

Ordinance Establishing On-site Sewage System Regulations

**Whereas**, the Board of Commissioners of LaPorte County, Indiana (“Commissioners”) deem it to be reasonable, appropriate, and in the best interests for the public health, safety, and general welfare of the citizens of the County of LaPorte, Indiana to adopt an ordinance residential onsite sewage systems in La Porte County, Indiana and establishing minimum standards designed to provide assurances that residential onsite sewage systems do not contaminate any drinking water or groundwater supplies; are not accessible to insects, rodents, or other possible carriers of diseases which may come into contact with human food or drinking water; do not pollute or contaminate the water of any bathing beach or surface waters; do not give rise to a nuisance due to odor, discharge or unsanitary condition; and will not violate any other laws or regulations governing control of sewage disposal;

**Whereas**, the Indiana State Department of Health has mandated implementation of rules and regulations concerning construction and repair of residential and commercial onsite sewage systems in the State of Indiana;

**Whereas**, the Indiana State Department of Health has published and otherwise promulgated and mandated enforcement of such rules by county health departments in the State of Indiana; and

**Whereas**, pursuant to I.C. §16-20-1-19, local county health departments and health officers are mandated to enforce the rules and regulations promulgated by the Indiana State Department of Health,

**Now, therefore**, be it ordained by the Board of Commissioners of LaPorte County, Indiana as follows:

SECTION 1. Title. This Ordinance may be referred to as the “LaPorte County Residential Onsite Sewage Systems Ordinance.”

SECTION 2. Adoption of regulations by reference. The regulations of the Indiana State Department of Health located at 410 IAC 6-8.2, *et seq.* and 410 IAC 6-10-1, *et seq.* as amended from time to time, and as promulgated by the Indiana State Department of Health, are hereby incorporated and adopted by reference. One copy of these regulations shall be on file with the LaPorte County Health Department. Two copies of these regulations shall be on file with the LaPorte County Clerk’s office and available for public review.

SECTION 3. Definitions. Except as provided below, the terms defined in 410 IAC 6-8.2, *et seq.* and 410 IAC 6-10-1, *et seq.* shall carry the same definition whenever used in this Ordinance as the definition provided in those regulations. For purposes of this Ordinance, the terms below shall be defined as follows:

- (a) "Available" shall mean within Three Hundred (300) feet of the property line.
- (b) "Health Officer" shall mean the LaPorte County Health Officer and his or her duly authorized representative(s).
- (c) "Sewage" shall mean any combination of human excreta and waste water from water closets, laundries, sinks, bathing facilities, and other objectionable waste waters.
- (d) "Permit" shall mean a written permission to proceed with specified work with respect to a private sewerage disposal system which is issued by the Health Officer or the Commissioner of the Indiana State Department of Health.
- (e) "Private On-site Sewage Disposal System" shall mean and shall include a residential on-site sewage system as defined in 410 IAC 6-8.2-30, or a commercial on-site wastewater disposal facility as defined in 410 IAC 6-10-2.
- (f) "On-site Sewage System" shall mean any arrangement of devices and structures used for receiving, treating, and disposing of sewage.
- (g) "Operating Permit" shall mean written approval by the LPCHD for continued use of an on-site system.
- (h) "Certified Installer" shall mean an installer who passes a written proficiency examination conducted by the La Porte County Health Department or an entity approved by the LaPorte County Health Department, and maintains certification through retesting or obtaining the proper Continuing Education Units.
- (i) Registered Installer shall mean a certified installer who registers with the La Porte County Health Department.

SECTION 4. On-site Sewage Systems: General Requirements.

- (a) Where a sanitary sewerage disposal system is not available all persons owning or leasing property shall comply with the following provisions of this Ordinance for residential on-site sewage systems.
- (b) It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the County of LaPorte, State of Indiana or in any area under the jurisdiction of said County, any sewage.
- (c) At any commercial establishment situated within the County of LaPorte, State of Indiana, where there is installed a on-site sewage system which is not connected to a sanitary sewerage system, and no sanitary sewerage system is available, there shall be established, installed or constructed and maintained an on-site sewage system which shall comply with the standards of the Indiana State Department of Health as contained in 410-IAC 6-10 or in such other manner as approved by the Indiana State Department of Health.
- (d) All residential on-site sewage systems shall be installed, constructed and maintained in an approved manner as described in 410-IAC 6-8.2 of the Indiana State Department of Health and as herein described.
- (e) The installation of any other residential on-site sewage system not described in Indiana State Department of Health 410 IAC 6-8.2 of mechanical, chemical or other means may be approved

by the LaPorte County Health Officer with appropriate restrictions and requirements, providing such installation complies with this Ordinance.

