

ORDINANCE NO. 2022-1003 E
AN ORDINANCE REVISING THE HEALTH DEPARTMENT PROVISIONS OF THE
WARREN COUNTY CODE

WHEREAS, the Warren County Commissioners adopted the Warren County Code on June 21, 2021;

WHEREAS, the Warren County Commissioners have elected to separate from the Fountain-Warren Health Department to form the Warren County Health Department; and

WHEREAS, certain provisions of the Warren County Code must be revised to reflect the correct Health Department jurisdiction.

NOW, THEREFORE, BE IT ORDAINED by the Warren County Commissioners that Chapter 51: Health Department of the Warren County Code is repealed and replaced as follows:

CHAPTER 51: HEALTH DEPARTMENT

Section

- 51.01 Food Establishments
- 51.02 On-site Sewage Disposal

§ 51.01 FOOD ESTABLISHMENTS

(A) Definitions

1. Bed and Breakfast Establishment (as defined in 410 IAC 7-15.5) means an Operator occupied residence that:

- a. provides sleeping accommodations to the public for a fee;
- b. has no more than fourteen (14) guest rooms;
- c. provides breakfast to its guests as part of the fee; and
- d. provides sleeping accommodations for no more than thirty (30)

consecutive days to a particular guest.

2. Conflict of Interest (derived from 68 IAC 9-1-1 (b)(2)) means a situation in which the private financial interest of Health Official, Health Official's spouse, ex-spouse, siblings, in-laws, children and/or unemancipated child, may influence the Health Official's judgment in the performance of a public duty. (Note: The Health Officials should follow the code of ethics if a code of ethics was established for Health Officials.

3. Food Establishment (as defined in IC 16-18-2-137) for purposes of IC 16-42-5 and IC 16-42-5.2, means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food. The term does not include the following:

- a. A dwelling where food is prepared on the premises by the occupants, free of charge, for their consumption or for consumption by their guests.
- b. A gathering of individuals at a venue of an organization that is for educational purposes in a nonpublic educational setting or for religious purposes, if:

- i. the individuals separately or jointly provide or prepare, free of charge, and consume their own food or that of others attending the gathering; and
 - ii. the gathering is for a purpose of the organization. Gatherings for the purpose of the organization include funerals, wedding receptions, christenings, bar or bat mitzvahs, baptisms, communions, and other events or celebrations sponsored by the organization.
- c. A vehicle used to transport food solely for distribution to the needy, either free of charge or for a nominal donation.
- d. A private gathering of individuals who separately or jointly provide or prepare and consume their own food or that of others attending the gathering, regardless of whether the gathering is held on public or private property.
- e. Except for food prepared by a for-profit entity, a venue of the sale of food prepared for the organization:
 - i. that is organized for religious purposes; or educational purposes in a nonpublic educational setting;
 - ii. that is exempt from taxation under Section 501 of the Internal Revenue Code; and
 - iii. that offers the food for sale to the final consumer at an event held for the benefit of the organization; unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods.
- f. Except for food prepared by a for-profit entity, an Indiana nonprofit organization that:
 - i. is organized for civic, fraternal, veterans, or charitable purposes;
 - ii. is exempt from taxation under Section 501 of the Internal Revenue Code; and
 - iii. offers food for sale to the final consumer at an event held for the benefit of the organization;
 - iv. if the events conducted by the organization take place for not more than fifteen (15) days in a calendar year.
- g. An individual vendor of a farmers' market or roadside stand if the individual meets the requirements of IC 16-42-5-29.
- h. This definition also includes a Retail Food Establishment as defined in 410 IAC 7-24; however it does not include a Bed and Breakfast Establishment.
 1. Warren County Health Department means the local health department in Warren County or authorized representative having jurisdiction over a Bed and Breakfast Establishment and/or Food Establishment.
 2. Health Official means any Official of Warren County, Indiana. Hazard Analysis Critical Control Point (HACCP) Plan (as defined in 410 IAC 7-24) means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.
 3. Health Officer means the person, appointed as specified in IC 16-20-2-16,

or his/her duly authorized representative, as specified in IC 16-20-1-14, who may conduct inspections and make a final decision on an enforcement action.

4. Hearing Officer means an individual or panel of individuals acting in the capacity of a Hearing Officer in an appeals process. The Hearing Officer is not the Health Officer or any other employee of the Warren County Health Department. (Examples of Hearing Officer could be the Warren County Health Board, a subcommittee of the Warren County Health Board, a subcommittee of health professionals from the community or other non-biased third party appointed by the Health Board.)

5. Imminent Health Hazard means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness based on the number of potential injuries and illnesses and the nature, severity and duration of the anticipated injury or illness [e.g., sewage backing up in a food preparation area or contamination of food products with toxic materials].

6. Inspection Report means the document prepared by the Warren County Health Department that is completed as the result of the inspection and provided to the Operator.

7. Operator means the person who has a primary oversight responsibility for operation of the establishment through ownership, or lease or contractual agreement, and who is responsible for the storage, preparation, display, transportation or serving of food to the public.

8. Order (derived from IC 4-21.5-1-9) means a Warren County Health Department action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific Persons. The term includes a permit.

9. Permit means the document issued by the Warren County Health Department that authorizes a Person to operate a Bed and Breakfast Establishment and/or Food Establishment.

a. (Full Time Establishment 6 months or more)

b. (Temporary, Seasonal and Mobil 6 months or fewer)

10. Person means an association; a corporation; an individual; partnership; or other legal entity, government, or governmental subdivision or agency.

