

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1245

AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1-2-101.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2022]: **Sec. 101.6. (a) As used in this section, "capacity related fee" means a fee to recover the cost of capacity as new customers connect to a water or wastewater system. The term includes the following:**

- (1) A system development charge.
- (2) An availability fee.
- (3) An interceptor fee.

The term does not include any fee or charge imposed in connection with a water main extension or a wastewater main extension described in section 101.5 of this chapter.

(b) As used in this section, "contributions in aid of construction", with respect to utility infrastructure, means any amount of money, services, or property that:

- (1) is received by a local unit or a utility from any person, developer, or governmental agency for the installation or extension of the utility infrastructure;
- (2) is provided at no cost to the local unit or utility; and
- (3) includes:
 - (A) fees or charges paid by any person or developer;
 - (B) contributions, grants, or forgivable loans from



governmental agencies; and

(C) any other money or property provided at no cost to the local unit or utility.

(c) As used in this section, "local unit" means:

- (1) a county; or
- (2) a municipality;

that provides water service or wastewater service, or both, to the public and that is not under the jurisdiction of the commission for the approval of rates and charges with respect to the water service or wastewater service that is provided.

(d) As used in this section, "tap fee" means a fee or charge imposed by a local unit or a utility for an actual physical connection to the local unit's or the utility's utility infrastructure. The term does not include any fee or charge imposed in connection with a water main extension or a wastewater main extension described in section 101.5 of this chapter.

(e) As used in this section, "utility" means a:

- (1) public utility (as defined in section 1(a) of this chapter);
- (2) municipally owned utility (as defined in section 1(h) of this chapter), including a sewer utility operated under IC 36-9-23 or IC 36-9-25;
- (3) not-for-profit utility (as defined in section 125(a) of this chapter);
- (4) cooperatively owned corporation;
- (5) conservancy district established under IC 14-33; or
- (6) regional district established under IC 13-26;

that provides water service or wastewater service, or both, to the public and that is not under the jurisdiction of the commission for the approval of rates and charges with respect to the water service or wastewater service that is provided.

(f) As used in this section, "utility infrastructure" means mains, service lines, pumps, and other facilities or infrastructure used to provide water or wastewater service.

(g) A local unit or a utility may not calculate and then charge, attempt to charge, or collect any capacity related fee or tap fee that:

- (1) is established after June 30, 2022; and
- (2) includes contributions in aid of construction.

(h) After June 30, 2022, if a local unit or a utility calculates and then charges or attempts to charge any property owner, including a developer of the property, a capacity related fee or a tap fee either of which is established after June 30, 2022, and that is based,



in whole or in part, on contributions in aid of construction, the property owner is entitled to request, not later than thirty (30) days after the date the capacity related fee or tap fee is imposed by the local unit or the utility, to meet with the local unit or the utility to review:

- (1) the engineering and financial analyses the capacity related fee or tap fee was based on; and**
- (2) if applicable, the ordinance adopting the capacity related fee or tap fee.**

A local unit or a utility shall, not later than thirty (30) days after receipt of a property owner's request under this subsection, meet with the property owner for a review described in this subsection.

(i) If a meeting and review held under subsection (h) does not result in a satisfactory resolution, the property owner may, not later than seven (7) days after the date of the meeting, file with the commission a petition challenging the capacity related fee or tap fee. If the commission determines the capacity related fee or tap fee is based in whole or in part on contributions in aid of construction, the commission shall:

- (1) invalidate the capacity related fee or tap fee; or**
- (2) modify the capacity related fee or tap fee to comply with this section.**

A property owner's right to file a petition with the commission under this subsection is in addition to any other rights or remedies the property owner may have by law or contract. The commission is not precluded from reviewing a capacity related fee or tap fee under this subsection because of a prior challenge to the capacity related fee or tap fee under another law. A party adversely affected by a determination of the commission under this subsection is entitled to appeal the determination under the same appeal procedures set forth in IC 8-1-3.

SECTION 2. IC 13-26-5-2.5, AS AMENDED BY P.L.292-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in this section, "septic tank soil absorption system" has the meaning set forth in IC 13-11-2-199.5.

(b) Subject to subsection (d), a property owner is exempt from the requirement to connect to a district's sewer system and to discontinue use of a septic tank soil absorption system if the following conditions are met:

- (1) The property owner's septic tank soil absorption system was new at the time of installation and was approved in writing by the local health department, the department's designee, or a**



qualified inspector.

