

CHAPTER 51. SEWAGE AND SEPTIC SYSTEMS REGULATIONS¹

GENERAL PROVISIONS

§ 51.01. Purpose.

The purpose of this chapter is to protect the quality of drinking water supplies and public health, safety, welfare and property by establishing requirements for the design, installation, repair, inspection, protection and maintenance of onsite septic or sewage systems in the county.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.02. Conflicting ordinances.

The provisions of this chapter shall be deemed as additional requirements to the minimum legal requirements of other governmental entities. In case of conflicting requirements, the most restrictive shall apply.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.03. Incorporation by reference.

All rules, regulations and requirements of the Indiana Department of Health (IDOH) related to septic systems, as amended from time to time, are hereby incorporated by reference. Any violation of these laws, regulations or requirements shall also be a violation of this chapter.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.04. Reporting requirement substitution.

In the case where a report requiring information of the same character must be filed to meet a federal or state requirement, the report may be copied and submitted to the health department in lieu of otherwise applicable reporting requirements under this chapter. Any information required by this chapter that is not included in the federal or state report must be submitted additionally.

(Ord. No. 131-23, § 1, 11-21-2023)

¹Ord. No. 131-23, § 1, adopted November 21, 2023, amended Chapter 51 in its entirety to read as herein set out. Former Chapter 51, pertained to similar subject matter, and derived from Ord. 58-07, 7-17-2007; Ord. 15-09, 2-10-2009; Am. Ord. 61-11, 5-10-2011; Am. Ord. 26-13, 5-14-2013.

Cross reference(s)—On-site wastewater advisory board, see § 32.07; septic fees, see appendix.

§ 51.05. Definitions.

Except as defined below, the terms of Rule 410 IAC 6-8.3 or 410 IAC 6-10.1, as amended from time to time, shall have the same definition whenever used in this chapter. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandonment means the process of rendering a septic system which is no longer in use safe and sanitary.

Board of health means the St. Joseph County Board of Health.

Cluster system means an onsite sewage system designed to serve two or more sewage generating dwellings or facilities with multiple owners. Typically, the term includes a comprehensive, sequential land-use planning component and private ownership. This includes a residential cluster system as defined herein.

Commercial facility means any building or place not used exclusively as a residence, residential outbuilding or a single-family farm. A commercial facility includes but is not limited to:

- (1) An office building;
- (2) A manufacturing facility;
- (3) A single structure used or intended to be used for permanent or seasonal human habitation for sleeping three or more families (apartment, multiplex, townhouse or condominium);
- (4) A motel;
- (5) A restaurant;
- (6) A church;
- (7) A regulated facility; or
- (8) Any grouping of residences or businesses served by a cluster system.

Commercial septic system means any septic system that receives septic effluent from a commercial facility or cluster system.

Contractor means an organization that possesses a current septic contractor license from the health department.

Contractor license means a license issued by the health department, after specific conditions are met, to a company, partnership or corporation that authorizes the entity to install or repair septic systems in the county under permits issued by the health department.

Conveyance means any structural process for transferring storm water between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains and roadways.

Dry well means any human-made structural cavity usually extending from or near the ground surface into the soil and used or intended to be used primarily to transmit wastewater to the soil or to dispose of the wastewater. Dry wells are typically made of concrete or rock, placed individually or stacked, and may or may not be surrounded or filled with gravel.

Habitable means livable and fit for a person to reside; free of defects that endanger the health and safety of occupants.

Health department means the health department of St. Joseph County, Indiana.

Health officer means the health officer of the St. Joseph County Health Department or his or her duly authorized representative.

Holding tank means a tank not exceeding 10,000 gallons that receives septage and does not outlet to an on-site sewage disposal system.

I.A.C. means the Indiana Administrative Code.

I.C. means the Indiana Code.

IDOH means the Indiana Department of Health.

Installation means the act of constructing a new or replacement septic system.

Installer license means a license issued by the health department, after specific conditions are met as defined herein, to an individual that authorizes the individual to install and repair septic systems in the county under permits issued by the health department.

Public-owned treatment works (POTW) means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality, including a water and sewer district authorized by IDEM, as such device or system is defined by section 502(4) of the Clean Water Act. This definition includes sewers, pipes or other conveyances only if they convey wastewater to a POTW where treatment is provided.

New construction means installation of a septic system to serve a structure that does not have an existing system to dispose of sewage or where the structure has been destroyed or demolished. Certain requirements applicable to structures that have been destroyed are included in section 51.17.

Operational status report means written documentation of the condition of the septic system used to demonstrate the need for repair or replacement of the system in accordance with the procedures established by the onsite wastewater advisory board.

Permit stipulations means permit-specific requirements or clarifications issued by the health department to address unique issues raised by site-specific conditions or situations as authorized by this ordinance and applicable statutes.

Person means any of the following or their authorized representative: any individual, trust, firm, joint stock company, nonprofit organization, church, federal agency, corporation (including a government corporation), limited liability company, partnership, co-partnership, company, estate, municipal corporation, city, school city, town, school town, school district, school corporation, county, state agency, association, state, municipality, commission, political subdivision of the state, any interstate entity or any other legal entity or their legal representative.

Potable water means water intended and suitable for drinking or culinary purposes.

Property owner means any person or his or her authorized representative who owns a property or part of a property or a facility or part of a facility subject to the requirements of this chapter.

psi means pounds per square inch.

Pump assisted septic system means any septic system that conveys septic effluent by mechanical force to a distribution box or manifold via a pressure delivery line, including but not limited to flood dose, pressure distribution and mound septic systems.

Repair means any activity, except routine maintenance, that replaces or otherwise modifies an existing component of a septic system other than the absorption field. Specifically included are: installation or replacement of a tank, pump, distribution box, effluent line, effluent filter or aeration treatment unit (ATU), patching or resealing tanks and air injection soil fracturing. Specifically excluded are replacing or adding a tank lid or riser or installing baffles internally.

Replacement means adding to or replacing an absorption area to serve a structure that has an existing system to dispose of sewage.

Residential cluster system means a residential cluster system is an onsite sewage system designed to serve two or more sewage-generating residences where the sewage generating structures are separately owned.

Residential outbuilding means a building for the private use of the owner not intended to be used for permanent or seasonal human habitation or sleeping.

Rule 410 means the Indiana Department of Health Rule 410 IAC 6-8.3, Residential Onsite Sewage Systems; 410 IAC 6-10.1, Commercial Onsite Sewage Systems; and Bulletin S.E. 11, "The Sanitary Vault Privy", 2021 Edition as amended from time to time, and any lawful orders and requirements issued by IDOH pursuant to Rule 410 IAC 6-8.3 and 410 IAC 6-10.1.

RWSD means the St. Joseph County Regional Water and Sewer District. The organization established pursuant to IC 13-26 to provide water and sewer services in the unincorporated areas of St. Joseph County.

Sanitary privy means a small enclosed structure for the purpose of serving as an outdoor toilet.

Sanitary sewerage system means a sewer or system of sewers that convey sewage away from the lot on which it originates to a wastewater treatment facility owned and operated by:

- (1) An incorporated city or town;
- (2) A conservancy district;
- (3) A regional sewer district; or
- (4) A private utility.

Septic effluent, septage, sewage or wastewater means any combination of liquid- and water-carried wastes from residences), commercial building(s), industry(s), institutions or any other facility generated by ordinary living processes or other waste approved by IDOH. Also includes any groundwater, surface water or storm water that may be present in the distribution system or holding tank.

Septic or sewage system means any portion of a system used for the conduction, conveyance, collection, storage, treatment, and onsite disposal of sewage located outside of the structure it serves.

Septic tank means a structure into which sewage is discharged for settling and solids digestion.

Siting means the process of selecting an appropriate and lawful location for the installation of a septic system.

Technology new to Indiana or TNI means any onsite sewage treatment or disposal methods, processes, or equipment not described in 410 IAC 6-8.3 that have been approved by the IDOH in accordance with Section 52(h) of Rule 410.

