

## CHAPTER IX

### SANITATION AND HEALTH

9.01 Department of Land and Water Management.

9.011 Administration.

(1) Enforcement. The Director of Land and Water Management shall have the following duties and powers:

(a) Duties. It shall be the duty of the Director of Land and Water Management to enforce the provisions of this Sanitary Ordinance and to:

1. Issue permits as provided in this Ordinance.
2. Record all permits issued, inspections made, work approved, and other official actions.
3. Approve all new, extended, or altered Private Onsite Wastewater Treatment Systems (POWTS). All POWTS shall be inspected prior to their being covered.
4. Investigate all written and signed complaints made relative to Private Onsite Wastewater Treatment Systems (POWTS) and other environmental health nuisances.
5. Request assistance and cooperation from personnel of the Department of Commerce, State Division of Health, the State Department of Natural Resources, and other local and county health and police officials.
6. Cooperate with local, county, and state personnel in county and state health and water resource programs and in the enforcement of local, county, and state health and water resource regulations.
7. Serve as the Wisconsin Fund program administrator.

(b) Powers. The Director of Land and Water Management shall have all the powers necessary to enforce the provisions of this Ordinance, including the following:

1. Access to premises during reasonable hours to make those inspections deemed necessary to ensure compliance with this Ordinance. If, however, he/she is refused entry after presentation of his/her identification, he/she shall procure a special inspection warrant, except in cases of emergency, in accordance with Section 66.0119 of the Wisconsin Statutes. (04-13)

2. Order any person, firm, or corporation owning, using, operating, or installing a Private Onsite Wastewater Treatment System (POWTS) to modify, repair, or place it in a safe or sanitary condition if he/she finds such system to be in a defective, unsafe, or unsanitary condition.
  3. Recommend to the Ozaukee County Natural Resources Committee any additional sanitary measures, as he/she shall deem necessary.
- (2) Remedial action. Whenever an order of the Director of Land and Water Management has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident, agent, or occupant of the premises, the Ozaukee County Board of Supervisors, Ozaukee County Natural Resources Committee, or the Director of Land and Water Management may institute appropriate legal action or proceeding to prohibit the owner, resident, agent, or occupant of the premises from the use of such private water supply or Private Onsite Wastewater Treatment System until such order is complied with.
- (3) Appeals.
- (a) Any person, firm, or corporation or any office, department, or board of the County aggrieved by an order, requirement, interpretation, or determination made by a representative of Land and Water Management Department may appeal such decision to the Ozaukee County Natural Resources Committee within thirty (30) days of notification of the requirement, interpretation, or determination. The appeal shall state the grounds or reasons to support the request for modification or reversal of the decision and shall be accompanied by the appropriate Appeal Fee as established in Section 9.024(7)(j).
  - (b) The Ozaukee County Natural Resources Committee shall fix a reasonable time and place for a public hearing, give a Class 1 notice thereof at least ten (10) days prior thereto and give notice by mail to the parties in interest.
  - (c) Upon a written finding of fact after the hearing, the Ozaukee County Natural Resources Committee may affirm, modify, or reverse the decision appealed from.
- (4) Deputy Director of Land and Water Management.
- (a) The Ozaukee County Natural Resources Committee may appoint one (1) or more individuals, possessing the required certification and qualifications, to act as Deputy Director of Land and Water Management.
  - (b) The powers and duties of said Deputy shall be the same as, but under the supervision of, the Director of Land and Water Management.

## 9.02 Sanitary Ordinance.

## 9.021 Statutory Authorization, Finding of Fact, and Statement of Purpose.

## (1) Statutory Authorization.

(a) This Ordinance is adopted and ordained by the Ozaukee County Board of Supervisors pursuant to the mandate and authorization contained in Sections 59.70(1), 59.70(5), 145.04, 145.19, 145.20 and 145.245 of the Wisconsin Statutes, and amendments thereto, and by Chapter Comm 83, Wisconsin Administrative Code.

(b) This Ordinance shall be subject to the provisions of Chapter 145 of the Wisconsin Statutes and all subsequent rules and regulations promulgated thereunder regarding Private Onsite Wastewater Treatment Systems (hereinafter referred to as POWTS).

(c) This Ordinance shall not be more lenient than the rules and regulations promulgated pursuant to Chapter 145 of the Wisconsin Statutes.

(2) Finding of Fact. Uncontrolled use of POWTS in Ozaukee County, Wisconsin (hereinafter referred to as County) adversely affects the public health, safety, general welfare, and natural resources. The County Board of Supervisors recognizes this danger.

(3) Statement of Purpose. The purpose of this Ordinance is to promote the health, safety, prosperity, aesthetics, general welfare, and natural resources of the people and communities within the County by:

(a) Regulating the location, construction, installation, alteration, design, use, operation, and management of all private water supply and POWTS, so as to protect the health of the residents and transients of the County.

(b) Preventing and controlling surface water and groundwater pollution through:

1. Requiring setbacks between POWTS components and watercourses.
2. Regulating the use of POWTS to protect the public health, safety, general welfare, and natural resources.
3. Requiring alternative methods of sewage treatment permitted under Comm 83 and recycling where conditions make soil absorption methods unsuitable. (03-25)
4. Provide for the administration and enforcement of this Ordinance and to provide penalties for its violation.

## 9.022 Definitions.

The following definitions are in addition to those found in Comm 81, Wisconsin Administrative Code.

- (1) Applicant for Sanitary Permit. The owner of the property upon which the system is to be installed. (03-25)
- (2) Approved Installation. Individual POWTS contracted and installed in compliance with technical standards and requirements of this Ordinance and Comm 83, Wisconsin Administrative Code. "Approved Installation" does not imply the POWTS will perform satisfactorily for any specified period of time.
- (3) Certified Septage Servicing Contractor. A Pumping Service contracted for the purposes of POWTS holding and treatment tank component maintenance (pumping).
- (4) Certified Soil Tester. A person licensed as a certified soil tester, pursuant to Section 145.045, Wisconsin Statutes, by the State of Wisconsin, or other persons deemed qualified by the Wisconsin Department of Commerce.
- (5) Committee. The duly appointed Ozaukee County Natural Resources Committee or its authorized agent.
- (6) Deputy Director of Land and Water Management. A County employee operating under the jurisdiction and supervision of the Director of Land and Water Management.
- (7) Director of Land and Water Management. A county employee operating under the jurisdiction and supervision of the Natural Resources Committee and responsible for the enforcement of this Ordinance, issuance of all permits hereunder, and his/her staff of deputies.
- (8) Existing POWTS. A POWTS previously installed within Ozaukee County.
- (9) Failing POWTS. A failing POWTS, as defined in Statute Section 144.245(4), is one which causes or results in any of the following conditions:
  - (a) The discharge of sewage into surface water or groundwater.
  - (b) The introduction of sewage into zones of saturation, which adversely affects the operation of a POWTS.
  - (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 back up of sewage into the structure served by the POWTS.

