department of natural resources;
 - 3) the state department of health; and
 - 4) the department of environmental management.

CHAPTER 5

ESTIMATED COSTS

It is hereby found that the estimated cost for operating the NAME when fully operational and covering all systems in NAME County will be approximately \$X. During the early years it is not anticipated that the cost will exceed \$X. It is estimated that the average cost to the home owner will be somewhere between \$X and \$X per year depending on the type of system installed. It is anticipated that the operating costs of the district will be raised through the registration process for all newly installed septic systems. The process will require persons having a system to provide proof of a valid maintenance operating contract appropriate to the installed system. All systems will pay a registration fee. Start up cost will be borne by the county through its NAME fund with the NAME repaying the county after reaching a positive cash flow position.

CHAPTER 6

POWERS

Section 1. The NAME will have all powers granted by I.C. 13-26 to accomplish its goals.

Section 2. This Ordinance shall become effective 30 days after publication of the notice of adoption of same.

Passed this DATE

Signatures of Board with date by each

EXAMPLE

ARTICLE 2

BOARD NAME

ORDINANCE NUMBER

DATE

WHEREAS, the Onsite Wastewater Management District meets statutory requirements and requires funding in order to comply with all requirements the following actions were taken:

- a) Approved as a Regional Sewer District by IDEM
- b) Published notice of public hearing held DATE
- c) Said Notice complied with IC. 5-3-1;
- d) INSERT HERE published notice of the public hearing ON DATE
- e) A public hearing on the matter was held on DATE; and

NOW, THEREFORE, be it ordained that:

Section 1. A new article shall be added to ARTICLE WITH CREATION ORDINANCE to read as follows:

CHAPTER 1

FINANCIAL

THE NAME County Onsite Wastewater Management District, herein referred to as the District, was established effective NAME pursuant to IC 13-26. Part of the operational duty of the District per IC 36-1 1-7 includes receiving and expending funds.

There is hereby established a fund to be known as "NAME" The Fund shall be invested in accordance with other allowable government investments. Any interest earned shall be reinvested in the Fund. This Fund is non-reverting and may be spent without appropriation.

CHAPTER 2

PURPOSE

Revenue paid to the County pursuant to IC 13-26-7-2, collected pursuant to this ordinance or other ordinance designating said fund to receive same, together with any grants, loans or donations to said fund shall be deposited in said fund by the County for all or part of the purposes described in IC 13- 26.

CHAPTER 3

DEFINITIONS

For the purpose of this ordinance, the following terms shall have the meaning ascribed to them as follows:

- a. "Board of Commissioners" means the Board of Commissioners of the County
- b. "County Auditor" means the Auditor of X COUNTY
- c. "Property Owner" means the individual or entity holding deed to a property served by a private sewage disposal system in unincorporated NAME COUNTY
- d. "Health Department" means the NAME County Board of Health and their direct employees
- e. "Department of Environmental Management" or "IDEM" means the Indiana Department of Environmental Management
- f. "Administrator" means the person or entity responsible for administering the NAME County Onsite Wastewater Management District
- g. "District" means the NAME County Onsite Wastewater Management District
- h. "Member" means a person or entity properly registered with the District
- i. "Satisfactory Evidence of Maintenance" means a report or receipt by an approved provider under ARTICLE 3 showing the satisfactory maintenance and operation of the system.
- j. "System" means a private sewage disposal system
- k. "Fund" means the NAME County Onsite Wastewater Management Fund established by this article
- l. "Gravity System" means a private sewage disposal system constructed with septic tank(s) and a soil absorption system
- m. "Mechanical System" means a private sewage disposal system constructed with septic tank(s), a pump or mechanical component, an alarm and a soil absorption system
- n. "Pre-treatment System" means a private sewage disposal system constructed with septic tank(s), a pump or mechanical component, a filtering or pretreatment component, an alarm and a soil absorption system
- o. "Soil Absorption System" as defined by IC 13-1 1-2- 199.5

CHAPTER 4

EXPENDITURES

The fund may be expended for the following purposes:

- (a) To pay for the costs associated with the development and administration of the District Plan per IC 13-26
- (b) To pay for the administration of the District and the Fund
- (c) To pay for the component duties of the District as charged through IC 13-26 and IC 13-26, including but not limited to the following:
 - 1. educational material
 - 2. educational programs,
 - 3. licensing of inspectors, maintenance personnel and installers,
 - 4. expenses associated with qualifying systems for use in NAME County
 - 5. mapping and purchase of maps
 - 6. inventory of systems
 - 7. inspection and monitoring of systems
 - 8. seeking and administering grants
- (d) To pay for billing and the collection of fees, fines, penalties and associated costs
- (e) To pay District legal fees

CHAPTER 5

REGISTRATION

Registration in the District is compulsory for each Property Owner who 30 days subsequent to passage of this ordinance, installs a new private sewage disposal system or rehabilitates an existing private sewage disposal system under the authority

the corrective action or fine, dismiss the action or fine, reduce the fine, or recess the hearing for further information. 17-2-11 CHAPTER 11 17-2-1 1-1 ENFORCEMENT If a Property owner fails to correct any deficiency cited or pay a fine levied, the District may enforce same through enforcement proceedings in the local court system. If the District prevails in such enforcement, it shall be entitled to among other things, reasonable attorneys fees.