Wastewater administrative control area means a geographic area established by the health department where septic systems have caused drinking water supplies to fall below the federal drinking water standards and where the health department has established requirements related to septic systems to protect the quality of the groundwater and public health.

Well means any artificial excavation that penetrates or derives water from the interstices of the rocks or soil it penetrates, including wells for potable or nonpotable purposes.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.06. Applicability.

This chapter applies to the design, installation, repair, inspection, protection and maintenance of any septic system installed or proposed to be installed in the county.

§ 51.07. Prohibitions.

- (A) A septic system that has failed or fails to operate as designed is a threat to the quality of the groundwater and surface waters and is thereby a threat to public health. Any person who owns a property with a failed septic system shall:
- (1) Inform the health department of the failure; and
 - (2) Comply with any lawful orders of the health department to repair or replace the failed system.
- (B) A dry well that receives septic effluent is a potential threat to the quality of the groundwater, thereby a threat to public health and the construction, installation, or repair of a dry well to receive septic effluent is prohibited. Therefore, all of the following apply:
- (1) No person may install, replace, modify or repair a dry well that receives or is intended to receive septic effluent.
 - (2) The health department shall assess penalties and suspend or cancel the contractor license of any person who installs, replaces, modifies, or repairs a dry well that receives or will receive septic effluent.
 - (3) The health department will not issue a permit for any repair on a septic system that utilizes a dry well as one of its disposal methods.
 - (4) The health department will require the removal of:
 - (a) Any dry well serving more than 20 people per day, in accordance with federal underground injection control regulations requiring such as of 2005;
 - (b) Any dry well without a permit on file with the health department;
 - (c) Any dry well in areas where the drinking water does not meet federal drinking water standards.
- (C) The discharge of septic effluent to the ground surface, or to a ditch, waterway, conveyance, or tile that discharges to the surface or a waterway or conveyance is a threat to the quality of the surface water and is thereby a threat to public health. Therefore, all of the following apply:
- (1) No person may install or repair any device which facilitates the discharge of septic effluent as described in this section.
 - (2) The health department shall assess penalties and suspend or cancel the contractor license of any person who installs any device to facilitate the discharge of septic effluent as described in this section.
- (D) (1) The county building department shall provide any applicant proposing to increase the number of bedrooms in a residence or to move a structure, including a manufactured home, to a new location with a notice prepared by the health department explaining the requirements and recommendations for updates to their septic system.
- (2) Any person applying to increase the number of bedrooms in a residence or to move a structure, including a manufactured home, to a new location which is or will be served by an onsite septic system shall obtain a septic permit or a written opinion from the health department stating that the existing septic system appears to be adequate to meet the requirements of the proposed structure.
- (E) Any county, city, or town government agency within the county shall not rezone a property or a portion of a property which has a structure served by an onsite septic system without notifying the health department of the application at least ten working days prior to taking final action on the application. When reasonable and necessary, the health department may:

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- (1) Provide comments on the application;
 - (2) Require the applicant to submit any reasonable and necessary information required to assess the adequacy of the septic system; and
 - (3) Require that the septic system be modified or replaced to meet current state and county requirements for the intended use.
- (F) The discharge or release of any material to a septic system other than human waste, waste generated from culinary processes and other waste generated by normal living processes or waste approved by IDOH is a threat to the quality of the groundwater and public health. No person shall discharge any waste other than that described above to a septic system of any kind.
- (G) No person may pump, haul, dispose, discard or release septic effluent that has been pumped from a septic tank, dry well or any other item used to hold or store septic effluent in a manner that is not in compliance with the requirements of the state department of environmental management.
- (Ord. No. 131-23, § 1, 11-21-2023)

LICENSING AND PERMITS

§ 51.15. Licenses and registrations.

- (A) *Contractor licenses.*
- (1) Septic systems may only be installed and repaired by persons employed by a company, partnership, or corporation that possesses a current contractor license. A person with an installer license must be on site at all times when a septic system is being installed, including backfilling, or being repaired. Any company, partnership or corporation that installs or repairs a septic system in the county shall first obtain a contractor license from the health department except as provided in subsection (A)(2)(f) below.
 - (2) Any person applying for a contractor license shall:
 - (a) Complete an application as prescribed by the health department;
 - (b) Pay a nonrefundable license fee annually to the health department as prescribed by the county council; and
 - (c) Provide a bond made payable to the health department according to the following requirements.
 1. The bond shall be made payable to cover the costs when the contractor fails to pay for:
 - a. Repairing work performed in violation of this chapter, and the lawful orders of the health department;
 - b. Penalties applied to a contractor for violation of Rule 410, this chapter and the lawful orders of the health department consistent with sections 51.50 and 51.99; or
 - c. The health department's cost of enforcing violations consistent with sections 51.50 and 51.99.
 2. The amount of the bond shall be:
 - a. For persons installing gravity feed septic systems only, \$25,000.00; and

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- b. For persons installing gravity feed and other types of septic systems, \$50,000.00.
 - (d) The term of the bond shall be one year and shall be renewed each year on January 31.
 - (e) Only one bond shall be required for any company, partnership or corporation applying for a contractor license.
 - (f) Residential property owners may install their own septic systems without obtaining a contractor or installer license or providing a bond to the health department if they:
 - 1. Sign the "Homeowner Agreement" form supplied by the health department;
 - 2. Obtain the appropriate septic installation permit;
 - 3. Comply with all applicable laws, regulations and lawful orders of the health department;
 - 4. Participate in a preconstruction meeting with the health department; and
 - 5. Perform 100 percent of the installation work themselves.
 - (3) Contractor licenses expire annually on January 31. Fees shall not be pro-rated based upon licensing date.
 - (B) *Installer and inspector licenses.*
 - (1) Any person who installs or repairs gravity feed septic systems shall first obtain a gravity feed septic system installer license from the health department.
 - (2) Any person who installs or repairs pump assisted septic systems shall first obtain a pump assisted septic system installer license from the health department. A pump assisted septic system license shall also include a gravity feed septic system license.
 - (3) Any person who conducts a septic inspection for compliance with the property transfer provisions of the Source Water Protection Ordinance set forth in sections 52.001 through 52.014 shall first obtain a septic system inspector license from the health department.
 - (4) Any person applying for a license identified above shall:
 - (a) Complete an application as prescribed by the health department;
 - (b) Pay a nonrefundable license fee annually to the health department as prescribed by the county council; and
 - (c) Pass the appropriate test administered by the health department.
 - (5) Any person applying for a license shall first pass an open book test administered by the health department consistent with the following requirements.
 - (a) Separate tests shall be administered for gravity feed septic system installer licenses, pump assisted septic systems licenses and septic system inspector licenses.
 - (b) The tests shall address the laws, regulations and technical principles associated with installing, repairing and inspecting septic systems, as appropriate.
 - (c) Any person who passes the appropriate test shall be exempt from any requirement to retake the test for a period of three years unless ordered by the health department to retake the test as part of a corrective action order.
 - (d) There shall be no cost for the test.
 - (e) Any person failing a test may retake the test after a period of seven calendar days.

