

ORDINANCE NO _____

**AN ORDINANCE OF BROWN COUNTY, INDIANA TO ESTABLISH A SEPTIC
ORDINANCE**

WHEREAS, the Brown County Commissioners passed to repeal the Septic Ordinance for Brown County Indiana No. #05-05-2021-0002 on September 4, 2024.

WHEREAS, Brown County Commissioners intend to adopt the State of Indiana's Septic Ordinance #4-10-IAC-6-8.3.

NOW THEREFORE, BE IT ORDAINED by the County Health Board, County Commissioners of Brown County, Indiana, as follows:

**Brown County
On-Site Sewage System Ordinance**

Section 1. This Ordinance and all Ordinances supplemental or amended hereto shall be known as the Brown County On-site Sewage Systems Ordinance and may be cited as such and will be referred to herein as this Ordinance. This Ordinance will effectively repeal any recorded Ordinance and any amendments thereto.

Section 2. The purpose of this Ordinance is to provide minimum standards for the prevention and suppression of disease and health risks associated with the use of on-site sewage systems and to otherwise promote public safety and welfare and protection of the environment.

Section 3. This Ordinance regulates the location, installation, construction, maintenance, reconnection, replacement, alteration, and repair of all residential and commercial on-site sewage systems in Brown County, Indiana. It also provides for the administration and enforcement of the provisions contained herein, and affixes penalties for violation.

Section 4. This Ordinance incorporates by reference the Indiana Department of Health Rules 410 IAC 6-8.3 Residential On-site Sewage Systems, et.seq., 410 IAC 6-10.1 Commercial On-site Sewage Systems, et seq., and Bulletin S.E.11 The Sanitary Vault Privy, 2021 Edition, et.seq.

Be it ordained by the Brown County Health Department Board of Health, and the Brown County Board of Commissioners Brown County, State of Indiana, that:

Section A: Authority

The Brown 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.

Section B: Definitions

1. Construction, New means

- a. Construction of a new home, residential out building, or commercial facility where there previously was no home, outbuilding, or commercial facility; or
- b. 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 on new construction)

2. Construction, Repair/Replacement means:

Repair or replacement of a residential on-site sewage system for an existing home, residential outbuilding, commercial facility or the rebuilding or remodeling of an existing home, out building, 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 judgement of the Brown County Health Department may be used, when necessary and appropriate, for the repair or replacement of a failing residential on-site sewage system.

3. "On-site sewage system malfunction" or "Malfunction" means:

A residential or commercial on-site sewage system component 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:

- a. The backup of sewage into an upstream on-site sewage system component.
- b. The liquid in a septic tank consistently above the invert of the septic tank outlet;
- c. An outlet filter that is plugged sufficiently to cause backup in the septic tank;
- d. The liquid level in a dosing tank above the invert of the dosing tank inlet;
- e. The liquid level in a treatment unit above that recommended by the manufacturer;
- f. The liquid in a distribution box consistently above the invert of the outlets or a distribution box that does not provide equal distribution;
- g. Structural failure of a septic tank, dosing tank, treatment unit, distribution box or other required component;
- h. Electrical failure of a float or transducer, an effluent pump, alarm, or other electrical component of an on-site sewage system;
- i. Removal of an outlet filter, pump or other component was required in the construction or operating permit.

4. Installer means

An individual who performs any work in furtherance of construction, installation, alteration, repair, or abandonment of any residential or commercial on-site sewage system in Brown County, State of Indiana.

5. 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 wind, fire, or other natural disaster, or due to condemnation of a dwelling.

6. Voluntary means

an owner's intentional or deliberate action to construct, modify, or improve a dwelling or residential out-building or increase the design daily flow of a structure.

Section C: Required On-site Sewage System or Connection to Sanitary Sewer

1. All persons owning, leasing, or otherwise occupying property that has a residence, residential outbuilding or commercial facility with plumbing not connected to a sanitary sewer shall comply with the requirements of Rules 410 IAC 6-8.3 et. seq., 410 IAC 6-10.1 et. seq., and/or Bulletin S.E. 11, as applicable, and the provisions of this ordinance for an on-site sewage system.
2. 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 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.

Section D: Installer Registration

1. All on-site sewage system installers in Brown County shall abide by all associated requirements in state statutes, rules, and this ordinance regarding on-site sewage systems.
2. An installer must register with Brown County Health Department if they wish to install, replace, alter, repair, or abandon any residential or commercial on-site sewage system in Brown County, Indiana. Registration requires:
 - a. Applying to Brown County Health Department for registration on a form provided by the department.
 - b. Paying the appropriate registration fee as required in the Brown County Health Department Fee Ordinance; and
 - c. Providing proof of certification by;
3. Passing an examination offered by the Brown County Health Department or another entity approved by the Brown County Health Department

