

Health Board Approved Septic Ordinance May 5, 2020  
**SEPTIC ORDINANCE FOR BROWN COUNTY, INDIANA**

# 05-05-2021-0002

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Mary E Smith  
Brown County Recorder IN  
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**RESOLUTION**

It is the desire of the Brown County Board of Health to replace the Ordinance No. 97-875 regarding the construction, maintenance, inspection, and operation of onsite sewage systems (also referred to as septic systems) to include all properties within Brown County, Indiana. Accordingly, it is hereby resolved by the Brown County Commissioners that Ordinance No. 97-875 is replaced by this Ordinance.

Applicable Indiana law and, specifically, the requirements found in Rule 410 IAC 6-8.3 are fully incorporated by reference as a part of this Ordinance and shall include any later amendment, repeal, or replacement to the statutes and regulations as the same are published in the Indiana Administrative Code, with effective dates as fixed herein. All interested persons should refer to Rule 410 IAC 6-8.3 to wholly interpret their individual application.

Set forth below are certain requirements adopted by the Brown County Board of Health (and approved by the Brown County Commissioners), in addition to the requirements of the Indiana State Department of Health set forth in Rule 410 IAC 6-8.3, relating to the construction, maintenance, inspection and operation of onsite sewage systems in Brown County, Indiana.

Proper operation and maintenance of septic systems is critical to the long-term functionality of onsite sewage systems. The Indiana Onsite Wastewater Professionals Association (IOWPA) is an excellent reference. Purdue University's Extension Service offers guidance documents for operating and maintaining onsite sewage systems, including document # HENV-107-W.

**ARTICLE I**

**PERMITS**

Installation of new onsite sewage systems, and repairs or modifications to existing systems, require a septic permit issued by the Brown County Health Officer. The Brown County Health Department will review applications for completeness and provide timely responses to the property owner, or its designee, for deficiencies and re-submittal requirements for approval.

**Section 101:** The property owner or agent of the owner must obtain a septic permit signed by the Brown County Health Officer prior to construction of any building or private residence for which an onsite sewage system is required. Plans, specifications, and other information shall be reviewed by the Brown County Health Officer, or his designated agent, prior to issuance of a permit. A permit shall be paid for at the time the septic application packet is approved by the Brown County Health Officer, or his designated agent, and the permit is issued.

**Section 102:** The Brown County Recorder shall record any bedroom affidavit required by Indiana Code 410 IAC 6-8.3 Sec.6 (2) to exempt any potential bedrooms in the definition of bedrooms for the purpose of sizing an onsite septic system for a residence. A copy of the

recorded affidavit must be supplied to the Brown County Department of Health before any onsite septic system permit can be issued.

**Section 103:** A newly-constructed dwelling cannot be occupied until the septic permit is signed and an occupancy permit has been issued.

**Section 104:** The permit shall be posted in a conspicuous place at or near the construction site. It should be plainly visible from the public thoroughfare. The permit must be available on site for final inspection approval signature by the Brown County Health Officer or his designated agent.

**Section 105:** Before commencement of construction of any public or semi-public building or establishing a recorded subdivision, all plans and specifications must be submitted to the Indiana State Board of Health for review and letter of approval. Upon receipt of the letter of approval, a local construction permit must be obtained from the Area Plan Commission.

**Section 106:** All permits issued for construction of a private onsite sewage system are valid for a period of one (1) year from date of issuance. All construction must be completed within one year from date of issuance of the septic permit; otherwise, applicants must reapply and receive a new permit and pay another permit fee. When laws change within the timeframe the permit is active, the permit shall be deemed grandfathered as issued. Renewal permits are subject to applicable Indiana law and this Ordinance, all as amended from time to time.

