

FLOYD COUNTY ORDINANCE FCO-2024-02
AN ORDINANCE REGULATING RESIDENTIAL AND COMMERCIAL
ON-SITE SEWAGE SYSTEMS AND PROVIDING
PENALTIES FOR VIOLATIONS

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

ARTICLE I. APPLICABILITY AND ADMINISTRATION

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

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

ARTICLE II. DEFINITIONS

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

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

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

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

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

HOLDING TANK: Septic tank that meets the requirements of Rule 410 IAC 6-8.3, Rule 410 IAC 6-10.1, or that is listed on the IDOH approved septic tank list, and that holds sewage originating from a residence or commercial facility and is held until it is removed and transported by a septage management vehicle. Per IC 16-41-25, a holding tank will be considered an on-site sewage system as referenced in this Ordinance.

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

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

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

SITE APPROVAL PERMIT: Written approval by the department for construction or installation of anything having a required separation distance from on-site sewage system components in Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10.1 et. seq. confirming that all required separation distances to the on-site sewage system will be met and that no interference with the proper functioning of the system will occur as a result of the construction or installation.

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

SOIL EVALUATION: Soil profile analysis conducted by a registered, professional soil scientist and shall have a minimum of three (3) soil pit excavations. Soil pits must be dug to encompass the whole footprint of the soil absorption field. Other means of conducting soil evaluation may be approved by the Health Department if there are site limitations present.

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

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

ARTICLE III. PROHIBITED ACTS

SECTION 1. No person shall cause or allow the construction or installation of anything that has a required separation distance from on-site sewage system components in Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10.1 et. seq. in association with an existing residence or commercial facility

utilizing an on-site sewage system without first obtaining a Site Approval Permit for such construction.

SECTION 2. No person shall construct, install, replace, alter, modify, repair, or add to a residential on-site sewage system or commercial on-site sewage system, and no owner shall knowingly suffer or allow any such system to be installed, replaced, altered, modified, repaired or added to except in accordance with the duly issued construction permit, the terms and provisions of Rule 410 IAC 6-8.3, et seq. or Rule 410 IAC 6-10.1, et seq., IC 16-41-25, and this Ordinance.

SECTION 3. No person shall construct or install or thereafter replace, alter, modify, or repair a residential on-site sewage system or commercial on-site system, over which the Floyd County Health Department has jurisdiction for the issuance of a construction permit, without first having registered with the department pursuant to the provisions of this Ordinance.

SECTION 4. No person, having received a written order from the Health Officer or the Health Board pertaining to a violation of this Ordinance or the terms, provisions, conditions, or limitations of any permit or registration issued hereunder, shall fail or refuse to comply with the terms and provisions of such order within the time limit specified therein.

ARTICLE IV. CONSTRUCTION PERMITS

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

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

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

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

- a. The Health Officer may specify in the construction permit any limitation, term, or condition necessary to provide a functional, easily operated, enduring on-site sewage system in accordance with Rule 410 IAC 6-8.3 et seq and Rule 410 IAC 6-10.1 et seq. or to prevent a health hazard, nuisance, surface water pollution or groundwater pollution.
- b. Sizing of the on-site sewage system for residential dwellings or commercial facilities shall be calculated pursuant to Rule 410 IAC 6-8.3 or based upon Indiana Department of Health's determination from Rule 410 IAC 6-10.1. Any proposed residential structure that does not meet the definition of a dwelling or does not contain any bedroom(s) or bedroom equivalent(s), shall be required to install a minimum of 750 gallon septic tank and on-site sewage system sized for a one (1)-bedroom dwelling based upon the soil loading rate in Rule 410 IAC 6-8.3 et seq.
- c. A construction permit for a new construction on-site sewage system shall become null and void two (2) years from the date such permit is issued, unless construction/operation or repair/operation allowed by such permit shall be started before such expiration date and completed within (180) days after such expiration date. A construction permit for a repair/replacement on-site sewage system shall become null and void one (1) year from the date such permit is issued, unless construction/operation or repair/operation allowed by such permit shall be started before such expiration date and completed within (180) days after such expiration date.
- d. Upon sale or transfer of a property after a construction permit is issued and prior to final approval of the installation, the permit shall be transferred to the new property owner with the payment of the applicable permit fee. If the approved plans for the project change, including but not limited to a change in location of the house or system components, a change in the registered installer, or a change in the design daily flow, a new application and design plan must be submitted to and approved by the department prior to permit transference.

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

- a. A site survey inspection must be conducted by the department. The inspection will take place on-site at the property and markings (i.e. flags, stakes) will be required to identify components of the on-site sewage system, including, but not limited to the following: sewer/effluent lines, septic/dose tank, soil absorption system, drain, or other components as deemed necessary and applicable to the site.
- b. Floor plan showing all bedroom(s), bedroom equivalent(s), and closets for the property where a new construction or repair/replacement on-site sewage system is being proposed, must be submitted to the department. Number of bedroom(s) and

bedroom equivalent(s) included in the floor plan must correlate with what is listed on the application.

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

SECTION 6. Site Approval Permits as required for the construction or installation of anything that has a required separation distance from on-site sewage system components in Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10.1 et. seq. in association with an existing residence or commercial facility utilizing an on-site sewage system shall be issued upon: (1) proper application of the owner or the agent of the owner on forms furnished by the Department, (2) the payment of the fee established by the Board of Commissioners of the County of Floyd or Floyd County Council, from time to time, and (3) a determination by the Health Officer that the proposed location of such construction or installation conforms with separation distances listed in Rule 410 IAC 6-8.3 et seq. and Rule 410 IAC 6-10.1 et seq., and shall not damage the residential or commercial on-site sewage system or interfere with its proper operation.

