

**ALLEN COUNTY CODE TITLE 10
DEPARTMENT OF HEALTH**

**ARTICLE 4.5
ALLEN COUNTY PRIVATE SEWAGE DISPOSAL**

10-4.5-1 Chapter 1: DEFINITIONS

10-4.5-1-1 State Definitions

All definitions set forth in 410 IAC 6-8.3, 410 IAC 6-10.1, Bulletin SE-11 (1986) and Bulletin SE-13 (1988) promulgated by the Indiana State Department of Health, as may be amended from time to time, are hereby incorporated by reference.

10-4.5-1-2 Board

The Fort Wayne-Allen County Board of Health.

10-4.5-1-3 Building

A structure having a roof supported by columns or walls built or used for the enclosure, shelter, protection or occupancy of persons, fixtures or personal property, and from which emanates any sewage.

10-4.5-1-4 Buyer

A person who has made a written offer to purchase a property.

10-4.5-1-5 Certified Evaluator

An Evaluator who passes a written proficiency examination, conducted by the Department or an entity approved by the Department, and maintains certification through retesting.

10-4.5-1-6 Certified Installer

An Installer who passes a written proficiency examination, conducted by the Department or an entity approved by the Department, and maintains certification through retesting.

10-4.5-1-7 Certified Service Provider

A Service Provider who passes a written proficiency examination, conducted by the Department or an entity approved by the Department, and maintains certification through retesting.

10-4.5-1-8 Closing

The act of transferring ownership of a property from one person to another involving the signing of final documents for the transfer.

10-4.5-1-9 Commercial Building

Any building which is not a one or two family dwelling.

10-4.5-1-10 Construction Permit

Written approval by the Department for the construction, installation, alteration, repair or abandonment of a new or existing OSS or sanitary vault privy.

10-4.5-1-11 Department

The Fort Wayne-Allen County Department of Health, and/or its employees.

10-4.5-1-12 Evaluator

An independent third party who performs onsite sewage system evaluations for a fee and who has sufficient experience and training to identify the conditions specified in 10-4.5-1-13.

10-4.5-1-13 Failure or Malfunction

An OSS condition which includes any of the following:

1. The system refuses to accept sewage at the rate of design application thereby interfering with the normal use of residential plumbing fixtures;
2. Effluent discharge exceeds the absorptive capacity of the soil, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters;
3. Effluent is discharged from the system causing contamination of a potable water supply, ground water, or surface waters;
4. The backup of sewage into a structure;
5. The connection of an OSS to any drain tile;
6. Liquid level in a septic tank above the inlet invert;
7. Liquid level in a treatment unit above that recommended by the manufacturer;
8. Structural failure of a septic tank or treatment unit;
9. Water samples documenting contamination of ground water or surface waters by the OSS.

A failed OSS is a health hazard.

10-4.5-1-14 Gravity Flow System

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.

10-4.5-1-15 Groundwater

Any water below the surface of the ground within the interstices of the rock and soil. This includes water in both the unsaturated near-surface soils and the underlying saturated soils and rock.

10-4.5-1-16 Health Commissioner

The Health Commissioner for The Fort Wayne-Allen County Department of Health, (designated as "Health Officer" in the state rules and regulations) and/or his/her authorized representative.

10-4.5-1-17 Installer

Any person who performs any work in furtherance of construction, installation, replacement, alteration, modification or repair of any residential or commercial onsite sewage system that is subject to the provisions of this ordinance.

10-4.5-1-18 Onsite Sewage System or “OSS”

All equipment and devices used for conduction, collection, storage, treatment, and on-site disposal of sewage using a soil absorption field or Permitted Discharge System, 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, including perimeter drains, and privies, approved by the Indiana State Department of Health for use in the state.

10-4.5-1-19 Owner

Any person(s) who has legal title to a property.

10-4.5-1-20 Permitted Discharge System

A system installed and maintained in compliance with 327 IAC 15-14.

10-4.5-1-21 Permittee

The person who is the owner of the real estate, or his/her/its authorized representative, who is responsible for the application for a construction permit and who shall be responsible for the acceptance of notices at the address listed on the permit application.

10-4.5-1-22 Person

Any individual, trust, joint stock company, federal agency, corporation (including a government corporation), limited liability company, partnership, co-partnership, company, estate, municipal corporation, city, school city, town, school town, school district, school corporation, county, state agency, association, state, commission, political subdivision of a state, any interstate entity or any other legal entity or their legal representative.

