

La Porte County Property Transfer Ordinance

Ordinance No. 2016-02 Of The Board of Commissioners Of LaPorte County, Indiana

Whereas, the Board of Commissioners of La Porte County recognized the need to protect the health, safety, welfare and property of the residents of La Porte County by ensuring appropriate information is provided to prospective buyers concerning the quality of the drinking water and the status of the septic system prior to the acquisition of properties.

Section 1: Definitions:

- A. **Authorized Agent:** Any person who collects a fee or other compensation to represent a seller during a transfer of ownership of a property, including, but not limited to any real estate company, Title Company, law firm, or their authorized employee or agent.
- B. **Buyer:** A person who has made a written offer to purchase property.
- C. **Closing:** The act of transferring ownership of a property from one person to another involving the signing of final documents for the transfer.
- D. **Effluent or Wastewater:** Any human excrement or water-carried waste derived from ordinary living processes.
- E. **Groundwater:** Any water below the surface of the ground within the interstices of the rock and soil. This includes water in both the unsaturated near-surface soils and the underlying saturated soils and rock.
- F. **Health Department:** The LaPorte County Health Department.
- G. **Health Officer:** The LaPorte County Health Department Health Officer or his/her duly authorized representative.
- H. **Person:** Any individual, trust, joint stock company, federal agency, corporation (including a government corporation), limited liability company, partnership, copartnership, company, estate, municipal corporation, city, school city, town, school town, school district, school corporation, county, state agency, association, state, commission, political subdivision of a state, any interstate entity or legal representative.

- I. **Potable Water System:** The well and distribution system of a residential or commercial water system used or intended for use for drinking or culinary purposes.
- J. **Primary Point of Use:** The most commonly used source(s) of drinking water. For residences, the primary point of use is usually the kitchen faucet.
- K. **Property:** A residential / commercial property within LaPorte County, Indiana.
- L. **Property Transfer:** The conveyance of an interest in a property by any of the following:
 - 1) A deed or other instrument of conveyance of fee title to property.
 - 2) A lease whose term, if all options were exercised, would be more than forty (40) years.
 - 3) A collateral assignment of a beneficial interest in a land trust.
 - 4) An installment contract for the sale of a property.
- M. **Seller:** The owner of the property being sold or their authorized agent.
- N. **Septic Inspector:** An independent third party who performs septic inspections who is IOWPA certified and is registered with the Health Department.

Section 2: Applicability:

- A. These Standards and Requirements apply to the transfer (see definition of property transfer) of any property in LaPorte County including all residential and commercial properties.

Section 3: General Requirements:

- A. It shall be a violation of the Ordinance for any seller or their authorized agent to participate in the closing of a property transfer unless the requirements of the Ordinance and these Standards and Requirements have been met.
- B. It shall be a violation of the Ordinance for any person or their authorized agent to participate in the closing of a property transfer to provide false information to the Health Department concerning the transfer of the ownership of a property.
- C. If the property has an on-site septic system or potable water well, the seller/buyer or their authorized agent shall have the septic system inspected and potable water tested prior to closing the property transfer and shall provide the results of the inspection and tests to the buyer and the Health Department.

- D. Properties that are on municipal water and/or sewer will need to supply the Health Department with a bill for these services or an affidavit. There will be no fee for a Property Transfer for properties with municipal water and sewer services.
- E. The Health Department may refuse to accept data or information from any party found to repeatedly violate this Ordinance.
- F. The fee for the Property Transfer and statement of compliance will be established by the La Porte County Commissioners.
- G. Property Transfer and statement of compliance will be valid for one (1) year from date of issuance.
- H. The seller/buyer or their authorized agent shall have the inspection and tests described herein performed and shall submit a Property Transfer Application form and all applicable fees to the Health Department according to the schedule established in Section 6.

Section 4: Septic Inspection:

- A. Septic system inspections of an existing septic system for the purpose of a property transfer shall be conducted by an IOWPA certified inspector.
- B. The septic inspector shall obtain a copy of the most recent drawing of the existing septic system from the health department and shall attach the drawing to the inspection report. The septic inspector shall also prepare a sketch showing the location of the septic system and well if the conditions observed in the field are different than the drawing obtained from the health department or if the health department does not have a current drawing of the septic system.
- C. Inspectors shall be registered with the La Porte County Health Department and pay a registration fee established by the La Porte County Commissioners.
- D. Inspectors applying to be registered shall provide a surety bond established by the La Porte County Commissioners payable to the La Porte County Health Department.
- E. The inspector shall submit their report to the La Porte County Health Department on a form provided by the department.
- F. The health department may issue an appropriate order to repair, replace, or clean any system or part of a system that has failed, is in violation of applicable public health codes, or is threat to ground water, surface water or public health.

- G. Any person repairing or replacing a septic system or part of a system shall obtain the appropriate permit from the Health Department.

Section 5: Potable Water Well:

- A. Each potable well on the property shall be analyzed by a certified laboratory for the following contaminants:
 - 1) Total coliform
 - 2) *E. coli*
 - 3) Nitrate (NO₃)
- B. Any additional tests as deemed reasonable and ordered by the Health Officer to the extent that the tests protect against a health threat.
- C. The laboratory shall report the results of the water analysis along with the U.S. Environmental Protection Agency Drinking Water Standard so that it is clear to the lay person whether the water meets standards.

Section 6: Reporting:

Septic system inspections and water tests should be performed as early as possible in the property transfer process.

- A. The following must be received by the prospective buyer(s) prior to or at closing:
 - 1) A copy of all water analyses as defined in Section 5.A. or a copy of the water bill or a letter from the municipality as defined in Section 3.D.
 - 2) A copy of the septic inspection report as defined in Section 4.A & B. or a copy of the sewer bill or a letter from the municipality as defined in Section 3.D.
- B. The following information must be received by the Health Department not later than Five (5) days after the date of closing.
 - 1) A copy of all water analyses as defined in Section 5.A. or a copy of the water bill or a letter from the municipality as defined in Section 3.D.
 - 2) A copy of the septic inspection report as defined in Section 4.A & B. or a copy of the sewer bill or a letter from the municipality as defined in Section 3.D.

- 3) A completed Property Transfer Application form.
- 4) The fee designated by the County Commissioners.

C. Health Department Statement of Compliance.

- 1) Upon receipt of all required information and the completion of all required actions by the seller, the Health Department shall issue a certificate of compliance or non-compliance with the requirements of the Ordinance and the Requirements to the seller or their authorized agent.
- 2) A certificate of compliance issued for either a septic system or water well does not guarantee its continued future performance or operation.

Section 7: 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 provide 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 or an order may be enforced by injunction if the action is a criminal offense and a law enforcement authority with the jurisdiction over the location 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 shall be fined not more than (\$500.00) five-hundred dollars for the first offense and not more than one - thousand dollars (\$1000.00) 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 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 fines collected shall be accounted for and shall be transferred to the health fund of the taxing unit.

SECTION 8: Effective Date and Repeal:

This Ordinance shall take effect on the date of its passage, publication, and recording as provided by law, accordingly. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

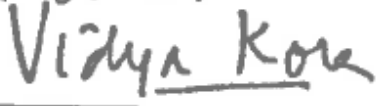
Adopted and approved by the Board of Commissioners of LaPorte County, Indiana

this 6th day of April 2016

Board of Commissioners of LaPorte County, Indiana



Dave Decker, President



Vidya Kora, Vice-President



Mike Bohacek, Member

Attest: 

Joie Winski, LaPorte County Auditor