

IN RE THE MATTER OF:

Mark Brust  
Frosty Mountain Ice LLC  
7407 Rich-Lynn Drive  
Evansville, IN 47712

Re: Variance Request Dated November 28, 2010 and Section 375,  
Conveying Sewage

Order to Approve a Variance

You are hereby notified that based on the recommendation of the Food Protection Program, Indiana State Department of Health (ISDH), and as authorized by Indiana Code (IC) 16-19-3-4.3 and IC 16-42-5-5.2, the State Health Commissioner hereby orders that a variance be **approved** to Mark Brust, Frosty Mountain Ice LLC, 7407 Rich-Lynn Drive, Evansville, IN 47712.

This variance approval is based on the variance application received on November 28, 2010 with supplemental information provided by the ice equipment manufacturer, Ice House America.

Order

This **VARIANCE APPROVAL** is based on the following conditions:

1. Hand washing sinks will be installed in the Frosty Mountain Ice LLC units located at 1315 West Columbia Street and 3115 Covert Avenue, Evansville, Indiana. The sink drains will be plumbed through drain lines which connect with portable waste disposal tanks.
2. The hand washing sinks will be provided with hot and cold running water, hot water being provided through on-demand electric water heaters.
3. Only the water produced from ice production may be drained into the French drains.
4. Wastewater produced from the hand washing sinks and cleaning/sanitizing of the ice makers shall be diverted away from the French drains and drained and pumped aboard a holding tank on your service vehicle or alternatively picked up by an approved waste disposal company. Suitable valves to prevent wastewater leakage into the French drains must also be installed to facilitate the operations.

5. A written agreement must be contracted between Frosty Mountain Ice LLC and an existing entity for the approved disposal of the wastewater generated and collected from Frosty Mountain Ice LLC operation. A copy of the signed agreement and receipts for proof of any transactions shall be provided to the Vanderburgh County Health Department as proof of the approved disposal of the wastewater.
6. Chemicals and soap required for the cleaning and sanitizing of the Frosty Mountain Ice LLC operations shall be properly stored in the ice production units according to law.
7. Gloves, ice bags, bag ties and any other miscellaneous items needed for the operation of the Frosty Mountain Ice LLC facilities shall be properly stored in the ice production units according to law.
8. The conditions listed above apply to the two locations in Evansville, Indiana as detailed in the variance application provided the locations are on city water and/or the municipal sewerage system is not available at a reasonable price. Prior to the installation of other Ice House America production units, the applicant shall provide written notification to the Indiana State Department of Health Food Protection Program for consideration and approval.
9. The installation and operation of Frosty Mountain Ice LLC must be in compliance with Indiana State Department of Health Title 410 IAC 7-24, Retail Food Establishment Sanitation Requirements.

Failure to comply with the aforementioned conditions constitutes a violation of the variance approval causing the order to be invalid. The facility is then subject to enforcement action to bring the establishment into compliance.

**If you wish to request an administrative review or stay of effectiveness of this decision pursuant to Ind. Code §4021.5-3-7(a), you must petition for such review in writing. The petition must state facts demonstrating that:**

- a. you are a person to whom the decision is specifically directed;
- b. you are aggrieved or adversely affected by the decision; or,
- c. you are entitled to review under any law.

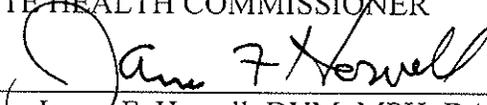
**Your request for review or stay of effectiveness must be filed in writing with the State Health Commissioner, 2 North Meridian Street, Indianapolis, Indiana 46204, on or before March 19, 2011. If no request for review or stay of effectiveness is filed by March 19, 2011, this decision shall become final.**

DATED AT INDIANAPOLIS, INDIANA, THIS 1st DAY OF MARCH, 2011.

PURSUANT TO IC 16-19-3-4.3 AND IC 16-42-5-5.2, I HEREBY APPROVE A VARIANCE OF FOOD PROTECTION RULES AS STATED ABOVE.

GREGORY N. LARKIN, M.D.  
STATE HEALTH COMMISSIONER

By:

  
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James F. Howell, DVM, MPH, DACVMP  
Assistant Commissioner  
Public Health Preparedness Commission

cc: ISDH Food Protection Program  
Vanderburgh County Health Department  
ISDH Office of Legal Affairs