

Health Board Approved Septic Ordinance _____, 2019

SEPTIC ORDINANCE FOR BROWN COUNTY, INDIANA

(Revised July 8, 2019 @ full Committee meeting)

(New date)

RESOLUTION

It is the desire of the Brown County Board of Health to replace Ordinance No. 97-875 regarding the construction, maintenance, inspection, and operation of onsite sewage systems (also referred to as septic systems) to include all areas throughout Brown County, Indiana. Accordingly, it is hereby resolved by the Brown County Commissioners that Ordinance No. 97-875 be 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 amendments, repeals, and replacements to the statutes and regulations as the same are published in the Indiana Administrative Code, with effective dates as fixed herein. 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

DEFINITIONS

For purposes of this Ordinance, the following definitions shall apply:

Section 101: "Bedroom" means any room that could be occupied for the purpose of sleeping and contains:

- a) An area of seventy (70) square feet or more;
- b) At least one (1) operable window or exterior door for emergency egress or rescue; and
- c) For new construction, a closet or a loft.

Section 102: "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 VII herein.

Section 103: "Landscape Modification" means any excavation or alteration of landscape within or adjacent to an onsite sewage system area.

Section 104: "Residential onsite sewage system failure" means a residential onsite sewage system that exhibits one (1) or more of the following:

- (a) The onsite sewage system refuses to accept sewage at the rate of design application thereby interfering with normal use of residential plumbing fixtures;
- (b) Effluent discharge exceeds the absorption capacity of the soil, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters; or
- (c) Effluent is discharged from the onsite sewage system causing contamination of a potable water supply, ground water, or surface waters.

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 II

PERMITS

Installation of new onsite sewage systems, and repairs, or modifications to existing systems, require a permit issued by the Brown County Health Officer or the Health Officer's agent. 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 201: The property owner or agent of the owner shall first obtain a written permit signed by the Brown County Health Officer or the Health Officer's agent prior to construction of any building or private residence in which an onsite sewage system is required. After submittal of plans, specifications, and other information, the plans shall be reviewed prior to issuance of a permit. A permit must be paid for at the time the application is approved by the Brown County Health Officer or the Health Officer's agent.

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. See Section 304.

Section 203: The permit shall be posted in a conspicuous place at or near the construction site. The notice 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 the Health Officer's agent.

Section 204: 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 septic permit must be obtained from the Brown County Health Department.

Section 205: 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 III

INSTALLATION

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

Section 301: For new residential construction, major repairs, and replacements, all tanks must be a minimum of 1,250 gallon seamless poly tanks with risers, locking lids, and alarms.

Section 302: 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 or the Health Officer's agent will not be approved.

Section 303: For each dwelling, five hundred (500) square feet of subsurface absorption field for each bedroom and bedroom equivalents, 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 or the Health Officer's agent as a result of the Soil Evaluation Report.

Section 304: 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. A newly-constructed dwelling cannot be occupied until the septic permit is signed and an occupancy permit has been issued.

Section 305: 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 306: All trench systems shall 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 307: 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 309.

Section 308: Speed levelers are not required on sand-lined systems if the distribution box is used only as a velocity reducer.

Section 309: Buildings, foundations, slabs, garages, patios, barns, outbuildings, aboveground 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 absorption fields if located down slope from the absorption field without a perimeter drain.

Section 310: 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 311: A perimeter drain is required on all four (4) sides on all sand-lined systems and sand mounds unless a change is approved by the Brown County Health Officer or the Health Officer's agent prior to installation.

Section 312: 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 313: The distance of a subsurface drain must be a minimum of ten (10) feet from absorption field, and no greater than fifteen (15) feet.

ARTICLE IV

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 or the Health Officer's agent 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 401: Prior to any Landscape Modification, room addition, or the installation, major modification, repair or replacement of a driveway, barn, shed, swimming pool, etc., the property owner shall obtain a septic record or septic locate approved by the Brown County Health Officer or the Health Officer's agent to ensure there are no encroachments on or into the onsite sewage system area. Any changes from the septic record or septic location must comply with Article III herein.

