

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 2016 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 129

AN ACT to amend the Indiana Code concerning construction.

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

SECTION 1. IC 16-18-2-253.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 253.2. "Nonresidential onsite sewage system", for purposes of IC 16-19-3.5, has the meaning set forth in IC 16-19-3.5-3.5.**

SECTION 2. IC 16-19-3.5-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) As used in this chapter, "nonresidential onsite sewage system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and onsite disposal of sewage from a building other than a single family or two-family dwelling.**

(b) The term includes all building sewers, grease traps, septic tanks, dosing tanks, absorption fields, perimeter drains, vault privies, and temporary sewage holding tanks serving one (1) of the following:

- (1) An apartment building.**
- (2) A church or other place of worship.**
- (3) A commercial establishment.**
- (4) A condominium.**
- (5) A medical facility.**
- (6) A motel.**



(7) An office building.

(8) A restaurant.

(9) A school.

SECTION 3. IC 16-19-3.5-5, AS ADDED BY P.L.49-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. As used in this chapter, "project" means a project:

- (1) that involves an improvement to real property; and
- (2) for which a construction permit is required to be obtained from the state department before the start of construction, installation, or modification of improvements to the real property.

The term includes only a project ~~types regulated under 410 IAC 6-12-~~ **for the construction of a nonresidential onsite sewage system, an agricultural labor camp, a mobile home community, a youth camp, or a campground.**

SECTION 4. IC 36-9-23-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) ~~Before the construction, acquisition, or lease of~~ **If the works board or other appropriate body of the municipality determines to construct, acquire, or lease** any sewage works, ~~under this chapter, the municipal legislative body~~ **works board or other appropriate body of the municipality** shall adopt an ordinance or ordinances: **a resolution or resolutions:**

- (1) setting forth a brief general description of the works and, if the works are to be constructed, a reference to the plans and specifications prepared and filed by an engineer chosen by the board;
- (2) setting forth the cost of the works, as estimated by the engineer, **if the works are to be constructed;**
- (3) ordering the construction, acquisition, or lease of the works;
- (4) setting forth an estimate of the fees for the several classes of users or property to be served;
- (5) ordering the issuance of revenue bonds of the municipality under this chapter, in the amount necessary to pay the cost of the works, **if applicable;** and
- (6) containing any other necessary provisions.

(b) Unless all or part of the works is being constructed in compliance with an order of the department of environmental management to abate water pollution, notice of the adoption and the purport of the ~~ordinance or ordinances~~ **resolution or resolutions** shall immediately be given by publication in accordance with IC 5-3-1.

SECTION 5. IC 36-9-23-12 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) This section does not apply to undertakings in compliance with orders of the department of environmental management for which no objections are authorized.

(b) Forty (40) or more owners of property connected or to be connected to and served by sewage works authorized by ~~an ordinance~~ **a resolution** under section 10(a) of this chapter may file a written petition objecting to the construction or acquisition of the works. The petition must be filed with the municipal legislative body, must contain the names and addresses of the petitioners, and must set forth the following objections:

- (1) The works are not required by the public needs.
- (2) The cost of the proposed works would be excessive considering the value of the service to be rendered to the affected community.
- (3) Any other ground of objection.

The petition shall be filed within twenty (20) days after the publication of notice under section 10(b) of this chapter.

(c) Unless the proposed works are abandoned, the municipal clerk shall file in the office of the clerk of the circuit or superior court of the county a copy of the ~~ordinance or ordinances~~ **resolution or resolutions** together with the petition. The court shall then set the matter for hearing at the earliest date possible, which must be within twenty (20) days after the filing of the petition with the court. The court shall send notice of the hearing by certified mail to the municipality and to the first ten (10) signers of the petition at the addresses shown on the petition. All interested parties shall appear in the court without further notice, and the municipality may not conduct any further proceedings concerning the works until the matters presented by the petition have been heard and determined by the court.

(d) The petitioners shall file with their petition a bond in the sum and with the security fixed by the court. The bond must be conditioned on the petitioners' payment of all or part of the costs of the hearing and any damages awarded to the municipality if the petition is denied, as ordered by the court.

(e) Upon the date fixed in the notice, the court shall, without a jury, hear the evidence produced. The court may confirm the decision of the municipal legislative body or sustain the objecting petition. The order of the court is final and conclusive upon all parties to the proceeding and parties who might have appeared at the hearing, subject only to the right of direct appeal. All questions that were presented or might have been presented are considered to have been adjudicated by the order of



the court, and no collateral attack upon the decision of the municipal legislative body or order of the court is permitted.

(f) If the court sustains the petition, or if it is sustained on appeal, the municipal legislative body may not institute any further proceedings for the construction of the sewage works described in the ~~ordinance or ordinances~~ **resolution or resolutions** for a period of one (1) year after the date of the order, unless the construction is required by a subsequent order of the state department of environmental management to abate water pollution.

SECTION 6. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

