

STATE OF INDIANA) BEFORE THE WABASH COUNTY
)
COUNTY OF WABASH) BOARD OF COMMISSIONERS

ORDINANCE NO. 95-4

AN ORDINANCE REGULATING PRIVATE SEWAGE SYSTEMS LOCATED IN
WABASH COUNTY, INDIANA

WHEREAS, AN ORDINANCE PERTAINING TO AND REGULATING THE DESIGN,
CONSTRUCTION, MAINTENANCE AND OPERATION OF PRIVATE SEWAGE DISPOSAL
SYSTEMS LOCATED IN WABASH COUNTY, INDIANA, PROVIDING FOR THE ISSUANCE
OF PERMITS THEREFORE AND PROVIDING PENALTIES FOR THE
VIOLATION THEREOF IS NEEDED IN WABASH COUNTY, INDIANA.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF WABASH COUNTY AS
FOLLOWS:

- 1.) TITLE. THIS ORDINANCE AND ALL ORDINANCES SUPPLEMENTAL OR
AMENDATORY HERETO SHALL BE KNOWN AS THE PRIVATE SEWAGE DISPOSAL
ORDINANCE OF WABASH COUNTY, AND MAY BE CITED AS SUCH AND WILL BE
REFERRED TO HEREIN AS " THIS ORDINANCE".

- 2.) PURPOSE. THE PURPOSE OF THIS ORDINANCE IS TO PROVIDE MINIMUM
STANDARDS FOR THE PREVENTION AND SUPPRESSION OF DISEASE AND HEALTH
RISK ASSOCIATED WITH THE USE OF PRIVATE SEWAGE DISPOSAL SYSTEMS AND TO
OTHERWISE PROMOTE PUBLIC SAFETY AND WELFARE AND PROTECTION OF THE
ENVIRONMENT.

- 3.) AUTHORITY. THE HEALTH OFFICER OF WABASH COUNTY, AS HEREINAFTER
DEFINED, AND THE HEALTH OFFICER'S AGENTS ARE HEREBY AUTHORIZED TO
ISSUE PERMITS, PERFORM INSPECTIONS, ORDER OR OTHERWISE COMPEL
CORRECTION OF VIOLATIONS OF THIS ORDINANCE, AND ARE OTHERWISE
AUTHORIZED TO PERFORM ALL ACTIONS NECESSARY FOR THE ADMINISTRATION AND
ENFORCEMENT OF THIS ORDINANCE.

- 4.) ADOPTION OF STATE REGULATIONS BY REFERENCE.
 - A. THE REGULATIONS FOUND IN RULE 410 IAC 6-8.1 ARE HEREBY
INCORPORATED BY REFERENCE INTO THIS ORDINANCE AND SHALL INCLUDE ANY
LATER AMENDMENTS TO THOSE REGULATIONS THE SAME ARE PUBLISHED IN THE
INDIANA REGISTER OF THE INDIANA ADMINISTRATIVE CODE WITH EFFECTIVE
DATES AS FIXED THEREIN.

 - B. COPIES OF 410 IAC 6-8.1 ARE AVAILABLE AND ON FILE IN THE
OFFICE OF THE WABASH HEALTH DEPARTMENT.

- 5.) SUPPLEMENTAL DEFINITIONS.

IN ADDITION TO OR OTHERWISE TO SUPPLEMENT THOSE DEFINITIONS
IN 410 IAC 6-8.1 (WHICH IS INCORPORATED HEREIN BY REFERENCE) THIS
ORDINANCE SHALL INCLUDE THE FOLLOWING DEFINITIONS:

HEALTH OFFICER: SHALL MEAN THE HEALTH OFFICER OF WABASH COUNTY, APPOINTED BY THE WABASH COUNTY BOARD OF HEALTH.

BOARD: SHALL MEAN THE WABASH COUNTY BOARD OF HEALTH.

RESIDENCE: MEANS A DWELLING, AS DEFINED IN 410 IAC 6-8.1-7.

COMMERCIAL: THIS APPLIES TO ALL STRUCTURES THAT ARE NOT RESIDENCES AND INCLUDES STRUCTURES USED FOR NOT-FOR-PROFIT PURPOSES.

