

Ordinance # 2017-03

An Ordinance Regulating On-Site Sewage Disposal Systems in Whitley County, Indiana

Whereas, Indiana Code 36-1-3-1 et seq. permit any County in The State of Indiana to exercise any power to perform any function necessary to public interest in the context of its County or internal affairs, which is not prohibited by the Constitution of the United States or the State of Indiana, or denied or preempted by any other law, or is not expressly granted by any other law to another governmental entity;

Whereas, the Board of Commissioners of the County of Whitley, Indiana is the County legislative body and is by law authorized to adopt ordinances for the performance of the functions of the County of Whitley, Indiana;

Whereas, the Whitley County Board of health has recommended the adoption of this Ordinance to the Board of Commissioners of the County of Whitley, Indiana;

Whereas, the Board of Commissioners of the County of Whitley, Indiana deem it to be reasonable, appropriate, and in the best interests for the public health, safety, and general welfare of the citizens of the County of Whitley, Indiana, to adopt an ordinance regulating On-Site Sewage Disposal Systems in Whitley County, Indiana, and establishing minimum standards designed to provide assurance that On-Site Sewage Disposal Systems do not contaminate any drinking water supplies; are not accessible to insects, rodents, or other possible carriers of diseases which may come into contact with human food or drinking water; to not pollute or contaminate the water of any bathing beach or surface waters used for public or domestic water supply or recreational purposes; do not give rise to a nuisance due to odor, discharge, or unsightly appearance; and will not violate any other laws or regulations governing control of sewage disposal;

Now, Therefore, Be It Ordained, Ordered, and Established by the Board of Commissioners of the County of Whitley, Indiana, as follows:

Section 1. Title.



This Ordinance may be referred to as the “Whitley County On-Site Sewage Disposal System Ordinance”.

Section 2. Adoption of Regulations by Reference.

The regulations of the Indiana State Department of Health located at 410 IAC 6-8.3 et seq. entitled “Residential On-Site Sewage Disposal Systems”, and 410 IAC 6-10.1 et seq. entitled “Commercial On-Site Wastewater Disposal”, and Bulletin S.E. 11 et seq. entitled “The Sanitary Vault Privy”, as amended from time to time, and as promulgated by the Indiana State Department of Health, are hereby incorporated and adopted by reference. One copy of each of these regulations shall be on file with the Whitley County Health Department.

Section 3. Definitions.

Except as provided below, the terms defined in 410 IAC 6-8.3 et seq., 410 IAC 6-10.1 et seq. and S.E. Bulletin 11 shall carry the same definition whenever used in this Ordinance as the definition provided in those regulations. For the purposes of this Ordinance, the terms below shall be defined as follows:

- a) Available shall mean located within three hundred (300) feet of the property line of the affected property, as measured along accessible easements or right-of-ways, or connectable at a construction cost estimated by the Health Officer not to exceed one hundred fifty percent (150%) of the cost estimated by the Health officer for installing on-site sewage disposal systems to serve the affected property were the on-site sewage disposal systems otherwise acceptable to the Health Officer.
- b) County shall mean the County of Whitley, State of Indiana.
- c) Facility shall mean any building, structure, improvement, or other property, other than a dwelling, which is required to have a sewage or wastewater disposal system.

- d) Health Department shall mean the Whitley County Health Department.
- e) Health Officer shall mean the Whitley County Health Officer or their duly authorized representative.
- f) Nuisance shall mean any condition created by sewage which may transmit, generate, or promote disease, create a health hazard or cause distasteful odor or unsightly conditions.
- g) Owner shall mean the owner of a dwelling, the owner of a facility, or agent of any such owner.
- h) Privy shall mean a sanitary, waterless device for the collection and storage of human excreta, but does not include chemical, composting, commode, or other portable receptacles. A privy must include a water tank, state approved tank to accept human excreta for a period of six months without pumping.

Section 4. General Requirements.

