

BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN  
ORDINANCE DATED ~~November 13, 2015~~ \_\_\_\_\_  
ORDINANCE # ~~11-13-15-17~~ \_\_\_\_\_

Section 1 - Title 10, Article 4.5 is amended to read as follows:

**ALLEN COUNTY CODE TITLE 10  
DEPARTMENT OF HEALTH**

**ARTICLE 4.5  
ALLEN COUNTY PRIVATE SEWAGE DISPOSAL**

**10-4.5-1 Chapter 1: DEFINITIONS**

**10-4.5-1-1 State Definitions**

All definitions set forth in 327 IAC 15-14, or the NPDES General Administrative Permit requirements including any amendments made hereafter, 410 IAC 6-8.3, 410 IAC 6-10.1, and Bulletin SE-11 (1986) and ~~Bulletin SE 13 (1988)~~ promulgated by the Indiana State Department of Health, as may be amended from time to time, are hereby incorporated by reference.

**10-4.5-1-2 Board**

The ~~Fort Wayne~~-Allen County Executive Board of Health.

**10-4.5-1-3 Building**

A structure having a roof supported by columns or walls built or used for the enclosure, shelter, protection or occupancy of ~~f~~ persons, fixtures or personal property, and from which emanates any sewage.

**10-4.5-1-4 Building Sewer**

Any sewerpipe which exits a residential or commercial structure and transports sewage away from the building. For all properties with an On-site Sewage System (OSS), a building sewer must drain directly into a septic tank.

**10-4.5-1-~~4~~5 Buyer**

A person who has made a written offer to purchase a property (either directly or through a real estate professional).

**10-4.5-1-~~5~~6 Certified Evaluator**

An Evaluator who passes a written proficiency examination (regarding properly evaluating on-site sewage systems), and has attended the required Departmental training session(s), both of which are

conducted by the Department or an entity approved by the Department, and maintains certification through retesting as required. Such individual shall abide by all associated regulations in all state statutes, rules, and local ordinances regarding the evaluation and documentation of the OSS for which they are certified to provide evaluation.

#### **10-4.5-1-~~6~~7 Certified Installer**

An Installer who passes a written proficiency examination (regarding properly installing on-site sewage systems), conducted by the Department or an entity approved by the Department, and maintains certification through retesting as required. Such individual shall abide by all associated regulations in all state statutes, rules, and local ordinances regarding the installation of the OSS for which they are certified.

#### **10-4.5-1-~~7~~8 Certified Service Provider**

A Service Provider who passes a written proficiency examination (regarding properly repairing and/or replacing existing OSS components and providing all applicable inspections, testing and associated actions for permitted discharging on-site sewage systems), and has attended the required Department training session, both of which are conducted by the Department or an entity approved by the Department, and maintains certification through retesting as required. Such individual shall abide by all associated regulations in all state statutes, rules, and local ordinances regarding the testing, documentation submission, and maintenance of the OSS for which they are certified to provide services and evaluation.

#### **10-4.5-1-~~8~~9 Closing**

The act of transferring ownership of a property from one person to another involving the signing of final documents for the transfer.

#### **10-4.5-1-~~9~~10 Commercial Building**

Any building which is not a one or two family dwelling.

#### **10-4.5-1-~~10~~11 Construction Permit**

Written approval on a permit provided by the Department for the construction, installation, alteration, repair or abandonment of a new or existing OSS or sanitary vault privy.

#### **10-4.5-1-~~11~~12 Department**

The ~~Fort Wayne~~-Allen County Department of Health, and/or its employees.

#### **10-4.5-1- 13 Designer**

An independent third party individual who designs and submits on-site sewage system proposals/designs (usually for a fee) as part of a construction permit application to the Department for review. A Designer shall be a professional engineer, or an individual whose design is reviewed, approved and stamped by an engineer prior to submittal to the Department.

#### **10-4.5-1-~~12~~ 14 Evaluator**

An independent third party who performs on-site sewage system evaluations (usually for a fee) and who has sufficient experience and training to identify the conditions specified in 10-4.5-1-~~13~~15. Any Evaluator performing work in Allen County shall be certified under the provisions of this ordinance.

#### **10-4.5-1-~~13~~ 15 Failure or Malfunction**

An OSS condition which includes any of the following:

1. The system refuses to accept sewage at the rate of design application thereby interfering with the normal use of residential plumbing fixtures;
2. Effluent discharge exceeds the absorptive capacity of the soil, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters;
3. Effluent is discharged from the system causing contamination of a potable water supply, ground water, or surface waters;
4. The backup of sewage into a residential or commercial structure, or into an OSS component;
5. The connection of an OSS to any drain tile;
6. Liquid level in a septic tank above the inlet invert;
7. Liquid level in a treatment unit above that recommended by the manufacturer;
8. Structural failure of a septic tank or treatment unit;
9. Water samples documenting contamination of ground water or surface waters by the OSS.

A failed OSS is a health hazard.

#### **10-4.5-1-~~14~~ 16 Gravity Flow System**

An OSS that includes a septic tank and soil absorption field, but does not include a secondary treatment unit or a dosing tank and pump to deliver the septic tank effluent to the soil absorption field.

#### **10-4.5-1-~~15~~ 17 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.

#### **10-4.5-1-~~16~~ 18 Health Commissioner**

The Health Commissioner for ~~The Fort Wayne~~ the Allen County Department of Health, (designated as “Health Officer” in the state rules and regulations) and/or his/her authorized representative(s).

#### **10-4.5-1- 19 Holding Tank**

A septic tank or a combination of septic and dosing tanks for which the outlet of the last tank in series has been sealed off, in order to prevent sewage flow from exiting the last tank. The Department can will only allow a holding tank, as a temporary solution, and only under one of two scenarios:

- A. The construction of a new bBuilding has been completed and must be occupied. However, construction of the soil absorption field can-not be completed yet due to current soil conditions generally related to wetness; OR
- B. An existing bBuilding has an existing OSS which is in failure and a holding tank must be used to alleviate an existing public health hazard, until installation of an approved OSS or connection to a sanitary sewerage system can occur.

#### **10-4.5-1-~~17~~ 20 Installer**

Any person who performs any work in furtherance of construction, installation, replacement, alteration, modification or repair of any residential or commercial on-site sewage system that is subject to the provisions of this ordinance. Any Installer performing work in Allen County shall be certified under the provisions of this ordinance.

#### **10-4.5-1-~~18~~ 21 On-site Sewage System or “OSS”**

All equipment and devices used for conduction, collection, storage, treatment, and on-site disposal of sewage using a soil absorption field or Permitted Discharge System, for a property not served by a sanitary sewerage system. Such term shall describe, without limitation, conventional, Technologies New to Indiana, alternative and experimental on-site sewage system technologies and components, including perimeter drains, and privies, approved by the Indiana State Department of Health for use in the state.

#### **10-4.5-1-~~19~~ 22 Owner**

Any person(s) who ~~has~~ holds legal title to a property.

#### **10-4.5-1-~~20~~ 23 Permitted Discharge System**

A system installed and maintained in compliance with and under the authority of-327 IAC 15-14, or the NPDES General Administrative Permit including any amendments made as-hereafter.

#### **10-4.5-1-~~21~~ 24 Permittee**

The person who is the owner of the real estate, or his/her/its authorized representative, who is responsible for the application for a construction permit and who shall be responsible for the acceptance of notices at the address listed on the permit application.

**10-4.5-1-~~22~~ 25 Person**

Any individual, trust, joint stock company, federal agency, corporation (including a government corporation), limited liability company, partnership, co-partnership, 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 any other legal entity or their legal representative.

**10-4.5-1-26 Premise**

A lot, plot or parcel of land, including the building(s) thereon.

**10-4.5-1-~~23~~ 27 Property**

Any tract of land, or portion thereof, or combination of tracts of land under single or common ownership.