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- (f) Any person who has a current pump assisted installation license shall be exempt from taking the test for an inspector's license.
 - (g) Any person who holds a current contractor or installer license shall be exempt from the fee for an inspector license.
 - (h) The health department shall recognize the testing certificate offered by the Indiana Onsite Wastewater Professionals Association (IOWPA) and will accept it in place of testing required herein, if the applicant is a member of IOWPA in good standing and the testing certificate is valid for the year.
- (6) At least one person with the appropriate installer license shall be on site at all times when a septic system is being installed, replaced or repaired, including backfilling, except as provided in subsection (A)(2)(f) above.
 - (7) Installer licenses expire annually on January 31 and fees shall not be pro-rated based upon licensing date.
 - (8) The renewal of licenses shall be subject to the verification of the completion of four hours of applicable continuing education in the previous year.
 - (a) In the event of insufficient continuing education credit, the health department may withhold the renewal until the appropriate amount of hours have been completed.
 - (b) Members of IOWPA in good standing are not subject to this provision but are encouraged to participate.
- (C) *Tank and distribution box manufacturer registration.*
- (1) It is recommended that tanks and distribution boxes shall be registered with the health department in order to better facilitate the review and inspection process.
 - (2) An applicant for registration of a tank or distribution box shall:
 - (a) Submit an application to the health department on forms provided by the health department;
 - (b) Provide the specifications for the design upon request; and
 - (c) Provide a copy of the manufacturer's IDOH approval, if IDOH approval is required.
 - (3) There shall be no fee to register as a septic tank or distribution box manufacturer.
- (D) *Soil scientist registration.*
- (1) Only soils data collected, analyzed and reported by persons registered with the state registry of soil scientists shall be accepted for use in developing specifications for septic systems.
 - (2) The health department shall maintain a list of soil scientists available to perform work in the county.
 - (a) This list is to be made available to the general public to aid them in the permitting process.
 - (b) Soil scientists on the list shall be in good standing with the state registry of soil scientists;
 - (c) Soil scientists on this list shall not have a history of repeatedly submitting deficient or incorrect soils information; and
 - (d) The health department shall update the registration list at least every three years.
 - (3) For soil data collected as part of the on-site evaluation or site mitigation process, the information shall be reported in accordance with industry standards, policies, and procedures and include requisite information as dictated by the IDOH and/or the state registry of soil scientists.

(Ord. No. 131-23, § 1, 11-21-2023)

Cross reference(s)—Penalty, see § 51.99

§ 51.16. Permits.

(A) *General requirements.*

- (1) Any person who installs or repairs any septic system shall first obtain the appropriate permit from the health department.
- (2) Any person who operates a cluster system or other system where the health department has determined that an operating permit is required shall first obtain an operating permit from the health department.
- (3) A fee shall be required for all permits and shall be:
 - (a) Prescribed by the county board of commissioners;
 - (b) Paid at the time the permit application is submitted; and
 - (c) Nonrefundable.
- (4) Obtaining the appropriate permit from the health department does not release any person from obtaining any other required permit or approval.

(B) *Permit categories.*

- (1) *Facility type.*
 - (a) Residential permits shall be required for the following:
 1. One- or two-family dwelling;
 2. Two dwellings with a daily design flow of less than or equal to 750 gallons per day;
 3. Residential outbuilding for the private use of the owner; and
 4. Connection of a dwelling to a cluster system.
 - (b) Commercial permits shall be required for the following:
 1. Any septic system that receives sewage from a commercial facility;
 2. Any septic system that receives a construction approval letter from the IDOH; and
 3. Connection of a commercial facility to a cluster system.
- (2) Permit types include:
 - (a) New construction;
 - (b) Replacement;
 - (c) Repair;
 - (d) Cluster;
 - (e) Holding tank, and
 - (f) Operating.
- (3) Any person desiring to operate one of the following septic systems shall first obtain an operating permit from the health department, as appropriate:

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- (a) Any existing or proposed cluster system;
 - (b) Any residential or commercial septic systems included in an administrative control area established pursuant to section 51.34 and where an operating permit has been determined to be necessary by the health department; or
 - (c) Any other system determined by the health officer to require an operating permit to ensure reasonable and necessary continued operation of the system while protecting public health and property, consistent with the requirements set forth in the I.C. and/or I.A.C.
- (C) *General permit application requirements.*
- (1) All permit applications shall:
 - (a) Be submitted on forms prescribed by the health department;
 - (b) Contain the data prepared by a soil scientist that is prescribed by the health department assessing the suitability of the soils at the site to support the proper functioning of an onsite septic system; and
 - (c) Contain other data prescribed by the health department necessary to process the application, including:
 - 1. All well radii on subject and adjacent properties;
 - 2. Easements, property lines, rights-of-way and utility locations;
 - 3. Existing lot features; and
 - 4. For new construction and remodels, floorplans of all levels of the residence or other structure that are utilizing the onsite septic system.
 - (2) All designs, drawings and site plans submitted as part of a septic permit application shall:
 - (a) Include an accurate, neat and legible drawing made to scale and containing the information prescribed by the health department; and
 - (b) Be prepared by:
 - 1. A person with a current county installer license;
 - 2. A certified soil scientist;
 - 3. A professional engineer;
 - 4. A professional geologist; or
 - 5. A licensed surveyor except when a system is to be installed subject to section 51.15(A)(2)(f).
 - (3) The health department may refuse to accept drawings for a period not exceeding three years from any person identified in section 51.16(C)(2)(b) who repeatedly:
 - (a) Fails to comply with drawing requirements;
 - (b) Fails to respond to the comments of the health department; or
 - (c) Submits drawings in conflict with previous drawing submissions.
 - (4) Any application for a septic permit for new construction should show the location of the proposed septic system and a set-aside area suitable for a replacement system subject to the following requirements.

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- (a) The set-aside area should be assumed to be the same size and type as the first system unless otherwise specified.
 - (b) The set-aside area should be in a suitable landscape position and have suitable topography.
 - (c) The set-aside area should be used for site planning purposes and no guarantee shall be made or implied that the set-aside area will be suitable for a future replacement septic system.
 - (d) The health department shall not deny a septic system application for any lot because there is insufficient space to designate a replacement system as described above.
- (5) Any application for a septic permit for a replacement or repair utilizing best judgement shall include an operational status report. The report shall be:
- (a) Prepared by a licensed septic installer or inspector;
 - (b) Prepared according to the requirements of the health department; and
 - (c) Documented on the appropriate form provided by the health department.
- (D) *Non-cluster system operating permit application requirements.*
- (1) If an operating permit is determined to be required by the health department pursuant to 51.31(A)(4) or 51.34, the requirements for operating permits shall be made on a case-by-case basis by the health department and shall include the requirements that are reasonable and necessary to ensure the correct operation of the system.
 - (2) The requirements for the operating permit shall be specified by the health department in the permit to construct the septic system for which the operating permit is required.
- (E) *Permit approval process where the health department is the sole permitting agency.*
- (1) The property owner or his or her duly authorized agent shall:
 - (a) Apply for a permit and submit the soils information prescribed by the health department; and
 - (b) Designate and protect the septic area as per the requirements of section 51.30.
 - (2) The health department shall then:
 - (a) Review the soils data and other site information; and
 - (b) Issue minimum specifications for the design of the septic system, as appropriate.
 - (3) The property owner shall then submit a design consistent with the requirements of the health department that:
 - (a) Meets or exceeds the minimum design specifications of the health department;
 - (b) Contains all information prescribed by the health department;
 - (c) Contains a variance request on forms provided by the health department for any deviation from new construction design standards or minimum specifications issued by the health department. Any such variance request shall comply the provisions of Rule 410; and
 - (d) Does not reuse existing septic system components for which there does not exist proper documentation from the installation.
 - (4) The health department shall then:
 - (a) Conduct an onsite inspection, as necessary;
 - (b) Review and assess the acceptability of the proposed design;

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- (c) Require modifications of the designs as necessary to meet specifications, site conditions and regulatory requirements; and
 - (d) Issue a permit upon the receipt and approval of all required information and after determining that the application meets all applicable state and county requirements.
- (5) The permit shall consist of:
- (a) An approval sheet;
 - (b) The approved specifications;
 - (c) The approved site plan and designs; and
 - (d) Any required permit stipulations.
- (F) *Permit approval process (other than cluster systems) where both IDOH and health department are permitting agencies.*
- (1) The property owner shall first make application to IDOH for approval to install or replace a septic system.
 - (2) Upon receiving IDOH approval of an application, the property owner shall submit a permit application to the health department along with a copy of the IDOH approval.
 - (3) The process as described in subsection (E) above shall then be followed to issue a permit.
 - (4) If the IDOH delegates the permit approval process to the health department during the approval process, the property owner or his or her authorized agent shall submit a copy of the delegating letter from IDOH and follow the process defined in subsection (E) above.
- (G) *Requirements applicable to all permits.*
- (1) All septic systems shall be installed in compliance with the following requirements:
 - (a) Applicable IDOH requirements;
 - (b) This chapter;
 - (c) The approved design and site plan;
 - (d) The specifications and permit stipulations issued by the health department; and
 - (e) Any other lawful direction provided by IDOH or the health department.
 - (2) A copy of the applicable permit with all attachments must be on site at all times during construction of any septic system.