(B) Plan Review

1. The owner or other authorized agent of an existing or proposed Bed and Breakfast Establishment and/or Food Establishment shall submit to the Warren County Health Department properly prepared plans and specifications for review and approval before:

a. the construction of a Bed and Breakfast Establishment and/or Food Establishment;

b. the conversion of an existing structure for use as a Bed and Breakfast Establishment and/or Food Establishment; or

c. the remodeling of a Bed and Breakfast Establishment and/or Food Establishment or a change of type of Bed and Breakfast Establishment and/or Food Establishment or food operation if the Warren County Health Department determines that plans and specifications are necessary to ensure compliance with this section.

2. The plans and specifications for a Bed and Breakfast Establishment and/or Food establishment shall include, the type of operation, type of food preparation (as specified in Appendix A of the published version of 410 IAC 7-24), and the menu.

1. The plans and specifications shall be deemed satisfactory and approved by the Warren County Health Department before a Permit can be issued.

2. A pre-operational inspection shows that the Bed and Breakfast Establishment and/or Food Establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this section, 410 IAC 7-24 and/or 410 IAC 7-15.5.

(C) It is unlawful for a Person to operate any Bed and Breakfast Establishment and/or Food Establishment, without first obtaining a valid Permit from the Health Officer. The valid Permit must be posted in a location conspicuous to customers in the Bed and Breakfast Establishment and/or Food Establishment. Only persons who comply with the applicable requirements of 410 IAC 7-15.5 and /or 410 IAC 7-24 will be entitled to obtain and keep a Permit. A separate Permit shall be required for each Bed and Breakfast Establishment, and/or Food Establishment operated or to be operated by any Person. A Permit issued under this section is not transferable. A Bed and Breakfast Establishment and/or Food Establishment permitted by the Warren County Health Department shall be considered registered as required in IC 16-42-1-6.

1. Permit Period: (Full Time Establishment 6 months or more) A Permit for a Bed and Breakfast Establishment and/or Food Establishment shall be issued for a term beginning January 1, and/or before commencement of operation, and expiring December 31, of the same year and shall be applied for by the Person and/or Operator annually. If a Permit is applied for after July 1, a prorated fee could apply to get on a regular schedule. A Permit for a temporary Food Establishment shall be for the term of 6 months or fewer of continuous operation.

2. Any Permit issued by the Health Officer shall contain

- a. the name and address of the Person and/or owner to whom the Permit is granted;
- b. the location of the establishment for which the Permit is issued;
- c. the issuance and expiration date(s); and
- d. other such pertinent data as may be required by the Warren County Health Officer.

3. A Person desiring to operate a Bed and Breakfast Establishment and/or Food Establishment shall submit to the Warren County Health Department a written application for a Permit on a form provided by the Warren County Health Department.

4. The application shall include:

- a. The name, mailing address, telephone number, e-mail, and original signature of the Person and/or Operator applying for the Permit and the name, mailing address, and location of the Bed and Breakfast Establishment and/or Food Establishment;
- b. Information specifying whether the Bed and Breakfast Establishment and/or Food Establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- c. A statement specifying whether the Bed and Breakfast Establishment and/or Food Establishment:

- i. If not permanent, is mobile and/or temporary, and
- ii. If the operation includes one or more of:
 - A. Prepares, offers for sale, or serves potentially hazardous food:

- (1) Only to order upon a consumer's request;
- (2) In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency;
or
- (3) Using time, rather than temperature, as the public health control as specified under 410 IAC 7-24.
- (4) Prepares acidified foods as defined in 410 IAC 7-21-3.

- B. Prepares potentially hazardous food in advance using a food preparation method that involves two or more steps which may include combining potentially hazardous ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;
- C. Prepares food as specified under item (3)(B)(2) of this section for delivery to and consumption at a location off the premises of the Bed and Breakfast Establishment and/or Food Establishment where it is prepared.
- D. Prepares food as specified under item (3)(B)(2) of this section for service to a highly susceptible population, as defined in 410 IAC 7-24;
- E. Prepares only food that is not potentially hazardous;
or
- F. Does not prepare but offers for sale only prepackaged food that is not potentially hazardous.

d. The name, title, address, and telephone number of the Operator directly responsible for the Bed and Breakfast Establishment and/or Food Establishment.

e. The name, title, address, and telephone number of the Person who functions as the immediate supervisor of the Person specified under subdivision (4) of this section, such as the zone, district, or regional supervisor;

f. The names, titles, and addresses of:

- i. The Persons comprising the legal ownership as specified under subdivision (2) of this section including the owners and Operator(s), and
- ii. The local resident agent if one is required based on the type of legal ownership;

g. A statement signed by the applicant that:

- i. Attests to the accuracy of the information provided in the application, and
- ii. Affirms that the applicant will comply with this Section, and allow the Warren County Health Department access to the Bed and Breakfast Establishment and/or Food Establishment and records as specified in 410 IAC 7-15.5 and 410 IAC 7-24;

Department.

h. Other information required by the Warren County Health Department.

2. To qualify for a Permit, an applicant must:

a. Be an owner and/or Operator of the Bed and Breakfast Establishment and/or Food Establishment;

b. Comply with the requirements of this Section;

c. Agree to allow access to the Bed and Breakfast Establishment and/or Food Establishment and provide required information; and

d. Pay the applicable Permit fees at the time the application is submitted.

3. The following must be done prior to the change of ownership;

a. Notification to the Warren County Health Department

b. Inspection of the facility by the Warren County Health Department.

c. The Warren County Health Department may renew a Permit for an existing Bed and Breakfast Establishment, and/or Food Establishment or may issue a Permit to a new owner of an existing Bed and Breakfast Establishment and/or Food Establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with this Section.