**10-4.5-1-~~24~~ 28 Public Sewer**

Any sanitary sewer constructed, installed, maintained, operated or owned by a municipality, sewage district or utility company. A county legal drain, mutual drain or private drain installed for the sole purpose of carrying surface water runoff and subsoil drainage shall not be considered a public sewer under this definition.

**10-4.5-1-~~25~~ 29 Pump Assisted System**

An OSS which includes a dosing tank and pump to deliver the septic tank effluent to the soil absorption field, but which does not include a secondary treatment unit.

**10-4.5-1-30 Quarter 1**

For the purposes of permitted discharge system sampling and result submittal requirements, Quarter 1 is defined as beginning on January 1 and ending on March 31.

**10-4.5-1-31 Quarter 2**

For the purposes of permitted discharge system sampling and result submittal requirements, Quarter 2 is defined as beginning on April 1 and ending on June 30.

**10-4.5-1-32 Quarter 3**

For the purposes of permitted discharge system sampling and result submittal requirements, Quarter 3 is defined as beginning on July 1 and ending on September 30.

**10-4.5-1-33 Quarter 4**

For the purposes of permitted discharge system sampling and result submittal requirements, Quarter 4 is defined as beginning on October 1 and ending on December 31.

**10-4.5-1-~~26~~ 34 Residential Structure**

A ~~building~~ Building used as a one or two-family dwelling, including any outbuildings containing plumbing.

**10-4.5-1-~~27~~ 35 Sanitary Sewerage System**

A sewer or a system of sewers, which convey sewage away from the lot on which it originates to a wastewater treatment facility owned and operated by an incorporated city or town, conservancy district, regional sewer district, or private utility.

**10-4.5-1-~~28~~ 36 Secondary Treatment Unit**

A treatment device that is a separate component (unit) prior to the soil absorption field or permitted discharge and is:

1. Listed by ANSI/NSF or an ANSI accredited third party certifier as conforming to ANSI/NSF Standard 40, Residential Wastewater Treatment Systems for Class I plants;
2. Approved by the Indiana State Department of Health for such use in Indiana; or
3. Approved by the Department as a component in a permitted discharge system.

**10-4.5-1-~~29~~ 37 Seller**

The owner of a property being sold who has received a written offer to purchase from a Buyer.

**10-4.5-1-~~30~~ 38 Service Provider**

An individual who meets the minimum requirements set by the Department for providing evaluation and maintenance of an On-site ~~Septic Sewage~~ System (OSS) under the provisions of this Ordinance. Such individual shall be proficient in the design, operation, testing, maintenance, and performance standards of the OSS for which they are certified to provide evaluation, testing, and maintenance. Any Service Provider performing work in Allen County shall be certified under the provisions of this ordinance.

**10-4.5-1-~~31~~ 39 Sewage**

All water-carried waste derived from ordinary living processes.

**10-4.5-1-~~32~~ 40 Soil Profile Analysis**

The observation and evaluation, performed by a Soil Scientist, of the physical characteristics of the soil horizons or layers to a depth of at least five (5) feet or, if shallower, to a layer that cannot be readily penetrated.

**10-4.5-1-~~33~~ 41 Soil Scientist**

An individual registered as a professional soil scientist with the Indiana Registry of Soil Scientists (IRSS) as provided for under IC 25-31.5.

## **10-4.5-2 Chapter 2: SEWAGE DISPOSAL**

### **10-4.5-2-1 State Rules**

All rules and regulations contained within 410 IAC 6-8.3, 410 IAC 6-10.1, and Bulletin SE-11 (1986) and Bulletin SE-13 (1988), promulgated by the Indiana State Department of Health, as may be amended from time to time, are hereby incorporated by reference. All rules and regulations within 327 IAC 15-14 (regarding the requirements for installation and maintenance of a Permitted Discharge on-site sewage system), or the NPDES General Administrative Permit as amended hereafter, are hereby incorporated by reference.

### **10-4.5-2-2 Public Sewer Available**

Whenever a public sewer is or becomes available within 300 feet of a residential or commercial building, a direct connection shall be made to said public sewer, provided direct access is reasonably available via easement or other appropriate means. As a result of such connection, all existing septic tanks, sewage pits, outhouses, privy pits and similar sewage disposal systems or treatments facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have 90 calendar days from the date that the public sewer becomes available to make a direct connection to the public sewer and to obtain a permit, abandon and fill in the existing sewage disposal system under a permit issued by the Department.

### **10-4.5-2-3 Public Sewer not Available**

All residential and commercial buildings, which are not connected to a public sewer and for which public sewer is unavailable shall be connected to an OSS which shall comply with the standards set forth herein. In addition, all such buildings shall have their OSS (including sanitary vault privies) recorded with the Department. Any building, which is using some form of OSS which has not been permitted, inspected and approved by the Department, such that an Operating Permit has been issued for the OSS is in violation of this ordinance and its owner is required to bring the property into compliance with all applicable state codes and this ordinance.

### **10-4.5-2-4 Construction of Privy**

Sanitary vault privies constructed and maintained pursuant to Bulletin SE-11 (1986) shall be approved by the Health Commissioner. Any construction permit for a property that includes existing or proposed privies, shall include bringing any privy on the property into compliance with the standards in Bulletin SE-11 (1986), or properly abandoning that privy. The property owner must obtain a construction permit from the Department prior to constructing or modifying a privy. Maintenance shall include periodically hiring a licensed wastewater hauler to pump the contents from the privy. The property owner is required to submit a copy of all pumping service receipts to the Department. If a privy is to be abandoned as part of installing an OSS, the property owner is required to contact the Department to inspect the abandonment. If a privy is to be converted into a flush facility as part of installing an OSS, the connection to the OSS shall be inspected by the Department.

#### **10-4.5-2-5 Correction of Defects**

Should any defect exist or occur in any OSS or privy which would cause the OSS or privy to fail to meet the requirements of this Ordinance, then the defect shall be corrected by the owner/permittee pursuant to the time table established by the Health Commissioner. Failure to correct the defect within the time table established by the Health Commissioner shall be considered a violation of this Ordinance and shall subject the owner/permittee to the penalties set forth in 10-4.5-11.

#### **10-4.5-2-6 Adaptation of Residential OSS**

Whenever there is any alteration of the structure or significant change in the use or occupancy of a residential building which would affect the functioning of the existing OSS, including the addition of plumbing fixtures or a bedroom or bedroom equivalent as defined in 410 IAC 6-8.3, then the system shall be modified, enlarged or replaced in accordance with the requirements of this ordinance.

#### **10-4.5-2-7 Adaptation of Commercial OSS**

Whenever there is any alteration of the structure or significant change in the use or occupancy of a commercial building which would affect the functioning of the existing OSS, including the addition of bathrooms, kitchens or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of 410 IAC 6-10.1 and this ordinance.

### **10-4.5-3 Chapter 3: CONSTRUCTION REQUIREMENTS OF ON-SITE SEWAGE SYSTEMS**

#### **10-4.5-3-1 Lot Dimensions and Replacement Area**

A. Lots or tracts of real estate on which residential or commercial OSSs are to be installed and which are rated slight or moderate for septic tank absorption fields by the U.S. Department of Agriculture Soil Conservation Service, shall contain a minimum of one (1.0) acre or 43,560 square feet and suitable soils and topography to permit compliance with this Ordinance.

B. Lots or tracts of real estate on which residential or commercial OSSs are to be installed and which are rated severe for septic tank absorption fields by the U.S. Department of Agriculture Soil Conservation Service shall contain a minimum of two (2.0) acres or 87,120 square feet and suitable soils and topography to permit compliance with this Ordinance.

