

Request for Technical Review Panel Review of Local Residential On-site Sewage System Ordinance

INDIANA DEPARTMENT OF HEALTH

ENVIRONMENTAL PUBLIC HEALTH DIVISION

- INSTRUCTIONS:
1. Complete ALL portions of this form
 2. Submit complete packet to IDOH
Via email to: eph@health.in.gov
Via Mail to: Indiana Department of Health
Environmental Public Health
2 North Meridian St., 7-D
Indianapolis, IN 46204
 3. Telephone number: (317) 223-7173

County, City or Town submitting ordinance Floyd County Health Department

Name of Person Making Request Dawn Stackhouse

Title and Office Environmental Supervisor, Floyd County Health Department

Email Address dstackhouse@floydcounty.in.gov Phone Number 812-948-4726

☒ **Yes** ☐ **No** Has this proposed ordinance been adopted or readopted by local legislative officials since July 1, 2023?

If this proposed ordinance has not been adopted or readopted on or after July 1, 2023 by local legislative officials, please do not submit until this is completed.

Date of Adoption 09/05/2023

Local Legislative Office Adopting Ordinance Floyd County Commissioners

Name and Title of Representative Al Knable, President/ John Schellenberger, Member/Jason Sharp, Member

Email Address aknable@floydcounty.in.gov Phone Number 812-948-5466
commissioner@floydcounty.in.gov

Please provide the following with the request for TRP ordinance review:

- ☒ **A statement of the reasons for any restrictions, prohibition, or variance requested.**
- ☒ **A statement of financial impact.**
- ☒ **A full digital copy of your ordinance that has been adopted by your local legislative body. Can be mailed if necessary.**

Check below which areas your local ordinance has that vary from Rule 410 IAC 6-8.3 and provide a short narrative description of each. Use additional pages, if necessary. It is recommended to place all fees in a separate fee ordinance.

☐ Minimum lot/parcel size	<u>n/a</u>
☒ Connection to sewer	<u>see Attachment</u>
☒ Reconnection to OSS	<u>see Attachment</u>
☒ Installer/Inspector registration	<u>see Attachment</u>
☒ Installer/Inspector certification	<u>see Attachment</u>
☐ Application requirements	<u>n/a</u>

☒ Residential outbuildings	see Attachment
☒ Enforcement	see Attachment
☒ Construction inspections	see Attachment
☒ Number of soil borings/pits	see Attachment
☒ Method of soil evaluation	see Attachment
☐ Separation distances	n/a
☒ Septic tank size	see Attachment
☐ Septic tank compartments	n/a
☐ Septic tank riser on inlet	n/a
☒ Holding tanks	see Attachment
☐ Dosing tank size	n/a
☐ Effluent pump or electrical	n/a
☒ Distribution box riser or material	see Attachment
☐ Soil loading rate used for sizing	n/a
☒ Minimum DDF or SAF sizing	see Attachment
☐ Subsurface trench systems	n/a
☐ Elevated sand mounds	n/a
☐ Observation Ports	n/a
☒ Sub. drainage type/depth/size	see Attachment
☐ Use of technologies new to IN (including reduced size chambers, sand lined systems, subsurface drip, etc.)	
☐ Point of sale inspections	n/a
☒ Other (please explain)	see Attachment

I respectfully request review of this proposed ordinance by the Technical Review Panel. I understand that any portion of the proposed ordinance rejected by the Technical Review Panel will not be enforceable in the jurisdiction.

Dawn Stackhouse
Signature

10/03/2023
Date

Floyd County Ordinance 2023-FCO-2023-29 (ATTACHMENT)

Connection to sewer: Article VII, Section 1c: A permit for a replacement OSS may be denied if sewer connection is available and does not exceed 150 percent of the cost of replacement system. This only applies to replacement onsite sewage systems and would apply if our department was having to rely heavily on best judgement for the permitting of the onsite sewage system.

Reconnection to OSS: Article V, Section 3: An individual is not allowed to reconnect to an OSS if they are increasing the number of bedrooms without obtaining a construction permit from our department.

Installer/Inspector Registration: Article II. (Definition); Article V, Section 7; Article XI. Defines a registered installer for Floyd County. Requires an installer to register on forms provided by our department.

Installer/Inspector Registration: Article XI. An installer would either have to be registered with another county and/or IOWPA certified or all other applicants would be required to take an open-book test provided by our department with a score of at least 80%.

Residential Outbuildings: Article II (Defined as Site Approval); Article V. Section 5; Article VI, Section 6. When a property owner is building an outbuilding (without plumbing), or other items as listed in 410 IAC 6-8.3-57, our department requires a Site Approval permit. Our department visits the property and verifies proper separation distance to the septic tank and soil absorption system as listed. Our department has been doing this since 1997 from authority in a previous ordinance. Our department issues around 150 site approvals per year and about 10% of those result in the homeowner moving the structure based upon being too close to their onsite sewage system and after receiving education from our department.