## **ARTICLE II**

### **INSTALLATION**

Numerous treatment systems have been developed, and are being developed, to offer reasonable alternatives to traditional tank and lateral field septic systems. New systems (for example, poly tanks and Presby systems) continue to enter the marketplace, but may be at higher cost to install and operate and require more extensive record keeping to insure proper operation. The Brown County Board of Health, according to Rule 410 IAC 6-8.3, will evaluate these systems for use in Brown County.

**Section 201:** The onsite sewage system and soil absorption area must be identified and flagged prior to construction of any building or improvement suitable for occupancy and prior to a mobile home being placed on the property. The soil absorption area must be protected from vehicle traffic or anything that could cause compaction.

**Section 202:** Onsite sewage systems with issued permits must be installed and/or upgraded and receive final approval by the Brown County Health Department prior to any construction above the foundation floor level and prior to a mobile home being moved onto the property without prior approval of the Brown County Health Officer or his designated agent.

**Section 203:** For new residential construction, major repairs, and replacements, all tanks for two (2) bedrooms or less must be a minimum of 1,000 gallons. Placement of all septic tanks shall be a minimum of 10' from the structure and a recommended maximum distance of 25' from the structure.

**Section 204:** The elevation readings must be identified on the proposed septic drawings provided by a Brown County Registered Septic Contractor. Drawings without elevation readings or any other information deemed necessary by the Brown County Health Officer will not be approved.

**Section 205:** Each property owner must obtain a Soil Evaluation Report showing three soil borings,

or one pit and two soil borings, per septic site. All of the soil borings or pits must be located within the soil absorption field or bed.

**Section 206:** For each dwelling, five hundred (500) square feet of subsurface absorption field for each bedroom and/or bedroom equivalent, with a minimum of one thousand (1000) square feet, is required for soils with a soil loading rate of 0.3 or greater. Six hundred (600) square feet of subsurface absorption field per bedroom is required for 0.25 soil loading rate. Sand-lined systems, or other technology new to Indiana (TNI) shall be configured on state-approved guidelines. Additional square footage may be required by the Brown County Health Officer as a result of the Soil Evaluation Report.

**Section 207:** All trench systems must have five (5) feet of non-perforated pipe measured from the header trench to each absorption trench. This 5-foot requirement does not count for the calculation of a system's absorption area.

**Section 208:** The distribution box must be coated with an asphaltic coating, with the exception of plastic distribution boxes, and contain speed levelers on each outlet pipe except as provided in Section 209.

**Section 209:** Speed levelers are not required on sand-lined systems if the distribution box is used only as a velocity reducer.

**Section 210:** Buildings, foundations, slabs, garages, patios, barns, outbuildings, above ground and belowground swimming pools, retaining walls, roads, driveways, parking areas, decks, fences, and paved sidewalks must be a minimum of twenty-five (25) feet from the absorption field if located down slope from the absorption field without a perimeter drain.

**Section 211:** If the distribution box does not have a riser, a piece of rebar the length of the distribution box must be placed on the lid for future metal detection locating.

**Section 212:** A perimeter drain is required on all four (4) sides on all sand-lined systems and sand mounds unless a change or exemption is approved by the Brown County Health Officer prior to installation.

**Section 213:** The high vent on sand-lined systems requiring such vent requires a 4' anchor pipe attached to a "TEE" coming off of the distribution box for stability.

**Section 214:** The distance of a subsurface drain must be a minimum of ten (10) feet from the absorption field, and no greater than fifteen (15) feet.

**Section 215:** A variance of any provision of this Article II may be approved by the Brown County Health Officer due to an extenuating circumstance (for example, poor soil condition, rockiness or steepness of slope).

### **ARTICLE III**

#### **REPAIR OR REPLACE EXISTING ONSITE SEWAGE (SEPTIC) SYSTEMS**

The Brown County Board of Health acknowledges that a number of older onsite sewage systems may not meet all current requirements of the County or the Indiana State Department of Health due to site or system limitations. Accordingly, the Brown County Health Officer may consider proposals for repair or remediation that make the best use of the available space and systems and meet reasonably acceptable standards in the interest of public health and environmental concerns.

