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MARLENE MAHLER

MARSHALL COUNTY RECORDER

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ORDINANCE NO. 2013-03

**ON-SITE SEWAGE DISPOSAL ORDINANCE
OF
MARSHALL COUNTY**

ON-SITE SEWAGE DISPOSAL ORDINANCE OF MARSHALL COUNTY	4
SECTION 1 - TITLE	4
SECTION 2 - PURPOSE.....	4
SECTION 3 - AUTHORITY	4
SECTION 4 – Adoption of regulations by Reference	4
SECTION 5 - SUPPLEMENTAL DEFINITIONS	4
SECTION 6 - PROHIBITIONS.....	6
SECTION 7 – GENERAL REQUIREMENTS	7
SECTION 8 – PERMIT APPLICATIONS.....	9
SECTION 9 – PERMIT	11
SECTION 10 - OPERATION AND MAINTENANCE.....	13
SECTION 11- Certification and Registration of OSS Installers	13
SECTION 12 - PETITION FOR REVIEW	13
SECTION 13 - ENFORCEMENT	13
SECTION 14 – REMEDIES.....	14
SECTION 15 – SEVERABILITY	15
SECTION 16 - CONFLICTING ORDINANCES.....	15
AMENDMENT A: OPERATION AND MAINTENANCE.....	15
ARTICLE I – Operating Permits	15
Section 1: Permit Issuance.....	15
Section 2: Permit Application.....	16
Section 3: Permit Expiration and Renewal	17
Section 4: Sale of Property	18
Section 5: Suspension or Revocation.....	18
ARTICLE II -MAINTENANCE REQUIREMENTS	18
Section 1: Routine OSS Inspection, Maintenance, and Reporting	18
Section 2: Service Personnel.....	19
Section 3: Property Owner Responsibilities	19
Section 4: Local Health Department Responsibilities	20
ARTICLE III - MALFUNCTIONING OR FAILING SYSTEMS.....	20
Section 1: Guidelines	20
Section 2: Correction of a Failure or Malfunction.....	20
ARTICLE IV – FEES	21
Amendment B: CERTIFICATION AND REGISTRATION.....	21
Section 1: CERTIFICATION EXAMINATION.....	21
Section 2: INSTALLER CERTIFICATION	21
Section 3: REGISTRATION	23
Section 5: PROPERTY OWNER	24
Section 6: ENFORCEMENT.....	24
Section 7: FEES	25
Amendment C: ISDH Rules and Bulletins for OSS	26
Amendment D: Site Plan	26
Amendment E: Connection to a sanitary sewer	26
Amendment F: Standards for equipment and materials.....	27
Amendment G: Replacement area requirements	27

Amendment H: Operating permit 27
Amendment I: Existing on-site release 27
Amendment J: Operating permit renewal 27
Amendment K: Best judgment repairs..... 27

ON-SITE SEWAGE DISPOSAL ORDINANCE OF MARSHALL COUNTY

An Ordinance pertaining to and regulating the design, construction, installation, maintenance and operation of on-site sewage disposal systems located within Marshall County, Indiana, providing the issuance of permits, operating permit, installer certification, and providing penalties for the violation thereof.

Be it ordained by the Board of Commissioners of Marshall County that this Ordinance is adopted as follows:

SECTION 1 - TITLE

This Ordinance and all ordinances supplemental or amendatory hereto shall be known as the - On-Site Sewage Disposal Ordinance or the On-Site Sewage Disposal Ordinance of Marshall County - and may be cited as such and will be referred to herein as "this ordinance."

SECTION 2 - PURPOSE

The purpose of this ordinance is to provide minimum standards for the prevention and suppression of disease and health risks associated with the use of on-site sewage disposal systems and to otherwise promote public safety, welfare, protection of the environment and to certify and register installers in Marshall County that have demonstrated knowledge of rules and regulations related to on-site sewage disposal system installation.

SECTION 3 - AUTHORITY

The Health Officer of Marshall County, as hereinafter defined, and the Health Officer's agents and representatives are hereby authorized to issue permits, existing OSS-releases, certifications, collect fees, perform inspections, order or otherwise compel correction of violations of this ordinance, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this ordinance and in accordance with Indiana Code 16-20.

SECTION 4 – Adoption of regulations by Reference

All on-site systems shall be installed, constructed and maintained in a manner approved by the Marshall County Health Officer and in compliance with the minimum standards set forth in rules and such other standards and policies as may be adopted from time-to-time by the Indiana State Department of Health and the Marshall County Board of Health. State rules are noted in Amendment C.

SECTION 5 - SUPPLEMENTAL DEFINITIONS

In addition to or to otherwise supplement those definitions contained in ISDH Regulations which are incorporated herein by reference are the following supplemental definitions:

- A. The following definitions are in rule 410 IAC 6-8.3 and are being noted here to emphasize the location of these definitions and not to limit 410 IAC 6-8.3
 - a. Bedroom
 - b. Operating permit
 - c. Person
 - d. Residential Outbuilding

- e. Residential on-site sewage system (OSS) also known as a septic system
 - f. Sanitary sewerage system
 - g. Sewage
 - h. Start of construction
 - i. Technology New to Indiana (TNI)
- B. BOARD: Shall include and means the Marshall County Board of Health.
- C. Existing OSS - RELEASE (permit) – Is a release to use an existing and properly functioning OSS that is given to another agency that is requesting a release as part of its approval process: also known as a building release.
- D. CERTIFIED INSTALLER: An installer who passes a written proficiency examination conducted by the Marshall County Health Department or an entity approved by the Marshall County Health Department, and maintains certification through retesting or obtaining the proper Continuing Education Units.
- E. CHANGE IN USE: is a change that potentially will affect the continued function of an OSS.
- a. A change in the quantity or quality of wastewater entering the OSS that is beyond the designed criteria of the OSS, or
 - b. A change to the site that will adversely affect the OSS.
- F. COMMERCIAL ON-SITE WASTE WATER DISPOSAL FACILITY (OSS): Means all equipment and devices necessary for proper conduction, collection, storage, treatment, and on-site disposal of wastewater from other than one or two-family dwellings.
- G. CLUSTER SYSTEM: are several homes and/or commercial facilities that combine their sewage for treatment. This utilizes technology similar to an OSS to treat the sewage. For the purpose of this ordinance a cluster system is not a sanitary sewerage system and may not have ongoing monitoring by state or federal agencies for proper operation, treatment and disposal of the sewage or wastewater.
- H. CONSTRUCTION PERMIT – means written approval by the local health department for the installation of an OSS.
- I. DEPARTMENT: Means the Marshall County Health Department.
- J. HEALTH OFFICER: Means the Health Officer of Marshall County.
- K. INSTALLER: For purposes of this ordinance, installer shall mean any person engaged in the construction, installation or modification of residential or commercial on-site sewage disposal systems in Marshall County.
- L. INSPECTION AND MAINTENANCE: means the physical observation of system components and their function and the maintenance of those components. It may involve cleaning the tanks and any required maintenance to the OSS system as required by the operation and maintenance manual for the system or as determined by registered service personnel.
- M. ISDH: means Indiana State Department of Health.