Enforcement: Article XIV. When someone is in violation of the ordinance, the issue will be brought in front of the Health Officer and Health Board and could constitute a fine.

Construction Inspections: Article IX. Specifies the number of inspections allowed per the type of onsite sewage system. Requires the components of the system to be uncovered for our inspection, but provides exceptions unless our department grants special permission.

Number of soil borings/pits: Article II. We require a minimum of 3 pits to be dug and we want the pits to accurately describe the entire area of the soil absorption field. Our soil can be variable across soil pits on the same property; therefore, we want to make sure the soil pits are encompassing the outside of the soil absorption field and in close proximity. Sometimes a pit is dug in the middle of the soil absorption field, with two or more pits on the outside of the soil absorption field, and that is acceptable as well.

Method of soil evaluation: Article II. We referenced backhoe because that is normally how IDOH referenced pits. We do not solely require a backhoe, but also allow mini excavators, etc. to dig the pit. We felt it was important to require pits to be dug instead of allowing a soil auger, as it provides a more accurate description of the soil profile. Most of the registered soil scientists working in our

county are in favor of pits. Our department had been requiring pits for soil evaluations since a policy change in 2004. It was and is our policy that if a site was restrictive and could not easily allow pits to be dug or if it would disturb the site too much, then we allow a soil auger/probe to be used. This has been only allowed on repair/replacement sites where best judgement can be utilized.

Septic Tank Size: Article V, Section 4b. Requires a minimum 750 gallon septic tank for a residential structure with plumbing that does not meet the definition of a dwelling or does not contain any bedrooms or bedroom equivalents. We have a lot of homeowners in our county that like to install “party barns” or “recreational barns”, which is a residential outbuilding with plumbing and no bedrooms. We have no sizing guidelines for this in Rule 410 IAC 6-8.3 and this has the potential to get frequent use and flow in a short period of time.

Holding Tanks: Article II. Requires that a holding tank meets the definition of a septic tank in Rule 410 IAC 6-8.3, or is on the IDOH approved list of septic tanks.

Distribution box riser or material: Article VI, Section 4c. We are requiring that all distribution boxes be installed with a riser. This was a requirement that a couple other surrounding counties had in their previous ordinance and our installers are in favor of the requirement as well. The d-box is usually one of the first areas checked for a system that appears to be malfunctioning and this provides the ease and access to alter flow if needed.

Minimum DDF or SAF sizing: Article V, Section 4b. Requires a minimum on-site sewage systems sized for a two (2)-bedroom dwelling for a residential structure with plumbing that does not meet the definition of a dwelling or does not contain any bedrooms or bedroom equivalents. We have a lot of homeowners in our county that like to install “party barns” or “recreational barns”, which is a residential outbuilding with plumbing and no bedrooms. We have no sizing guidelines for this in Rule 410 IAC 6-8.3 and this has the potential to get frequent use and flow in a short period of time. Our previous ordinance required a minimum 1000 gallon septic tank and minimum 400 lineal feet regardless of the structure being considered a dwelling or a residential outbuilding with plumbing. The minimum 2 bedroom sizing is a decrease in what our previous ordinance required.

****Please Note:** If the property owner can connect the sewer line from the structure into the existing on-site sewage system, then our department would allow the connection, as it would not increase the DDF of the existing on-site sewage system.

Sub. Drainage type/depth/size: Article VI, Section 5a. Allow pump assisted drains on sites using best judgement (which would be repair/replacement sites).

(OTHER topics not listed on Request for Review Form that vary or are silent in Rule 410 IAC 6-8.3):

Article II: (Definitions)

Design Plan (also in Article VI, Section 5c): We require a site plan drawing by a registered septic installer or engineer to be submitted to our office. We may require the site plan to be to-scale drawings. Once we approve the plans, we document on our site survey inspection for the system to be installed per drawing by “Contractor Name, dated X/XX/XXXX”.

Repair/Replacement: Defines what a repair/replacement on-site sewage system would be as this is not defined in Rule 410 IAC 6-8.3. Allows for this definition when a property owner is increasing or adding to the DDF of their system and may need to add onto their existing on-site sewage system.

Site Survey (also in Article VI, Section 5a): Our department requires an inspection of the property prior to the issuance of a construction permit to verify the proposed on-site sewage system meets the requirements in Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10.1

Article IV. (Right of Entry)

Right of Entry: Our department made sure to reference IC 16-41-25, as we will comply with this law change in order to enter upon a person's private property.

Article VI, Section 4

Permit Expiration Dates: We set expiration dates for our new construction and repair/replacement permits.

Transfer of permit: Our constructions permits for an on-site sewage system will not transfer to a new property owner upon the sale of a property.

