

## **ORDINANCE NO. 2022-01**

An Ordinance setting exemption criteria for connecting to District Sewer System.

**WHEREAS**, the Montgomery County Regional Water and Sewer District (the "District") is a regional water and sewer district governed by Indiana Code Article 13-26; and

**WHEREAS**, the District has a need to establish exemption criteria for landowners connecting to District's sewer system; and

**WHEREAS**, Indiana Code Sec. 13-26-5-2.5 allows the Board of Trustees to adopt such an exemption ordinance.

### **BE IT THEREFORE ORDAINED AS FOLLOWS:**

#### **Section I**

**A.** A property owner is exempt from the requirement to connect to the district's sewer system and to discontinue use of a septic tank soil absorption system if the following conditions are met:

(1) The property owner's septic tank soil absorption system was new at the time of installation and was approved in writing by the local health department.

(2) The property owner, at the property owner's own expense, obtains a written determination from the local health department or the department's designee that the septic tank soil absorption system is not failing. The local health department or the department's designee shall provide the owner with a written determination not later than sixty (60) days after receipt of the owner's request. If the local health department or the department's designee fails to provide a written determination within the time established in this subdivision, the owner, at the owner's expense, may obtain a written determination from a qualified inspector. If the local health department or the department's designee determines that a septic tank soil absorption system is failing, the property owner may appeal the determination to the board of the local health department. The decision of the board is final and binding.

(3) The property owner provides the district with:

(A) the written notification of potential qualification for the exemption described in subsection E below; and

(B) the written determination described in subdivision A (2) above; within the time limits set forth in subsection E below.

**B.** If a property owner, within the time allowed under subsection E below, notifies a district in writing that the property owner qualifies for the exemption under this section, the district shall, until the property owner's eligibility for an exemption under this section is determined, suspend the requirement that the property owner discontinue use of a septic tank soil absorption system and connect to the district's sewer system.

**C.** A property owner who qualifies for the exemption provided under this section may not be required to connect to the district's sewer system for a period of ten (10) years beginning on the date the new septic tank soil absorption system was installed. A property owner may apply for two (2) five (5) year extensions of the exemption provided under this section by following the procedures set forth in subsections A and B. If ownership of an exempt property is transferred during a valid exemption period, including during an extension of an initial exemption:

- (1) the exemption applies to the subsequent owner of the property for the remainder of the exemption period during which the transfer occurred; and
- (2) the subsequent owner may apply for any remaining extensions.

However, the total period during which a property may be exempt from the requirement to connect to a district's sewer system under this section may not exceed twenty (20) years, regardless of ownership of the property.

**D.** A district that has filed plans with the department to create or expand a sewage district shall, within ten (10) days after filing the plans, provide written notice to affected property owners:

- (1) that the property owner may be required to discontinue the use of a septic tank soil absorption system;
- (2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the septic tank soil absorption system; and
- (3) of the procedures to claim an exemption.

**E.** To qualify for an exemption under this section, a property owner must:

- (1) within sixty (60) days after the date of the written notice given to the property owner under subsection D above, notify the district in writing that the property owner qualifies for the exemption under this section; and
- (2) within one hundred twenty (120) days after the district receives the written notice provided under subdivision (1), provide the district with the written determination required under subsection (A)(2) above.

**F.** When a property owner who qualifies for an exemption under this section subsequently discontinues use of the property owner's septic tank soil absorption system and connects to the

district's sewer system, the property owner shall be required to pay the following to connect to the sewer system:

- (1) The connection fee in effect on the actual date of connection.
- (2) Any additional costs:
  - (A) considered necessary by; and
  - (B) supported by documentary evidence provided by; the district.

**G.** A property owner who connects to a district's sewer system may provide, at the owner's expense, labor, equipment, materials, or any combination of labor, equipment, and materials to accomplish the connection to the sewer system, subject to inspection and approval by the board or a designee of the board.

**H.** This section does not affect the authority of the state department of health, a local health department, or a county health officer with respect to a septic tank soil absorption system.

**I.** For purposes of this section, a septic tank soil absorption system is "failing" if one (1) or more of the following apply:

- (1) The system refuses to accept sewage at the rate of design application and interferes with the normal use of plumbing fixtures.
- (2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters.
- (3) Effluent discharged from the system contaminates a potable water supply, ground water, or surface waters.

**J.** As used in this section, "qualified inspector" means any of the following:

- (1) An employee of a local health department who is designated by the local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.
- (2) An individual who is certified by the Indiana Onsite Wastewater Professionals Association as an onsite sewage system installer or inspector.
- (3) An individual listed by the state department of health or a local health department with jurisdiction over the service area of the property inspected as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

**K.** The district may not require the owner of a property to connect to the district's sewer system if:

- (1) the property is located on at least ten (10) acres; and
- (2) the owner can demonstrate the availability of at least two (2) areas on the property for the collection and treatment of sewage that will protect human health and the environment; and
- (3) the waste stream from the property is limited to domestic sewage from a residence or business; and
- (4) the system used to collect and treat the domestic sewage has a maximum design flow of seven hundred fifty (750) gallons per day; and
- (5) the owner, at the owner's expense, obtains and provides to the district a certification from the local health department or the department's designee that the system is functioning satisfactorily, and follow all Montgomery County Health Department Rules.

**Passed and Adopted** by the Board of Trustees of the Montgomery County Regional Water and Sewer District on the 9 day of March, 2022.

  
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