(2) The property owner, at the property owner's own expense, obtains a written determination from the local health department or the department's designee that the septic tank soil absorption system is not failing. The local health department or the department's designee shall provide the owner with a written determination not later than sixty (60) days after receipt of the owner's request. If the local health department or the department's designee fails to provide a written determination within the time established in this subdivision, the owner, at the owner's expense, may obtain a written determination from a qualified inspector. If the local health department or the department's designee determines that a septic tank soil absorption system is failing, the property owner may appeal the determination to the board of the local health department. The decision of the board is final and binding.

(3) The property owner provides the district with:

(A) the written notification of potential qualification for the exemption described in subsection (f); and

(B) the written determination described in subdivision (2); within the time limits set forth in subsection (f).

(c) If a property owner, within the time allowed under subsection (f), notifies a district in writing that the property owner qualifies for the exemption under this section, the district shall, until the property owner's eligibility for an exemption under this section is determined, suspend the requirement that the property owner discontinue use of a septic tank soil absorption system and connect to the district's sewer system.

(d) A property owner who qualifies for the exemption provided under this section may not be required to connect to the district's sewer system for a period of ten (10) years beginning on the date **of the new written determination of the local health department, the department's designee, or a qualified inspector under subsection (b)(2) that the property owner's septic tank soil absorption system was installed: is not failing.** A property owner may apply for two (2) five (5) year extensions of the exemption provided under this section by following the procedures set forth in subsections (b) and (c). If ownership of an exempt property is transferred during a valid exemption period, including during an extension of an initial exemption:

(1) the exemption applies to the subsequent owner of the property for the remainder of the exemption period during which the



transfer occurred; and

(2) the subsequent owner may apply for any remaining extensions.

However, the total period during which a property may be exempt from the requirement to connect to a district's sewer system under this section may not exceed twenty (20) years, regardless of ownership of the property.

(e) A district that has filed plans with the department to create or expand a sewage district shall, within ten (10) days after filing the plans, provide written notice to affected property owners:

(1) that the property owner may be required to discontinue the use of a septic tank soil absorption system;

(2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the septic tank soil absorption system; and

(3) of the procedures to claim an exemption.

(f) To qualify for an exemption under this section, a property owner must:

(1) within sixty (60) days after the date of the written notice given to the property owner under subsection (e), notify the district in writing that the property owner qualifies for the exemption under this section; and

(2) within one hundred twenty (120) days after the district receives the written notice provided under subdivision (1), provide the district with the written determination required under subsection (b)(2).

(g) When a property owner who qualifies for an exemption under this section subsequently discontinues use of the property owner's septic tank soil absorption system and connects to the district's sewer system, the property owner may be required to pay only the following to connect to the sewer system:

(1) The connection fee the property owner would have paid if the property owner connected to the sewer system on the first date the property owner could have connected to the sewer system.

(2) Any additional costs:

(A) considered necessary by; and

(B) supported by documentary evidence provided by; the district.

(h) A property owner who connects to a district's sewer system may provide, at the owner's expense, labor, equipment, materials, or any combination of labor, equipment, and materials from any source to accomplish the connection to the sewer system, subject to inspection



and approval by the board or a designee of the board.

(i) This section does not affect the authority of the state department of health, a local health department, or a county health officer with respect to a septic tank soil absorption system.

(j) For purposes of this section, a septic tank soil absorption system is "failing" if one (1) or more of the following apply:

(1) The system refuses to accept sewage at the rate of design application and interferes with the normal use of plumbing fixtures.

(2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters.

(3) Effluent discharged from the system contaminates a potable water supply, ground water, or surface waters.

(k) As used in this section, "qualified inspector" means any of the following:

(1) An employee of a local health department who is designated by the local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

(2) An individual who is certified by the Indiana Onsite Wastewater Professionals Association as an onsite sewage system installer or inspector.

(3) An individual listed by the state department of health or a local health department with jurisdiction over the service area of the property inspected as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

SECTION 3. IC 16-18-2-317.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 317.8. "Residential onsite sewage system", for purposes of IC 16-41-25, has the meaning set forth in IC 16-41-25-0.4.**

SECTION 4. IC 16-19-3-27.5, AS ADDED BY P.L.261-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 27.5. (a) As used in this section, "technology new to Indiana" (referred to in this section as "TNI") means sewage treatment or disposal methods, processes, or equipment that are not described in the administrative rules of the state department or the executive board concerning residential onsite sewage systems (410 IAC 6-8.3) or commercial onsite sewage systems (410 IAC 6-10.1).