(Ord. No. 131-23, § 1, 11-21-2023)

Cross reference(s)—Penalty, see § 51.99

§ 51.17. Siting.

- (A) *Waste disposal systems.* All structures in which wastewater is generated shall be served by one of the following:
- (1) A sanitary sewerage system; or
 - (2) A septic system that is:
 - (a) Located on the property on which the structure is located;

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- (b) Located on a property with an applicable septic system easement; or
 - (c) Connected to an approved cluster system.
- (B) The health department may require any person applying to replat a property, rezone a property, or remodel an existing property to provide any reasonable and necessary information, inspections, and data needed to comply with section 51.07(D) and (E).
- (C) Any person applying to construct a cluster system shall first provide the health department with documentation from the authorized representative of the county regional water and sewer district stating that the county regional water and sewer district does not object to the construction and operation of the cluster system.
- (D) *Connection to sanitary sewerage system.*
- (1) The health department shall encourage the connection of residences and businesses to sanitary sewerage systems whenever practical, economical or in the interest of public health.
 - (2) Decisions concerning whether to require new subdivisions to be connected to a sanitary sewerage system shall be made through the procedures established by chapter 153 of this Code.
 - (3) If new construction is proposed or a septic system fails and a sanitary sewerage system is available adjacent to the property or adjacent to an easement or right-of-way which is adjacent to the property, the property owner shall connect to the sanitary sewerage system unless a written waiver is provided by the sanitary sewerage system to the health department.
 - (4) The health department may grant a variance of the requirement to connect to sanitary sewerage system if the health department determines the costs to connect to be prohibitive and there is no compelling public health reason to do so.
 - (5) Irrespective of the requirements listed in section 51.17(D)(3) and (4), the health department will abide by any decision made by the county regional water and sewer district concerning any property that shall or shall not use any sanitary sewerage system owned and operated or otherwise controlled by the county regional water and sewer district unless there is a compelling public health reason not to abide by the decision.
 - (6) Irrespective of the requirements contained in section 51.17, the health department may require that any structure be connected to a sanitary sewerage system if there is a compelling public health reason to do so.
- (E) Any person applying for a septic permit shall, upon request, provide the health department with access to the structure to be served by the septic system and, for new construction, drawings of the proposed structure, for the purpose of determining the appropriate size of the septic system.
- (F) When a habitable structure has been destroyed by a catastrophic event such as fire or wind, any applicant for a building permit to repair or replace the structure shall first provide the health department with a description of the existing septic system and soils sufficient to determine whether the existing septic system is adequate to serve the rebuilt structure. If the health department determines that the existing septic system is not adequate to serve the rebuilt structure, the applicant shall obtain a permit to install a new septic system. New construction standards and requirements shall apply to the new septic system; however, the health department shall not deny a permit to an applicant based upon the inability to meet new construction standards unless the health department determines the proposed septic system would be a threat to public health. The health department shall provide documentation to the applicant for submittal to the building department to confirm a suitable onsite sewage system exists or a permit has been issued to install a new system.

(Ord. No. 131-23, § 1, 11-21-2023)

Cross reference(s)—Penalty, see § 51.99

§ 51.18. Soil investigations and reports.

The health department may issue guidance concerning the preparation and submittal of soil reports to support any decision concerning septic systems and the policies and procedures of this chapter shall be binding on all soil scientists and permit applicants. Guidance to this effect will be based on policies and practices of the state registry of soil scientists, state department of health, natural resources conservation service, and/or other relevant agencies.

(Ord. No. 131-23, § 1, 11-21-2023)

CONSTRUCTION

§ 51.30. Site preparation.

(A) *New construction.*

(1) *Initial construction activities.*

- (a) No site activity undertaken for the erection of any structure to be served by a septic system may be initiated prior to obtaining a septic permit.
- (b) Clearing, grubbing and/or grading a lot prior to obtaining a septic permit is discouraged and subject to the provisions of subsection (A)(1)(c) and (A)(1)(d) below.
- (c) Removing vegetation, scraping, cutting, filling or compacting soil, removing tree root balls or other surface disturbing activities in a designated septic area or on the location of a soil boring may render any soils report obtained prior to the disturbance unacceptable for use in determining soil conditions for any septic permit, approval or recommendation by the health department.
- (d) If the surface disturbance activities described in subsection (A)(1)(c) above occur, the health department may require new soil borings and may require any of the following actions to mitigate the impacts to the soil if all state and county requirements concerning the design and installation of septic systems cannot be met:
 1. Altering the design of the septic system;
 2. Designating the proposed septic area unsuitable for any septic system; or
 3. Designating the entire property unsuitable for any onsite septic system.

(2) *Protection of septic system and dispersal area prior to construction.*

- (a) Prior to submitting a design for a septic permit, the property owner or his or her authorized agent shall designate and protect the septic system location by:
 1. Placing metal fence posts extending approximately two feet below and four feet above the ground at the corners of the septic area and every 50 feet along the sides of the septic area;
 2. Extending two lines of durable caution tape, rope or fence around the system approximately two feet and four feet above the ground and securely fastening it to each fence post so that it remains in place; and/or

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3. Placing a sign no smaller than approximately one foot by two feet on a post or the tape, rope or fence which states "Designated Septic Area—Disturbing this area is a violation of County Code, Chapter 51".
 - (b) Where an elevated sand mound is to be constructed, the down slope dispersal shall also be protected by the measures described in subsection (A)(2)(a) above.
 - (c) Upon the designation of the site of the proposed septic area by the method described in subsection (A)(2)(a) above, no person shall disturb the designated area by any of the activities described in subsection (A)(1)(c) above.
 - (d) The measures described in subsection (A)(2)(a) above shall be maintained until installation of the septic system begins.
 - (e) The health department may recommend any additional measures on a case-by- case basis as deemed reasonable and necessary to protect the proposed septic area, the installed septic system, and the dispersal area.
 - (3) *Protection of septic system and dispersal area after construction of the septic system.*
 - (a) After approval of the installation by the health department, the property owner or his or her authorized agent shall protect the septic system until the start of final site grading by re-erecting and maintaining the posts, caution tape or rope and sign erected pursuant to subsection (A)(2) above.
 - (b) It shall be a violation of this chapter for any person to:
 1. Remove the posts, caution tape or rope or signs erected under subsection (A)(2) or (3), except to install the septic system or to perform final site grading; and/or
 2. Disturb the soils of a designated septic area, an installed septic system, or their associated dispersal area in any way that could impact the ability of a septic system to function. The prohibited activities include but are not limited to:
 - a. Driving on the area except for the minimum amount necessary to install the septic system and for final site grading;
 - b. Placing fill material on or over the septic area except as required to meet state or county septic system installation requirements or as topsoil during final grading;
 - c. Removing any soil from the septic area;
 - d. Using the septic area to temporarily store any equipment or materials, including the stockpiling of earthen material;
 - e. Compacting the septic area and dispersal area in any manner; or
 - f. Removing large tree root balls that damage the area or system.
 - (c) A permanent fence may be required to be erected and maintained around any cluster system absorption field to protect the system from damage and vandalism. All fencing must be installed in accordance with existing zoning laws.
 - (4) *Health department action.* If the health department determines that a proposed septic area has been damaged after the submittal of soil borings, the health department may take appropriate action to ensure that the site is suitable for installation of a septic system. Appropriate action may include but is not limited to the following:
 - (a) Reworking soils in the septic area;

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- (b) Implementing additional measures to protect the septic area or system;
 - (c) Canceling the septic permit;
 - (d) Requiring additional borings;
 - (e) Increasing the size of the absorption area or otherwise changing the specifications for the system;
 - (f) Preventing the use of the disturbed area for a septic system; and
 - (g) Preventing the installation of an onsite septic system.
- (B) *Replacement construction.* Prior to applying for a septic permit, the property owner or his or her authorized agent shall designate the septic system location by marking the proposed location of the:
- (1) Ends of the trenches, all tank(s), manifold and distribution box;
 - (2) Four corners of the aggregate bed and the downslope dispersal area; and
 - (3) Utilities in the vicinity of the proposed system.