4. Providing proof of
 - a. Current, valid registration in another Indiana County.
 - b. Providing proof of one or more certificates issued from the manufacturer for the type of system(s) to be installed.
 - c. Providing proof of membership in good standing with IOWPA.
5. Registration is valid from January 1 to December 31 of the same year and must be renewed annually. Proof of continued registration in another county and/or certification is required from renewal of registration.
6. Certification must be maintained throughout the period of registration. A lapse of certification will render the registration with Brown County Health Department invalid.
7. A certification examination will be offered no less than monthly by the Brown County Health Department.
 - a. The examination will consist of a test with 65 questions, all of which will be true/false or multiple choice.
 - b. A score of eighty percent (80%) or above on said test is considered passing.
 - c. A retest will be allowed for anyone failing the examination not more frequently than once per week.
8. 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.
9. 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 revocation of registration or denial of registration renewal. Any registration revocation or denial of registration renewal may be appealed to the Brown County Board of Health.
 - a. The period of revocation shall be no less than ninety (90) days, or a time deemed appropriate by the Brown County Health Officer; and
 - b. The registered individual shall be advised in writing on the basis of the revocation, the right and procedure for appeal and the opportunity for a hearing.

Section E: Sewage Holding Tanks

1. A sewage holding tank is an alternative method of sewage disposal in accordance with IC 16-41-25-9.
2. An application for a sewage holding tank must be filed by the property owner or property owner's agent including;
 - a. An application form provided by the Brown County Health Department;
 - b. A construction plan of sufficient clarity to show compliance with this ordinance;
 - c. A copy of written contract with an operator of a septage management vehicle providing for the removal of septage at regular intervals;
 - d. A written statement, signed by the property owner, indicating that copies of all receipts and other records as requested be submitted to the local health department within thirty (30) days of service; and
 - e. For commercial sites where IDOH has completed a plan review and given approval for a commercial holding tank, a copy of the written approval from IDOH.
3. All sewage holding tanks shall have a minimum capacity of :
 - a. For holding tanks that are permitted as septic and/or dosing tanks and planned to precede a soil absorption field, the minimum capacity as determined by Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10.1 for septic and/or dosing tanks.
 - b. For permanent holding tanks, the greater of one thousand (1,000) gallons; or at least three (3) times the design daily flow of the home or commercial structure as determined by Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10.1.
 - c. Have a capacity of no more than 10,000 gallons.
4. A sewage holding tank shall meet all separation distances required for septic tanks in Rules 410 IAC 6-8.3 and 410 IAC 6-10.1.
5. A sewage holding tank shall meet all construction requirements of septic tanks in Rules 410 IAC 6-8.3 and 410 IAC 6-10.1.
6. 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 any riser to the surface.

7. A construction permit issued by the Brown County Health Department is required prior to the installation of the holding tank or sewer.
8. A sewer, meeting the requirements for a residential sewer in Rule 410 IAC 6-8.3 or the requirements for a building sewer in Rule 410 IAC 6-10.1 shall be used to make a direct connection between the plumbing or the structure and the holding tank.
9. All sewage holding tanks installed in Brown County shall have:
 - a. An installation inspection to confirm proper installation and to confirm the outlet of the last tank has been appropriately sealed prior to backfilling; and
 - b. The alarm wired in and verified operational.
10. All holding tanks shall be required to have an operating permit issued by the Brown County Health Department.
 - a. 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.
 - b. An operating permit for a sewage holding tank shall be valid for a period of two (2) years from the date of issuance.
 - c. Prior to operating permit renewal, 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 Brown County Health Department prior to renewal.
 - d. An operating permit shall be renewed prior to, or within ten (10) days of, expiration.
 - e. An operating permit fee as stated in the Brown County Health Department Fee Ordinance shall be due at the time of operating permit renewal.
11. 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 Brown County Health Department within thirty (30) days of the service provided.
12. 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 I of this ordinance, permit revocation, and/or denial of operating permit renewal.

13. 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 Brown County Health Department may require the residence, residential outbuilding, or commercial facility to:
 - a. 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
 - b. Install to an existing on-site sewage system with a soil absorption field that has not failed in compliance with Rule 410 IAC 6-8.3 or Rule 410 IAC 6-10.1
14. 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.

Section F: General Requirements for on-site sewage systems

1. An on-site sewage system construction permit issued by the Brown County Health 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.
2. On-site Sewage System Soil Evaluation
 - a. An on-site soil evaluation is required, as described in Rule 410 IAC 6-8.3 or Rule 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.
 - b. 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 Brown County Health Department may request additional soil borings or soil pits if deemed necessary by the Brown County Health Officer.

- c. 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 Brown County Health Department by the soil scientist.
- 3. All distribution boxes shall be stabilized so as to prevent movement during installation and operation.

Section G: Connection or Reconnection to an Existing On-Site Sewage System

1. An existing residential or commercial on-site sewage system may be considered for connection or reconnection to a new or replacement dwelling, residential building, or commercial facility if:
 - a. The system is inspected by an installer registered with the Brown County Health 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;
 - b. Or Either:
 - i. The original system installation was permitted through the Brown County Health Department; or
 - ii. The original system was not permitted through the Brown County Health 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.
 - iv. If the connection or reconnection is due to involuntary events, the Brown County Health Department may utilize their best judgment for the soil absorption field when approving a connection or reconnection to an existing system.
 - v. If the connection or reconnection is due to the 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.
2. All commercial facilities wanting to connect or reconnect to an existing on-site sewage system must have written approval from the Indiana Department of Health.
3. 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.