2. This Ordinance shall become effective 30 days after publication of the notice of adoption of same. Passed DATE

CHAPTER 6

SCHEDULE OF PERMIT FEES

A recurring permit fee will be assessed to each Property Owner for membership in the District. The permit shall be renewed in accordance with the maintenance schedule set by the District to correspond with the maintenance requirements of the System manufacturer and installer or by the technical and scientific advice of the Health Department. The fee structure and renewal requirements are as follows:

- (a) Gravity System \$X triennially(every3years)
- (b) Mechanical System \$X biennially (every 2 years)
- (c) Pre-treatment System \$X annually
- (d) Discharging System \$X annually

CHAPTER 7

RENEWAL

A permittee shall make application for renewal at least 30 days prior the expiration of the current permit. For Gravity Systems and Mechanical systems the property owners shall provide satisfactory evidence of maintenance, for Pre-treatment Systems, the property owner shall provide satisfactory evidence of maintenance and a copy of their annual maintenance contract with a District approved contractor and for a Discharging System, the property owner must provide satisfactory results of testing required by the Department of Environmental Management, proof of an ongoing maintenance contract with a District approved contractor and proof of all requirements by the IDEM NPDES permit for continued discharge (if held for treated effluent release at this time).

CHAPTER 8

VIOLATIONS

A Property Owner or Member commits a violation of this ordinance if any of the following occur:

- (a) A Property Owner fails to become a Member as required by this ordinance.
- (b) A Property Owner's system discharges effluent in excess of the IDEM established water quality standards according to the NPDES permit.
- (c) A Member fails to pay the membership fee within 30 days of billing date
- (d) A Member fails to produce a record of maintenance for their system
- (e) A Member falsifies maintenance or installation records
- (f) A Member modifies the manufacturer's recommended structure or installation
- (g) A Member modifies or discontinues mechanical components of the system

CHAPTER 9

FINES, PENALTIES AND CORRECTIVE ACTION

- a). Property Owners whose systems are in violation of this ordinance shall upon notice immediately commence to correct any mechanical and functional deficiency of the system in order to continue proper operation of the system and meet water quality standards. System failures will be corrected within X days, unless a longer time is otherwise allowed by statute, ordinance or rule. If operational violations remain uncorrected, the District reserves the right to refer such failures to the Health Department for correction action including abandonment.
- b). Property Owners who fail to maintain appropriate documentation may be assessed for each violation a fine of no more than \$X per day while the Property Owner is out of compliance.
- c). Property Owners of systems that are not properly permitted or Members that fail to meet the requirements of the operating permit may be fined \$X per day until the requirements are met and the system is properly permitted.
- d). Property Owners who present falsified documents may be fined \$X per day until the proper documentation is presented. Property Owners who violate this ordinance may be required to submit to ongoing supervision by the District. If so required, the property Owner may be required to reimburse the District for all maintenance and operational costs associated with monitoring the system in question. Upon discovering a violation as set forth above an authorized representative of the District shall issue a citation to the Property Owner, citing the provisions(s) violated and the proposed fine for same. Said citation shall be in writing and set forth the appeal process as outlined below.

CHAPTER 10

APPEAL PROCESS

Upon receiving a citation for violation of this ordinance, a Property owner may appeal either the nature of the alleged violation or the proposed fine to the NAME County Onsite Wastewater Management District Board (the "NAME Board"). Failure to appeal shall be deemed conclusive evidence of a violation. Said appeal shall be in writing, set forth the specifics of the appeal and be filed within 30 days of receiving the citation. The NAME Board will meet within 15 days of receiving the appeal for an administrative hearing. The Property Owner may present such evidence as the Property Owner deems relevant. The NAME Board may uphold the corrective action or fine, dismiss the action or fine, reduce the fine, or recess the hearing for further information..

CHAPTER 11

ENFORCEMENT

If a Property owner fails to correct any deficiency cited or pay a fine levied, the District may enforce same through enforcement proceedings in the local court system. If the District prevails in such enforcement, it shall be entitled to among other things, reasonable attorneys fees.

This Ordinance shall become effective 30 days after publication of the notice of adoption of same. Passed this DATE

Signatures of Board with Date by each

ON-SITE WASTE WATER MANAGEMENT DISTRICT

ARTICLE 3

CHAPTER 1

PROVIDER QUALIFICATION

The NAME County Onsite Wastewater Management District provider qualifications are established in order to provide qualified service and maintenance for members of the District.

In order to comply with the requirements of the Indiana Code, the Onsite Wastewater Management District and various Indiana regulatory bodies, individuals and entities wanting to provide maintenance, service and/or reports as required by ARTICLE 2 to District members must be qualified through the registration process offered in CITE COUNTY CODE.

CHAPTER 2

REGISTRATION

No person or entity (the "Provider") shall construct, install, replace, alter, modify, test, certify or repair ("Services") any onsite wastewater management system unless said Provider is then currently registered with the NAME County Department of Health (the "Department") as an installer. Application for registration shall be on forms provided by the Department.

CHAPTER 3

VIOLATIONS

Any Provider who is, after hearing before the District Board, found to have materially misrepresented the status of any wastewater system, either intentionally or negligently or knowingly performed Services while not registered as required by this Ordinance, may be barred from performing Services for members for one year. Upon a second violation, said Provider may be permanently barred. Said hearing shall be conducted in accordance with the general procedural requirements for administrative hearings under Indiana law. This Ordinance shall become effective 30 days after publication of the notice of adoption of same.

Passed DATE

Signature of Board with Date by each