

Trempealeau County Sanitary and Private Sewage System Ordinance

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INTRODUCTION

1.01 STATUTORY AUTHORITY.

This ordinance is adopted pursuant to the authorization in §59.70(1), 59.70(5), 145.04, 145.19, 145.20, 145.245 Wisconsin Statutes.

1.02 PURPOSE.

This ordinance is adopted to promote and protect public health and safety by assuring the proper siting, design, installation, inspection and management of private sewage systems and non-plumbing sanitation systems.

1.03 REPEAL AND EFFECTIVE DATE.

This ordinance shall take effect upon the date of its adoption and publication as required by law. All prior County ordinances pertaining to sanitary regulations shall by operation of law be repealed and replaced by this ordinance.

1.04 SEVERABILITY AND LIABILITY.

Should any section, clause, provision or portion of this ordinance be adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

This ordinance shall not create a liability on the part of or a cause of action against the County or any employee thereof for any private sewage system which may not function as designed. There shall be no liability or warranty for any site which is approved or denied. The issuance of a sanitary permit and the final inspection of such a system does not warrant the system's function, nor is there a guarantee that the system is free of defects or that all aspects of the system comply to Wisconsin Statute or Administrative Code requirements.

1.05 INTERPRETATIONS.

The provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes and related administrative codes.

1.06 DEFINITIONS.

The following terms shall have the meanings indicated in this section.

Abandonment. The act of physically closing and relinquishing continued use of an existing private sewage system in a manner which is in compliance with all applicable state and county laws, ordinances, rules and regulations pertaining to failing or abandoned systems. The said act may include but is not necessarily limited to disconnecting all piping, pumping and disposing of the contents of all tanks and pits and removing all tanks and or filling the tanks or pits with soil, gravel or an inert solid material.

Buildings. See Structure.

Combined Parcel Restrictive Covenant. A restrictive covenant recorded by the owner or his or her agent against the title to adjoining parcels of real estate, attesting that the said parcels are used in conjunction with one another for one principal use and that, for purposes of compliance with this ordinance, neither will the owner or occupant establish separate uses for the parcels in question nor legally convey one without the other parcel and in that manner establish separate uses for the parcels.

Conventional Private Sewage System. A private sewage system consisting of a septic tank and an in-ground soil absorption component with gravity distribution of effluent.

County. Trempealeau County.

County Sanitary Permit. A permit issued by the County for the reconnection or for the installation of a non-plumbing sanitation system, pursuant to §59.70 and 145.04, Wisconsin Statutes.

Department. The county office responsible for the regulation of private sewage systems within the county.

Domestic Wastewater. Any type of wastewater, not including storm water, normally discharged from or similar to that discharged from plumbing fixtures, appliances and devices including but not limited to sanitary, bath, laundry, dishwashing, garbage disposal and cleaning wastewaters.

Failing Private Sewage System. "Failing private sewage system" has the meaning specified under §145.245(4), Wisconsin Statutes.

Note: Section 145.245 (4) reads:

"Failing private sewage system" means a private sewage system which causes or results in any of the following conditions:

- (a) The discharge of sewage in to surface water or groundwater.

- (b) The introduction of sewage into zones of saturation which adversely affects the operation of a private sewage system.
- (c) The discharge of sewage to a drain tile or into zones of bedrock.
- (d) The discharge of sewage to the surface of the ground.
- (e) The failure to accept sewage discharges and backup of sewage into the structure served by the private sewage system.

Human Habitation. The act of occupying a structure as a place of residence by one or more persons, whether on an intermittent or ongoing basis.

Modification in Wastewater Flow or Contaminant Load. A modification in wastewater flow or contaminant load shall be considered to occur:

In public buildings, facilities or places of employment, when there is a proposed change in occupancy of the structure; or the proposed modification affects either the type or number of plumbing appliances, fixtures or devices discharging to the system; and

In dwellings, when there is an increase or decrease in the number of bedrooms.

Non-plumbing Sanitation System. Sanitation systems and devices within the scope of Comm 91, Wisconsin Administrative Code, which are alternatives to water carried waste plumbing fixtures and drain systems; including, but not limited to, incinerating toilets, composting toilets and privies.

Occupancy. The state of putting a structure to use as a place of human habitation or for other purposes associated with human activities.

Plumber. A person licensed by the State as a Master Plumber or Master Plumber-Restricted Services.

Portable Restroom. A self-contained portable unit that includes fixtures, incorporating holding tank facilities, designed to contain human excrement.

Premises. Real estate other than that portion of a parcel of land occupied by a structure, whose use involves human activities occasioning the need for installation and use of a private sanitary system.

Private Sanitary Systems: Includes private sewage systems and non-plumbing sanitary systems.

Private Sewage System. Also referred to as a "Private On-Site Wastewater Treatment System" or "POWTS", has the meaning given under s. 145.01(12), Wis. Stats.

Privy. An enclosed nonportable toilet into which nonwater-carried human wastes are deposited.