10-4.5-1-23 Property

Any tract of land, or portion thereof, or combination of tracts of land under single or common ownership.

10-4.5-1-24 Public Sewer

Any sanitary sewer constructed, installed, maintained, operated or owned by a municipality, sewage district or utility company. A county legal drain, mutual drain or private drain installed for the sole purpose of carrying surface water runoff and subsoil drainage shall not be considered a public sewer under this definition.

10-4.5-1-25 Pump Assisted System

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.

10-4.5-1-26 Residential

A building used as a one or two-family dwelling.

10-4.5-1-27 Sanitary Sewerage System

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.

10-4.5-1-28 Secondary Treatment Unit

A treatment device that is a separate component (unit) prior to the soil absorption field or permitted discharge 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;
2. Approved by the Indiana State Department of Health for such use in Indiana; or
3. Approved by the Department as a component in a permitted discharge system.

10-4.5-1-29 Seller

The owner of a property being sold who has received a written offer to purchase from a Buyer.

10-4.5-1-30 Service Provider

An individual who meets the minimum requirements set by the Department for providing evaluation and maintenance of an Onsite Septic System (OSS) under the provisions of this Ordinance. Such individual shall be proficient in the design, operation, and performance standards of the OSS for which they are certified to provide evaluation and maintenance.

10-4.5-1-31 Sewage

All water-carried waste derived from ordinary living processes.

10-4.5-1-32 Soil Profile Analysis

The observation and evaluation of the physical characteristics of the soil horizons or layers to a depth of at least five (5) feet or, if shallower, to a layer that cannot be readily penetrated.

10-4.5-1-33 Soil Scientist

An individual registered as a professional soil scientist with the Indiana Registry of Soil Scientists (IRSS) as provided for under IC 25-31.5.

10-4.5-2 Chapter 2: SEWAGE DISPOSAL

10-4.5-2-1 State Rules

All rules and regulations contained within 410 IAC 6-8.3, 410 IAC 6-10.1, Bulletin SE-11 (1986) and Bulletin SE-13 (1988), promulgated by the Indiana State Department of Health, as may be amended from time to time, are hereby incorporated by reference.

10-4.5-2-2 Public Sewer Available

Whenever a public sewer is or becomes available within 300 feet of a residential or commercial building, a direct connection shall be made to said public sewer, provided direct access is reasonably available via easement or other appropriate means. As a result of such connection, all existing septic tanks, sewage pits, outhouses, privy pits and similar sewage disposal systems or treatments facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have 90 days from the date that the public sewer becomes available to make a direct connection to the public sewer and to abandon and fill in the existing sewage disposal system.

10-4.5-2-3 Public Sewer not Available

All residential and commercial buildings which are not connected to a public sewer and for which public sewer is unavailable shall be connected to an OSS which shall comply with the standards set forth herein.

10-4.5-2-4 Construction of Privy

Sanitary vault privies constructed and maintained pursuant to Bulletin SE-11 (1986) shall be approved by the Health Commissioner.

10-4.5-2-5 Correction of Defects

Should any defect exist or occur in any OSS or privy which would cause the OSS or privy to fail to meet the requirements of this Ordinance, then the defect shall be corrected by the owner/permittee pursuant to the time table established by the Health Commissioner. Failure to correct the defect within the time table established by the Health Commissioner shall be considered a violation of this Ordinance and shall subject the owner/permittee to the penalties set forth in 10-4.5-11.

10-4.5-2-6 Adaptation of Residential OSS

Whenever there is any alteration of the structure or significant change in the use or occupancy of a residential building which would affect the functioning of the existing OSS, including the addition of a bedroom or bedroom equivalent as defined in 410 IAC 6-8.3, then the system shall be modified, enlarged or replaced in accordance with the requirements of this ordinance.

10-4.5-2-7 Adaptation of Commercial OSS

Whenever there is any alteration of the structure or significant change in the use or occupancy of a commercial building which would affect the functioning of the existing OSS, including the addition of bathrooms, kitchens or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of this ordinance.