- N. **ON-SITE SEWAGE SYSTEM (OSS):** Means a residential or commercial sewage disposal system that treats sewage on site or uses a cluster system for an approved off site treatment.
- O. **ON-SITE SEWAGE SYSTEM FAILURE OR MALFUNCTION:** means a residential on-site sewage system which 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 potentially causing contamination of a potable water supply, ground water, or surface waters.
 - d. Structural failure of a component;
Failed residential on-site sewage system is a health hazard.
- P. **PERMIT STIPULATIONS:** requirements put on the permit or permit application by the department that becomes part of the permit.
- Q. **REGISTERED INSTALLER:** A certified installer who registers with the Marshall County Health Department.
- R. **REGISTERED OSS SERVICE PROVIDERS:** means a person or persons who meet the minimum requirements set forth by the local health department and provided information or skills related to OSS permitting, design, inspections, service and maintenance or others whose expertise may impact OSS as technology develops.
- S. **REPLACEMENT OR SET ASIDE AREA:** This is a site for a replacement OSS for future need.
- T. **SYSTEM INTEGRATOR (SI):** is a company or individual that ensures that the components all function together as a whole system.

SECTION 6 - PROHIBITIONS

- A. No person shall throw, run, drain, seep or otherwise dispose into any of the surface waters or ground waters of Marshall County, or cause, permit, or suffer to be thrown, drained, allowed to seep, or otherwise disposed into such waters, any organic or inorganic matter from a dwelling or on-site sewage system that would cause or contribute to a health hazard or water pollution.
- B. Existing sewage disposal systems are not grandfathered if they violate state codes. Discharges to the waters of the state are illegal regardless of when installed unless properly permitted for such a discharge by the state agency with jurisdiction.
- C. The discharge or release of any material other than sewage or wastewater approved by the Indiana State Department of Health to an OSS is a threat to the quality of the groundwater and public health. This includes wastewater generated from a commercial or industrial activities or maintenance equipment.
 - a. Wastewater not approved for OSS must either be disposed of in a manner approved by other agencies with jurisdiction over that wastewater or

- b. If no regulations apply then the wastewater will be disposed of in a manner approved by this department, and
 - c. This department can require documentation of the wastewater to properly characterize and identify it's suitability for an OSS or other disposal method at the operator expense.
- D. Failure to comply with the requirements of an operating permit including maintenance, reporting, and renewals of the operating permit is a violation of this ordinance and subject to fines and other action.
- E. No pumper may pump, haul, dispose, discard, or release effluent (septage) from a septic tank, dry well, or any other item used to hold or store sewage or wastewater in a manner that is not in compliance with the requirements of the Indiana Department of Environmental Management or other agency with jurisdiction. Failure to provide documentation at this department's request to show compliance or failure to follow proper requirements is a violation of this ordinance.
- F. For new construction septic tanks, pumps chambers, or other such devices shall not be installed with the top of the tank below the regulated flood elevation. A riser is not the top of the tank.
- G. Drainage from foundation footing drains, downspouts, and other clear water drains shall not discharge into the absorption field or where such discharge would drain across the septic system.

SECTION 7 – GENERAL REQUIREMENTS

- A. The health officer or his/ her agent shall be permitted to enter upon all properties at the proper time for purposes of inspection, observation, measurement, sampling, and testing necessary to assure compliance with this rule. If access is refused the health department may request a search warrant and if appropriate an unapproved installation permit or operating permit can be revoked.
- B. All components of an OSS shall be operated in compliance with design criteria or manufacturer specification and be structurally sound. Components that fail to operate properly or become unsound shall be replaced with department approved components. A repair permit is required for such replacements and repairs.
- C. When a soil absorption system replacement is necessary due to onsite sewage system failure, and if the replacement soil absorption system cannot meet all of the provisions of new construction standards, deviations to this ordinance for a soil absorption system replacement may be made in accordance with the best judgment of the local department of health. This replacement must also meet the requirements of state code for a best judgment repair.
- D. Any dwelling or commercial building with sewage or wastewater not connected to a sanitary sewerage system and has no sanitary sewerage system available to it shall have its own on-site sewage system that complies with this ordinance.

- E. If the property line of a property for new or repair OSS is within three hundred feet of a sanitary sewerage system or cluster system, a connection to those systems may be required instead of an OSS. The Board of Health may approve a policy for these connections, including subdivisions.
- F. All sanitary privies shall be constructed according to ISDH standards. Running water shall not be in a structure utilizing a sanitary privy unless an alternative disposal method is approved for that water by the department. A hand pump however may be allowed with sanitary privies.
- G. For new construction if a lot needs drainage and all or part of that drainage goes off the lot, an easement to the regulated drain or drain approved by the surveyor shall be obtained and properly recorded. Existing tiles used as part of the drainage will need to have easements.
- H. New subdivisions that in part or whole need infrastructure improvements for the OSS to function properly; this department can require that infrastructure be installed prior to developing lots that need the infrastructure improvements. If the infrastructure is not installed according to plans or approved changes, this department can deny permits for the affected lots.
- I. The minimum size of a septic tank in Marshall County shall be 1000 gallons; this does not prevent systems from having multiple tanks or restrict new innovative technologies if manufacturer's and ISDH recommendations are followed.
- J. The minimum size of a septic absorption field shall be sized at two bedrooms for new construction standards.
- K. An on-site sewage system or cluster system that has failed or fails to operate as designed is a threat to the quality of the groundwater and surface waters and is thereby a threat to public health. Any person who owns a property with a failed on-site sewage system shall:
 - a. Inform the Health Department of the failure.
 - b. Comply with any lawful orders of the Health Department to repair or replace the failed system.
 - c. If the liquid level in the septic tank, pump chamber or other tanks is above the outlet invert that may be an indication of a system failure. This department can:
 - i. require additional observations or other measures to prove that this is a temporary situation and not a failed system or
 - ii. if it appears to be long term problem (more than 60 days) the department can require a maintenance contract for monitoring the system or can require a repair to the system.
- L. A construction permit shall be obtained prior to start of construction.
- M. All approvals and preliminary approvals for a site whether issued prior to or after the adoption of this ordinance shall lapse and be void after 2 years. While this department will do it's best to honor subdivision approvals, changes in state code or to the site can void those approvals.

