

STATE OF INDIANA)
) SS:
COUNTY OF FULTON)

BEFORE THE FULTON COUNTY
BOARD OF COMMISSIONERS

ORDINANCE NO. 100107

AN ORDINANCE REGULATING PRIVATE SEPTIC SYSTEMS LOCATED
IN FULTON COUNTY, INDIANA.

Whereas, an ordinance pertaining to and regulating the design, construction, maintenance and operation of on-site sewage disposal systems located in Fulton County, Indiana, providing for the issuance of permits thereof, installer certification and providing penalties for the violation thereof.

Be it ordained by the Board of Commissioners of Fulton County as follows:

1. TITLE. This Ordinance and all ordinances supplemental or amendatory hereto shall be known as the On-Site Sewage Systems Disposal Ordinance of Fulton 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 risks associated with the use of on-site sewage disposal systems and to otherwise promote public safety and welfare and protection of the environment.
3. AUTHORITY. The Health Officer of Fulton County, as herein after defined, and the Health Officer's agents and representatives are hereby authorized to issue permits, installer certifications, collect permit and incidental fees, 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 of the Indiana State Board of Health found in Rule 410 IAC 6-8.1 Residential Sewage Disposal Systems and 410 IAC 6-10 Commercial On-site Wastewater Disposal are hereby incorporated by reference in this Ordinance and shall include any later amendments to those regulations as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein [H.I.].
 - B. Copies of 410 IAC 6-8.1 Et. Seq. and 410 IAC 6-10 Et. Seq. are available and on file in the office of the Fulton County Board of Health and the Fulton County Auditor.

5. SUPPLEMENTAL DEFINITIONS. In addition to or otherwise to supplement those definitions in 410 IAC 6-8.1 Et. Seq. and 410 IAC 6-10 Et. Seq. which is incorporated herein by reference this Ordinance shall include the following definitions:
- A. BEDROOM: Means a room within a dwelling that might reasonably and regularly be used as a sleeping room or which contains a closet or shares a common hallway with or adjoins a bathroom. A "bedroom" may include but is not limited to those rooms designated as dens, studios, offices, or libraries if such rooms otherwise meet the above definition. A bedroom equivalent is any room that measures 45 square feet or more contains a closet, and has at least one operable window or exterior door for emergency exit or rescue. For the purpose of sizing a septic system, a jetted bathtub with a capacity of 125 gallons or more will be treated as an additional bedroom.
 - B. BOARD: Shall include and means the Fulton County Board of Health.
 - C. BUSINESS BUILDING: Means that building or structure utilized primarily for a commercial establishment including, but not limited to, office buildings, apartments, condominiums, motels, mobile home parks, churches, campgrounds, schools, hospitals, nursing homes, subdivisions, restaurants, etc. at locations where such facilities may be approvable based on state requirements.
 - D. COMMERCIAL ON-SITE WASTEWATER DISPOSAL FACILITY: means all equipment and devices for proper conduction, collection, storage, treatment and on-site disposal of wastewater from other than one- or two-family dwellings.
 - E. DUPLEX: Means a dwelling as defined in 410 IAC 6-8.1-7 with two separate living quarters for two separate families.
 - F. HEALTH DEPARTMENT: Means the Fulton County Health Department.
 - G. HEALTH OFFICER: Shall include and also means the Health Officer of Fulton County.
 - H. INSTALLER: For purposes of this Ordinance, installer shall mean any person engaged in the construction and installation of residential and or commercial on-site sewage disposal systems in Fulton County. Employees of a certified Installer are not required to be certified as described in Section 6.
 - I. MINIMUM DESIGN REQUIREMENTS: For the purposes of this Ordinance, any system that is installed for a one bedroom, or a half bath addition to any structure in Fulton County (unless soils analysis limits otherwise) will require a 1000 gallon tank, and at least 750 square feet of absorption field.
 - J. MULTIPLE FAMILY UNITS: Means any building or place used or intended to be used as a place of seasonal or permanent human habitation or for sleeping for more than two families.
 - K. ON-SITE SEWAGE DISPOSAL SYSTEM: Means any sewage disposal facility not owned by a municipality or sanitary district or administered by

the State of Indiana where the effluent is treated on the lot and shall include, but is not limited to, residential sewers, grease traps, septic tanks, dosing tanks, soil absorption systems, experimental treatment processes, perimeter drains, temporary sewage holding tanks, and sanitary vault privies. On-site systems include both residential and commercial disposal systems.

