

Chapter 172. RESIDENTIAL ON-SITE SEWAGE SYSTEMS

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§172.01 TITLE.

This chapter may be referred to as the “Fishers On-Site Sewage Ordinance”.

§172.02 AUTHORITY

The Health Officer, and the Health Officer’s agents and representatives are hereby authorized to issue permits, collect permit and incidental fees, perform inspections, order or otherwise compel correction of violations of this chapter, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this chapter.

§172.03 ADOPTION BY REFERENCE

The regulations located at 410 IAC 6-8.3, as amended from time to time, and promulgated by the Indiana State Department of Health are hereby incorporated by reference.

§172.04 DEFINITIONS

Undefined terms shall have the meaning prescribed to them by 410 IAC 6-8.3, as amended from time to time. In addition to or to otherwise supplement or to conveniently provide definitions for interpretation, this chapter shall include the following definitions:

- A. “State Definition means all definitions set forth in 410 IAC 6-8.3, as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference.
- B. “Board” means the City of Fishers Board of Health.
- C. “Building” means a structure having a roof supported by columns or walls built or used for the enclosure, shelter, protection or occupancy or persons, fixtures or personal property, and from which there emanates any Sewage.
- D. “Commercial” means any Building which is not a one or two-family Dwelling.
- E. “Department” means the City of Fishers Health Department, and/or its employees.
- F. “Dwelling” means any Building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used.
- G. “Health Officer” means the Health Officer of the Department, or her authorized representative.
- H. “Installer” means any person who constructs, installs, replaces, alters, modifies or repairs any residential or commercial Sewage disposal system subject to the provisions of this Chapter, other than one which services her Building. In the event that the person is an association of two or more people, then said association shall

designate one individual who shall be designated as the installer and responsible for compliance with all provisions hereunder.

- I. "Legal Drain" means any tile or drainage-way regulated by the Hamilton County Surveyor.
- J. "Permit" means a certificate of a size and style approved by the Health Officer or her designee.
- K. "Permittee" means the person who is the owner of the real estate, her authorized representative, who is responsible for the application of a construction Permit and who shall be responsible for the acceptance of notices at the address listed on the Permit applications.
- L. "Public Sewer" means 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.
- M. "Residential" means a Building used or intended to be used as a one or two-family Dwelling.
- N. "Sewage" means all water-carried waste derived from ordinary living processes. This does include grey-water discharge.

§172.05 SEWAGE DISPOSAL

A. All rules and regulations of 410 IAC 6-8.3, as amended from time to time, of the Indiana State Department of Health are hereby incorporated by reference.

B. Public/Municipal 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 as defined under Ind. Code §36-9-23-30(b), provided direct access is reasonably available via easement or other appropriate means. All existing septic tanks, Sewage pits, outhouses, privy pits and similar Sewage disposal systems or treatment facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have ninety (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.

C. Public/Municipal Sewer Not Available: All Residential and Commercial Buildings which are not connected to a Public Sewer shall be connected to a private Sewage disposal system which shall comply with the standards set forth herein.

D. Construction of Privy: Sanitary vault privies constructed and maintained pursuant to Bulletin SE-11 (1986) must be approved by the Health Commissioner and maintained in accordance with this Chapter and Indiana law.

E. Correction of Defects: Should any defect exist or occur in any private Sewage disposal system or privy which would cause the Sewage disposal system or privy to fail to meet the requirements of this Chapter, then the defect shall be corrected by the owner/Permittee pursuant to the time table established by the Health Officer or her designee. Failure to correct the defect within the time table established by the Health Officer or her designee shall be considered a violation of this Chapter and shall subject the owner/Permittee to the sanctions set forth in Section 172.10, subject, however, to the provisions of Section 172.09.

F. Adaptation of Residential System: 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 private Sewage disposal system, including the addition of a bedroom or bedroom equivalent, then the system shall be modified, enlarged or replaced in accordance with the requirements of this article. Plans for any such changes shall be submitted to the Fishers Health Department.

G. Adaptation of Commercial System: Whenever there is any alteration of the structure or significant change in the use of occupancy of a commercial Building which would affect the functioning of the existing private Sewage disposal system, including but not limited to 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 Chapter. Any such changes will require Indiana State Department of Health approval and/or waiver.

§172.06 Construction Requirements of Private Sewage Disposal Systems

A. Indiana State Department of Health Requirements: All rules and regulations of 410 IAC 6-8.3 as amended from time to time, of the Indiana State Department of Health are hereby incorporated by reference.