Article VI, Section 5

House Plans: We have been requiring submittal of house plans prior to issuance of the construction permit because we had an issue with builders/homeowners submitting house plans to the building department with more bedrooms than what was filled out on the application submitted to our office. When we submit a copy of the issued septic permit to the building department, we also send them a copy of the house plans that was submitted to our office, so they can verify if it matches. We also used to allow bedroom affidavits to be signed per Rule 410 IAC 6-8.3, but after speaking with our Recorder's office, if an affidavit is recorded with a property deed this is not normally discovered upon a title search during the sale of a property.

Article X:

IOWPA Inspections: Requires IOWPA Inspections during in our county to be submitted to FCHD within 30 days.

Maintenance Treatment Units: Requires paperwork from maintenance of the units to be submitted to FCHD within 30 days.

Floyd County Health Department
Financial Impact Statement for Floyd County OSS Ordinance
Date: 10/03/2023

Ordinance Requirement¹	Ord. Section	Types of Systems Affected²	Increased Cost/System³	Comments
Distribution box risers	Article VI, Sec. 4d	Only systems using distribution boxes	\$200 - \$400	
Minimum 750 gallon septic tank and OSS sized for 2 Bedroom dwelling	Article VI, Sec. 4d.	Only for structures not meeting definition of dwelling (Ex: Residential outbuildings w/plumbing)	\$8,000 - \$21,000	Depends on the soil conditions of the property and type of OSS chosen
				Previous ordinance required minimum 1000 gallon septic tank and minimum 400 lineal feet of lateral lines.

Overall anticipated price increase for residential OSS:

Minimum **\$0.00** (Example- Sand-lined system for a residential dwelling that does not require a distribution box)

Maximum **\$21,400.00** (Example: Property selecting most expensive system for a residential outbuilding with plumbing and installing a riser on the d-box).

¹ Briefly describe ordinance requirement.

² Describe what type(s) of systems that would be affected by this requirement. If it would apply to all systems, indicate ALL OSS.

³ Increased cost is per system.

FLOYD COUNTY ORDINANCE 2023-FCO-2023-29
AN ORDINANCE REGULATING RESIDENTIAL AND COMMERCIAL
ON-SITE SEWAGE SYSTEMS AND PROVIDING
PENALTIES FOR VIOLATIONS

BE IT ORDAINED by the Board of Commissioners of the County of Floyd:

ARTICLE I. APPLICABILITY AND ADMINISTRATION

SECTION 1. This Ordinance shall apply within Floyd County, Indiana, and, except as may be otherwise expressly set forth herein, shall apply only to those dwellings and commercial facilities which are not presently served by or will not be connected to a sanitary sewerage system.

SECTION 2. The administration and enforcement of this ordinance is vested in the Floyd County Health Board appointed pursuant to IC 16-20-2-6, the Floyd County Health Officer appointed pursuant to IC 16-20-2-16, and the Floyd County Health Department created and established pursuant to IC 16-20-2-2.

ARTICLE II. DEFINITIONS

SECTION 1. For purposes of this Ordinance, all definitions listed in Rule 410 IAC 6-8.3 et seq and Rule 410 IAC 6-10.1 et seq., as well as the following definitions shall apply:

COMMERCIAL FACILITY: Facility as described in Rule 410 IAC 6-10.1-8.

DEPARTMENT: For the purposes of this ordinance, when referenced, shall mean the Floyd County Health Department, being an agency of local government, created and acting pursuant to the provisions of IC 16-20, et seq., and its duly authorized employees and representatives.

DESIGN PLAN: Written plan submitted by a registered septic installer or professional engineer/surveyor, prior to a site survey, which includes all pertinent information as determined by the department for the design of a residential or commercial on-site sewage system.

DWELLING: Any house or structure 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. The term 'residence' shall be used interchangeably with the term 'dwelling'.

HEALTH BOARD: The Floyd County Board of Health duly constituted and acting pursuant to the provisions of IC 16-20, et seq., and its duly authorized representatives.

HEALTH OFFICER: The Floyd County Health Officer duly appointed by the Floyd County Board of Health and acting pursuant to the provisions of IC 16-20, et seq., and his duly authorized representatives.

HOLDING TANK: Septic tank that meets the requirements of Rule 410 IAC 6-8.3 – 60, 61, and 63 or that is listed on the IDOH approved septic tank list, and that holds sewage originating from a residence or commercial facility and is held until it is removed and transported by a septage management vehicle. Per IC 16-41-25, a holding tank will be considered an on-site sewage system as referenced in this Ordinance.

NEW CONSTRUCTION: Installation of an on-site sewage system for the construction of a residence or commercial facility, placement of a manufactured modular or mobile home, construction, or placement of an outbuilding with plumbing on a property where an existing onsite sewage system is not present.