6.) SYSTEM REQUIREMENTS. WHERE A SANITARY SEWAGE SYSTEM IS NOT AVAILABLE, ALL PERSONS OWNING, LEASING, OR OTHERWISE OCCUPYING PROPERTY SHALL COMPLY WITH 410 IAC 6-8.1 AND 410 IAC 6-10 AND THE FOLLOWING PROVISIONS OF THIS ORDINANCE FOR A PRIVATE SEWAGE DISPOSAL SYSTEM.

A. NO PERSON SHALL THROW, RUN, DRAIN, SEEP, OR OTHERWISE DISPOSE INTO ANY OF THE SURFACE WATERS OR GROUND WATERS OF WABASH COUNTY, OR CAUSE, PERMIT, OR SUFFER TO BE THROWN, RUN, DRAINED, ALLOWED TO SEEP OR OTHERWISE DISPOSE ONTO SUCH WATERS, ANY ORGANIC OR INORGANIC MATTER FROM A DWELLING OR PRIVATE SEWAGE DISPOSAL SYSTEM, THAT WOULD CAUSE OR CONTRIBUTE TO A HEALTH HAZARD OR WATER POLLUTION.

B. SHOULD A PRIVATE SEWAGE DISPOSAL SYSTEM FAIL, THE FAILURE SHALL BE CORRECTED BY THE OWNER OR OCCUPANT OF THE PROPERTY SERVED BY SUCH SYSTEM WITHIN THE TIME LIMIT SET BY THE HEALTH OFFICER.

C. WHENEVER A PUBLIC SANITARY SEWAGE SYSTEM BECOMES AVAILABLE AND IS WITHIN 200 FEET OF A DWELLING AND THAT DWELLING IS SERVED BY A PRIVATE SEWAGE DISPOSAL SYSTEM OR PRIVY, A DIRECT CONNECTION OF THE DWELLING SEWER SHALL BE MADE TO SAID SANITARY SEWER AND ANY SEPTIC TANKS, PRIVY PITS AND SIMILAR SEWAGE DISPOSAL AND TREATMENT FACILITIES SHALL BE ABANDONED AND FILLED IN A SAFE AND SANITARY MANNER, THE DIRECT CONNECTION SHALL BE MADE WITHIN 180 DAYS OF ISSUANCE OF ORDERS TO CONNECTION. [IF SUCH CONNECTION WOULD PRODUCE AN UNREASONABLE HARDSHIP IN THE AFFECTED PARTIES OPINION, THE PARTY MAY APPEAL TO THE BOARD OF HEALTH.]

D. IF A VACANT PROPERTY HAS AN EXISTING PRIVATE SEPTIC SYSTEM ON IT THAT HAS NOT FAILED, THE SEPTIC SYSTEM MUST BE UNCOVERED, INSPECTED, AND APPROVED PRIOR TO A DWELLING BEING INSTALLED ON THE PROPERTY.

E. MINIMUM LOT SIZE IS TO BE 43,560 SQ. FT. (ONE ACRE).

7. PERMITS.

A. APPLICATION.

(1.) BEFORE THE COMMENCEMENT OF CONSTRUCTION, ALTERATION OR REPAIR OF A PRIVATE SEWAGE DISPOSAL SYSTEM, THE OWNER OR THE OWNER'S AGENT SHALL APPLY IN WRITING TO THE WABASH COUNTY HEALTH OFFICE FOR A PERMIT TO CONSTRUCT, ALTER, OR REPAIR A PRIVATE SEWAGE DISPOSAL SYSTEM, WHICH APPLICATION SHALL CONTAIN INFORMATION DEEMED NECESSARY BY THE HEALTH OFFICER AS WELL AS THE INFORMATION REQUIRED IN IAC 6-8.1 AND IAC 6-10.

(2.) A PERMIT FOR THE INSTALLATION OF A PRIVATE SEWAGE DISPOSAL SYSTEM, WHETHER ISSUED PRIOR TO OR AFTER THE ADOPTION OF THIS ORDINANCE, SHALL LAPSE AND BE VOID IF WORK HAS NOT BEEN STARTED WITHIN A YEAR AND COMPLETED WITHIN 60 DAYS.