C. Lots or tracts of real estate on which residential or commercial OSSs are to be installed, and which do not already contain an OSS, shall contain a secondary site large enough for a replacement of the soil absorption field on each parcel. Soil evaluations shall be performed on the secondary site to demonstrate it is capable of accepting a soil absorption field. The secondary site shall be protected from removal or addition of soil, compaction or other activities which would make it unsuitable for the installation of an OSS.

D. A permittee, whose real estate was a separate parcel for tax purposes as shown on the tax records of the Auditor of Allen County, Indiana, and recorded prior to February 16, 1996, shall not be prohibited from the construction, installation and eventual operation of an OSS solely as the result of his/her/its lot



dimensions being less than those set forth above in A and B, provided that he/she/it meets all other requirements of this Ordinance.

E. A permittee, whose real estate was a separate parcel for tax purposes as shown on the tax records of the Auditor of Allen County, Indiana, and recorded prior to ~~the effective date of this Ordinance~~ March 1, 2012, shall not be prohibited from the construction, installation and eventual operation of an OSS solely as the result of his/her/its lot not having sufficient space to meet the requirements of subpart C of this Section, provided that he/she/it meets all other requirements of this Ordinance.

#### **10-4.5-3-2 Soil Evaluation**

At least one soil profile analysis from the proposed primary and secondary OSS location shall be on soil which is still in place, the adjacent soil having been removed to provide access for the observation. Additional samples from the proposed on-site sewage system location, and any additional confirmation samples, may be taken with a push probe, soil auger or other methods approved by the Department. The Department of Health reserves the right to be present during soil tests being performed in Allen County to ensure the accuracy and consistency of said testing. The property owner, or the owner's agent, shall notify the Department prior to performing any soil profile analysis within Allen County.

#### **10-4.5-3-3 Building Sewer and Building Sewer Cleanout**

- A. All building sewers shall be equipped with a cleanout for the purposes of visual inspection, verifying elevation and maintenance. The cleanout shall be:
1. located outside of the building, including any additions to an existing building;
  2. connected to the sewer via appropriate Schedule 40, SDR 21, SDR 26, or SDR 35 PVC fitting;
  3. constructed of the same grade of pipe as the sewer;
  4. of equal or greater diameter than the sewer, but in no case less than four inches (4");
  - 4.5. fitted with an appropriate lid, which is snug fitting and secured, yet is removable. The lid shall be constructed of material which is designed for the grade of pipe used for the cleanout and sewer. The lid shall be extended fully above final surface grade such that the lid can be removed without excavating the surrounding soil around the cleanout.
- B. If a new building sewer is constructed after the effective date of this ordinance and is connected to an existing building via a portion of an existing building sewer which is constructed of different pipe material (such as vitrified clay pipe, concrete pipe, ductile iron pipe, cast iron pipe and asbestos cement pipe) which is not compatible with the new building sewer pipe material being installed, then a new cleanout shall be installed on the new portion of the building sewer.
- C. Flexible couplings which are secured mechanically to the sewer pipe by steel hose clamps are prohibited on all sewer pipe joints in an OSS, unless used to connect an existing building sewer which is constructed of different pipe material (such as vitrified clay pipe, concrete pipe, ductile iron pipe, cast iron pipe and asbestos cement pipe) which is not compatible with the new building sewer pipe material being installed.

### 10-4.5-3-~~3~~4 Requirements for Septic Tanks

A. Residential septic tanks shall have the following number of gallons:

1. If the number of bedrooms and bedroom equivalents in a dwelling is

One, two, three or four \_\_\_\_\_ 1,250 gallon tank

2. If the number of bedrooms and bedroom equivalents in a dwelling is

Five \_\_\_\_\_ 1,500 gallon tank

3. If the number of bedrooms and bedroom equivalents in a dwelling are

More than five \_\_\_\_\_ 1,500 gallon + ~~300~~150 gallons x the number of bedrooms and bedroom equivalents over five

B. Every new or replacement system shall include an effluent filter regardless of whether or not the septic tank is replaced.

C. Every repair that involves the replacement of a septic tank shall include an effluent filter.

D. Every effluent filter that is installed shall be outfitted with a suitable high water alarm. The associated alarm panel and electrical connections shall be located in an outdoor weatherproof box meeting or exceeding NEMA 4X standards. The box shall be attached to a post, as described below under 10-4.5-3-6-B-4 (Requirements for Dosing Tanks).

E. All septic tank installations must meet the following requirements:

1. All riser sections, lids, safety screens, influent and effluent sewers must be properly installed and secured. Every tank installation, including its appurtenances, shall comply with all manufacturer requirements. No portion of the tank may be covered prior to inspection and approval by the Department.

2. All sewage flows from the building, including but not limited to drainage from:

- \_\_\_\_\_ a. toilets,
- \_\_\_\_\_ b. showers, bathtubs and jetted tubs,
- \_\_\_\_\_ c. washing machines,
- \_\_\_\_\_ d. sinks,
- \_\_\_\_\_ e. sewage ejector pits, and
- \_\_\_\_\_ f. effluent generated from commercial or industrial facilities

shall be received by the septic tank for primary treatment.

3. All clear water sources from the building, including but not limited to drainage from:

- \_\_\_\_\_ a. roof gutters and downspouts,

- \_\_\_\_\_ b. footer drains, and
- \_\_\_\_\_ c. sump pump pits

\_\_\_\_\_ shall be directed away from the septic tank, or any other portion of the OSS.

### **10-4.5-3-54 Requirements for Holding Tanks**

A. For new construction, the following requirements must be met in order to approve a holding tank:

1. A construction permit shall be issued by the Department for the OSS design prior to the installation of a holding tank.
2. The high water alarm must be installed, wired in by the electrician, and verified operational by the Department, in the last tank in series.
3. The outlet of the last tank in series must be properly capped. The sealed outlet must be inspected and approved by the Department prior to being covered.
4. All requirements listed under 10-4.5-3-4(E)3-3-E (Requirements for Septic Tanks) shall be met.
5. No sewage shall be allowed to overflow onto the ground surface, or be pumped out of the tank and onto the ground surface or to a body of water during the occupancy of the building. The outlet shall not be re-opened until the soil absorption field is completed, inspected, approved, covered and ready to accept sewage effluent flow.
6. The property owner must sign and submit to the Department a copy of the Holding Tank Agreement document, which is generated and provided by the Department.

B. For existing buildings, with an existing failed OSS, the requirements listed under 10-4.5-3-5(A)(3) through (6)-A.3—A.6 (Requirements for Holding Tanks) must be met in order to approve a holding tank. 10-4.5-3-5(A)(1)-1—and A.(2) are not required for existing buildings with an existing failed OSS.

### **10-4.5-3-65 Requirements for Dosing Tanks, Pumps, Alarms, Control Panels & Electrical Wiring**

A. Residential dosing tanks shall have the following minimum number of gallons:

1. If the number of bedrooms and bedroom equivalents in a dwelling is  
One, two or three \_\_\_\_\_ 1,000 gallon tank
2. If the number of bedrooms and bedroom equivalents in a dwelling is  
Four - \_\_\_\_\_ 1,250 gallon tank
3. If the number of bedrooms and bedroom equivalents in a dwelling is  
Five \_\_\_\_\_ 1,500 gallon tank
4. If the number of bedrooms and bedroom equivalents in a dwelling are

More than fivefour

1,50250 gallon + 300150 gallons x  
the number of bedrooms and  
bedroom equivalentents over fivefour