REGISTERED SEPTIC INSTALLER: Individual who has demonstrated competency in knowledge of county and state on-site sewage system codes, regulations, and guidelines through a written test that is administered by the Floyd County Health Department or Indiana On-Site Wastewater Professional Association and requirements as outlined in IC 16-41-25.

REPAIR/REPLACEMENT: The addition to, alteration of, replacement of, or repair of any component of an existing on-site sewage system, or the replacement or re-construction of any dwelling, residence or outbuilding that includes plumbing, expansion of or remodeling of a residence or commercial facility that may increase the number of bedrooms or the DDF (daily design flow), or the installation of an on-site sewage system for an existing residence or commercial facility that did not previously have a residential or commercial on-site sewage system. Any component shall include, but is not limited to, all equipment and devices necessary for proper conduction, collection, storage, treatment, on-site disposal of sewage.

SITE APPROVAL PERMIT: Written approval by the department for the construction of any outbuilding, garage, patio, barn, aboveground or belowground swimming pool, retaining wall, geothermal system, underground water utility, or underground lawn sprinkler system, road, driveway, parking area or paved sidewalk in accordance with separation distances listed in Rule 410 IAC 6-8.3 et seq.

SITE SURVEY: Inspection of a property conducted by the department prior to the issuance of a construction permit to verify the proposed or repair/replacement of a residential on-site sewage system or commercial on-site sewage system meets requirements in Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10.1. Inspection is conducted on-site with the property owner's registered septic installer. At the discretion of the department, a site survey may not be required on some repairs.

SOIL EVALUATION: Soil profile analysis conducted by a registered soil scientist and shall have a minimum of three (3) pits dug by a backhoe per soil absorption field site. Soil pits must be dug to encompass the whole footprint of the soil absorption field.

STATE DEPARTMENT: For the purposes of this ordinance, when referenced, shall mean the Indiana Department of Health.

SECTION 2. The definitions set forth in this Ordinance, together with those found in Rule 410 IAC 6-8.3 et seq. and Rule 410 IAC 6-10.1 et seq. shall be used in the application, interpretation, and enforcement of this Ordinance, and each definition shall be deemed to apply equally to a residential on-site sewage system or commercial on-site sewage system, unless the application of a word, term, or phrase only to a particular system, facility, or rule is clearly indicated.

ARTICLE III. HEALTH HAZARD DECLARED

SECTION 1. A failed residential on-site sewage system or failed commercial on-site sewage system is hereby declared to be a health hazard and nuisance.

SECTION 2. With respect to a failed on-site sewage system, the Health Board shall issue such orders, pursuant to Article XII of this Ordinance and IC 16-41-25-10., as it shall deem necessary and appropriate for the abatement of the resulting health hazard, subject only to the express limitations set forth in Rule 410 IAC 6-8.3 et seq. or Rule 410 IAC 6-10.1 et seq.

ARTICLE IV. RIGHT OF ENTRY

SECTION 1. The Health Board, the Health Officer and the duly authorized representatives of each, may enter upon public or private property at reasonable times as outlined in IC 16-41-25 and upon presentation of credentials to inspect facilities, equipment, or records, investigate allegations, determine soil characteristics, conduct tests, or collect samples for the purpose of obtaining information necessary to the issuance of a permit pursuant to this Ordinance, Rule 410 IAC 6-8.3 et seq., or Rule 410 IAC 6-10.1, or to determine whether any person is subject to, or in violation of this Ordinance or said Rules, or any permit or registration issued pursuant thereto.

SECTION 2. In accordance with IC 16-41-25, advance notice to the owner or occupant of the residence is not required in an urgent situation caused by a malfunction of the residential on-site sewage system that creates a clear and immediate danger to the public's health, safety, or property.

ARTICLE V. PROHIBITED ACTS

SECTION 1. No person shall throw, run, drain, seep, or otherwise dispose into any of the surface waters or ground waters of Floyd 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 a dwelling or residential on-site sewage system, or commercial on-site sewage system that would cause or contribute to a health hazard or water pollution.

SECTION 2. No person shall commence or allow the construction or placement of a dwelling or the construction or placement of a commercial facility without first having obtained a written permit for the construction of a residential or commercial on-site sewage system.

SECTION 3. No person shall commence or allow the replacement, reconstruction, expansion or remodeling of a residence which may increase the number of bedrooms without first having obtained a written construction permit for the addition to, replacement, or alteration of the existing residential on-site sewage system.

SECTION 4. No person shall cause or allow a change in occupancy or use of any commercial facility served by a commercial on-site sewage system if such change would result in wastewater flow on the peak day in excess of the permitted capacity of the commercial on-site sewage system or it would result in sewage being generated of a type incompatible with absorption field disposal, without first having obtained approval from the Indiana Department of Health Commercial division and obtain a construction permit from the department, if required, for appropriate modifications of the subject commercial on-site sewage system.

