



\_\_\_\_\_ County

Ordinance No.: \_\_\_\_\_

## Onsite Sewage System Operating Permit and Maintenance Ordinance

### ARTICLE I - GENERAL PROVISIONS

#### Section 1: Title

This ordinance shall be known as the Onsite Sewage System Operation and Maintenance Ordinance, hereinafter known as "this ordinance" or "the ordinance," of the county of \_\_\_\_\_, hereinafter known as "this County" or "the County."

#### Section 2: Intent

This Ordinance is added to provide for operation and maintenance of onsite sewage systems (OSSs) under the provisions of this ordinance:

- A.) To protect the public health by providing an operation and maintenance program for OSSs in the county and measures to prevent failing or malfunctioning systems.
- B.) To provide for regular OSS inspection and maintenance, including septic tank cleaning, and repairs.
- C.) To provide for the implementation, administration, and enforcement of this ordinance by the \_\_\_\_\_ County Board of Health (Board), to prescribe the duties of the department, and to provide penalties for violation of this Ordinance.
- D.) To provide information regarding the location, status, and condition of existing OSSs.

#### Section 3: Effective Date

This Ordinance shall become effective upon its approval by the \_\_\_\_\_ County Board of Commissioners.

#### Section 4: Administration

This ordinance shall be administered by the \_\_\_\_\_ County Board of Health through its health officer and his authorized representatives in accordance with Indiana Code 16-20.

#### Section 5: Applicability

This Ordinance applies to parcels of land on which OSSs serve residential, commercial, industrial, institutional, and other facilities or structures for which an operating permit is required.

### ARTICLE II - DEFINITIONS

The following words and terms used in this Ordinance, unless otherwise expressively stated, shall have the following meaning:

- A.) "Construction Permit" means written approval by the department for the installation of an OSS.
- B.) "Department" means the \_\_\_\_\_ County Health Department.
- C.) "Failure or Malfunction" means an OSS condition which includes any of the following:
  - 1.) The backup of sewage into a structure;
  - 2.) Discharge of sewage or effluent onto the ground surface from the OSS;
  - 3.) The connection of an OSS to any drain tile;
  - 4.) Liquid level in a septic tank above the inlet invert;

- 5.) Liquid level in a treatment unit above that recommended by the manufacturer;
  - 6.) Structural failure of a septic tank or treatment unit;
  - 7.) Discharge of sewage from the OSS into any stream or other body of water;
  - 8.) Water samples documenting contamination of ground water or surface waters by the OSS.
- D.) “Gravity flow system” means an OSS that includes a septic tank and soil absorption field, but does not include a secondary treatment unit or a dosing tank and pump to deliver the septic tank effluent to the soil absorption field.
  - E.) “Inspection and maintenance” means the physical observation of system components and their function and the maintenance of those components. It may involve cleaning the tanks and any required maintenance to the OSS as required by the operation and maintenance manual for the system or as determined by a registered service provider.
  - F.) “Onsite Sewage System” or “OSS” means all equipment and devices used for conduction, collection, storage, treatment, and on-site disposal of sewage using a soil absorption field, for a property not served by a sanitary sewerage system. Such term shall describe, without limitation, conventional, alternative and experimental onsite sewage system technologies and components, and privies, approved by the Indiana State Department of Health for use in the state.
  - G.) “Operating Permit” means written approval by the department for the use of an onsite system.
  - H.) “Owner” means any person(s) who has legal title to a property.
  - I.) “Property” means any tract of land, or portion thereof, or combination of tracts of land under single or common ownership that contains an OSS.
  - J.) “Pump assisted system” means an OSS which includes a dosing tank and pump to deliver the septic tank effluent to the soil absorption field, but which does not include a secondary treatment unit.
  - K.) “Sanitary sewerage system” means a sewer or a system of sewers which convey sewage away from the lot on which it originates to a wastewater treatment facility owned and operated by an incorporated city or town, conservancy district, regional sewer district, or private utility.
  - L.) “Registered service provider” means an individual which meets the minimum requirements set by the department for providing inspection and maintenance of OSSs under the provisions of this Ordinance. Such individual shall be capable to perform the routine maintenance measures herein, and shall be competent on the design, operation, and performance standards of the OSSs for which they are registered to provide inspection and maintenance.
  - M.) “Secondary treatment unit” means a treatment device that is a separate component (unit) prior to the soil absorption field and is:
    - 1.) Listed by ANSI/NSF or an ANSI accredited third party certifier as conforming to ANSI/NSF Standard 40, Residential Wastewater Treatment Systems for Class I plants; or
    - 2.) Approved by the Indiana State Department of Health for such use in Indiana.

