

OWEN COUNTY HEALTH DEPARTMENT
60 S. MAIN ST./COURTHOUSE
SPENCER, IN 47460

SEWAGE DISPOSAL SYSTEM ORDINANCE NO. 1991-3

This Ordinance provides for regulation of the installation and minimum requirements for private sewage disposal systems in Owen County, Indiana; provides for the registration of all persons engaged in or intending to engage in the installation, construction or repair of sewage disposal systems or equipment within Owen County, Indiana; regulates the inspection of such private sewage disposal systems; provides for the enforcement of this Ordinance; provides for the fixing of penalties for the violations of this Ordinance; and provides for the incorporation by reference of the following Indiana State Board of Health Rules and Definitions: 410 IAC 6-8.1.

WHEREAS, the Board of County Commissioners of Owen County deems it advisable for the promotion of public health to (1) establish health and sanitary regulations for the installation, construction or repair of sewage disposal systems; and to (2) provide for the registration of all persons, firms or corporations engaged in the installation, construction or repair of sewage disposal systems.

BE IT ORDAINED by the Board of Commissioners of Owen County that the provisions of this Ordinance are effective within Owen County and that the Owen County Board of Health is hereby empowered to enforce the provisions of this Ordinance.

ARTICLE 1: DEFINITIONS

Section 101: "ABS" shall mean acrylonitrile-butadiene-styrene.

Section 102: "ASTM" shall mean the American Society for Testing and Materials.

Section 103: "Board" shall mean the state or local board of health.

Section 104: "Commissioner" shall mean the commissioner of the Indiana state board of health or his or her legally authorized representative.

Section 105: "Distribution Box" shall mean a structure designed to distribute effluent by gravity from a septic tank equally into the pipes of an absorption system connected thereto.

Section 106: "Drainageway" shall mean the channel portion of the landscape in which surface water or rainwater runoff gathers intermittently to flow to a lower elevation.

Section 107: "Dwelling" shall mean any house or place used or intended to be used as a place of seasonal or permanent human habitation or for sleeping for one (1) or two (2) families.

Section 108: "Residential sewage disposal system failure" shall mean a residential sewage disposal system which exhibits one (1) or more 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.

Section 109: "Fill" shall mean soil transported and deposited by man, as well as soil recently transported and deposited by natural erosion forces. Fill is evidenced by one (1) or more of the following:

- (1) No soil horizons or indistinct soil horizons.
- (2) Depositional stratification.
- (3) Presence of a soil horizon which has been covered.
- (4) Materials in a horizon such as cinders or construction debris.
- (5) Position in the landscape.

Section 110: "Foundation drain" shall mean that portion of a residential drainage system provided to drain only ground water from outside of the foundation of the house or from under the basement floor.

Section 111: "Health Officer" shall mean the health officer of the local board of health or his or her duly authorized agent.

Section 112: "Loading rate" shall mean the allowable rate of application of septic tank effluent to the soil. It is expressed in gallons per day per square foot.

Section 113: "Owner" shall mean the owner of a dwelling or his agent.

Section 114: "Person" shall mean 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.

Section 115: "PVC" shall mean polyvinyl chloride.

Section 116: "Residential drain" shall mean the horizontal piping in a house drainage system which receives the discharge from soil, waste, and drainage pipes inside the walls of the house and conveys the same to the residential sewer.

Section 117: "Residential sewage disposal system" shall mean 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. Included within, but not limited to the scope of this definition, are residential sewers, septic tanks, soil absorption systems, temporary sewage holding tanks, and sanitary vault privies.

Section 118: "Residential sewer" shall mean the horizontal piping beginning two (2) feet outside the house which carries discharges from the residential drain to its connection with a sanitary sewerage system or a residential sewage disposal system.

Section 119: "Sanitary sewerage system" shall mean a sewer or a system of sewers which convey sewage away from the

lot on which it originates to a waste water treatment facility owned and operated by an incorporated city or town, conservancy district, regional sewer district, or private utility.

Section 120: "SCS" shall mean United State Department of Agriculture, Soil Conservation Service.

Section 121: "SDR" shall mean standard dimension ratio.

Section 122: "Septic tank" shall mean a watertight structure into which sewage is discharged for settling and solids digestion.

Section 123: "Sewage" shall mean all water-carried waste derived from ordinary living processes.