B. Lot Dimensions: Lots or tracts of real estate on which residential or commercial Sewage disposal systems 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 Chapter.

C. On Site Evaluation: At least three borings from the proposed septic disposal system location. One boring shall be done with a soil auger. The second sample from the proposed septic disposal system location, and any additional confirmation samples, may be taken with a push probe. Additional borings shall be required if the original proposed septic area soils are disturbed.

D. Requirements for Septic Tanks: Residential tanks shall be of concrete construction. Residential septic tanks shall have the following capacity in gallons:

Number of Bedrooms	Size of tank (gallons)
1, 2 or 3	1,000

4	1,250
6	1,500
6 or more	1,500 + 150 for each bedroom greater than 5

E. Distribution Boxes: All distribution boxes shall be of concrete construction.

F. Access Openings: All septic tanks shall have at least one (1) access opening per tank (or per compartment in two compartment tanks) of at least eighteen (18) inches in diameter, with a riser that extends to ground level for inspection and cleaning purposes. Such access opening shall be fitted with a safely secured, child proof, gas tight cover.

G. Abandoned Septic Tanks: Abandoned septic tanks must be pumped, can have the top crushed in and shall be filled with sand or pea-gravel, as not to hold water or shall be removed.

§172.07 CONSTRUCTION PERMIT

A. Construction Permit Required: An owner or Permittee shall first obtain a construction Permit from the Department prior to the commencement of any excavation, construction, modification or addition to any existing or new private Sewage disposal system. Except for a person working on her own private Sewage disposal system which serves as the Dwelling in which she resides, no person shall construct, install, replace, alter, modify, or repair any private Sewage disposal system unless that person has first registered as a certified Installer.

B. Permit to be Posted: No person shall perform any work on a private Sewage disposal system project unless a valid construction Permit is first obtained and is properly posted in a conspicuous place at or near the Building where the private Sewage disposal system is to be constructed. The Permit shall be plainly visible from the public thoroughfare serving the Building until the project is completed.

C. Application for Permit: The application for such Permit shall be submitted to the Department on a form provided by the Department and shall be supplemented by any Building plans, specifications and other information deemed necessary by the Department or as required by 410 IAC 6-8.3, as amended.

D. Permit Fees: Prior to the issuance of any Permit, each owner/Permittee shall first tender to the Department, a fee or fees for each system being constructed, modified, altered or repaired in accordance with the following schedule:

Type of Permit	Fee
Construction — new or replacement	\$250.00
Construction — repair or alteration	\$100.00
Construction – septic tank or perimeter drain only	\$75.00
Construction — re-inspection	\$25.00
Construction — renewal	\$25.00
Abandonment — inspection	\$25.00

E. **Term and Renewal:** A construction Permit shall be valid for two (2) years from the date of issuance. If the 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. The construction Permit is not transferable.

§172.08 NOTICE OF VIOLATIONS

A. Notice of Violation: Whenever the Department determines that there has been a violation of any provision of this Chapter or the applicable rules and regulations of the Indiana State Department of Health by an Installer, the Department shall give written notice, in person or by certified mail, of the alleged violation to the Installer. Such notice shall include the following:

- (1) A statement of the alleged violation; and
- (2) An order allowing a reasonable time for the performance of any act required to correct the violation.

B. Suspension or Revocation: If the violation is not corrected within the designated time, the Department may suspend or revoke the Installer's registration subject to the provisions of this Chapter.

- (1) If the registration is suspended, the Installer may be reinstated by the Department upon correction of all violations.
- (2) If the registration is revoked, the Department shall require, at a minimum, that the Installer:
 - (a) pay registration fee; and
 - (b) correct all outstanding violations to the satisfaction of the Department prior to being re-registered.

C. Not Registered: Any person constructing, installing, replacing, altering or repairing, any private Sewage disposal system who is not registered as an Installer shall be deemed to be in violation of this Chapter and shall be subject to all penalties set forth in this Chapter.

§172.09 INSPECTIONS.

A. Commencement of Construction: Upon issuance of a construction Permit under Indiana Code §16-41 *et seq.* and this Chapter, the Permittee may commence installation and construction of the private Sewage disposal system. The Department may inspect the work at any state of construction.

B. Substantial Completion: Upon substantial completion of the installation, the Permittee shall notify the Department that the work is ready for inspection. No portion of the installation shall be covered until the inspection is made.