B. Every new or replacement dosing tank shall include all of the following:

1. All floats shall be installed on a separate float tree, which meets the following requirements:
  - a. The float tree shall be in contact with the tank floor when installed;
  - b. The float tree shall extend up into the tank riser and shall be secured to the riser sidewall with a bracket, which is located within eighteen inches (18") of the tank lid.
  - c. The float tree bracket and float holders shall be constructed of plastic material, manufactured specifically for floats and float trees. The use of other materials for securing the floats is prohibited, including, but not limited to; Zip ties, electrical tape and steel hose clamps.
  - d. The float tree shall be installed such that the floats cannot become entangled with the pump, other floats, or any of the associated electrical cords.
2. All pump assisted systems which are demand-dosed shall require the installation of double floats which are rated to meet or exceed the ratings of the designed pump.
3. The portion of the force main sewer, which is located inside the dosing tank shall meet the following requirements:
  - a. The force main shall be extended up into the tank riser, such that the plastic threaded coupler is located within eighteen inches (18") of the tank lid;
  - b. A 1/4" weephole shall be drilled into the lower half of the force main, on the last ninety degree elbow prior to exiting the tank, in order to properly drain the sewer in between doses;
  - c. A plastic threaded coupler union-type disconnect shall be installed on the horizontal portion of the force main located in the riser, below the screen.
4. All electrical wiring connections for the pump, high water alarm and floats shall be made outside of the dosing tank and riser in an outdoor weatherproof boxcontrol panel, which meets the following requirements:
  - a. The boxcontrol panel shall be appropriately secured to a post which is adequately anchored in the ground and is located within ten feet (10') of the dosing tank lid.
  - b. The boxcontrol panel shall be located a minimum of three feet (3') above the final surface grade.

c. The ~~box~~control panel must be appropriately sealed to prevent weather from entering the ~~box~~control panel, and to prevent gas from travelling into the ~~box~~control panel through the electrical conduit from the tank(s).

d. The ~~box~~control panel shall meet or exceed NEMA 4X standards.

5. The audible and visual alarm panel shall be located outside of the structure on the same post with the ~~electrical connection box~~control panel. The alarm panel shall be located in an outdoor weatherproof box, meeting or exceeding NEMA 4X standards. The box shall be located a minimum of three feet (3') above the final surface grade.

6. The electrical service disconnect shall be located outside of the structure on the same post with the ~~electrical connection box~~control panel. The electrical service disconnect shall be located in an outdoor weatherproof box, meeting or exceeding NEMA 4X standards. The box shall be located a minimum of three feet (3') above the final surface grade.

7. If underground feeder ("UF-B") grade wire is not used to deliver electrical power to the OSS components, then the wire must be installed in PVC conduit. Metal conduit is prohibited. The conduit must:

a. Extend from the OSS component to the structure where the power source is located;

b. be large enough in diameter to pull wire through, when replacement is required.

8. The gauge of wire used to supply power from the structure to the OSS components shall meet the standards supplied by the Department.

C. Every replacement of an existing pump ~~or floats~~ shall include meeting all of the requirements listed above under Sections B-(1) – B-(3) (Requirements for Dosing Tanks, Pumps, Alarms, Control Panels and Electrical Wiring). If Sections B(-)4 – B(-)8 are not required, then the existing junction box located inside the tank shall be watertight, secured and accessible from the surface without entering the tank. If the existing junction box cannot be made watertight, then it shall be replaced with a new junction box, which is watertight. All wiring connections made inside any junction box, which is located inside the tank shall be made using waterproof wire connectors.

D. Every replacement of the existing electrical power supply wiring shall include meeting all of the requirements listed above under Sections B(-)4 – B(-)8 (Requirements for Dosing Tanks, Pumps, Alarms, Control Panels and Electrical Wiring).

E. If a pump replacement must occur and an electrical service disconnect was not installed outside of the structure during the original installation, then an electrical service disconnect shall be installed outside of the structure within line of sight of the tank, as part of the pump or float replacement. If the addition of an electrical service disconnect requires the replacement of the existing power supply wiring, then the requirements listed above under Sections B(-)4 – B(-)8 (Requirements for Dosing Tanks, Pumps, Alarms, Control Panels and Electrical Wiring) shall also be required.

F. For every existing pump assisted soil absorption field system which is being repaired or replaced with a second soil absorption field due to failure of the original soil absorption field a pressure filter shall be included on the pump discharge regardless of whether or not the dosing tank or pump is replaced.

G. All other OSS control panels which are installed as part of a new or replacement OSS installation shall also meet all of the requirements listed under Sections B(.4) – B(.8) (Requirements for Dosing Tanks, Pumps, Alarms, Control Panels and Electrical Wiring), including installation of the control panel outside of the structure for maintenance and inspection purposes.

H. All other existing OSS control panels which were previously installed inside the structure may remain. However, the property owner is required to grant access to the interior of the structure for maintenance and inspection purposes. If these components must be replaced, then the new control panel shall also meet all of the requirements listed under Sections B(.4) – B(.8) (Requirements for Dosing Tanks, Pumps, Alarms, Control Panels and Electrical Wiring), including installation of the control panel outside of the structure for maintenance and inspection purposes.

#### **10-4.5-3-4-76 Distribution Boxes**

All distribution boxes shall be extended full size (length and width) to ground level or final grade. The ground surface shall slope away from the distribution box in all directions.

#### **10-4.5-3-5-87 Access Openings**

All septic tanks and dosing tanks shall have access openings and risers in accordance with 410 IAC 6-8.3. External effluent filters, secondary treatment units, and any other underground components requiring periodic service shall have access openings and risers to the surface with safely secured lids. The ground surface shall slope away from the risers in all directions.

#### **10-4.5-3-6-98 Abandoned On-site Systems**

When use of an on-site system or part of a system is discontinued, including any sanitary vault privy, the system must be abandoned in accordance with 410 IAC 6-8.3-90 or 410 IAC 6-10/1-98 after obtaining a permit from the Department as required in Chapter 4 of this Ordinance. An OSS must be properly abandoned, including obtaining the required permit as specified in Chapter 4 of this Ordinance and completing the required verification inspection, within ninety (90) calendar days of the demolition of a structure, or connection of a structure to a public sewer system.

#### **10-4.5-3-7-109 Inspection Pipe**

Each OSS shall have at least one suitable inspection pipe, which shall be accessible to the Health Commissioner at all reasonable times for the inspection or sampling of effluent. If an inspection pipe does not exist, is not in good repair or is not accessible, this shall constitute a defect in the system requiring correction under 10-4.5-2-5.

1. The inspection pipe shall be installed at the far end of one of the absorption lines for each separate distribution network within the system, or just beyond the last equipment or device in any other treatment system.

2. The inspection pipe shall be not less than an eight (8) inch riser of Schedule 40, SDR 21, SDR 26, or SDR 35 PVC pipe extending above the surface of the ground, with a safely secured, snug fitting yet easily removable cap or ~~lid cover~~ and with its lower end connected and arranged to permit the collection, by dipping, of an effluent sample. The lid shall be constructed of material which is designed for the grade of pipe used for the inspection pipe. The lid shall be extended fully above final surface grade, such that the lid can be removed without excavating the surrounding soil around the inspection pipe.
3. The ground surface shall slope away from the inspection ~~port pipe~~ in all directions.
4. An additional inspection pipe is required in the perimeter drain outlet tile if the outlet end of the tile does not come to the ground surface on the owner's property.
5. For Permitted Discharge Systems and perimeter drains, the inlet and outlet pipes shall extend into the inspection pipe at least 1 inch but not more than 2 inches. The invert of the inlet pipe shall be at least 2 inches higher than the invert of the outlet pipe. If equipped with an ultraviolet light disinfection unit for a permitted discharge system, then the inspection pipe shall be a minimum of twelve inches (12") in diameter.