Privy-Pit. A privy with a subsurface storage chamber which is not watertight.

Privy-Vault. A privy with a subsurface storage chamber that is watertight.

Rebuilt. The construction which takes place after a structure is demolished or damaged to the extent of fifty percent (50%) of its current equalized assessed value.

Restrictive Covenant. An instrument recorded against the title of real estate served by a private sewage system which system serves a lot other than the lot on which it is situated; or which instrument relates to use of a holding tank for private sewage disposal purposes. Such a covenant shall create certain rights and expectations as to the use of such systems in favor of the County which may seek to enforce those restrictions. The restrictions identified therein shall be deemed to run with the land until such time as the system in question is brought into compliance with all applicable regulations or until waived by the County.

Sanitary Permit. The term "sanitary permit", as used in this ordinance shall mean a County Sanitary Permit, a State Sanitary Permit or both.

Septic Tank. An anaerobic treatment tank.

Soil and Site Evaluation Application. An application submitted for the purpose of requesting county verification of a Soil and Site Evaluation Report.

State. The State of Wisconsin.

State Sanitary Permit. A permit issued by the County for the installation or modification of a private sewage system, pursuant to §145.135 and 145.19, Wisconsin Statutes.

Structure. Anything constructed or erected, the use of which requires a location in or on the premises, or any other attachment to something having a permanent location on the ground, which includes, but is not limited to, objects such as buildings, factories, sheds and cabins, mobile homes, gas or liquid storage tanks, bridges, culverts, decks, satellite dishes or swimming pools. Also included are items of personal property that may have been designed as transportable or as a vehicle, but stand in a seasonal or permanent location for storage or intermittent human habitation, whether or not they are permanently affixed to the ground or placed on a foundation. Such incidental structures may include (but are not limited to) truck campers, travel trailers, park or model units, buses, and motor homes.

GENERAL REQUIREMENTS

2.07 COMPLIANCE.

- (1) All structures or premises in the County that are permanently or intermittently intended for occupancy, which are not serviced by a public sewer, shall have a system for holding or treatment and dispersal of sewage and wastewater which complies with the provisions of this ordinance.
- (2) The private sewage system or non-plumbing sanitation system for newly constructed structures or structures requiring a Reconnection Permit shall be installed, inspected, and approved before the structure may be occupied.

2.08 INCORPORATION OF PROVISIONS BY REFERENCE.

This ordinance incorporates by reference the following rules, regulations, and laws, as set forth in the Wisconsin Statutes and the Wisconsin Administrative Code governing the location, construction, and use of private sewage systems: §59.70(5), Chs. 145, 281.48 and 968.10, Wisconsin Statutes; Chs. Wis. Adm. Code § Comm 52.63, Comm 81, Comm 82, Comm 83, Comm 84, Comm 85, Comm 86, Comm 87, Comm 91, NR 113 and NR 116 Wisconsin Administrative Code. These rules, regulations, and laws shall apply until amended or renumbered and then shall apply as amended or renumbered.

2.09 APPLICABILITY.

This ordinance shall apply throughout the County, inclusive of all incorporated or unincorporated areas.

2.10 LIMITATIONS

- (1) All domestic wastewater shall be disposed of in a private sewage system unless specifically exempted by the State or under this ordinance.
- (2) A non-plumbing sanitation system may be permitted only when the structure or premises served by the non-plumbing sanitation system is not provided with an indoor plumbing system. If plumbing is installed in the structure or water under pressure is supplied to the structure, an acceptable method of sewage disposal other than a non-plumbing sanitation system must be provided.
- (3) Any private sewage system, or portion(s) thereof, installed within a floodplain shall comply with all applicable requirements of NR 116, Wisconsin Administrative Code, and County ordinances, including but not limited to Floodplain Zoning.

- (4) Installation of a holding tank is prohibited if any other type of private sewage system permitted by Comm 83, Wisconsin Administrative Code, may be utilized. Any other type of private sewage system shall be construed to mean conventional, in-ground pressure, at grade or mound system.

A sanitary permit for the installation of a holding tank, or which designates a holding tank as a replacement system, shall not be issued unless a Soil and Site Evaluation determines that the property is unsuitable for any other type of system permitted by Comm 83, Wisconsin Administrative Code, except as provided in (a) or (b) below.

- (a) A temporary holding tank may be installed if a public sewer, approved by the Department of Natural Resources, will be installed to serve the property within 2 years of the date of sanitary permit issuance. In addition to items required in §3.14, an application for a sanitary permit to install a temporary holding tank shall include written statements from:
1. The municipality or sanitary district, verifying the date by which it is projected that a public sewer will be installed;
 2. The Department of Natural Resources, verifying approval of the public sewer; and
 3. The property owner, agreeing to connect to public sewer when it becomes available and to abandon the temporary holding tank at that time.

If public sewer does not become available within 2 years of the date of sanitary permit issuance, the holding tank shall be replaced with another type of system recognized by Comm 83, Wisconsin Administrative Code.