(Ord. No. 131-23, § 1, 11-21-2023)

Cross reference(s)—Penalty, see § 51.99

§ 51.31. System design.

- (A) *General requirements for equipment, materials, and suppliers.*
- (1) The design requirements listed in Rule 410 are the minimum acceptable requirements. The health department may recommend measures that exceed these requirements when reasonable and necessary to install a properly designed and sited system.
 - (2) Only equipment and materials approved by IDOH, as required, shall be used in the county.
 - (3) The health department may recommend against the use of any equipment, materials, practice, procedure, or technology.
 - (4) The health department may recommend against the use of a specific supplier of equipment or materials for use in septic systems when the health department determines the equipment or materials to be defective or not suited for the conditions in the county.
 - (5) The health department may issue policies and procedures pursuant to section 51.37(B) to establish requirements, consistent with Rule 410, for the use of any equipment, material, practice, procedure, or technology.
- (B) *Additional requirements for approval of specific applications.*
- (1) An approved septic permit variance is required to obtain a septic permit for a replacement system that does not meet the new construction standards of Rule 410 and this chapter.
 - (2) The health department may recommend that the design and construction of any septic system include materials and measures in addition to the materials and measures that are minimally required by Rule 410 and this chapter.
 - (a) The health department's decision to recommend additional or different materials and/or measures shall be based on:
 - 1. The soil and hydrogeologic conditions in the vicinity of the proposed septic system;

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2. The history of septic failures in the vicinity of the proposed septic system; and/or
 3. Other technical information or data that demonstrates a septic system would likely fail prematurely if it were installed with the materials and measures minimally required.
- (b) The materials and measures may include but are not necessarily limited to any or all of the following:
1. Installation of two compartment septic tanks;
 2. Installation of an effluent filter;
 3. Obtaining an operating permit;
 4. Enlarging the soil absorption area; and/or
 5. Recommending a pump assisted system to be installed.
- (c) The health department shall identify these materials and measures in the specifications, orders of the health department and/or permit, as appropriate.
- (C) *Distribution boxes and piping.*
- (1) Concrete distribution boxes shall be constructed of 4,000 psi concrete and the inside of the box shall be completely covered with a substance to prevent or inhibit corrosion such as a suitable bituminous material sprayed or painted on all inside surfaces. Nicks and scratches in the corrosion inhibitor made during installation shall be repaired.
 - (2) Any material used as a corrosion inhibitor shall be subject to the approval of the health department.
 - (3) For gravity distribution systems:
 - (a) Only ASTM D2665-09 Schedule 40 pipe or an equivalent approved by the health department shall be used from the residence, business or other structure to the distribution box and for the first five feet after the distribution box; and
 - (b) All connector openings on distribution boxes shall be watertight.
 - (4) All piping, except that described in subsection (C)(3) above, used in onsite septic systems shall meet the applicable minimum requirements of Rule 410.
 - (5) All fittings (couplers, elbows, reducers, tees and the like) used on force mains, pressure sewers, laterals or similar pipe under pressure shall be pressure rated to a standard to meet or exceed that of the piping.
 - (6) If the distribution box is not equipped with a baffle, the effluent line from the septic tank to the distribution box shall terminate inside the distribution box with a sweeping "T" which shall be installed in the vertical position.
 - (7) All piping from the structure to the septic tank shall have fittings/elbows of less than 90 degrees.
- (D) *Tanks.*
- (1) Drain holes in tanks are discouraged, but if included, shall be designed to be watertight and installed in such a manner to prevent the inflow or outflow of water throughout the design life of the tank.
 - (2) All effluent ports in poly, plastic, or similar tanks shall be fitted with connectors according to manufacturer's recommendations.
 - (3) Access riser/manholes shall be included on all tanks and shall be:
 - (a) At least 18 inches in diameter extending to ground surface;

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- (b) Fitted with safely secured, gas-tight cover with either a locking device or screwed in;
 - (c) Provided for each tank compartment for service and inspection;
 - (d) Installed over the outlet/effluent filter;
 - (e) Installed in a manner to facilitate septic tank pumping and cleaning;
 - (f) Sealed to the top of the tank with butyl rubber sealant or hydraulic cement in a manner to provide a water-tight seal; and
 - (g) Fitted with a plug where the riser connects to the top of the tank to comply with the requirements of IC 16-41 -25-3, whenever a riser is installed. A plug in the riser shall not be required if a plug is included in the tank.
 - (h) The health department may suggest additional measures where deemed reasonable and necessary.
- (6) Tanks constructed of two sections shall be sealed and risers attached in a manner to assure a watertight seal. The joint sealant for concrete tanks shall be installed when all adhesion surfaces are clean and dry and shall be:
- (a) Installed according to manufacturer's recommendations; and
 - (b) A minimum of one and one-half inches wide and compressed to 50 percent.
- (E) *Absorption fields.*
- (1) The minimum absorption area for any onsite septic system shall be based on requirements of Rule 410.
 - (2) The minimum depth of aggregate above the distribution laterals shall be two inches throughout the entire length and width of trenches.
 - (3) When an interceptor drain is installed to lower the seasonal high water table, the health department shall specify the depth of the drain and the distance the drain shall extend down the slope on each end of the absorption field.
- (F) *System replacement.*
- (1) Designs for replacement systems shall meet the new construction standards of Rule 410 whenever possible.
 - (2) When removal of fill and backfilling the site with INDOT Specification 23 sand is necessary, pressure distribution of effluent shall be required if utilizing conventional technologies.
 - (3) When space for a replacement system is limited, new construction standards may be relaxed for residential systems with the approval of the health department documented by a signed variance.
 - (a) The health department may add requirements when new construction standards cannot be met when necessary and reasonable to protect public health or enhance system performance.
 - (b) The order of preference when reducing standards shall be to:
 - 1. Reduce separation distance to buildings or other structures;
 - 2. Reduce on center separation between absorption trenches;
 - 3. Reduce the total square footage of absorption trench; and
 - 4. Install a bed system.
 - (4) Bed design shall meet the following requirements.

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- (a) The size of the absorption area shall be increased according to the requirements of the health department.
 - (b) Multiple beds are preferred over one large bed.
 - (c) Gravity laterals shall be positioned three feet on center within each bed.
 - (d) The bottom of a bed shall be excavated to a level elevation.
 - (e) Separation distance and the hole spacing between pressurized laterals will be evaluated on a case-by-case basis.
 - (f) Distribution boxes may be located within the bed when necessary to increase the total square footage of the bed.
 - (g) Effluent or outlet filters shall be installed when:
 - 1. A bed, single or multiple, is installed;
 - 2. The total square footage of absorption field fails to meet design specifications; or
 - 3. Deemed necessary by the health department.
 - (5) To retain the use of the existing system and create an alternating field system, the existing system must meet new construction standards with the exception of total square footage. Decisions on whether the size of the existing absorption area is sufficient shall be made by the health department on a case-by-case basis.

(G) *Holding tanks.*

- (1) The minimum size for a septage holding tank shall be 2,000 gallons.
- (2) Residential sources generating septage being held in non-temporary and/or permanent holding tanks must discharge to tanks sized at 1,000 gallons per bedroom and/or bedroom equivalent.
- (3) Commercial sources of septage being held in non-temporary and/or permanent holding tanks must discharge to tanks sized at the rate of their design daily flow, multiplied by seven.
- (4) The piping and tank standards for material and separation distance shall mirror those set forth in Rule 410 for pipe specifications and septic tanks.
- (5) Each holding tank must be equipped with audio and visual alarms, which are to be activated when the tank reaches two-thirds capacity.
- (6) No residential or commercial source connected to a septage holding tank may be occupied until a holding tank operating permit has been issued by the health department.
 - (a) This operating permit must include:
 - 1. A written contract with an appropriately licensed operator of septage management vehicles providing for the removal of septage from the holding tank at regular intervals, not exceeding two months of continued occupancy.
 - 2. A commitment to submitting records of the on-site sewage meter readings every time the tank is pumped, not exceeding two months.
 - 3. A commitment to submitting a receipt from a licensed wastewater treatment plant as to the amount of sewage received from the hauler every time the tank is pumped, not exceeding two months.

