

GENERAL ORDINANCE NUMBER 85-3, 2006

AN ORDINANCE REGULATING THE LICENSING OF
SEWAGE DISPOSAL SYSTEM INSTALLERS
IN WABASH COUNTY, INDIANA

PURPOSE. The purpose of this ordinance is to assure that the requirements and standards adopted by the Indiana State Board of Health pertaining to the design, construction, installation, maintenance, and operation of sewage disposal systems, including permit and inspection requirements, are properly met in Wabash County, Indiana.

Section 1 - DEFINITIONS

1.1 "County" shall mean Wabash County, Indiana.

1.2 "Health Authority" shall mean the Wabash County Board of Health through its health officer and his authorized representatives.

1.3 "Applicant" shall mean any person, institution, public or private corporation, partnership or other entity that submits an application for a permit to install, construct, or repair a sewage treatment system.

1.4 "Approved" shall mean the official consent given in writing by the Wabash County Health Authority.

1.5 "Construction and/or Installation" shall mean any act of building and/or installing a new on-site sewage disposal system in order to make it operational and functional, or any act (other than routine maintenance) of repairing or replacing any portion of an existing on-site sewage disposal system.

1.6 "Emergency Repair" shall mean an act or work done to correct a system due to failure which has created an immediate health hazard or the threat of an immediate health hazard, and when the Health Authority has given prior verbal consent to start repair.

1.7 "Licensed Installer" shall mean an individual, firm, partnership, company, corporation, or other entity that holds a current license, issued by the Wabash County Health Authority, to install, modify or repair individual sewage treatment systems in accordance with applicable rules and regulations.

1.8 "Maintenance" shall mean actions taken to keep the system properly functioning. It shall include, but not be limited to, adjusting the flow from the distribution box, baffle repairs, new pumps, or pumping the tank.

1.9 "Malfunctioning or Failing Sewage Treatment System" shall mean any on-site sewage disposal system not properly performing and shall include but, not be limited to:

- A. Systems that have sewage or effluent overflow from any of their component parts that ponds or flows on the ground surface.

- B. Systems which cause sewage or effluent to backflow into any portion of the building or plumbing system.
- C. Sewage treatment systems with failed structural components.

1.10 "Modification" shall mean any act or work done to an existing on-site sewage disposal system which changes the size, design, or function of the system other than routine maintenance. It may also mean changing the flow into a system by changing or adding dwelling units, or by building structures over the system.

1.11 "Permit or On-site Sewage Permit" shall mean Written authorization issued, under the provisions of this ordinance, by the Health Authority allowing construction, installation, modification, or repair of an on-site sewage disposal system. The issuance of such permit does not guarantee the operation of an on-site sewage system.

Section 2 - INSTALLER'S LICENSE

2.1 It shall be unlawful for any person or entity to construct, modify, or repair an on-site sewage disposal system within Wabash County, Indiana unless that person or entity holds a valid Wabash County Sewage Installer's License. A licensed installer, or his authorized agent, shall be present during all stages of the installation. Provided, however, that a landowner who is constructing, modifying, or repairing an individual sewage treatment system for his or her own residence, upon his or her own land, shall not be required to have an installer's license. For purposes of this section, the term "landowner" does not include a builder who may own the land, but is building for resale or lease to others, with no intention of residing on the land himself.

2.2 The Installer's License shall be renewed annually at a cost established by the Wabash County Board of Health.

2.3 A "Temporary" license may be issued at the discretion of the Health Authority.

2.4 The Wabash County Health Authority shall provide an official roster of licensed installers upon request.

2.5 An Installer's License will be granted by the Wabash County Health Authority when the following requirements are met:

A. The applicant must submit a completed application in the form prescribed by the Wabash County Health Authority.

B. The applicant must pass an examination administered by Wabash County Health Authority to demonstrate the applicant's understanding of the requirements and standards adopted by the Indiana State Board of Health pertaining to the design, construction, installation, maintenance, and operation of sewage disposal systems, including permit and inspection requirements. Recertification exams will be administered every two years or in the event of a significant change in state regulations. A testing fee shall be required.

C. The applicant must be of good character, giving no reason to believe that he will not strictly comply with all state and local rules and regulations concerning construction, installa-

tion, modification, or repair of an on-site sewage disposal system.

2.6 The term of an Installer's License shall be from January 1 through December 31 of each year.

2.7 Installer's Licenses are not transferable.

2.8 An Installer's License issued to a firm, partnership, company, corporation, or other business entity covers it and its employees when working on the Licensee's project. However, actions of the employees may cause the probation, suspension, and revocation of the Installer's License resulting in the loss of installer privileges for the entire firm, partnership, company, corporation, or other business entity.