Section H: Enforcement

1. Whenever the Health Officer determines there are reasonable grounds to believe that there has been a violation of this Ordinance, Rule 410 IAC 6-8.3, or Rule 410 IAC 6-10.1 the Brown County Health Officer shall issue a Notice of Violation to the person or persons responsible, as hereafter provided. Such notice shall:
 - a. Indicate the date and location of the violation.
 - b. Clearly indicate the nature of the violation and the related Ordinance, statute, and/or rule citation.
 - c. Allow a reasonable time for the performance of necessary remediation.
 - d. Be properly served upon the person(s) responsible. Proper service shall include any of the following:
 - i. Sent to the person directly via first class mail:
 - ii. Sent by certified mail to the last known mailing address of the person:
 - iii. Posted in a conspicuous place in or about the property affected by the notice; or
 - iv. Other method of service authorized or required under the laws of this state.
2. After receiving an order in writing from the Brown 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 I of this ordinance.
3. The Brown County Health Officer may compel an immediate stop work order of the work completed, in progress, or planned, which is in violation of any provision(s) of this ordinance. Such stop work order shall:
 - a. Result in immediate suspension of all work at the worksite; and
 - b. 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.

- c. Failure to comply with such stop work order shall constitute a violation of this ordinance and the violator shall be subject to the penalties as prescribed in Section I of this ordinance.
4. Whenever the Brown County Health Officer finds that an emergency exists which requires immediate action to protect public health, the Brown 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 Health Officer deems necessary. Notwithstanding the other provisions of this ordinance, Rule 410 IAC 6-8.3, Rule 410 IAC 6-10.1, and Bulletin S.E. 11, such order shall be effective immediately.
5. Any person to whom such an emergency order is directed shall comply therewith immediately, but upon petition to the Brown County Health Officer, shall be afforded a hearing, as soon as possible in the manner provided in Section J.

Section I: Penalties

1. Any person, firm, or entity found to be in violation of any provision of this Ordinance and/or rule shall be fined not more than twenty-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 Brown County Health Department shall constitute a distinct and separate offense.
2. The Brown County Health Department shall also be entitled to seek any other legal remedy available against any person who shall violate any provision of this ordinance and/or rule.
3. The Brown County Health Department shall be entitled to seek all legal fees incurred during enforcement of this ordinance and/or rule.
4. The penalties provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

Section J: Procedure for Appeal

1. Appeals may be filed with the Brown County Health Board of Health for any of the following decisions or actions taken by the Brown County Health Officer:
 - a. Denial of a permit to install, construct, reconnect, replace, alter, or repair an on-site sewage system, holding tank, or sanitary vault privy;
 - b. Revocation of a permit;
 - c. The issuance of a notice of violations, a stop work order, or an emergency order as prescribed in Section H of this ordinance;
 - d. Registration revocation, or duration of revocation, or denial of registrations renewal as prescribed in Section D or
 - e. A penalty as prescribed in Section I.
2. Any person(s) filing such appeal shall be granted a hearing on the matter before the Brown County Health Board. The request shall be in writing and received at the office of the Brown County Health Department within ten (10) calendar days of the receipt of the notice. If a request for a hearing is not received within the ten (10) calendar days, the decision or action shall stand.
3. Such request shall briefly state the reasons for the requested hearing. Upon receipt of a request for a hearing, the Brown County Health Officer shall arrange a time and a place for such hearing and shall give the petitioner written notice thereof.
4. Such hearing shall be held as soon as practicable after receipt of the request in compliance with IC 5-14-1.5-5 (Open Door Law).
5. 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 Health Officer shall be given time to explain the circumstances of the decision and/or action.
6. The proceedings at such hearing, including the findings and decision of the Brown 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 Brown 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.

Section K: Remedies

1. 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 Health Officer or an appeal against the decision and/or action has been sustained by the Health Board, the Health Officer may, through the office of the Brown County attorney, or an attorney representing the Health Department, institute proceedings in the judicial court district wherein the offense occurs for enforcement by prohibitory or mandatory injunction to restrain any person from violation the provisions of this ordinance.

Section L: Fee Schedule

1. All applicable fees as set forth in the Brown County Health Department Fee Ordinance and any amendments or revisions hereafter, shall be made payable to the Brown County Health Department.

Section M: Conflict of Ordinance and Severability

1. In any case where a provision of this ordinance is found to be in conflict with a provision of any code of Brown County, Indiana, 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 code of Brown County, Indiana, 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.
2. In any section, subsection, paragraph, sentence, clause, or phrase of this ordinance should be declared invalid for any reason whatsoever, such decisions 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.