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- (10) Fill System. A soil absorption system under Wisconsin Administrative Code Section Comm 83 involving the removal of topsoil, adding sand to the absorption trench, and subsequently replacing the topsoil.
- (11) Flood Proofing. A method of construction which will prevent flood waters from directly entering a POWTS, or damaging the POWTS by hydraulic pressure.
- (12) Large Scale POWTS. A POWTS that receives and/or is designed to receive a daily wastewater load of 12,000 or more gallons.
- (13) Maintenance. The reporting of and the periodic or scheduled servicing, monitoring, and/or maintaining of POWTS or POWTS components, which includes but is not limited to the pumping or removal of accumulated solids or byproducts, and the metering, adjusting, sampling, and monitoring of the POWTS. Maintenance also includes the Management Plan as specified under Comm 83.54, Wisconsin Administrative Code.
- (14) Medium Scale POWTS. A POWTS that receives and/or is designed to receive a minimum daily wastewater load of 1,000 gallons, but less than 12,000 gallons.
- (15) National Geodetic Vertical Datum (NGVD). Elevations referenced to mean sea level datum, 1929 adjustment.
- (16) New or Replacement POWTS. A new or replacement POWTS shall be any new POWTS or replacement POWTS installed within the County.
- (17) Ozaukee County Sanitary Ordinance. The entire series of regulations, now or thereafter adopted by the County Board of Supervisors, which govern and control the environment of the area and the spread of disease within the boundaries of the County.
- (18) Parties-in-Interest. All abutting property owners and/or all property owners within three hundred (300) feet of the subject site.
- (19) Person. Any individual, firm, corporation, society, association or partnership, institution, or other entity, and includes the plural as well as the singular, and the feminine as well as the masculine.
- (20) Plumber. A person licensed by the state of Wisconsin as defined in Chapter 145, Wisconsin Statutes. A plumber includes Master Plumbers and Master Plumbers-Restricted Service.
- (21) Pollute. The act of rendering the surface waters, subsurface waters, or air a health hazard or a reduction in quality of surface waters, subsurface waters, or air.
- (22) Portable Restroom. A self-contained portable unit that includes fixtures, incorporating a POWTS holding component, designed to contain human excrement.
- (23) POWTS. A Private Onsite Wastewater Treatment System. (See Private Sewage System)

- (24) POWTS Evaluation. The inspection or evaluation of an existing POWTS, for the purposes of Town/County Building/Zoning Permit issuance or sale of property, in order to determine compliance with this Ordinance and Chapter Comm 83, Wisconsin Administrative Code, reflecting the standard for the POWTS system in effect at the time of the installation of the evaluated system. (03-25)
- (25) POWTS Installation Contractor. A Master Plumber or Master Plumber-Restricted Service contracted for the purposes of POWTS design, installation, addition, or repair.
- (26) Premises. Any tract or parcel of land, with or without habitable buildings, and shall include those buildings normally open to the public for the purpose of conducting business.
- (27) Private Dwelling. Any building used only for living purposes and occupied by not more than two (2) families.
- (28) Private Onsite Wastewater Treatment System. POWTS. (See Private Sewage System)
- (29) Private Sewage System. A POWTS treatment and/or disposal component serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure; an alternative sewage system approved by the State Department of Commerce including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure; and may be owned by the property owner or by a special purpose district.
- (30) Privy. A device used for the depositing of human excrement, including chemical toilets, incinerator toilets, composting toilets, and outdoor sealed pit structures which are alternatives to water-carried sanitation-systems. Privies are not connected to a water supply or a plumbing system. Buildings or dwellings served solely by a privy shall not contain any plumbing and shall not be connected to a water supply. A camping unit transfer container used as a POWTS holding component shall be restricted to campgrounds permitted by the Department of Health and Family Services under HFS 178, Wisconsin Administrative Code.
- (31) Return Inspection. A return inspection is any inspection of a POWTS beyond the accepted number of inspections for the specific type of installation, as established by Committee and Department Policy. It is the responsibility of POWTS Installation Contractors to insure a POWTS is ready for approval inspection before requesting the inspection. Return inspections required due to faulty installation, premature inspection requests or any other reason not within the control of the Department are subject to a fee.
- (32) Sanitary Permit:
- (a) County Sanitary Permit. A permit issued by Ozaukee County for the repair or abandonment of a POWTS or POWTS component, or the installation of a privy.
- (b) State Sanitary Permit. Pursuant to 145.135 and 145.19, Wisconsin Statutes, a permit issued by the State or County allowing the installation of or work on a POWTS. The provisions and conditions of a permit have the full force of law as other provisions of this Ordinance.

(33) Septic Tank. A POWTS anaerobic treatment component that consists of a reservoir or tank of appropriate material which receives raw sewage and utilizes molecular oxygen in the absence of free oxygen for biological respiration and decomposition.

(34) Shall, Should, May. The word “shall” when used in this ordinance is mandatory. “Should” is not mandatory, but expresses the preferred method or material. “May” implies neither compulsion nor recommendation, only permission. Words used in the present tense include the future; the singular number includes the plural and the plural number includes the singular.

(35) Small Scale POWTS. A POWTS that receives and/or is designed to receive a daily wastewater flow of less than 1,000 gallons.

(36) Unsafe. Any condition that has the potential of being chemically, bacteriologically, or physically injurious or harmful to a person's health or well being.

(37) Wastes. Any material, such as explosives, fuel, litter, paper, garbage, sewage, gas, inflammable oil, refuse, rubbish, tar, wood ashes, or other solid or liquid materials that may cause or contribute to health or a reduction in surface water quality, subsurface water quality, or air quality.

(38) Wisconsin Administrative Code. The rules of administrative agencies having rule-making authority in Wisconsin published in a loose-leaf, continual revision system as directed by Section 35.93 and Chapter 227 of the Wisconsin Statutes, including subsequent amendments to those rules.

#### 9.023 General Provisions.

(1) Jurisdiction. The jurisdiction of this ordinance shall include all lands and waters within Ozaukee County, Wisconsin.

(2) Compliance. No person shall locate, install, move, reconstruct, extend, enlarge, convert, substantially alter, or change the use of a POWTS or any of its component parts without a Sanitary Permit and without full compliance with the provisions of the Permit, this Ordinance, and all applicable local, county, and state regulations except:

(a) Emergency repairs or the removal of stoppages may be performed without a Sanitary Permit provided such work is reported to the Director of Land and Water Management as soon as possible for a determination as to whether a county Sanitary Permit is required. Section 9.024 defines when permits are required. (03-25)

- (b) Inspection, maintenance, servicing, or evaluation of all existing POWTS, provided that such maintenance is reported to the Director of Land and Water Management and/or the private firm duly designated by the County within ten (10) days as required by Comm 83, Wisconsin Administrative Code.
- (3) Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, or permits previously entered into or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.
- (4) Interpretation. In their interpretation and application, 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 Wisconsin Statutes.
- (5) Severability and Non-Liability. If a court of competent jurisdiction adjudges any section, provision, or portion of this Ordinance unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby. The County does not guarantee, warrant, or represent the safe and proper operation of POWTS located, constructed, and maintained in accordance with this Ordinance and hereby asserts that there is no liability on the part of the Board of Supervisors, its agencies, or employees for any health hazards or damages that may occur as a result of reliance upon and compliance with this Ordinance.

(6) **Period of Effectiveness.** This Ordinance shall be effective after a public hearing, adoption by the County Board of Supervisors, and publication or posting as provided by law. It shall remain in full force and effect henceforth until repealed or amended.