- (f) Should any defect exist or occur in any on-site sewage system which would cause said on-site sewage system or privy to fail and cause an unsanitary condition, the defect shall be corrected immediately by the owner or agent of the owner, occupant or agent of the occupant. Failure to do so shall be a violation of this ordinance and the violator shall be subject to the proceedings and penalties prescribed in SECTION 9 of this Ordinance.
- (g) Wherever a sanitary sewer is within 300 feet of the property line of the residential or commercial property, served by an on-site sewage system which is in failure, a connection shall be made to said sewer.
- (h) After receiving an order in writing from the County Board of Health or the duly appointed Health Officer, the owner, agent of the owner, the occupant or agent of the occupant of the property shall comply with the provisions of this ordinance as set forth in said order and within the time limit included therein. Said order shall be served on the owner or the owner and the occupant or on the agent of the owner but may be served on any person who, by contact with the owner, has assumed the duty of complying with the provisions of an order.
- (i) The Health Officer with the Health Board's approval may, from time to time, specify policy, procedures, or requirements regarding the issuance of or application for a permit for a private sewage disposal system. Such policy, procedures, or requirements shall have the same force and affect as if incorporated and set forth here in full. Copies of said policy, procedure or requirements shall be on file and available for review in the County Clerk's office and the Health Department.
- (j) A soil profile analysis shall be required for all new and repair residential on-site sewage systems. The soil profile analysis shall be conducted by a registered professional soil scientist with the Indiana Registry of Soil Scientists (IRSS). The soil profile information shall be recorded to a depth of five (5) feet for new OSS and a depth of six (6) feet for repair OSS or until layer is encountered that cannot be readily penetrated.

#### SECTION 5. Septic and Dosing Tanks

- (a) Only septic tanks listed on the Indiana State Department of Health approved septic tank list shall be installed in La Porte County. The minimum septic tank size allowed to be installed in La Porte County is 750 gallons.
- (b) Dosing tanks shall meet the same standards as septic tanks and shall come from the same manufacturers listed on the Indiana State Department of Health approved septic tank list.
- (c) Dosing tank sizing shall be the same as septic tank sizing as described in rule 410 IAC 6-8.2-58.

#### SECTION 6. Installer Registration

(a) Installer Registration: Effective January 1, 2012, no person shall construct, install, replace, alter, or repair any part of any Onsite Sewage System (OSS) in La Porte County unless the person is registered and has a surety bond with the La Porte County Health Department.

1. An installer shall file an Application for Installer Registration with the La Porte County Health Department (LPCHD), and keep on file at the LPCHD a current certification in gravity OSS, flood OSS, trench pressure OSS, sand mound OSS, and alternative technology

OSS for which an interim standard has been published by the Indiana State Department of Health (ISDH).

2. Such registration shall be valid for a term of one-year beginning January 1<sup>st</sup> and expiring December 31<sup>st</sup>, of the same year and shall be renewed annually. The registration shall bear the name and address of the registered installer and the expiration date and shall not be transferable.
3. Any installer new to LaPorte County shall be placed on a probationary status for their first three (3) installations. At the completion of the third installation the contractor shall either be granted full registration, denied registration, or have their probation extended.

(b) **Installer Examination:** Every installer engaged in the construction, alteration, installation, replacement, or repair of OSS in La Porte County shall be knowledgeable of all laws, rules, technical specifications, and ordinances of both the State of Indiana and La Porte County governing OSS.

1. The applicant for certification shall demonstrate knowledge of the applicable laws, rules, technical specifications, and ordinances before becoming certified by passing a written proficiency examination conducted by the LPCHD or an entity approved by the LPCHD.
2. The examination shall be in multiple parts. The LPCHD or an entity approved by the LPCHD will develop examinations to test the applicant knowledge of laws, rules, regulations, and ordinances of the State of Indiana and La Porte 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. Additional examinations for alternative technology OSS for which an interim standard has been published by the ISDH.
3. The examinations shall be reviewed from time to time to determine their applicability to current laws, rules, technical specifications and ordinances.
4. Homeowners wishing to install their own systems may do so for gravity systems only and after passing the gravity OSS portion of the installer exam.

#### SECTION 7. Operating Permits

(a) **Operating Permits:** Effective January 1, 2012, any on-site system installed or altered shall require an operating permit. The operating permit shall be renewed as follows:

1. At least once every three (3) years for on-site systems having components other than a septic tank, requiring scheduled maintenance and inspection.
2. At least once every five (5) years for all other on-site systems.
3. The operating permit shall identify all components of the on-site system requiring inspection and maintenance.

(b) The operating permit requiring scheduled inspections and maintenance shall contain the following:

1. The name, address, e-mail, and phone number of the service company contracted to perform the inspection and maintenance.

2. A copy of the operation and maintenance document(s) used for the scheduled inspection and maintenance.
- (c) The owner shall provide the LPCHD with the following:
1. Written documentation of all scheduled and unscheduled inspection and maintenance within one (1) month of the date performed.
  2. A copy of the inspections and maintenance contract.