**Section 301:** For the purposes of this Ordinance, a landscape modification means any excavation or alteration of landscape or surface area within or adjacent to an onsite sewage system as defined in Rule 410 IAC 6.8-3-57.

**Section 302:** To insure there are no encroachments on or into the on-site sewage system area the owner shall obtain a septic record or septic locate approved by the Brown County Health Officer prior to any landscape modifications. Reference Section 201.

**Section 303:** When soil absorption field replacement is required and no other site is available, a sand-lined system (or other TNI approved by the Indiana State Department of Health) can be installed at the same location as the old septic system. In such cases, the old septic system must be removed and Spec 23 sand added to fill the void. This work must be completed by a Brown County Registered Septic Contractor in accordance with the manufacturer's construction and installation manuals.

**Section 304:** Examples of failures include, but are not limited to, the following: the backup of sewage into a structure; the connection of an onsite sewage system to any drain tile; liquid level in a septic tank above the inlet invert; liquid level in a treatment unit above that recommended by the manufacturer; structural failure of a septic tank or treatment unit; or water samples documenting contamination of ground water or surface waters caused in whole or in part by the onsite sewage system.

#### **ARTICLE IV**

#### **TECHNOLOGY**

The Technology New to Indiana document, or TNI, is a cumulative listing of additional septic system designs and components approved for application and use by the Indiana State Department of Health. Given the challenging soil types for septic installations in Brown County, the Brown County Health Department will consider approved TNI alternative technologies, when appropriate. The adoption by reference in this section to TNI reflects the commitment of the Brown County Health Department to consider other options as to solve the County's septic challenges, taking into consideration public health and environmental matters.

**Section 401:** The installation of any other residential sewage disposal systems not described in Indiana State Department of Health Bulletin S. E. 11 and Rule 410 IAC 6-8.3 shall be approved by the Brown County Health Officer after plans and specifications bearing the written approval of the Indiana State Department of Health have been received.

#### **ARTICLE V**

#### **INSTALLATION INSPECTIONS**

Inspection of a new installation, or the repair or modification to an existing septic system, is critical to insure that the project is completed in accordance with the plans and specifications of the manufacturer. Brown County Health Department representatives will work with the homeowner and authorized septic contractors to review the progress of each septic project and approve each project when all requirements are met.

**Section 501:** For the purposes of this Ordinance, a Brown County Registered Septic Contractor means a person who has passed the Brown County Health Department's septic test within the

required time frame and has paid the annual contractor's fee for that given year. See Article VI herein.

**Section 502:** The Brown County Health Department has the authority to administer a stop-work order and the Brown County Registered Septic Contractor shall not continue any work until the stop-work order has been lifted.

**Section 503:** A Brown County Registered Septic Contractor must be on site for all inspections, including the final inspection, and as required by the Brown County Health Department.

**Section 504:** The Brown County Registered Septic Contractor will be required to uncover any improperly covered up work to allow proper inspection. Additional soil cover (if required), seeding, and placing straw over the absorption field are the responsibility of the Brown County Registered Septic Contractor and will be required prior to final approval by the Brown County Health Officer or his designated agent.

**Section 505:** The site evaluation may be postponed until the area is cleared based on Rule 410 IAC 6-8.3-74(f), and a re-inspection fee will be incurred. If the ground is disturbed, a new septic site may be required.

**Section 506:** For site evaluations, the septic system must be visibly marked with a flag at the beginning and a flag at the end of each trench or bed, and a flag approximately every 20' along each finger or 30 feet along the upper and lower edge of each bed. The Brown County Registered Septic Contractor must identify the contour of the septic beds or each trench finger sufficiently with flags for the site evaluation.

**Section 507:** At least two (2) inspection ports are required in the subsurface drain for inspection purposes. The inspection ports must be no higher than four (4) feet tall.