10-4.5-3 Chapter 3: CONSTRUCTION REQUIREMENTS OF ONSITE SEWAGE SYSTEMS

10-4.5-3-1 Lot Dimensions and Replacement Area

- A. Lots or tracts of real estate on which residential or commercial OSSs are to be installed and which are rated slight or moderate for septic tank absorption fields by the U.S. Department of Agriculture Soil Conservation Service, shall contain a minimum of one (1.0) acre or 43,560 square feet and suitable soils and topography to permit compliance with this Ordinance.
- B. Lots or tracts of real estate on which residential or commercial OSSs are to be installed and which are rated severe for septic tank absorption fields by the U.S. Department of Agriculture Soil Conservation Service shall contain a minimum of two (2.0) acres or 87,120 square feet and suitable topography to permit compliance with this Ordinance.
- C. Lots or tracts of real estate on which residential or commercial OSSs are to be installed, and which do not already contain an OSS, shall contain a secondary site large enough for a replacement of the soil absorption field on each parcel. Soil evaluations shall be performed on the secondary site to demonstrate it is capable of accepting a soil absorption field.
- D. A permittee, whose real estate was a separate parcel for tax purposes as shown on the tax records of the Auditor of Allen County, Indiana, and recorded prior to February 16, 1996,

When use of an on-site system or part of a system is discontinued, the system must be abandoned in accordance with 410 IAC 6-8.3-90 after obtaining a permit from the Department as required in chapter 4 of this Ordinance. An OSS must be properly abandoned, including obtaining the required permit as specified in Chapter 4 of this Ordinance and completing the required verification inspection, within ninety (90) days of the demolition of a structure, or connection of a structure to a public sewer system.

10-4.5-3-7 Inspection Pipe

Each OSS shall have at least one suitable inspection pipe, which shall be accessible to the Health Commissioner at all reasonable times for the inspection or sampling of effluent. If an inspection pipe does not exist, is not in good repair or is not accessible, this shall constitute a defect in the system requiring correction under 10-4.5-2-5.

1. The inspection pipe shall be installed at the far end of one of the absorption lines for each separate distribution network within the system, or just beyond the last equipment or device in any other treatment system.
2. The inspection pipe shall be not less than an eight (8) inch riser of Schedule 40, SDR 21, SDR 26, or SDR 35 PVC pipe extending above the surface of the ground, with a safely secured easily removable cap or cover and with its lower end connected and arranged to permit the collection, by dipping, of an effluent sample.
3. The ground surface shall slope away from the inspection port in all directions.
4. An additional inspection pipe is required in the perimeter drain outlet tile if the outlet end of the tile does not come to the ground surface on the owner's property.
5. For Permitted Discharge Systems and perimeter drains, the inlet and outlet pipes shall extend into the inspection pipe at least 1 inch but not more than 2 inches. The invert of the inlet pipe shall be at least 2 inches higher than the invert of the outlet pipe.

10-4.5-3-8 Drainage

A subsurface drain trench installed on the sides, upslope, or downslope, from an OSS and segment drain trenches shall be:

1. Backfilled to final grade with aggregate which meets the minimum requirements of section 67 of this rule, washed aggregate with a gradation in the range of INDOT Specifications 8 through 11, INDOT Specification 23 sand or equivalent; or
2. Filled to within six (6) inches of final grade aggregate which meets the minimum requirements of section 67 of this rule, with washed aggregate with a gradation in the range of INDOT Specifications 8 through 11, INDOT Specification 23 sand or equivalent and the final six (6) inches to final grade with cover soil material.

10-4.5-4 Chapter 4: CONSTRUCTION PERMIT

10-4.5-4-1 Construction Permit Required

- A. An owner or permittee shall first obtain a construction permit (new, replacement) from the Health Commissioner prior to the commencement of any excavation, construction, modification or addition to any existing or new OSS, or any of its components (such as a perimeter drain), that involves the initial installation, replacement or modification of a soil absorption field, or a permitted discharge system.

- B. An owner or permittee shall first obtain a construction permit (alteration, repair, sanitary vault privy) from the Health Commissioner prior to the commencement of any alteration, repair, modification or addition to any existing OSS, or any of its components (such as a perimeter drain), that does not involve the replacement or modification of the soil absorption field, or a permitted discharge system. This includes any sanitary vault privy not included as part of a construction permit under A.
- C. An owner or permittee shall first obtain an abandonment permit from the Health Commissioner prior to the abandonment of any existing OSS or part of a system, which is not in conjunction with a construction permit under A or B of this section.
- D. Prior to obtaining a construction permit under A or B of this section, an owner or permittee shall record a notice, on a form approved by the Department, that the property will be served by an Onsite Sewage System and/or Sanitary Vault Privy and is subject to all of the applicable requirements and conditions of this Ordinance. A copy of this recorded notice shall be supplied to the Department.

