

**ORDINANCE NO. 2023-1204B**

**AN ORDINANCE REGULATING ON-SITE SEWAGE SYSTEMS IN WARREN COUNTY**

WHEREAS this Ordinance and all Ordinances supplemental or amended hereto shall be known as the Warren County On-site Sewage Systems Ordinance and may be cited as such and will be referred to herein as "this Ordinance". This Ordinance will effectively repeal any recorded Ordinance and any amendments thereto.

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

WHEREAS this Ordinance regulates the location, installation, construction, maintenance, reconnection, replacement, alteration, and repair of all residential and commercial on-site sewage systems in Warren County, Indiana. It also provides for the administration and enforcement of the provisions contained herein, and affixes penalties for violation.

WHEREAS this ordinance incorporates by reference the Indiana Department of Health Rules 410 IAC 6-8.3 Residential On-site Sewage Systems, et. seq., 410 IAC 6-10.1 Commercial On-site Sewage Systems, et seq., and Bulletin S.E. 11, The Sanitary Vault Privy, 2021 Edition, et. seq.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Warren County, State of Indiana, that Ordinance No. 2010-5 is repealed in its entirety and replaced by the following provisions:

**Section A: Authority**

The Warren County Health Department is hereby authorized to issue residential and commercial on-site sewage system permits, collect permit fees and penalties, perform inspections, hold hearings, order or otherwise compel correction of violations of this Ordinance, and is otherwise authorized to perform all actions necessary for the administration and enforcement of this Ordinance.

**Section B: Definitions**

All definitions included in Indiana Department of Health Rules 410 IAC 6-8.3 et. Seq. and 410 IAC 6-10.1 et. Seq. are hereby incorporated into this Ordinance. Supplementary to those definitions, this Ordinance defines:

1. **Certified Individual** means an individual that passes a written proficiency test as described in Section D of this ordinance.
2. **Construction, New** means
  - a. Construction of a new home or residential outbuilding where there previously was no home or outbuilding;

- b. Rebuilding or remodeling an existing home or residential outbuilding where the footprint of the new home or outbuilding extends beyond the footprint of the previous structure; or
- c. When the design daily flow of the new structure(s) exceeds what was previously at the site.

Best judgment shall not be used for new construction.

- 3. **Construction, Repair/Replacement** means repair or replacement of a residential on-site sewage system for an existing home or residential outbuilding or the rebuilding or remodeling of an existing home or residential outbuilding on the same foundation as a previous home or outbuilding without an increase in the design daily flow of the project. In accordance with Rule 410 IAC 6-8.3, the best judgment of the Warren County Health Department may be used, when necessary and appropriate, for the repair or replacement of a failing residential on-site sewage system.
- 4. **Dispersal Area** means an area located immediately adjacent to a soil absorption field, where water, after treatment in the soil, would move unimpeded away from the soil absorption field in a divergent or linear manner, used to protect and allow the soil absorption field to accept more effluent for treatment.
- 5. **Health Board** means the Health Board appointed as specified in IC 16-20-2 and having jurisdiction in Warren County, State of Indiana.
- 6. **Health Department** means the local health department in Warren County having jurisdiction over the installation, construction, maintenance, reconnection, replacement, alteration and repair of a residential on-site sewage system as specified in IC 16-20-1.
- 7. **Health Officer** means the person appointed as specified in IC-16-20-2-16, or the health officer's duly authorized representative, as specified in IC 16-20-1-14. The Health Officer may conduct inspections and make a decision on an enforcement action in Warren County, State of Indiana.
- 8. **Holding tank** means a septic tank(s) or a combination of septic and dosing tanks, for which the outlet of the last tank in series has been sealed off in order to prevent sewage or effluent discharge from any tank.
- 9. **Installer** means any individual who performs any work in furtherance of construction, installation, replacement, alteration, or repair of any residential or commercial on-site sewage system in Warren County, State of Indiana.
- 10. **Involuntary** means a need to modify or improve a dwelling or residential outbuilding due to factors outside of the owner's control, such as destruction by wind, fire, flood, or other natural disaster, or due to condemnation of a dwelling.
- 11. **Notice of Violation** means a written notification of an ordinance, rule, or statute violation
- 12. **On-site sewage system malfunction** or **Malfunction** means a residential or commercial on-site sewage system component that is not functioning in accordance with this ordinance or per manufacturers' requirements. On-site sewage system

malfunction does not have to meet the definition of on-site sewage system failure.