## **ARTICLE III – OPERATING PERMITS**

### **Section 1: Operating Permit Issuance**

- A.) An Operating Permit shall be required for:
- 1.) All new OSSs;
  - 2.) For OSSs existing prior to the effective date of this Ordinance upon a replacement, modification or expansion that requires a permit; and
  - 3.) For all OSSs which includes a secondary treatment unit.

**[NOTE: Please see Appendix for consideration of including existing OSSs in the provisions of this ordinance.]**

- B.) For any OSS for which an Operating Permit is required under the provisions of this ordinance, sewage shall not be discharged to the OSS until an Operating Permit has been issued, except as approved, in writing, for such instances as use of a septic tank as a holding tank until the OSS installation can be completed.
- C.) The Operating Permit shall include the following:
- 1.) Owner name, address, phone number, and email address;
  - 2.) Property location;
  - 3.) Parcel number;
  - 4.) Operating Permit Number;
  - 5.) Issuance and expiration dates;
  - 6.) Construction Permit Number and date of issue;
  - 7.) Whether a service contract is required;
  - 8.) Components to be serviced or Service Manual to be used;
  - 9.) Issuance and expiration dates of service contracts;
  - 9.) Name, address, e-mail address, and telephone number of the registered service provider;
  - 10.) Description of system;
  - 11.) Category of the system under Article III, Section 3A;
  - 12.) System operating requirements;
  - 13.) Maintenance requirements and schedules;
  - 14.) Monitoring locations, procedures and recording requirements; and
  - 15.) Reporting requirements.

### **Section 2: Operating Permit Application**

- A.) Application shall be made on a form provided by the department. The application shall include (at a minimum):
- 1.) Owner name, address, phone number, and email address;
  - 2.) Property location;
  - 3.) The application fee;
  - 4.) Type of OSS;
  - 5.) Design daily flow of project;
  - 6.) Construction permit number.
- B.) The following additional information (at a minimum) shall be submitted with the application for renewal:
- 1.) Reference number of previous Operating Permit (if renewal);
  - 2.) Proof of inspection and maintenance required by the previous operating permit (unless already submitted);

- 3.) Copy of service contract if required by the current Operating Permit;
  - 4.) Name of service provider, if applicable;
  - 5.) Any outstanding reports as required by the previous Operating Permit; and
  - 6.) The application fee
- C.) The owner shall apply for renewal at least 30 calendar days before the expiration date.

### **Section 3: Operating Permit Expiration and Renewal**

- A.) An Operating Permit shall be valid for the specific term stated on the permit. The term of an operating permit shall be determined by the type of the system:
- 1.) For gravity flow systems, the term shall be five years.
  - 2.) For pump assisted systems, the term shall be three years.
  - 3.) For systems which include a secondary treatment unit, the term shall be one year.
- B.) An Operating Permit shall be renewed prior to its expiration. If not renewed, the department may require the system to be removed from service until the permit is renewed. If not renewed within 90 calendar days of the expiration date, the county may require that the system be abandoned.
- C.) Ninety (90) days before the expiration of the Operating Permit a *Notice for Renewal Form* shall be sent by the department to the property owner. An *Application for Renewal and Proof of Maintenance and Inspection Form* will be included with the letter.
- D.) The *Proof of Maintenance and Inspection Form* shall be completed, signed, and dated by the service provider and submitted with the application for renewal.
- E.) If the OSS for which the Operating Permit is abandoned, the Operating Permit is automatically null and void.