- (1) No portion of the installation 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 full compliance.

(2) The inspection shall be made within two (2) working days of the Department's receipt of notice that the system is ready for inspection.

C. Abandoned Tanks: Upon substantial completion of the work required for abandonment of a septic tank, and prior to covering the tank, the owner/Permittee/Installer shall notify the Department that the work is ready for inspection and pay the inspection fee.

§172.10 MAINTENANCE AND SAMPLING

A. Sanitary Condition Mandatory: Every private Sewage disposal system will be constructed and maintained so that the effluent leaving the Permittee's system will be sanitary.

B. Inspection and Sampling: The Health Department will be permitted to enter upon any property at any reasonable time to inspect and take samples from a private Sewage disposal system. If said test results should indicate a residential or commercial Sewage disposal system failure, said failure will constitute a violation of Indiana Code §16-20 *et seq.*

§172.11 ECONOMIC HARDSHIP

A. Economic Hardship: In the event an owner/Permittee is unable to comply with the provisions of Section 172.05 of this Chapter due to the economic hardship that might be imposed, then the Health Officer 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 private Sewage disposal system which is operating properly. No extension(s) may exceed 12 months in length.

§172.12 DENIAL, SUSPENSION, REVOCATION

A. Denial and Approval of Permit

(1) In the event the Department determines that the application for the Construction Permit does not meet the standards set forth in this Chapter, then the Department shall be required to notify the Permittee of such denial in person and/or in writing, within thirty (30) days of the original application, stating the specific reasons for the denial of the permit.

(2) In the event the Department 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.

- B. Suspension of Permit/Registration: The Department may order the suspension of a construction Permit or Installer Registration. The Department may order the suspension of a Permit or registration for any of the following reasons:
- (1) Failure to meet any of the standards of any of the provisions of this Chapter or violations of any of provisions of this Chapter.
 - (2) Interference with Department personnel in the performance of her duties. Interference shall be defined as the process of obstructing, hampering or preventing the Department personnel in the performance of her duties.
- C. Revocation of Permit/Registration: Any Permit and/or registration issued hereunder may be revoked by the Department as the result of the willful or continued violation of any provision of this Chapter.
- D. Immediate Revocation: Notwithstanding any of the other provisions of this Chapter, whenever the Department finds insanitary or other conditions, which, in its opinion constitute an imminent health hazard, the Department 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 state the existence of the imminent health hazard and shall specify the corrective action to be taken. Such order shall be effective immediately.
- E. Appeal
- (1) Any owner/Permittee/Installer aggrieved by any final order of the Health Officer or designee is entitled to a review of the final order before the Board, by filing a written request therefor with the Board within fifteen (15) days of the Health Officer or designee's final order.
 - (2) The Board shall conduct a hearing on the appeal within 30 days of the receipt of the appeal. The Board shall provide notice to the owner/Permittee/Installer at least 10 days prior to the hearing. The owner/Permittee/Installer is entitled to present evidence and be represented by an attorney at the hearing. Within 10 days of the hearing, the Board will make written findings of fact and enter its final order or determination of the matter in writing in its permanent records and mail a copy of its findings and final order or determination to the owner/Permittee/Installer.

§172.99 PENALTIES

- A. Enforcement: It shall be the duty of the Health Officer or her designee to enforce the provisions of this Chapter. Any Permit or registration issued in conflict with the provisions of this Chapter shall be null and void. A violation of an order issued by the Health Officer or designee or Board shall be considered to be a violation of this Chapter.

- B. Violations: Whenever the Health Officer or her designee determines that any owner, Permittee, Installer or any other person, is in willful violation of any of the provisions of this Chapter, the Health Officer or her designee shall furnish evidence of said willful violation to the attorney for the Board or the Hamilton County Prosecutor who shall seek all appropriate legal remedies against the person(s).
- C. Penalty: Any person who willfully violates any of the provisions of this Chapter shall be subject to a fine of not more than \$500.00 for each violation. Each day of the existence of any violation of this Chapter shall be considered to be a separate offense.
- D. Injunction: The Health Officer or designee may bring an action for an injunction in the Circuit or Superior Court of Hamilton County, Indiana to restrain any person from violating the provisions of this Chapter, or to cause such violation to be prevented, abated or removed.
- E. Expense: Any person violating any of the provisions of this Chapter 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.
- F. 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.