

BOARD OF COMMISSIONERS
JENNINGS COUNTY, INDIANA

ORDINANCE NO. 2024- 06

ORDINANCE AMENDING THE JENNINGS COUNTY SEWER CODE

WHEREAS, The Board of Commissioners of Jennings County is the legislative body of Jennings County pursuant to Ind. Code § 36-1-2-9(1); and

WHEREAS, Due to changes in Indiana law, it is necessary for the Commissioners to repeal and replace the Jennings County Sewer Ordinance to conform with state law and administrative code:

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF JENNINGS COUNTY, INDIANA:

1. This ordinance shall be known as the Jennings County On-Site Sewage Systems Ordinance, and will be referred to as “the Ordinance”.
2. The Ordinance is intended:
 - a. to regulate the location, installation, construction, maintenance, reconnection, replacement, alteration, and repair of all residential and commercial on-site sewage systems in Jennings County;
 - b. to provide for the administration and enforcement of the provisions contained in the Ordinance; and
 - c. to affix penalties for violations of the Ordinance.
3. The Ordinance incorporates the following by reference:
 - a. 410 IAC 6-8.3 (Residential On-Site Sewage Systems), as amended from time-to-time;
 - b. 410 IAC 6-10.1 (Commercial On-Site Sewage Systems), as amended from time-to-time; and
 - c. Bulletin S.E. 11, The Sanitary Vault Privy, 2021 Edition, a copy of which is to be maintained by the Jennings County Health Department.
4. The Jennings 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, and 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.

5. The following terms are defined for purposes of the Ordinance:

a. **“Construction, New”** means:

i. Construction of a new home, residential outbuilding, or commercial facility where there was previously no home, outbuilding, or commercial facility; or

ii. Replacing, rebuilding, or remodeling an existing home, residential outbuilding, or commercial facility 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.

b. **“Construction, Repair/Replacement”** means repair or replacement of a residential on-site sewage system for an existing home, residential outbuilding, or commercial facility or the rebuilding or remodeling of an existing home, residential outbuilding, or commercial facility 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 Jennings County Health Department may be used, when necessary and appropriate, for the repair or replacement of a failing residential on-site sewage system.

c. **“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, but may also be a failure. Malfunction may include, but is not limited to, one (1) or more of the following:

i. The backup of sewage into an upstream on-site sewage system component.

ii. The liquid level in a septic tank consistently above the invert of the septic tank outlet.

iii. An outlet filter that is plugged sufficiently to cause backup in the septic tank.

iv. The liquid level in a dosing tank above the invert of the dosing tank inlet.

v. The liquid level in a treatment unit above that recommended by the manufacturer.

vi. The liquid level in a distribution box consistently above the invert of the outlets or a distribution box that does not provide equal distribution.

vii. Structural failure of a septic tank, dosing tank, treatment unit, distribution box, or other required component.

viii. Electrical failure of a float, an effluent pump, alarm, or other electrical component of an on-site sewage system.

ix. Removal of an outlet filter, an effluent pump, or any other system component if that outlet filter, pump, or component was required in the construction or operating permit for the system.

d. **“Installer”** means any individual who performs any work in furtherance of the construction, installation, replacement, alteration, repair, or abandonment of any residential or commercial on-site sewage system in Jennings County.

e. **“Involuntary”** means a need to modify or improve a dwelling, residential outbuilding, or commercial facility 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.

f. **“Voluntary”** means an owner’s intentional or deliberate action to construct, modify, or improve a dwelling or residential outbuilding or increase the daily design flow of a structure.

g. **“Department”** means the Jennings County Health Department.

h. **“Board”** means the Jennings County Board of Health.

i. **“State Department”** means the Indiana Department of Health.

6. REQUIRED ON-SITE SEWAGE SYSTEM OR CONNECTION TO SANITARY SEWER.

a. All persons owning, leasing, or otherwise occupying property that has a residence, residential outbuilding, or commercial facility with plumbing not connected to

sanitary sewer shall comply with the requirements of 410 IAC 6-8.3, 410 IAC 6-10.1, and/or Bulletin S.E. 11, as applicable, and the provisions of this Ordinance.

b. In the event of a residential or commercial on-site sewage system failure, the residence, residential outbuilding, or commercial facility shall be required to make a direct connection to the sanitary sewer, if the sanitary sewer is available within three hundred (300) feet of the affected property line or is available for connection at a construction cost and connection fee estimated not to exceed one hundred fifty percent (150%) of the cost estimated for installing an on-site sewage system to serve the residence, residential outbuilding, or commercial facility.