- L. PERSONS: For the purposes of this Ordinance, person means any individual, partnership, co-partnership, firm, company, corporation, association, trust, estate, or any other legal entity, its or their successors or assigns or agents of the aforesaid.
 - M. PLANNED DEVELOPMENT: Means any land development which requires the specific zoning classification entitled "Planned Development".
 - N. PUBLIC WATER SUPPLY: Means a system which provides piped water for human consumption to at least fifteen (15) service connections or at least twenty-five (25) people at least sixty (60) days out of the year.
 - O. RESIDENCE: Means a dwelling, as defined in 410 IAC 6-8.1-7.
 - P. RESIDENTIAL SEWAGE DISPOSAL SYSTEM: Means all equipment and devices necessary for proper conduction, collection, storage, treatment, and on-site disposal of sewage from a one (1) or two (2) family dwelling.
6. INSTALLER CERTIFICATION. Effective March 1, 2007, no Installer shall construct, install, replace, alter, or repair any part of any on-site sewage disposal system in Fulton County unless the Installer is certified by the Fulton County Health Department.
- A. Any Installer engaged in the installation of on-site sewage disposal systems in Fulton County must file an Application for Certification with the Fulton County Board of Health. The application shall be accompanied by a certificate of liability insurance issued by a company registered in Indiana. The liability policy shall be sufficient to indemnify persons for whom faulty work may be performed.
 - B. Any Installer who presently is in possession of an Indiana On-Site Wastewater Professional Association current Certification and can provide verifiable copy of same can receive their Installer Certification from the Fulton County Health Department upon filing an application and payment of appropriate fees.
 - C. Every Installer engaged in the installation of on-site sewage disposal systems in Fulton County shall be knowledgeable of all laws, rules and regulations of both the State of Indiana and Fulton County, governing on-site sewage disposal systems.
 - (1.) The applicant for certification must demonstrate knowledge of the applicable laws, rules, and regulations before becoming certified by passing a written proficiency examination conducted by the Fulton County Health Department. The examination shall consist of fifty (50)

questions. The examination shall be reviewed from time to time to determine its applicability to current laws, rules, and regulations. A score of seventy (70) percent or higher will be considered passing. When taking the written examination is not feasible due to language or reading difficulties, oral examination will be allowed. If the applicant fails to pass any part of the examination, the applicant may re-apply for an Installer Certification no earlier than one (1) month following the examination date. An application fee must be paid prior to re-examination. *Refer to Fee Schedule contained in Appendix A.*

- (2.) Upon successful completion of the examination, the applicant shall be issued a certification to install all types of on-site sewage disposal systems and will pay set fees for such certification.
- (3.) Such certification shall be valid for a term of one year beginning January 1, and expiring December 31, of the same year and shall be renewed annually. The Certification shall bear the name and address of the certified installer and the expiration date and shall not be transferable. Any Certification which is not renewed within one year of the expiration date shall be considered void and the installer must re-apply for Certification and pass the proficiency test.
- (4.) The installer shall maintain in his possession a copy of the certification at all times when installing on-site soil absorption systems.
- (5.) A Certified installer shall be deemed responsible for the installation and planning of the on-site system. A Certified installer must supervise other construction workers as necessary to assist in the installation.
 - a. A Property owner wishing to install, repair, or otherwise work on the on-site sewage disposal system serving his own dwelling shall be required to demonstrate knowledge of the applicable laws, rules and regulations by either:
 - i. Taking the above tests, or;
 - ii. By providing to the Health Officer a drawing of the site layout including: elevations of all components, location of all wells in the confines, location of dwelling and property lines and properly follow all specifications listed in 410 IAC 6.8.1 sections 36-57.