Malfunction may include, but is not limited to, one (1) or more of the following:

- a. The backup of sewage into an upstream on-site sewage system component;
  - b. The liquid level in a septic tank above the invert of the septic tank outlet;
  - c. An outlet filter that is plugged sufficiently to cause backup in the septic tank;
  - d. The liquid level in a dosing tank above the invert of the dosing tank inlet;
  - e. The liquid level in a treatment unit above that recommended by the manufacturer;
  - f. The liquid level in a distribution box consistently above the invert of the outlets or a distribution box that does not provide equal distribution;
  - g. Structural failure of a septic tank, dosing tank, treatment unit, distribution box or other required component;
  - h. Electrical failure of a float or transducer, an effluent pump, alarm, or other electrical component of an on-site sewage system, or
  - i. Removal of an effluent pump or a system component if that pump or component was required in the original permit.
13. **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.
14. **Registered Individual** means a certified individual who registers with the Warren County Health Department.
15. **Soil boring** means an excavation made by a soil auger, probe, or similar small diameter drilling equipment used to pull multiple shallow soil cores out of the ground which are used for providing a description of soil horizons.
16. **Soil pit** means an excavation that is at least two (2) feet wide and sufficiently deep and long for the soil scientist to observe and describe the undisturbed soil profile.
17. **Voluntary** means an owner's intentional or deliberate action to construct modify or improve a dwelling or residential outbuilding.

### **Section C: Construction Permits for on-site sewage systems**

1. All persons owning, leasing, or otherwise occupying property not connected to a sanitary sewer shall comply with the requirements of Rules 410 IAC 6-8.3 et. Seq., 410 IAC 6-10.1 et. Seq., and/or Bulletin S.E. 11 as applicable, and the provisions of this ordinance for an on-site sewage system.
2. An on-site sewage system construction permit shall be obtained by a property owner, or agent of the owner, prior to the start of construction of a home, a residential outbuilding with plumbing, or a commercial facility.
3. The application for a construction permit issued by the Warren County Health Department shall include:
  - a. A completed application form as provided by the Warren County Health Department;

- b. An on-site soil evaluation report submitted by the soil scientist;
- c. A copy of any necessary recorded easements; and
- d. Anything else deemed necessary by the Warren County Health Officer.

#### **Section D: Professional standards**

1. All on-site sewage system installers providing services in Warren County shall abide by all associated requirements in state statutes, rules, and this ordinances regarding onsite sewage systems.
2. An individual must register with the Warren County Health Department if they provide on-site sewage system installation, including new installation, repair, replacement, alteration or abandonment in Warren County, Indiana. Registration requires either:
  - a. Applying to the Warren County Health Department for registration by
    - i. Completing the Warren County Health Department registration form;
    - ii. Paying the appropriate registration fee as required in the Warren County Health Department Fee Ordinance.
    - iii. Providing proof of certification by passing an examination offered by:
      1. The Warren County Health Department;
      2. The Indiana Onsite Wastewater Professionals Association (IOWPA) for the type of system(s) to be installed, designed, evaluated, inspected, or serviced; or
      3. Another entity approved by the Warren County Health Department; or
  - b. Providing proof of:
    - i. Current, valid registration in another Indiana County;
    - ii. Providing proof of certification from IOWPA for the type of system(s) to be installed, designed, evaluated, or serviced;
    - iii. Providing proof of membership in good standing with IOWPA; and
    - iv. Paying the appropriate registration fee as required in the Warren County Health Department Fee Ordinance.
3. Registration is valid from January 1 to December 31 of the same year and must be renewed annually. Proof of continued registration in another county and/or certification is required for renewal of registration.
4. Certification must be maintained throughout the period of registration. A lapse of certification will render the registration with Warren County Health Department invalid.
5. A certification examination may be offered as needed by the Warren County Health Department, the content and form of which may be amended from time to time.
  - a. An examination fee as required in the Warren County Health Department Fee Ordinance will be due prior to examination.
  - b. A score of eighty percent (80%) or above is considered passing.

- c. A retest will be allowed for anyone failing the test no more frequently than once per week.
6. A registered installer, evaluator, or service provider must be on-site at all times during installation, evaluation, or service is being provided.
7. A lapse of certification and/or registration or repeated violation of any state statute, rules, or this ordinance pertaining to on-site sewage systems may result in revocation or suspension of renewal of a registration. An appeal of registration revocation or denial of registration renewal may be appealed to the Warren County Board of Health. All installers shall be subject to the provisions of Sections K and L below.