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- (b) A violation of the terms and requirements stated in the operating permit will result in the residence or commercial structure deemed a threat to public health and subject to condemnation and ordered vacated.
 - (7) The department of health may develop and make available additional standards concerning the installation and operation of holding tanks.

(Ord. No. 131-23, § 1, 11-21-2023)

Cross reference(s)—Penalty, see § 51.99

§ 51.32. System construction.

(A) *Installation hold points for health department inspections.*

- (1) The health department shall determine installation hold points for construction of any septic system that designate when the installer shall stop construction and contact the health department for a partial or final inspection.
- (2) No contractor shall construct any portion of a septic system beyond the hold point until the health department provides a partial or final approval, as appropriate.
- (3) The contractor installing a septic system shall contact the health department within at least 24 hours of reaching any hold point for an inspection and shall be responsible for protecting the integrity of any partially completed section of the system until construction is complete and the system is inspected and approved by the health department.
- (4) The health department may stipulate a pre-construction conference prior to the installation of the septic system in order to meet with the installer and verify that the proposed septic system can meet the provisions stated in the design and will be in accordance with applicable rules and chapters. No contractor shall construct any portion of a septic system prior to this pre-construction conference, if stipulated.

(B) *Septic tanks and dosing tanks.*

- (1) Septic tanks and dosing tanks shall not be installed with the top of the tank below the regulatory flood elevation.

(C) *Distribution boxes and headers.*

- (1) The area around the headers shall be appropriately bedded with earthen material to ensure that headers do not shift during backfilling.

(D) *Absorption fields.*

- (1) All chambers must be bedded firmly along their sides prior to backfilling and the final inspection.
- (2) No tilling may take place for a mound without a representative of the health department on site.

(E) *Covering systems.*

- (1) All portions of a septic system shall remain uncovered to the maximum extent possible until inspected and approved by the health department. At a minimum, both ends of all trenches, all tanks, the distribution box and all portions of the headers shall remain uncovered until the systems is inspected and approved by the health department.
- (2) Gravel in subsurface drains shall remain uncovered to the maximum extent practical until inspected and, in all cases, a section of the drain tile shall be exposed at one location on each side of the absorption field.

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- (3) Subsurface drain outlets shall not be covered until inspected and approved.
- (F) *Abandonment and removal of septic systems.*
- (1) *General requirements.*
- (a) When a septic system or any component thereof must be abandoned or removed, it shall be completed in a safe and sanitary manner.
 - (b) An onsite septic system or any component thereof must be properly abandoned or removed upon a determination by the health department that it has failed or it is to be abandoned.
 - (c) Abandonment or removal methods shall be noted on the permit application to replace an existing system.
 - (d) Evidence of the proper disposal of waste materials shall be available upon request.
 - (e) Upon the approval of the health department, an existing system that has been replaced may be left intact and connected to the replacement system with a diverter box if the replaced system meets all current standards applicable to the installation of a replacement system. The replaced system shall not receive effluent for one year following its replacement.
- (2) *Abandonment.* Septic tanks, dose tanks and dry wells shall be abandoned according to the following requirements.
- (a) The power shall be disconnected at the source from all electrical controls and all controls and panels shall be removed. All electrical lines (including service lines) that will not be used for other purposes shall be removed.
 - (b) All tanks shall be pumped and cleaned by a person licensed by the state department of environmental management.
 - (c) Tanks shall be completely removed or filled with debris-free sand, soil or other debris-free earthen material in a manner to prevent settling.
 - (d) Dry wells shall be collapsed and filled or removed.
 - (e) The area shall be properly graded so that water does not pond over the area and a vegetative cover shall be established.
- (3) *Absorption fields.*
- (a) The components of the absorption field may be left intact.
 - (b) If effluent has discharged to the surface, the area shall be covered with hydrated lime.
 - (c) If the absorption field is to be removed:
 - 1. The tanks shall be pumped and the absorption field shall be allowed to completely dry;
 - 2. Distribution boxes shall be pumped and cleaned;
 - 3. The distribution network, aggregate and sand (if any) shall be removed from the site and taken to a licensed landfill for disposal; and
 - 4. The site shall be graded so that it does not pond water and a vegetative cover shall be established.

(Ord. No. 131-23, § 1, 11-21-2023)

Cross reference(s)—Penalty, see § 51.99

§ 51.33. System damage and maintenance.

- (A) *Damage to septic systems.* The owner of any property on which a damaged septic system is located shall repair or replace the system according to the requirements of the health department.
- (B) *Maintenance of septic systems.*
 - (1) Property owners that have grease traps as part of their septic system shall have them pumped as often as necessary to prevent the release of grease, fats and oils directly into a septic tank.
 - (2) The health department may establish requirements for the pumping of any or all septic tanks and other reasonable and necessary routine maintenance activities. Property owners shall follow the manufacturer's maintenance recommendations for any equipment installed.
 - (3) No person shall discharge or release any hazardous material or petroleum products into a septic system or connect the septic system to any tank used to store the materials.
- (C) *System protection.*
 - (1) No person may construct any structure or other improvement over any septic tank, distribution box or absorption area. The types of structures or improvements that are prohibited include but are not limited to a sidewalk, driveway, parking lot, paved or unpaved road, deck, swimming pool or shed.
 - (2) The health department may order the removal of any structure or other improvement constructed over a septic system and any necessary repair or replacement of the septic system caused by the construction.

(Ord. No. 131-23, § 1, 11-21-2023)

Cross reference(s)—Penalty, see § 51.99

§ 51.34. Wastewater administrative control areas.

- (A) *Purpose.* To protect drinking water supplies and public health, the health officer may establish wastewater administrative control areas where seepage or other releases of septic effluent are causing drinking water wells to fall below the federal drinking water standards.
- (B) *Process.*
 - (1) An administrative control area may be established by:
 - (a) issuing a public notice of the intent to establish an administrative control area;
 - (b) Advising the potentially affected residents of the intent to establish an administrative control area;
 - (c) Preparing a draft administrative control plan which shall:
 - 1. Identify the area to be included in the administrative control area;
 - 2. Summarize the current and potential health threat(s);
 - 3. Identify the actions to be taken to reduce the threat to the drinking water supplies and public health; and
 - 4. Identify the implementation schedule for the actions.
 - (d) The health department shall:

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1. Hold a public meeting to accept comments on the draft administrative control plan; and
 2. Consider the public comments and prepare a final administrative control plan.
- (2) The requirements of any final administrative control plan shall be binding on all persons within the administrative control area.
- (3) Among the requirements that the health department may consider for inclusion in an administrative control plan are:
- (a) Routine maintenance programs for septic systems;
 - (b) Obtaining an annual operating permit be obtained from the health department;
 - (c) Installing pretreatment systems;
 - (d) Having new and replacement septic systems in the administrative control area meet more strict design requirements;
 - (e) Connecting structures within the administrative control area to a municipal water system including a system under the jurisdiction of the county regional water and sewer district; and
 - (f) Other measures deemed appropriate and necessary by the health officer.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.35. Elimination of direct discharge of effluent.

When the health department becomes aware of any direct discharge of septic waste or effluent from any structure to the surface or a drain tile, ditch, stream, lake or other surface water, the health department shall issue an order of abatement consistent with section 51.50 ordering the owner of the structure to install a septic system that meets all current state and county laws and regulations, install a holding tank, connect to a cluster system, connect to a sanitary sewerage system, or abandon the property. The health department may issue a waiver of this requirement for any direct discharge that is being addressed by the county regional water and sewer district in a plan approved by the state department of environmental management.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.36. Public education program.

