

THE BOARD OF COMMISSIONERS OF WABASH COUNTY, INDIANA

GENERAL ORDINANCE NO. 2012-85-18

AN ORDINANCE REPEALING ORDINANCE NO 95-4
AND REGULATING ONSITE SEWAGE SYSTEMS

THE WABASH COUNTY ONSITE SEWER SYSTEM ORDINANCE

Under I.C. 36-1-4-11, certain powers are granted to the Board of Commissioners of Wabash County, Indiana, relative to the adoption of ordinances.

There are public health hazards associated with the improper disposal of sewage.

Due to the high clay content and due to a seasonally high water table found within the majority of Wabash County soil types, onsite sewage systems are likely to fail unless the soil limitations are recognized and overcome through proper design and construction.

There is a need to establish standards for design, construction and inspection of onsite sewage systems, a need which is not adequately addressed by General Ordinance 95-4.

NOW THEREFORE, in order to promote the health, safety and welfare of the people of Wabash County, Indiana by diminishing the health hazards created by failing onsite sewage systems, IT IS NOW ORDAINED AS FOLLOWS:

1. **Name of Ordinance.** This ordinance shall be known as "The Wabash County Onsite Sewer System Ordinance.

2. **Repeal of Ordinance 95-4 and Effective Date of this Ordinance.** This Ordinance shall be in full force and effect from and after its passage and publication according to law, at which time any ordinance or parts of ordinances in conflict with this Ordinance, Rule 410 IAC 6-8.3 "Residential Onsite Sewage Systems" or Rule 410 IAC 6-10 "Commercial Onsite Wastewater Disposal" are hereby repealed; this provision includes, but is not limited to Wabash County Ordinance 95-4.

3. **Definitions.**

3.1. **Affidavit Form** means a form provided by the Wabash County Health Department that is signed by the owner, notarized and recorded.

3.2. **Board of Health** means the Wabash County Board of Health having jurisdiction in Wabash County, Indiana.

3.3. **Commercial** means any type of building other than a one or two family dwelling

3.4. **Hearing** means a session in which witnesses are heard and testimony is taken

3.5. **Health Officer** means the Health Officer having jurisdiction in Wabash County, Indiana

3.6. **Indiana State Department of Health** means the state agency having authority to regulate onsite sewage systems.

3.7. **Notice of Violation** means a written notification of an ordinance violation

- 3.8. **Order** means a written mandate a person is directed to obey
- 3.9. **Plot Plan** means a graphic representation certified by an engineer or architect currently registered in Indiana, which identifies the topography, locations, current ground elevations and elevations of the proposed improvements.
- 3.10. **Repair Installation** means the repair or replacement of any onsite sewage system component other than the replacement or expansion of a soil absorption field.
- 3.11. **Rule 410 IAC 6-8.3 "Residential Onsite Sewage Systems"** means an Indiana State Department of Health regulation that establishes standards for residential sewage systems and any amendments thereto.
- 3.12. **Rule 410 IAC 6-10 "Commercial Onsite Wastewater Disposal"** means an Indiana State Department of Health regulation that establishes standards for commercial onsite sewage disposal systems.
- 3.13. **Soil Profile Analysis Report** means a written description and interpretation of the physical and chemical properties of a soil from sample sites. The written soil profile report must include a detailed soil profile description of the properties of the soil at each sample site. All sample sites must be evaluated and described in the soil profile report.
- 3.14. **Staked** means a lathe stake or equivalent at each end of all proposed trenches or the four corners of the basal area and aggregate bed for a sand mound system.
- 3.15. **Violation** means a breach of law.