### **Section 4: Sale of Property**

- A.) The owner of the property shall record the requirement for an Operating Permit to the parcel property at the County Recorder's office.
- B.) An Operating Permit may not be transferred when a property is sold, but is void 60 days after the date of the property transaction.
- C.) The seller shall be current with all of the permit requirements prior to the date of the property transaction.
- D.) The new owner shall apply for a new Operating Permit within 30 days after the property transaction.
- E.) To consider the new owner's application, the department may require an inspection of the OSS.

### **Section 5: Suspension or Revocation**

- A.) The department may suspend or revoke any Operating Permit issued under this section for:
- 1.) Any false statements or misrepresentations of facts on which the Operating Permit was issued; or
  - 2.) Violation of, or non-compliance with, any of the provisions of the permit.
- B.) Notice of suspension or revocation of the Operating Permit and the reasons for suspension or revocation shall be made in writing to the owner.

- C.) If the Operating Permit is suspended or revoked, the department may require that the treatment system be removed from service.
- D.) The Operating Permit shall be reinstated or renewed upon the owner taking appropriate corrective actions.

## **ARTICLE IV -MAINTENANCE REQUIREMENTS**

### **Section 1: Routine OSS Inspection, Maintenance, and Reporting**

- A.) For the purposes of this ordinance, OSSs are categorized as follows:
  - 1.) Gravity flow systems: septic tank-soil absorption field with no pump and no secondary treatment unit (see Article IIB).
  - 2.) Pump assisted systems: septic tank-soil absorption field with dosing tank and pump but no secondary treatment unit (see Article IJJ).
  - 3.) Secondary treatment systems: the soil absorption field is preceded by a secondary treatment unit (see Article IIM).
- B.) The OSS shall be regularly serviced as required in the Operating Permit.
- C.) Inspection and maintenance intervals shall be determined by the type of the system:
  - 1.) For gravity flow systems, the inspection and maintenance interval shall not exceed five years.
  - 2.) For pump assisted systems, the inspection and maintenance interval shall not exceed three years.
  - 3.) For systems which include a secondary treatment unit, the inspection and maintenance interval shall be specified by the manufacturer of the secondary treatment unit, except that the service interval shall not exceed one year.
- D.) All inspection and maintenance shall be provided by a:
  - 1.) registered service provider for gravity flow and pump assisted systems.
  - 2.) registered service provider who is also authorized by the manufacturer of the secondary treatment unit, for systems that include a secondary treatment unit.
- E.) Maintenance or servicing of the OSS includes:
  - 1.) Any necessary inspections of any components, including the soil absorption field;
  - 2.) Cleaning of the tank(s), if necessary;
  - 3.) Scheduled service to other components and devices; and
  - 4.) Any service required for the soil absorption field.
- F.) Inspection, maintenance, septic tank cleaning, and repairs shall be at the expense of the property owner.
- G.) Property owners who have had maintenance performed on their systems before their regularly scheduled interval and without a *Notice for Service Due Form* from the department shall report this unscheduled service to the department, using a form provided by the department. The department may use this unscheduled service to establish the beginning of a new inspection and service time frame.
- H.) Upon completion of the maintenance and any necessary repair to the OSS, the service provider shall certify that the work was completed in accordance with accepted professional standards and practices and that the system is functioning properly. The service provider and property owner, or agent of the owner, shall complete, sign and

date the *Proof of Maintenance and Inspection Form* accompanying the *Notice for Service Due Form* or a substitute form acceptable to the department.