7. INSTALLER REGISTRATION.

a. All on-site sewage system installers in Jennings County shall abide by all associated requirements contained in Indiana Code, Indiana Administrative Code, and Jennings County ordinances regarding on-site sewage systems.

b. An installer must register with the Department if they wish to install, replace, alter, repair, or abandon any residential or commercial on-site sewage system in Jennings County. Registration requires the following:

i. Registering with the Department on a form prescribed by the Department;

ii. Paying the appropriate registration fee as required in the Jennings County Health Department Fee Ordinance; and

iii. Providing of certification by either of the following:

1. Passing an examination offered by the Department or an entity approved by the Department.

2. Providing proof of:

a. Current, valid registration from another Indiana county;

b. Providing proof of a certificate issued by the Indiana Onsite Wastewater Professionals Association for the type of system(s) to be installed; and

c. Providing proof of membership in good standing with the Indiana Onsite Wastewater Professionals Association.

c. Registration is valid from January 1 through December 31 of the same year and must be renewed annually.

d. Certification must be maintained throughout the period of registration. A lapse of certification will render the Installer's registration invalid.

e. A certification examination will be offered no less than monthly by the Department as follows:

i. An examination fee as required by the Jennings County Health Department Fee Ordinance will be due prior to examination.

ii. The test will consist of thirty (30) questions, consisting of either true/false questions or multiple choice questions.

iii. A score of eighty percent (80%) or above is considered passing.

iv. A retest will be allowed for any applicant failing the test no more than once per week.

f. A registered installer must be on-site during installation, repair, replacement, alteration, modification, or system abandonment and shall be deemed responsible for the work done.

g. 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 Installer's registration be revoked or denial of the Installer's registration renewal. Any registration revocation or denial of registration renewal may be appealed to the Board. The period of revocation shall be no less than ninety (90) days, or a time period deemed appropriate by the Jennings County Health Officer. Further, the Installer shall be advised in writing of the basis for the revocation, the right and procedure, for appeal, and the opportunity for a hearing.

8. SEWAGE HOLDING TANKS.

a. A sewage holding tank is an alternative method of sewage disposal in accordance with IC 16-41-25-9.

b. An application for a sewage holding tank must be filed by the property owner or property owner's agent including:

i. An application form provided by the Department;

- ii. A construction plan of sufficient clarity to show compliance with this Ordinance;
 - iii. A copy of a written contract with an operator of a septage management vehicle providing for the removal of septage at regular intervals;
 - iv. A written statement, signed by the property owner, indicating that copies of all receipts and other records as requested will be submitted to the Department within thirty (30) days of service; and
 - v. For commercial sites where the State Department has completed plan review and approval for a commercial holding tank, a copy of the written approval from the State Department.
- c. All sewage holding tanks shall have minimum and maximum capacities as follows:
- i. For holding tanks that are permitted as septic and/or dosing tanks and planned to precede a soil absorption field, the minimum capacity shall be that capacity as determined by 410 IAC 6-8.3 or 410 IAC 6-10.1 for septic and/or dosing tanks.
 - ii. For permanent holding tanks, the minimum capacity shall be the greater of:
 - 1. one thousand (1,000) gallons; or
 - 2. at least three (3) times the design daily flow of the home or commercial structure as defined by 410 IAC 6-8.3 or 410 IAC 6-10.1.
 - iii. The maximum capacity of all sewage holding tanks shall be no greater than ten thousand (10,000) gallons.
- d. A sewage holding tank shall meet all construction requirements of septic tanks in 410 IAC 6-8.3 and 410 IAC 6-10.1.
- e. 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 a safely secured riser lid.
- f. A construction permit issued by the Department is required prior to the installation of the holding tank or sewer.

g. A sewer meeting the requirements for a residential sewer in 410 IAC 6-8.3 or the requirements for a building sewer in 410 IAC 6-10.1 shall be used to make a direct connection between the plumbing of the structure and the holding tank.

h. All sewage holding tanks installed in Jennings County shall have:

i. An installation inspection to confirm proper installation and to confirm the outlet of the last tank has been appropriately sealed prior to backfilling; and

ii. The alarm wired in and verified operational.

i. All holding tanks shall be required to have an operating permit issued by the Department as follows:

i. The construction permit issued for the installation of the holding tank shall also serve as the operating permit for the first two (2) years of service.