(b) The state department shall establish and maintain a technical



review panel consisting of individuals with technical or scientific knowledge relating to onsite sewage systems. The technical review panel shall:

- (1) decide under subsection (f) whether to approve:
 - (A) proprietary residential wastewater treatment devices; and
 - (B) proprietary commercial wastewater treatment devices; for general use in Indiana;
 - (2) biannually review the performance of residential septic systems and commercial onsite sewage systems;
 - (3) assist the state department in developing standards and guidelines for proprietary residential wastewater treatment devices and proprietary commercial wastewater treatment devices; and
 - (4) assist the executive board and the state department in updating rules adopted under sections 4 and 5 of this chapter concerning residential septic systems and commercial onsite sewage systems.
- (c) The technical review panel shall include the following:
- (1) A member of the staff of the state department, who shall serve as the chair.
 - (2) A local health department environmental health specialist appointed by the governor.
 - (3) An Indiana professional engineer registered under IC 25-31-1 representing the American Council of Engineering Companies.
 - (4) A representative of the Indiana Builders Association.
 - (5) An Indiana registered professional soil scientist (as defined in IC 25-31.5-1-6) representing the Indiana Registry of Soil Scientists.
 - (6) A representative of an Indiana college or university with a specialty in engineering, soil science, environmental health, or biology appointed by the governor.
 - (7) A representative of the Indiana Onsite Wastewater Professionals Association.
 - (8) An Indiana onsite sewage system contractor appointed by the governor.
 - (9) A representative of the Indiana State Building and Construction Trades Council.

All members of the technical review panel are voting members.

(d) In the case of a tie vote of the technical review panel, the technical review panel shall, not more than seven (7) days after the day of the tie vote:

- (1) contact the applicant by phone call and by mail; and
- (2) request more information or provide an explanation of how the



applicant can modify the application to make it more complete. The technical review panel shall review any new information provided by the applicant and vote again on the application not more than thirty (30) days after receiving the information.

(e) The technical review panel shall do the following:

(1) Receive applications for the approval of TNI for general use in:

(A) residential septic systems under sections 4 and 5 of this chapter, section 27 of this chapter, and IC 16-41-25; and

(B) commercial onsite sewage systems under sections 4 and 5 of this chapter, section 27 of this chapter, and IC 16-19-3.5.

(2) Meet at least four (4) times per year to review applications described in subdivision (1).

(3) Notify each person who submits an application described in subdivision (1):

(A) that the person's application has been received by the technical review panel; and

(B) of whether the application is complete;

not later than thirty (30) days after the technical review panel receives the application.

(4) Inform each person who submits an application described in subdivision (1) of:

(A) a tentative decision of the technical review panel; or

(B) the technical review panel's final decision under subsection (f);

concerning the application not more than ninety (90) days after the technical review panel notifies the person under subdivision (3) that the panel has received the person's application.

(3) that the panel has received the person's application.

(f) In response to each application described in subsection (e)(1), the technical review panel shall make, and inform the applicant of, one (1) of the following final decisions:

(1) That the TNI to which the application relates is approved for general use in Indiana.

(2) That the TNI to which the application relates is approved for use in Indiana with certain conditions, which may include:

(A) a requirement that the TNI be used initially only in a pilot project;

(B) restrictions on the number or type of installations of the TNI;

(C) sampling and analysis requirements for TNI involving or comprising a secondary treatment system;

(D) requirements relating to training concerning the TNI;



- (E) requirements concerning the operation and maintenance of the TNI; or
- (F) other requirements.
- (3) That the TNI to which the application relates is approved on a project-by-project basis.
- (4) That the TNI is not approved for use in Indiana, which must be accompanied by a statement of the reason for the decision.
- (g) If the technical review panel makes a decision under subsection (f)(4) that the TNI is not approved for use in Indiana, the applicant may:
 - (1) submit a new application to the technical review panel under this section; or
 - (2) file a petition for review of the technical review panel's decision under IC 4-21.5-3.
- (h) If the technical review panel fails to notify a person who submits an application of the technical review panel's tentative decision or final recommendation within ninety (90) days after receiving the application as required by subsection (e)(4), the person who submitted the application may use the TNI to which the application relates in a single residential septic system or commercial onsite sewage system, as if the TNI had been approved only for use in a pilot project.
- (i) The technical review panel shall decide that the TNI to which an application relates is approved for general use in Indiana if:
 - (1) the TNI has been certified as meeting the NSF/ANSI 40 Standard;
 - (2) a proposed Indiana design and installation manual for the TNI is submitted with the permit application; and
 - (3) the technical review panel certifies that the proposed Indiana design and installation manual meets the vertical and horizontal separation, sizing, and soil loading criteria of the state department.
- (j) Subsection (k) applies if:
 - (1) a particular TNI meets the requirements of NSF/ANSI 40, NSF/ANSI 245, or NSF/ANSI 350;
 - (2) the proposed Indiana design and installation manual for the TNI meets the vertical and horizontal separation, sizing, and soil loading criteria of the state department; and
 - (3) an Indiana professional engineer registered under IC 25-31-1 prepares site specific plans for the use of the TNI for a residential or commercial application.
- (k) In a case described in subsection (j):
 - (1) if the TNI is to be used in a residential application, the site