- I.) The *Proof of Maintenance and Inspection Form* shall be submitted as an original document to the department no later than 10 days following service. The Proof of Maintenance and Inspection Form shall include:
- 1.) Owner name, address, phone number, and email address;
  - 2.) Property location;
  - 3.) Parcel number;
  - 4.) Operating Permit Number;
  - 5.) Name, address, e-mail address, and telephone number of the service provider conducting the service;
  - 6.) If the facility or residence is occupied or vacant;
  - 7.) The date(s) of the service;
  - 8.) Weather conditions;
  - 9.) The condition of all tanks, pumps and associated floats, alarms and wiring;
  - 10.) The quantity of septage or effluent pumped from each tank or compartment of the system;
  - 11.) The condition of any secondary treatment units;
  - 12.) The condition of the soil absorption field, including vegetation, site damage, and any monitoring wells, air release valves, vents, etc.; and
  - 13.) The existence of any unauthorized alterations to any part of the system.
- Submission to the department shall be in a format approved by the department.

## **Section 2: Record Keeping**

The department shall develop a method of tracking OSSs that shall include:

- 1.) Owner name, address, phone number, and email address;
- 2.) Property location;
- 3.) Parcel number;
- 4.) Operating Permit Number;
- 5.) Issuance and expiration dates;
- 6.) Construction Permit reference number and date of issue;
- 7.) Whether a service contract is required;
- 8.) Issuance and expiration dates of service contracts;
- 9.) Name, address, e-mail address, and telephone number of the service provider;
- 10.) Description of system;
- 11.) Category of the system under Article III, Section 3A;
- 12.) Design daily flow for each secondary treatment unit and each soil absorption field;
- 13.) Maintenance requirements and schedules;
- 14.) Monitoring locations, procedures and recording requirements;
- 15.) The dates of service;
- 16.) Reporting requirements; and
- 17.) Status of the system.

## ARTICLE V – RESPONSIBILITIES OF VARIOUS PARTIES

### Section 1: Property Owner Responsibilities

- A.) The property owner shall be responsible for:
  - 1.) Obtaining the Operating Permit required by this Ordinance;
  - 2.) Recording to the parcel property at the County Recorder's office the requirement for an Operating Permit;
  - 3.) Hiring a registered service provider to perform inspection and maintenance and any additional service to the OSS;
  - 4.) Notifying the county of the sale of the property.
- B.) The property owner shall also be responsible for:
  - 1.) Notifying the department upon signs of failure or malfunction of an OSS; and
  - 2.) For correcting the failure or malfunctioning of such systems:
    - a.) The property owner shall obtain a construction permit for the repair/replacement of the malfunctioning system;
    - b.) Shall follow procedures set forth by the department; and
    - c.) Shall complete the repair/replacement to the satisfaction of the department within the time limit set forth by the department.

### Section 2: Service Providers

- A.) The Registered Service Providers are responsible for:
  - 1.) Scheduling septic tank cleaning and any additional service to the OSS as specified in the Operating Permit, and service contract, if applicable.
  - 2.) Completing and signing the *Proof of Maintenance and Inspection Form* and providing an original to the department and a copy to the property owner.
  - 3.) Notifying the department when a contract required by an Operating Permit is cancelled or is not renewed.
- B.) The Registered Service Providers are also responsible for notifying the department of any service or maintenance that is not a part of the scheduled operation and maintenance required by the Operating Permit. The notification shall include all of the information required by Article IV, Section H that is pertinent to the reasons for the service.

### Section 3: Department Responsibilities

- A.) The department shall:
  - 1.) Enforce the provisions of this ordinance; and
  - 2.) Maintain:
    - a.) A listing of registered service providers for OSSs;
    - a.) The OSS permits tracking system;
    - b.) All blank and completed forms;
    - c.) Records of violations; and
    - d.) Any other material related to onsite sewage system information.

- B.) The department shall also:
- 1.) Inspect and document systems for which a failure or malfunction has been reported to the department; and
  - 2.) Provide the property owner written notification that shall communicate the specifics of the OSS failure or malfunction and the time limit for compliance.