SECTION 5. No person shall cause or allow the construction or installation of any outbuilding, garage, patio, barn, aboveground or belowground swimming pool, retaining wall, geothermal system, underground water utility, underground lawn sprinkler system, road, driveway, parking area or paved sidewalk in association with an existing residence or commercial facility without first obtaining a Site Approval Permit for such construction.

SECTION 6. No person shall construct, install, replace, alter, modify, repair, or add to a residential on-site sewage system or commercial on-site sewage system, and no owner shall knowingly suffer or allow any such system to be installed, replaced, altered, modified, repaired or added to except in accordance with the duly issued construction permit, the terms and provisions of Rule 410 IAC 6-8.3, et seq. or Rule 410 IAC 6-10.1, et seq., IC 16-41-25, and this Ordinance.

SECTION 7. No person shall construct or install or thereafter replace, alter, modify, or repair a residential on-site sewage system or commercial on-site system, over which the Floyd County Health Department has jurisdiction for the issuance of a construction permit, without first having registered with the department pursuant to the provisions of this Ordinance.

SECTION 8. No person, having received a written order from the Health Officer or the Health Board pertaining to a violation of this Ordinance or the terms, provisions, conditions, or limitations of any permit or registration issued hereunder, shall fail or refuse to comply with the terms and provisions of such order within the time limit specified therein.

ARTICLE VI. CONSTRUCTION PERMITS

SECTION 1: A soil evaluation is required when a soil absorption field is to be installed or modified. The report must be submitted to our office for review in conjunction with or prior to submission of an application for construction permit.

SECTION 2: Applications for permits for the construction, installation, replacement, alteration, repair of, or addition to, a residential on-site sewage system shall be submitted by the owner or agent of the owner upon forms provided by the Department, shall contain such information as is required by Residential Rule 410 IAC 6-8.3 et seq. and /or deemed necessary by the Health Officer, and shall be accompanied by the appropriate fee payable to the Department, as such fee may be established from time to time by the Board of Commissioners of the County of Floyd.

SECTION 3: Applications for permits for the construction, installation, replacement, alteration, repair of, or addition to, a commercial on-site sewage system shall be upon forms provided by the Indiana Department of Health and shall be submitted to such State Department as permitted and required by Commercial Rule 410 IAC 6-10.1 et seq. In the event that the Indiana Department of Health shall determine that the Floyd County Health Department shall have jurisdiction over the review of such application and the issuance of a construction permit, the owner or agent of the owner will be notified. Construction permits for commercial on-site sewage systems shall be issued in accordance with this Ordinance and Rule 410 IAC 6-10.1. PROVIDED, that references in said Rule to the "Board" or "State Board of Health" shall be interpreted to mean the Floyd County Board of Health, and references therein to the "Commissioner" shall be interpreted to mean the Floyd County Health Officer.

SECTION 4. Construction Permits for residential on-site sewage systems and commercial on-site sewage systems, if applicable, shall be issued by the Health Officer only upon a determination that the proposed system, or the alteration, repair of, or addition to an existing system, complies with the requirements, terms, and provisions of Rule 410 IAC 6-8.3 et seq. and Rule 410 IAC 6-10.1, IC 16-41-25, and this Ordinance, and the following:

- a. The Health Officer may specify in the construction permit any limitation, term, or condition necessary to provide a functional, easily operated, enduring on-site sewage system in accordance with Rule 410 IAC 6-8.3 et seq and Rule 410 IAC 6-10.1 et seq. or to prevent a health hazard, nuisance, surface water pollution or groundwater pollution.
- b. Sizing of the on-site sewage system for residential dwellings or commercial facilities shall be calculated pursuant to Rule 410 IAC 6-8.3 or based upon Indiana Department of Health's determination from Rule 410 IAC 6-10.1. Any proposed residential structure that does not meet the definition of a dwelling or does not contain any bedroom(s) or bedroom equivalent(s), shall be required to install a minimum of 750 gallon septic tank and on-site sewage system sized for a two (2)-bedroom dwelling based upon the soil loading rate in Rule 410 IAC 6-8.3 et seq.
- c. Any on-site sewage system installed with a distribution box shall include a riser on the distribution box to allow for ease of access and location.
- d. A construction permit for a new construction on-site sewage system shall become null and void two (2) years from the date such permit is issued, unless construction/operation or repair/operation allowed by such permit shall be started before such expiration date and completed within (180) days after such expiration date. A construction permit for a repair/replacement on-site sewage system shall become null and void one (1) year from the date such permit is issued, unless construction/operation or repair/operation allowed by such permit shall be started before such expiration date and completed within (180) days after such expiration date.
- e. A construction permit for an on-site sewage system will not transfer to a new property owner upon the sale or transfer of a property.

