

**ON -SITE SEWAGE SYSTEM
ORDINANCE NO. 2020- 17
VERMILLION COUNTY, INDIANA**

An Ordinance pertaining to and regulating the design, construction, installation, maintenance and operation of On-site Sewage Systems located within Vermillion County, Indiana and providing for the violation thereof.

Be it ordained by the Board of Commissioners of Vermillion County ("Commissioners") that this Ordinance is adopted as follows:

- 1) TITLE. This Ordinance and all ordinances supplemental or amending hereto shall be known as the On-Site Sewage System Ordinance, and may be cited as such and will be referred to herein as "this Ordinance".
- 2) PURPOSE. The purpose of this ordinance is to provide minimum standards for the prevention and suppression of disease and health risks associated with the use and installation of On-site Sewage Systems and to otherwise promote public safety and welfare and protection of the environment.
- 3) AUTHORITY. The Health Officer of Vermillion County ("Health Officer") and the Health Officer's agents and representatives are hereby authorized to issue permits, collect permit and incidental fees, perform inspections, order or otherwise compel correction of violations of this Ordinance, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this Ordinance.
- 4) ADOPTION OF REGULATIONS BY REFERENCE.
 - a) The regulations of the Indiana Department of Health as found in Title 410 IAC 6-8.3 et. seq., 410 IAC 6-10.1 et. seq., Bulletin S.E. 11, et. seq., as amended ("Applicable Law") are hereby incorporated by reference in this Ordinance.
 - b) Copies of Applicable Law are available at <https://www.state.in.us/isdh/23283.htm> or upon request of the Vermillion County Board of Health ("Board").
- 5) SUPPLEMENTAL DEFINITIONS. In addition to or to otherwise supplement those definitions contained in Applicable Law, which is incorporated herein by reference, this Ordinance shall include the following definitions.
 1. "Business Building": Means that building or structure utilized primarily for a commercial establishment including, but not limited to, office buildings, apartments, condominiums, motels, mobile home parks, churches, campgrounds, schools, hospitals, nursing homes, restaurants, etc., at locations where such facilities may be approvable.
 2. "Duplex": Means a single dwelling under one roof and included in the definition of residence 410 IAC 6-8.3-15 with two separate living quarters for two separate families.
 3. "Multiple Family Unit": Means any building or place used or intended to be used as a place of seasonal or permanent human habitation or for sleeping for more than two families.