#### **10-4.5-3-8-110 Drainage**

A subsurface drain trench installed on the sides, upslope, or downslope, from an OSS and segment drain trenches shall be:

1. Backfilled to final grade with aggregate which meets the minimum requirements of ~~section 67 of this 410 IAC 6-8.3-68 rule~~, washed aggregate with a gradation in the range of INDOT Specifications 8 through 11, INDOT Specification 23 sand or equivalent; or
2. Filled to within six (6) inches of final grade aggregate which meets the minimum requirements of ~~410 IAC 6-8.3-68 section 67 of this rule~~, with washed aggregate with a gradation in the range of INDOT Specifications 8 through 11, INDOT Specification 23 sand or equivalent, covered with a geotextile barrier which meets the requirements of 410 IAC 6-8.3-69 or 410 IAC 6-10.1-77, and the final six (6) inches to final grade with cover soil material.
3. When flexible field tile is connected to rigid pipe, the proper adapter fittings, as specified by the manufacturer, shall be used to ensure a secure connection.

#### **10-4.5-4 Chapter 4: CONSTRUCTION PERMIT**

##### **10-4.5-4-1 Construction Permit Required**

A. An owner or permittee shall first obtain a construction permit (new, replacement) from the Health Commissioner prior to the commencement of any excavation, construction, modification or addition to any existing or new OSS, or any of its components (such as a perimeter drain), that involves the initial installation, replacement or modification of a soil absorption field, or a permitted discharge system.

B. An owner or permittee shall first obtain a construction permit (alteration, repair, sanitary vault privy) from the Health Commissioner prior to the commencement of any alteration, repair, modification or addition to any existing OSS, or any of its components (such as a perimeter drain or pump), that does not involve the replacement or modification of the soil absorption field, or a permitted discharge system. This includes any sanitary vault privy not included as part of a construction permit under A.

C. An owner or permittee shall first obtain an abandonment permit from the Health Commissioner prior to the abandonment of any existing OSS or part of a system, which is not in conjunction with a construction permit under A or B of this section.

D. Prior to obtaining a construction permit under A or B of this section, an owner or permittee shall record a notice, at the Allen County Recorder's office, on a form approved by the Department, that the property will be served by an Onsite Sewage System and/or Sanitary Vault Privy and is subject to all of the applicable requirements and conditions of this Ordinance. A copy of this recorded notice shall be supplied to the Department.

E. Prior to obtaining a construction permit under A of this section for a permitted discharge system, an owner or permittee shall demonstrate that the proposed outlet tile is reasonably functional. The existing tile shall be uncovered and exposed for inspection. The owner or permittee shall place water into the exposed tile equivalent to or greater than one day's design daily flow, as described in 410 IAC 6-8.3 to verify whether or not the tile will continue to drain properly under stress. The Health Commissioner shall be present during the inspection to document the outcome.

#### **10-4.5-4-2 Construction Permit to be Posted**

No person shall perform any work on an OSS ~~system~~, or any of its components (such as a perimeter drain), unless a valid construction permit is first obtained and is properly posted in a conspicuous place at or near the building where the OSS is to be constructed. The permit shall be plainly visible from the public thoroughfare serving the building until the project is completed.

#### **10-4.5-4-3 Application for Construction Permit**

The application for such permit shall be submitted to the Health Commissioner on a form provided by the Health Commissioner and shall be supplemented by any plans, specifications and other information deemed necessary by the Health Commissioner or as required by 410 IAC 6-8.3-53. Any application on which the applicant has not supplied all information required by the Health Commissioner for the issuance of a construction permit within two (2) years of the date of the application, shall be void, and a new application and associated fees shall be required.

#### **10-4.5-4-4 Term and Renewal**

A construction permit shall be valid for one (1) year from the date of issuance, If construction has started on the OSS or any of its components (such as a perimeter drain) prior to the expiration of the construction permit, the construction permit shall be valid for two (2) years from the date of issuance. ~~and~~ The construction permit may be renewed for up to an additional six (6) months upon application. If



the construction permit is renewed, the permittee shall comply with any changes in the rules, standards or requirements which may have come into effect subsequent to the original date of issuance. ~~¶ construction has started on the OSS or any of its components (such as a perimeter drain), the construction permit shall be valid for two (2) years from the date of issuance.~~ The construction permit is not transferable.

#### **10-4.5-5 Chapter 5: INSTALLERS, SERVICE PROVIDERS, AND EVALUATORS, AND DESIGNERS**

##### **10-4.5-5-1 Responsibilities and Supervision**

A. A Certified Installer shall be responsible for all work performed under a construction permit issued in accordance with the provisions of this ordinance.

1. A Certified Installer may hire Installers or other laborers who are not certified to assist with the work performed under a construction permit at each site, provided they are under the direct on-site supervision of a Certified Installer whenever work is being performed on the site.
2. A property owner wanting to install, repair, replace, or otherwise work on the OSS serving the property owner's place of residence shall be required to meet all of the requirements of a Certified Installer as it applies to their system.

B. A Certified Service Provider, retained to perform work on an OSS, shall be responsible for all testing, documentation submission, maintenance, and corrective actions performed on an OSS in conjunction with said work, including submission of all sample results to the Department within ten (10) business days of the receipt of results, as well as submission of the Service Provider report to the Department within 10 business days of a site visit, except that a property owner may perform allowable maintenance steps on his/her/its OSS so long as the OSS is not a Permitted Discharge System or other system requiring a service contract.

1. A Certified Service Provider may hire laborers who are not certified to assist with the maintenance performed on an OSS, provided they are under the direct on-site supervision of a Certified Service Provider whenever testing, maintenance, and/or corrective actions ~~is~~ are performed on an OSS.
2. A property owner wanting to provide service on a Permitted Discharge System, or other system requiring a service contract, serving the property owner's place of residence shall be required to meet all of the requirements of a Certified Service Provider as it applies to their system, as well as any requirements specified by the manufacturer of each component of their system.

C. A Certified Evaluator may hire laborers who are not certified to assist with the evaluation performed on an OSS, provided they are under the direct on-site supervision of a Certified Evaluator whenever evaluations are performed on an OSS.

The Department will maintain a list/registry of Certified Evaluators for anyone wanting to use their services for the evaluation of an existing OSS especially for the purpose of a property transfer/sale or otherwise.

#### 10-4.5-5-2 Certification

A. An applicant wanting to become a Certified Installer, Certified Service Provider, and/or Certified Evaluator shall demonstrate knowledge of the applicable laws, rules, technical specifications, and ordinances before becoming certified by passing a written proficiency examination conducted by the Department or an entity approved by the Department. Once certified in any capacity mentioned above, said persons shall comply at all times with the applicable requirements of this ordinance as well as any applicable state rules. If they do not comply with these rules, they will be subject to the applicable penalties as provided for in 10-4.5-11 or other applicable law/ordinance as well as subject to the potential revocation of their certification which would prohibit their ability to act in this capacity in Allen County.

1. The examination shall be in multiple parts. The Department or an entity approved by the Department will develop examinations to test applicant knowledge of laws, rules, regulations, and ordinances of the State of Indiana and Allen County in the following areas:

- a. Part A will be the core test and will include gravity OSSs and flood dose OSSs;
- b. Part B will cover trench pressure distribution OSSs and sand mound OSSs;
- c. Part C will cover permitted discharge systems;
- d. Part D will cover evaluation and service of systems; and
- e. The Department will develop additional examinations for alternative technology OSSs for which an interim standard is published by the Indiana State Department of Health.

2. The examinations shall be reviewed and amended from time to time to determine their applicability to current laws, rules, technical specifications and ordinances.

- a. A score of eighty (80) percent or higher on each part will be considered passing. If the applicant fails to pass any part of the examination, the applicant may re-apply for Installer Certification no earlier than one (1) month following the examination date.
- b. When taking a written examination is not feasible due to language, reading difficulties, or disability, oral examination or other reasonable accommodation will be allowed.

B. Successful completion of the core examination for 10-4.5-5-2-(A)-(1)(a) (Part A) is required prior to taking any other parts of the examination.