- N. When a permit has expired or has been revoked, the work on the on-site sewage disposal system shall not commence or resume unless a new application and fee has been submitted and a new permit has been obtained. If a permit that has been revoked and can be reinstated without significant change to the permit and is within the original expiration date that permit may be reinstated.
- O. An on-site sewage disposal system that will no longer be used or for which the structure no longer exists; it will be abandoned in a safe and sanitary manner as per Indiana State Department of Health or the Marshall County Health Department approved procedures.
 - a. If the on-site system will be reused an existing OSS - release permit must be obtained and
 - b. If no action is taken within a year the permit must be resubmitted and approved or the system properly abandoned.
- P. Before a 'change in use' the owner or operator of the OSS shall notify the department of the proposed changes and provide information and data the department deems necessary to determine if the system will need to be modified or changed to meet the new demands being placed upon it. This often occurs with a change to the structure, industrial process, or infringement on OSS isolation distances.
- Q. The Board of Health may set minimum standards for equipment and materials required to install, repair or replace an OSS.
- R. Floats shall be securely attached to prevent slippage or changes in the settings.
- S. Installers shall be knowledgeable and follow all rules, regulations and manufacturer requirements for the installation of an OSS. If a conflict between the various requirements exists or a variance is needed, the installer shall contact the health department for a determination before proceeding.
- T. Residential on-site sewage system under state code can include two family dwelling.
 - a. If the dwelling is on one foundation an agreement shall be made on how maintenance and repairs shall be handled by the parties involved and a copy attached to the permit application.
 - b. If it is two separate structures, 'subsection a' above will need to be met and it shall be recorded on the deed that if the dwellings are subdivided off each unit will be required to have its own septic system before it is subdivided.
 - c. Non-residential outbuildings must follow state codes.
- U. The Health Department's interpretation of this ordinance's wording or meaning will apply. Appeals can be made to the Board of Health for a ruling on a Health Department's interpretation. Until a Board of Health ruling is made, the Health Department's interpretation will be followed.

SECTION 8 – PERMIT APPLICATIONS

- A. All septic permit applications and permits shall include information required by the state code and any other information deemed necessary by this department.

- B. The plans shall be of sufficient clarity that it can be verified that the design of the residential on-site sewage system shall comply with the provisions of this rule.
 - a. This may include to scale plans, plot plans, floor plans, detailed plans of the OSS and its components, set aside area, elevations, drainage ways, bodies of water, and any other information deemed necessary by the health department.
 - b. A good faith effort will be made by the designer to identify on the plan any features that could affect the installation (for example tiles, easements and wells).
 - c. The system shall be laid out and/or marked on the site for verification.
- C. Plans and sketches shall be submitted
 - a. by a certified or registered installer or
 - b. by other registered persons that are approved for system design.
- D. All plans will need to be field verified by the installer prior to start of construction.
- E. Installer shall notify the department if a variation from the approved plan is required or needed for an unexpected complication or change not shown on the plans or a mistake. The Installer shall stop the installation until the department has approved a change to the plan.
- F. The department may immediately suspend or revoke a septic permit for which inaccurate information has been found to have been submitted or not being installed according to code. Written notice will be sent to the owner and contractor detailing the issues; however the contractor may be given the opportunity to make a correction first.
- G. This department is not responsible for incidental cost or losses associated with suspension or revocation of any permit.
- H. Site protection
 - a. During construction the area for the OSS, dispersal area and replacement area shall be protected from alteration, traffic, compaction, tree removal and other disturbance that could potentially ruin the approved area and set aside.
 - b. Fencing or other means specified by the department shall be used to protect the site from being disturbed and shall be installed before any construction on the lot occurs. The department may specify additional measures, if a site appears to have increased potential for disturbance.
 - c. The protection shall be kept in place until all construction on the property is completed (not just the septic installation).
 - d. This does not apply to the necessary construction of the OSS by the licensed septic contractor.
- I. Replacement site or set aside area
 - a. For new construction an OSS shall have a replacement area suitable for a replacement OSS, this will be designated on the plans submitted.
 - b. A replacement area should be maintained as a replacement site for an OSS and not put to uses that would prevent its future use as a replacement area for the OSS

- c. The replacement area shall be adequately sized with no apparent limitations for the installation of a similar OSS systems or other approved system.
 - 1. The department does not guarantee that a replacement area will be suitable for a similar or replacement system unless soil work and a design is submitted and approved and no changes in the site, approved interpretations, or codes occur between approval and installation.
 - 2. The Board of Health from time to time may make a policy regarding the replacement area requirements.
- d. A replacement area shall not be required on subdivisions that were approved and recorded prior to the effective date of this ordinance, unless a replacement area was included in the approval.
- e. A secondary site will not be required for a site that is connected to a cluster system or sanitary sewerage system.

SECTION 9 – PERMIT

a. Permits

- a. Permit type:
 - 1. Construction permit: for the installation of a new, repair, or replacement of any OSS.
 - 2. Operating permit: for the ongoing operation of an OSS.
 - 3. An Existing OSS–Release (permit): for changes in usage of an existing OSS (AKA Building Release).
- b. Obtaining the appropriate permit from the Health Department does not release any person from obtaining any other required permits or approvals.
- c. Permits and supporting documentation shall be kept on site and available to the contractors and Health Department.
- d. The permit and permit application information are part of the permit and permit requirements.
- e. Septic construction and existing OSS –release shall be posted in a conspicuous place and be plainly visible from the public thoroughfare serving this building.
- f. All permits are not transferable.
- g. Permit fees shall be established by a Marshall County fee ordinance.
- h. Fees are non-refundable.

b. Construction permits (septic permit)

- a. A septic construction permit shall be obtained prior to start of construction.
- b. No person shall construct, install, replace, alter, or repair any part of any On-site Sewage System (OSS) in Marshall County without first obtaining the appropriate permit from the Health Department.
- c. A septic construction permit is not complete until a final inspection of the installation is made and approved by the department.
- d. Failure to allow or obtain a final inspection of a septic permit is a violation of this ordinance and use of said system will be deemed to be a health hazard.
- e. A septic permit to install a system is not an operating permit.