10-4.5-4-2 Construction Permit to be Posted

No person shall perform any work on an OSS system, or any of its components (such as a perimeter drain), unless a valid construction permit is first obtained and is properly posted in a conspicuous place at or near the building where the OSS is to be constructed. The permit shall be plainly visible from the public thoroughfare serving the building until the project is completed.

10-4.5-4-3 Application for Construction Permit

The application for such permit shall be submitted to the Health Commissioner on a form provided by the Health Commissioner and shall be supplemented by any plans, specifications and other information deemed necessary by the Health Commissioner or as required by 410 IAC 6-8.3-53.

10-4.5-4-4 Term and Renewal

A construction permit shall be valid for one (1) year from the date of issuance, and may be renewed for up to an additional six (6) months upon application. If the construction permit is renewed, the permittee shall comply with any changes in the rules, standards or requirements which may have come into effect subsequent to the original date of issuance. If construction has started on the OSS or any of its components (such as a perimeter drain), the construction permit shall be valid for two (2) years from the date of issuance. The construction permit is not transferable.

10-4.5-5 Chapter 5: INSTALLERS, SERVICE PROVIDERS AND EVALUATORS

10-4.5-5-1 Responsibilities and Supervision

- A. A Certified Installer shall be responsible for all work performed under a construction permit issued in accordance with the provisions of this ordinance.
 - 1. A Certified Installer may hire Installers or other laborers who are not certified to assist with the work performed under a construction permit at each site, provided they are under the direct on-site supervision of a Certified Installer whenever work is being performed on the site.
 - 2. A property owner wanting to install, repair, replace, or otherwise work on the OSS serving the property owner's place of residence shall be required to meet all of the requirements of a Certified Installer as it applies to their system.

- B. A Certified Service Provider shall be responsible for all maintenance performed on an OSS, except that a property owner may perform maintenance on his/her/its OSS so long as the OSS is not a Permitted Discharge System or other system requiring a service contract.
 - 1. A Certified Service Provider may hire laborers who are not certified to assist with the maintenance performed on an OSS, provided they are under the direct on-site supervision of a Certified Service Provider whenever maintenance is performed on an OSS.
 - 2. A property owner wanting to provide service on a Permitted Discharge System, or other system requiring a service contract, serving the property owner's place of residence shall be required to meet all of the requirements of Certified Service Provider as it applies to their system.
- C. The Department will maintain a list of Certified Evaluators for anyone wanting to use their services for the evaluation of an existing OSS especially for the purpose of a property transfer/sale or otherwise.

10-4.5-5-2 Certification

- A. An applicant wanting to become a Certified Installer, Certified Service Provider, and/or Certified Evaluator shall demonstrate knowledge of the applicable laws, rules, technical specifications, and ordinances before becoming certified by passing a written proficiency examination conducted by the Department or an entity approved by the Department.
 - 1. The examination shall be in multiple parts. The Department or an entity approved by the Department will develop examinations to test applicant knowledge of laws, rules, regulations, and ordinances of the State of Indiana and Allen County in the following areas:
 - a. Part A will be the core test and will include gravity OSSs and flood dose OSSs;
 - b. Part B will cover trench pressure distribution OSSs and sand mound OSSs;
 - c. Part C will cover permitted discharge systems;
 - d. Part D will cover evaluation and service of systems; and
 - e. The Department will develop additional examinations for alternative technology OSSs for which an interim standard is published by the Indiana State Department of Health.
 - 2. The examinations shall be reviewed and amended from time to time to determine their applicability to current laws, rules, technical specifications and ordinances.
 - a. A score of eighty (80) percent or higher on each part will be considered passing. If the applicant fails to pass any part of the examination, the applicant may re-apply for Installer Certification no earlier than one (1) month following the examination date.
 - b. When taking a written examination is not feasible due to language, reading difficulties, or disability, oral examination or other reasonable accommodation will be allowed.
- B. Successful completion of the core examination for 10-4.5-5-2-A-1 a (Part A) is required prior to taking any other parts of the examination.
 - 1. Upon successful completion of the examination for 10-4.5-5-2-A-1 a (Part A), the applicant shall be issued a certification to install gravity OSSs and flood dose OSSs.