Section 402: When soil absorption field replacement is required and no other site is available, a sand-lined system 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. Further, a Brown County Registered Septic Contractor must do all of the following:

- Use a licensed septic tank cleaner to pump all contents from the septic tank and all distribution boxes in the onsite sewage system;
- Allow sufficient time after the onsite sewage system is taken out of service to make sure the entire soil absorption system is completely dry;
- Remove the distribution network, aggregate, and sand (if any) from the site;
- Dispose of the materials at a licensed landfill and provide bona-fide receipts of such disposal to the Brown County Health Department;
- Loosen the soil in smeared areas, such as trench walls and bottoms;
- Add Spec 23 sand up to original contour of the land; and
- Begin sand-lined beds as stated in the manufacturer's manual.

ARTICLE V

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 501: The installation of any other residential sewage disposal system 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 or the Health Officer's agent after plans and specifications bearing the written approval of the Indiana State Department of Health have been received.

ARTICLE VI

INSTALLATION INSPECTIONS

Inspection of a new installation or repair or modifications to existing septic systems is critical to insure that construction is completed in accordance with the plans and specifications of the manufacturers. Brown County Health Department representatives will work with the homeowner and authorized Brown County Registered Septic Contractor to review the progress of each septic project and approve each project when all requirements are met.

Section 601: 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 602: A Brown County Registered Septic Contractor must be on site throughout the installation process.

Section 603: 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 the Health Officer's agent.

Section 604: The site evaluation may be postponed until the area is cleared based on 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 605: 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 606: 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 607: If a property has a gate or other device restricting access, the gate or device must be unlocked for site evaluation(s). If access is denied for any reason, a re-inspection fee will be incurred.

ARTICLE VII

REGISTRATION FOR SEPTIC INSTALLERS

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

Section 701: 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 or the Health Officer's agent to have their name placed on the County Register. In addition, such person must pay an annual fee prescribed by the Brown County Health Department.

Section 702: The applicant must successfully pass a written test of requirements administered by the Brown County Health Department. The test shall be maintained in the Brown County Health Department's Policies and Procedures Manual.

Section 703: 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. All Brown County Registered Septic Contractors shall carry no less than \$1,000,000 general liability and completed operations liability insurance.

Section 704: The Brown County Health Officer or the Health Officer's agent may remove the name of any person or firm from the register of approved persons for the installation, construction, and repair of onsite sewage systems if the person fails to comply with all rules and requirements of this Ordinance.

Section 705: 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 onsite sewerage (septic) systems is maintained by the Brown County Health Department.

ARTICLE VIII

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 801: The Brown County Health Officer or the Health Officer's agent bearing proper credentials (Brown County Health Department issued identification badge), shall be permitted to enter upon all properties for purposes of inspection, observation, measurements, sampling, and testing necessary to carry out the provisions of this Ordinance.

Section 802: 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 must hire a Brown County Registered Septic Contractor to locate the septic system, prepare a drawing of the system and complete and submit a septic system information form.

Section 803: 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 IX

TOURIST HOMES, GUEST RENTALS, AND BED & BREAKFASTS

In Brown County, the permitted occupancy of an approved tourist home, guest rental, or bed & breakfast is often higher than the number of bedrooms or the typical occupancy for a standard single family dwelling. To address the greater strain on the onsite sewage system due to the higher occupancy, in such instances, increased requirements for initial septic inspection and overall system sizing are both necessary and appropriate.

Section 901: 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 902: The 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 903: 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 X

NOTICES

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 1001: Any person found to be violating any provisions of this Ordinance may be served by the Brown County Health Department, acting through the duly appointed Brown County 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 XI

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 1101: 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 1102: For purposes of Section 1101, 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 the Health Officer's agent, for correcting a health hazard relating to a septic system shall constitute a distinct and separate offense.

Section 1103: 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's 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 1104: 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 XII

ADMINISTRATIVE APPEALS

Section 1201: Any person who is aggrieved by a decision of the Brown County Health Officer or the Health Officer's agent based upon this Ordinance shall submit an appeal within fifteen (15) days to the Brown County Board of Health. 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 XIII

VALIDITY

Section 1301: 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 provisions of this Ordinance.

Section 1302: The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

ARTICLE XIV

AMENDED ORDINANCE IN FORCE

Section 1401: This Ordinance shall be in full force and effect from and after its passage, approval, recording of this resolution as provided by law.

Section 1402: This Ordinance supersedes the Brown County Indiana Ordinance #97-875 which is no longer in effect.

Section 1403: Passed and adopted by the Commissioners of Brown County, State of Indiana, on this _____ day of _____, 2019.