(7) **Licenses.** All persons performing any work on any POWTS shall obtain the required license from the appropriate State agency(ies). All necessary permits shall be obtained as prescribed in Section 9.024 of this Ordinance before commencing with any work.

(8) **Title.** This Ordinance shall be known as, referred to, or cited as the Sanitary Ordinance of Ozaukee County, Wisconsin.

#### 9.024 Sanitary Permit, License, and Fees.

(1) **Permit Required Prior to Construction.** No person shall work on, change the use of, or place a structure or building designed for human habitation or requiring a POWTS until appropriate Sanitary Permits have been applied for and issued by the County. Work includes the installation of water and/or electrical supply to the property.

(a) **Certification of Existing POWTS Capabilities/Setbacks.** Upon written request by a Municipality, the County shall provide a written determination of whether proposed construction on a property will affect or interfere with an existing POWTS relating to capability or location of the existing POWTS per Wisconsin Administrative Code Section Comm 83.25.

(b) **Failed POWTS.** If an existing POWTS holding, treatment, or dispersal component has failed according to the code requirements in effect at the time of installation or collapsed, the complete POWTS must be evaluated for compliance with this Ordinance prior to issuance of a Sanitary Permit and/or any construction or reconstruction on the property served by the POWTS. (03-25)

(c) **Repair Sanitary Permits.** A Repair Sanitary Permit is a County Sanitary Permit that will be required when a repair of a damaged POWTS component or non-functioning mechanical POWTS component is to be made and inspected.

(d) **Replacement Sanitary Permits.** A replacement sanitary permit is a state sanitary permit that will be required when a replacement of a damaged POWTS component or non-functional mechanical POWTS component is to be made and inspected. (03-25)

(e) **Abandonment Permits.** An Abandonment Permit is a County Sanitary Permit that will be required when an existing POWTS is to be abandoned and inspected for compliance with Wisconsin Administrative Code Section Comm 83.33. See Section 9.026 for exemptions.

(2) **Sanitary Permit.** An application for a Sanitary Permit shall be made by the applicant to the Ozaukee County Department Land and Water Management prior to the issuance of a Building or Zoning Permit and prior to the installation of any POWTS. The acceptance of a Sanitary Permit is deemed approval for a representative of the Land and Water Management Department to inspect the installation of the POWTS and to make those inspections necessary to insure public health, safety, and compliance with this Ordinance and as established or regulated. (03-25)

(a) An Application for a Sanitary Permit shall be made on state approved forms. (03-25)

(b) The following information is to be provided by the applicant on a Permit Application Form provided by the Department of Land and Water Management:

1. Owner's name and mailing address, address of premises, legal description, and parcel key number.
2. Plat survey of premises or detailed site drawing noting location of well, all surface and subsurface structures, roads and driveways, all aboveground and belowground public and/or private utilities and easements, proposed POWTS location, soil evaluation pits or borings, and all necessary plans and elevations.
3. Morphological evaluation results conducted by those certified under Comm 5, Wisconsin Administrative Code.
4. Soil pit or boring evaluation results noting distance from the ground surface to bed-rock groundwater and/or restrictive soil horizons.
5. Signature and license number of the licensed plumber responsible for the installation of the POWTS shall be required on the face of the SBD-6398 (Application for Sanitary Permit).
6. A set of state approved plans with the state's red stamp of approval shall be provided for the department files for all POWTS. (03-25)
7. Operation and Maintenance Manual with appropriate agreements and contracts for POWTS Management and Maintenance.

8. A copy of the recorded POWTS Holding Component Agreement with the applicable municipal government (POWTS holding components only).
  9. The original notarized POWTS Holding Component Servicing Contract between the property owner and a Certified Septage Servicing Contractor (POWTS holding components only).
- (c) The following documents must be recorded with the Ozaukee County Register of Deeds prior to the issuance of a Sanitary Permit:
1. Maintenance Agreements, Contracts, or POWTS Holding Component Agreements when recording is required by this Ordinance or Comm 83, Wisconsin Administrative Code.
  2. An appropriate easement or Combined-Parcel Affidavit if a POWTS, or parts thereof, are to be located on a different parcel than the structure served.
  3. A document identifying all parties that have ownership rights and are responsible for the operation and maintenance of a POWTS if it is to serve more than one (1) structure under different ownership.
  4. A document identifying a utility or sanitary district ownership of a POWTS if the property owner does not own the POWTS.
  5. A deed restriction limiting occupancy to that figure used in the POWTS design if the design wastewater flow of a POWTS serving a dwelling is not based upon the number of bedrooms within the dwelling.
- (d) Any application that is submitted without the applicable fees or signatures shall be returned to the submitter. All other incomplete or inaccurate permit applications shall be held by the County no longer than thirty (30) days after notification of the deficiencies has been sent to the applicant by the Land and Water Management Director, at which time the Permit Application shall be denied pursuant to Section 9.024(3)(b) of this ordinance. (03-25)

(e) The State Sanitary Permit may be revoked if there is a change in any of the following situations unless the permit is revised by the state: (03-25)

1. Number of bedrooms in structure.
2. Well location.
3. Location or system elevation of POWTS dispersal component.
4. Licensed plumber.
5. Misrepresentation of any facts or statements required for Permit issuance.

(g) A Sanitary Permit shall be valid for two (2) years from the date of Permit issuance and the work permitted shall be completed prior to the expiration date. Validity is retained during that period regardless of changes to this Ordinance or the State Plumbing Code.

1. A request for renewal shall be made by filing a completed Sanitary Permit Renewal Application, with the fee established by Section 9.024(7)(m).
2. Permit Applications shall be reviewed for compliance with the applicable Codes/Ordinance in effect at the time of the request.

(3) Application Process.

(a) The applicant shall submit the completed Sanitary Permit Application and all supporting documents to the Director of Land and Water Management.

(b) The Director of Land and Water Management shall approve or disapprove Applications for Sanitary Permits and assist applicants in preparing an approvable Application.

(c) The Director of Land and Water Management shall issue written notice to each applicant whose Sanitary Permit Application is disapproved. Each notice shall:

1. State the specific reasons for disapproval and amendments to the Application, if any, which would render the Application approvable.
2. Inform the applicant of the right to appeal and the procedures for conducting an appeal under Chapter 68 of the Wisconsin Statutes.

(4) Inspection.

(a) The Director of Land and Water Management shall inspect or cause the inspection of all POWTS no later than the end of the next workday, excluding Saturdays, Sundays and holidays, after receiving notice from the plumber in charge.