Section 124: "Sludge" shall mean the digested or partially digested solid material accumulated in a septic tank.

Section 125: "Soil absorption" shall mean a process which utilizes the soil to treat and dispose of effluent from a septic tank.

Section 126: "Soil absorption system" shall mean pipes laid in a system of trenches or elevated beds into which the effluent from the septic tank is discharged for soil absorption.

Section 127: "Soil horizon" shall mean a layer of soil or soil material approximately parallel to the land surface and differing from adjacent genetically related layers in physical, chemical, and biological properties or characteristics such as color, structure, texture, consistency, kinds and numbers of organisms present, and degree of acidity or alkalinity.

Section 128: "Soil profile analysis" shall mean the observation and evaluation 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 which cannot be readily penetrated.

Section 129: "Soil scientist" shall mean an individual with a baccalaureate degree with a major in agronomy, soils,

or a closely allied field of science who is proficient in the application of the principles of pedology to soil classification investigation, education, and consultation and on the effect of measured, observed and inferred soil properties and their use.

ARTICLE II: REGISTRATION

Section 201: The Health Officer shall maintain a register of all persons engaged in or intending to engage in the installation, construction or repair of sewage disposal systems or equipment within Owen County, Indiana.

Section 202: Any person engaged in or intending to engage in the installation, construction or repair of sewage disposal systems or equipment in Owen County, Indiana, must first make application to the Health Officer to have his, her or their name placed upon a "Contractors' Register", a register of those engaged in the installation, construction and repair of sewage disposal systems or equipment. The application which will be provided by the Owen County Board of Health, shall contain the name and address of the person, firm or corporation and such other information as the Health Officer may reasonably require to aid him or her in the administration and enforcement of this Ordinance and regulations adopted pursuant hereto. Failure of any person engaged in or intending to engage in the installation, construction or repair of sewage disposal systems or equipment in Owen County, Indiana to first make application to the Health Officer to have his, her or their name placed upon the "Contractors' Register" shall constitute a violation of this Ordinance and subject such violator to the penalties prescribed herein.

Section 203: Any person making application to have a name placed on the "Contractors' Register" shall submit with such application a fee as set forth in the current fee schedule approved by the Board of Commissioners of Owen County, Indiana. Placement of the name of any person, firm or corporation on the "Contractors' Register" shall be valid for a term of one (1) year beginning January 1 and expiring December 31. of the same year and shall be renewed annually.

Section 204: The Health Officer may remove the name of any person from the "Contractors' Register" who has, in the opinion of the Health Officer, demonstrated inability or

unwillingness to comply with this Ordinance or the rules and regulations adopted hereunder. Such person may request that his or her name or the name of his or her firm be reinstated on said register by the Health Officer after satisfactorily demonstrating ability or willingness to comply with this Ordinance and the rules and regulations adopted hereunder.

Section 205: The person causing his or her name or the name of a firm, partnership, association or corporation to be placed upon the "Contractors' Register" or a person approved by the Health Officer must be present at all times that work is being performed in the installation of sewage disposal systems or equipment in conformity with this Ordinance and the rules and regulations adopted hereunder.

Section 206: No registration or renewal thereof shall be denied or revoked on arbitrary or capricious grounds.

ARTICLE III: PRIVATE SEWAGE SYSTEMS

Section 301: Where a municipal system is not available, all persons building a residence for occupancy or placing a mobile home, manufactured housing, recreational vehicle, or apartments shall install a sewage disposal system that meets the minimum requirements established by the Owen County Health Department.

Section 302: It shall be unlawful for any person to place, deposit, or allow to run on the ground any sewage on public or private property within Owen county, Indiana.

Section 303: All private residential sewage disposal systems and privies shall be installed, constructed and maintained in an approved manner and meet the minimum requirements as contained in the Indiana State Board of Health Rule 410 IAC 6-8.1. Copies of said Rule 410 IAC 6-8.1 are hereby incorporated by reference as part of this section and two (2) copies are filed in the office of the County Auditor and County Health Department for public inspection.

ARTICLE IV: PERMITS AND INSPECTION

Section 401: Before commencement of construction of any public, commercial or business building or private residence where a private sewage disposal system or privy is to be installed or where any alteration, repair or addition to an

shall be so posted as to be clearly visible from the road or public thoroughfare adjacent to the building site.