4. "On-Site Sewage Systems": Means any sewage disposal facility not owned by a municipality or sanitary district or administered by the State Department of Health and shall include septic tanks, elevated sand mounds or other subsurface absorption fields.
 5. "Planned Development": Means any land development, which requires the specific zoning classification entitled "Planned Development".
 6. "Public Water Supply": Means any water supply regulated by the Indiana Department of Environmental Management.
 7. "Residence": Means a dwelling, as defined in 410 IAC 6-8.3-15.
 8. "Sanitary Privy": Means a privy so located, constructed, and maintained; as defined in Indiana State Department of Health Bulletin S.E. 11.
- 6) SYSTEM REQUIREMENTS. Where a sanitary sewer system is not available, all persons owning, leasing, or otherwise occupying property shall comply with Applicable Law and the following provisions of this Ordinance for an On-Site Sewage System.
- a) No person shall throw, run, drain, seep, or otherwise dispose into any of the surface waters or ground waters of Vermillion County, or cause, permit, or suffer to be thrown, run, drained, allowed to seep or otherwise disposed into such waters, any organic or inorganic matter from an on-site sewage system that would cause or contribute to health hazard or water pollution.
 - b) Privies shall comply with Applicable Law and Indiana State Department of Health Bulletin S.E. 11, as amended. Bulletin S. E. 11 is herein incorporated by reference as part of this section and copies are available at the Vermillion County Board of Health for public inspection. In the case of self-contained chemical toilets, no pit will be required. If a privy, chemical toilet, incinerating toilet, composting toilet, or any other toilet that is not connected to plumbing fixtures is utilized and any additional wastewater is generated from the residence, duplex, multiple family unit, or business building, an on-site sewage system in compliance with this Ordinance must be utilized.
 - c) Should an on-site sewage system fail, the failure shall be corrected by the owner or occupant of the property served by such system within the time limit set by the Health Officer.
 - d) Whenever a sanitary sewerage system becomes available and is within three hundred (300) feet of the property line of developed property in Vermillion County that contains a Residence, Duplex, multiple family unit, or Business Building served by an On-site Sewage System, chemical toilet, composting Toilet, incinerating toilet, privy, or any other toilet not connected to plumbing fixtures, a direct connection of the building sewer shall be made to said sanitary sewer and any septic tanks, seepage pits, outhouses, privy pits and similar sewage disposal and treatment facilities shall be abandoned and filled in a safe and sanitary manner. The direct connection to a sanitary sewerage system shall be made within one hundred eighty (180) days of issuance of orders of connection.
 - e) Whenever a new Residence, Duplex, multiple family unit, or Business Building is to be constructed in an area where a sanitary sewerage system is available as provided in the above paragraph, the landowner shall cause a connection to be made to the sanitary sewer that connection to sanitary sewer shall be made prior to occupancy or approval for connection to sanitary sewer is required before construction of any such project.
 - f) All primary septic tanks in an On-Site Sewage System design shall be a minimum size of one thousand (1,000) gallons below the water line. All additional tanks in an On-Site Sewage System design must be, at minimum, equal size to the primary septic tank.

7) PERMIT PROCESS

- a) Application- Before the commencement of construction, alteration or repair of an On-site Sewage System ("System Install"), the owner shall apply in writing to the Vermillion County Health Department for a permit ("Permit") to construct, alter or repair an On-site Sewage System. The application shall consist of an:
 - 1) application form, as provided by the Vermillion County Health Department
 - 2.) an application fee
 - 3.) a soil analysis report conducted by an IRSS certified professional soil scientist,
 - 4.) a written construction plan with sufficient clarity to verify compliance with the rule. For a new construction, a floor plan of the proposed structure must be submitted
 - 5.) A list of On-Site System components,
 - 6.) As well as any other information required by the Health officer or Applicable Law.

- b) Permit Fees
 - 1) A fee is required and such amount shall conform to the fee approved by the Vermillion County Board of Health.
 - 2) A 501c3 organization may be exempted from paying a Permit fee at the discretion of the Health Officer.
 - 3) Any fee required under this section shall be paid prior to Permit issuance.
 - 4) A receipt for the payment of such fees shall be provided by the Vermillion County Health Department and all funds received from the Permit fees shall be transferred to the health fund of Vermillion County.
 - 5) The payment of fees is not transferable or refundable.

- c) Permit Issuance
 - 1) A Permit, whether issued prior to or after the adoption of this Ordinance, shall lapse and be void if work has not been started within (1) year after Permit issuance.
 - 2) Because of the hazards regarding potential ground water contamination of wells through the development of subdivisions, Planned Developments, parcels and other divisions of land for development and unless a Public Water Supply is provided, the Health Officer may, at the Health Officer's discretion, decline to issue a Permit if the On-site Sewage System may cause or contribute to a health hazard or an unsanitary condition.
 - 3) Unless a Public Water Supply is provided, the factors to be considered by the Health Officer in making a determination on a Permit include, but are not limited to,
 - (1) the requirements of Rule 410 IAC et. seq., 6-8.3 et. seq., and Rule 410 IAC 6-10.0 et. seq.
 - (2) soil and geological conditions,
 - (3) the depth of the water table and the quantity of water available,
 - (4) evidence of any contaminants existing in the water supply, and
 - (5) the number of the existing or anticipated On-site Sewage systems located within the general area in which the proposed On-site Sewage System is to be built.