4. The Owner or Operator will notify the Warren County Health Department when permanently closing a facility. Upon acceptance of the Permit issued by the Warren County Health Department, the Operator, in order to retain the Permit, shall:

a. Comply with the provisions of this section and all laws and rules adopted by reference herein and the conditions of any variances granted by the Indiana State Department of Health;

b. Immediately discontinue affected operations and notify the Warren County Health Department if an Imminent Health Hazard may exist;

c. Allow representatives of the Warren County Health Department access to the Bed and Breakfast Establishment and/or Food Establishment at all reasonable times;

d. Comply with directives of the Warren County Health Department including time frames for corrective actions specified in Inspection Reports, notices, Orders, warnings, and other directives issued by the Warren County Health Department in regard to the Operator's Bed and Breakfast Establishment and/or Food Establishment or in response to community emergencies;

e. Accept notices issued and served by the Warren County Health Department; and

f. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this section or a directive of the Warren County Health Department.

g. Post the Permit in a location in the Bed and Breakfast Establishment and/or Food Establishment that is conspicuous to consumers;

(D) It shall be unlawful for any Person to operate a Bed and Breakfast Establishment and/or Food Establishment in Warren County, who has not paid the Permit fee required to be paid for the operation of such establishment. The fee shall be paid for a term beginning January

1, and/or before commencement of operation and expiring December 31, of the same year and the permit shall be applied for by the Person and/or Operator annually. A prorated Permit may be applied if the application is after July 1,

Permit fees for the issuance of a Permit under this Section to a Bed and Breakfast Establishment and/or a Food Establishment shall be set by the Warren County Health Department, as provided by the Statutes of the State of Indiana. (See IC 16-20-1-27)

A receipt for the payment of such fee shall be provided by the Warren County Health Department.

The payment of such fees shall be required for each Bed and Breakfast Establishment and/or Food Establishment operated or to be operated by any Person.

1. An organization that is exempt under IC 16-18-3-137 will not be subject to permit fees.
2. A late fee for failure to pay the permit fee prior to the operation of the Bed and Breakfast Establishment and/or Food Establishment or the late fee for failure to renew a permit after the expiration of the permit to operate Bed and Breakfast Establishment and/or Food Establishment shall be assessed as set by the Warren County Health Board.
3. The payment of fees under this Section is not transferable or refundable.

(E) The Warren County Health Department shall inspect a Bed and Breakfast Establishment and/or Food Establishment at least once every 6 months, unless a system of risk-based inspections is utilized as stated below.

1. The Warren County Health Department may modify the interval between inspections beyond 6 months if:

- a. The Bed and Breakfast Establishment and/or Food Establishment is fully operating under an approved and validated Hazard Analysis Critical Control Point (HACCP) plan(s); or
- b. The Bed and Breakfast Establishment and/or Food Establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction and at least once every 6 months the establishment is contacted by telephone or other means by the regulatory authority to ensure that the establishment manager and the nature of food operation are not changed; or
- c. The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not potentially hazardous (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels. (Information taken from the 2009 FDA Model Food Code Section 8-401.10 Establishing Inspection Intervals)

2. The Warren County Health Department shall periodically inspect throughout its Permit period a temporary Food Establishment that prepares, sells, or serves unpackaged potentially hazardous food and may inspect a temporary Food Establishment that prepares, sells or serves unpackaged, non-potentially hazardous food that:

- a. Has improvised rather than permanent facilities or equipment for accomplishing functions such as hand washing, food preparation and protection, food temperature control, ware washing, providing drinking water, waste retention and disposal, and insect and rodent control; or
- b. Has food employees that have not demonstrated knowledge, as per 410 IAC 7-24, of food operations.

3. Within the parameters specified in the above Inspection Subsection(s) of this Section, the Warren County Health Department shall prioritize, and conduct more frequent inspections based upon its assessment of a Bed and Breakfast Establishment and/or Food Establishment's history of compliance with this section and the Bed and Breakfast Establishment and/or Food Establishment's potential as a vector of foodborne illness by evaluating:

- a. Past performance, for violations of 410 IAC 7-15.5, 410 IAC 7-24 and/or 410 IAC 7-22 and/or HACCP plan requirements that are critical or non-critical;
- b. Past performance, for numerous or repeat violations of 410 IAC 7-15.5 and/or 410 IAC 7-24 and/or HACCP plan requirements that are noncritical;
- c. Past performance, for complaints investigated and found to be valid;
- d. The hazards associated with the particular foods that are prepared, stored, or served;
- e. The type of operation including the methods and extent of food storage, preparation, and service;
- f. The number of people served; and
- g. Whether the population served is a highly susceptible population as defined by Indiana law.

4. After the Warren County Health Department presents official credentials and provides notice of the purpose of and the intent to conduct an inspection, the Operator shall allow the Warren County Health Department to determine if the Bed and Breakfast Establishment and/or Food Establishment, is in compliance with this section by allowing access to the establishment, allowing inspection, and providing information and records specified in this section. The Warren County Health Department is entitled the information and records according to IC 16-42-1-13 and IC 16-42-5-23, during the Bed and Breakfast Establishment and/or Food Establishment's hours of operation and other reasonable times. Access is a condition of the acceptance and retention of a food establishment Permit to operate. If access is denied, an Order issued by the appropriate authority allowing access may be obtained according to law. (See IC 16-20-1-26)

5. At the conclusion of the inspection, all inspection findings shall be recorded on an inspection report form and a copy given to the person in charge (PIC) at the time of inspection, as provided by IC 16-20-8. The Health Department Environmental Health Specialist (EHS) will review any recorded violations with the PIC and provide education on appropriate guidelines and actions needed to correct any violation.