specific plans prepared under subsection (j)(3), after being submitted to the local health department of the county, city, or multiple county unit in which the TNI would be installed, may be approved by the local health department within the period set forth in IC 16-41-25-1(a); and

(2) if the TNI is to be used in a commercial application, the site specific plans prepared under subsection (j)(3) shall be approved by the state department upon submission of the site specific plans.

(l) A local health department may not refuse an application for a permit for the construction or installation of a residential onsite sewage system (as defined in IC 16-41-25-0.4) solely because the residential onsite sewage system has not been used previously in the jurisdiction of the local health department or is unfamiliar to the local health department, if either of the following apply:

(1) The residential onsite sewage system has been approved by the technical review panel under this section for general use in Indiana.

(2) The residential onsite sewage system:

(A) is based on one (1) or more sewage treatment or disposal methods or processes; or

(B) incorporates equipment;

approved by the technical review panel under this section for general use in Indiana.

SECTION 5. IC 16-19-3-27.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 27.6. (a) As used in this section, "type of residential onsite sewage system" means an onsite sewage system that:**

(1) has a particular design;

(2) consists of particular components; and

(3) is installed or constructed in a particular way.

(b) For purposes of this section, the following are different types of residential onsite sewage systems:

(1) A conventional septic system consisting of a septic tank and a gravel or stone soil absorption field.

(2) A chamber system in which wastewater is piped from the septic tank to a series of connected chambers backfilled with soil.

(3) A subsurface drip distribution system in which wastewater is pumped from the septic tank to a dose tank and then gradually delivered to drip laterals in the soil.

(4) An aerobic treatment unit in which oxygen is injected into



the wastewater to accelerate the biological processes used to treat the wastewater before being discharged to a soil absorption field.

(5) A recirculating sand filter system in which wastewater flows from a septic tank to a pump chamber and then is recirculated through a sand filter before being discharged to a soil absorption field.

(6) An evapotranspiration system that includes a drain field having a watertight liner and in which wastewater, after entering the drain field, evaporates into the air.

(7) A constructed wetland system in which wastewater from a septic tank enters a wetland cell containing an impermeable liner, gravel, sand fill, and wetland plants that remove pathogens and nutrients from the wastewater before being discharged to a soil absorption field.

(8) A sand-lined system in which wastewater flows from a septic tank to a combined treatment and dispersal soil absorption field containing piping laterals surrounded by sand.

(c) If:

(1) the local health department of a county, city, or multiple county unit has issued a permit for construction or installation of a type of residential onsite sewage system;

(2) the use of the same type of residential onsite sewage system at a location in a different county, city, or multiple county unit has been approved by:

(A) a professional engineer registered under IC 25-31-1;

(B) a registered soil scientist (as defined in IC 25-31.5-1-7);

(C) an individual or entity engaged in the business of constructing and installing residential onsite sewage systems; and

(D) the designer of the system, if the system was designed by someone other than a person referred to in clause (A) or (C); and

(3) all of the persons referred to in subdivision (2) attest that the same type of residential onsite sewage system, if constructed or installed at the location referred to in subdivision (2), would satisfy the requirements of the rule of the state department concerning residential onsite sewage systems;

the local health department of the county, city, or multiple county unit referred to in subdivision (2) may not refuse to issue a permit



for the construction or installation of a residential onsite sewage system of the type referred to in subdivisions (1), (2), and (3) at the location referred to in subdivision (2).