2.9 A Licensed Installer may be fined and/or placed on probation by the Health Authority for violations including, but not limited to, the following:

- A. Installing, repairing or modifying an on-site sewage disposal system without a valid permit.
- B. Installing, repairing or modifying a sewage disposal system in a manner inconsistent with the requirements and standards adopted by the Indiana State Board of Health pertaining to the design, construction, installation, maintenance, and operation of sewage disposal systems, including permit and inspection requirements.
- C. Deviating, without prior written approval, from the permit application plans approved by the Health Authority.
- D. Failing to provide for inspection as specified hereinafter at Section 2.15.
- F. Furnishing false, misleading or incomplete information concerning any sewage disposal system.

2.10 A probation period may last up to 90 days. An installer may continue to install while on probation only with written approval and direct supervision of the Health Authority.

2.11 The installer's license shall be suspended by the Health Authority for a period not to exceed six (6) months upon a second violation, within one year, of this ordinance, or any of the requirements and standards adopted by the Indiana State Board of Health pertaining to the design, construction, installation, maintenance, and operation of sewage disposal systems, including permit and inspection requirements. In the event of such suspension, on-site sewage system construction, modification, or repair by all persons covered by the Installer's License shall cease in Wabash County. At the end of the suspension period the licensee may return to work in the county. Within ten days after such installer receives notice of suspension, he may request a hearing before the Wabash County Board of Health. Any such request shall be in writing.

2.12 An Installer's License may be revoked by the Health Authority for repeated violations of this ordinance, or any of the requirements and standards adopted by the Indiana State Board of Health pertaining to the design, construction, installation, maintenance, and operation of

sewage disposal systems, regardless of whether such violations were intention or merely care-less. In the event of such revocation, the licensee shall be notified in writing as to the revoca-tion and the basis therefor. A licensee whose license has been revoked may not apply for a new license for at least twelve months. Within ten days after a licensee receives notice of revocation, he may request a hearing before the Wabash County Board of Health. Any such request shall be in writing.

2.13 No installer whose license has been suspended or revoked, may do any further installa-tion, modification or repair of sewage systems in Wabash County, Indiana during the period that his licenses is suspended or revoked.

2.14 No one shall be granted a Wabash County Installer's License who has twice before had his license revoked.

2.15 Every Licensed Installer shall notify the Health Authority as follows:

- A. Notice shall be given to the Health Authority before any work begins on a sewage disposal system.
- B. When construction, installation, modification or repair of a sewage disposal system is completed the installer shall notify the Health Authority for a final inspection.
- C. The Health Authority shall endeavor to inspect all systems within two business days after notification for inspection from the installer.

Section 3 - PERMITS

3.1 It shall be unlawful for any person or entity to construct, modify or repair an on-site sewage system within Wabash County unless such person or entity holds a valid on-site sewage permit issued by the Health Authority.

3.2 The permit shall be in the name of the person for whom the construction, repair or modification is proposed.

3.3 The permit requirement may be waived by the Health Authority when a repair or modification is deemed minor.

3.4 Prior to beginning any construction activity (including soil disturbance) in anticipation of the construction of buildings where people will live, work or assemble, the property owner or his agent shall obtain an on-site sewage permit from the Wabash County Health Authority.

3.5 All permit applications shall include plans and specifications showing that the proposed sewage system will conform to the requirements and standards adopted by the Indiana State Board of Health pertaining to the design, construction, installation, maintenance, and operation of sewage disposal systems.

3.6 A soil morphology evaluation, prepared by a certified soil scientist, for the proposed soil absorption area, shall accompany the application.

3.7 The Health Authority shall review all permit applications. Incomplete applications will be returned to the applicant, but may be resubmitted after correction.

3.8 In the event that the Health Authority denies a permit, the applicant shall be provided with written reasons for the denial. In addition, the Health Authority may recommend modifications or request additional information. Reasons for denying a permit include, but are not limited to, the following:

- A. Violation of design and/or construction standards.
- B. Incomplete application.
- C. Problems and inconsistencies found during a site visit.
- D. Violation of applicable building, subdivision or zoning regulations.
- E. Location within 200 feet of sanitary sewer.

3.9 When the Health Authority is satisfied that an application is in proper form, and the project will be completed according to all rules and regulations, a permit may be issued.

3.10 The Permit for Construction shall be posted and visible at the specific site during construction of the system.

3.11 A sewage system shall be constructed, modified or repaired only in accordance with the terms and conditions of an approved application and permit. Unauthorized deviations from the terms of the permit will subject the applicant to a fine, permit revocation or prosecution.