Each inspection will be scored and assigned a letter grade for the food establishment. The grade will correspond with the standard numerical scoring system based on critical and non-critical violations noted during the inspection. Critical and non-critical violations are determined by the Indiana State Board of Health, Retail Food Establishment Sanitation Requirements, Title 410 IAC 7-24. Scoring will be as follows, with points for noted violations subtracted from a perfect score of 100 points (no violations): Critical Violation=3 points and Non-Critical Violations=2 points.

Letter grades shall be assigned as follows: a score between 90-100 shall be assigned an A; a score between 80-89 shall be assigned a B; a score between 70-79 shall be assigned a C; and a score below 70 shall result in CLOSURE of the food establishment until a subsequent inspection results in a letter grade being assigned. The EHS will also provide a food establishment score form displaying the letter grade based on the inspection report. The food

establishment score form shall be posted in a place for public viewing and shall not be tampered with, mutilated, or removed, subject to the penalties provided for violations of this section, until it is replaced by a food establishment score form by the EHS following a subsequent inspection. The Health Department may, at its discretion, also publicly post the name of food establishments inspected and the letter grade the establishment received approximately two weeks following each inspection.

Inspection reports shall establish a specific, reasonable time frame in which all listed violations, if any are found, shall be corrected. Follow-up inspections may be needed depending on the violations listed in the initial inspection report.

6. Except as specified in the next paragraph, an Operator shall at the time of inspection correct a critical violation of 410 IAC 7-15.5, 410 IAC 7-24 and/or 410 IAC 7-22 and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Warren County Health Department may agree to or specify a longer time frame after the inspection for the Operator to correct critical code violations or HACCP plan deviations.

After receiving notification that the Operator has corrected a critical violation or HACCP plan deviation, or at the end of the specified period of time, the Warren County Health Department shall verify correction of the violation, document the information on an Inspection Report, and enter the report in the Warren County Health Department's records.

7. Refusal to sign an acknowledgment of receipt will not affect the Operator's obligation to correct the violations noted in the Inspection Report within the time frames specified. A refusal to sign an acknowledgment of receipt is noted in the Inspection Report and conveyed to the Warren County Health Department historical record for the Bed and Breakfast Establishment and/or Food Establishment. The Operator is not necessarily in agreement with the findings of the Warren County Health Department inspection by acknowledgement of receipt.

8. Except as specified in Section 194 (Trade Secrets) of 410 IAC 7-24, the Warren County Health Department shall treat the Inspection Report as a public document and shall make it available for disclosure to a Person who requests it as provided in law. (See IC 16-20-8)

(F) Compliance and Enforcement

1. If an application for a plan review and/or Permit to operate a Bed and Breakfast Establishment and/or Food Establishment is denied, the Warren County Health Department shall provide the applicant with a notice that includes:

- a. The specific reasons and rule citations for the application and/or Permit denial;
- b. The actions, if any, that the applicant must take to qualify for the application and/or Permit; and
- c. Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

2. The Warren County Health Department may revoke a Permit to operate a Bed and Breakfast Establishment and/or Food Establishment for a time period not to exceed 90 calendar days. If the Permit has been revoked in the past and a clear demonstration of non-

compliance is demonstrated by the Permit Holder, then the Permit may be revoked for a longer period of time as determined by the Health Officer.

3. The Warren County Health Department may suspend a Permit to operate a Bed and Breakfast Establishment and/or Food Establishment if it determines through inspection, or examination of employee, food, records, or other means as specified in this section, that an Imminent Health Hazard exists. A suspension shall not exceed 30 calendar days. The permit may be suspended for a longer period of time as determined by the Health Officer.

4. An Operator of a Bed and Breakfast Establishment and/or Food Establishment shall immediately discontinue operations and notify the Warren County Health Department if an Imminent Health Hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health. An Operator need not discontinue operations in an area of an establishment that is unaffected by the Imminent Health Hazard.

5. If a Bed and Breakfast Establishment and/or Food Establishment has discontinued operations for the reasons stated above or otherwise according to law, the Operator must obtain approval from the Warren County Health Department before resuming operations.

6. Any outstanding fees and fines owed to the Warren County Health Department shall be paid prior to the issuance of a permit.

7. The following are options available to the Warren County Health Department for consideration:

- a. The following critical violations are examples of violations that warrant immediate action.
 - i. Vermin activity that results in food adulteration
 - ii. Vermin evidence that indicates current activity that may result in food adulteration
 - iii. Food that contains any filthy, decomposed or putrid substances, unsound food, or food that may be poisonous or deleterious to health or otherwise unsafe
 - iv. Severe environmental conditions causing food contamination such as fire, floods, toxic chemical release, sewage/plumbing disrepair and water contamination
 - v. Employee hygienic practices or health conditions that may result in gross contamination, such as:
 - A. Employee ill, skin lesions or other conditions as in 410 IAC 7-21-35 And 410 IAC 7-24-120, or
 - B. Bare hand contact of ready-to-eat foods or lack of hand washing facilities
 - vi. Misbranded products
 - vii. Potentially hazardous foods not cooked to proper temperature
 - viii. Potentially hazardous food not held at proper cold/hot temperatures or properly cooled
 - ix. A cutting board used to cut raw meat not cleaned and sanitized prior to being used to cut lettuce for salad

preparation

- x. Raw meats stored over ready-to-eat foods

If immediate action is required at the time of inspection, one or more of the following options may be utilized:

- i. Destruction or denaturing of adulterated product(s) (See IC 16-42-2-6)
- ii. Voluntary disposition by removing the affected food from sale and the Warren County Health Department witnessing the disposition
- iii. Embargo the food(s) by placing a completed Public Notice of Embargo form on designated products to hold products for five (5) days. (See IC 16-42-1-18) Embargoing may be used when a firm refuses to discard adulterated or misbranded products. If appropriate, food samples can be collected for analysis
- iv. Reconditioning or salvaging of food may be appropriate, such as relabeled, reheated or converted to animal feed
- v. Cease and Desist Order(s) may be issued when violation(s) constitute an imminent health hazard or when a firm operates without a valid permit
- vi. Suspension of the permit(s) to operate the establishment(s) until the imminent health hazard is abated.
- vii. A follow-up inspection may be conducted when deemed necessary and new violations may be documented as observed.

b. The enforcement options listed in this section may be used if the same critical violation is documented on consecutive inspections, whether corrected or uncorrected at the time of the visit. A history of noncompliance is established when there are two (2) consecutive inspections documenting the same critical violation(s).

- i. After a first or second follow-up inspection has been conducted, one or more the following options may be utilized:

- A. Letter of warning
- B. A follow-up inspection within thirty (30) days in which new violations may be documented as observed

- ii. In addition to the options listed in B(1), after the third or more follow-up inspection, one or more of the following options may be utilized:

- A. Issue a notice of violation from the Health Officer which may include the following:
 - (1) Levying civil penalties as provided in Indiana Code (IC) 16-19-3-4, IC 16-42-5-28, 410 IAC 7-22 and 410 IAC 7-23, and/or
 - (2) Developing an agreement (consent decree) between the two (2) parties involved as part

of the action. The agreement may include but is not limited to:

- aa. Training provided by the Health Department, food safety consulting firm or the Indiana State Department of Health
- bb. Maintaining a documented cleaning schedule and have available for review
- cc. Maintaining pest control records and have available for review
- dd. Correction of all violations within a specified period of time
- ee. A follow-up inspection of the establishment(s), in which the action has been initiated, may be scheduled within thirty (30) days of adoption of the agreement (consent decree). New violations may be documented as observed.

B. Issue a notice of permit revocation.

c. Critical Violations - Non-Consecutive Inspections. The enforcement options listed in Sections B(1) and B(2) may be used if the same critical violation is documented on non-consecutive inspections, which is corrected after each documentation. A history of noncompliance is established when there are three (3) non-consecutive inspections documenting the same critical violation(s).

d. The enforcement options listed in this section may be used if the same non-critical violation is documented on consecutive inspections, whether connected or unconnected at the time of the visit. A history of noncompliance is established when there are three (3) consecutive inspections documenting the same non-critical violation(s). The enforcement options listed in Sections B(1) and B(2) may also be utilized if, in the opinion of the Health Officer, such action is warranted.

- i. After a first or second follow-up inspection has been conducted, one or more of the following options may be utilized:
 - A. Letter of warning
- ii. In addition to the options listed in Section D(1), after the third or more follow-up inspection, one or more of the following options may be utilized:
 - A. Issuing a notice of violation from the Health Officer:
 - B. A follow-up inspection within thirty (30) days in which new violations may be documented as observed.
- iii. In addition to the options listed in Sections D(1) and D(2), after the fourth follow-up inspection, one or more of the following options may be utilized:

- A. Issue a notice of violation from the Health Officer which may include the following:
- (1) Levying civil penalties as provided in Indiana Code (IC) 16-19-3-4, IC 16-42-5-28, 410 IAC 7-22 and 410 IAC 7-23, and/or;
 - (2) Developing an agreement (consent decree) between the two (2) parties involved as part of the action. The agreement may include but is not limited to:
 - aa. Training provided by the Health Department, food safety consulting firm or the State Department of Health
 - bb. Maintaining a documented cleaning schedule and have available for review
 - cc. Maintaining pest control records and have available for review
 - dd. Correction of all violations within a specified period of time
 - ee. A follow-up inspection of the establishment(s), in which the action has been initiated, may be scheduled within thirty (30) days of adoption of the agreement (consent decree). New violations may be documented as observed.

(3) Issue a notice of permit revocation:

- iv. In addition to the options listed in Sections D(1), D(2), and D(3), after the fifth or more follow-up inspection has been conducted, issue a notice of permit revocation.

e. The enforcement options listed in Sections D(1), D(2), D(3), and D(4) may be used if the same non-critical violation is documented on non-consecutive inspections, which is collected after each documentation. A history of noncompliance is established when there are four (4) non-consecutive inspections documenting the same non-critical violation(s) the enforcement options listed in Sections B(1) and B(2) may also be utilized if, in the opinion of the Health Officer, such action is warranted.

(G) Appeals Section

1. Any Person(s) aggrieved by Orders issued under Section F: Compliance and Enforcement above shall be entitled to a review of the final Order before a Hearing Officer by filing an administrative written request therefore with the Health Officer (Secretary of the Warren County Board of Health See IC 16-20-1-10). The written request must be mailed, or hand delivered to the Health Officer, and must be received within fifteen (15) days after such final Order is issued.

2. Upon the Health Officer's receipt of such request, the Hearing Officer shall hear the matter again in an open hearing after at least five (5) days written notice of the time, place and nature thereof. The time shall be measured pursuant to the rules of court of the

jurisdiction. (A shorter period of time may be granted, if requested by either party and agreed upon.)