1. Upon successful completion of the examination ~~for 10-4.5-5-2-(A)-(1)(a)~~ (Part A), the applicant shall be issued a certification to install gravity OSSs and flood dose OSSs.
2. Upon successful completion of the examination for 10-4.5-5-2-(A)-(1)(b) (Part B), the applicant shall be issued a certification to install trench pressure OSS and sand mound OSS.
3. Upon successful completion of an examination for 10-4.5-5-2-(A)-(1)(c) (Part C) for a permitted discharge system, the applicant shall be issued a certification to install permitted discharge systems.

4. Upon successful completion of an examination for 10-4.5-5-2-(A)-(1)(-d) (Part D) for evaluation and service of systems, the applicant shall be issued a certification to evaluate and service any systems for which they have also been certified to install.

5. Upon successful completion of an examination for 10-4.5-5-2-(A)-(1)(-e) for an alternative technology OSS for which an interim standard has been published by the Indiana State Department of Health, the applicant shall be issued a certification to install an OSS for that alternative technology.

- a) An Installer, Evaluator, or Service Provider shall submit a copy of all alternative technology OSS certifications, including any Technologies New to Indiana, to the Department for which the Installer, Evaluator, or Service Provider has received training and earned a certification from the manufacturer prior to installing, evaluating, or servicing an OSS uses an alternative technology.

C. Such certification shall be valid for a term of three-years beginning on the date of issuance and shall be renewed tri-annually. The certification shall bear the name and address of the Certified Installer, Certified Evaluator, or Certified Service Provider and the expiration date and shall not be transferable. The Installer, Evaluator, or Service Provider shall re-apply for certification and pass the proficiency test, or provide proof of recertification by an entity approved by the Department.

D. All The Certified Installers, Evaluators and Service Providers shall possess a copy of the certification and allow inspection of the document upon request at all times when on-site installing, evaluating or providing service to OSSs.

### **10-4.5-5-3 Designers**

A. A Designer shall submit a copy of all alternative technology OSS certifications, including any Technologies New to Indiana, to the Department for which the Designer has received training and earned a certification prior to submitting an OSS design which proposes use of an alternative technology OSS.

B. All proposed OSS's shall be designed by a Designer and submitted to the Department for review prior to issuance of a construction permit.

## **10-4.5-6 Chapter 6: INSPECTION REQUIREMENT**

### **10-4.5-6-1 Commencement of Construction**

Upon issuance of a construction permit under 10-4.5-4-1, the permittee may commence excavation, construction, alteration, repair, modification or addition of any portion of the OSS except the soil absorption field. The Department must be contacted to inspect and verify that the plastic limit of the soil is not exceeded prior to the commencement of construction of the soil absorption field. The Health Commissioner may inspect the work at any state of construction. No construction, alteration, repair, modification or addition on any portion of an OSS may commence until a construction permit has been issued.

### **10-4.5-6-2 Inspection**

Upon substantial completion of the work authorized under the construction permit, the permittee shall notify the Health Commissioner that the work is ready for inspection. No portion of the work shall be covered until the inspection is made and approval is granted. For above ground systems requiring the placement of Spec 23 sand over the existing ground surface, a preliminary inspection shall be required after plowing the existing surface and before the application of the Spec 23 sand.

1. No portion of the OSS shall be used and, when the system ~~serves~~ will serve a new building, no person shall be permitted to use the building or buildings until the inspection has been completed and the system is found to be in compliance with all applicable regulations and this Ordinance.

2. Upon inspection and approval of the work performed under the construction permit, the Department shall notify the Allen County On-site Wastewater Management District that the property is eligible for an operating permit pursuant to Allen County Code Title 17 and in accordance with all the requirements contained therein. If the building or buildings must be occupied prior to the completion of the system, an inspection shall be required to verify that the outlet of the final tank in the system has been sealed so it can be used as a holding tank until the completion of the system. The Department shall notify the Allen County On-site Wastewater Management District that the property is eligible for an operating permit pursuant to Allen County Code Title 17, and such operating permit shall be valid for the term of the operating permit associated with the system being installed.

3. For any OSS for which an Operating Permit is required under Allen County Code Title 17 (Allen County On-site Wastewater Management District), sewage shall not be discharged to the OSS until an Operating Permit has been issued, ~~except as approved, in writing, for such instances as use of a septic tank as a holding tank until the OSS installation can be completed.~~

## **10-4.5-7 Chapter 7: MALFUNCTIONING OR FAILING SYSTEMS**

### **10-4.5-7-1: Guidelines**

A. An on-site sewage system shall be deemed to be a malfunctioning system if any of the conditions of 10-4.5-1-13 exist. In addition, all parts of an OSS that are found to be damaged, misaligned, altered without authorization, or missing shall constitute a defective system.

B. The Health Commissioner or the Commissioner's designee may enter upon and inspect private property (including the building interior), at proper times ~~after, bearing proper credentials and identification, providing~~ due notice and receiving consent of the owner or occupant of the premises, with regard to the possible presence, source, and cause of disease as well as to ensure compliance with ~~the~~ all applicable provisions within this ordinance, 410 IAC 6-10.1 or 410 IAC 6-8.3.

### **10-4.5-7-2: Correction of a Failure or Malfunction**

For correction of a failure or malfunction of an OSS, the property must utilize one of the following options:

1. The property shall be served by a sanitary sewerage system, if available, and the failed system(s) shall be disconnected from the structure(s) and properly abandoned in accordance with this ordinance, or
2. If a sanitary sewerage system is not available, the property shall be brought into compliance with the OSS standards of Allen County and the State of Indiana within the timeframes specified in the correction order.

#### **10-4.5-8 Chapter 8: CONSUMER PROTECTION**

##### **10-4.5-8-1 On-site Sewage System Seller's Disclosure Form**

A. The Department has adopted a specific disclosure form to be provided by a Seller to a prospective buyer in the event the subject property is served by an OSS and is not connected to a public sewer. The disclosure form alerts the buyer that the property is not served by a public sewer and recommends that the buyer retain a qualified individual to evaluate any OSS prior to closing the sale transaction.

B. Disclosure to be given to buyer.

A Seller (or the seller's agent) must provide the Department-drafted Seller's Disclosure to a prospective buyer before an offer for the sale of real estate is accepted and shall make the property available for inspection/evaluation of the OSS prior to closing the sale transaction if buyer requests said inspection/evaluation.

~~C. C.~~ Should a buyer or seller desire an evaluation of an OSS, the Department will compile and keep a list of Certified Evaluators and will provide a current list to any person making a request for it. Any OSS evaluation performed under the authority of a Certified Evaluator shall be performed according to the procedures established by the Department to observe and document the condition of the OSS to the extent the condition can be assessed by the procedures established by the Department.

A.D. The seller shall provide a copy of the disclosure form, signed by the buyer, to the Department within 30 calendar days of the transfer of the property.

#### **10-4.5-9 Chapter 9: FEES**

##### **10-4.5-9-1 Permit Fees:**

Prior to the issuance of any construction permit, each owner/permittee shall first ~~tender to the Treasurer of Allen County, Indiana, pay a~~ the applicable permit fee or fees, which shall be deposited into the County Health Fund, for each system being constructed, modified, altered or repaired in accordance with the following schedule:

1. Construction Permit (New, Replacement) - ~~\$200~~250.00
2. Construction Permit (Alteration, Repair, Sanitary Vault Privy, Major Revision) - ~~\$100~~125.00
3. Abandonment Permit - \$65.00
4. Minor Rrevision of existing construction permit prior to construction - \$30.00 (Revisions that include relocating the soil absorption field to a new location are major revisions.)

#### **10-4.5-9-2 Certification Fees:**

A fee of twenty-five dollars (\$25.00) for Installer, Evaluator, and/or Service Provider certification shall be submitted prior to taking each part of the examination.