ii. An operating permit for a sewage holding tank shall be valid for a period of two (2) years from the date of issuance.

iii. Prior to renewal of the operating permit, a registered installer must inspect the holding tank(s) for verification of proper operation of the tank and alarm system. An inspection report must be provided to the Department prior to renewal.

iv. An operating permit shall be renewed prior to, or within ten (10) days of, expiration.

v. An operating permit fee as stated in the Jennings County Health Department Fee Ordinance shall be due at the time of operating permit renewal.

j. 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 Department within thirty (30) days of the service provided.

k. An operating permit not renewed within thirty (30) days of expiration, or a sewage holding tank not operated in a safe and sanitary manner, including receipts and other paperwork not submitted as required, is a violation of this Ordinance and may be subject to penalty as described in Section 12 of this Ordinance, permit revocation, and/or denial of operating permit renewal.

l. In the event that a sewage holding tank is not operated in a safe and sanitary manner and in accordance with IC 16-41-25-9 and this ordinance, the Department may require the residence, residential outbuilding, or commercial facility to:

i. Connect to sanitary sewer if the sanitary sewer is available within three hundred (300) feet of the affected property line or is available for connection at a construction cost and connection fee estimated not to exceed one hundred fifty percent (150%) of the cost estimated for installing an on-site sewage system to serve the residence, residential outbuilding or commercial facility; or

ii. Install an on-site sewage system with a soil absorption field in compliance with 410 IAC 6-8.3 or 410 IAC 6-10.1 and that has not failed.

m. Upon connection to an approved soil absorption field, as part of a full on-site sewage system, or sanitary sewer, the sewage holding tank shall be abandoned in accordance with the rules unless it will be converted for use as a septic tank or a dosing tank in an on-site sewage system.

9. GENERAL REQUIREMENTS FOR ON-SITE SEWAGE SYSTEMS

a. An on-site sewage system construction permit issued by the Department shall be obtained prior to the installation of any component of an on-site sewage system or prior to the repair, replacement, alteration, or modification of any component of an on-site sewage system.

b. On-Site Sewage System Soil Evaluation.

i. An on-site soil evaluation is required, as described in 410 IAC 6-8.3 or 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.

ii. 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 Department may request additional soil bores or soil pits if deemed necessary by the Jennings County Health Officer.

iii. 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 Department by the soil scientist.

c. All lots platted after the effective date of this Ordinance that will utilize an on-site sewage system shall consist of at least one (1) acre per square foot of land.

d. All distribution boxes shall be stabilized so as to prevent movement during installation and operation.

10. CONNECTION OR RECONNECTION TO AN EXISTING ON-SITE SEWAGE SYSTEM.

a. An existing residential or commercial on-site sewage system may be considered for connection or reconnection to a new or replacement dwelling, residential outbuilding, or commercial facility if:

i. The system is inspected by an installer registered with the Department or a qualified inspector and found to consist minimally of a septic tank and a soil absorption field that has not failed or malfunctioned;

ii. Either:

1. The original system installation was permitted through the Department; or

2. The original system was not permitted through the Department, but a registered installer develops a plan of the site and system showing compliance with the rules and this ordinance; and

iii. The existing system is appropriately sized for the structure to be served. If the connection or reconnection is due to involuntary events, the Department may utilize their best judgment for the soil absorption field when approving a connection or reconnection to an existing system. 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.

b. All commercial facilities wanting to connect or reconnect to an existing on-site sewage system must have written approval from the State Department.

c. 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 residence, residential outbuilding, or commercial facility.

11. ENFORCEMENT.

a. Whenever the Jennings County Health Officer determines there are reasonable grounds to believe that there has been a violation of this Ordinance, 410 IAC 6-8.3, or 410 IAC 6-10.1, the Jennings County Health Officer shall issue a Notice of Violation to the person or persons responsible, as hereafter provided. Such notice shall do the following:

- i. Indicate the date and location of the alleged violation.
- ii. Clearly indicate the nature of the alleged violation and the applicable Ordinance, statute, or rule citation.
- iii. Allow for a reasonable time for the performance of necessary remediation.
- iv. Be properly served upon the person or persons responsible for the alleged violation. Service shall be deemed proper if:
 1. sent by certified mail to the last known mailing address of the person;
 2. sent by first class mail;
 3. posted in a conspicuous place in or about the property affected by the notice; or
 4. any other method of service reasonably calculated to effect proper service as authorized or required under Indiana law.