#### SECTION 8. Permits

- (a) Before commencement of construction of any building or private residence where an on-site sewage system is to be installed or where any alteration, repair or addition of an existing on-site sewage system is planned, the owner or agent of the owner shall first obtain a written "permit to construct" signed by the Health Officer. The application for such permit shall be made on a form provided by LaPorte County, which applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Health Officer and as required by the applicable State regulations. A permit and inspection fee as set forth in the Health Department Fee Schedule ordinance shall be paid to the Health Department at the time the "permit to construct" is issued. Fees collected shall be accounted for and transferred to the Health Fund of the taxing unit. The "permit to construct" shall be valid for a period of one year from the date of issuance.
- (b) Permit fees are not refundable. Transfer of ownership of the real estate for which a on-site sewage system application for permit has been issued shall automatically void the permit for that property; provided, however, the transfer of ownership that occurs as a part of a contractual agreement between builder and /or developer and the buyer shall not void the permit if all other conditions of the permit remain the same.
- (c) When a permit has expired or has been revoked, the work on the on-site sewage system shall not commence or resume unless a new application and fee have been submitted and a new permit has been obtained.
- (d) A permit for an on-site sewage system shall not be considered complete until the installation is finished to the satisfaction of the Health Officer and confirmed by the signature of the Health Officer affixed to the permit. He, or his agent, shall be allowed to inspect the work at any stage of construction; and in every event, the applicant for the permit shall notify the Health Officer when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within two working days of the receipt of notice to the Health Officer.
- (e) The "permit to construct" shall be readily available at the construction site.
- (f) Any permit shall become null and void should any or further requirements of the "permit to construct," as determined by the Health Officer, not been met.
- (j) The Health Officer or his agent bearing proper credentials and identification shall be permitted to enter upon all properties at the proper time for the purposes of inspection, observation, measurement, sampling and testing necessary to carry out the provisions of this ordinance.
- (k) The issuance of a permit to repair an on-site sewage system shall not be construed as approval of pre-existing portions of the system nor acknowledge that the system meets all requirements of the County or the Indiana State Department of Health. The Health Officer does recognize that a number of older on-site sewage systems in the county cannot meet current requirements due to

site or system limitations and that proposal for repair must make the best use of the available space and system and must meet acceptable standards in the interests of public health.

- (l) If an applicant is refused a permit, the local board of health shall, upon request, afford the applicants the opportunity for a fair hearing. The parties involved may agree to use the procedures set forth in IC 4-21.5, the Administrative Procedure and Orders act.
- (m) The local board of health may revoke a permit which had been issued for construction of an on-site sewage system if it finds that the owner of the permit has failed to comply with this rule. Upon such notice the local board shall, upon request, afford the applicant the opportunity for a fair hearing. The parties involved may agree to use the procedures set forth in IC 4-21.5, the Administrative Procedure and Orders Act.

#### SECTION 9. Violation Notices, Penalties and Fines.

- (a) Any person found to be violating any provision of this ordinance may be served by the County Board of Health or the duly appointed Health Officer, with a written order stating the nature of the violation, conditions that may transmit disease, and providing a time limit for satisfactory correction thereof.
- (b) If a person refuses or neglects to obey an order issued under this section or IC §16-20-1-25, proceedings may be instituted in the courts for enforcement. An order may be enforced by injunction. If the action is a criminal offense, a law enforcement authority with the jurisdiction over the place where the offense occurred shall be notified.
- (c) Any person who violates any provision of this ordinance shall be deemed to have committed an ordinance violation and, upon conviction shall be fined not more than \$500.00 five hundred dollars for the first offense and not more than one thousand dollars (\$1,000.00) for the second offense; and for the third and each subsequent offense by a fine of not more than two thousand five hundred dollars (\$2,500.00). Each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions as ordered by the County Board of Health or by the duly appointed Health Officer of the County, shall constitute a distinct and separate offense. Such monies (fines) collected shall be accounted for and shall be transferred to the Health Fund of the taxing unit.

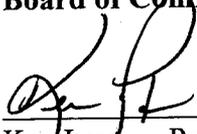
#### SECTION 10. Validity.

- (a) In the event that any provision of this Ordinance is ultimately determined by a court of competent jurisdiction to conflict with any provision of 410 IAC 6-8.2, *et seq.* or 410 IAC 6-10-1, *et seq.*, then and in any such event the more strict provision shall govern.
- (b) In the event that any provision of this Ordinance is ultimately determined by a court of competent jurisdiction to be pre-empted by any state or federal law or regulation, this Ordinance shall automatically be deemed amended by eliminating the pre-empted provision and incorporating in its place the applicable provision of the pre-empting state or federal law or regulation.
- (c) Each provision of this Ordinance shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.
- (d) Compliance with the requirements of this Ordinance does not obviate or eliminate the necessity of complying with any other applicable federal, state, or local laws and regulations affecting private sewage disposal systems.

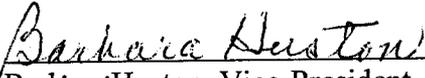
SECTION 11. Effective Date and Repeal. This Ordinance shall take effect on the date of its passage, approval, publication, and recording as provided by law. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

Adopted and approved by the Board of Commissioners, of LaPorte County, Indiana this 21<sup>st</sup> day of February, 2012.

**Board of Commissioners of LaPorte County, Indiana**



Ken Layton, President



Barbara Huston, Vice-President



Willie Milson, Member

Attest:



Craig Hinchman, LaPorte County Auditor