- a) The design, construction, installation, location, repair, maintenance, replacement, expansion, alteration, and operation of a on-site sewage disposal system including, but not limited to, conventional, alternative, experimental, or aerobic sewage disposal systems, or any parts thereof shall comply with this Ordinance and shall comply with engineering practices acceptable to the Indiana State Department of Health.
- b) All persons owning real estate in areas where sanitary sewerage system is not available shall comply with the provisions of this Ordinance concerning on-site sewage disposal systems and Rule 410 IAC 6-8.3.

- c) Any commercial dwelling or facility which is not connected to a sanitary sewerage system must comply with Rule 410 IAC 6-10.1.
- d) Every on-site sewage disposal system shall be designed, constructed, installed, located, maintained, and operated in accordance with the requirements of Rules 410 IAC 6-8.3 or 410 IAC 6-10.1.
- e) Every privy, when approved by the Health Officer, shall be of the sanitary type and shall be designed, constructed, installed, operated, and maintained in a clean condition and in a manner that prevents insects and rodents from entering the vault. Every privy shall be located properly to protect water supplies from contamination and shall be constructed in strict compliance with the requirements of the Indiana State Department of Health Bulletin S.E. 11 entitled "The Sanitary Vault Privy", as amended from time to time.
- f) If a sanitary sewerage system becomes available to any property served by a private sewage disposal system or privy, the owner shall make connection to that system. The owner shall not make connection if the municipality, governmental agent, or company owner denies connection and provides the Health Department with a written copy of the denial.
- g) All properties located within a conservancy district or sanitary sewerage system district must connect to the sewerage system. No exceptions will be allowed unless denial for connection is provided by the district owner.
- h) All subdivided parcels, or planned subdivision parcels located within a sanitary sewerage district or has sanitary sewerage available must connect, unless denial it given by the district, owner of system, or government agent.

- i) On-site sewage systems shall not be installed in areas where sanitary sewerage system exists or is available.
- j) All properties connecting to a sanitary sewerage system must properly abandon septic tanks in a manner that is sanitary and safe. The septic tank must be pumped and cleaned by a licensed person, secondly the lid of the tank must be removed or crushed inside the tank, and third, the remainder of the cavity filled with compactable matter, such as sand and gravel.

Section 5. Site Investigation.

Prior to a permit application, an on-site evaluation must be performed by the Health Officer to evaluate each lot's suitability for an on-site sewage disposal system or privy, to establish minimum sizing requirements, and to outline any special engineering necessities. Before an on-site investigation will be performed, all lot corners must be visibly marked so they can be easily located. The Health Officer may require direct soil profile observation by a soil scientist as part of the site investigation process.

Section 6. Permits.

a) No person shall construct, install, alter, repair, expand, or replace an on-site sewage disposal system without a valid permit issued pursuant to this Ordinance. The owner of any real estate where an on-site sewage disposal system or privy is to be constructed or installed or where any alteration, repair, expansion, or replacement of an existing on-site sewage disposal system is planned shall obtain a written permit before any construction begins. The permit issued by the Health Officer must be obtained prior to the application for a building permit. The owner shall apply for a permit on a form provided by the County. The owner shall supplement the application form with plans, specifications, and other information deemed necessary by the Health Officer and as required by the applicable State regulations. The applicant shall pay any permit fee as set

forth in the fee ordinance. The issuance of the permit shall not be construed as authority to violate, cancel, or set aside any of the provisions of this Ordinance.

- b) The owner shall post the permit placard in a conspicuous place at or near the dwelling or facility where the on-site sewage disposal system is under construction. The notice shall be plainly visible from the public thoroughfare nearest to said dwelling or facility.
- c) When the permit has expired or has been revoked, the work on the private sewage disposal system shall not commence or resume unless a new application and fee have been submitted and a new permit has been obtained.
- d) Permit fees are not refundable. When the property ownership is transferred, all of the permit conditions shall remain the same.
- e) Permits issued under the provisions of this Ordinance shall be valid for a period of one (1) year, provided that work authorized by the permit has commenced.
- f) The Health Officer hereby reserves the right to hold the permit for seventy-two (72) hours before accepting or denying the septic permit application.