8) INSPECTIONS

- a) The Board, or its designee, shall be permitted to enter upon all properties with due notice for purposes of inspection, observation, measurement, sampling and testing necessary to ensure compliance with this Ordinance and to verify no On-site Sewage System has failed.

- i) When deemed necessary, inspections by the Health Officer or his agent may be conducted before permit issuance or construction.
- ii) No construction of the On-site Sewage System may take place if the On-site Sewage System site is disturbed or altered after the on-site soil analysis by the addition of fill material (other than construction necessary for the On-site Sewage System itself) or by cutting, scraping, compaction or the removal of soil, until a new soil analysis has been conducted and a modified permit has been issued. Each septic site must be protected from construction traffic by being roped or otherwise cordoned off. The site owner or his agent is responsible for designing an On-site Sewage System as part of the application process which addresses the demands of the site in accordance with Applicable Law and this Ordinance
- iii) The Vermillion County Health Department is to be given forty-eight (48) hours' notice prior to the covering of any part of the On-site Sewage System in order to be able to conduct a final inspection of the system.

9.) PETITION FOR REVIEW

a) The Board shall hear appeals incidental to the issuance and revocation of Permits and/or Certifications if, within fifteen (15) Days following the date of receipt of Permits and/or Certification, Permit and/ or Certification modification, notice of Permit and/or Certification denial or notice of Permit and/ or Certification revocation, and person aggrieved by such action files a petition for review concerning such action with the Board.

i) A petition for review shall state:

- (1) The name, address and telephone number (if applicable) of the person making the request
- (2) Identify the interests of the petitioner which is affected by the Permit and/or Certification issuance, denial, modification or revocation
- (3) Identify the persons whom the petitioner represents
- (4) State with particularity the issues proposed to be considered
- (5) Include proposed terms or conditions which, in the judgement of the petitioner, would be appropriate to carry out the requirements of law and 410 IAC 6-10.1 et. seq. governing such Permits and/or Certifications.

ii) The procedures established in I.C. 4-21-5, the Administrative Procedures and Orders Act, shall apply to the conduct of the hearing.

10) ENFORCEMENT

- a) Any person found to violating any provision of this Ordinance shall be served by the Board or the duly appointed Health Officer with a written order stating the nature the violation and providing a reasonable time limit, for correction of any violations of this Ordinance. The written order shall be served either by certified mail or personal service by the Health Officer of Vermillion County or his designee.
- b) Any person who shall continue any violation of time Ordinance beyond the time limit provided for correction of any violations of this Ordinance or who shall fail to perform any duty lawfully enjoined or who shall fail, neglect or refuse to obey any lawful order given by the Health Officer shall be punished for the first offense by a fine of \$1,000.00 for the first day, and \$500.00 for each day the violation continues. Each day a violation of this Ordinance continues shall constitute a separate offense for which a separate fine may be levied. Application of this Ordinance or any part of this Ordinance is intended to be consistent with Applicable Law and specifically 410 IAC 6-8.3 et. seq. and 410 IAC 6-10.1 et. seq. and any inconsistency in the direct

application of this Ordinance with said regulations shall be resolved in favor of enforceability of Applicable Law and 410 IAC 6-8-.3 et. seq. and 410 IAC 6-10-1 et. seq.

- c) There shall be a fine of \$500.00 imposed upon any person or entity that fails to obtain a Permit prior to a System Install. This fine shall also apply to installers and developers as well as property owners who fail to ensure that a Permit is obtained prior to System Install or construction of any building or structures on the affected property.
- d) Any ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed, and this Ordinance shall be in full force and effect immediately upon its adoption and its publication as provided by law.