7. SYSTEM REQUIREMENTS. Where a sanitary sewer is not available within 300 feet, all persons owning, leasing or otherwise occupying property shall comply with 410 IAC 6.8.1 Et. Seq. and 410 IAC 6-10 Et. Seq. and the following provisions of this

Ordinance for an on-site sewage disposal system.

- A. No person shall throw, run, drain, seep, or otherwise dispose of into any of the surface waters or ground waters of Fulton County, or cause, permit, or suffer to be thrown, run, drained, allowed to seep or otherwise disposed into such waters any organic or inorganic matter from an on-site sewage disposal system that would cause or contribute to a health hazard or water pollution.
- B. No privy shall be permitted for a residence except on a temporary basis and then by special permit only. All such privies shall comply with Indiana State Department of Health Bulletin S.E. 11. Bulletin S.E. 11 is herein incorporated by reference as part of this section and must be filed with the Fulton County Board of Health. In case of self-contained chemical toilets, no pit will be required, but a permit will still need to be filed.
- C. Connection to an existing soil absorption on-site system shall be permitted if the following conditions are met: The connection will not exceed the system design load based on the sizing requirements of 410 IAC 6-8.1 or 6-10. The existing system has not malfunctioned. The existing system has been permitted and approved by the Health Officer, and the applicant has possession of a record of the permitted and approved system which shows all systems dimensions. If the existing system shall fail, there is sufficient space for a system replacement. In the event that a system enlargement is proposed, the enlargement must bring the existing system into compliance with the minimum standard of Rule 410 IAC 6-8.1 or 410 IAC 6-10.
 - (1.) Should an on-site 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.
 - (2.) Whenever a public sanitary sewage system becomes available and is within 300 feet of the property line or property upon which a building situated within Fulton County, Indiana, is located, and that building is used as a dwelling or business building and is served by an on-site sewage disposal system or privy, a direct connection of the building sewer shall be made to said sanitary sewer and any septic tanks, vaults, and similar sewage disposal and treatment facilities shall be abandoned and filled in a safe and sanitary manner following the State of Indiana guidelines. The direct connection to a sanitary sewage system shall be made within 180 days of issuance of orders of connection.
 - (3.) Whenever a new business building or dwelling is to be constructed in an area where a sanitary sewage system is available as provided in the above paragraph, a connection shall be made to the sanitary sewer according to plans submitted for approval prior to construction of any such project.

8. PERMITS.

A. Application:

- (1.) Before the commencement of construction, alteration or repair of an on-site sewage disposal system, the owner or his agent shall apply in writing to the Fulton County Health Department for a permit to construct, alter or repair an on-site sewage disposal system, which application shall set out the date of the intended construction, alteration or repair, topographic and soil characteristic information as well as other information required in 410 IAC 6-8.1-48 and 410 IAC 6-10-6, previously incorporated herein by reference, and expressly stating that the owner has complied and will at all times comply with the standards set out in this Ordinance. The Sewage Disposal Permit issued by the Health Department must be obtained prior to application for a Building Permit. For a Commercial On-Site Sewage Disposal Permit, the application shall include a copy of the permit issued from the Indiana State Department of Health and a copy of the project design plans. No permit will be issued if it is determined that the issuance of such a permit would violate or otherwise be inconsistent with the provisions of 410 IAC 6-8.1-1 Et. Seq., 410 IAC 6-10-1 Et. Seq., and State or Federal statutes or regulations and any ordinance of Fulton County, or would otherwise be reasonably expected to cause or contribute to an unsanitary condition, an unacceptable probability of groundwater contamination or construction of an on-site sewage disposal system with an unacceptable risk of failure.
- (2.) No permits will be issued for multiple family units or multiple businesses or dwellings served by an on-site sewage disposal system unless approved by the appropriate state agency.
- (3.) A permit for the installation of an on-site sewage disposal system, whether issued prior to or after the adoption of this Ordinance, shall lapse and be void if work has not been completed within one (1) year after its issuance and completed within sixty (60) days after it has been started. When a permit has expired or has been revoked, the work on the on-site sewage disposal system shall not commence or resume unless a new application and fee have been submitted and a new permit has been obtained.
- (4.) The permit shall be available to regulatory authorities at or near the dwelling or facility where the on-site sewage disposal system is under construction.
- (5.) No part of an on-site sewage disposal system for a residence or facility shall be located closer than 25 feet to a surface water drain tile, running stream or surface water drain. The rules and regulations of

the Drainage Board will apply for any legal ditch or drain.