Section 7. Plan Submittal.

- a) The owner or agent of the owner shall attach to the application for permit the following requirements:
1. A legible drawing of the proposed on-site sewage disposal system.
 2. Elevation shots must be given for both ends of all trenches or the four corners of a bed, or basal area.
 3. Approximate lot line locations must be present.
 4. Location of proposed house, barn, building, and/ or pond must be provided on the plan.
 5. All trees that will remain within the on-site system must be shown on the plan.
 6. Location of soil borings must be shown within the on-site system.
 7. All wells proposed or currently on the property must be shown and their distance to any part of the on-site system specified.
 8. Septic tank(s) locations must be given and their capacity provided.
 9. Invert elevations must be provide at these locations:
 - i. Building sewer exit.
 - ii. Septic tank(s) entrance.
 - iii. Distribution box entrance.
 - iv. Perimeter Drain outlet.

10. Trenches, bed, or basal area, must be shown to be level across the contour of the ground.
 11. Distances between trenches, the length of the trenches and the depths of the trenches must be shown.
 12. Lengths and types of pipe must be shown for the sewer line, tank line, distribution line, manifold line, and absorption trench lines.
 13. Type and size of any aggregate provided must be specified.
 14. Distances from any natural or man-made water source must be provided.
 15. A cross sectional drawing of the trenches, bed, or mound must be provided as well as a cross sectional drawing of the perimeter drain.
- b) The Health Officer may suspend a permit to construct a private sewage disposal system whenever information on the application or a plot plan is found to be inaccurate. The Health Officer may revoke a permit to construct an on-site sewage disposal system whenever information on the application or a plot plan is found to be inaccurate and the inaccurate information will preclude or eliminate the ability to lawfully install the system as designed.

Section 8. Absorption System.

- a) The proposed soil absorption field must be located over the soil boring locations.
- b) The proposed soil absorption field must be located in an area such that the proposed trench bottoms, and the bottom of the septic tank(s) are higher than the one hundred year flood elevation.
- c) The proposed soil absorption field must not be placed in areas that have been filled, compacted, excavated, altered or disturbed, or the permit shall be void.
- d) The proposed soil absorption field area shall be protected from vehicular traffic once the permit has been issued. If the area is damaged then the permit is void.
- e) Property alterations or additions such as garages, driveways, patios, swimming pools, and like structures or improvements shall not be placed on the soil absorption field area or dispersal areas.
- f) Drainage from foundation footing drains, sump pumps, water softeners, air conditioners, condensing furnaces, downspouts, and other clear water drains shall not be discharged into, onto, or across the soil absorption field.
- g) Outlet filters must be placed in septic tanks, or watertight container located in line with the septic tank, for any type of septic system repair or improvement.
- h) Four inch SDR 35, at a minimum, must be used for all gravity feed effluent lines and manifold lines in an on-site system.

Section 9. Repair of Soil Absorption Fields.

The Health Officer by issuing a repair permit does not thereby approve of the system or acknowledge that the system meets all requirements of the County or the Indiana State Department of Health. The Health Officer does recognize that a number of older private sewage disposal systems in the County cannot meet current requirements due to site or system limitations and that proposals for repair must make the best use of the available space and system and must meet acceptable standards in the interests of public health.

Section 10. Reserve Area.

All lots in subdivisions approved by the Whitley County Planning Commission and recorded with the Whitley County Recorder, shall provide at least two (2) times the required areas suitable for soil absorption fields. Each lot shall be soil tested in two (2) distinct areas so as to provide for two (2) suitable locations. Once a soil absorption field is installed in one of the locations, the second location must be viable for the life of the lot.

Section 11. Perimeter Drains.