3. The notice of the hearing shall be served upon the Person requesting the review by hand delivering or mailing by Certified Mail the notice to the address listed on the Permit application as the Person's mailing address or such other address, as the Person shall designate in the letter of request to the Health Officer.

4. The Hearing Officer establishes the Rules of Procedure and advises the parties prior to the start of the proceedings.

5. The Hearing Officer shall make written findings of facts and shall enter its final administrative Order or determination of this matter in writing.

6. The administrative Order completes the Administrative Appeals procedure.

(H) No Health Official shall conduct himself or herself in a manner that is or could have the appearance of a Conflict of Interest.

(I) Any person violating this Section, as determined by a Health Official, may be punished for the first offense by a fine of not more than One Hundred Dollars (\$100.00); for the second offense by a fine of not more than Two Hundred Dollars (\$200.00); and for the third and each subsequent offense by a fine of not more than Three Hundred Dollars (\$300.00). Each day after expiration of any time limit for compliance with this section as ordered by the Health Official shall constitute a distinct and separate offense.

§ 51.02 ON-SITE SEWAGE DISPOSAL

(A) The purpose of this Section is to provide minimum standards for the prevention and suppression of disease and health risks associated with the use of on-site sewage disposal systems and to otherwise promote public safety and welfare and protection of the environment.

(B) The Health Officer, as hereinafter defined, and the Health Officer's agents and representatives are hereby authorized to issue permits, installer approval, collect permit and incidental fees, perform inspections, order or otherwise compel correction of violations of this section, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this section.

(C) The regulations of the Indiana State Department of Health as found in Title 410 IAC 6.8 Residential Sewage Disposal Systems are hereby incorporated by reference in this section and shall include any later amendments to those regulations as the same published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of 410 IAC 6-8.1-1 et. Seq. are available and on file in the office of the Warren County Health Office and the Warren County Auditor.

(D) The regulations of the State Department of Health as found in Title 410 IAC 6-10, Commercial On-site Wastewater Disposal are hereby incorporated by reference in this Section and shall include any later amendments to those regulations as the same are published in the

Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of 410 IAC 6-10-1 et. Seq. are available and on file in the office of the Warren County Health Office and the Warren County Auditor.

(E) In addition to or to otherwise supplement those definitions contained in 410 IAC 6-8.1- 1 et. Seq. which is incorporated herein by reference this section shall include the following definitions:

1. Bedroom: Means a room within a dwelling that might reasonably and regularly be used as a sleeping room or which contains a closet or shares a common hallway with or adjoins a bathroom. A "bedroom" may include but is not limited to those rooms designated as dens, studios, offices, or libraries if such rooms otherwise meet the above definition.
2. Board: Shall include and means the Warren County Board of Health.
3. Business Building: Means that building or structure utilized primarily for a commercial establishment including, but not limited to, office buildings, apartments, condominiums, motels, mobile home parks, churches, campgrounds, schools, hospitals, nursing homes, subdivisions, restaurants, etc., at locations where such facilities may be approvable.
4. Commercial On-Site Wastewater Disposal Facility: Means all equipment and devices necessary for proper conduction, collection, storage, treatment, an on- site disposal of wastewater from other than one- or two-family dwellings.
5. Duplex: Means a dwelling as defined in 410 IAC 6-8.1-7 with two separate living quarters for two separate families.
6. Health Department: Means the Warren County Health Department.
7. Health Officer: Shall include and also means the Health Officer of Warren County.
8. Installer: For purposes of this section, installer shall mean any person engaged in construction, repair or installation of residential or commercial on-site sewage disposal systems in Warren County.
9. Multiple Family Units: Means any building or place of residential or commercial on-site sewage disposal systems in Warren County.
10. On-Site Sewage Disposal System: Means any sewage disposal facility not owned by a municipality or sanitary district or administered by the Indiana State Department of Health where the effluent is treated on the lot and shall include, but is not limited to, residential sewers, grease traps, septic tanks, dosing tanks, soil absorption systems, experimental treatment processes, perimeter drains, temporary sewage holding tanks, and sanitary vault privies. On-site systems include both residential and commercial disposal systems.
11. Planned Development: Means any land development which requires the specific zoning classification entitled "Planned Development."
12. Public Water Supply: Means a system which provides piped water for human consumption to at least fifteen (15) service connections or at least twenty-five (25) people at least sixty (60) days out of the year.
13. Residence: Means a dwelling, as defined in 410 IAC 6-8. 1-7.
14. Residential Sewage Disposal System: Means all equipment and devices necessary for proper conduction, collection, storage, treatment, and on-site disposal of sewage from a one (1) or two (2) family dwelling.
15. Sanitary Privy: Means a privy so located, constructed, and maintained; 1. that Users do not contact waste matter deposited; 2. that flies, insects, rats and other animals

cannot gain access to the privy interior or vault; 3. that surface or ground water cannot enter tile vault; 4. that the waste material in the privy cannot contaminate a water supply, stream, or body of water 5, that odors are minimized both inside and outside the privy structure.

(F) No person shall construct, install, replace; alter, or repair any part of an on-site sewage disposal system unless the person is approved by the Warren County Health Department.

1. Any person engaged in the installation of on-site sewage disposal systems in Warren County must file for approval from the Warren County Health Department.

2. Every person engaged in the installation of on-site sewage disposal systems in Warren County shall be knowledgeable of all laws, rules, and regulations of both the State of Indiana and Warren County, governing on-site sewage disposal systems.