**Section 508:** If a property has a gate or other device restricting access, the gate or device must be unlocked for site evaluation(s) and/or inspection(s). If access is denied for any reason, a re-inspection fee will be incurred.

## **ARTICLE VI**

### **REGISTRATION FOR SEPTIC CONTRACTORS**

In an effort to avoid unnecessary and preventable losses and expenses for property owners, contractors and others shall be required to satisfy all requirements for registration as a Brown County Registered Septic Contractor; it being understood that soils conditions and slopes of Brown County can present unique and difficult challenges requiring particular knowledge and expertise.

**Section 601:** Any person engaged in or intending to engage in the installation or repair of onsite sewage (septic) systems within Brown County, Indiana shall submit an application to the Brown County Health Officer to have their name placed on the County Register as an approved contractor. In addition, such person must pay an annual fee prescribed by the Brown County Health Department.

**Section 602:** The applicant must successfully pass a written test of requirements administered by the Brown County Health Department.

**Section 603:** A Brown County Registered Septic Contractor must be adequately insured and provide proper documentation confirming coverage(s) of such at time of license application and annual license renewal. Required coverages include at least \$1,000,000 general liability and

completed operations liability insurance.

**Section 604:** After providing notice of a violation and reasonable opportunity to remediate, the Brown County Health Officer shall remove the name of any person, and his or her firm, from the register of approved persons for the installation, construction, and repair of onsite sewage systems if the person has failed to comply with all rules and requirements of this Ordinance.

The notices and penalties are as follows:

- 1) 1<sup>st</sup> violation within a 12-month period receives a written notice.
- 2) 2<sup>nd</sup> violation within a 12-month period receives a 30-day name removal from the contractors list.
- 3) 3<sup>rd</sup> violation within a 12-month period receives a 3-year name removal from the contractors list. (See Section VI if the contractor/firm wishes to install septic systems after the end of the 3-year violation period.)

Once the contractor/firm's name is removed from the contractors list, no septic work can be performed by the contractor/firm.

**Section 605:** A Brown County Registered Septic Contractor must be certified by the septic system manufacturer to install those systems that specifically require certification by the Indiana State Department of Health. A list of approved septic systems is maintained by the Brown County Health Department.

## ARTICLE VII

### CHANGE-OF-USE INSTALLATION INSPECTIONS

Onsite property inspections are part of mandated procedures for evaluation, compliance, and approvals as set forth in Rule 410 and, specifically Section 6-8.3-51.

**Section 701:** If the property owner or agent of the owner requests an inspection, the Brown County Health Department may require additional information regarding the onsite sewage (septic) system in order to provide an accurate and adequate inspection. If the Brown County Health Department does not have sufficient information on the current septic system on file, the requestor shall hire an on-site inspector (either nationally or state accredited) which includes any Brown County Registered Septic Contractor that wishes to participate to locate the septic system, prepare a drawing of the system and complete and submit a septic system information form to the Brown County Health Department.

**Section 702:** A visual inspection can only take place when a septic system has been used with a minimum of 2,000 gallons of water within the past 30 days.

## ARTICLE VIII

### TOURIST HOMES AND BED & BREAKFASTS

In Brown County, the permitted occupancy of an approved tourist home (also referred to as a guest rental) or a bed & breakfast is a change of use from residential use. When the occupancy is maximized, the septic system will be stressed so the septic system will need to meet the current code of 75 gallons per person on any given day. Reference Article VII (Change of Use)

**Section 801:** If the septic system for a guest rental including, but not limited to tourist homes and bed & breakfasts, does not meet current standards, the septic system must be upgraded to meet or exceed current standards.

**Section 802:** The minimum required size of the onsite sewage system for a proposed tourist home, guest rental, or bed & breakfast shall be determined by the maximum number of guests times the daily design flow of 75 gallons per person per day on any given day.

**Section 803:** For guest rentals, the number of guests will be determined by the sleeping features:

- Twin/cot = 1 person
- Double/queen/king = 2 people
- Sleeper sofa/sleeper loveseat = 2 people.