- c. Operating permits
 - a. Amendment A to this ordinance details the requirements for operation permits.
 - b. Any person who operates a system where the Health Department has determined that an operating permit is required shall first obtain an operating permit from the Health Department.
 - c. Failure to obtain, renew, or keep an operating permit in force when required for an OSS or comply with Amendment A is a violation of this ordinance and continued use of the OSS will be deemed to be a health hazard.
 - d. The Board of Health may make additional polices on operating permits.

- d. Existing OSS–Release Permit
 - a. This department may require documents, inspection reports, details on proposed changes and other information deemed necessary to evaluate the system proposed ‘change in use’ for the release.
 - b. The department will consider a ‘change in use’ that potentially can adversely affect an OSS ability to properly function which can include but not limited to:
 - 1. Any replacement; reconstruction; expansion; or remodeling; of a structure utilizing an OSS or
 - 2. Adding a structure to the OSS or
 - 3. Changes in the site that may adversely affect the OSS or it isolation distances.
 - 4. Changes in commercial process that may alter or increase wastewater.
 - 5. This department is not required to accept old systems for which no permit can be found; permits issued under old codes or systems installed under the best judgment standards.
 - c. If a permit to upgrade or replace an existing OSS is required for a release;
 - 1. failure to install the upgraded OSS while making the other changes that required the release is a violation of this ordinance and
 - 2. the system will be deemed to be in failure.
 - d. The Board of Health may make a policy on existing OSS–release.

- e. Duration of permits and releases:
 - a. A construction permit for new construction shall have an expiration date and it shall not be more than two (2) years.
 - 1. If work is started prior to the expiration, additional time up to 60 days may be granted by this department to complete the installation.
 - b. A construction permit to replace or repair a system shall have an expiration date. It will not be less than thirty (30) days and no more than two (2) years:
 - 1. depending on the conditions and potential for a health hazard to develop.
 - 2. This does not prevent this department from requiring a health hazard be mitigated while waiting upon the installation.
 - c. An existing OSS–release (permit) shall expire after 1 year.
 - d. An operating permit shall be renewed as per Board of Health policy or state requirements.
 - 1. If no policy or requirements are set, the operating permit will be renewed every two years or
 - 2. When a new owner assumes ownership the permit will be renewed on the previous operating permit schedule.

SECTION 10 - OPERATION AND MAINTENANCE

- A. Amendment A to this ordinance details the requirements for operation and maintenance of operating permits.
- B. Failure to comply with the certification and registration requirements will be a violation of this ordinance.

SECTION 11- Certification and Registration of OSS Installers

- A. Amendment B to this ordinance details the requirements for certification and registration of OSS installers,
- B. Amendment B also includes registration of others that are involved or provide expertise to OSS,
- C. Failure to comply with the certification and registration requirements will be a violation of this ordinance.
- D. Amendment B also includes some additional enforcement details.

SECTION 12 - PETITION FOR REVIEW

- A. The Marshall County Board of Health shall hear appeals incidental to the issuance, modification, denial or revocation of permits. Any person aggrieved by such action must file a petition for review concerning such action with the Board within 15 days following the date of receipt of the department's notice.
- B. A petition for review shall state:
 - a. The name, address and telephone number (if applicable) of the person making the request;
 - b. Identify the interests of the petitioner which is affected by the permit issuance, denial, modification, or revocation;
 - c. Identify any persons whom the petitioner represents;
 - d. State with particularity the reasons for the request;
 - e. State with particularity the issues proposed to be considered;
 - f. Include proposed terms or conditions which, in the judgment of the petitioner, would be appropriate to carry out the requirements of law and codes governing such permits.
- C. The procedures established in IC. 4-21.5, the Administrative Procedure and Orders Act, may apply to the conduct of the hearing.

SECTION 13 - ENFORCEMENT

- A. Any person found to be in violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health shall be served with a written order either in person, certified or registered mail by the County Board of Health, the County Health Officer or his authorized agent. This order shall state the nature of the violation, and provide a reasonable time limit.

- a. The property may be posted with a notice if the owner cannot otherwise be contacted, or if the certified mail is not picked up within 10 days.
 - b. If the Health Officer deems a situation is an imminent health hazard he can order an immediate correction and take immediate action to obtain a correction.
- B. Any person, property owner, or other person in lawful possession of real estate who shall continue any violation of this Ordinance beyond the time limit provided for correction of any violations, or who shall fail, neglect, or refuse to obey any lawful order given by the Health Officer shall be punished for the first offense by a fine of not more than \$500.00; for the second and each subsequent offense not more than \$1000. Each day the violation continues after the time limit to comply is a violation of this Ordinance and shall constitute a separate offense for which a separate fine may be levied.
- C. Any registered or certified person found to be in violation of any provision of this Ordinance who shall continue any violation of this Ordinance beyond the time limit provided for correction of any violations, or who shall fail, neglect, or refuse to obey any lawful order given by the Health Officer shall be punished for the first offense by a fine of not more than \$1000.00; for the second and each subsequent offense not more than \$5000. Each day the violation continues after the time limit to comply is a violation of this Ordinance and shall constitute a separate offense for which a separate fine may be levied.
 - a. Their registration or certification shall be revoked.
 - b. Any person or contractor performing work in constructing, installing, replacing, altering, or repairing any on-site sewage disposal system who is not certified and registered in Marshall County shall be deemed to be in violation of this Ordinance and section.
- D. Any person performing work that requires registration and is not registered in Marshall County shall be deemed to be in violation of this Ordinance.
- E. Amendment B section 6 details additional enforcement action on registration and certification.