2. Upon successful completion of the examination for 10-4.5-5-2-A-1 b. (Part B), the applicant shall be issued a certification to install trench pressure OSS and sand mound OSS.
 3. Upon successful completion of an examination for 10-4.5-5-2-A-1 c. (Part C) for a permitted discharge system, the applicant shall be issued a certification to install permitted discharge systems.
 4. Upon successful completion of an examination for 10-4.5-5-2-A-1 d. (Part D) for evaluation and service of systems, the applicant shall be issued a certification to evaluate and service any systems for which they have also been certified to install.
 5. Upon successful completion of an examination for 10-4.5-5-2-A-1 e for an alternative technology OSS for which an interim standard has been published by the Indiana State Department of Health, the applicant shall be issued a certification to install an OSS for that alternative technology.
- C. Such certification shall be valid for a term of three-years beginning on the date of issuance and shall be renewed tri-annually. The certification shall bear the name and address of the Certified Installer, Certified Evaluator, or Certified Service Provider and the expiration date and shall not be transferable. The Installer, Evaluator, or Service Provider shall re-apply for certification and pass the proficiency test, or provide proof of recertification by an entity approved by the Department.
- D. The Certified Installer shall possess a copy of the certification and allow inspection of the document upon request at all times when on-site installing OSSs.

10-4.5-6 Chapter 6: INSPECTION REQUIREMENT

10-4.5-6-1 Commencement of Construction

Upon issuance of a construction permit under 10-4.5-4-1, the permittee may commence excavation, construction, alteration, repair, modification or addition of any portion of the OSS except the soil absorption field. The Department must be contacted to inspect and verify that the plastic limit of the soil is not exceeded prior to the commencement of construction of the soil absorption field. The Health Commissioner may inspect the work at any state of construction. No construction on any portion of an OSS may commence until a construction permit has been issued.

10-4.5-6-2 Inspection

Upon substantial completion of the work authorized under the construction permit, the permittee shall notify the Health Commissioner that the work is ready for inspection. No portion of the work shall be covered until the inspection is made. For above ground systems requiring the placement of Spec 23 sand over the existing ground surface, a preliminary inspection shall be required after plowing the existing surface and before the application of the Spec 23 sand.

1. No portion of the OSS shall be used and, when the system serves a new building, no person shall be permitted to use the building or buildings until the inspection has been completed and the system is found to be in compliance with all applicable regulations and this Ordinance.
2. Upon inspection and approval of the work performed under the construction permit, the Department shall notify the Allen County Onsite Wastewater Management District that the property is eligible for an operating permit pursuant to Allen County Code Title 17 and in accordance with all the requirements contained therein.

3. For any OSS for which an Operating Permit is required under Allen County Code Title 17 (Allen County Onsite Wastewater Management District), 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.

10-4.5-7 Chapter 7: MALFUNCTIONING OR FAILING SYSTEMS

10-4.5-7-1: Guidelines

- A. An onsite sewage system shall be deemed to be a malfunctioning system if any of the conditions of 10-4.5-1-13 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.
- B. The Health Commissioner or the Commissioner's designee may enter upon and inspect private property, at proper times after due notice, with regard to the possible presence, source, and cause of disease as well as to ensure compliance with the applicable provisions within this ordinance or 410 IAC 6-8.2.

10-4.5-7-2: 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 Allen County and the State of Indiana.

10-4.5-8 Chapter 8: CONSUMER PROTECTION

10-4.5-8-1 Onsite Sewage System Seller's Disclosure Form

- A. The Department has adopted a specific disclosure form to be provided by a Seller to a prospective buyer in the event the subject property is served by an OSS and is not connected to a public sewer. The disclosure form alerts the buyer that the property is not served by a public sewer and recommends that the buyer retain a qualified individual to evaluate any OSS prior to closing the sale transaction.
- B. Disclosure to be given to buyer.

A Seller (or the seller's agent) must provide the Department-drafted Seller's Disclosure to a prospective buyer before an offer for the sale of real estate is accepted and shall make the property available for inspection/evaluation of the OSS prior to closing the sale transaction if buyer requests said inspection/evaluation.