SECTION 5: Prior to the issuance of a construction permit, the following stipulations must be met:

- a. A site survey inspection must be conducted by the department. The inspection will take place on-site at the property and markings (i.e. flags, stakes) will be required to identify components of the on-site sewage system, including, but not limited to the following: sewer/effluent lines, septic/dose tank, soil absorption system, drain, pump chamber for pump-assisted drain (on sites using best judgement).
- b. House plans showing number of bedroom(s) and bedroom equivalent(s) for the property where a new construction or repair/replacement on-site sewage system is being proposed, must be submitted to the department. Number of bedroom(s) or bedroom equivalent(s) included in the house plans must correlate with what is listed on the application.

- c. Design plans drafted by a registered septic installer and/or licensed surveyor/engineer must be submitted to the department. Design plans may be required to be to-scale drawings. The department will review the plans and request any corrections or additions that are required.
- d. If the on-site sewage system is located on a different parcel of land than the proposed or existing dwelling or commercial facility, then the parcels must either be deeded together with the Floyd County Auditor and recorded with the property deed or have a recorded easement established. Documentation of the updated deed and/or easement must be provided to the department.

SECTION 6. Site Approval Permits for the construction of any outbuilding, garage, patio, barn, aboveground or belowground swimming pool, retaining wall, geothermal system, underground water utility, or underground lawn sprinkler system, road, driveway, parking area or paved sidewalk in accordance with separation distances listed in Rule 410 IAC 6-8.3 et seq. shall be issued upon: (1) proper application of the owner or the agent of the owner on forms furnished by the Department, (2) the payment of the fee established by the Board of Commissioners of the County of Floyd, from time to time, and (3) a determination by the Health Officer that the proposed location of such construction or installation conforms with Rule 410 IAC 6-8.3 et seq. and Rule 410 IAC 6-10.1 et seq., and shall not damage the residential on-site sewage system or interfere with its proper operation and the existing on-site sewage system is not actively failing at the time of our inspection.

ARTICLE VII. PERMIT DENIAL

SECTION 1. An application for a construction permit for a residential on-site sewage system or commercial on-site sewage system, which has been delegated for permitting by the department from the State Department, may be denied by the Health Officer in accordance with Rule 410 IAC 6-8.3 et seq., Rule 410 IAC 6-10.1 et seq., and this Ordinance for the following causes:

- (a) any misrepresentation made in the application;
- (b) failure of the owner or the agent of the owner to respond to a request for information from the Health Officer within 30 days of receiving such request;
- (c) for a residential, replacement on-site sewage system, if a sanitary sewerage system of adequate capacity is available for connection at a construction cost estimated not to exceed one hundred fifty (150) percent of the cost estimated for installing a residential on-site sewage system; or
- (d) failure to show that on-site sewage system can be constructed, operated, maintained, or abandoned in compliance with Rule 410 IAC 6-8.3 et seq. or 410 IAC 6-10.1 et seq.

SECTION 2. If a permit is denied by the Health Officer, the applicant shall be given notice in writing, which notice shall set forth the basis for denial and the fact that a petition for review may be filed in accordance with Article XIII of this Ordinance.

ARTICLE VIII PERMIT REVOCATION OR MODIFICATION

SECTION 1. A construction permit for an on-site sewage system may be revoked or modified by the Health Officer for any of the following causes:

- (a) violation of Rule 410 IAC 6-8.3 et seq. or Rule 410 IAC 6-10.1 et seq. or this Ordinance;
- (b) violation of any limitation, term, or condition contained in the construction permit; or
- (c) failure to disclose all facts relevant to the construction and use of the disposal system, or any misrepresentation contained in the application for a construction permit.

SECTION 2. If a permit is modified or revoked by the Health Officer, the permittee shall be given notice in writing, which notice shall set forth the basis for the modification or revocation and the fact that a petition for review may be filed in accordance with Article XIII of this Ordinance.

ARTICLE IX INSPECTIONS

Section 1: A construction permit shall allow for the following number of site inspections based on the system type. The department will allow for an additional inspection to what is listed below, if the construction permit requires the addition of soil to the on-site sewage system.

- a. **Gravity-fed system:** 1 inspection
- b. **Flood-Dosed system:** 2 inspections (system installation & pump test)
- c. **Elevated Sand Lined System or Elevated Sand Mound:** 3 inspections (plow, system installation, pump test & cover check)
- d. **Subsurface Drip System:** 4 inspections

Any additional site inspection(s) that are not granted by the department due to weather or a special circumstance, will incur an additional site visit fee as outlined in the fee ordinance.

Section 2: Due notice, 24-48 hours, must be given to the department prior to scheduling a meeting, site survey, or inspection. If a meeting, site survey, or inspection is requested without proper notice the department may deny the inspection request.