SECTION 6. IC 16-41-25-0.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 0.4. (a) As used in this chapter, "residential onsite sewage system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and onsite disposal of sewage from:**

- (1) a one (1) or two (2) family dwelling;**
- (2) a residential outbuilding; or**
- (3) two (2) single family dwellings located on the same property with a combined design daily flow of less than or equal to seven hundred fifty (750) gallons per day.**

The term includes residential sewers, septic tanks, soil absorption systems, temporary sewage holding tanks, and sanitary vault privies.

(b) As used in subsection (a), "design daily flow" means the calculated peak daily sewage flow from a residence. For a particular residence, the design daily flow is calculated as one hundred fifty (150) gallons per day multiplied by the number of bedrooms and bedroom equivalents.

(c) As used in subsection (b), "bedroom equivalent" means a jetted bathtub with a capacity of more than one hundred twenty-five (125) gallons.

SECTION 7. IC 16-41-25-1, AS AMENDED BY P.L.261-2019, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 1. (a) The state department shall adopt rules under IC 4-22-2 that provide for a reasonable period not exceeding thirty (30) days in which a plan review and permit for a residential ~~septic systems~~ onsite sewage system must be approved or disapproved.**

(b) This subsection applies to a county with a population of more than ~~seventy-seven thousand (77,000)~~ but less than eighty thousand (80,000) and less than eighty thousand four hundred (80,400). As used in this subsection, "fill soil" means soil transported and deposited by humans or soil recently transported and deposited by natural erosion forces. A rule that the state department adopts concerning the installation of residential ~~septic~~ onsite sewage systems in fill soil may not prohibit the installation of a residential ~~septic~~ onsite sewage system in fill soil on a plat if:

- (1) before the effective date of the rule, the plat of the affected lot was recorded;**



- (2) there is not an available sewer line within seven hundred fifty (750) feet of the property line of the affected lot; and
- (3) the local health department determines that the soil, although fill soil, is suitable for the installation of a residential **septic onsite sewage** system.

SECTION 8. IC 16-41-25-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) This section applies only to residential **septic onsite sewage** systems that are installed after July 1, 1996, and that use a raiser that is more than six (6) inches in diameter and opens to ground level.

(b) Each opening to an underground tank of a residential **septic onsite sewage** system that allows access from ground level must be covered with a lid or top that is securely fastened.

(c) Below a residential **septic onsite sewage** system's lid or top described in subsection (b), the tank of the residential **septic onsite sewage** system must have a cap or plug.

(d) A person who installs a residential **septic onsite sewage** system after June 30, 1996, commits a Class B infraction if the residential **septic onsite sewage** system does not meet the requirements of this section.

(e) Each local health department established within a county under IC 16-20-2-2 shall enforce this section in the county.

SECTION 9. IC 16-41-25-4, AS AMENDED BY P.L.10-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. (a) Before a local health department may act on an application for a residential **septic onsite sewage** system permit, the local health department shall inform the applicant ~~for a residential septic system permit~~ **if whether** the property is located in the service district of a regional sewage district.

(b) An employee of a local health department may conduct an onsite soil evaluation concerning the repair or replacement of a failed residential onsite sewage system (as defined in IC 13-11-2-144.8) if:

- (1) the employee was hired by the local health department before January 1, 2013;
- (2) the local health board has determined that the employee has the necessary knowledge of the principles of soil science as acquired by professional education;
- (3) the employee uses guidelines set forth in the soil manuals, technical bulletins, and handbooks of the Natural Resources Conservation Service of the United States Department of Agriculture; and
- (4) the employee files a written report with the local health



department for each onsite soil evaluation conducted by the employee.

SECTION 10. IC 16-41-25-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 5. (a) The authority of a local health department to administer the rule of the state department concerning residential onsite sewage systems is subject to this section.**

(b) If a professional engineer registered under IC 25-31-1 certifies that the:

- (1) location;**
- (2) design;**
- (3) proposed construction; and**
- (4) proposed installation;**

of a planned residential onsite sewage system comply with the administrative rule of the state department concerning residential onsite sewage systems, a local health department may not disapprove an application for a permit for the residential onsite sewage system on the grounds that the location, design, construction, or installation of the residential onsite sewage system is faulty.

(c) If a professional engineer registered under IC 25-31-1 certifies that the:

- (1) design;**
- (2) construction;**
- (3) installation;**
- (4) location;**
- (5) maintenance; and**
- (6) operation;**

of an existing residential onsite sewage system comply with the administrative rule of the state department concerning residential onsite sewage systems, a local health department may not issue an order based on a finding that the residential onsite sewage system is a failed system.