(3.) A PERMIT SHALL NOT BE ISSUED IF IT WOULD VIOLATE THE PROVISIONS OF IAC 6-8.1 AND 410 IAC 6-10 OR ANY OTHER STATUE OR REGULATION, OR COULD BE REASONABLY EXPECTED TO CAUSE OR CONTRIBUTE TO UNSANITARY CONDITIONS OR UNACCEPTABLE POLLUTION OF THE ENVIRONMENT.

8) INSPECTION.

THE BOARD, ITS AGENT OR THE HEALTH OFFICER OR OFFICERS AGENT SHALL BE PERMITTED, WITH CAUSE, TO ENTER UPON ALL PROPERTIES FOR THE PURPOSE OF INSPECTION, OBSERVATION, MEASUREMENT, SAMPLING AND TESTING NECESSARY TO INSURE COMPLIANCE WITH THIS ORDINANCE AND TO DETERMINE IF A PRIVATE DISPOSAL SYSTEM HAS FAILED.

9) ABANDONED TANKS.

ALL ABANDONED SEPTIC AND DRYWELL TANKS SHALL BE REMOVED FROM THE GROUND, OR SHALL BE OPENED AND FILLED WITH AN INERT MATERIAL APPROVED BY THE COUNTY HEALTH DEPARTMENT.

10) PETITION FOR REVIEW.

A. THE WABASH COUNTY BOARD OF HEALTH MAY HEAR APPEALS INCIDENTAL TO THE ISSUANCE AND REVOCATION OF PERMITS IF, WITHIN FIFTEEN (15) DAYS FOLLOWING THE DATE OF RECEIPT OF THE PERMIT SPECIFICATION, AN ISSUED PERMIT, PERMIT MODIFICATION, NOTICE OF PERMIT DENIAL OR REVOCATION, ANY PERSON AGGRIEVED BY SUCH ACTION SHALL FILE A PETITION FOR REVIEW CONCERNING SUCH ACTION WITH THE BOARD.

B. A PETITION FOR REVIEW SHOULD STATE THE FOLLOWING:

(1.) THE NAME, ADDRESS, AND TELEPHONE NUMBER (IF APPLICABLE) OF THE PERSON MAKING THE REQUEST:

(2.) IDENTIFY THE INTERESTS OF THE PETITIONER WHICH IS AFFECTED BY THE PERMIT ACTION:

(3.) IDENTIFY ANY PERSON THE PETITIONER REPRESENTS:

(4.) STATE WITH PARTICULARITY THE REASON FOR THE REQUEST:

(5.) STATE WITH PARTICULARITY THE ISSUES PROPOSED TO BE CONSIDERED:

(6.) INCLUDE PROPOSED TERMS OR CONDITIONS WHICH IN THE JUDGEMENT OF THE PETITIONER, WOULD BE APPROPRIATE TO CARRY OUT THE REQUIREMENTS OF THE LAW AND 410 IAC 6-8.1 OR IAC 6-10 GOVERNING SUCH PERMITS.

11) ENFORCEMENT.

A. ANY PERSON FOUND TO BE VIOLATING ANY PROVISION OF THIS ORDINANCE SHALL BE SERVED WITH A WRITTEN ORDER WHICH STATES THE NATURE OF THE VIOLATION AND PROVIDES A REASONABLE TIME LIMIT FOR CORRECTION OF THE SPECIFIED VIOLATIONS OF THIS ORDINANCE. THE WRITTEN ORDER SHALL BE UPON THE OWNER AND THE OCCUPANTS BY CERTIFIED MAIL; PERSONAL SERVICE BY THE HEALTH OFFICER OR AGENT; OR THE COUNTY SHERIFF.

B. ANY PERSON WHO SHALL CONTINUE ANY VIOLATION OF THIS ORDINANCE BEYOND THE TIME LIMIT PROVIDED IN THE NOTICE, OR WHO PERFORMS ANY ACT PROHIBITED IN THE ORDINANCE OR WHO SHALL FAIL TO PERFORM ANY DUTY LAWFULLY ENJOINED OR WHO SHALL FAIL, NEGLECT OR REFUSE TO OBEY ANY LAWFUL ORDER GIVEN BY THE HEALTH OFFICER SHALL BE PUNISHED FOR THE FIRST OFFENCE BY A FINE OF ONE HUNDRED DOLLARS (\$100). EACH DAY A VIOLATION OF THIS ORDINANCE CONTINUES SHALL CONSTITUTE A SEPARATE OFFENCE FOR WHICH A SEPARATE FINE MAY BE LEVIED. THE HEALTH OFFICER SHALL HAVE DISCRETION TO WAIVE OR REDUCE FINES IF APPROPRIATE.