Section 3: Unless permission is granted by the department, all components of the system shall be left uncovered to allow for inspection and documentation. Exceptions to this include: any area where the sewer line, effluent line or force main need to be crossed by equipment. Drains are allowed to be back filled with an observation pipe to allow for grade shots if one section of the drain is left open to allow for pipe inspection. If issues continually arise, the department will require the full drain to remain open until proper installation is continually observed.

ARTICLE X. SUBMISSION OF DOCUMENTATION

SECTION 1. When an Indiana Onsite Wastewater Professional Association (IOWPA) inspection is conducted at a home located in Floyd County Indiana, the inspector shall submit the report to the Floyd County Health Department within 30 days of inspection date.

SECTION 2: Any property that is using a treatment unit that requires a service agreement with on-going maintenance and/or testing, must submit copies of all reports to the department within 30 days of service date.

SECTION 3: When an onsite sewage system is abandoned per 410 IAC 6-8.3-90, written documentation of tank abandonment must be provided to the department by the homeowner in the form of a receipt from the contractor.

ARTICLE XI. REGISTRATION

SECTION 1. Applications for a registration to install, replace, alter, modify, or repair a residential system or commercial on-site sewage systems shall be submitted upon forms provided by the Department and shall be accompanied by the fee established by the Board of Commissioners of the County of Floyd, from time to time. The application shall disclose the type of registration requested, namely, Residential, Commercial, or Combination.

SECTION 2. No registration shall be issued by the Department unless the applicant has demonstrated a working knowledge of the laws, rules, and regulations pertaining to the type of system for which a registration is to be issued, namely:

- (a) Rule 410 IAC 6-8.3 et seq. and this Ordinance for a Residential registration;
- (b) Rule 410 IAC 6-10.1 et seq and this Ordinance for a Commercial registration; or
- (c) Rule 410 IAC 6-8.3 et seq, Rule 410 IAC 6-10.1 et seq, and this Ordinance for a Combination registration.

(1) Applicants for any registration type that are registered and in good standing in another county in Indiana and licensed by the Indiana Onsite Wastewater Professional Association (IOWPA), in good standing are only required to apply for and pay the registration fee.

(2) Applicants for registration that do not meet the requirements in (1) above: Minimum required knowledge shall be demonstrated by a score of at least eighty (80) percent on an open book, standardized written proficiency examination to be administered by the Department, PROVIDED, that in the event that the reading or language skills of the applicant would preclude the use of a written examination, an oral exam may be given by the Department, and FURTHER PROVIDED, that if the applicant is not a natural person, the examination shall be administered to a designated representative who shall be an officer, partner, official, or employee of the applicant; and

SECTION 3. The following terms and conditions shall apply to a registration and the issuance thereof under this Article:

- (a) A registration shall expire on the anniversary of its issuance.
- (b) If a registration is renewed annually, re-examination shall not be required.
- (c) Opportunity for re-examination shall be afforded persons failing to pass the exam, but no more frequently than once every 30 days.
- (d) The standardized examination may be revised by the Department, from time to time, and more than one comparable version may be administered.
- (e) A list of those persons holding a valid registration under this Article shall be made available to the public.

- (f) A registrant may be required by the Health Officer to attend one educational class or program annually pertaining to sewage disposal to be conducted by the Department, the Indiana Department of Health, IOWPA, or another approved course.

SECTION 4. A registration issued under this Article may be suspended or revoked if the registrant shall be found by the Health Officer to have committed any act prohibited by Article V of this Ordinance, any act that might result in the denial or revocation of a construction permit issued hereunder, or violated any term or provision of this Ordinance, to include Rule 410 IAC 6-8.3 et seq. and Rule 410 IAC 6-10.1, pertaining to the system or facility for which the registration was issued. Notice of suspension or revocation shall be in writing, shall specify the acts or violations committed, and shall be served upon the registrant as permitted by Section 1 of Article XII of this Ordinance.

ARTICLE XII. ORDERS OF THE HEALTH OFFICER AND BOARD

SECTION 1. Any person found to be violating this Ordinance, to include the terms, conditions, provisions, and limitations of any permit or registration issued hereunder, may be served by the Health Officer with a written notice and order stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. A written notice and order under this Article shall be served upon the person to whom directed by personal delivery, certified mail, or otherwise as a summons may be served under the Indiana Rules of Civil Procedure.

SECTION 2. Any person failing to comply with the written order of the Health Officer or the Health Board issued under this Article shall, by such failure, violate Section 8 of Article V of this Ordinance, which violation shall be separate from and in addition to any violation giving rise to or prompting the issuance of such written order.