- (6.) Because of the hazards regarding potential ground water contamination of wells through the development of subdivisions, planned developments, parcels and other divisions of land for developments, the Health Officer may, at his discretion, decline to issue a permit for the on-site sewage disposal system if said system may cause or contribute to a health hazard or an unsanitary condition unless a public water supply is provided.
- (7.) Before replacement of any broken or failed part of an existing functioning septic system, the owner shall apply for a permit which the Health Department shall grant, if satisfied that the system is properly functioning. If, upon review of the application, the proposed repair increases or modifies the volume or the distribution capabilities of the system, the application shall be handled in accordance of paragraph 1 above.

9. FEES. *Refer to Fee Schedule contained in Appendix A.*

10. INSPECTIONS.

- A. The board, its agents, or the Health Officer or his/her agent shall be permitted to enter upon all properties for purposes of inspection, observation, measurement, sampling and testing necessary to insure compliance with this Ordinance and to verify no on-site sewage disposal system has failed.
- B. No construction of the on-site sewage disposal system may take place if the on-site sewage disposal system site is disturbed or altered after the on-site evaluation by the addition of fill material (other than construction necessary for the on-site sewage disposal system itself) or by cutting, scraping, compaction or the removal of soil, until a new evaluation has been conducted and a modified permit has been issued. In the event the on-site inspection indicates site limitations, either arising from topography or soil characteristics, the site owner or his agent is responsible for designing a residential or an on-site sewage disposal system which address the demands of the site in accordance with rules established in 410 IAC 6-8.1 or 6-10-1 and this Ordinance.
- C. Abandoned tanks, both septic and drywell shall be pumped by a licensed septic cleaner and removed from the ground, or shall be opened and filled with an inert material approved by the Health Department.

11. PETITION FOR REVIEW.

- A. The Fulton County Board of Health shall hear appeals incidental to the issuance and revocation of permits if, within 15 days following the date of receipt of an issued permit, permit modification, notice of permit denial or

notice of permit revocation, any person aggrieved by such action files a petition for review concerning such action with the Board.

- B. A petition for review shall 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 issues proposed to be considered
 - (5.) State with particularity the reasons for the request
 - (6.) Include proposed terms or conditions which, in the judgment of the petitioner, would be appropriate to carry out the requirements of the law and 410 IAC 6-8.1 or 6-10-1 governing such permits.
 - (7.) The procedures established in I.C. 4-21.5, the Administrative Procedure and Orders Act, shall apply to the conduct of the hearing.

12. ENFORCEMENT.

- A. Any person found to be in violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health shall be served with a written order either in person or by certified or registered mail by the County Board of Health or the Health Officer. This order shall state the nature of the violation, and provide a reasonable time limit, unless the Health Officer deems an emergency exists, not to exceed 30 days, for the correction of any violation of this Ordinance.
- B. Any installer, as defined in this ordinance, and certified under Section 6, found to be in violation of any provision of this Ordinance or the applicable rules of the Indiana State Department of Health shall receive notice as specified above. The installer shall have up to fourteen (14) days to correct the violation or as otherwise determined by the Health Officer.
- C. If the violation is not corrected within the designated time, the Health Officer may suspend or revoke the Certification. If the Certification is suspended, the Certification can be reinstated by the Health Officer upon correction of all violations and fulfillment of other stipulations as required by the Health Officer. If the certification is revoked, the requirements for becoming certified including testing and the payment of the Certification fee shall apply prior to re-Certification. Re-certification shall not occur until all outstanding violations and stipulations are corrected to the satisfaction of the Health Officer.
- D. Any Installer constructing, installing, replacing, altering, or repairing any on-site sewage disposal system that is not Certified in Fulton County shall be deemed to be in violation of this Ordinance. An Installer who is in violation of this ordinance shall be fined for the first offense, as well as any subsequent

offenses. Each violation of this Ordinance shall constitute a separate violation. *Refer to Fee Schedule contained in Appendix A.*