11) Appeals

- A. Appeals may be taken from any of the following decisions made by the Vermillion County Health Officer:
 - 1. Denial of an application for a construction permit to construct, install, alter or repair an on-site sewage system or privy.
 - 2. A determination that work completed, in process or planned, is in violation of any provisions of this Ordinance, or that any other violation of the provisions of this Ordinance exist.
 - 3. Order to make a direct connection with a sanitary sewerage system and to abandon an on-site sewage system or privy.
- B. The Vermillion County Board of Health shall hear appeals if, within fifteen (15) days following the date of receipt of an issued construction permit, permit modification, notice of permit denial, notice of permit revocation, order to connect to a sanitary sewerage system, or revocation of an installer registration, any person aggrieved by such action files a written appeal concerning such action at the office of the Vermillion County Board of Health.
- C. An appeal shall state:
 - 1. The name, address and telephone number (if applicable) of the person making the request;
 - 2. Identify the interest of the petitioner which is affected by the issuance, denial, modification or revocation;
 - 3. Identify any persons whom the petitioner represents;
 - 4. State with particularity the reasons for the request;
 - 5. State with particularity the issues proposed to be considered;
 - 6. Include proposed terms or conditions which, in the judgement of the petitioner, would be appropriate to carry out the requirements of law and 410 IAC 6-10.1 et seq. or 410 IAC 6-8.3 et seq. governing such permits.
- D. The Vermillion County Board of Health, upon receipt of such notice and record, shall immediately select a reasonable time and place for the hearing of the appeal and shall give notice in writing to the appellant of the time and place thereof. The hearing on the appeal may be continued from time-to time. Following the conclusion of the hearing the Board shall render a decision within twenty (20) days

thereafter. Any person may appear and testify at such hearing, either by person or by counsel.

E. The Vermillion County Board of Health shall hear and decide the appeal and may overrule or modify the decision or determination of the Vermillion County Health Officer incorrectly decided the matter. The Vermillion County Board of shall overrule or modify the decision of the Vermillion County Health Officer only if the appellant shows by clear and convincing evidence that:

1. Strict compliance with the provisions of this Ordinance will impose upon such person unusual difficulties and/or particular hardship: AND

2. That overruling or modifying the decision of the Vermillion County Health Officer.

- i. will constitute substantial justice,
- ii. Is in harmony with the general purpose, intent and spirit of this Ordinance
- iii. will not serve merely as a convenience to appellant,
- iv. will alleviate a demonstrable hardship and
- v. surrounding property and the public in general will not be harmed thereby.

F. A quorum of the Vermillion County Board of Health shall be required to hear an appeal under this Ordinance and a concurring vote of a majority of the members present at the hearing shall be necessary to reverse or modify any determination or decision of the Vermillion County Health Officer.

12) REMEDIES. The Health Officer may, in the name of the Commissioners, bring actions in the Courts of Vermillion County for mandatory and injunctive relief for the enforcement of and to secure compliance with any order or orders made by the Health Officer or to otherwise provide for enforcement of this Ordinance. Any such action for mandatory or injunctive relief may be joined with an action to recover the penalties, cost and expenses provided in this Ordinance. In the event any legal action is necessary to enforce this Ordinance, the Health Officer may seek recovery of cost and expenses reasonably incurred to enforce the provisions of this Ordinance including, but not limited to reasonable attorney's fees.

13) SEVERABILITY. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected and shall remain in full force and effect.

14) EFFECTIVE DATE. This Ordinance shall apply to all of Vermillion County, Indiana, as of the date from and after its adoption and approval by the Commissioners as stated herein and any publication as required by law.

15) REPEALER. The provisions of Health Ordinance 1-1969 are hereby superseded by this Ordinance.

Adopted by the Commissioners in regular meeting on this 8th day of December, 2020.

The Board of Commissioners of the County of Vermillion:

Tim Wilson
Tim Wilson, President

Harry Crossley
Harry Crossley

Tim Yocum
Tim Yocum

ATTEST:
Amy J. Tolbert / Sec.
Amy Tolbert, Auditor