b. After receiving an order in writing from the Jennings 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 12 of this Ordinance.

c. The Jennings 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:

- i. Result in the immediate suspension of all work at the worksite; and

ii. 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.

d. Failure to comply with a stop work order issued under Subsection c. shall constitute a violation of this Ordinance and the violator shall be subject to the penalties as prescribed in Section 12 of this Ordinance.

e. Whenever the Jennings County Health Officer finds that an emergency exists which requires immediate action to protect public health, the Jennings 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 Jennings County Health Officer deems necessary. Notwithstanding the other provisions of this ordinance, 410 IAC 6-8.3, 410 IAC 6-10.1, and Bulletin S.E. 11, such order shall be effective immediately.

f. Any person to whom such an emergency order is directed shall comply therewith immediately, but upon petition to the Jennings County Health Officer, shall be afforded a hearing, as soon as possible in the manner provided in Section 13.

12. PENALTIES.

a. Any person, firm or entity found to be in violation of any provision of this Ordinance, Indiana law, or Indiana Administrative Code, as applicable, shall be fined not more than two thousand five hundred dollars (\$2,500.00). Each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions as ordered by the Department shall constitute a distinct and separate offense.

b. The Department shall be entitled to seek any other legal remedy available against any person who shall violate any provision of this Ordinance, Indiana law, or Indiana Administrative Code, as applicable.

c. The Department shall be entitled to seek all legal fees incurred during enforcement of this Ordinance, Indiana law, or Indiana Administrative Code, as applicable.

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

13. PROCEDURE FOR APPEAL.

a. Appeals may be filed with the Board for any of the following decisions of actions taken by the Jennings County Health Officer:

- i. Denial of a permit to install, construct, reconnect, replace, alter, or repair an on-site sewage system, holding tank, or sanitary vault privy;
- ii. Revocation of a permit;
- iii. The issuance of a notice of violation, a stop work order, or an emergency order as prescribed in Section 11 of this ordinance;
- iv. Registration revocation, or duration of revocation, or denial of registration renewal as prescribed in Section 7; or
- v. A penalty as prescribed in Section 12.

b. Any person(s) filing such an appeal shall be granted a hearing on the matter before the Board. The request shall be in writing and received at the office of the 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.

c. An appeal and request for request shall briefly state the reasons for the requested hearing. Upon receipt of a request for a hearing, the Jennings County Health Officer shall arrange a time and a place for such hearing and shall give the petitioner written notice thereof.

d. Such hearing shall be held as soon as practical after receipt of the request in compliance with IC 5-14-1.5 (Open Door Law).

e. 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 Jennings County Health Officer shall be given time to explain the circumstances of the decision and/or action.

f. The proceedings at such hearing, including the findings and decision of the Jennings 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 Jennings 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.

14. **REMEDIES.** 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 Jennings County Health Officer or an appeal against the decision and/or action has been sustained

by the Board, the Jennings County Health Officer may, through the the Jennings County attorney, or an attorney representing the Department, institute proceedings in a court of competent jurisdiction located in Jennings County for enforcement by prohibitory or mandatory injunction to restrain any person from violating the provisions of this ordinance.

15. **FEE SCHEDULE.** All applicable fees as set forth in the Jennings County Health Department Fee Ordinance, and any amendments or revisions made thereto, shall be made payable to the Jennings County Health Department.

16. **CONFLICT AND SEVERABILITY.**

a. In any case where a provision of this ordinance is found to be in conflict with a provision of any other Jennings County Ordinance, 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 Jennings County Ordinance, 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.

b. 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.

17. The following sections of the Jennings County Code of Ordinances are hereby repealed:

- a. § 52.01 – Installing Sewage Disposal Systems.
- b. § 52.15 – Definitions.
- c. § 52.16 – Types of Systems; Connections.
- d. § 52.17 – Permits and Inspections.
- e. § 52.18 – Powers for Inspection.
- f. § 52.19 – Notices.
- g. § 52.99 – Penalty.

APPROVED AND ORDAINED by the Board of Commissioners of Jennings County,
Indiana this 10th day of June, 2024.

Matt Sporleder
Matt Sporleder, President

Shane Boswell
Shane Boswell, Vice President

Robert Willhite
Robert Willhite, Commissioner

ATTEST:

Sarah Abel
Sarah Abel
Auditor, Jennings County