

FLOYD COUNTY ORDINANCE 2003 - XIV

AN ORDINANCE AMENDING FLOYD COUNTY ORDINANCE A67-4

WHEREAS, on the 7th day of August, 1967, the Floyd County, Indiana, Zoning Ordinance, being Floyd County Ordinance A67-4, was duly adopted by the Board of Commissioners of the County of Floyd (Board), which said ordinance has been modified and amended from time to time; and

WHEREAS, the Board is desirous of further amending Ordinance A67-4 in the particulars as hereinafter set forth.

NOW THEREFORE;

BE IT ORDAINED that the Floyd County, Indiana, Zoning Ordinance, being Floyd County Ordinance A67-4, be, and the same hereby is, amended and modified in the particulars as hereinafter set forth:

1. Section 2.02, DEFINITIONS, is hereby amended by the addition of the following definitions:

WASTEWATER TREATMENT PLANT (hereinafter referred to as Plant) - A mechanical facility, whether prefabricated or site-built, used by a sewage disposal company in providing a sewage disposal service, as permitted under a certificate of territorial authority (CTA) issued by the Indiana Utility Regulatory Commission pursuant to Title 8 of the Indiana Code or other applicable law or regulation. For purposes of this definition, the term "facility" shall include all sewage treatment plants, main sewers, submain sewers, force mains, pumping stations, ejector stations, and all other equipment and appurtenances necessary or useful and convenient for rendering a sewage disposal service. The term "Wastewater Treatment Plant" shall not include those facilities owned or operated by a municipal corporation, as defined by Indiana Code 36-1-2-10, or those which process sewage exclusively from one or more public or private schools located in Floyd County. For purposes of this Ordinance, a wastewater treatment plant shall not be deemed a residential or agricultural use; an accessory thereto under Section 2.03; or, a contingent use under Section 2.04.

SEWAGE DISPOSAL SERVICE - (hereinafter referred to as Services) Any public utility service performed by a sewage disposal company whereby liquid and solid waste, sewage, night soil, and industrial waste (hereinafter "Sewage")

of any single territorial area is collected, treated, purified, and disposed of in a sanitary manner.

**SEWAGE DISPOSAL COMPANY - (hereinafter the Company)** Any natural person, firm, association, corporation, or partnership, owning, leasing, or operating and sewage disposal service within Floyd County, Indiana, pursuant to a CTA issued by the Indiana Utility Regulatory Commission.

2. Subsection 1, **USES PERMITTED**, of Section 2.05, **CONDITIONAL USES AND PROCEDURES**, is amended by the addition of the following sentence:

“Any expansion of an existing use for which a conditional use permit is required under Figure 4 shall require the approval of the Board under this Section, whether or not the presently existing use received such a permit hereunder.”

3. Subsection 2, **PROCEDURE**, of SECTION 2.05, **CONDITIONAL USES AND PROCEDURES**, is amended by the deletion of the following phrase from the second sentence:

“ . . . if the report is favorable to the proposal . . . “

4. Subsection 3, **REQUIREMENT STANDARDS**, of Section 2.05, **CONDITIONAL USES AND PROCEDURES**, is amended by the addition of the following:

(3) **Wastewater Treatment Plant** - In considering an application for a conditional use permit for the location of a Wastewater Treatment Plan (Plant), the Board shall consider and be guided by the following:

(i) The safe and sanitary collection, treatment, and disposal of sewage, as by a properly designed, constructed, and maintained Sewage Treatment Plant of appropriate size, in a manner so as not to pollute the ground, air, or water with improperly or inadequately treated sewage or with noxious or offensive gases or odors is deemed to substantially serve the public convenience and welfare.

(ii) The proliferation of Wastewater Treatment Plants of small capacity or which are intended to serve but a single subdivision is found to be inconsistent with the achievement of the most cost efficient and environmentally sound waste disposal system for Floyd County, and is in

contravention of the goals and policies of the  
Comprehensive Plan for Floyd County.

In determining whether to approve or disapprove an application for a conditional use permit for a wastewater treatment plant, the Board shall be governed by the following:

(a) The capacity of the proposed Plant shall not be less than 40,000 gallons per day, and the tract upon which the treatment plant is to be located shall be of sufficient size to permit reasonable expansion of the facility and the replacement of same, or its major components, without interrupting operations. Unless otherwise demonstrated by the applicant to the Board's satisfaction, it shall be presumed that the capacity of the plant and its footprint shall be able to be increased to a minimum 100,000 gallon per day capacity (hereinafter "Expanded Plant"). If a proposed Plant has an initial planned capacity of 100,000 gallons per day or more, the Plant shall have the capacity to expand by 100% from the initial planned capacity.