The health department shall perform the following, subject to the availability of funds, to inform the public of the measures necessary to protect drinking water supplies from septic effluent and to improve the useful life of septic systems:

- (1) Prepare and implement plans to inform the public of the proper use and maintenance of septic systems and the potential impact of improper maintenance on drinking water quality; and
- (2) Seek to partner with other parties that provide or have an interest in providing information to the public concerning the proper use and maintenance of septic systems and their potential impact on drinking water quality.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.37. Issuance of standards and requirements.

- (A) The county board of health may adopt, amend or rescind any rules, regulations or standards as deemed appropriate and necessary for proper enforcement of and to carry out the purposes and intent of this chapter subject to the following requirements:
 - (1) Public comment periods, public meetings and public hearings, as appropriate, shall be used in accordance with state law; and
 - (2) The county onsite wastewater advisory board shall be consulted prior to the issuance.
 - (3) Proper submittal requirements and supporting documentation necessary for approval by the technical review panel of the state department of health, as appropriate.
- (B) The health department may adopt, amend or rescind policies and procedures for the appropriate implementation of this chapter.
- (C) The rules, regulations, standards, policies and procedures issued pursuant to this chapter may not:
 - (1) Threaten public health; or
 - (2) Conflict with any provision of this chapter or other applicable federal, state or county laws or regulations.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.38. Cluster systems.

- (A) *Permit approval process for cluster system installation permits.*
 - (1) The property owner shall submit an application to the health department for an installation permit at the same time an application is submitted to either the IDOH or the Indiana Utility Regulatory Commission (IURC), as appropriate.
 - (2) Within 30 calendar days of receipt of written approval by the IURC or IDOH, the applicant shall notify all owners of properties, residences and other structures within 500 feet of the cluster system of the planned construction of the cluster system and shall provide a list of recipients of the notice to the health department.
 - (3) The health department shall follow the process described in subsection (B) below to process an application for an installation permit.
 - (4) A permit application for each facility to connect to the cluster system shall be obtained from the health department prior to connecting the facility to the cluster system.
- (B) *Cluster system permit application requirements.* An application for a permit to install a cluster system shall include the following:
 - (1) The name, business address and business telephone number of the owner;
 - (2) One set of detailed construction plans and specifications certified and sealed by an engineer or architect holding a then valid license from the State of Indiana. Plans shall be drawn to scale and have sufficient clarity to be reproduced;
 - (3) A map showing the location of the property;

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- (4) A plot plan, drawn to scale, showing the location of the cluster system with respect to property lines, existing and proposed structures, roads and parking lots, any drinking water supply facilities within 300 feet of the cluster system and topography with contours at intervals of two feet or less;
 - (5) The maximum design capacity of the cluster system;
 - (6) A list of properties that are expected to be connected to the cluster system;
 - (7) A soil report detailing the evaluation of soils observed in the area of the proposed absorption field. A minimum of six borings within 50 feet of the absorption field, with no less than three of the six borings within the absorption field are required. Boring locations shall be evenly distributed throughout the absorption field area;
 - (8) A statement of how financial resources will be obtained to cover the cost to maintain and replace the system;
 - (9) A complete cluster system operating permit application, as described in subsection (C); and
 - (10) Any other information deemed appropriate and necessary by the health department.
- (C) *Cluster system operating permit application requirements.*
- (1) An application for a cluster system operating permit shall include the following:
 - (a) Proof of registration with the Indiana Utility Regulatory Commission (IURC) or documentation to the satisfaction of the health department that registration is not required; and
 - (b) A maintenance agreement that shall include the following, as applicable:
 1. Contact information for the organization responsible for maintenance;
 2. Vegetation and erosion control measures;
 3. Regular monitoring well sampling and inspection;
 4. Schedule for pumping and cleaning of septic tanks;
 5. Wastewater flow recording;
 6. A statement binding the owner to report all malfunctions of the systems to the health department; and
 7. Other information deemed reasonable and necessary by the health department.
 - (2) An executed maintenance agreement must be in place prior to connecting any residence to the cluster system.
- (D) *Cluster system operating requirements.*
- (1) The health department shall be timely notified of any events, including but not limited to system failure, pump replacement, collection system failure, electrical failures and other similar events or proposed changes to the manner in which the system is operated.
 - (2) A quarterly inspection of the cluster system must be conducted and a report documenting the condition of the system shall be submitted to the health department within 30 days from the date of inspection.
 - (3) All monitoring data shall be submitted to the health department in accordance with the maintenance agreement.
 - (4) The health department may require sampling of residential wells considered to be at risk.
- (E) *Cluster system replacement fund.*

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- (1) Any person who owns a residential cluster system shall maintain a replacement fund to be used solely to replace or repair the soil absorption system upon its failure according to the following requirements.
 - (a) The replacement fund shall be collected, maintained, and used solely for the repair or replacement of the soil absorption system and shall not be used for monitoring, maintenance, or repair of any other component of the system.
 - (b) The replacement fund shall be maintained in a bank account, or other account as may be approved by the health department, separate from all other funds or finances of the owner.
 - (c) Each person responsible for making payments into the replacement fund shall make all payments as prescribed by the owner.
 - (d) The amount of the replacement fund and the rate it shall be accumulated shall be determined by the health department and shall be based on the estimate life of the soil absorption system, the costs to replace the system, and other factors as may be deemed appropriate by the health department.
 - (e) In December of each year, the owner shall provide the health department with a notarized financial statement showing the amount in the replacement fund.
 - (f) Owners of existing residential cluster systems shall maintain the replacement fund as prescribed by the health department.
 - (2) The health department may grant a variance to allow a major system component to be repaired or replaced using the replacement fund upon the request of the owner. If a variance is granted, the health department shall recalculate the amount of the required replacement fund and all other requirements of section 51.31(H) shall apply to the recalculated fund.
 - (3) If any requirements listed in subsections (E)(1) or (2) above are not met, the health department may take enforcement action against the owner as identified in section 51.50 and assign penalties as prescribed in section 51.99.
 - (4) The development of a replacement fund does not guarantee that sufficient funds will be available to repair or replace the soil absorption system when it fails.
 - (5) Upon receipt of a request from the owner, the county regional water and sewer district may, own, operate, and/or manage a residential cluster septic system in accordance with the policies and procedures of the district.
- (F) *Corrective action for failure to collect, maintain, or pay residential cluster system repair and/or replacement fund.*
- (1) Whenever the health department determines that the owner of a residential cluster system has failed to collect or maintain the replacement fund determined by the health department, the health department may:
 - (a) Order the owner to modify the method, rate, or amount of funds collected;
 - (b) Require other measures as may be deemed reasonable and necessary to protect public health and property; and
 - (c) Require the payment of penalties as prescribed in section 51.99.
 - (2) Whenever the health department determines that the owner of a property served by the residential cluster system has failed to make the required payments into the replacement fund, the health department may:
 - (a) Order the property owner to modify the method, rate, or amount of the payment;

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- (b) Require other measures as may be deemed reasonable and necessary to protect public health and property;
 - (c) Require the payment of penalties as prescribed in section 51.99; and
 - (d) Require the property be disconnected from the residential cluster system and order the residence to be vacated.

(Ord. No. 131-23, § 1, 11-21-2023)

ADMINISTRATION AND ENFORCEMENT

§ 51.50. Enforcement.