Section 404: Failure of any person to obtain a permit or otherwise comply with the requirements of this Ordinance shall constitute a violation of this Ordinance and the violator or violators shall be subject to the penalties prescribed herein.

Section 405: Should the Health Officer, after examination of an application for permit, find the same to be in conflict with any of the terms and provision of this Ordinance he or she shall, in writing addressed to the applicant, reject and deny such application and refuse to issue any permit to commence the proposed construction.

Section 406: No permit issued hereunder shall pass with the land for which a permit was granted. Any contract sale, lease-purchase, forfeiture or other transfer affecting legal title to real estate shall terminate any permit issued hereunder for the benefit of said real estate.

Section 407: The Health Officer shall maintain a permanent record of the proceedings filed in the office of the Health Department.

ARTICLE V: APPEALS

Section 501: An appeal may be taken to the Owen County Board of Health by any person, firm or corporation aggrieved or affected by any decision of the Health Officer rejecting and denying any application or permit to commence construction. Such appeal shall be taken within ten (10) days after any such decision of the Health Officer by the applicant filing Notice of Appeal to the Owen County Board of Health specifying the grounds thereof. The Health Officer shall forthwith transmit to the Owen County Board of Health all of the papers constituting the record upon which the action appealed from was taken. The Owen County Board of Health upon receipt of such notice and record shall forthwith select a reasonable time and place for the hearing of the appeal and shall give notice in writing to the applicant of the time and place thereof. The hearing of the appeal may be continued from time to time, but following the conclusion of

existing private sewage disposal system is planned, the owner or agent of the owner shall first make application in writing for and obtain a permit from the Health Officer authorizing commencement of the proposed construction. Such application shall be made on a form provided by the Owen County Health Department; and the applicant in order to show that the contemplated construction complies with the provisions of this ordinance may supplement the same by such plans, specifications and other information deemed necessary by the Health Officer. The applicant shall pay to the Owen County Health Department an application fee prior to the site/soil evaluation and an additional permit fee prior to issuance of a permit; said fees to be in the amounts set forth in the current fee schedule approved by the Owen County Board of Commissioners.

Section 402: The Health Officer shall upon receipt of any application pursuant to Section 401 hereof, forthwith examine the same and the site/soil evaluation and any and all documents and information tendered supplementary thereto. If after such examination the Health Officer shall find such application and proposed construction to be in accordance with the provisions of this Ordinance, he or she shall issue a permit in writing authorizing the applicant to commence construction in accordance with the application. However, until the proposed construction is completed in accordance with the application and to the approval of the Health Officer, such permit may be revoked in writing at any time by the Health Officer and upon such a revocation being made, shall be considered as if such permit had never been issued in the first instance. The Health Officer shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Health Officer in writing when the work is ready for final inspection, and before any underground portions are covered. The inspection, and shall be made by the Health Officer within two (2) working days of the receipt of notice from the applicant by the Health Officer. Upon request of the Health Officer, the applicant or the person installing the system will certify in writing that all construction has been done in accordance with the application.

Section 403: When issued, such permit shall be posted in a conspicuous place at or near the building where the proposed sewage disposal system is to be constructed and

the hearing a decision on the appeal shall be rendered within twenty (20) days. Any person may appear and testify at any hearing, either in person or by counsel.

Section 502: The Owen County Board of Health shall hear such appeal and may decide the same where it is alleged that there is error in any decision or determination made by the health Officer rejecting or denying an application for a permit to commence construction any may grant or deny an exception to this Ordinance insofar as the same pertains to such permit.

Section 503: The Owen County Board of Health shall have the power to hear and decide such appeal and to grant an exception to the provisions of this Ordinance, to overrule and revise the decision or determination of the Health officer appealed from and to issue a permit to commence construction when: the granting of an exception and the issuance of a permit will do substantial justice is in harmony with the general purpose, intent and spirit of this Ordinance; will not serve merely as a convenience to the applicant/appellant, but will alleviate a demonstrable hardship; and at the same time, surrounding property and the public in general will not be harmed thereby and will be reasonable protected.

Section 504: The concurring vote of a majority of the members of the Owen County Board of Health shall be necessary to reverse any determination or decision of the health officer in rejecting or denying an application for permit to commence construction. Every such decision of the Owen County Board of Health shall be subject to review by certiorari proceedings.