(d) If a professional engineer registered under IC 25-31-1 certifies that an existing residential onsite sewage system is not functioning properly but can be restored to proper functioning through repair, a local health department must allow the repair of the residential onsite sewage system to be made in accordance with the certification of the professional engineer.

SECTION 11. IC 16-41-25-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2022]: **Sec. 6. A local health department may not deny a permit for the construction or installation of a residential onsite sewage system in a particular location on the grounds that the soil of the intended location is too heavily compacted to allow proper functioning of the residential onsite sewage system if a registered soil scientist (as defined in IC 25-31.5-1-7) certifies that the soil at the intended location can be made suitable for the construction or installation of a residential onsite sewage system in not more than two (2) years through the planting of plants that loosen and aerate the soil or through other means.**

SECTION 12. IC 16-41-25-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 7. (a) After June 30, 2023, a county, city, or town ordinance may not impose requirements, restrictions, or conditions concerning the:**

- (1) design;**
- (2) construction;**
- (3) installation;**
- (4) location;**
- (5) maintenance; or**
- (6) operation;**

of a residential onsite sewage system that are more stringent than the requirements, restrictions, and conditions of the rule of the state department concerning residential onsite sewage systems. After June 30, 2023, an ordinance that imposes requirements, restrictions, or conditions that are more stringent than the requirements, restrictions, and conditions of the state department's rule concerning residential onsite sewage systems is void and may not be enforced.

(b) After June 30, 2023, a local health department may not impose requirements, restrictions, or conditions concerning the:

- (1) design;**
- (2) construction;**
- (3) installation;**
- (4) location;**
- (5) maintenance; or**
- (6) operation;**

of a residential onsite sewage system that are more stringent than the requirements, restrictions, and conditions of the rule of the state department concerning residential onsite sewage systems. After June 30, 2023, any requirements, restrictions, or conditions



that are imposed by a local health department and that are more stringent than the requirements, restrictions, and conditions of the state department's rule concerning residential onsite sewage systems are void and may not be enforced.

SECTION 13. IC 16-41-25-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) If the design and specifications for a residential onsite sewage system proposed for construction or installation at a particular location have been approved by either:

- (1) the local health department; or
- (2) at the option and expense of the property owner:
 - (A) a professional engineer registered under IC 25-31-1;
 - (B) a registered soil scientist (as defined in IC 25-31.5-1-7);
 - (C) an individual or entity engaged in the business of constructing and installing residential onsite sewage systems; and
 - (D) the designer of the system, if the system was designed by someone other than a person referred to in clause (A) or (C);

the local health department shall issue a permit for the residential onsite sewage system not later than thirty (30) business days after receiving a complete application for the permit.

(b) Subject to IC 16-19-3-27.5, IC 16-19-3-27.6, and sections 5 and 6 of this chapter, this section does not affect the authority of a local health department to inspect an onsite sewage system before or after the system's installation.

SECTION 14. IC 36-7-4-607 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 607. (a) This section applies to a proposal, as described in section 602(b) of this chapter, to amend or partially repeal the text (not zone maps) of the zoning ordinance.

(b) ADVISORY–AREA. If the proposal is initiated by a participating legislative body instead of the plan commission, the proposal must be referred to the commission for consideration and recommendation before any final action is taken by the legislative body.

(c) On receiving or initiating the proposal, the commission shall, within sixty (60) days, hold a public hearing in accordance with section 604 of this chapter. **The commission shall vote on the proposal not later than sixty (60) days after the commission holds the public hearing.** Within ten (10) business days after the commission



determines its recommendation (if any), the commission shall certify the proposal under section 605 of this chapter.

(d) The legislative body shall vote on the proposal within ninety (90) days after the plan commission certifies the proposal under section 605 of this chapter.

(e) This subsection applies if the proposal receives a favorable recommendation from the plan commission:

(1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the legislative body may adopt, reject, or amend the proposal. The legislative body shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.

(2) If the legislative body adopts (as certified) the proposal, it takes effect as other ordinances of the legislative body.

(3) If the legislative body fails to act on the proposal within ninety (90) days after certification, it takes effect as if it had been adopted (as certified) ninety (90) days after certification.

(4) If the legislative body rejects or amends the proposal, it shall be returned to the plan commission for its consideration, with a written statement of the reasons for the rejection or amendment. The commission has forty-five (45) days in which to consider the rejection or amendment and report to the legislative body as follows:

(A) If the commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the legislative body as of the date of the filing of the commission's report of approval with the legislative body or the end of the forty-five (45) day period.