- (b) *A temporary holding tank may be installed to facilitate data collection of actual wastewater flow volumes for purposes of system sizing. Temporary holding tank sizing shall be determined by applicable State and County codes and regulations. In addition to items required in §3.14, an application for a sanitary permit to install a holding tank to serve a temporary use for data collection shall include a written statement from:*

1. *The property owner, agreeing to install another type of system if available as per §2.10(4) and approved under Comm 83, within two years.*

- (5) When a failing private sewage system is identified, it shall be brought into compliance with the then current code requirements, replaced with a code compliant system or its use discontinued, whichever action is required in the opinion of the Department in order to cause the private sewage system serving the premises or structure in question to comply with all of the requirements of this ordinance. Such action as is required to be taken shall be accomplished within that period of time required by County order.

2.11 ABANDONMENT OF PRIVATE SEWAGE SYSTEMS

- (1) When public sewers approved by the Department of Natural Resources become available to the structure or premises served, the private sewage system shall be disconnected within three years of the date on which public sewers are made available to serve the property in question and a connection made to the public sewer. Determination of whether sewer is available shall be made by the local sewer service entity.

Abandonment of the disconnected private sewage system shall be done in accordance with the provisions of Comm 83, Wisconsin Administrative Code.

- (2) The components of an existing private sewage system that are not part of the approved design of a replacement system shall be abandoned at the time of the installation of the replacement system by the plumber installing the system. The abandonment shall comply with Comm 83, Wisconsin Administrative Code.

PERMITS AND APPLICATIONS

3.12 SOIL AND SITE EVALUATION.

- (1) Soil and site evaluations shall be done prior to the issuance of permits as specified in Comm 83, Comm 85 and Comm 91, Wisconsin Administrative Code.
- (2) Soil test pits shall be constructed in such a manner as will afford to inspectors adequate visual observation of the soil profile in its natural

position. It is recommended that this may best be accomplished through excavation of backhoe pits.

- (3) County verification of a Soil and Site Evaluation Report may be necessary to determine the suitability of a lot for a private sewage system. This verification shall be made at the discretion of the Department or designee and shall be made prior to the issuance of the sanitary permit. This verification will result in one of the following:
 - (a) Issuance of the permit, provided all information on the application is correct and complete.
 - (b) Establishment of a file indicating site suitability.
 - (c) Holding the application pending clarification of information or new information by the owner, the plumber, or the certified soil tester.
 - (d) Denial of the permit if the site does not meet all the provisions of this ordinance and appropriate Wisconsin Statutes and Administrative Codes
- (4) A certified soil tester may request County verification of a Soil and Site Evaluation Report before a complete sanitary permit application is submitted. Application for this verification shall include all information required in §3.14(1)(a - e) on forms provided by the County, the original copy of the Soil and Site Evaluation Report and as many copies as are required by the County.

3.13 SANITARY PERMITS.

- (1) Every private sewage system shall require a separate application and sanitary permit.
- (2) A sanitary permit shall be obtained by the property owner, his agent or contractor, in the name of the property owner, prior to the installation, establishment or construction of any structure which requires a private sewage system or non-plumbing sanitation system. Any property owner, his agent or contractor, who starts construction prior to obtaining a sanitary permit is in violation and may be subject to citation or other enforcement action.
- (3) A sanitary permit shall be obtained by the property owner, his agent or contractor, in the name of the property owner, before any private sewage system or part thereof may be installed, replaced, reconnected or modified. A sanitary permit is not required for the addition of manhole risers or for the replacement of manhole covers, manhole

risers, baffles, filters or pumps.

- (4) A County Sanitary Permit shall be obtained prior to constructing or installing a non-plumbing sanitation system.
- (5) If any part of a private sewage system has failed or requires replacement or modification, the entire system shall be evaluated by a certified soil tester or plumber for code compliance prior to sanitary permit issuance. Such an evaluation shall include a soil and site evaluation for those components that utilize in situ soil for treatment or dispersal except for systems for which a valid Soil and Site Evaluation Report is on file with the county.

If any part of the system is found to be defective or not in conformance with the applicable provisions of this ordinance, the sanitary permit application shall include specifications for the repair, renovation, replacement or removal of that part.

3.14 APPLICATION REQUIREMENTS.

- (1) A sanitary permit application shall contain the following information which shall be provided by the applicant on forms required for that purpose by the state or county and which application form shall be submitted to the County together with all applicable fees:
 - (a) Names and addresses of the applicant (owner of the site) and the plumber employed (when applicable).
 - (b) Legal description of the subject site and the parcel identification or parcel number.
 - (c) All lot dimensions.
 - (d) Building use (single family, duplex, etc.).
 - (e) Soil and Site Evaluation report.
 - (f) System plans (see §3.15).
 - (g) Appropriate agreements and contracts for system management and maintenance.
 - (h) Copies of any instrument required in §3.14(4) and verification that they have been recorded.
 - (i) Any other information required by the County, including verification of compliance with §6.38(11) of this ordinance.