ARTICLE VI: NOTICES

Section 601: Any person in violation of the provisions of this Ordinance shall be served a written notice by the Health Officer stating the nature of the violation and providing a time limit for satisfactory correction thereof.

ARTICLE VI: FEES AND PENALTIES

Section 701: All fees mandated by this Ordinance shall be collected by the Health Officer and shall be receipted monthly into the Owen County Treasury and be credited to the Owen County Health Fund for services rendered in administering and enforcing this Ordinance and rules and regulations adopted hereunder.

Section 702: Any registration issued under this Ordinance may be temporarily suspended by the Health Officer without notice or hearing for a period not to exceed thirty (30) days for interference with the Health Officer or any of his or her authorized representatives in the performance of their duties.

Section 703: Any person whose registration has been suspended may at any time make application to the Health Officer for the reinstatement of his or her registration.

Section 704: Any person fails to remedy any violation of this Ordinance as directed by the Health Officer the Health Officer shall furnish evidence of the violation to the Owen County Prosecutor having jurisdiction in the County and he or she shall prosecute all persons violating the provisions of this ordinance.

Section 705: Any person who shall violate any of the provisions of this Ordinance shall be guilty of an infraction. On conviction, the violator shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) and Five Hundred Dollars (\$500.00) for each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions as ordered by the Health Officer of the Owen County Board of Health. Each day a violation continues after such time limit shall constitute a distinct and separate offense. The penalties for subsequent offenses shall be increased to One Thousand Dollars (\$1,000.00) and One Thousand Dollars (\$1,000.00) per day for violations continuing beyond the time limit.

Section 706: Any person violating any of the provision of this Ordinance shall be and become liable to Owen County for any expense, loss or damage occasioned by reason of such violation.

Section 707: The Owen County Board of Health shall also be entitled to seek any other legal remedy or redress against any person who shall violate the provision of this Ordinance.

ARTICLE VIII: VALIDITY

Section 801: Owen County Ordinance 1984-3 and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed as of the effective date hereof.

Section 802: The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

ARTICLE IX: ORDINANCE IN FORCE

Section 901: This Ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law. Passed and adopted by the Board of Commissioners of Owen County, State of Indiana, on this 28th day of May, 1991.

BOARD OF COMMISSIONERS OF
OWEN COUNTY INDIANA

Wiley Truesdel
Wiley Truesdel, President

Dwight Dunigan
Dwight Dunigan, Commissioner

Stephen Williamson
Stephen Williamson, Commissioner

ATTEST: Lois Bixler
Lois Bixler, Auditor
Owen County

ORDINANCE 2000-3

ORDINANCE AMENDING OFDINANCE NO 1991-3

WHEREAS, the Owen County board of Commissioners desires to amend the Ordinance referred to above for the purpose of adding additional septic absorption field which is for the health and safety of the residents of Owen County, Indiana.

BE IT ORDAINED by the Board of Commissioners of Owen County, Indiana, that Ordinance No 1991-3 be amended to add to Article III, a new section Section 304: which shall read as follows:

Section 304: In order to be considered for a private sewage disposal system, a proposed site must have room for the approved septic absorption field and an additional area, approved by the Owen County Health Department, set aside for installation of a second septic absorption field, to be utilized as deemed necessary should the primary field become unable to service the residential needs or it is necessary to repair the primary system. A variance to the dual field requirement may be granted by the Owen County Commissioners, in its sole discretion, if the applicant:

- (1) requests the variance in writing.
- (2) Presents clear and convincing evidence to support such variance.
- (3) Presents clear and convincing evidence that the variance will present no significant risk that sewage will flow off-site, pollute groundwater or create a health hazard. The cost of installation and maintenance will not, in and of itself, constitute a special condition justifying a variance.
- (4) Individual lots in a subdivision for which plats have already been approved by the Board of Commissioners are exempt from this provision of the ordinance. However, said lots must comply with any other applicable ordinances.

DATED THIS 7th DAY Feb. 2000

DALE DUBOIS *Dale Dubois*

LOWELL SIMPSON

WILEY TRUESDAL *Wiley Truesdal*

ATTEST: *Bobby L. Hall*
BOBBY L. HALL
OWEN COUNTY AUDITOR