- a) Perimeter drains must be installed at least six (6) inches into massive clay, glacial till, or fragipan. In soils where the massive clay, glacial till, or fragipan is greater than sixty (60) inches the perimeter drain must be installed at a minimum depth of forty (40) inches below the bottom of the soil absorption field trenches.

- b) A four inch sock-wrapped field tile must be used for perimeter drainage of an absorption field system. Larger diameters of pipe can be used as long as it is sock-wrapped.
- c) The perimeter drain trench must be installed at least six (6) inches into massive clay, densic material, or compact till.
- d) The perimeter drain must be constructed as to lower the water table twenty-four (24) inches below the center of the soil absorption field.
- e) Single perimeter drains for soil absorption fields must not surround systems greater than **forty-five (45)** feet in width, before a segment drain must be utilized to split the system.
- f) Perimeter drains for soil absorption fields must surround the system completely up to a slope of six (6) percent grade.
- g) A free outfall for the discharge from the perimeter drain shall be provided on-lot and shall be equipped with an animal guard. Perimeter drains may connect to existing field tiles as long as the existing tile is the same size or larger and is free flowing, free of silt and dirt.
- h) Discharge of a perimeter drain off-lot may be granted if written permission is obtained from all landowners to which the drain is discharged.

Section 12. Septic Tank Abandonment.

Proper abandonment of a septic tank shall include:

- a) The pumping and cleaning of the septic tank by a licensed company.

- b) The removal or crushing in of the tank lid.
- c) The placement of sand and gravel in the void left by the lid.
- d) Septic tank(s) must be abandoned with thirty (30) days of connection of dwelling or facility to a sanitary sewerage system.

Section 13. Inspections.

No person shall cover any on-site sewage disposal system or any part thereof. No person shall place an on-site system into operation without Health Officer approval. The Health Officer shall be allowed in inspect the work at any stage of the construction. The applicant or agent of the applicant shall notify the Health Officer when the work is ready for final inspection. The Health Officer shall make the inspection within two (2) working days of the receipt of notice. All reasonable efforts will be made to inspect on the day requested if the requests are received before ten in the morning the day of the inspection and completion of the soil absorption field will occur during normal Health Department working hours.

Secton 14. Right of Entry.

The Health Officer shall be permitted to enter upon any property at any reasonable and proper time for the purposes of inspection, observation, measurement, sampling, and testing necessary to carry out and assure compliance with the provisions of this Ordinance any applicable state laws.

Section 15. Notices.

Any person found to be violating any provision of this Ordinance or any applicable state law shall be served with a written Order stating the nature. The Order shall provide a minimum of five (5) days for the correction of the violation. The Order shall be served by the Health Officer in person or through certified USPS mail.

Section 16. Hearings.

Any person affected by an Order may request a hearing from the Health Board if written notice is given to the Health Officer within five (5) days from the receipt of the Order. If written notice is received within five (5) days, a hearing shall be granted within the next ninety (90) days.

Section 17. Fines and Penalties.

Any person violating this Ordinance shall be fined, upon conviction, not more than five hundred dollars (\$500.00) for the first offense and not more than one thousand dollars (\$1,000.00) for the second and subsequent offenses. Each Ordinance violation shall constitute a separate fine. The Health Officer may also elect to use the Citation Bureau Ordinance to fine a person. An individual who is identified as violating this Ordinance may elect to pay the fine in person to the Whitley County Health Department without conviction.

Section 18. Registration.