#### **Section E: On-site soil evaluation**

1. An on-site soil evaluation is required, as described in Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10.1, prior to permit issuance for all residential and commercial sites where a soil absorption field is to be installed, expanded, or replaced and as needed for repairs.
2. A minimum of three (3) soil borings and/or soil pits are required to be evaluated in the area of the soil absorption field. The Warren County Health Department may request additional soil borings or soil pits if deemed necessary by the Warren County Health Officer.
3. The on-site soil evaluation report created from the evaluation of the soil profile must be signed by the professional soil scientist and submitted directly to the Warren County Health Department by the soil scientist.

#### **Section F: Septic tank requirements**

1. The minimum capacity of any septic tank installed in Warren County shall be 1000 gallons.
2. All septic tanks installed in Warren County shall have risers to final grade on both the inlet and the outlet. A riser to final grade over a divider wall in a two compartment tank may be used in place of a riser to final grade over the inlet.
3. A secondary childproof plug shall be installed according to manufacturer's requirements under each lid with access to the surface.
4. All septic tanks proposed for re-use with a replaced soil absorption field shall:
  - a. Be tested and found to be watertight;
  - b. Have a riser extending to final grade over the outlet access; and
  - c. Have an outlet filter installed in the outlet end of the tank or in a separate secondary structure.

#### **Section G: Sewage holding tanks**

1. A sewage holding tank is an alternative method of sewage disposal pursuant to IC 16-41-25-9.
2. An application must be filed by the property owner or property owner's agent including:
  - a. An application form provided by the Warren County Health Department;

- b. A construction plan of sufficient clarity to show compliance with this ordinance;
  - c. A copy of a written contract with an operator of a septage management vehicle providing for the removal of septage at regular intervals.
  - d. A written statement, signed by the property owner, indicating that copies of all receipts and other records as requested be submitted to the local health department within ten (10) days of service.
3. All sewage holding tanks shall
    - a. Have a minimum capacity of the greater of
      - i. one thousand (1,000) gallons; or
      - ii. at least three (3) times the design daily flow of the home or commercial structure as determined by Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10.1; and
    - b. Have a capacity of no more than 10,000 gallons.
  4. A sewage holding tank shall meet all separation distances required for a septic tank in Rules 410 IAC 6-8.3 and 410 IAC 6-10.1.
  5. A sewage holding tank shall meet all construction requirements of septic tanks in Rules 410 IAC 6-8.3 and 410 IAC 6-10.1.
  6. All sewage holding tanks shall have at least one riser to the surface for ease in pumping the tank. A secondary childproof plug shall be installed under any riser to the surface.
  7. A construction permit issued by the Warren County Health Department is required prior to the installation of the holding tank or gravity sewer.
  8. A gravity sewer, meeting the requirements for a residential sewer in Rule 410 IAC 6-8.3 or the requirements for a building sewer in Rule 410 IAC 6-10.1 shall be used to make a direct connection between the plumbing of the structure with plumbing and the holding tank.
  9. All sewage holding tanks installed in Warren County shall have:
    - a. an installation inspection to confirm proper installation; and
    - b. an audible and visible alarm that will activate when the level in the tank reaches two-thirds (2/3) of the tank's capacity;
  10. All receipts from pumping and maintenance of a sewage holding tank and other documents for repair or modification of a sewage holding tank need to be submitted to the local health department.
  11. Upon connection to an on-site sewage system or sanitary sewer, the sewage holding tank shall be abandoned unless it will be converted for use as a septic tank or a dosing tank in an on-site sewage system.

**Section H: Distribution boxes**

1. All distribution boxes shall be stabilized so as to prevent movement during installation and operation.
2. All distribution boxes must have a baffle consisting of a sanitary tee in the vertical position, at least the same diameter as the effluent sewer or effluent force main entering the box. The sanitary tee must extend to within two (2) inches of the bottom of the box

and there must be at least one (1) inch head clearance between the top of the teal and the interior bottom of the lid.

### **Section I: Construction and Final Inspections**

1. A permit for the installation, construction, reconnection, replacement, alteration, or repair of an on-site sewage system shall not constitute final approval of such system until the same is completed to the satisfaction of the Warren County Health Officer or the Health Officer's duly appointed representative.
2. The property owner, or agent of the property owner, shall notify the Warren County Health Officer before the start of construction or installation of any component of the on-site sewage system.
3. The Warren County Health Officer may inspect the work at any stage of the construction.
4. The property owner, or agent of the property owner, shall notify the Warren County Health Officer for a final inspection of the on-site sewage system at least one (1) working day, not counting holidays or weekends, prior to covering any component of the on-site sewage system not previously inspected and approved.
5. The issuance of a construction permit shall serve as due notice to the property owner that the Warren County Health Officer, bearing proper credentials and identification, shall be permitted to enter upon the property on which the on-site sewage system is being installed at reasonable times for the purposes of inspections, observations, measurements, sampling, and testing necessary to complete construction and final inspections.