#### **10-4.5-9-3 Public Sewer Exemption Certification Inspection Fees:**

A fee of one hundred fifty dollars (~~\$150~~~~100~~) shall be submitted by any permittee/property owner requesting the Department to conduct all of the associated services regarding a public sewer exemption certification and determination of eligibility as provided for in IC 8-1-2-125, IC 13-26-5-2.5, IC 36-9-23-30.1, and this ordinance. This fee covers all inspections and provision of documentation that may be necessary for the property regardless of whether or not the property is deemed eligible for exemption or not. This ~~\$150~~~~100~~ fee is also due prior to any inspections associated with a request for each extension of a previously granted exemption, as provided for in IC 8-1-2-125, ~~and~~ IC 13-26-5-2.5, IC 36-9-23-30.1, and this ordinance.

#### **10-4.5-9-4 Plastic Limit (Wetness Test) Verification Fees:**

A construction permit issued under this ordinance includes up to two visits to the site, by the Department, to perform the plastic limit test, used to confirm the plastic limit of the soil has not been exceeded, (as described in 410 IAC 6-8.3-74e(3), or 410 IAC 6-10.1-82e(3)) prior to the installation of the soil absorption portion of the system. If additional visits to the site to perform the plastic limit test are required, the third visit shall require a fee of twenty-five dollars (\$25.00), and the fourth and any subsequent visits shall require a fee of fifty dollars (\$50.00) per visit. Fees must be paid prior to the Department going to the site to perform the test, unless a different deadline has been approved by the Department.

### **10-4.5-10 Chapter 10: ENFORCEMENT**

#### **10-4.5-10-1 Enforcement**

It shall be the duty of the Health Commissioner to enforce the provisions of this Ordinance. A violation of an order issued by the Health Commissioner or Board shall be considered to be a violation of this Ordinance.

#### **10-4.5-10-~~1~~2 Right of entry upon premises.**

A. Pursuant to I.C. 16-20-1-23 and 410 IAC 6-8.3-51(d), the Health Commissioner, or an authorized representative, bearing proper credentials and identification, providing due notice and receiving consent of the owner or occupant of the premises, may enter upon and inspect private property (including the house/building interior) for the purposes of inspecting, observing, measuring, sampling, and/or testing the property or components of the OSS or interior plumbing components as well as ~~nd~~ examining records necessary to ensure compliance with this ordinance and the corresponding State rules.

B. In the event a person who has common ownership over a building, structure or land does not permit an inspection for the purposes described in A. above, the inspection may be rescheduled and the

owner shall be notified of the date and time of the inspection. Failure of the person to thereafter permit an inspection will be sufficient grounds and probable cause for a court of ~~competent~~ appropriate jurisdiction to issue an administrative inspection warrant for the purpose of inspecting, observing, measuring, sampling, and/or testing the property or components of the OSS as well as to examine or examining records necessary to ensure compliance with this ordinance and the corresponding State rule.

C. In the event a building, structure or land appears to be vacant or abandoned and the property owner cannot be readily contacted in order to obtain consent for an inspection, the Health Commissioner or an authorized representative may enter into or upon any open or unsecured portion of the premises, for such purposes as inspecting, observing, measuring, sampling, and/or testing the property or components of the OSS as well as to examine and examining records necessary to ensure compliance with this ordinance and the corresponding State rule.

#### **10-4.5-10-2-3 Economic Hardship—Sewer Connection Exemption**

~~In the event an owner/permittee is unable to comply with the provisions of 10-4.5-2-2 due to the economic hardship that might be imposed, then the Health Commissioner may, upon application and proof of inability to pay the cost of compliance, extend the period within which said owner/permittee shall be required to make the hook-up provided the owner/permittee has an existing OSS which is operating properly.~~

A. -Subject to subsection B below, a property owner is exempt from the requirement to connect to a private utility's sewer system and to discontinue use of a septic tank soil absorption system if the following conditions are met:

- (1) The property owner's septic tank soil absorption system was new at the time of installation and was approved in writing by the Department.
- (2) The property owner, at the property owner's own expense, obtains a written determination from the Department or the Department's designee that the septic tank soil absorption system is not failing. The Department or the Department's designee shall provide the owner with a written determination not later than sixty (60) calendar days after receipt of the owner's request. If the Department or the Department's designee determines that a septic tank soil absorption system is failing, the property owner may appeal the determination to the board. The decision of the board is final and binding.

B. A property owner who qualifies for the exemption provided under this section may not be required to connect to the private utility's sewer system for a period of ten (10) years beginning on the date the new septic tank soil absorption system was installed. A property owner may apply for two (2) five (5) year extensions of the exemption provided under this section by following the procedures set forth in subsection A. If ownership of an exempt property is transferred during a valid exemption period, including during an extension of an initial exemption:

- (1) the exemption applies to the subsequent owner of the property for the remainder of the exemption period during which the transfer occurred; and

(2) the subsequent owner may apply for any remaining extensions. However, the total period during which a property may be exempt from the requirement to connect to a private utility's sewer system under this section may not exceed twenty (20) years, regardless of ownership of the property.

C. To qualify for an exemption under this section, a property owner must:

(1) within thirty (30) calendar days after the date of the written order to connect given to the property owner, apply for the exemption and pay the fee; and

(2) within thirty (30) calendar days after the property owner receives notice from the Department of the satisfactory results of the exemption inspection, notify the Department of their intention to proceed with the exemption .

D. This section does not affect the authority of the Department or the state department of health.

#### **10-4.5-10-~~3~~4 Denial and Approval of Permit**

A. In the event the Health Commissioner determines that the application for the Construction Permit does not meet the standards set forth in this article, then the Health Commissioner shall notify the Permittee of such denial in writing, within thirty (30) calendar days of the original application, stating the specific reasons for the denial of the permit.

B. In the event the Health Commissioner issues written directives regarding corrective actions, then the Permittee shall have a reasonable amount of time to address and comply with the items set forth in the directives in order to be able to obtain the Construction Permit.

#### **10-4.5-10-~~4~~5 Immediate Suspension of Permit/Certification**

The Health Commissioner may order the immediate suspension of a Construction Permit, ~~or~~ Installer Certification, Evaluator Certification or Service Provider Certification. ~~The Health Commissioner may order the suspension of a permit or Certification f~~or any of the following reasons:

1. Failure to meet any of the standards of any of the provisions of this Ordinance or violations of any of the provisions of this Ordinance.
2. Interference with the Health Commissioner in the performance of his/her duties. Interference shall be defined as the process of obstructing, hampering~~or~~, blocking or verbally/physically threatening the Health Commissioner in the performance of his/her duties.

~~3.~~ The Health Commissioner shall: (1) Provide the Immediate Permit/Certification suspension order in writing to the Permit/Certification holder (or their designee) specifying the reason for the suspension; and (2) Indicate the necessary corrective actions steps in the order for Permit/Certification reinstatement.



At the request of the Permittee or Installer/Evaluator/Service Provider, an administrative hearing shall be afforded him/her/it within twenty-four (24) business hours of the issuance of ~~the a~~ written immediate suspension order for any of the permits/certifications named above. Said hearing shall be conducted as set forth in 10-4.5-10-~~7~~8.

#### **10-4.5-10-~~5~~6 Revocation of Permit/Certification**

Any Permit and/or Certification issued hereunder may be revoked by the Health Commissioner as ~~the a~~ result of the willful or continued violation of any provision of this Ordinance. No such revocation shall be ordered by the Health Commissioner except after a hearing held pursuant to 10-4.5-10-~~7~~8 upon at least ten (10) business days written notice to the Owner/Permittee/Installer/Evaluator/Service Provider of the time, place and nature of said hearing. Said notice of hearing shall be served upon the Owner/Permittee/Installer/Evaluator/Service Provider by delivering, leaving or mailing (certified mail), the notice to at the address listed by the Owner/Permittee/Installer/Evaluator/Service Provider as his/her/its address on the Permit, application or Installer/Evaluator/Service Provider Certification application.