- a) Except for a homeowner installing an on-site sewage disposal system serving a dwelling in which they are or will be living, no person shall construct, install, replace, alter, or repair any private sewage disposal system in the County unless the person is registered with the Health Department. Although, the homeowner does not need to be registered, they must demonstrate adequate knowledge of soil absorption field installation. The homeowner does not need to take the registration test.
- b) Every person required to register under this section shall demonstrate their knowledge of on-site sewage disposal system installation by passing a proficiency exam conducted yearly by the Health Department. Each registrant must score eight percent (80%) or higher on the exam to become registered. If a registrant does not receive a passing score they must wait twenty four (24) hours before retaking the exam.
- c) The exam must contain only relevant information regarding this Ordinance or Rule 410 IAC 6-8.3.
- d) The Health Officer may revoke one's registration for deliberate violations to this Ordinance or Rule 410 IAC 6-8.3. The revocation of one's registration must be at least thirty (30) days and no longer than three hundred sixty-five (365) days.
- e) The Health Officer may deny registration to a person if the Health Officer has revoked this person's registration prior.
- f) Registrations may be issued no earlier than thirty (30) days prior to the new year. Registrations are only effective for calendar years.

- g) The Health Officer may collect a fee for registration of persons.
- h) Any person constructing, installing, replacing, altering, or repairing an on-site sewage disposal system who is not registered shall be deemed in violation of this Ordinance and is subject to fines and penalties described herein.
- i) All persons desiring to be registered must present written proof of liability insurance for a minimum of one million dollars (\$1,000,000.00).
- j) The proficiency exam is a closed book exam. No aides are allowed in taking the exam.

Section 19. Construction.

- a) In the event that any provision of this Ordinance is ultimately determined by a court of competent jurisdiction to conflict with any provision of Rules 410 IAC 6-8.3, 6-10.1, or S.E. Bulletin 11, then and in any such even the more strict provision shall govern.
- b) In the even that any provision of this Ordinance is ultimately determined by a court of competent jurisdiction to be pre-empted by any state of federal law or regulation, this Ordinance shall automatically be deemed amended by eliminating the pre-empted provision and incorporating in its place the applicable provision of the pre-empting state or federal law or regulation.
- c) Each provision of this Ordinance shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

- d) Compliance with the requirements of this Ordinance does not obviate or eliminate the necessity of complying with any other applicable federal, state, or local laws and regulations affecting on-site sewage disposal systems.

Section 20. Health Officer Authority

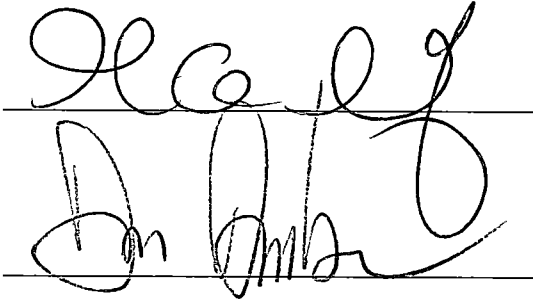
It is hereby acknowledged, understood, and declared by the Board of Commissioners of the County of Whitley, Indiana, that under this Ordinance the Health Officer is required to exercise and is vested with the authority to exercise their discretion and judgment in order to protect and preserve the public health, safety, and general welfare of the citizens of the County of Whitley, Indiana, with regards to the regulation of on-site sewage disposal systems.

The authority of the Health Officer to issue, deny, suspend, or revoke or fail or refuse to issue, deny, suspend, or revoke any license, approval, order, registration, or similar authorization under this Ordinance is hereby declared to be discretionary.

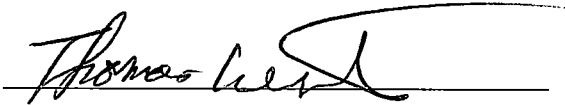
Section 21. Effective date and Repeal.

This Ordinance shall take effect on 2 - 6, 2017. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

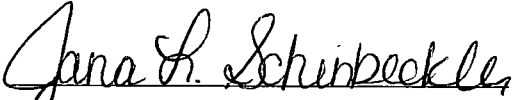
Approved by the Board of Commissioners of the County of Whitley.



Handwritten signature of David J. [unclear] on a horizontal line.



Handwritten signature of Thomas [unclear] on a horizontal line.



Handwritten signature of Jana H. Schinbeckler on a horizontal line.

Auditor, Jana Schinbeckler