4. **General Requirements.** All residential onsite sewage systems shall be designed and installed in accordance with Rule 410 IAC 6-8.3 "Residential Onsite Sewage Systems," except as stated below:

- 4.1. The minimum size of a new septic tank used in all installations shall be one thousand (1,000) gallons.
- 4.2. An outlet filter shall be required for all installations.
- 4.3. All subsurface drain system trenches installed shall be filled to within six (6) inches of final grade with aggregate which meets the minimum requirements of Rule 410 IAC 6-8.3-68 washed aggregate with a gradation in the range of INDOT Specifications 8-11 INDOT Specification 23 sand or equivalent and the final six (6) inches to final grade with cover soil material
- 4.4. Temporary sewage holding tanks must be watertight, constructed of durable material such as concrete, fiberglass or polyethylene, and equipped with both audible and visible alarms.
- 4.5. All designs for commercial onsite sewage systems must have approval from the Indiana State Department of Health prior to installation. All designs and installations must be done in accordance with Rule 410 IAC 6-10 "Commercial Onsite Wastewater Disposal" and amendments unless specific written exemption is obtained from the Indiana State Department of Health.
- 4.6. The building site shall consist of area of not less than one and one-half (1½) acres.

- 4.7. Whenever a public or semi-public sewer becomes available and is within three hundred (300) feet of the property line of a residential or commercial property served by an onsite sewage system, holding tank, or sanitary vault privy; a direct connection shall be made to said sewer and the onsite sewage system, holding tank, or sanitary vault privy be abandoned according to Rule 410 IAC 6-8.3-90
- 4.8. Installers engaged or intending to engage in the installation, construction or repair of onsite systems shall make application to the Wabash County Health Officer to have their names placed on the "Register for those engaged in the installation, construction and repair of onsite systems or equipment." The application form shall contain the name and address of the firm or place of business such installer is associated with, and other information as the Wabash County Health Officer may reasonably require to aid in the administration and enforcement of this Ordinance, or to help determine whether there is any reason the application should not be approved.
- 4.9. The Wabash County Health Officer may remove the name of any installer from the "register for those engaged in the installation, construction and repair of onsite systems or equipment" who has demonstrated inability or unwillingness to comply with this Ordinance. Such installers may have their name reinstated on said register by the Wabash County Board of Health after satisfactory demonstration of ability and willingness to comply with these regulations.
- 4.10. All onsite sewage systems shall be installed by a person who is certified by the Indiana Onsite Wastewater Professionals Association or by a certification entity recognized by the Health Officer or the Officer's agent.

5. Permitting.

- 5.1. The application for an onsite sewage system permit shall be made on a form provided by the Wabash County Health Department. At all times, from the start of construction to the time of inspection, the approved plot plan and permit shall be available on site.
- 5.2. Any deviation from the permit or approved plan must be approved by the Wabash County Health Department prior to modification. An as-built plot plan showing the actual installation details, including the unplanned modifications will be required before final approval.
- 5.3. All permits are valid for a period of one year after the date issued. After expiration of the permit, construction may not begin without reapplication and payment of the permit fee. This reapplication procedure may be waived by the Wabash County Health Department.
- 5.4. The applicant shall provide the following:
 - 5.4.1. **Residential Onsite Sewage System Permit.**
 - 5.4.1.1. A signed application for an onsite sewage system permit.
 - 5.4.1.2. A plot plan certifying that the sewage system will comply with this Ordinance and Rule 410 IAC 6-8.3, Residential Onsite Sewage Systems, if properly constructed, operated and maintained, including an engineered quality plot plan showing all elevated sand mound systems, alternative technology systems and drip irrigation systems.

5.4.1.3. A soil profile analysis report prepared by a soil scientist consisting of at least two (2) sample sites within the proposed soil absorption field. The sample sites must be representative of the soils within the absorption field.

5.4.1.4. A floor plan of the proposed dwelling.

5.4.1.5. Confirmation that the proposed onsite sewage system has been staked, prior to the onsite plan review by the Wabash County Health Department.