- (2) When any official State action is required prior to the issuance of a sanitary permit, an original copy of the official action shall accompany the application.
- (3) Pit privy permit applications shall be accompanied by soil data provided by a Certified Soil Tester to determine compliance with Comm 91, Wisconsin Administrative Code.
- (4) The following instruments must be recorded with the Trempealeau County Register of Deeds prior to sanitary permit issuance:
 - a) Evidence of maintenance agreements or contracts, if recording is required by Comm 83, Wisconsin Administrative Code, or §5.36 of this ordinance.
 - b) If a private sewage system, or parts thereof, are located on a different parcel than the structure served, an appropriate easement or covenant against title must be recorded.
 - c) If a private sewage system serves more than one structure under different ownership, an instrument identifying all parties that have ownership rights and are responsible for the operation and maintenance must be recorded.
 - d) If a private sewage system is owned by a party other than the owner of the parcel on which it is installed, an instrument identifying the owner of the system, the structures to be served by the system, and the party responsible for operation and maintenance must be recorded.
 - e) If the design wastewater flow of a private sewage system for a dwelling is not based upon the number of bedrooms within the dwelling, a deed restriction limiting occupancy to that used in the design must be recorded.
 - f) If a sanitary permit must be issued prior to a soil and site evaluation due to inclement weather and/or health emergency an affidavit shall be provided prior to permit issuance indicating that soil and site evaluation will be conducted as weather permits and that if the private sewage system is found to be failing it will be replaced with a Comm 83 compliant system.
- (5) The County reserves the right to require Floodplain and/or Wetland delineation for a proposed private sewage system area prior to sanitary permit issuance. The County may require elevations on plans to be tied

to floodplain elevation datum.

- (6) The County reserves the right to refuse incomplete or incorrect permit applications or to delay permit issuance until corrected or completed applications are received.
- (7) In the event that in order to obtain a permit or otherwise perfect compliance with this Ordinance, the owner of a parcel of real estate subject hereto shall have been required to record a restrictive covenant against the title to that real estate and in further event that the condition requiring such covenant to have been imposed against the real estate shall have been terminated, upon request of the parcel owner, the County shall record a waiver of the condition, releasing the parcel from the covenant in question.

3.15 PLANS

System plans shall be submitted for approval to the County or to the State in accordance with Comm 83, Wisconsin Administrative Code. Plans shall comply with the requirements of Comm 83, Wisconsin Administrative Code, and this ordinance.

- (1) Plans submitted to the County shall include the original and as many copies as are required by the County.
- (2) If plans are reviewed and approved by the State, at least one set of the plans submitted to the County shall bear an original State approval stamp or seal.
- (3) Plans submitted shall be clear, legible and permanent copies.
- (4) Plans submitted shall comply with Comm 83, Wisconsin Administrative Code, and include the following:
 - (a) The name of the property owner and the legal description of the site;
 - (b) Estimated daily wastewater flow and design wastewater flow.
 - (c) A detailed plot plan (site plan), dimensioned or drawn to scale, on paper no smaller than 8½ inches by 11 inches in size. The plot plan shall delineate the lot size and the location of all existing and proposed: private sewage system components; building sewers; private interceptor main sewers; wells; water mains or water services; buildings; lot lines; swimming pools; navigable waters; and the benchmark established on the Soil and Site Evaluation Report. Adjoining properties shall be checked to insure that the

horizontal setback parameters in Comm 83.43, Wisconsin Administrative Code, are complied with. All separating distances and dimensions shall be clearly shown on the plot plan.

- (d) Details and configuration layouts depicting how the system is to be constructed.
 - (e) A description of a contingency plan in the event the proposed private sewage system fails and cannot be repaired. (see §2.10(4)); or designation of an alternative site for placement of a proposed system.
 - (f) Sufficient supporting information to determine whether the proposed design, installation and management of the proposed private sewage system or modification to an existing system complies with this ordinance.
- (5) Plans shall be signed or sealed as specified in Comm 83, Wisconsin Administrative Code.
 - (6) A copy of the approved plans shall be maintained at the construction site until the private sewage system installation is completed, inspected and accepted. The plans shall be made available to the County or the State upon request.
 - (7) Any proposed modifications to the design of a private sewage system which has been previously approved shall be submitted to the County or the State as specified in Comm 83, Wisconsin Administrative Code. Plan modifications must be approved prior to system installation.

3.16 PERMIT CARDS.

- (1) The permit card issued by the County to the property owner or his agent shall serve as the sanitary permit.
- (2) The permit card shall contain all the information required by §145.135, Wisconsin Statutes.
- (3) The permit card shall be displayed at the site in such a manner that it will be visible from a road abutting the lot during all construction phases.
- (4) The permit card may not be removed until the private sewage system has been installed, inspected, and approved by the County.
- (5) Failure to display the permit card shall be considered a violation of this

section and may subject the property owner, his agent or contractor, to citation or other enforcement action.