3.12 Emergency repairs to a sewage disposal system shall meet or exceed the minimum design standards set forth at 410 IAC 6-8.1. A landowner or his agent shall obtain prior verbal consent from the Health Authority before beginning repair, and shall submit a permit application within five (5) working days after beginning emergency repairs. No part of the emergency repairs shall be backfilled without the approval of the Health Authority.

3.13 If a permit is suspended or revoked by the Health Authority, then construction, modification, or repair of an on-site sewage disposal system shall cease immediately.

3.14 The Health Authority may suspend or revoke a permit for noncompliance with the terms of the permit or current regulations. Reasons for suspension and revocation also include, but are not limited to, the following:

- A. Unapproved modifications in design or construction.
- B. Incorrect information in the permit application.
- C. Changed site conditions.
- D. Incorrect or inadequate soil morphology/landscape data.
- E. Misrepresentation concerning compliance with these regulations.
- F. Installation of lines too deep or unlevel trenches.
- G. Any other reason necessary for protection of public health or safety.

3.15 A suspension may be rescinded when the conditions causing the suspension are corrected. If the conditions cannot be corrected, the permit may be revoked.

Section 4 - FEES

4.1 The Wabash County Board of Health may establish reasonable fees for the licenses and permits issued hereunder.

Section 5 - ENFORCEMENT

5.1 Any person who violates a provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof may be fined not more than two thousand (\$2,000) dollars.

5.2 This ordinance may be enforced, at law or in equity, by an attorney retained by the Health Authority, or by the county attorney, or by the prosecuting attorney.

5.3 A permit issued in conflict with the provisions of this Ordinance shall be null and void. A violation of an order issued by the Health Authority or Board shall be considered to be a violation of this Ordinance.

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

Section 6 - HEARINGS

6.1 Any installer aggrieved by a final order of the Health Authority shall be entitled to a review of such order before the Wabash County Board of Health by filing a written request with the Health Officer within ten (10) days after such final order is issued.

6.2 In the event of a timely request for review, the Board of Health shall hear the matter after at least (10) days' written notice to the installer of the time and place of such hearing. The parties may agree upon a hearing in fewer than ten days.

6.3 The notice of hearing shall be served upon the installer by leaving or by certified mail. The notice shall be addressed to the installer at the address listed in his license application, or such other address as the installer shall designate in writing to the Health Officer.

6.4 At such hearing, each party shall have the right to submit evidence, to cross examine witnesses and to be represented by legal counsel.

6.5 The expense of review proceedings shall be paid by the installer who applied for review.

6.6 The Board shall make written findings of facts and enter its final order accordingly.

Section 7 - APPEAL

7.1 A final decision of the Board of Health under this Ordinance is subject to review by certiorari. Any aggrieved party may file, in the Wabash Circuit or the Wabash Superior Court, a verified petition setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality.

7.2 All such petitions for certiorari shall be filed with the court not more than twenty (20) days after the date of the decision of the Board of Health.

7.3 Upon filing with the court a petition for a writ of certiorari, the petitioner shall serve notice of the petition as required by the Indiana Rules of Trial Procedure.

7.4 The court shall direct the Board of Health to show, within twenty (20) days, why a writ of certiorari should not issue. Unless cause is shown, then the court may allow a writ of certiorari directed to the Board. The writ must prescribe the time in which return shall be made to it. This time must not be less than ten (10) days from the date of issuance of the writ, and the court may extend the time.

7.5 In the return, the Board shall concisely set forth such facts and data as may be pertinent and present material to show the grounds of the decision on appeal. The secretary of the board shall certify the return. The board may not be required to return the original papers acted on by it. It is sufficient to return certified copies of all or such part of the papers as may be called for by the writ. If the writ of certiorari calls for a transcript of the hearing before the board, the petitioner shall pay the costs of preparing the transcript, if one is available.

7.6 The court may determine the sufficiency of the statements of illegality contained in the petition, without further pleadings, and may make its determination and render its judgment with reference to the legality of the decision of the board of health, on the facts set out in the return to the writ of certiorari. If the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence to supplement the evidence and facts disclosed by the return to the writ of certiorari, but the review may not be by trial de novo. In passing on the legality of the decision of the board, the court may reverse, affirm, or modify the decision of the board brought up for review.

Section 8 - SEVERABILITY


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

Section 9 - EFFECTIVE DATE


9.1 This ordinance shall be effective only after the commissioner of the Indiana State Board of Health has confirmed in writing that it does not violate any rule of the state health board or any state sewage disposal statute.

Approved this 6 day of MARCH, 2006.

THE BOARD OF COMMISSIONERS OF WABASH COUNTY, INDIANA


COMMISSIONER

COMMISSIONER


COMMISSIONER


AUDITOR