5.4.1.6. All appropriate fees outlined in the Wabash County Ordinance for Collection of Fees.

5.4.1.7. Any additional information deemed necessary by the Health Officer.

5.4.2. Residential Onsite Sewage System Repair Permit.

5.4.2.1. A signed application for an onsite sewage system repair permit.

5.4.2.2. A drawing of the proposed repair, unless waived by the Wabash County Health Department.

5.4.2.3. All appropriate fees as outlined in the Wabash County Ordinance for Collection of Fees.

5.4.2.4. Any additional information deemed necessary by the Health Officer.

5.4.3. Commercial Onsite Sewage System Permit.

5.4.3.1. A signed application for an onsite sewage system permit.

5.4.3.2. A soil profile analysis report prepared by a Soil Scientist consisting of at least three (3) sample sites within the proposed soil absorption field.

5.4.3.3. An approval letter and two copies of the approved plot plan from the Indiana State Department of Health, or the Technical Specification Data Report, with two (2) copies of the plot plan that meets the specified requirements, prepared by an engineer or architect currently registered in Indiana.

5.4.3.4. All appropriate fees as outlined in the Wabash County Ordinance for Collection of Fees.

5.4.3.5. Any additional information deemed necessary by the Health Officer.

6. **Approval Process.** The Health Officer or agent shall be allowed to inspect the work at any stage of construction. The permittee shall notify the Health Officer or agent when the work is ready for final inspection and at least two (2) working days before any underground portions are covered. The inspection shall be made within two (2) working days of the receipt of notice by the Health Officer or agent. The Health Officer or agent, bearing proper credentials and identification, shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing necessary to carry out the provisions of this Ordinance, and Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10. Final approval of the installation for an onsite sewage system or privy shall not become effective until the installation is completed to the satisfaction of the Health Officer or agent.

7. Permit Denial.

- 7.1. Upon denial of a valid permit application, the applicant may request a hearing with the Wabash County Board of Health. The request must be in writing and received with ten (10) calendar days after receipt of the denial. Upon receipt of a request of a hearing, the Health Officer or agent shall arrange a time and place for the hearing and shall give the petitioner written notice thereof. Such hearing shall be held as soon as practical after receipt of the request provided by IC 5-14-1.5-5 (Open Door Law) is complied with. If no such request is received within ten (10) calendar days after receipt of the denial, the denial shall stand.
- 7.2. At such hearing, the petitioner shall be given an opportunity to be heard and to show evidence as to why the permit should be granted. Additionally, the Health Officer or agent shall be given time to explain why the permit was denied. At the conclusion of the hearing, the Wabash County Board of Health shall sustain or overrule the permit denial depending upon its findings as to compliance with the provisions of this Ordinance, Rule 410 IAC 6-8.3 "Residential Onsite Sewage Systems" or Rule 410 IAC 6-10 "Commercial Onsite Wastewater Disposal". If the Board of Health shall overrule the permit denial, then a permit shall be issued and signed by the Chairperson of the Board of Health.
- 7.3. All proceedings of such hearing, including the findings and decision of the Board of Health, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Wabash County Board of Health. In addition, all pertinent information (permit application and written correspondence) shall be included in the public record. Any person may seek relief from any decision in any court of competent jurisdiction as provided by the laws of this State.

8. Enforcement.

- 8.1. Whenever the Health Officer or agent determines there are reasonable grounds to believe that there has been a violation of this Ordinance, Rule 410 IAC 6-8.3 "Residential Onsite Sewage Systems", or Rule 410 IAC 6-10 "Commercial Onsite Wastewater Disposal", the Health Officer or agent shall give notice of such alleged violation to the person or persons responsible, as hereafter provided. Such notice shall:
- 8.1.1. Indicate the date and location of the violation.
- 8.1.2. Clearly indicate the nature of the violation and the related ordinance citation.
- 8.1.3. Allow a reasonable time for the performance of necessary remediation.
- 8.1.4. Be properly served upon the person or persons responsible, provided that such notice is deemed to be properly served. Proper service shall be any of the following:
- 8.1.4.1. Sent to the person directly.
- 8.1.4.2. Sent by registered mail to the last known mailing address of the person.
- 8.1.4.3. Posted in a conspicuous place on or about the property affected by the notice.