1. Mound And At-Grade POWTS Components. Mound and at-grade POWTS component installations shall be inspected at least at the following intervals:

- a. When the soil is plowed but prior to the placement of any sand or aggregate.
  - b. After the laterals are in place.
  - c. When the tank(s), effluent line(s), and force main(s) are set but prior to any backfilling.
  - d. After the system has been capped.
  - e. After the electrical components are operational.
2. In-Ground Type POWTS component. In-ground type POWTS component installations shall be inspected at least at the following intervals:
- a. After the distribution cell area has been excavated but prior to the placement of any aggregate
  - b. After the laterals are in place but before backfilling
  - c. After the tank(s), effluent line(s), and force main(s) are set but prior to any backfilling.
  - d. After the electrical components, when necessary, are operational.
3. Prefabricated POWTS Holding Component. Prefabricated POWTS holding component installations shall be inspected at least at the following intervals:
- a. After the tank is set but prior to any backfilling.
  - b. After the ballast, when required, is in place.
  - c. After the electrical components are operational.
4. Site-Constructed POWTS Holding or Treatment Components. Site-constructed holding or treatment components shall be inspected at least at the following intervals:
- a. After the floor has been constructed.
  - b. After the walls are completed prior to any backfilling.
  - c. After the cover has been completed.
  - d. After the electrical components are operational.
5. Sand Filters, Aeration Tanks, And Other POWTS Pre-Treatment Components. Sand filters, aeration tanks, and other pre-treatment components shall be inspected according to the terms of State plan approval requirements, and as deemed necessary by the County to assure compliance with the appropriate codes and the plan approval.

6. Privies and Other Non-Plumbing Sanitary Systems. Privies and other non-plumbing sanitary systems shall be inspected upon completion to ensure compliance with Comm 91 and Comm 52.63 Wisconsin Administrative Code and also with section 9.028 of this ordinance.
7. Engineered Fill Systems. Engineered fill systems shall be inspected after the site has been prepared, but before the placement of the fill. This inspection does not eliminate the need for an inspection after the installation has been completed but prior to backfilling.
8. Testing. When testing of a POWTS or POWTS components is required by Code/Ordinance or as a condition of approved plans, the installing plumber as shown on the Permit shall notify the County so that an inspection can be made during the test.
9. Return Inspections. A return inspection of an installed POWTS shall be required when an initial inspection requested by the installing plumber listed on the Permit discloses that the installation is incomplete or does not comply with Comm 83 Wisconsin Administrative Code, or the provisions of this Ordinance. Pursuant to Section 9.024 (7)(c) of this Ordinance, a fee payable by the POWTS Installation Contractor listed on the Permit shall be assessed, at the discretion of the County Inspector, for each return inspection beyond the number of inspections allocated by POWTS type or POWTS component.
  - (b) No part of the POWTS may be backfilled until it has been inspected and approved. If any part is covered before being inspected and approved it shall be uncovered and inspected at the discretion of the County Inspector.
  - (c) The County reserves the right to require additional inspections other than those listed in Section 9.024 (4) due to the complexity of the POWTS, difficult site/soil conditions, or other conditions that warrant additional inspections.
  - (d) The Director of Land and Water Management shall file reports and conduct surveys and inspections as required by the County or the State of Wisconsin Department of Commerce. (03-25)
  - (5) No POWTS or parts thereof, including pumps, hoses, or siphons, shall hereafter be located, placed, installed, or constructed without a Sanitary Permit and/or without full compliance with provisions of this Ordinance and all other applicable local, county, and state regulations.
  - (6) Certification of Compliance.

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(a) Notice of Certification. If, after an inspection by the Land and Water Management Director, it is determined that the POWTS installation complies with this Ordinance, the Land and Water Management Director shall issue a Final Inspection Report prior to the POWTS being put in use. The Final Inspection Report is not to be construed as a guarantee that the POWTS will function and perform to the performance criteria established in the systems' Operation and Maintenance Manual or Comm 83, Wisconsin Administrative Code.

(b) Interior Plumbing. For all POWTS that are installed to replace a previously failed POWTS for an existing residence or building, a written Interior Plumbing Inspection Report conducted and provided by the Municipal Plumbing Inspector or Independent Interior Plumbing Inspector, if the Municipality has not contracted with one, shall be submitted to the Land and Water Management Director indicating that all interior plumbing from within the residence or building has been routed into the newly installed POWTS. Such Report is required before issuance of the Final Inspection Report by the Land and Water Management Director.

(c) Unlawful Use. No person shall use any POWTS before the newly installed system is inspected by the Land and Water Management Department and compliance with (a), (b) and (c) of this section have been met. (04-9)

(7) Fees. (05-12)

Unless otherwise indicated, all fees are non-refundable. In order to be eligible for a refund of fees, the applicant must submit to this department, a written request to withdraw their Application, within two (2) business days of receipt.

(a) Sanitary Permit Application Fee (Includes State Groundwater Surcharge)

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1.	Conventional System (08-3)	
a.	Gravity Feed	\$475.00
b.	Pump/Siphon	\$475.00
2.	In-Ground Pressure	\$625.00
3.	At-Grade	\$725.00
4.	Mound	\$725.00
5.	Holding Tank	\$725.00
6.	Large Scale POWTS, Per 100 Gallons of Design Rate	\$125.00
7.	Privy	\$345.00
8.	Septic Tank/Pump Chamber Replacement	50% of the Sanitary Permit Fee for that system or \$300.00, whichever is less.
9.	Repair to POWTS and/or associated tank(s)	\$300.00
10.	Installation of an additional Treatment Tank only	\$300.00
(b)	POWTS Plan Review Fee	
1.	Conventional System	\$250.00
2.	In-Ground Pressure	\$250.00
3.	At Grade	\$250.00
4.	Mound	\$250.00
5.	Holding Tank	\$90.00
6.	Plan Revision	\$75.00
(c)	Reconnection	\$200.00
(d)	POWTS Abandonment	\$100.00
(e)	Transfer of Sanitary Permit	\$50.00
(f)	First Return/Premise Inspection	\$35.00
	Second and Subsequent Return/Premise Inspection	\$70.00
(g)	Groundwater Monitoring (per inspection site)	\$50.00
(h)	Subdivision Soil Verification (per hour or part thereof)	\$50.00
(i)	Subdivision Groundwater Monitoring (per lot)	\$50.00
(j)	POWTS Evaluation/Certification	\$65.00
(k)	On-Site Soil Evaluation and Verification	\$50.00
(l)	POWTS Dye Test	\$65.00

(m) Appeal (proceeding under Section 9.011(3)(a))	\$125.00
(n) Wisconsin Fund Application Fee (if the application is denied by state review, \$75.00 will be refunded to the applicant)	\$150.00
(o) Formaldehyde testing (per test, subject to availability)	\$100.00
(p) Renewal of Sanitary Permit	\$100.00
(q) Sanitary Ordinance Amendment Request	\$375.00
(r) One-time Electronic Reporting Service Fee <sup>(04-38)</sup>	
1. POWTS Holding Components	\$90.00
2. All Other POWTS	\$45.00

#### 9.025 Sewage Disposal.

##### (1) POWTS.

(a) All waste disposal facilities, including water closets, urinals, food waste grinders, dishwashers, clothes washers, lavatories, slop sinks, and other waste fixtures shall be connected to a public sanitary sewer system where available. Where such public sewer system is not available, a POWTS may be used, in accordance with Comm 83, Wisconsin Administrative Code, which is hereby adopted by reference. Any such POWTS must be capable of handling all sewage effluent by soil absorption and no defective POWTS or POWTS component shall be allowed to discharge sewage effluent on the ground surface, to a drain-tile, or to surface waters, ground water, or zones of seasonal saturation, which adversely affects the operation of a POWTS.

(b) No effluent, untreated sewage, nor any pumpage from a POWTS holding, treatment, or dispersal component shall be discharged into any pond, stream, lake, flowage, wetland, storm sewer, drain tile, or drainage ditch, nor places where it would be likely to wash into such ponds, streams, lakes, flowages, or wetlands. POWTS holding, treatment, and dispersal components, including privies and portable restrooms, shall be served in accordance with Section 146.20 of the Wisconsin Statutes and Chapter NR113 of the Wisconsin Administrative Code.