C. APPLICATION OF THIS ORDINANCE OR ANY PART OF THIS ORDINANCE IS INTENDED TO BE CONSISTENT WITH 410 IAC 6-8.1 AND 410 IAC 6-10. ANY INCONSISTENCY IN THE APPLICATION OF THIS ORDINANCE TO THE REGULATIONS SHALL BE IN FAVOR OF ENFORCEABILITY OF THOSE REGULATIONS.

D. TO THE EXTENT THE PROVISION OF 410 IAC 6-8.1 AND 410 IAC 6-10 ARE INCONSISTENT WITH EACH OTHER THEN THAT INTERPRETATION PROVIDED BY 410 6-10 SHALL APPLY FOR PRIVATE SEWAGE DISPOSAL SYSTEMS SERVING COMMERCIAL BUILDINGS AND THAT INTERPRETATION PROVIDED BY 410 IAC 6-8.1 SHALL APPLY FOR PRIVATE SEWAGE DISPOSAL SYSTEMS SERVING RESIDENCES.

12) REMEDIES.

THE HEALTH OFFICER MAY, IN THE NAME OF THE COMMISSIONERS OF WABASH COUNTY, BRING ACTIONS IN THE COURTS OF WABASH COUNTY FOR MANDATORY AND INJUNCTIVE RELIEF FOR THE ENFORCEMENT OF AND TO SECURE COMPLIANCE WITH ANY ORDERS OR ORDERS MADE BY THE HEALTH OFFICER, OR TO OTHERWISE PROVIDE FOR THE ENFORCEMENT OF THIS ORDINANCE. ANY ACTION FOR MANDATORY OR INJUNCTIVE RELIEF MAY BE JOINED WITH AN ACTION TO RECOVER THE PENALTIES, COSTS AND EXPENSES PROVIDED IN THIS ORDINANCE. IN THE EVENT ANY LEGAL ACTION IS NECESSARY TO ENFORCE THIS ORDINANCE, THE HEALTH OFFICER MAY SEEK RECOVERY OF COSTS AND EXPENSES REASONABLY INCURRED TO ENFORCE THE PROVISIONS OF THE ORDINANCE INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY'S FEES.

13) SEVERABILITY.

SHOULD ANY SECTION, PARAGRAPH, SENTENCE, CLAUSE OR PHRASE OF THIS ORDINANCE BE DECLARED UNCONSTITUTIONAL OR INVALID FOR ANY REASON, THE REMAINDER OF SAID ORDINANCE SHALL NOT BE AFFECTED THEREBY AND SHALL REMAIN IN FULL FORCE AND EFFECT.

14) EFFECTIVE DATE.

THIS ORDINANCE SHALL APPLY TO ALL OF WABASH COUNTY AS OF THIS DATE FROM AND AFTER ITS ADOPTION BY THE COMMISSIONERS OF WABASH COUNTY AS STATED HEREIN AND THIS PUBLICATION REQUIRED BY LAW.

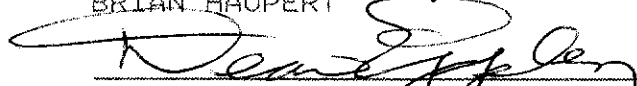
15) REPEALER.


WABASH COUNTY ORDINANCE 85-3, AS ADOPTED BY THE COMMISSIONERS ON MARCH 4, 1985, AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH ARE HEREBY REPEALED.

PASSED BY THE BOARD OF COMMISSIONERS OF WABASH COUNTY, INDIANA.
THIS 23rd DAY OF January 1995.

BOARD OF WABASH COUNTY COMMISSIONERS


BRIAN HAUPERT


DEAN EPPLEY


DARLE DAWES

ATTEST:


JEAN GILBERT
WABASH COUNTY AUDITOR