#### **10-4.5-10-~~6~~7 Immediate ~~Revocation~~Cessation of Activities Due to Health Hazard; Order**

Notwithstanding any of the other provisions of this Ordinance, whenever the Health Commissioner finds unsanitary or other conditions, which, in his/her opinion constitute an imminent health hazard, he/she may, without notice or hearing, issue and serve a written order on the Owner/Permittee/Installer/Evaluator/Service Provider requiring the immediate cessation of operation/installation/repair/maintenance activities. Said written order shall site the existence of the imminent health hazard and shall specify the corrective action(s) to be taken. Such order shall be effective immediately. Upon petition to the Health Commissioner, the Permittee/Installer/Owner/Evaluator/Service Provider shall be afforded a hearing within twenty- four (24) business hours of the issuance of the written order. Said hearing shall be conducted as set forth in 10-4.5-10-~~8~~8.

#### **10-4.5-10-~~7~~8 Administrative Hearing**

At any administrative hearing required under this Ordinance, every Owner/Permittee/Installer/Evaluator/Service Provider who is a party to such proceeding shall have the right to submit evidence, to cross examine witnesses and to be represented by counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitious material shall be excluded. Upon the conclusion of the hearing, the Health Commissioner or authorized representative (who will serve as the Administrative Hearing Officer) shall issue a final order determining the issue(s) including any applicable penalties which shall be conclusive on all parties subject to the right of appeal.

#### **10-4.5-10-~~8~~9 Appeal**

A. Any Owner/Permittee/Installer/Evaluator/Service Provider aggrieved by any final order of the Health Commissioner or authorized representative, including a penalty/fine assessed pursuant to 10-4.5-11-2, shall be entitled to a review of the final order before the ~~Board of Commissioners of the County of Allen~~Executive Board of Health (hereinafter referred to as "Board"~~\_of Commissioners~~) by filing a written

request therefore with the ~~Board of Commissioners' Secretary~~Health Commissioner within fifteen (15) business days of the Health Commissioner's/authorized representative's final order.

B. Upon the ~~Health Commissioner's Secretary's~~ receipt of such request, the Board ~~of Commissioners~~ shall hear the matter de novo in open hearing upon at least ten (10) business days written notice of the time, place and nature thereof. The notice of hearing shall be issued by the ~~Board of Commissioners' Secretary~~Health Commissioner to the Owner/Permittee/Installer/Evaluator/Service Provider filing the request.

C. The notice shall be served upon the Owner/Permittee/Installer/Evaluator/Service Provider by delivering, leaving or mailing (certified mail) the notice to/at the address listed on the application as his/her/its address or such other address as he/she/it shall designate in writing.

D. At such appeal hearing, the same rules of procedure shall apply as in the case of the administrative hearing before the Health Commissioner. Upon written ~~demand~~request by the Owner/Permittee/Installer/Evaluator/Service Provider, the Board ~~of Commissioners~~ shall cause the proceedings before it to be recorded by a stenographer or reporter employed for such purpose, and the same, together with all papers and documents filed therein, shall be reproduced by said Board ~~of Commissioners~~ in the form of a transcript, a copy of which shall be available to any party.

E. The expense of recovering such proceedings if requested in D. above, including costs associated with recording and transcribing, shall be charged to the Owner/Permittee/Installer/Evaluator/Service Provider who ~~applied for~~requested the review appeal/review hearing, except that copies of the transcript shall be at the expense of the party obtaining same. The Board ~~of Commissioners~~ may require ~~the a~~ monetary deposit prior to the hearing of an amount determined to be reasonable to secure such expense.

F. The Board ~~of Commissioners~~ shall make written findings of facts and shall enter its final order or determination of the matter in writing in the permanent records of the Board at the conclusion of the appeal hearing~~of Commissioners of the County of Allen.~~

#### **10-4.5-11 Chapter 11:-PENALTIES/VIOLATIONS**

##### **10-4.5-11-1 Penalties/Fines (Administrative Hearing)**

Any person found to be in violation of this ordinance may be fined ~~for the first offense not more than~~up to five hundred dollars (\$500.00) for the first offense; and up to one thousand dollars (\$1,000) for the second and each subsequent offense ~~(per offense) not more than \$1,000.00 per offense.~~ These penalties above may only be assessed as part of an administrative hearing determination and order.

##### **10-4.5-11-2 Penalties/Fines (Immediately Issuable Upon Observation of Violation)**

Any person found to be in violation of the following specific provisions of this ordinance may be immediately, and without a hearing, fined the following amounts per observed/documented occurrence of a violation:

- (1) A fine of twenty-five dollars (\$25.00) for failure of a Certified Service Provider to submit the required testing/documentation for a permitted discharge system for which they are under

contract with a property owner to provide in accordance with 327 IAC 15-14, or a NPDES General Administrative Permit which replaces it, within (10) ten business days of the receipt of the results. Each parameter required to be tested shall be considered a separate violation.

- (2) A fine of twenty-five dollars (\$25.00) for failure of a Certified Service Provider to conduct testing for a permitted discharge system for which they are under contract with a property owner to provide in accordance with 327 IAC 15-14, or a NPDES General Administrative Permit which replaces it, within the quarter it is due. Each parameter required to be tested shall be considered a separate violation.
- (3) A fine of twenty-five dollars (\$25.00) for failure of a Certified Service Provider to submit a copy of the Service Provider report within 10 business days of a service visit to any site which they are contracted to provide service.
- (4) A fine of twenty-five dollars (\$25.00) for failure of an Owner to enter into a contract with a Certified Service Provider within 30 calendar days of the expiration of a contract for service, for on-site sewage systems requiring service contracts.
- (5) A fine of one hundred dollars (\$100.00) for failure of an Owner to submit a Corrective Action Plan for a permitted discharge system which failed to meet the limits of one or more parameters for two consecutive quarters.
- (6) A fine of twenty-five dollars (\$25.00) for failure of a Seller to provide the Department with a copy of the seller disclosure form, signed by the buyer, within 30 calendar days of the transfer of the property to the buyer.
- (7) A fine of one hundred dollars (\$100.00) for failure of an Installer to install a system according to the approved plans.
- (8) A fine of one hundred dollars (\$100.00) for performing the functions of an Installer, Evaluator, or Service Provider, without being certified in Allen County. Each day shall be considered a separate offense.

All monetary penalties issued under 10-4.5-11-1 and 10-4.5-11-2 must be paid in full within ten (10) business days. Further, no future permits/certifications will be granted to any Person/Installer/Evaluator/Service Provider with unpaid fines.

### **10-4.5-11-3 Violations**

Whenever the Health Commissioner determines that any Owner, Occupant and/or designated agent is in willful and/or continuous violation of any of the provisions of this Ordinance, the Health Commissioner shall furnish evidence of said willful and/or continuous violation(s) to the attorney for the Board or Department who shall seek all appropriate legal remedies against the person(s) violating said provisions of this Ordinance.

### **10-4.5-11-2.4 Injunction**

The Health Commissioner may bring an action for an injunction in the Circuit or Superior Court of Allen County, Indiana to restrain any person from violating the provisions of this Ordinance, or to cause such violation to be prevented, abated or removed.

### **10-4.5-11-3.5 Expense**

Any person violating any of the provisions of the Ordinance shall be liable to the Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and court costs.

**10-4.5-11-46 Cumulative**

The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

**10-4.5-11-57 Repeal**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**10-4.5-11-68 Severability**

Invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

**10-4.5-11-79 Effective**

This Ordinance shall become effective as of ~~January 1, 2016~~ \_\_\_\_\_.

Passed this \_\_\_\_ day of \_\_\_\_\_, 2015.