### **Section J: Connection or Reconnection to an existing on-site sewage system**

1. An existing residential or commercial on-site sewage system may be considered for reconnection to a new or replacement dwelling, residential outbuilding, or commercial facility if:
  - a. The system is inspected by a qualified system evaluator and found to consist minimally of a septic tank and a soil absorption field that has not failed or malfunctioned;
  - b. Either:
    - i. The original system installation was permitted through the Warren County Health Department; or
    - ii. The original system was not permitted through the Warren County Health Department, but a registered individual develops a plan of the site and system showing compliance with the rules and this ordinance; and
  - c. The existing system is appropriately sized for the structure to be served.
    - i. If the connection or reconnection is due to involuntary events, the Warren County Health Department may utilize their best judgment for system

- sizing when approving a connection or reconnection to an existing system.
  - ii. If the connection or reconnection is due to voluntary events, the system being connected to must meet the requirements of the appropriate rule, unless the site meets the requirements of the definition of repair or replacement construction in this ordinance.
  - d. All commercial facilities wanting to connect or reconnect to an existing system must be approved by IDOH.
2. A construction permit for connection or reconnection to an existing on-site sewage system shall be obtained prior to the start of construction of the structure to be served by the residential or commercial on-site sewage system.

### **Section K: Enforcement**

1. Whenever the Health Officer determines there are reasonable grounds to believe that there has been a violation of this Ordinance, Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10.1 the Warren County Health Officer shall issue a Notice of Violation to the person or persons responsible, as hereafter provided. Such notice shall:
- a. Indicate the date and location of the violation.
  - b. Clearly indicate the nature of the violation and the related Ordinance, statute, and/or rule citation.
  - c. Allow a reasonable time for the performance or acceptable demonstration of a plan of remediation, not to exceed thirty (30) days, unless the Health Officer deems an emergency exists.
  - d. Be properly served upon the person(s) responsible. Proper service shall include any of the following:
    - i. Sent by certified mail to the last known mailing address of the person;
    - ii. Posted in a conspicuous place in or about the property affected by the notice; or
    - iii. Other method of service authorized or required under the laws of this state.
2. Any installer, as defined above, found to be in violation of any provision of this ordinance or the applicable rules shall receive notice of such, as specified in Section K, paragraph 1. The installer shall have up to fourteen (14) days to correct the violation, or as otherwise determined by the Health Officer.
- a. If the violation described in Section K, paragraph 2 is not corrected within the specified time, the Health Officer may suspend or revoke the certification. If the certification is suspended, the certification can be reinstated by the Health Officer upon correction of all violations. If the certification is revoked, the requirements for becoming certified, including testing and the payment of the certification fee, shall apply prior to re-certification. Re-certification shall not occur until all outstanding violations are corrected to the satisfaction of the Health Officer.
3. After receiving an order in writing from the Warren County Health Officer, the owner of

the property shall comply with the provisions of this ordinance and/or rule as set forth in said order and within the time limit specified therein. Said order shall be served on the owner but may be served on any person who, by contract with the owner, has assumed the duty of complying with the provisions of an order. Failure to comply with such order shall constitute a violation of this ordinance and the violator shall be subject to the penalties as prescribed in Section K of this ordinance.

4. The Warren County Health Officer may compel an immediate stop work order of work completed, in progress, or planned, which is in violation of any provision(s) of this ordinance. Such stop work order shall:
  - a. Result in the immediate suspension of all work at the worksite; and
  - b. Be posted at the construction site and confirmed by written notice to the owner or occupant of the premises and any person engaged in the performance of said work or any person causing such work to be performed.
  - c. Failure to comply with such stop work order shall constitute a violation of this ordinance and the violator shall be subject to the penalties as prescribed in Section K of this ordinance.
5. Whenever the Warren County Health Officer finds that an emergency exists which requires immediate action to protect public health, the Warren County Health Officer may, without notice or hearing, issue an emergency order declaring the existence of such an emergency and require that action be taken as the Health Officer deems necessary. Notwithstanding the other provisions of this ordinance, Rule 410 IAC 6-8.3, Rule 410 IAC 6-10.1, and Bulletin S.E. 11, such order shall be effective immediately.
6. Any person to whom such an emergency order is directed shall comply therewith immediately, but upon petition to the Warren County Health Officer, shall be afforded a hearing, as soon as possible in the manner provided in Section L.