3.17 PERMIT EXPIRATION AND RENEWAL.

- (1) A sanitary permit for a private sewage system or non-plumbing sanitation system which has not been installed, modified or reconnected and approved shall expire two years after the date of issuance. Permits may be renewed following written application to the County by the property owner, his agent or contractor, prior to the expiration date of the original permit.
- (2) There shall be a fee for the renewal of a sanitary permit.
- (3) If a renewal is required for a permit, it shall be granted or denied upon the basis of the standards in effect at the time of the application for renewal, if different from those in effect at the time of issuance of the original permit.
- (4) Ordinance requirements in effect at the time of an application for renewal of a permit shall constitute grounds for denial, if compliance with those standards cannot be demonstrated.
- (5) Upon issuance of a renewal permit, the owner, his agent or contractor shall return the original permit card which shall be replaced by a new permit card.
- (6) All sanitary permits issued prior to the effective date of this ordinance shall expire two years from the date of issuance unless renewed.
- (7) A new sanitary permit shall be obtained by the owner or his agent prior to beginning construction if a sanitary permit has expired.

3.18 TRANSFER OF OWNERSHIP.

Transfer of ownership of a property for which a valid sanitary permit exists shall be subject to the following:

- (1) The applicable transfer form submitted to the County.
- (2) The sanitary permit card shall be returned to the County so that a new permit card may be issued.
- (3) Approval of transfer of a permit upon a change in ownership of the property subject to a permit issued under this Ordinance shall not

extend the expiration date of that permit unless a renewal is also requested and is granted.

3.19 CHANGE OF PLUMBERS.

- (1) When an owner wishes to change plumbers, it will be necessary for him to furnish the County with the applicable transfer form signed by *both* the new plumber *and the original plumber*.
- (2) The transfer of sanitary permits shall take place prior to the installation of the private sewage system.
- (3) Sanitary permits for systems requiring State plan approval shall not be transferred to a different plumber unless the plan bears the stamp of an architect or engineer, plumbing designer, or a State level approval is obtained by the new plumber.

3.20 PERMIT DENIAL.

When applicable provisions of Wisconsin Statutes, Wisconsin Administrative Code or this Ordinance have not been complied with when applying for a sanitary permit, the permit shall be denied. Reasons for the denial shall be forwarded to the plumber, landowner and when appropriate State representative(s) and Corporation Counsel.

3.21 RECONNECTION.

- (1) A County reconnection permit shall be obtained prior to:
 - (a) Construction of a structure to be connected to an existing private sewage system;
 - (b) Disconnection of a structure from an existing private sewage system and connection of another structure to the system, except as permitted in §3.21(4); or
 - (c) Rebuilding a structure that is connected to a private sewage system. For the purposes of this paragraph, "rebuilding a structure" shall be defined to mean reconstruction of an existing structure which is, prior to the time of such reconstruction, served by an existing private sanitary system and which, in the process of such reconstruction is enlarged or its use is changed in such a manner as to render the existing private sanitary system, in accord with the rules and regulations in effect at the time of

system installation, to become inadequate or undersized or otherwise incapable of servicing the sanitation needs of the structure and its human occupants or inhabitants.

- (2) Prior to issuing a reconnection permit, the existing private sewage system shall be examined to:
 - (a) Determine if it is functioning properly and whether it is a failing system
 - (b) Determine if it will be capable of handling the proposed wastewater flow and contaminant load from the structure to be served.
 - (c) Determine that all minimum setback requirements of Comm 83, Wisconsin Administrative Code, will be maintained.
- (3) Application for a County reconnection permit shall include the following:
 - (a) All items in §3.14(1) (a-i);
 - (b) For all systems that utilize in situ soil for treatment or disposal, a 1981 or newer Soil and Site Evaluation report verifying that the vertical separation distance between the infiltrative surface of the existing treatment or dispersal component and estimated high groundwater elevation and bedrock complies with Comm 83, Wisconsin Administrative Code, unless a valid report meeting all of the criteria of this ordinance is on file with the County;
 - (c) A report provided by a licensed plumber, certified septage servicing operator or a POWTS inspector relative to the condition, capacities, baffles and manhole covers for any existing treatment or holding tanks;
 - (d) A report provided by a licensed plumber or POWTS inspector relative to the condition and capacities of all other system components and verifying that the system is not a failing system;
 - (e) A plot plan prepared by a plumber including information specified in §3.15(4)(c); and
 - (f) Complete plans, as specified in §3.15, for any system components which will be modified or replaced.
 - (g) Reconnection to existing holding tanks may require a new servicing contract and an updated holding tank agreement which meets the requirements of this ordinance.

- (h) Reconnection to an existing system other than a holding tank may require a new maintenance agreement or contract.
- (4) Replacing a structure with a new or different structure within two years of the date of permit issuance will only require a statement that the system has not been altered, a statement that a modification in wastewater flow or contaminant load will not occur, and a plot plan that documents all setbacks between the structure and system components.
- (5) Systems may be inspected at the time of reconnection, prior to backfilling, at the discretion of the County to insure that proper materials and methods are being used.