(B) If the commission disapproves the rejection or amendment, the action of the legislative body on the original rejection or amendment stands only if confirmed by another vote of the legislative body within forty-five (45) days after the commission certifies its disapproval. If the legislative body fails to confirm its action under this clause, the ordinance takes effect in the manner provided in subdivision (3).

(f) **ADVISORY—AREA.** This subsection applies if the proposal receives either an unfavorable recommendation or no recommendation from the plan commission:

(1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the



legislative body may adopt, reject, or amend the proposal. The legislative body shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.

(2) If the legislative body adopts (as certified) the proposal, it takes effect as other ordinances of the legislative body.

(3) If the legislative body rejects the proposal or fails to act on it within ninety (90) days after certification, it is defeated.

(4) If the legislative body amends the proposal, it shall be returned to the plan commission for its consideration, with a written statement of the reasons for the amendment. The commission has forty-five (45) days in which to consider the amendment and report to the legislative body as follows:

(A) If the commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the legislative body as of the date of the filing of the commission's report of approval with the legislative body or the end of the forty-five (45) day period.

(B) If the commission disapproves the amendment, the action of the legislative body on the original amendment stands only if confirmed by another vote of the legislative body within forty-five (45) days after the commission certifies its disapproval. If the legislative body fails to confirm its action under this clause, the ordinance is defeated as provided in subdivision (3).

SECTION 15. IC 36-9-25-15, AS AMENDED BY P.L.127-2017, SECTION 319, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The board, on its own initiative, whenever any territory, by its contour and watershed, or because of the extension of sewers by the municipality, is capable of draining sewage into or connecting with the sanitary system, may incorporate any territory, whether platted or unplatted, into the district by adopting a resolution to that effect describing the reason it is to be included. A certified copy of the resolution is conclusive evidence in any proceeding that the territory described was properly incorporated and constitutes a part of the district, subject to this chapter.

(b) Immediately after the passage of a resolution under subsection (a), a notice stating the time and place for a public hearing on the resolution shall be published in accordance with IC 5-3-1. By the date and time of the hearing any affected person may file in the office of the board a written remonstrance to having the person's lands included. The board shall either confirm, modify, or rescind the resolution after the hearing. An appeal may be taken from the decision by one (1) or



more persons considering themselves aggrieved or injuriously affected, as long as those appealing have filed written remonstrances, as provided in this subsection, by filing their complaint within thirty (30) days after the final decision of the board. The appeal shall be governed by IC 34-13-6.

(c) If the court is satisfied upon hearing an appeal under subsection (b):

(1) that less than seventy-five percent (75%) of the persons owning property in the territory sought to be incorporated in the district have remonstrated; and

(2) that the incorporation of the territory into the district will be for its interest and will cause no manifest injury to the persons owning property in the territory;

the court shall so find and the incorporation shall be ordered. If the court is satisfied that seventy-five percent (75%) or more of the persons owning property in the territory sought to be incorporated have remonstrated, then the incorporation may not be ordered unless the court further finds from the evidence that unless it is incorporated, the health and welfare of residents of the territory or of the adjoining lands will be materially affected and that the safety and welfare of the inhabitants and property of other persons and property will be endangered.

(d) Pending an appeal under subsection (b) and during the time within which the appeal may be taken, the territory sought to be incorporated is not a part of the district. Upon the determination of the appeal, the judgment must particularly describe the resolution upon which the appeal is based. The clerk of the court shall deliver a certified copy of the judgment to the secretary of the board, who shall record it in the minute book of the board and make a cross-reference to the page upon the margin where the original resolution was recorded. If a decision is adverse to an incorporation, further proceedings may not be taken by the board to incorporate that territory within the district for a period of one (1) year after the rendition of the judgment.

(e) Except as provided in subsection (n) and subject to subsections (f) through (m), a property owner whose property is incorporated into a district under this section or section 14(b) of this chapter, regardless of whether the property owner has filed a written remonstrance or an appeal with respect to the incorporation, is exempt from a requirement to connect to the district's sewer system and to discontinue use of a sewage disposal system on the property owner's property if all of the following conditions are met:



(1) The property owner's sewage disposal system is a septic tank soil absorption system (as defined in IC 13-11-2-199.5) or constructed wetland septic system (as defined in IC 36-9-23-30.1(a)) that:

(A) was new at the time of installation; and

(B) was approved in writing by the local health department, the department's designee, or a qualified inspector.