SECTION 14 – REMEDIES

- A. The Health Officer may, in the name of the Commissioners of Marshall County, bring actions in the Marshall Circuit Court or Superior Court of Marshall County for mandatory and injunctive relief for the enforcement of and to secure compliance with any order or orders made by the Health Officer or to otherwise provide for the enforcement of this Ordinance.
- B. Any such action for mandatory or injunctive relief may be joined with an action to recover the penalties, costs and expenses provided in this Ordinance.
- C. In the event any legal action is necessary to enforce this Ordinance, the Health Officer may seek recovery of costs and expenses reasonably incurred to enforce the provisions of this Ordinance including, but not limited to, reasonable attorney fees.

SECTION 15 – SEVERABILITY

- A. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected and shall remain in full force and effect.
- B. If the standards of ISDH or the Board conflict with this ordinance that section of the ordinance will be replaced by the standard; the remainder of said Ordinance shall not be affected and shall remain in full force and effect.

SECTION 16 - CONFLICTING ORDINANCES

- A. The provisions of this Ordinance shall be deemed as additional requirements to the minimum legal requirements of other governmental entities. In case of conflicting requirements, the most restrictive shall apply. This ordinance replaces and revokes:
 - a. Marshall County Code chapter 44 “Private Sewage Disposal Ordinance” (1967) and;
 - b. “a regulation pertaining to the design, construction installation, maintenance and operation of Private sewage disposal systems” as adopted by the Marshall County Board of Health” (March 2, 1982).

AMENDMENT A: OPERATION AND MAINTENANCE

ARTICLE I – Operating Permits

Section 1: Permit Issuance

- A. An Operating Permit shall be required for:
 - a. All OSS which include a secondary treatment unit or Technology New to Indiana (TNI) that must have ongoing maintenance to operate properly.
 - b. Pumping of septic tanks and maintenance of pumps and pump chambers for systems noted in the state rule will not require an operating permit unless it is part of a system that is covered by an Operating Permit unless:
 - c. A policy as described in section 1 or 2 is approved.
- B. The owner(s) of holding tanks and cluster systems that exist when this ordinance is approved shall have 120 days from the date of the effective date of this ordinance to apply for and obtain an operating permit.
- C. Board of Health may make a policy on best judgment repairs that present a significant hazard.
 - a. This policy can include a requirement that Operating Permits will be required on systems that meet the policy definition.
 - b. The purpose will be to monitor repair systems that are more likely to cause a public health hazard or environmental issues.
- D. This department shall make as part of the requirements for a septic (construction) permit that an Operating Permit is required and renewed until such time that the property no longer needs the system.

- E. This department at its discretion may discontinue required Operating Permit or exempt TNI that is similar to ones described in the state rule as the effectiveness of the system is proven.
- F. Temporary holding tanks (one year or less) approved by this department will not need an Operating Permit provided:
 - a. It will be hooking to a sewer or cluster system or will be installing a septic system (construction permit) within a year.
 - b. The written approval by this department can specify measures to prevent nuisance conditions such as proof of maintenance and other stipulations.
- G. The department with Board of Health and with Commissioners approval can approve a policy to require an operating permit for :
 - a. All new OSS;
 - b. For OSS existing prior to the effective date of this Ordinance upon a replacement, modification or expansion that requires a permit; and
 - c. Repair and Best judgment system.
 - 1. By policy include all or limit which ones will require an operating permit.
 - 2. These limits might be environmental sensitive area defined by the board, or the type of best judgment that was applied.
- H. Sewage shall not be discharged to an OSS when an Operating Permit is required under subsections 1 or 2, until the local Health Department certifies that the OSS was installed in conformance with the approved plans, and a valid Operating Permit is issued to the owner.
- I. The Operating Permit shall include data deemed appropriate by the Health Department to insure proper operation and maintenance of the system and may include but not limited to:
 - a. Information required in the state rule for Operating Permits.
 - b. Service contract which includes Components to be serviced or Service Manual.
 - c. Issuance and expiration dates of service contracts;
 - d. Maintenance requirements and schedules;
 - e. Reporting requirements;
 - f. Deed notation on the system requirements, restrictions, easements, and requirement for an Operating Permit which apply to the system regardless of a change in ownership.
 - g. Renewal date of the Operating Permit.

Section 2: Permit Application

- A. Application shall be made on a form provided by the local health department and include information required by state rule and data deemed appropriate by the health department
The application may include but not limited to:
 - a. Owner name, address, phone number, and email address;
 - b. Property location;
 - c. The application fee.

- B. A construction permit will not be approved if an application for an Operating Permit, when required, is missing or incomplete.
- C. The following additional information shall be submitted with the application for renewal:
 - a. Reference number of previous Operating Permit;
 - b. Proof of inspection and maintenance required by the previous Operating Permit;
 - c. Copy of service contract if required by the current Operating Permit;
 - d. Any outstanding reports as required by the previous Operating Permit; and
 - e. The application fee.
 - f. Other information data deemed appropriate by the health department.
- D. The owner must apply for renewal at least 30 calendar days before the expiration date.
- E. The Operating Permit, if needed, shall be obtained at the same time as the construction permit.
 - a. If the construction permit is revoked, disapproved or otherwise deemed to be unsatisfactory or expires the Operating Permit will also be revoked.
 - b. If changes are made to the construction permit, the department is to be notified and the Operating Permit evaluated to determine if the changes will effect its requirements.
 - c. If changes are needed, the Operating Permit may be revoked until the approved changes are made.

Section 3: Permit Expiration and Renewal

- A. An Operating Permit shall be valid for the specific term stated on the permit.
 - a. The term of an operating permit shall be determined by the type of the system and shall not be less restrictive than the state rule. (not over 5 years or less than one year)
 - b. The renewal date may be adjusted by six months to allow renewals to fall on certain months.
- B. A renewal form can be obtained at the Health Department or the Health Department may send out a renewal form.
 - a. Renewal form will contain data deemed appropriate by the Health Department.
 - b. All Operating Permit requirements will need to be met for renewal to be approved.
- C. An Operating Permit must be renewed prior to its expiration.
 - a. If not renewed prior to expiration date the Health Department may add a one hundred (\$100) late fee, and add an additional one hundred (\$100) every 30 days thereafter.
 - b. After 90 days the system will be considered to be in violation of the On-Site Sewage Disposal Ordinance of Marshall County and subject to all fines and enforcement action under that ordinance.
 - c. If not renewed within 90 calendar days of the expiration date, the county may require that the system be abandoned and the property vacated.