- (A) *Enforcement authority.* Except as provided for elsewhere in this chapter, the health department is authorized and charged with enforcing this chapter.
- (B) *Right of entry for permit inspections.*
 - (1) Any application for a permit submitted under the provisions of this chapter by a property owner or his or her authorized agent shall constitute permission for representatives of the health department bearing proper credentials and identification to enter the property identified in the application to:
 - (a) Collect data and information necessary to process the application;
 - (b) Inspect any existing septic system; and
 - (c) Inspect the installation or repair of any septic system.
 - (2) In the event a person who has common ownership over a building, structure or land does not allow an inspection after a permit has been applied for, the following shall occur:
 - (a) The application submitted or permit issued pursuant to this chapter shall be immediately cancelled;
 - (b) All work being performed under a permit shall be immediately suspended; and
 - (c) The work may only commence upon the issuance of a new permit and a notification by the health department that the work can continue.
- (C) *Right of entry for inspecting conditions that may threaten public health.*
 - (1) When the health department has reason to believe that a septic system has failed or septic effluent is otherwise being released to the environment, representatives of the health department, bearing proper credentials and identification, may enter upon and inspect any private property for such purposes as inspecting, observing, measuring, sampling, testing and examining records necessary to carry out the provisions of this chapter.
 - (2) In the event a person who has common ownership over a building, structure or land does not permit an inspection, the inspection may be rescheduled and the person shall be notified by certified mail. Failure of the person to thereafter permit an inspection will be sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting, observing, measuring, sampling, testing or examining records necessary to carry out the provisions of this chapter.
 - (3) In the event a building, structure or land appears to be vacant or abandoned and/or the property owner cannot be readily contacted in order to obtain consent for an inspection, the representatives of

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the health department, may enter into or upon any open or unsecured portion of the premises for purposes of inspecting, observing, measuring, sampling, testing or examining records necessary to carry out the provisions of this chapter.

- (D) *Corrective action for failed septic systems.* Whenever the health department determines there are reasonable grounds to believe that there has been a violation of any provision of this chapter or that a septic system has failed, the health department may issue a written order to abate the violation or repair or replace the failed system to the person or persons responsible for the violation and the property owner consistent with the following requirements.
- (1) The abatement order shall be sent by certified mail to the last known address of the person responsible and the property owner.
 - (2) If the certified letter is returned, a copy of the letter shall be posted at the property where the violation occurred or where the failed system exists.
 - (3) The abatement order shall include a:
 - (a) Statement explaining the nature of the violation or condition;
 - (b) Description of the remedies required to abate the violation or condition;
 - (c) Reasonable time for correcting the violation or condition; and
 - (d) Description of the penalty that is imposed for the violation, if any.
 - (4) Any property owner notified of a corrective action requirement by the process identified above shall comply with the order or he or she shall be in violation of this chapter and subject to the penalties provided in section 51.99.
- (E) *Order or abatement for failure to properly install a septic system.* Whenever the health department determines that a violation of this chapter has occurred during the installation of a septic system by a person possessing a license issued pursuant to section 51.15, the health department shall require corrective action consistent with the following.
- (1) If the violation can be readily corrected without changing any permit requirements or altering the suitability of the site to support the septic system being installed or a future septic system that may become necessary, the following shall apply.
 - (a) The health department shall notify the contractor of the action required to correct the violation by leaving a tag at the site and by similarly verbally informing the licensee.
 - (b) The contractor shall perform the required action and contact the health department for a reinspection within 24 working hours.
 - (c) Failure to perform the action required shall be grounds for the issuance of an abatement order under this section.
 - (2) If the violation cannot be readily corrected without changing any permit requirements or altering the suitability of the site to support the septic system being installed or a future septic system that may become necessary, the following shall apply.
 - (a) The health department shall verbally order the immediate suspension of work and shall issue an order of abatement pursuant to this section.
 - (b) Upon the receipt of a verbal order to suspend work the licensee shall take the necessary measures and be responsible for protecting the site from any damage.
 - (c) The contractor shall comply with the order of abatement and pay any reasonable and appropriate penalty determined by the health department.

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- (d) If a contractor fails to comply with an order of abatement, the penalties shall increase and the health department may suspend or cancel the licensee of the offending party.

(F) *Issuance of emergency orders.*

- (1) Whenever the health officer finds that an emergency exists which requires immediate action to protect the public health, the health officer may, without notice or hearing, issue an emergency abatement order to any person or licensee reciting the existence of such an emergency and requiring that action be taken as the health officer deems reasonable and necessary to meet the emergency. Notwithstanding any other provisions of this chapter, the order shall be effective immediately. An emergency abatement order may include but not be limited to:
 - (a) Immediately discontinuing the use of any septic system;
 - (b) Removing any septic effluent which has entered the environment; or
 - (c) Ordering any structure served by a failed septic system to be vacated.
- (2) Any person receiving an emergency abatement order:
 - (a) Shall comply with and carry out the order;
 - (b) May seek a hearing under subsection (G) below while carrying out the order;
 - (c) Shall have the right to recover any of its response costs from the county to the extent that the order or any portion thereof is found to have been arbitrary or capricious or not otherwise in accordance with law; and
 - (d) If a person fails to perform the lawful measures ordered by the health department pursuant to this subsection (F), the health department:
 - 1. May enter the property without prior notice to take or cause to be taken any emergency order; and
 - 2. Shall be reimbursed by the person who failed to perform the emergency order for all costs incurred by the health department associated with taking the action ordered.

(G) *Appealing an order of the health department.*

- (1) Any person affected by an abatement order or any decision issued by the health department may petition for and shall be granted a hearing on the matter before the health officer, provided that the person shall file a petition with the office of the health officer by mail postmarked or hand delivered, within 15 days after service of an order of abatement or issuance of the decision. The request for a hearing shall be written and shall set forth a brief statement of the grounds thereof.
- (2) Upon receipt of the petition, the health officer shall arrange a time and place for the hearing and shall give the petitioner written notice thereof. The hearing shall be held as soon as practicable after the receipt of a petition but in no case shall the hearing be more than 30 days after receipt of the petition. At the hearing, the petitioner shall be given an opportunity to be heard and to show cause why the abatement order should not be complied with.
- (3) The health officer shall sustain, modify or withdraw the notice to the petitioner as soon as practical and in no case later than 15 days following the hearing. The decision shall be final subject only to review by a court of competent jurisdiction.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.51. Variances.

- (A) Any person affected by any adverse decision by the health department pursuant to this chapter may petition for a variance by the health department, provided that the person shall file a petition with the health department by mail postmarked or hand delivered within 30 days of the adverse decision. The variance request shall be written and shall set forth a brief statement of the grounds thereof.
- (B) The health department shall approve, amend or disapprove a written petition for a variance from provisions of this chapter as soon as practical after receiving the petition and in no case more than 30 days after the petition is filed.
- (C) A decision by the health department to approve, amend or disapprove a variance may be appealed to the health officer. The health officer shall render a decision in the matter as soon as practical and, in no case, later than 30 days after the submittal of the appeal.
- (D) A decision by the health officer shall be final and appealable only to a court of competent jurisdiction.
- (E) Neither the health department nor the health officer may approve a variance that:
 - (1) Materially threatens public health; or
 - (2) Would result in a material violation of any applicable federal, state or county law, regulation or rule.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.52. Disclaimer of liability.

- (A) This chapter shall not create liability on the part of the health department or any officer, employee or agent thereof for any damage that may result from reliance on this chapter or on any administrative decision lawfully made thereunder.
- (B) All inspections shall be at the discretion of the health department, and nothing in this chapter shall be construed as requiring the health department to conduct any inspection, nor shall any inspection imply a duty to conduct any other inspection. Nothing in this chapter shall be construed to hold the health department responsible for any damage to persons or property by any failure to make an inspection or reinspection or for inspections that fail to identify unacceptable conditions or procedures.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.53. Effective date.

This chapter and all provisions contained herein shall become effective 60 days after approval, on January 20, 2024.

(Ord. No. 131-23, § 1, 11-21-2023)

§ 51.99. Penalty.

- (A) Any person determined by the health officer to be in violation of this chapter shall be punished for each offense by a penalty established by the health officer for first, second and subsequent offenses, as set out in the appendix: schedule of fines and fees.

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- (B) Any person owning property on which a violation of this chapter occurs may be fined for each offense by a fee established by the health officer for first, second and subsequent offenses, as set out in the appendix: schedule of fines and fees.
 - (C) Each day a person fails to perform the corrective action in accordance with the schedule identified in an abatement order issued by the health officer shall constitute a distinct and separate violation and the person shall be subject to the penalties identified in subsection (A) above.
 - (D) Any person violating any provisions of this chapter shall be liable to the health department for any expense, loss or damage occasioned it by reason of the violation, including the costs for labor, supplies, equipment and services.

(Ord. No. 131-23, § 1, 11-21-2023)