3. A property owner wishing to install, repair, or otherwise work on the on-site sewage disposal system serving his own dwelling shall be required to demonstrate knowledge of the applicable laws, rules, and regulations and be approved by the Warren County Health Department.

(G) Where a sanitary sewer system is not available within 300 feet, all persons owning, leasing, or otherwise occupying property shall comply with 410 IAC 6-8.1-1 et. Seq. and 410 IAC 6-10-1 et. Seq., whichever is applicable and the following provisions of this Section for an on-site sewage disposal system.

1. No person shall throw, run, drain, seep or otherwise dispose into any of the surface waters or ground waters, or cause, permit, or suffer to be thrown, drained, allowed to seep, or otherwise disposed into such waters, any organic or inorganic matter from a dwelling or residential sewage disposal system that would cause or contribute to a health hazard or water pollution.

2. Connection to an existing soil absorption system shall be permitted if the following conditions are met:

a. The connection will not exceed the system design load based on the sizing requirements of 410 IAC 6-8.1 or 410 IAC 6-10, whichever is applicable

b. The existing system has not malfunctioned.

c. The existing system has been permitted and approved by the Health Officer or his appointee or his, and the applicant has possession of a record of the permitted and approved system which shows all system dimensions.

d. If the existing system shall fail, there is sufficient space for system replacement.

3. In the event that a system enlargement is proposed, the enlargement must bring existing system into compliance with the minimum standards of Rule 410 IAC 6-8.1 or 410 IAC 6-10., whichever is applicable.

4. No privy shall be permitted for a residence except on a temporary basis and then only by special permit. All such privies shall comply with Indiana State department of Health Bulletin S.E.11. Bulletin S.E. 11 is herein incorporated by reference as part of this section and two copies are filed in the office of the Warren County Auditor and Warren County Board of Health for public inspection. In the case of self-contained chemical toilets, no pit will be required.

5. Should an on-site sewage disposal system fail, the failure shall be corrected by the owner or occupant served by such system within the limit set by the Health

Officer.

6. Whenever a public sanitary sewage system becomes available and is within 300 feet of a residential dwelling or commercial building situated in Warren County, and the building is served by an on-site sewage disposal system or privy, a direct connection of the building sewer may be made to said sanitary sewer and any septic tanks, vaults, and similar sewage disposal and treatment facilities shall be abandoned and filled in a safe and sanitary manner.

7. Whenever a public sanitary sewage system becomes available and is within 300 feet of a residential dwelling or business building and is served by an on-site sewage disposal system or privy that fails to be in compliance with Warren County Ordinances related to on-site sewage disposal systems and/or the laws of the State of Indiana, said residential dwelling or business building's sewer shall be directly connected to the sanitary sewage system and any septic tanks, vaults, and similar sewage disposal and treatment facilities shall be abandoned and filled in a safe and sanitary manner. The direct connection to a sanitary sewage system shall be made within 180 days of issuance of order of connection.

(H) Whenever a new business building or dwelling is to be constructed in an area where a sanitary sewage system is available as provided in the above paragraph, a connection shall be made to the sanitary sewer according to plans submitted for approval prior to construction of any such project.

(I) Any trailer, camper, or recreational vehicle which is connected to an external water source shall be considered a single-family dwelling and must meet all the provisions of this section, unless it is located in a campground approved by the Indiana State Department of Health or a mobile home park licensed by the Indiana State Department of Health.

(J) Before the commencement of construction, alteration or repair of an on-site sewage disposal system, the owner or his agent shall apply in writing to the Warren County Health Office for a permit to construct, alter or repair an on-site sewage disposal system which application shall set out the date of the intended construction, alteration, or repair an on-site sewage disposal system, which application shall set out the date of the intended construction, alteration, or repair, topographic and soil characteristic information as well as other information required in 410 IAC 6-8.1-48 and 410 IAC 6-10-6 previously incorporated herein by reference, and expressly stating that the owner has complied and will at all times comply with the standards set out in this Section. The Sewage Disposal Permit issued by the Health Officer must be obtained prior to application for a Building Permit.

1. For a Commercial On-site Sewage Disposal Permit the application shall include a copy of the permit issued for the Indiana State Department of Health and a copy of the project design plans. No permit will be issued if it is determined the issuance of such a permit would violate or otherwise be inconsistent with the provisions of 410 IAC 6-8. 1-1 et. Seq. or 410 IAC 6-10-1 et. Seq., whichever is applicable and Federal or State statute or regulation and section of Warren County, or would otherwise be reasonably expected to cause or contribute to all unsanitary condition, an unacceptable probability of groundwater contamination or construction of an oil-site sewage disposal system with an unacceptable risk of failure.

2. No on-site sewage disposal system shall serve more than one (1) single dwelling or business building. No permits will be issued for multiple family units served by an

on-site sewage disposal system unless permitted by 410 IAC 6-10-1 et. Seq.

3. A permit for the installation of an on-site sewage disposal system, whether issued prior to or after the adoption of this Section, shall lapse and be void if work has not been completed within one year after its issuance. When a permit has expired or has been revoked, the work on the on-site sewage disposal system shall not commence or resume unless a new application and fee have been submitted and a new permit has been obtained.

4. The permit shall be available to regulatory authorities at or near the dwelling or facility where the on-site sewage disposal system is under construction. The permit shall be posted in a conspicuous place and be plainly visible from the public thoroughfare serving this building;

5. No part of an on-site sewage disposal system for a residence shall be located closer than 25 feet to a surface water drain tile, running stream or surface water drain. The rules and regulations of the drainage board will apply for any legal ditch or drain. All parts of the system must be kept at least 50 feet from any water well.