3.22 CONSTRUCTION AFFECTING WASTEWATER FLOW OR CONTAMINANT LOAD.

Prior to commencing the construction of an addition to or modification of a structure which will affect the wastewater flow and/or contaminant load to an existing private sewage system, the owner(s) of the property shall:

- (1) Possess a sanitary permit to construct a new private sewage system or modify an existing private sewage system to accommodate the modification in wastewater flow or contaminant load; or
- (2) Provide the following to the County:
 - (a) Documentation that a Private Sewage System of adequate capability and capacity to accommodate the wastewater flow and contaminant load already exists to serve the structure, as specified in Comm 83, Wisconsin Administrative Code;
 - (b) Documentation showing that the location of the proposed structure conforms to the applicable setback distances to all of the existing private sewage system components; and
 - (c) Documentation specified in §3.21(3)(b, c & d).
- (3) Any installation, addition or modification of a system must be completed and accepted before the addition or modified area of the structure may be occupied.

3.23 CONSTRUCTION NOT AFFECTING WASTEWATER FLOW OR CONTAMINANT LOAD

Prior to commencing construction of any structure or addition to a structure on a site where there exists a private sewage system the owner or his agent shall determine that the proposed structure conforms with applicable setback limitations of Comm 83, Wisconsin Administrative Code. Documentation shall be submitted as required in Comm 83, Wisconsin Administrative Code.

3.24 FEES.

Fees applicable to this ordinance shall be established by action of the Environment and Land Use Committee, which may also, from time to time, amend the fee schedule. A copy of the current fee schedule shall be on file with the Department at all times for public inspection.

INSPECTIONS

4.25 INSPECTIONS; GENERAL.

- (1) Notice for final inspection shall be given to the County for all private sewage systems installed, modified or reconnected.
- (2) These private sanitary systems shall be inspected by the County for compliance with Comm 82, Comm 83, Comm 84, and Comm 91, Wisconsin Administrative Code, other appropriate Wisconsin Statutes and Administrative Codes and this ordinance.
- (3) Notification for final inspection shall be given in accordance with the requirements of Comm 83, Wisconsin Administrative Code.
- (4) When a private sanitary system is ready for inspection, the plumber in charge shall make arrangements to enable the inspector to inspect all parts of the system. The plumber shall provide the proper apparatus, equipment and necessary assistance to make a proper inspection.
- (5) Private sanitary systems may be inspected periodically, after the initial installation inspection(s) and/or after the system is operative, as deemed necessary by the County.

4.26 INSPECTIONS; SITE CONSTRUCTED HOLDING TANKS.

- (1) All site constructed holding tanks shall be inspected after the floor is poured and the keyway and water stop are installed or after the forms for the tank walls have been set but in all instances before any concrete for the walls has been poured.

- (2) Concrete walls may be poured only after it has been determined that the tank, as formed, complies with the approved plans.
- (3) This inspection shall not eliminate the need for an inspection after the installation has been completed.

4.27 INSPECTIONS; NON-PLUMBING SANITARY SYSTEMS.

- (1) All non-plumbing sanitary systems installed shall be inspected for compliance with Comm 91, Wisconsin Administrative Code, or as amended, and this ordinance. Non-plumbing sanitary systems serving uses other than one and two family dwellings shall also be inspected for compliance with Comm §52.63, Wisconsin Administrative Code.
- (2) The property owner shall notify the County for inspection immediately after the non-plumbing sanitary system has been constructed or installed.

4.28 INSPECTIONS; MOUND SYSTEM.

- (1) The plumber installing the mound shall notify the County the working day prior to the installation, excluding Saturdays, Sundays and holidays.
- (2) Mound systems may be inspected at the time the ground surface is plowed, before aggregate is placed in the distribution cell, at the time the distribution piping installation has been completed and after all work has been completed. At least one inspection prior to completion is required.

4.29 INSPECTIONS; AT-GRADE SYSTEMS.

- (1) The plumber installing the at-grade shall notify the County the working day prior to the installation, excluding Saturdays, Sundays and holidays.
- (2) At-grade systems may be inspected at the time the ground surface is plowed, at the time the distribution piping installation has been completed and after all work has been completed. At least one inspection prior to completion is required.

4.30 INSPECTIONS; SAND FILTERS.

- (1) The plumber installing the sand filter shall notify the County the working day prior to the installation, excluding Saturdays, Sundays and holidays.
- (2) Sand filters shall be inspected at the time the liner or tank and under

drain are in place, before placement of any treatment media, at the time the distribution piping installation has been completed and after all work has been completed.

4.31 EXPERIMENTAL SYSTEMS AND SYSTEMS NOT RECOGNIZED BY COMM 83.60

- (1) The plumber installing the system shall coordinate any required preconstruction meeting(s).
- (2) The plumber installing the system shall notify the County at least two (2) workdays prior to beginning the installation of the system to schedule the inspection(s) and shall notify the State as may be required by the approved plans.
- (3) Inspections shall be performed pursuant to the approved plan requirements and as deemed necessary by the County to assure compliance with appropriate codes and the plan approval.