## **ARTICLE IX**

### **NOTICE OF POSSIBLE VIOLATION**

The Brown County Board of Health relies upon the Brown County Health Department and its officers and agents to communicate with persons affected by this Ordinance.

**Section 901:** Any person found to be in violation of any provision of this Ordinance shall be served by the Brown County Health Department, acting through the duly appointed Health Officer or the Health Officer's agent, with a written order stating the nature of the violation and setting a time limit for satisfactory correction thereof.

## **ARTICLE X**

### **PENALTIES**

In order to insure public health, the Brown County Board of Health has authorized the assessment of penalties, including fines and/or injunctions. These penalties are intended to promote compliance with the requirements of this Ordinance.

**Section 1001:** Any person determined to be in violation of any part of this Ordinance shall be subject to a fine of not more than Five Hundred Dollars (\$500) for the first offense, and for the second offense and each subsequent offense, by a fine of not more than One Thousand Five Hundred Dollars (\$1,500).

**Section 1002:** For purposes of Section 1001, each day after the expiration of the time limit determined by the Brown County Health Department (acting through the duly appointed Brown County Health Officer or his designated agent) for correcting a health hazard relating to a septic system shall constitute a distinct and separate offense.

**Section 1003:** In the event enforcement of this Ordinance requires the enforcing agency to commence litigation and a court finds a violation of this Ordinance, in addition to the fines and penalties and other remedies set forth in this Article, the enforcing agency may also be rewarded any costs associated with the prosecution including, but not limited to, reasonable attorney fees, and the same may become a civil judgment against the violator. The enforcing agency may also be entitled to seek any other legal remedy against any person or firm violating any provision of this Ordinance.

**Section 1004:** In addition to imposing fines, the enforcing agency may seek injunctive relief from any court of competent jurisdiction to abate a public health hazard, nuisance, or violation of this ordinance.

**ARTICLE XI**

**ADMINISTRATIVE APPEAL**

**Section 1101:** Any person who is aggrieved by a decision of the Brown County Health Officer or its agent may submit an appeal to the Brown County Board of Health. The said decision shall be deemed final unless appealed within thirty (30) days. Upon receipt of a written appeal (which contains an explanation of objections to the decision), the Brown County Board of Health shall schedule a hearing to consider the matter no later than its next scheduled public meeting date or sixty (60) days.

**ARTICLE XII**

**VALIDITY**

**Section 1201:** All other county ordinances or parts of such ordinances which are in direct conflict with the provisions of this Ordinance are hereby superseded for purposes of interpreting and enforcing the purposes, intent, and provisions of this Ordinance.

**Section 1202:** The judicial determination of the invalidity or enforceability of any section, clause, sentence, or provision of this Ordinance shall not affect the validity or enforceability of any other part of this Ordinance.

**ARTICLE XIII**

**ORDINANCE IN FORCE**

**Section 1301:** This Ordinance shall be in full force and effect from and after its passage and adoption by the Commissioners of Brown County, State of Indiana.

**Section 1302:** This Ordinance supersedes the Brown County Ordinance #97-875 which is no longer in effect.

**Section 1303:** Passed and adopted by the Commissioners of Brown County, State of Indiana, on this

5<sup>th</sup> day of May, ~~2020~~ 2021

**BOARD OF COMMISSIONERS**

**AYES**

\_\_\_\_\_  
Jerry Pittman, President

Diana Biddle  
\_\_\_\_\_  
Diana Biddle, Vice-President

Chuck Braden  
\_\_\_\_\_  
Chuck Braden, Member

**NAYS**

Jerry Lee Pittman  
\_\_\_\_\_  
Jerry Pittman, President

\_\_\_\_\_  
Diana Biddle, Vice-President

\_\_\_\_\_  
Chuck Braden, Member

**ATTEST:** \_\_\_\_\_

Julia Reeves  
Julia Reeves, Auditor