(2) No person shall discharge or cause to be discharged into any POWTS any roof drain, footing drains, or any substance likely to cause an obstruction, nuisance, explosion, or biological degradation that will interfere with the operation of the POWTS or effective treatment of the final effluent, unless the system has been designed to include the discharge of clear water as part of the POWTS. <sup>(03-25)</sup>

(3) Public System Availability. When a public system becomes available, the POWTS shall be disconnected and abandoned in accordance with Comm 83.33, Wisconsin Administrative Code. Connection to the public sewer system is to be made within twelve (12) months, unless the public sewage system provider has adopted rules to the contrary. The local municipality or utility that provides sewer service shall make the determination of whether sewer is available.

#### 9.026 POWTS Abandonment.

(1) A POWTS Abandonment Permit shall be issued prior to the abandonment of any POWTS or POWTS component within the County.

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- (2) An Application for a POWTS Abandonment Permit shall be made on County approved forms furnished through the Ozaukee County Department of Land and Water Management.
- (3) No part of a POWTS may be abandoned until it has been pumped by a Certified Septage Servicing Contractor and a County Inspector is onsite to observe the abandonment.
- (4) POWTS Abandonment shall be in accordance with Section 83.33, Wisconsin Administrative Code.
- (5) POWTS Abandonment for the purposes of a replacement POWTS shall be exempt from an Abandonment Permit and applicable Fee.
- (6) An Annexing authority shall be exempt from an Abandonment Permit and applicable fee upon the receipt of written certification that the POWTS has been abandoned per Wisconsin Administrative Code Section Comm 83.33, within thirty (30) days of the abandonment.

9.027 POWTS Holding Components.

- (1) Holding tanks are allowed as a system of choice per Comm 83. (03-25)
- (2) A Municipality may, by ordinance, prohibit or limit the installation and use of holding tanks. (03-25)

(3) A POWTS utilizing a soil dispersal component that cannot be installed due to adverse weather and/or in-situ soil conditions, may utilize a temporary holding tank. Approval for the use of the POWTS treatment components as temporary POWTS holding components shall include: (03-25)

(a) A completed Temporary POWTS Holding Component Agreement and Temporary POWTS Holding Component Service Contract.

(b). The installation of an all weather access drive per Comm 83, Wisconsin Administrative Code and Holding Tank Component Manual For Private Onsite Wastewater Treatment Systems.

#### 9.028 Sanitary Privies.

(1) Sanitary Privy General Requirements.

(a) Sanitary privies and other alternative sanitation systems or devices allowed by Comm 91, Wisconsin Administrative Code, may be permitted provided that no public sanitary sewer system is available and a Sanitary Permit is obtained. Sanitary privies shall not be permitted for new residential residences in lieu of any other POWTS as provided by this Ordinance. However, privies may be permitted for seasonal dwellings that have no water supply, interior plumbing, or plumbing fixtures. Applicants for sanitary privies shall sign and record with the Register of Deeds a Privy Installation and Servicing Agreement approved by the County prior to obtaining a Sanitary Permit.

(b) Privies or alternative sanitation systems and devices shall be constructed in accordance with Comm 91, Wisconsin Administrative Code, Sections Ind. 52.50 through Ind. 52.64 Wisconsin Administrative Code and this Ordinance, except that all vaults shall be watertight, poured concrete construction and no pit privies are permitted. In addition, the following requirements must be met:

1. Privies shall be located at least 75 feet from a the Ordinary High Water Mark (OHWM) of a stream, lake, or other body of surface water, seventy-five (75) feet from a Lake Michigan bluff or ravine or as determined by Section 7.055 of the Ozaukee County Shoreland Zoning Ordinance, fifty (50) feet from any habitable building located on adjoining properties, fifty (50) feet from any well, and twenty-five (25) feet from the top of a land slope having a slope in excess of 10 percent.

2. An exterior fly-tight and watertight access opening for cleaning vault shall be provided.

3. Exterior doors shall open outward and be self-closing.
4. Seats shall be provided with hinged, self-closing covers.
5. Urinals shall be of the floor-mounted type.
6. Floodplain development standards, when applicable, shall be met.

9.029 POWTS Management, Maintenance, and Reporting.

(1) A management, maintenance, and reporting program for all POWTS shall be conducted by the Director of Land and Water Management and/or the private firm duly designated by the County to conduct such a program. Any modification of the management and reporting program approved by Ozaukee County shall be pursuant to Comm 83, Wisconsin Administrative Code, and shall be applicable to all existing POWTS.

(2) Maintenance of Existing POWTS.

(a) All persons owning, occupying, or utilizing an existing POWTS that was installed prior to July 1, 2000 or a POWTS in which a Sanitary Permit was issued prior to July 1, 2000 shall:

1. Have the POWTS treatment tank component(s) pumped by a Certified Septage Servicing Contractor or inspected by a licensed Master Plumber, licensed Master Plumber-Restricted Service, licensed POWTS Inspector, or licensed POWTS Maintainer that is certified to inspect and maintain the various POWTS components a minimum of once every three (3) years.
2. Have the POWTS dispersal component visually inspected by a licensed Master Plumber, licensed Master Plumber-Restricted Service, licensed POWTS Inspector, or licensed POWTS Maintainer that is certified to inspect and maintain the various POWTS components a minimum of once every three (3) years to determine whether wastewater or effluent is ponding to the ground surface.
3. Have any damaged, defective, or non-operational POWTS components or final effluent quality that is found to be in non-compliance with the appropriate Administrative Code Section and this Ordinance immediately brought back into compliance. The above must be performed before the maintenance event is to be considered complete. Such situations may be subject to an inspection of the POWTS by Department of Land and Water Management staff.
4. Maintain a permanent record of all pumping and inspection events conducted by a Certified Septage Servicing Contractor, licensed Master Plumber, licensed Master Plumber-Restricted Service, licensed POWTS Inspector, or licensed POWTS Maintainer.
5. Pay a One-time Electronic Reporting Service Fee as set by the County and this Ordinance. (04-38)