(b) The applicant shall file with the Board a site/development plan disclosing the location of, (1) the Expanded Plant and all associated structures and improvements on the tract with setback from the front, rear, and side lines of not less than 50 feet, (2) utility services and easement, and (3) the entrance to the tract and the access roadway. This plan shall be accompanied by a narrative describing each structure to be located on the tract and its function; the Services to be provided; the area included or to be included in the CTA and the number of lots to be served; the excess capacity of the treatment plant, if any; the suitability of the proposed site for providing safe and efficient Services; potential environmental hazards and adverse impacts, if any; and, a statement as to why the applicant believes the approval of the permit is (1), consistent with the spirit, purpose, and intent of the Zoning Ordinance, (2), will not permanently injure the appropriate use of neighboring property, and (3) will substantially serve the public convenience and welfare. The legal description of the site for which the conditional use is requested, as well as plans and specifications for all improvements to be located thereon, shall be furnished the Board.

(c) To the extent practicable, the Plant shall be located and/or adequately screened so as not to be visible from any public street or way, lots in the subdivision to be served, or occupied structures

on adjoining property. The Plant site shall be landscaped in a manner consistent with residential tracts in its immediate vicinity, and all natural screening, approved plantings, or screening structures shall be continually maintained and replaced by the Company as necessary during the term of use of the Plant. In reviewing the proposed plant location, the board shall consider the possibility of objectionable odors, the direction of prevailing winds, and the effect of the combination of same on occupied lands.

(d) The Plant and related equipment shall be fenced to prevent unauthorized access, and admittance to the site shall be gained by a private road which shall be surfaced with concrete or blacktop and properly maintained by the Company at all times. Use of the roadway and access to the Plant shall be controlled, but, by express recorded covenant, representatives of the Floyd County Plan Commission, Floyd County Health Department, Indiana State Board of Health, IDEM, DNR, and other entities or agencies having jurisdiction shall have the use of said road and access to the site and Plant at all reasonable times upon reasonable notice.

(e) In addition to the requirements of this Section and those conditions which may be imposed by the Board, the approval of a permit hereunder shall be further conditioned upon the requirement that the plant and all related structures and equipment shall be constructed and installed in accordance with the plans and specifications approved by those governmental entities having jurisdiction, and that the applicant shall have and/or acquire all federal, state, and local permits, licenses and franchises, if any be required, authorizing and permitting the construction and operation of the plant and the rendering of Services.

(f) If it is the intent of the Company to provide Services to a proposed or existing subdivision, the conclusion of a sewage disposal agreement by and between the Company and the Owner, in accordance with the terms and provisions of the Floyd County Subdivision Regulations, being Floyd County Ordinance 68-1, shall be a condition of a permit approved hereunder, and those terms and provisions of such agreement as are applicable to, binding upon, and which set forth the duties and obligations of the Company, either concerning the use or development of the permitted site or the rendering of Services, shall be, if so directed

and required by the Board, the written commitment of the Company, as the same is permitted by the provisions of I.C. 36-7-4-921, and with the same to be enforced by the Floyd County Plan Commission and those persons or entities specified by said Regulations.

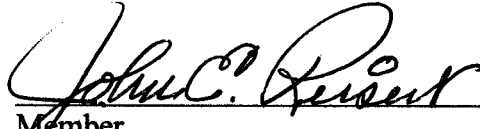
(g) In determining whether to grant a conditional use for a new wastewater treatment plant, the Board shall consider whether another wastewater treatment plant is available within ½ mile of a proposed plant. If another wastewater treatment plant is available and has future capacity, the Board shall deny the request unless the applicant establishes good cause to construct a new wastewater treatment plant.

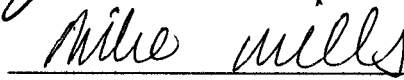
5. Figure 4, CONDITIONAL USE AND PROCEDURES IN THE DISTRICT, is amended by the addition of the following under the heading TYPE OF USE:

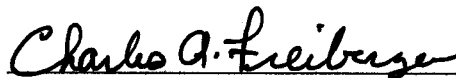
Wastewater Treatment Plant

SO ORDAINED, this 15<sup>th</sup> day of April, 2003.

BOARD OF COMMISSIONERS  
OF THE COUNTY OF FLOYD

  
Member

  
Member

  
Member

ATTEST:

  
Floyd County Auditor