## **ARTICLE VI - MALFUNCTIONING OR FAILING SYSTEMS**

### **Section 1: Guidelines**

An onsite sewage system shall be deemed a malfunctioning system if any of the conditions of Article IIB exist. In addition, all parts of an OSS that are found to be damaged, misaligned, altered without authorization, or missing shall constitute a defective system.

The local health officer or the officer's designee may enter upon and inspect private property, at proper times after due notice, in regard to the possible presence, source, and cause of disease.

### **Section 2: Correction of a Failure or Malfunction**

For correction of a failure or malfunction of an OSS, the property:

- 1.) shall be served by a sanitary sewerage system, and the failed system(s) shall be disconnected from the structure(s) and properly abandoned, or
- 2.) if a sanitary sewerage system is not available, the property shall be brought into compliance with the OSS standards of the county and state.

## **ARTICLE VII – FEES**

Fees for Operating Permits shall be:

- |     |  |    |
|-----|--|----|
| 1.) | For gravity flow systems:                    | \$ |
| 2.) | For pump assisted systems:                   | \$ |
| 3.) | For systems with a secondary treatment unit: | \$ |

## **ARTICLE VIII - VIOLATIONS**

### **Section 1: Violation**

Any person found to be violating this ordinance may be served by the county health officer or his designee with a written order stating the nature of the violation and providing a time limit for satisfactory correction thereof.

After receiving an order in writing from the health officer or his designee, the owner of the property shall comply with the provisions of this ordinance as set forth in said order and within the time limit specified therein. Said order shall be served on the owner or the agent of the owner, but may be served on any person who, by contract with the owner, has assumed the duty of complying with the provisions of an order.

### **Section 2: Penalties**

Any person found to be in violation of this ordinance may be fined for the first offense not more than \$\_\_\_\_\_ ; for the second and each subsequent offense not more than \$\_\_\_\_\_.

### **Section 3: Procedure for Appeal**

The local health board shall hear appeals incidental to the issuance , denial or revocation of Operating Permits if, within 15 days following the date of issuance, denial or revocation of an Operating Permit, any person aggrieved by such action files a petition for review concerning such action with the local health officer.



A petition for review shall state:

- 1.) The name, address and telephone number of the person making the request;
- 2.) Identify the interests of the petitioner affected by the Operating Permit issuance, denial, 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 for considered;

Include proposed terms or conditions that, in the judgment of the petitioner would be appropriate to carry out the requirements of this ordinance.

The procedures established in I.C. 4-21.5, the Administrative Procedure and Orders Act, may be used to conduct the hearing.

**ADOPTION AND EFFECTIVE DATE**

This Ordinance is hereby adopted this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and shall be effective immediately upon its adoption.

**BOARD OF COUNTY COMMISSIONERS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
County Auditor

## APPENDIX

There are many existing OSSs that would benefit by being enrolled in an operation and maintenance program. Likewise, there are many properties generating sewage for which an operating permit could not be legitimately issued due to the antiquated technology, current performance of the system, or the lack of any system. Careful consideration shall be given to these issues prior to implementing any program for bringing existing OSSs into an operation and maintenance program.

One approach that may be considered is to adopt a schedule for including existing OSSs for which the department has record of a permit issued in accordance with 410 IAC 6-8.1 or 410 IAC 6-8.2 and local ordinance governing the installation of OSSs.

The schedule adopted would have to be tailored for each county, depending on the number of existing OSS involved and the ability of the department to bring these OSS into the operation and maintenance system. An example would be to set a schedule where properties for which permits were issued by the department for a certain year (or years) would be added to the operation and maintenance system.

Example Language:

Based on the following schedule, Operating Permits shall be required for existing OSS for which the department has record of a permit issued in accordance with 410 IAC 6-8.1 or 410 IAC 6-8.2 and local ordinance:

Year of Issuance – Construction Permit	Year of Issuance of Initial Operating Permit
2011	2013
2010	2014
2009	2015
2008	2016
2007	2017
2006	2018
2005	2019
Etc.	Etc.