6. Provide to the Director of the Land and Water Management Department in a manner specified by the County, the original completed maintenance report and/or electronically filed maintenance report by a licensed Master Plumber, licensed Master Plumber-Restricted Service, licensed POWTS Inspector, or licensed POWTS Maintainer for any inspection, evaluation, maintenance, or servicing event that occurred within the time limit specified in Comm 83.55 Wisconsin Administrative Code.
- (3) Maintenance of New POWTS.
- (a) All persons owning, occupying, or utilizing a new POWTS in which a Sanitary Permit was issued after July 1, 2000 shall:
1. Have the POWTS treatment tank component(s) pumped by a Certified Septage Servicing Contractor or inspected by a licensed Master Plumber, licensed Master Plumber-Restricted Service, licensed POWTS Inspector, or licensed POWTS Maintainer that is certified to inspect and maintain the various POWTS components in accordance with the approved Operation and Maintenance Manual or Management Plan per Comm 83.54 Wisconsin Administrative Code.
  2. Have the POWTS component(s) and POWTS dispersal component(s) visually inspected and serviced by a licensed Master Plumber, licensed Master Plumber-Restricted Service, licensed POWTS Inspector, or licensed POWTS Maintainer that is certified to inspect and maintain the various POWTS components in accordance with the approved Operation and Maintenance Manual or Management Plan per Comm 83.54 Wisconsin Administrative Code.
  3. Have any damaged, defective, or non-operational POWTS components or final effluent quality that is found to be in non-compliance with the appropriate Administrative Code Section and this Ordinance immediately brought back into compliance. The above must be performed before the maintenance event is to be considered complete. Such situations may be subject to an inspection of the POWTS by Department of Land and Water Management staff.
  4. Maintain a permanent record of all pumping and inspection events conducted by a Certified Septage Servicing Contractor, licensed Master Plumber, licensed Master Plumber-Restricted Service, licensed POWTS Inspector, or licensed POWTS Maintainer.
  5. All owners of existing POWTS shall pay a one-time electronic reporting service fee as set by the County and this Ordinance. (04-38)
  6. Provide to the Director of the Land and Water Management Department in a manner specified by the County, the original completed maintenance report and/or electronically filed maintenance report by a licensed Master Plumber, licensed Master Plumber-Restricted Service, licensed POWTS Inspector, or licensed POWTS Maintainer for any inspection, evaluation, maintenance, or servicing event that occurred within the time limit specified in Comm 83.55 Wisconsin Administrative Code.

- (4) POWTS Holding Component Management, Maintenance and Reporting.
- (a) The owner of a property served by a POWTS holding component shall be responsible for operating and maintaining the POWTS holding component pursuant to this subsection and Comm 83.52, Comm 83.54, and Comm 83.55, Wisconsin Administrative Code.
- (b) A Management and Reporting Program for all POWTS holding components shall be conducted by the Director of Land and Water Management and/or the private firm duly designated by the County to conduct such a program. Any modification of the Management and Reporting Program approved by the County shall be pursuant to Comm 83, Wisconsin Administrative Code, and shall be applicable to all new and existing POWTS holding components installed in the County.
1. All owners of new and existing POWTS holding components shall notify an electronic reporting service designated by the County, or the owners' Certified Septage Servicing Contractor, each time that the POWTS holding component is serviced or maintained. The reporting service shall establish and maintain an electronic database that will record all POWTS holding component owner notices, maintenance, and servicing events.
  2. All owners of POWTS holding components shall designate, to the electronic reporting service or to the County, a Certified Septage Servicing Contractor who will service and maintain their POWTS holding component. The electronic reporting service shall automatically notify the designated Contractor of each POWTS holding component that needs to be serviced and maintained.
  3. No person shall remove, alter, disconnect, damage, or otherwise render unworkable any part of a POWTS holding component, including the water meter with remote read.
  4. Any damaged, defective, or non-operational POWTS holding components that are found to be in non-compliance with the appropriate Administrative Code Section and this Ordinance shall be immediately brought back into compliance. Such situations may be subject to an inspection of the POWTS by Department of Land and Water Management staff.
  5. All owners of POWTS holding components shall pay a one-time electronic reporting service fee as set by the County and this Ordinance. (04-38)
- (c) All POWTS holding component waste shall be disposed of in accordance with Wisconsin Administrative Code NR113. Permanent POWTS servicing records should demonstrate continuity of the pumping schedule in year round residences or establishments. Permanent records for seasonal residences or establishments should demonstrate continuity of pumping schedule during the portion of the year the building is occupied.
- (5) Permanent Service Records.

(a) Permanent service records shall be on forms provided by the Department of Land and Water Management, the POWTS treatment component manufacturer, and/or electronic forms provided by a private firm duly designated by the County to conduct such a program. Any modification of the Management and Reporting Program by the private firm approved by the County shall be pursuant to Comm 83, Wisconsin Administrative Code, and shall be applicable to all new and existing POWTS systems installed in the County.

(b) Required permanent service records of pumping and/or inspection of POWTS components shall include where applicable:

1. Name and license number of individual or his employee conducting work.
2. Date of pumping, inspection, or service event performed.
3. Approximate number of gallons pumped or statement indicating pumping of the POWTS treatment and/or holding tank component(s) was not necessary and why. If pumping of the POWTS treatment and/or holding tank was not necessary at the time of inspection or maintenance, the next date pumping will be required must be indicated.
4. Description of inspection or service work performed.
5. Signature of Certified Septage Servicing Contractor, licensed Master Plumber, licensed Master Plumber-Restricted Service, licensed POWTS Inspector, or licensed POWTS Maintainer conducting the work.
6. Location, owner, and Sanitary Permit Number assigned by the Ozaukee County Department of Land and Water Management.
7. Water meter reading (POWTS holding components only).
8. Any other information deemed pertinent by the Department of Land and Water Management and/or Comm 83, Wisconsin Administrative Code.

(c) Failure by the property owner to maintain and produce permanent POWTS service records upon request or have their Certified Septage Servicing Contractor, licensed Master Plumber, licensed Master Plumber-Restricted Service, licensed POWTS Inspector, or licensed POWTS Maintainer provide the required reports shall constitute a violation of this Ordinance, and shall be punishable by penalties as prescribed in this Ordinance.

## 9.03 Wisconsin Fund Grant Program

- (1) Application. Applications for Wisconsin Fund Grants shall be made to the Director of Land and Water Management on forms that meet the minimum requirements of Comm 87, Wisconsin Administrative Code. All completed Applications that qualify for a grant shall be filed with the Director of Land and Water Management by January 15<sup>th</sup> of each year to qualify for a grant payment in that same year.
- (2) Eligibility. The eligibility of each applicant shall be determined by the Land and Water Management Director pursuant to the eligibility requirements of Section 145.245, Wisconsin Statutes, and Comm 87, Wisconsin Administrative Code.
  - (a) Appeal. Any Wisconsin Fund applicant aggrieved by a determination of eligibility may appeal such determination pursuant to Section 9.011(3)(a) of this Ordinance.
- (3) Determination of Failure. A determination of failure, as defined in Section 145.245(4), Wisconsin Statutes, of an existing POWTS shall be made by the Director of Land and Water Management prior to accepting any application for a grant. The determination of failure shall specify the type of failure pursuant to Section 245.245(4), Wisconsin Statutes, and establish a deadline for correcting the failure.
- (4) Application Fee. For each Wisconsin Fund Application, the applicant shall pay a fee of \$150.00. If a determination is made by the Wisconsin Fund Administrator or the Director of Land and Water Management that the applicant or applicants' project is not eligible, 50% of the Application Fee will be refunded to the applicant by the County.
- (5) Variances or Appeals. All Variance or Appeal Requests for Wisconsin Fund Applications shall be filed with the Department in a manner described in Comm 87.90, Wisconsin Administrative Code.

## 9.031 Violations.

- (1) It shall be unlawful to construct any POWTS or use any POWTS, land, or water in violation of any of the provisions of this Ordinance.
  - (a) In case of violation of any provision of this Ordinance, the County Board of Supervisors, the County Natural Resources Committee, the Director of Land and Water Management, or any person who would be specifically damaged by such violation may institute appropriate legal action or proceeding to enjoin a violation of this Ordinance.
  - (b) Every POWTS placed or maintained on floodlands in violation of this Ordinance is a public nuisance; and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the state, county, or any citizen thereof.
  - (c) All violations of this Ordinance shall be reported by the Director of Land and Water Management to the Corporation Counsel, who shall then prosecute such violations on behalf of the County.