(2) The property owner, at the property owner's own expense, obtains a written determination from the local health department or the department's designee that the property owner's sewage disposal system is not failing. The local health department or the department's designee shall provide the owner with a written determination not later than sixty (60) days after receipt of the owner's request. If the local health department or the department's designee fails to provide a written determination within the time set forth in this subdivision, the owner, at the owner's expense, may obtain a written determination from a qualified inspector. If the local health department or the department's designee determines that the sewage disposal system is failing, the property owner may appeal the determination to the board of the local health department. The decision of the board of the local health department is final and binding.

(3) The property owner provides the board with:

(A) a written notification of potential qualification for the exemption, as described in subsection (h); and

(B) the written determination described in subdivision (2); within the time limits set forth in subsection (h).

(f) If the property owner, within the time allowed under subsection (h), notifies the board in writing of the property owner's potential qualification for the exemption, the board shall, until the property owner's eligibility for the exemption is determined, suspend the requirement that the property owner discontinue use of the property owner's sewage disposal system and connect to the district's sewer system.

(g) A property owner who qualifies for the exemption provided under this section may not be required to connect to the district's sewer system for a period of ten (10) years beginning on the date of the written determination of the local health department, the department's designee, or a qualified inspector under subsection (e)(2) that the property owner's sewage disposal system is not



failing. A property owner may apply for two (2) five (5) year extensions of the exemption provided under this section by following the procedures set forth in this section. If ownership of an exempt property is transferred during a valid exemption period, including during an extension of an initial exemption:

- (1) the exemption applies to the subsequent owner of the property for the remainder of the exemption period during which the transfer occurred; and
- (2) the subsequent owner may apply for any remaining extensions.

However, the total period during which a property may be exempt from the requirement to connect to a district's sewer system under this section may not exceed twenty (20) years, regardless of ownership of the property.

(h) To qualify for an exemption under this section, a property owner must:

- (1) not later than sixty (60) days after being notified of the requirement to connect to the district's sewer system, notify the board in writing that the property owner qualifies for an exemption under this section; and
- (2) not later than one hundred twenty (120) days after the board receives the written notice provided under subdivision (1), provide the board with the written determination required under subsection (e)(2).

(i) When a property owner who qualifies for an exemption under this section subsequently discontinues use of the property owner's sewage disposal system and connects to the district's sewer system, the property owner may be required to pay only the following to connect to the sewer system:

- (1) The connection fee the property owner would have paid if the property owner connected to the sewer system on the first date the property owner could have connected to the sewer system.
- (2) Any additional costs:
 - (A) considered necessary by; and
 - (B) supported by documentary evidence provided by; the board.

(j) A property owner who connects to a district's sewer system may provide, at the owner's expense, labor, equipment, materials, or any combination of labor, equipment, and materials from any source to accomplish the connection to the sewer system, subject to inspection and approval by the board or a designee of the board.



(k) This section does not affect the authority of the state department of health, a local health department, or a county health officer with respect to a sewage disposal system.

(l) For purposes of this section, a sewage disposal system is "failing" if one (1) or more of the following apply:

(1) The system refuses to accept sewage at the rate of design application and interferes with the normal use of plumbing fixtures.

(2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters.

(3) Effluent discharged from the system contaminates a potable water supply, ground water, or surface waters.

(m) As used in this section, "qualified inspector" means any of the following:

(1) An employee of a local health department who is designated by the local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

(2) An individual who is certified by the Indiana Onsite Wastewater Professionals Association as an onsite sewage system installer or inspector.

(3) An individual listed by the state department of health or a local health department with jurisdiction over the service area of the property inspected as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

(n) Subsections (e) through (i) do not apply to a property owner whose property is incorporated into a district under this section or section 14(b) of this chapter if:

(1) the district has received approval from the Indiana finance authority before January 1, 2022, of a preliminary engineering report:

(A) for a project to construct the sewer line to which the property owner's property is being required to connect; and

(B) in connection with funding from the wastewater or drinking water revolving loan program under IC 5-1.2-10; and

(2) the timing and requirements for connection to the district's sewer system are the same for all property owners



being required to connect to the district's sewer system under the terms of the project.

SECTION 16. [EFFECTIVE JULY 1, 2023] (a) 410 IAC 6-8.3-51(b) is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove 410 IAC 6-8.3-51(b) from the Indiana Administrative Code.

(b) This SECTION expires July 1, 2024.

SECTION 17. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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