ARTICLE V. PERMIT DENIAL/REVOCAION

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

- (a) failure of the owner or the agent of the owner to respond to a request for information from the Health Officer within 30 days of receiving such request; or
- (b) for a residential, replacement on-site sewage system, if a sanitary sewerage system of adequate capacity is available for connection at a construction cost estimated not to exceed one hundred fifty (150) percent of the cost estimated for installing a residential on-site sewage system.

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

SECTION 3. If a permit is modified or revoked by the Health Officer, the permittee shall be given notice in writing, which notice shall set forth the basis for the modification or revocation and the fact that a petition for review may be filed in accordance with Article X of this Ordinance.

ARTICLE VI INSPECTIONS

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

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

The Health Department may choose to grant additional inspections due to inclement weather or a special circumstance, whereas the installer will not incur an additional site visit fee. If additional inspections in excess of what is listed above are not approved by the Health Department, then an additional site visit fee will be incurred as outlined in the fee ordinance.

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

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

ARTICLE VII. SUBMISSION OF DOCUMENTATION

SECTION 1. When the Floyd County Health Department requires an inspection of an on-site sewage system to be conducted at a home located in Floyd County Indiana, the inspector shall submit the report to the Floyd County Health Department within 30 days of inspection date.

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

ARTICLE VIII. REGISTRATION

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

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

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

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

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

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

- (a) A registration shall expire on the anniversary of its issuance.
- (b) If a registration is renewed annually, re-examination shall not be required.
- (c) Opportunity for re-examination shall be afforded persons failing to pass the exam, but no more frequently than once every 30 days.
- (d) The standardized examination may be revised by the Department, from time to time, and more than one comparable version may be administered.
- (e) A list of those persons holding a valid registration under this Article shall be made available to the public.
- (f) A registrant may be required by the Health Officer to attend one educational class or program annually pertaining to sewage disposal to be conducted by the Department, the Indiana Department of Health, IOWPA, or another approved course.

SECTION 4. A registration issued under this Article may be suspended or revoked if the registrant shall be found by the Health Officer to have committed any act prohibited by Article III of this Ordinance, any act that might result in the denial or revocation of a construction permit issued hereunder, or violated any term or provision of this Ordinance, to include Rule 410 IAC 6-8.3 et seq. and Rule 410 IAC 6-10.1, pertaining to the system or facility for which the registration was issued. Notice of suspension or revocation shall be in writing, shall specify the acts or violations committed, and shall be served upon the registrant as permitted by Section 2 of Article IX of this Ordinance.

ARTICLE IX. ORDERS OF THE HEALTH OFFICER AND BOARD

SECTION 1. With respect to a failed on-site sewage system, the Health Board shall issue such orders, pursuant to this Article, as it shall deem necessary and appropriate for the abatement of

the resulting health hazard, subject only to the express limitations set forth in Rule 410 IAC 6-8.3 et seq. or Rule 410 IAC 6-10.1 et seq, and IC 16-41-25.

SECTION 2. Any person found to be violating this Ordinance, to include the terms, conditions, provisions, and limitations of any permit or registration issued hereunder, may be served by the Health Officer with a written notice and order stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. A written notice and order under this Article shall be served upon the person to whom directed by personal delivery, certified mail, or otherwise as a summons may be served under the Indiana Rules of Civil Procedure.

SECTION 3. Any person failing to comply with the written order of the Health Officer or the Health Board issued under this Article shall, by such failure, violate Section 4 of Article III of this Ordinance, which violation shall be separate from and in addition to any violation giving rise to or prompting the issuance of such written order.

ARTICLE X. PETITION FOR REVIEW

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

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

SECTION 2. Upon receipt of a timely petition for review, the Health Board shall, at its next scheduled regular meeting, or at an earlier special meeting to be called, conduct a hearing into the matters addressed by the petition, and shall take such action thereon, if any, as it shall deem necessary and appropriate. Upon the mutual agreement of the petitioner and the Health Board, the hearing may be conducted in accordance with the procedures set forth in IC 4-21.5, et seq., being the Administrative Procedure and Orders Act.

ARTICLE XI. ENFORCEMENT

SECTION 1. Enforcement of this Ordinance as against a person violating the terms and provisions of same shall be in accordance with the provisions of I.C. 34-4-32, et seq. An action to enforce this ordinance shall be brought in the name of the Health Officer or the Health Board, as appropriate, and upon proof by a preponderance of the evidence of a violation hereof, judgment shall be entered against the defendant for a sum of not less than \$100.00 for each violation. A separate violation of this Ordinance shall be deemed to occur for each day that a person shall be

in violation of the terms and provisions hereof. No action under this Section shall be commenced, however, with respect to a violation for which a petition for review is pending under Article X, hereof.

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

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

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

ARTICLE XII. MISCELLANEOUS PROVISIONS

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

SECTION 2. Any Indiana Administrative Code or Indiana Code provisions, or rulings by the Indiana courts, or subsequent law changes that conflict with the provisions in this Floyd County Ordinance shall take precedence over the conflicting provision(s) in this ordinance. Said conflicting provision(s) shall be severed and not affect the validity and enforceability of the remainder of the ordinance.

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

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

SECTION 5. This Ordinance shall be in full force and effect on an after its passage and publication as required by law. SO ORDAINED this _____ day of _____ 2024.

BOARD OF COMMISSIONERS OF
THE COUNTY OF FLOYD

Al Knable, President

John Schellenberger, Member

Jason Sharp, Member

ATTEST:

Diana Topping, Auditor