## 9.032 Penalties, Sanitary Code.

(1) Owner(s) or Occupant(s) who fail to comply with the provisions of this Sanitary Ordinance or who permit the continued use of premises or buildings which are in violation of the provisions of this Sanitary Ordinance shall, upon conviction thereof, forfeit not less than \$250.00 nor more than \$1000.00 and costs of prosecution for each violation. In default of payment of such forfeiture and costs, said person(s) shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.

## 9.033 Non-Compliance.

(1) Whenever a lawful order of the Land and Water Management Director has not been complied with after written notice has been mailed to the owner, resident, contractor, agent, or occupant of the premises, the County Board of Supervisors or Land and Water Management Director may request the County Corporation Counsel to institute appropriate legal action or proceeding to prohibit any person from installing or using a POWTS until such order is complied with.

## 9.034 Amendments.

(1) The County Board of Supervisors may alter, supplement, amend or change any or this entire Ordinance in accordance with Wisconsin Statutes. All amendments shall be made by the County Board upon recommendation of and after a public hearing is held by the County Natural Resources Committee. Notice of the hearing shall be given by publication of a Class 2 Notice, under Chapter 985, Wisconsin Statutes.

9.04 Public Health Code.9.041 Administration.

(1) General Provisions. The Public Health Code shall be interpreted, administered, and enforced by the Ozaukee County Health Officer, or a designee of the Health Officer, under the direction of the Board of Health of the County Board.

(2) Responsibilities of Health Officer or Designee.

(a) To insure compliance with the purpose and intent of this Code, with the requirements of this Code and with the requirements of the Wisconsin Statutes regarding public health.

(b) To issue and deny permits and licenses in compliance with this Code.

(c) To maintain records of permits issued, inspections made, work approved and other official actions.

(d) To enforce the provisions of this Code.

(3) Powers. The Health Officer, or his/her designee, shall have all the powers necessary to enforce the provisions of this Code without limitation by reasoning of enumeration including the following:

- (a) To enter any structure or premises at a reasonable time for the purpose of performing his/her duties and to secure a court order to accomplish this purpose if necessary.
- (b) To order abatement and/or correction of any public nuisance or health hazard in compliance with this Code or State Statutes.
- (c) To license or issue a permit for any public facility as provided for in this Code.
- (d) To prohibit the use of any public facility requiring a license or a permit under this Code, until it has been inspected and approved.
- (e) To revoke the license or permit of or prohibit the use of a public facility which has been determined to present a potential health hazard or is in noncompliance with this Code.
- (f) To delegate the responsibilities of administration and enforcement of this Code to a registered environmental health sanitarian or another person qualified in the field of public health.
- (g) Any other action authorized under the law or this Code to insure compliance with the purpose and intent of this Code and the requirements of this Code.

9.042 Public Nuisance.

(1) Definitions.

- (a) Groundwater - all water found beneath the surface of Ozaukee County located in sand, gravel, limerock, or sandstone geological formations or any combination of these formations.
- (b) Health Hazard - means a situation or condition which exists, or has the potential to exist, which is adversely affecting or has the potential to adversely affect the health of a person and/or the general public.
- (c) Immediate Health Hazard - a condition that exists or has the potential to exist which should, in the opinion of the Health Officer, be abated or corrected immediately, or at least within a 24 hour period, to prevent possible severe damage to human health and/or the environment.
- (d) Pollution - the contaminating or rendering unclean or impure the air, land or waters of the County, or making the same injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life as defined in Section 144.03 (9), Wisconsin Statutes.

(e) Person - any individual, firm, corporation, society, association, institution, public body or any other entity.

(f) Public -

1. Means affecting or having the potential to affect the people and/or the environment outside the limits of ones personally owned and personally occupied structure.

2. Means all persons outside of ones personally owned and personally occupied structure.

(g) Public Nuisance (Nuisance) - a thing, act, condition or use of property which is dangerous or has the potential to be dangerous, to human life or health; and whatever renders, or has the potential to render, the soil, air, water or any article of food or drink unwholesome or impure, is a nuisance.

(h) Solid Waste - means garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations and from domestic use and public service activities, but does not include solids or dissolved material in waste water effluent or other common water pollutants.

(i) Toxic and Hazardous Materials - any chemical and/or biological material that is or has the potential to create a public health hazard.

(2) Public Nuisances Prohibited. No person shall erect, construct, cause, continue, maintain, or permit any public nuisance within the County. Any person who shall cause, create or maintain a nuisance or who shall in any way aid or contribute to the causing, creating or maintenance thereof shall be guilty of a violation of this Chapter, and shall be liable for all costs and expenses attendant upon the removal and correction of such a nuisance and to the penalty provided in Subsection (6) of this Section.

(3) Responsibility of Nuisance. It shall be the responsibility of the property owner to maintain their property in a nuisance free manner and also to be responsible for the abatement and/or correction of any public nuisance that has been determined to exist on their property.

(4) Public Nuisance Enumerated. Public nuisance is defined in Subsection (1)(g) of this Section. More specifically, but not limited by enumeration, the following are public nuisances if determined to meet the public nuisance definition (Sections 9.042 (1)(g) of this Code).

(a) Unburied Carcasses - Carcasses of animals, birds, or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within the time period specified by the Health Officer or as required by Chapter 95.50, Wisconsin Statutes.

(b) Manure - accumulations of the bodily waste from all domestic animals and fowl that are handled, stored, or disposed of in a manner that creates a health hazard.

- (c) Air Pollution - The escape of smoke, soot, cinders, noxious acid fumes, gases, fly ash, industrial dust, or any other atmospheric pollutants within the County that creates noncompliance with Chapter NR154, Wisconsin Administrative Code. (Note: NR154 allows exemptions for open burning.)
- (d) Noxious Odors - Any negligent use of property, substance or things within the County emitting or causing any foul, offensive, noisome, noxious or disagreeable odor, or stench extremely repulsive to the physical senses of ordinary persons or a neighborhood as a whole.
- (e) Solid Waste - Any solid waste which is stored or disposed of in noncompliance to Chapter NR180, Wisconsin Administrative Code.
- (f) Food or Breeding Places for Vermin, Insects, Etc. - Accumulations of decayed animal or vegetable matter, trash, rubbish, garbage, rotting lumber, bedding, packing material, scrap metal, animal and human fecal matter, or any substance in which flies, mosquitoes, disease-carrying insects, rats or other vermin can breed, live, nest or seek shelter.
- (g) Toxic and Hazardous Materials - Any chemical and/or biological material that is stored, used, or disposed of in such quantity or manner that it is, or has, the potential to create a public health hazard.
- (h) Sludge - The disposal and/or storage of municipal sludge in noncompliance with Chapter NR110, Wisconsin Administrative Code, and the disposal and/or storage of septic tank, holding tank or privy sludge and other holdings in noncompliance with Chapter NR113, Wisconsin Administrative Code.
- (i) Wastewater - The presence of wastewater or sewage effluent from buildings on the ground surface, backing up into the building and/or running into a surface water body caused by a damaged, malfunctioning, improperly constructed, or inadequately maintained private sewage system, or private sewage lateral. Also any wastewater or sewage effluent that is not handled and disposed of in compliance with all applicable county and state codes.
- (j) Surface Water Pollution - The pollution of any stream, lake, or other body of surface water within the County that creates noncompliance with Chapter NR102 and NR103, Wisconsin Administrative Code.
- (k) Groundwater Pollution - Addition of any chemical and/or biological substance that would cause groundwater to be unpalatable or unfit for human consumption. These substances include, but are not limited to, the chemical and/or biological substances listed in Chapter NR109, Wisconsin Administrative Code, titled "Safe Drinking Water".
- (l) Private Water Supply - Any private well that is constructed, abandoned or used and/or any pump installed in noncompliance with Chapter NR112, Wisconsin Administrative Code.
- (m) Holes or Openings - Any hole or opening caused by an improperly abandoned cistern, septic tank, dug well, etc.; or any holes or openings improperly abandoned, barricaded or covered by excavation.