Section 4: Sale of Property

An Operating Permit may not be transferred when a property is sold, but is void as of the date of the property transaction. The new owner shall apply for a new Operating Permit and must have an Operating Permit to continue using the OSS. The new owner will need to show that all the permit requirements are current. The Operating Permit renewal may be given the same renewal month as the old permit.

Section 5: Suspension or Revocation

- A. The local Health Department may suspend or revoke any Operating Permit issued under this section for:
 - a. Any false statements or misrepresentations of facts on which the Operating Permit was issued; or
 - b. Violation of, or non-compliance with, any of the provisions of the permit.
- B. Notice of suspension or revocation of the Operating Permit and the reasons for suspension or revocation shall be made in writing to the owner.
- C. If the Operating Permit is suspended, revoked or voided, the local health department may require that the treatment system be removed from service.
- D. The Operating Permit shall be reinstated or renewed upon the owner taking appropriate corrective actions.
- E. Failure to comply with a lawful order is a violation of the On-Site Sewage Disposal Ordinance of Marshall County and penalty fees stated therein can be applied or if continued non-compliance the property declared unfit for human habitation.

ARTICLE II - MAINTENANCE REQUIREMENTS

Section 1: Routine OSS Inspection, Maintenance, and Reporting

- A. OSS shall be regularly serviced as required in the Operating Permit.
 - a. A service contract shall be maintained and will include inspection and maintenance which shall be determined by the type of system and will be part of the Operating Permit.
 - b. The inspection and maintenance interval shall be specified by the health department and may follow manufactures recommendation, best practices or other appropriate standards.
- B. All inspection and maintenance shall be provided by:
 - a. Registered service personnel that have the training, certification or other proof that they can service the specific system.
 - b. They must be registered with the health department.
- C. Maintenance or servicing of OSS includes:
 - a. Cleaning of the tank(s), if necessary;
 - b. Scheduled service to other components and devices; and
 - c. Any service required for the soil absorption field.

- D. Inspection, maintenance, septic tank cleaning, and repairs shall be at the expense of the property owner.
- E. Upon completion of any scheduled or unscheduled maintenance and any necessary repair to the OSS, the service personnel shall certify that the work was completed in accordance with accepted professional standards and practices and that the system is functioning properly. The service personnel must complete, sign and date the Proof of Maintenance and Inspection Form.
- F. The Proof of Maintenance and Inspection Form must be submitted as an original document to the local Health Department and a copy to the homeowner no later than 30 days following service. The Proof of Maintenance and Inspection Form may include but not limited to:
 - a. Owner name, address, phone number, and email address;
 - b. Property location;
 - c. Operating Permit Number;
 - d. Name, address, e-mail address, and telephone number of the service personnel conducting the service;
 - e. The date(s) of the service;
 - f. If the service was a scheduled or unscheduled service call;
 - g. The condition of all the components that are serviced.
 - h. A visual inspection of the whole system for signs of developing problems or defects.
 - i. The existence of any unauthorized alterations to any part of the system.
 - j. If defects are detected that are not covered in the maintenance agreement the service provider will note the defects and inform the homeowner of the defects and need for additional service to the OSS.

Section 2: Service Personnel

- A. The Registered Service Personnel are responsible for:
 - a. Scheduling septic tank cleaning and any additional service to the OSS system as specified in the Operating Permit, and service contract, if applicable.
 - b. Completing and signing the *Proof of Maintenance and Inspection Form* and providing an original to the department and a copy to the property owner.
 - c. Notifying the local health department when a contract required by an Operating Permit is cancelled or is not renewed.
- B. The Registered Service Personnel are also responsible for notifying the local health department of any service or maintenance that is not a part of the scheduled operation and maintenance required by the Operating Permit. The notification shall include all of the information required by Article II, Section 1, 6 that is pertinent to the reasons for the service.

Section 3: Property Owner Responsibilities

- A. The property owner shall be responsible for:
 - a. Obtaining and following the requirements of the Operating Permit;
 - b. Obtaining and keeping a proper service contract for the system and, allow service contract work to be performed by a registered service provider.
 - c. Notifying the health department of the sale of the property or change in: rental, rent-to own, land contract, or use of a commercial property.

- d. If the property is to be sold the buyers are to be notified of the system and the requirement to obtain a new Operating Permit.
- B. The property owner shall also be responsible for:
 - a. Notifying the health department upon signs of failure or malfunction of an OSS; and
 - b. For correcting the failure or malfunctioning of such systems.
 - i. The property owner shall obtain a permit for the repair/replacement of the malfunctioning system, and
 - ii. Shall complete the repair/replacement to the satisfaction of the local health department within the time frame set forth by the local health department.

Section 4: Local Health Department Responsibilities

- A. The local health department shall:
 - a. Register service personnel who provide proof to the health department of the system they are qualified to service.
 - b. Notify property owners if a service provider fails to maintain his registration or the registration is revoked.
 - c. Approve forms needed or may provide the approved forms.
- B. Maintain a list of register providers

ARTICLE III - MALFUNCTIONING OR FAILING SYSTEMS

Section 1: Guidelines

- A. An on-site sewage system shall be deemed to be a malfunctioning system if any of the conditions of On-Site Sewage Disposal Ordinance of Marshall County definition of an “on-site sewage system failure or malfunction” exist. Substantial backflow from the soil absorption field into the tank during a tank cleaning shall be considered a system performance problem.
 - a. In addition, any and all parts of an OSS that are found to be damaged, misaligned, altered without authorization, or missing shall constitute a defective system.
 - b. The department shall provide the property owner written notification which shall communicate the specifics of the OSS failure or malfunction and the time frame for compliance.
- B. The department shall have the right to inspect a property, after due notice, to determine if a system is failing or malfunctioning.
- C. The department shall be allowed to accompany a service provider during the regular scheduled or non-scheduled service or maintenance or inspections.

Section 2: Correction of a Failure or Malfunction

A failing system shall be brought into compliance with the OSS standards of the county and state.

ARTICLE IV – FEES

Fees for Operating Permits shall be set by the county fee ordinance.

Amendment B: CERTIFICATION AND REGISTRATION

Anyone who installs, repairs, replaces or modifies an OSS shall know and follow all codes related to OSS installation, manufacturers specifications, and shall be certified and working under a registration.