4.32 REINSPECTION.

- (1) A reinspection of a private sewage system may be required if the initial inspection disclosed that the installation is incomplete at the scheduled inspection time or does not comply with applicable Wisconsin Statutes, Administrative Codes, the approved plans or this ordinance.

4.33 TESTING

- (1) If testing of new systems or new system components is required by Comm 82, 83 or 84, Wisconsin Administrative Code, or as a condition of plan approval, notice shall be given to the County as specified in §4.25(3), so that the County may make an inspection during the test.
- (2) The County shall verify that required testing has been completed, by:
 - (a) Performing an inspection during the test,
 - (b) Requiring written verification from the responsible person, or
 - (c) Both a and b.

SYSTEM MANAGEMENT AND MAINTENANCE

5.34 MAINTENANCE AND MANAGEMENT

- (1) All private sewage systems shall be managed and maintained in accordance with Comm 83 and 84, Wisconsin Administrative Code, and this ordinance.
- (2) The property owner or the owner's agent shall report to the County each inspection, evaluation, maintenance or servicing event, in accordance with Comm 83, Wisconsin Administrative Code, and this ordinance.
- (3) The property owner shall submit a copy of an appropriate maintenance agreement as per Comm 83 and/or servicing contract to the County prior to sanitary permit issuance.
- (4) The property owner shall submit a new or revised maintenance agreement and/or servicing contract to the County whenever there is a change to such document(s).
- (5) The property owner shall submit a new maintenance agreement and/or servicing contract to the County prior to expiration of any existing maintenance agreement and/or servicing contract.

5.35 SEPTIC TANK MAINTENANCE PROGRAM.

- 1) All private onsite wastewater treatment systems (POWTS) shall be subject to a maintenance program. POWTS currently not on a maintenance program shall be phased into the required maintenance program by October 1, 2013.
- 2) An annual maintenance program fee is required to be paid by the owner of each POWTS included in this maintenance program. The annual maintenance fee will be based on the frequency of inspection as determined by the type of POWTS. The annual fee will be included on the owner's property tax bill beginning December 2010.
- 3) Every owner of a POWTS included in the maintenance program must have the POWTS inspected a minimum of once every three years or more frequently if stipulated by a management plan or as a condition of the sanitary permit. The inspector must provide the owner of the POWTS a fully completed and signed certificate of inspection on a form approved by the department indicating whether the system is observed to be failing and whether the combined sludge and scum volume equals 1/3 or more of the tank volume. If the combined sludge and scum volume equals 1/3

or more of the tank volume, the owner must have the tank pumped. The owner or owners agent must, within 60 days from the date of notification requiring a POWTS inspection, provide the department with a copy of the certificate of inspection or submit electronically the required inspection information including pumping data and septage disposal site (if applicable). Failure of a property owner to have a certificate of inspection submitted to the department, within 30 days of when a second notice requiring a maintenance inspection is sent, will result in a late fee being assessed.

- 4) The maintenance inspection shall at a minimum include an evaluation of the POWTS for the following:
 - a) The existence of any outfall pipe, illegal pumping or any connection to a drain tile.
 - b) The condition of all holding components.
 - c) The presence of any ponding or surface discharge.
 - d) The presence and condition of any effluent filter.
 - e) Any observed failure, causing backup of wastewater into the home.

- 5) The inspections required under 5.35 (1) must be performed by one of the following:
 - a) A licensed master plumber.
 - b) A licensed master plumber-restricted service.
 - c) A certified POWTS inspector.
 - d) A certified septage servicing operator under NR 114.
 - e) A registered POWTS maintainer.
 - f) Any other individual recognized under the provisions of Chapter Comm 83.

- 6) A department inspection to verify any maintenance activity may be required.

- 7) Circumstances such as inclement weather, road weight restrictions and site limitations may necessitate a delay in septic tank maintenance until conditions permit.

- 8) Each applicant for a sanitary permit at the time the permit is issued shall be provided with a written notice of the maintenance program. Upon sale of the property, the owner shall provide written notification of the maintenance program to the buyer and a copy of this notification shall be submitted to the department.

5.36 HOLDING TANK MAINTENANCE AGREEMENT

- (1) The owner of each holding tank shall enter into a Maintenance Agreement with the appropriate city, village or town guaranteeing that the local municipality which signed the agreement will service the holding tank, if the owner fails to have the holding tank properly serviced in response to orders issued by the County. The Maintenance Agreement shall be binding upon the owner, the owner's heirs, assignees and conveyees. The Maintenance Agreement shall be filed with the register of deeds and shall be recorded in a manner which will permit the existence of the agreement to be determined by reference to the property where the holding tank is installed.
- (2) The owner or agent shall submit a copy of the holding tank Maintenance Agreement when plans are submitted to the County for review.