8.1.4.4. Other method of service authorized or required under the laws of this State.

- 8.2. Any person or persons affected by any such notice issued by the Health Officer or agent may request and shall be granted a hearing on the matter before the Wabash County Board of Health. The request shall be in writing and received within ten (10) calendar days of receipt of Notice of Violation at the office of the Wabash County Health Department.
- 8.3. Such request shall briefly state the reasons for the requested hearing. Upon receipt of a request for a hearing, the Health Officer or agent shall arrange a time and a place for such hearing and shall give the petitioner written notice thereof.
- 8.4. Such hearing shall be held as soon as practical after receipt of request hereof, provided that IC 5-14-1.5-5 (Open Door Law) is complied with. Any notice served pursuant to Section 8 of this Ordinance shall automatically become an order if a written request for a hearing is not received within ten (10) calendar days after receipt of the Notice of Violation is served.
- 8.5. At such hearing, the petitioner shall be given the opportunity to be heard and to show evidence as to why such Notice of Violation should be modified or withdrawn. Additionally, the Health Officer or agent shall be given time to explain the circumstances of the Notice of Violation.
- 8.6. After such hearing, the Wabash County Board of Health shall sustain, modify or withdraw the Notice of Violation, depending upon its findings as to whether the provisions of this Ordinance, Rule 410 IAC 6-8.3 "Residential Onsite Sewage Systems" or Rule 410 IAC 6-10 "Commercial Onsite Wastewater Disposal", have been met. If the Wabash County Board of Health sustains or modifies such Notice of Violation, it shall then be deemed to be an order.
- 8.7. The proceedings at such hearing, including the findings and decision of the Wabash County Board of Health, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Wabash County Board of Health. Such record shall also include a copy of every Notice of Violation or order issued in connection with this matter as well as any other pertinent information. Any person may seek relief thereof from any court of competent jurisdiction as provided by the law of the State.
- 8.8. Whenever the Health Officer or agent find that an emergency exists which requires immediate action to protect the public health, the Health Officer may, without notice or hearing, issue an order reciting the existence of such an emergency and require that such action be taken as the Officer deems necessary to meet the emergency. Notwithstanding the other provisions of this Ordinance, Rule 410 IAC 6-8.3 "Residential Onsite Sewage Systems" and Rule 410 IAC 6-10 "Commercial Onsite Wastewater Disposal" such order shall be effective immediately.
- 8.9. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the Health Officer, shall be afforded a hearing, as soon as possible in the manner provided in Section V. After such hearing, depending upon the findings as to whether the provisions of this Ordinance, Rule 410 IAC 6-8.3 Residential Onsite Sewage Systems" or Rule 410 IAC 6-10 "Commercial Onsite Wastewater Disposal", have been met, the Wabash County Board of Health shall continue such order in effect, modify it or revoke it.

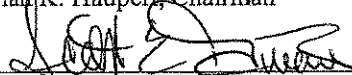
9. **Penalties.** Any person or persons who shall continue to violate any section of this Ordinance, Rule 410 IAC 6-8.3 "Residential Onsite Sewage Systems" or Rule 410 IAC 6-10 "Commercial Onsite Wastewater Disposal" beyond the time limit provided in the order, shall be cited for said violation in a court having jurisdiction. The violator or violators shall be punished by a fine of no more than two thousand five hundred dollars (\$2,500.00), plus court costs. Each individual day that a violation is in existence may be deemed a separate offense.

Passed and adopted by the Board of Commissioners of Wabash County on December 17, 2012.

BOARD OF COMMISSIONERS OF WABASH COUNTY



Brian K. Haupert, Chairman




Scott E. Givens



Barry J. Eppley

ATTEST:



Jane Ridgeway, Wabash County Auditor