Section 1: CERTIFICATION EXAMINATION:

- A. The applicant for certification shall demonstrate knowledge of the applicable laws, rules, manufacturer's specifications, and ordinances by:
 - a. passing a written proficiency examination conducted by the Department or an entity approved by the Department.
 - b. The department may grant a year after the date of passage of this ordinance for people in good standing with the department to come into compliance with the above certification.
- B. The examination shall be in multiple parts. The department, or an entity approved by the department, will develop examinations to test applicant knowledge of laws, rules, regulations, manufacturer's specifications and ordinances of the State of Indiana and Marshall County in the following areas:
 - a. **Part A** will cover gravity OSS and flood dose OSS;
 - b. **Part B** will cover trench pressure distribution OSS and sand mound OSS.
 - c. **Part C** will cover alternative technology or TNI for which an interim standard has been published by the department or ISDH; a manufacture's certification may meet the requirements of Part C.
- C. The examinations shall be reviewed from time to time to determine their applicability to current laws, rules, technical specifications and ordinances.
 - a. A score of eighty (80) percent or higher on each part of the department's test will be considered passing. If the applicant fails to pass any part of the examination, the applicant may re-apply for Installer Certification no earlier than one (1) month (30 days) following the examination date.
 - b. When taking a written examination is not feasible due to language or reading difficulties, oral examination will be allowed.
- D. This department may evaluate other tests and determine what constitutes a passing score.

Section 2: INSTALLER CERTIFICATION:

- A. An applicant shall comply with the requirements for obtaining a certification.
 - a. A form will need to be filled out with information the department deems necessary

- b. The certificate shall have the registration that the installer is working under.
 - i. The certificate will be invalid if the registration is changed, discontinued, revoked or otherwise not valid.
 - ii. A certified installer shall immediately notify the department of changes in registration and will have the certificate updated with the new registration at no charge.
 - c. The department will issue a certification to each applicant who successfully meets the requirements
- B. An installer must have a valid certificate for the OSS he is installing, an installer may be certified to install OSS for the following:
- a. Upon successful completion of the examination for Section 1. B. (a), the applicant shall be issued a certification to install gravity OSS and flood dose OSS. One must pass Part A examination in order to get a Part B or C certificate.
 - b. Upon successful completion of the examination for Section 1. B. (b), the applicant shall be issued a certification to install trench pressure OSS and sand mound OSS.
 - c. Upon successful completion of an examination for Section 1. B (c) TNI or alternative technology for which an interim standard has been published by ISDH or the department, the applicant shall be issued a certification to install an OSS for that alternative technology. If it can be shown that the technology does not require knowledge of Part A or B this department may waive that requirement.
 - d. Licensed Septic tank pumpers, licensed plumbers, or other approved by the department may with department approval, be allowed to replace with a permit: damaged baffles, install risers, replace damaged (solid) sewer pipe with same or upgraded pipe, or other minor repairs approved by the department, without being certified, bonded, or registered.
- C. Such certification shall be valid for a term of three-years beginning January 1, and expiring December 31, of the third year and shall be renewed tri-annually. The Certification shall bear the name and address of the certified installer, the expiration date and shall not be transferable. The installer shall re-apply for Certification and pass the proficiency test, or provide CEUs by an entity approved by the Department.
- D. The department may approve Continuing Education Units (CEUs), for educational experiences attended by the certified installer, in lieu of the testing requirement for renewal. Twenty-five CEUs related to each part of the exam listed under section 1 shall be required during the three year certification period, to avoid retesting for that part of the exam.
- a. CEUs must be taken in at least two classes a year apart unless approval is given by the department.
 - b. The department will assign CEUs based on course content.
- E. The installer shall possess a copy of the certification at all times when installing OSS and the registration he is working under.
- F. A Certified Installer shall be on the site at all times during OSS construction, and shall be deemed responsible for the construction. A Certified Installer may supervise other construction workers as necessary to assist in the construction.

Section 3: REGISTRATION:

- A. An individual or company can register with the department and have certified installers work under their registration
 - a. The registration will be on a form the department approves
 - b. A bond will be presented as part of the registration

- B. Such registration shall be valid for a term of one-year beginning January 1st and expiring December 31st, of the same year and shall be renewed annually.
 - a. The Registration shall bear the name and address of the registered installer and the expiration date and shall not be transferable.
 - b. The registration will include all the certified installer working under that registration
 - i. The department will be notified immediately if certified installers are removed or added to this registration.
 - ii. The department will update the registration.

- C. Bonds
 - a. A certified installer must provide a bond made payable to the Health Department according to the following requirements.
 - i. The bond shall be made payable to cover the costs when the contractor fails to pay for:
 - 1.) Repairing work performed in violation of this Ordinance, and the lawful orders of the Health Department,
 - 2.) Penalties applied to a contractor for violation of state code, county codes, and the lawful orders of the Health Department, or
 - 3.) The Health Department's cost of enforcing violations.
 - ii. The amount of the bond shall be for \$10,000.
 - 1.) The term of the bond shall be one year and shall be renewed each year on January 31.
 - 2.) Only one bond shall be required for any company, partnership, or corporation applying for a contractor license.
 - 3.) Residential property owners may install their own septic systems without obtaining a contractor or installer license or providing a bond to the Health Department if they:
 - a. Obtain the appropriate septic construction permit,
 - b. Comply with all applicable laws, regulations, and lawful orders of the Health Department,
 - c. Perform 100% of the installation work themselves.

- D. Registration of OSS Service providers
 - a. The following are to register with the Marshall County Health Department, failure to register is a violation of this ordinance and their work may be rejected or fines imposed.
 - i. Soil Scientist,
 - ii. Septic designers (including engineers and surveyors) unless they are a registered or certified installer
 - iii. Service personnel, System Integrator, septic inspectors and other specialized persons that as technology and practices develop may over time become involved with OSS.

- b. The application shall include information deemed necessary by the Marshall County Health Department to verify their expertise:
 - i. As part of the registration, credentials, evidence of training, accreditation, certificates, and any other evidence of competency can be required.
 - ii. People may be registered for specific types of systems for which they have training and expertise.
 - iii. People can have multi- registrations for different activities.
- c. If the information is inadequate to prove competency, incomplete, misrepresented or false the registration may be refused or revoked.
- d. If the information used to register a person is not maintained, revoked, or otherwise changed including jobs, positions, or employers, the Marshall County Health Department will immediately be notified.
- e. The registration will be renewed every three years along with verification of continued training and competence for the work.