- E. Any person or Installer who shall continue any violation of this Ordinance beyond the time limit provided for correction of any violations of this Ordinance or who performs any act prohibited herein or 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 by a fine. Each day a violation of this Ordinance continues shall constitute a separate offence for which a separate fine may be levied. *Refer to Fee Schedule contained in Appendix A.*
 - F. Application of this Ordinance or any part of this Ordinance is intended to be consistent with 410 IAC 6-8.1 and 410 6-10-1 Et. Seq. Any inconsistency in the direct application of this ordinance with said regulations shall be resolved in favor of enforceability of those regulations.
 - G. To the extent the provisions of 410 IAC 6-8.1 and 410-6-10-1 are inconsistent with each other then that interpretation provided by 410 IAC 6-10-1 shall apply for private on-site sewage disposal systems serving commercial buildings and that interpretation provided by 410 IAC 6-8.1 shall apply for private on-site sewage disposal systems serving residences.
13. REMEDIES. The Health Officer may, in the name of the Commissioners of Fulton County, bring actions in the Courts of Fulton County for mandatory and injunctive relief for the enforcement of and to secure compliance with any order or orders made by the Health Officer, or to otherwise provide for the enforcement of this Ordinance. Any such 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 to recover costs and expenses reasonably incurred to enforce the provisions of the Ordinance including, but not limited to, reasonable attorney's fees.
14. 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.
15. EFFECTIVE DATE. This Ordinance shall apply to all of Fulton County, Indiana as of the date from and after its adoption and approval by the Commissioners as stated herein and any publication as required by law.
16. REPEALER. The provisions of Ordinance 101992, Ordinance 112006A and all other Ordinances or parts of Ordinances in conflict herewith are hereby repealed by this Ordinance.

APPENDIX A: FEE SCHEDULE

- I. A fee of twenty dollars (\$20.00) shall be submitted for all septic permits (new, replacement or repair).
- II. A fee of twenty-five dollars (\$25.00) shall be submitted prior to the issuance or renewal of a septic contractor's Installer Certification.
 - A. A reapplication fee of ten dollars (\$10.00) shall be submitted prior to the re-examination of the Installer Certification Test.
- III. Any Installer who is not certified within Fulton County that constructs, installs, replaces, alters or repairs any on-site sewage disposal system will be fined not more than two hundred dollars (\$200.00) in correlation to the first offense. A fine of not more than five hundred dollars (\$500.00) will be issued for each subsequent offense.
- IV. Any person or installer who continues to violate any section of this Ordinance beyond the time limit provided for corrective action to have been taken; who performs any act prohibited herein; who fails to perform any duty lawfully enjoined; or who fails, neglects or refuses to obey any lawful order given by the Health Officer will be punished by a fine of one hundred dollars (\$100.00). Each day a violation of this Ordinance continues constitutes a separate offense for which a separate fine may be levied.

Dated this 1st day of October, 2007.

Board of Commissioners


Richard Powell


Roger Rose

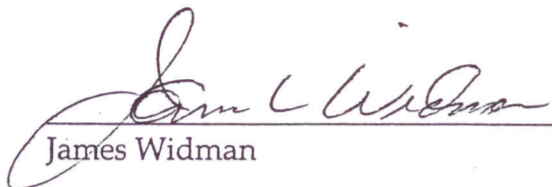

Mark J. Rodriguez

Attest:


Denise Chandler, Auditor of Fulton County

Dated this 16 day of Oct, 2007

Fulton County Council


James Widman

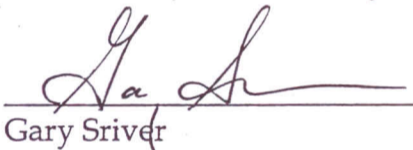

Judith DeVries


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