- C. Should a buyer or seller desire an evaluation of an OSS, the Department will compile and keep a list of Certified Evaluators and will provide a current list to any person making a request for it. Any OSS evaluation performed under the authority of a Certified Evaluator shall be performed according to the procedures established by the Department to observe and document the condition of the OSS to the extent the condition can be assessed by the procedures established by the Department.

10-4.5-9 Chapter 9: FEES

10-4.5-9-1 Permit Fees:

Prior to the issuance of any construction permit, each owner/permittee shall first tender to the Treasurer of Allen County, Indiana, a fee or fees, which shall be deposited into the County Health Fund, for each system being constructed, modified, altered or repaired in accordance with the following schedule:

1. Construction Permit (New, Replacement) - \$200.00
2. Construction Permit (Alteration, Repair, Sanitary Vault Privy) - \$100.00
3. Abandonment Permit - \$65.00
4. Revision of existing construction permit prior to construction - \$30.00

10-4.5-9-2 Certification Fees:

A fee of twenty-five dollars (\$25.00) for Installer, Evaluator, and/or Service Provider certification shall be submitted prior to taking each part of the examination.

10-4.5-9-3 Public Sewer Exemption Certification Inspection Fees:

A fee of one hundred dollars (\$100) shall be submitted by any permittee/property owner requesting the Department to conduct all of the associated services regarding a public sewer exemption certification and determination of eligibility as provided for in IC 13-26-5-2.5. This fee covers all inspections and provision of documentation that may be necessary for the property regardless of whether or not the property is deemed eligible for exemption or not. This fee is also due prior to any inspections associated with a request for each extension of a previously granted exemption, as provided for in IC 13-26-5-2.5.

10-4.5-10 Chapter 10: ENFORCEMENT

10-4.5-10-1 Right of entry upon premises.

- A. Pursuant to I.C. 16-20-1-23 and 410 IAC 6-8.3-51(d), the Health Commissioner, or an authorized representative, bearing proper credentials and identification, may enter upon and inspect private property for the purposes of inspecting, observing, measuring, sampling, testing and examining records necessary to ensure compliance with this ordinance and the corresponding State rule.
- B. In the event a person who has common ownership over a building, structure or land does not permit an inspection for the purposes described in A. above, the inspection may be rescheduled and the owner shall be notified of the date and time of the inspection. Failure of the person to thereafter permit an inspection will be sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting, observing, measuring, sampling, testing or examining records necessary to ensure compliance with this ordinance and the corresponding State rule.
- C. In the event a building, structure or land appears to be vacant or abandoned and the property owner cannot be readily contacted in order to obtain consent for an inspection, the Health Commissioner or an authorized representative may enter into or upon any open or unsecured portion of the premises, for such purposes as inspecting, observing, measuring, sampling, testing and examining records necessary to ensure compliance with this ordinance and the corresponding State rule.

10-4.5-10-2 Economic Hardship – Sewer Connection

In the event an owner/permittee is unable to comply with the provisions of 10-4.5-2-2 due to the economic hardship that might be imposed, then the Health Commissioner may, upon application and proof of inability to pay the cost of compliance, extend the period within which said owner/permittee shall be required to make the hook-up provided the owner/permittee has an existing OSS which is operating properly.

10-4.5-10-3 Denial and Approval of Permit

- A. In the event the Health Commissioner determines that the application for the Construction Permit does not meet the standards set forth in this article, then the Health Commissioner shall notify the Permittee of such denial in writing, within thirty (30) days of the original application, stating the specific reasons for the denial of the permit.
- B. In the event the Health Commissioner issues written directives regarding corrective actions, then the Permittee shall have a reasonable amount of time to address and comply with the items set forth in the directives in order to be able to obtain the Construction Permit.

10-4.5-10-4 Suspension of Permit/Certification

The Health Commissioner may order the suspension of a Construction Permit or Installer Certification. The Health Commissioner may order the suspension of a permit or Certification for any of the following reasons:

1. Failure to meet any of the standards of any of the provisions of this Ordinance or violations of any of provisions of this Ordinance.
2. Interference with the Health Commissioner in the performance of his/her duties. Interference shall be defined as the process of obstructing, hampering or blocking the Health Commissioner in the performance of his/her duties.
3. At the request of the Permittee or installer, a hearing shall be afforded him/her/it within twenty-four (24) hours of the issuance of the written suspension order. Said hearing shall be conducted as set forth in 10-4.5-10-7.