(K) The board, its agent, or the Health Officer or his or her agent shall be permitted to enter upon all properties for purpose of inspection, observation, measurement, sampling, and testing necessary to ensure compliance with this Section and to verify no on-site sewage disposal system has failed.

1. No construction of the on-site sewage disposal system may take place if the on-site sewage disposal system site is disturbed or altered after the on-site evaluation by the addition of fill material (other than that construction necessary for the on-site sewage disposal system itself) or by cutting, scraping, compaction or the removal of soil, until a new evaluation has been conducted and a modified permit has been issued. In the event the on-site inspection indicates site limitations, either arising from topography or soil characteristics, the site owner or his agent is responsible for designing a residential or an on-site sewage disposal system which addresses the demands of the site in accordance with the rules established in 410 IAC 6-8.1-1 et. Seq., 410 IAC 6-10-1 et. Seq., whichever is applicable and this Section.

2. The owner or his agent shall request an inspection by the Warren County Health Department at least two (2) working days before any portion of the on-site disposal system is covered, in accordance with rules established in 410 IAC 6-8.1-1 et. Seq.

(L) The Warren County Board of Health shall hear appeals incidental to the issuance and revocation of permits if, within 15 days following the date of receipt of an issued permit, permit modification, notice of permit denial or notice of permit revocation, any person aggrieved by such action files a petition for review concerning such action with the Board.

1. A petition for review shall state: 1. the name, address and telephone number (if applicable) of the person making the request; 2. Identify the interests of the petitioner which is effected by the permit issuance, denial, modification, 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 to be considered; 6. Include proposed terms or conditions which, in the judgment of the petitioner, would be appropriate to carry out the requirements of 410 IAC 6-10-1 et. seq. or 410 IAC 6-8.1-1 et. seq. governing such permits.

2. The procedures established in I.C. 4-21-5. the Administrative Procedure and Orders Act shall apply to the conduct of the hearing.

3. Any person found to be in violation of any provision of this Section or the

applicable rules and regulations of the Indiana State Department of Health shall be served with a written order either in person or by certified or registered mail by the County Board of Health or the County Health Officer or his authorized agent. This order shall state the nature of the violation, and provide a reasonable time limit, unless the Health Officer deems an emergency exists, not to exceed 60 days, for the correction of any violation of this section.

4. Any installer, as defined in this section, and certified under Section 6, found to be in violation of any provision of this Section, the applicable rules of the Indiana State Department shall receive notice as specified in Section 12, paragraph a. The installer shall have up to fourteen (14) days to correct the violation or as otherwise determined by the Health Officer or his Representative.

5. If the violation is not corrected within the designated time, the Health Officer may suspend or revoke the permit.

6. Any person or contractor performing work in constructing, installing, replacing, altering or repairing any on-site sewage disposal system who is not approved in Warren County shall be deemed to be in violation of this Section. A person who is violation of this Section shall be fined for the first offense not more than \$500; for the second and each subsequent offense not more than \$1000. Each violation of this Section shall constitute a separate violation.

7. Any property owner, or other person in lawful possession of real estate who shall continue any violation of this Section beyond the time limit provided for correction of any violations of this Section or who performs any act prohibited herein or shall fail to perform any duty lawfully enjoined or who shall fail, neglect, or refuse to obey any lawful order given by the Health Officer shall be punished for the first offense by a fine of not more than \$500; for the second and each subsequent offense not more than \$1000. Each day a violation of this Section continues shall constitute a separate offense for which a separate fine may be levied.

8. Application of this Section or any part of this Section is intended to be consistent with 410 IAC 6-8.1-1 et. seq. and 410 IAC 6-10-1 et. Seq. Any inconsistency in the direct application of this section with said regulations shall be resolved in favor of enforceability of those regulations.


9. To the extent the provisions of 410 IAC 6-10-1 et. seq. and 410 IAC 6-8-1-1 et. seq. is inconsistent with each other than that interpretation provided by 410 IAC 6-10-1 et. seq. shall apply for on-site sewage disposal systems serving business buildings and that interpretation provided by 410 IAC b-8.1-1 et. seq. shall apply for on-site sewage disposal systems serving residences.

(M) The Health Officer may, in the name of the Commissioners, bring actions in the Warren Circuit Court for mandatory and injunctive relief for the enforcement of and to secure compliance with any order or orders made by the Health Officer or to otherwise provide for the enforcement of this Section. Any such action for mandatory or injunctive relief may be joined with all action to recover the penalties, costs and expenses provided in this Section. In the event any legal action is necessary to enforce this Section, the Health Officer may seek recovery of costs and expenses reasonably incurred to enforce the provisions of this Section including, but not limited to, reasonable attorney's fees.

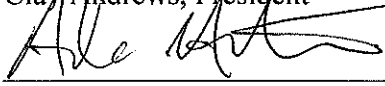
(Ordinance No. 2010-5, amended by Ordinance No. 2022-1003, passed October 3, 2022)

So Ordained, this 3rd day of October, 2022.


BOARD OF COMMISSIONERS OF
WARREN COUNTY



Clay Andrews, President

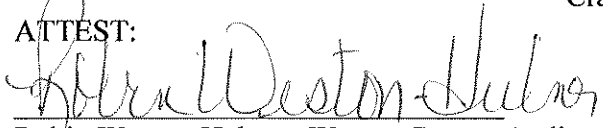


Adam Hanthorne



Craig Greenwood

ATTEST:



Robin Weston-Hubner, Warren County Auditor