ARTICLE XIII. PETITION FOR REVIEW

SECTION 1. Within thirty (30) days following the date of: (1) receipt of an issued permit, notice of permit denial, notice of permit modification, or notice of permit revocation pertaining to a residential or commercial on-site sewage system, (2) issuance or denial of a Site Approval Permit, or (3) issuance, denial or revocation of a registration, or within fifteen (15) days of the receipt of an order of the Health Officer or Health Board issued pursuant to Article XII of this Ordinance, any person aggrieved by such action may file a petition for review with the Health Board. A petition for review shall:

- (a) state the name and address of the person making the request (petitioner);
- (b) identify the interest of the petitioner which is affected by the action complained of;
- (c) identify any persons whom the petitioner represents;
- (d) state with particularity the reason(s) for the request; and
- (e) set forth the relief requested.

SECTION 2. Upon receipt of a timely petition for review, the Health Board shall, at its next scheduled regular meeting, or at an earlier special meeting to be called, conduct a hearing into the matters addressed by the petition, and shall take such action thereon, if any, as it shall deem

necessary and appropriate. Upon the mutual agreement of the petitioner and the Health Board, the hearing may be conducted in accordance with the procedures set forth in IC 4-21.5, et seq., being the Administrative Procedure and Orders Act.

ARTICLE XIV. ENFORCEMENT

SECTION 1. Enforcement of this Ordinance as against a person violating the terms and provisions of same shall be in accordance with the provisions of I.C. 34-4-32, et seq. An action to enforce this ordinance shall be brought in the name of the Health Officer or the Health Board, as appropriate, and upon proof by a preponderance of the evidence of a violation hereof, judgment shall be entered against the defendant for a sum of not less than \$100.00 for each violation. A separate violation of this Ordinance shall be deemed to occur for each day that a person shall be in violation of the terms and provisions hereof. No action under this Section shall be commenced, however, with respect to a violation for which a petition for review is pending under Article XIII, hereof.

SECTION 2. In addition to the remedy set forth in Section 1 of this Article, an action may be brought for mandatory or injunctive relief as against any person violating the terms and provisions of this Ordinance, which action shall be brought in the name of the Health Officer or Health Board, as appropriate, but only after notice of violation has been given as permitted by Section 1 of Article XII of this Ordinance. Except in an emergency expressly declared by the Health Board, no action under this Section shall be commenced with respect to a violation for which a petition for review is pending under Article XIII, hereof.

SECTION 3. To the extent permitted by law and this Ordinance, an action under Section 1 of this Article may be joined with an action under Section 2, and to any judgment in favor of the Health Officer and/or Health Board shall be added costs of the action, reasonable attorney fees, and expenses incurred by the Department in the enforcement of this Ordinance.

SECTION 4. In all actions under this Article, the Health Board and/or the Health Officer shall be represented by the attorney retained by the Health Board pursuant to IC 16-20-1-1.

ARTICLE XV. MISCELLANEOUS PROVISIONS

SECTION 1. Indiana State Board of Health Rules 410 IAC 6-8.3 and 410 IAC 6-10.1, as each such rule may be amended and supplemented from time to time, are incorporated herein by reference and made a part of this Ordinance. To the extent that these rules may be found to be inconsistent with one another. Rule IAC 6-8.3 shall be deemed to apply only to Residential On-site Sewage Systems and Rule IAC 6-10.1 only to Commercial On-site Sewage Systems. Any inconsistency between said Rules and this Ordinance shall be resolved against this Ordinance unless the inconsistent provision hereof is more restrictive than the provision of the Rules. References to any Indiana Codes or Indiana Administrative Codes shall also include any subsequent law changes.

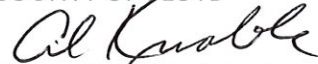
SECTION 2. Should any term or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such determination shall not affect the remainder of this Ordinance which shall remain in full force and effect.

SECTION 3. In the interpretation and application of this Ordinance, the masculine form shall mean and apply to the feminine, and the singular form shall mean and apply to the plural. The title hereof and those of all Articles of this Ordinance shall be disregarded.

SECTION 4. Any provision of any ordinance, rule, or regulation heretofore adopted by the Board of Commissioners of the County of Floyd, which is inconsistent or in conflict with this Ordinance is hereby repealed.

SECTION 5. This Ordinance shall be in full force and effect on and after its passage and publication as required by law. SO ORDAINED this 5th day of September 2023.

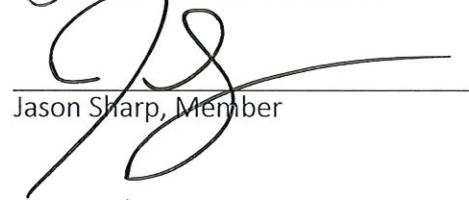
BOARD OF COMMISSIONERS OF
THE COUNTY OF FLOYD



Al Knable, President



John Schellenberger, Member



Jason Sharp, Member

ATTEST:



Diana Topping, Auditor