10-4.5-10-5 Revocation of Permit/Certification

Any Permit and/or Certification issued hereunder may be revoked by the Health Commissioner as the result of the willful or continued violation of any provision of this Ordinance. No such revocation shall be ordered by the Health Commissioner except after a hearing held pursuant to 10-4.5-10-7 upon at least ten (10) days written notice to the owner/permittee/installer of the time, place and nature of said hearing. Said notice of hearing shall be served upon the owner/permittee/installer by leaving, or mailing (certified mail) the notice to the address listed by the owner/permittee/installer as his/her/its address on the Permit, application or installer Certification application.

10-4.5-10-6 Immediate Revocation

Notwithstanding any of the other provisions of this Ordinance, whenever the Health Commissioner finds insanitary or other conditions, which, in his/her opinion constitute an imminent health hazard, he/she may, without notice or hearing, issue and serve a written order on the owner/permittee/installer requiring the immediate cessation of operation/installation. Said written order shall site the existence of the imminent health hazard and shall specify the corrective action to be taken. Such order shall be effective immediately. Upon petition to the Health Commissioner, the Permittee/installer shall be afforded a hearing within twenty- four (24)

hours of the issuance of the written order. Said hearing shall be conducted as set forth in 10-4.5-10-7.

10-4.5-10-7 Hearing

At any hearing required under this Ordinance, every owner/permittee/installer who is a party to such proceeding shall have the right to submit evidence, to cross examine witnesses and to be represented by counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitious material shall be excluded. Upon the conclusion of the hearing, the Health Commissioner shall issue a final order determining the issue(s) which shall be conclusive on all parties subject to the right of appeal.

10-4.5-10-8 Appeal

- A. Any owner/permittee/installer aggrieved by any final order of the Health Commissioner shall be entitled to a review of the final order before the The Board of Commissioners of the County of Allen (hereinafter referred to as “Board of Commissioners”) by filing a written request therefore with the Board of Commissioners’ Secretary within fifteen (15) business days of the Health Commissioner’s final order.
- B. Upon the Secretary’s receipt of such request, the Board of Commissioners shall hear the matter de novo in open hearing upon at least ten (10) days written notice of the time, place and nature thereof. The notice shall be issued by the Board of Commissioners’ Secretary to the owner/permittee/installer filing the request.
- C. The notice shall be served upon the owner/permittee/installer by leaving or mailing (certified mail) the notice to the address listed on the application as his/her/its address or such other address as he/she/it shall designate in writing.
- D. At such hearing, the same rules of procedure shall apply as in the case of the hearing before the Health Commissioner. Upon written demand by the owner/permittee/installer, the Board of Commissioners shall cause the proceedings before it to be recorded by a stenographer or reporter employed for such purpose, and the same, together with all papers and documents filed therein, shall be reproduced by said Board of Commissioners in the form of a transcript, a copy of which shall be available to any party.
- E. The expense of such proceedings shall be charged to the owner/permittee/installer who applied for the review, except that copies of the transcript shall be at the expense of the party obtaining same. The Board of Commissioners may require the deposit of an amount determined to secure such expense.
- F. The Board of Commissioners shall make written findings of facts and shall enter its final order or determination of the matter in writing in the permanent records of the Board of Commissioners of the County of Allen..

10-4.5-11 Chapter 11: VIOLATIONS

10-4.5-11-1 Penalties

Any person found to be in violation of this ordinance may be fined for the first offense not more than \$500.00; for the second and each subsequent offense not more than \$1,000.00 per offense.

10-4.5-11-2 Injunction

The Health Commissioner may bring an action for an injunction in the Circuit or Superior Court of Allen County, Indiana to restrain any person from violating the provisions of this Ordinance, or to cause such violation to be prevented, abated or removed.

10-4.5-11-3 Expense

Any person violating any of the provisions of the Ordinance shall be liable to the Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and court costs.

10-4.5-11-4 Cumulative

The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

10-4.5-11-5 Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

10-4.5-11-6 Severability

Invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

10-4.5-11-7 Effective

This Ordinance shall become effective as of February 4, 2019.

Added 12-02-11 by Ordinance #12-02-11-12

Ordinance amended 8-15-14 by Ordinance #08-15-14-14

Ordinance amended 11-13-15 by Ordinance #11-13-15-17

Ordinance amended 1-18-2019 by Ordinance #01-18-19-01