Section 5: PROPERTY OWNER

- A. A property owner wanting to install, repair, replace, or otherwise work on the OSS serving the property owner's dwelling shall be required to demonstrate knowledge of the applicable laws, rules, technical specifications, and local ordinances by passing the proficiency exam in Section 1.B for the type of system to be installed.
- B. Homeowner will not be charged a registration or certificate fee to work on his own system.

Section 6: ENFORCEMENT

- A. If a registered or certified person fails to perform the duties of the registration or certification; this department will notify the registered or certified person of the concerns and request more detailed information.
- B. If after written notice the problems persist the department may:
 - a. Require the registered or certified person to provide in writing how these problems will be corrected in the future.
 - b. Require more detailed information be submitted by the registered or certified person to show the issues will be corrected.
 - c. The department may have the registered or certified person credentials or work investigate. This can include obtaining peer or expert opinions on the registered or certified person's work and performance.
 - d. Revoke the certification, registration, or impose fines.
- C. If it is found that the information that was used for certification or registration is not accurate, the Marshall County Health Department may revoke the certification or registration until such time as the person can verify his credentials to perform the duties.

- D. A certification or registration may be revoked if there are repeated violations of any provision of this Ordinance or the applicable rules or technical specifications of the department, or someone refuses to carry out or perform the duties of his registration in a correct and proper manner.
- E. Revocation of the certification or registration of an installer
 - a. If a certified or registered installer has repeated violations of any provision of this Ordinance or the applicable rules or technical specifications of the department, or refuses to properly correct violation on one of this systems:
 - i. The Marshall County Health Officer may revoke a single or all certifications and registrations.
 - ii. If certification is revoked, the requirements for certification including 30 day wait, testing, and the payment of the fee, shall apply prior to being re-certified.
 - b. If registration is revoked, the registered person will have to wait 30 days and provide in writing how the cause of the revocation will be addressed and corrected before his registration is reinstated.
- F. Anyone that has been reinstated after a revocation for just cause shall be on probationary status for a period of one (1) year.
 - a. Violation will be considered a second offense for fines and a reason to revoke.
 - b. If certification or registration is revoked during the probationary period, one must wait 365 days before one can be reapply.
- G. Any person constructing, installing, repairing, replacing, or altering any OSS who does not meet the requirements of amendment B section 5, is not certified, or not working under a registered installer, shall be deemed to be in violation of this Ordinance.
- H. If a certification or registration is revoked, the person shall be advised, in writing, for the basis of the revocation, the procedure for appeal, and the deadline for making an appeal.
- I. If the bond for registration is revoked, lost or otherwise becomes invalid.
 - c. All installations will be stopped for anyone working under that registration
 - d. Failure to have a bond will be the same as a second offense
 - e. If a septic system is disapproved the fine shall be the cost of repairing or replacing the system or \$5000 whichever is higher.
- J. Certification and registration may be revoked permanently or for an extended period for:
 - f. A violation of state and county codes that cause pollution or failures.
 - g. Refuse to correct serious violations.
 - h. For numerous violations or revocations.
 - i. Failure to maintain the bond.

Section 7: FEES.

1. Fees will be set by the fee ordinance.
2. A property owner as described in Section 5 is exempt from fees.

Amendment C: ISDH Rules and Bulletins for OSS

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 effective dates fixed herein

- A. 410 IAC 6-8.3 Residential Sewage Disposal Systems
- B. 410 IAC 6-10.1 Commercial On-site Wastewater Disposal
- C. Bulletin S. E. 11

Amendment D: Site Plan

The Board of Health from time to time may make and amend policies regarding requirements for site plans.

Amendment E: Connection to a sanitary sewer

- A. If a sewer district requires a person to connect, an OSS permit shall not be issued or approved.
- B. If a sewer district refuses a connection, an OSS that meets code can be permitted.
- C. If a sewer district does not require a connection but will allow a connection:
 - a. OSS that meets new construction standards would be given more consideration; however a sewer connection is the preferred sewage disposal system.
 - b. The Cost of the connection can be compared to three bids on an OSS;
 - i. if a low bid is between 1.5 and 1.99 times the cost of a sewer hookup.
 - 1. New construction standards may be evaluated by the staff regarding the circumstances and a decision made as to a sewer or new code OSS.
 - 2. Best judgment system would have to have minimal variation from the code and be on the higher cost end to be considered for an OSS.
 - ii. if a low bid above 2 times the cost of a sewer hookup.
 - 1. New construction standards OSS will be evaluated favorable for a sewer if no other mitigating circumstances are involved.
 - 2. Best judgment permits will have to be evaluated as to it potential to function and its environmental impact. Again the sewer would be the preferred method.
- D. Environmental impact of the sewer or an OSS can be a consideration among other factors relevant to public safety, system operation and system type.
- E. Best judgment system should be hooked to sewer, mitigating circumstance may be considered.

F. Appeals can be made to the Board of Health.

Amendment F: Standards for equipment and materials

The Board of Health from time to time may make and amend policies regarding standards for equipment and materials.

Amendment G: Replacement area requirements

The Board of Health from time to time may make and amend policies regarding replacement areas.

Amendment H: Operating permit

The Board of Health from time to time may make and amend policies regarding operating permits.

Amendment I: Existing on-site release

The Board of Health from time to time may make and amend policies regarding existing on-site releases.

Amendment J: Operating permit renewal

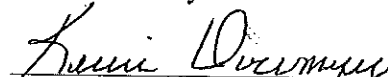
The Board of Health from time to time may make and amend policies regarding Operating permit renewal

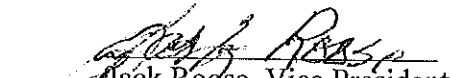
Amendment K: Best judgment repairs


The Board of Health from time to time may make and amend policies regarding Best Judgment repairs. Best Judgment as it states is a judgment call that varies with each site.

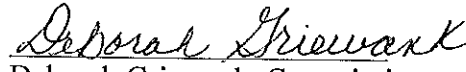
ORDAINED AND ADOPTED this 3rd day of June, 2013

Board of Commissioners of Marshall County


Kevin Overmyer, President


Jack Roese, Vice President


Penny Lukebill, Auditor


Deborah Griewank, Commissioner