ADMINISTRATION AND ENFORCEMENT

6.37 ADMINISTRATION.

The Department Head shall be responsible for the administration of this ordinance. The Department Head may delegate his/her responsibilities to personnel employed by the Department.

6.38 POWERS AND DUTIES.

In the administration of this ordinance, the Department Head shall have the following powers and duties:

- (1) Delegate duties to and supervise clerical staff and other employees to assure full and complete compliance with this ordinance and related Wisconsin Statutes and the Administrative Code.
- (2) Advise applicants concerning the provisions of this ordinance and assist them in preparing permit applications.
- (3) Review and approve plans for private sewage systems for one and two family residences pursuant to Comm 83.22 and Comm 83.23.
- (4) Issue sanitary permits and inspect properties for compliance with this ordinance and related Wisconsin Statutes and the Administrative Code.

- (5) Keep records of all sanitary permits issued, inspections made, work approved, and other official actions.
- (6) Report violations of this ordinance to the Corporation Counsel.
- (7) Under operation of this ordinance, have access to all parcels subject hereto to perform duties related to this ordinance between the hours of 7 a.m. and 8 p.m. daily or at other times upon agreement between the parcel owner or his or her agent and the administrator. In lieu of gaining access to a parcel in this fashion, should such access be refused by the owner or agent, the administrator is hereby empowered to apply for and obtain a special inspection warrant in accord with § 66.122, Wis. Stats.
- (8) Upon reasonable cause or question as to proper compliance, revoke or suspend any sanitary permit and issue cease and desist orders requiring the cessation of any construction, alteration or use of a structure which is in violation of the provisions of this ordinance, until compliance with this ordinance or applicable Wisconsin Statutes and the Administrative Code is obtained.
- (9) Issue and enforce orders to plumbers, pumpers, property owners, their agents or contractors or the responsible party, to assure proper compliance with all provisions of this ordinance.
- (10) Apply for and distribute grants obtained through the Wisconsin Fund Grant Program.
- (11) Perform other duties regarding private sewage systems as considered appropriate by the County or the State.

6.39 BOARD OF ADJUSTMENT

- (1) Consider and approve or deny requests for a waiver to §2.10(4) of this ordinance. Approval of such requests shall be based upon conditions or circumstances unique to the parcel of land or structure served. In granting such a waiver, the Board of Adjustment may require recording of affidavits or covenants, the identification and preservation of a replacement system area or other conditions as deemed necessary.
- (2) Any person who alleges that there is an error in any order, requirement or decision made in the enforcement of this ordinance may appeal to the Board of Adjustment. Appeals shall be commenced using forms furnished by and available at the Department and must be filed with that Department within (30) days of the date of the administrative

action in question or they will be barred.

6.40 VIOLATIONS AND PENALTIES.

- (1) The failure of a person to obey any of the requirements of this ordinance or any order issued by the county in accord with or in enforcement of this ordinance shall subject that person to a civil action which may include but shall not be limited to issuance of a citation seeking a forfeiture for the said violation, a civil action seeking such relief, an order for injunctive relief or such other legal or equitable remedies as may be available to the County in response to the violation in question.
- (2) Any construction which is in violation of this ordinance shall cease upon written orders from the County or the placement of a notification of violation at the site.
- (3) All construction shall remain stopped until the order is released by the County.
- (4) Violations of this ordinance shall be prosecuted by the Corporation Counsel.

6.41 Enforcement of State Statutes and Administrative Code Provisions Incorporated in Ordinance by Reference.

All provisions of state law or administrative code, incorporated by reference under §2.08 of this Ordinance, shall be subject to enforcement in accord with this section. Any person who violates any provision incorporated by reference shall be deemed to have violated this Ordinance and may be found guilty of a violation of this section.

6.42 Non Enforcement Not a Waiver.

Should the Department Head, for whatever reason, not pursue a violation of this Ordinance, said inaction shall not constitute a waiver of the right of the County to pursue that particular violation at a later point in time, nor a waiver of the right of enforcement against any other violations of this Ordinance.

6.43 Continuing Violations.

Each provision of this Ordinance which is violated constitutes a separate

offense and each day that a violation of this Ordinance continues constitutes a separate violation of this Ordinance.

CONSTRUCTION AND EFFECT OF ORDINANCES

7.44 PENALTY PROVISIONS

(1) General Penalty

Except as otherwise provided, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

- (a) First Offense. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$30 nor more than \$500, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 90 days.
- (b) Second Offense. Any person found guilty of violating any ordinance or part of an ordinance of this Code, who has previously been convicted of a violation of the same ordinance within one year, shall, upon conviction thereof, forfeit not less than \$30 nor more than \$500 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 6 months.

(2) Continued Violations

Each violation, and each day a violation continues or occurs, shall constitute a separate offense. Nothing in this ordinance shall be interpreted as prohibiting the County from maintaining a legal or equitable action to prevent a violation from occurring or from enjoining its continuance, in addition to or in lieu of any other type of enforcement action.

(3) Execution Against Defendant's Property

Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the County, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.