#### **Section L: Penalties**

1. Any person, firm or entity found to be in violation of any provision of this Ordinance and/or rule shall be fined \$500.00 per occurrence. Each thirty (30) days after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions as ordered by the Warren County Health Department shall constitute a distinct and separate offense. Additionally, any person, firm or entity may be liable for the costs of any abatement or remediation necessary to correct a violation of this ordinance.
2. The Warren County Health Department shall also be entitled to seek any other legal remedy available against any person who shall violate any provision of this ordinance and/or rule.
3. The Warren County Health Department shall be entitled to seek all legal fees incurred during enforcement of this ordinance and/or rule.
4. The penalties provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.
5. All penalties shall be paid within thirty (30) days from date of citation. Failure to pay any penalties may result in an action being instituted in the Circuit Court of the County to

- collect such penalties, and any other means of enforcement permitted by law.
6. Upon refusal or neglect of any person to correct an unlawful or unsanitary condition when the abatement of the condition has been ordered in writing by the Health Officer or an appeal against the decision and/or action has been sustained by the Health Board, the Health Officer may, through the office of the Warren County attorney, or an attorney representing the Health Department, institute proceedings in the judicial court district wherein the offense occurs for enforcement by prohibitory or mandatory injunction to restrain any person from violating the provisions of this ordinance.

### **Section M: Procedure for Appeal**

1. Appeals may be filed with the Warren County Board of Health for any of the following decisions or actions taken by the Warren County Health Officer:
  - a. Denial of a permit to install, construct, reconnect, replace, alter or repair an on-site sewage system, holding tank, or sanitary vault privy;
  - b. Revocation of a permit;
  - c. The issuance of a notice of violation, a stop work order, or an emergency order as prescribed in Section J of this ordinance;
  - d. Registration revocation, or duration of revocation, or denial of registration renewal as prescribed in Section D; or
  - e. A penalty as prescribed in Section K.
2. Any person(s) filing such appeal shall be granted a hearing on the matter before the Warren County Health Board. The request shall be in writing and received at the office of the Warren County Health Department within ten (10) calendar days of receipt of the notice. If a request for hearing is not received within the ten (10) calendar days, the decision or action shall stand.
3. Such request shall briefly state the reasons for the requested hearing. Upon receipt of a request for a hearing, the Warren County Health Officer shall arrange a time and a place for such hearing and shall give the petitioner written notice thereof.
4. Such hearing shall be held as soon as practical after receipt of the request in compliance with IC 5-14-1.5-5 (Open Door Law).
5. At such hearing, the petitioner shall be given the opportunity to be heard and to show evidence as to why such decision or action should be modified or withdrawn. Additionally, the Health Officer shall be given time to explain the circumstances of the decision and/or action.
6. The proceedings at such hearing, including the findings and decision of the Warren County Health Board, shall be summarized in the minutes of the hearing and entered as a matter of public record in the office of the Warren County Health Department. In addition, all pertinent information including, but not limited to, permit application and written correspondence, shall be included in the public record. Any person may seek relief thereof from any court of competent jurisdiction as provided by the law of the state.

### **Section N: Fee Schedule**

1. All applicable fees as set forth in the Warren County Health Department Fee Ordinance and any amendments or revisions hereafter, shall be made payable to the Warren County Health Department.


**Section O: Conflict of Ordinance and Severability**

1. In any case where a provision of this ordinance is found to be in conflict with a provision of any code of Warren County, Indiana, existing on the effective date of this ordinance, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of any other code of Warren County, Indiana, existing on the effective date of this ordinance which establishes a lower standard for the promotion and protection of the health and safety of the people, are hereby declared to be repealed to the extent that they may be found in conflict with this ordinance.
2. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance, which shall remain in full force and effect, and to the end the provisions of this ordinance are hereby declared to be severable.
3. This Ordinance shall be in full force and effect as of the date of adoption and approval and any publication required by law.

BOARD OF COMMISSIONERS OF  
WARREN COUNTY



Clay Andrews, President



John Comer



Craig Greenwood

ATTEST:



Robin Weston-Hubner  
Warren County Auditor