- (n) Nonfunctional Public Building Fixtures - Nonfunctioning water supply systems, toilets, urinals, lavatories, or other fixtures considered necessary to insure a sanitary condition in a public building.
- (o) Unhealthy or Insanitary Condition - Any condition or situation which renders a structure or any part thereof insanitary, unhealthy and unfit for human habitation, occupancy, or use, or renders any property insanitary or unhealthy.
- (p) Other - Any other situation determined to meet the definition of a Public Nuisance as per Subsection (1)(g) of this Section.
- (5) Investigation of Possible Public Nuisance. The Health Officer, or his/her designee, shall investigate all written and signed complaints or potential public nuisances and shall determine whether or not a public nuisance exists.
- (6) Abatement, Correction and Enforcement. Abatement, correction and enforcement of public nuisances will be according to the provisions in Section 9.08 of this Ordinance "Enforcement" which are detailed as follows and in Section 9.08:
- (a) If the existence of a public nuisance is confirmed, a written cleanup and/or abatement order will be issued specifying the action needed to abate and/or correct the nuisance; the time period allowed to abate and/or correct the nuisance, (24 hours, 5, 10, 30 or more days depending on the nature of the nuisance); and the penalty (citation and/or possible court action), if the nuisance is not abated and/or corrected.
- (b) To expedite the abatement and/or correction of public nuisances, citations may be issued as per Section 9.08 (3) (a) of this Code and Section 66.0113 of the Wisconsin Statutes. Except in the situations described in Subsection (d) below, the issuance of a citation will always be after the violation of an order written by the Health Office, or his/her designee, to abate and/or correct the nuisance. The issuance of a citation does not exempt a violator from further legal action against him/her as described in Subsection (c) below. (04-13)
- (c) In cases where the use of a citation alone is inadequate or inappropriate to fully cause the abatement and/or correction of a public nuisance, legal action seeking a higher forfeiture and penalties or injunctive action to cause abatement of a nuisance, and also to rectify any damage created by the nuisance can be initiated against any violator at the discretion of the Health Officer and the Ozaukee County District Attorney or Corporation Counsel. The initiation of legal action does not exempt a person from being issued a citation. As with citations, legal action will only be initiated against a person after the person violates a written order from the Health Officer, or his/her designee, except in the situation described in Subsection (d) below.
- (d) In extreme cases or in the case of repeated occurrences of the same nuisance by the same person, the issuance of a citation or the initiation of legal action against the person can be immediate.

(e) In cases of an immediate health hazard or in extreme cases where the person responsible for a nuisance refuses to abate and/or correct it within the time period specified in the written order, the local governing body and if not the local governing body, the County, may cause to have the nuisance abated and/or corrected with the cost of such abatement and/or correction to be recovered directly from the responsible person or as a special assessment on the property as per Chapter 146.14, Wisconsin Statutes, and Section 9.08 (4) of this Code.

(f) In the other cases in which a violator refuses to abate and/or correct a nuisance even after a situation and/or a court imposed penalty has been served upon the person a separate offense subject to additional penalties shall be deemed committed during each period of ten (10) days during or upon which the violation occurs or continues.

(7) Coordination with State Agencies.

(a) Where a nuisance as specified in Subsection (4) of this subsection involves noncompliance with a state enforced Administrative Code, the Health Officer, or his/her designee, shall first refer this complaint to the appropriate state agency for abatement and/or correction. If the nuisance continues without adequate enforcement from the state agency to cause its abatement and/or correction, then the Health Officer, or his/her designee, may initiate action under this section to bring about abatement and/or correction.

(b) Where a nuisance is determined to be a health hazard as determined by the Health Officer, he/she may proceed immediately to have it abated and/or corrected.

#### 9.05 Restaurants.

(1) Restaurants shall be constructed, operated and maintained as specified in Chapter H96 of the Wisconsin Administrative Code, except that Definitions should read as follows:

(a) "Restaurant" means and includes any building, or room, coffee shop, cafeteria, cafe, drive-in, luncheonette, grille, tearoom, sandwich shop, smorgasbord, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial feeding operation, private organization routinely serving the public, mobile food units, catering kitchen commissaries or any other place where food or drink is served to or prepared for service to the public with or without charge.

(b) "Food" means any raw, cooked or processed edible substance, beverage or ingredient used or intended for use in whole, or in part, for human consumption.

#### 9.06 Public Beaches, Testing and Closure.

(1) The Ozaukee County Department of Public Health shall collect and test water samples from public beaches to determine the condition of the waters for use of the public.

(2) The testing of public waters shall be conducted in accordance with the standards set by the State of Wisconsin Department of Natural Resources and Wisconsin Department of Family Services, Division of Health.

(3) The waters tested will be public beaches in Ozaukee County defined as a designated body of water not contained in a pool structure, basin, chamber or tank and used for one or more purposes such as diving, swimming, wading, boating or other water recreational uses and the shore leading to those bodies of water.

(4) The tested waters are adequate for public use if they meet the criteria regarding fecal contamination and other human health hazards as set by the State of Wisconsin Department of Natural Resources and Wisconsin Department of Family Services, Division of Health.

(5) If during testing, the Ozaukee County Department of Public Health finds chemical, biological, and/or physical contamination so as to interfere with the public's recreational use of the waters or a failure to meet the standards established in paragraph (4) of this ordinance, the Department may do any or all of the following:

- (a) Post an advisory on the affected beaches regarding the use of those waters;
  - (b) Immediately close the affected beaches by posting and publishing notice to the public;
  - (c) Cooperate with other departments and agencies in taking actions as necessary and reasonable, to protect and inform the public of the health hazard;
- (6) If a human health hazard exists, the Director of the Public Health Department may order immediate closure of the affected beach areas to use by the public;
- (7) Advisories, closures or other actions by the Department of Public Health shall remain in effect until the Department determines that the hazardous or dangerous health situation no longer exists.

#### 9.07 Camps and Parks.

(1) Recreational camps, mobile home parks and campgrounds shall be constructed, operated and maintained as specified in Chapter H75, H77 and H78 of the Wisconsin Administrative Code respectively.

#### 9.08 Enforcement.

(1) Written Order. When a violation of this Code is encountered, the Health Officer, or his/her designee, shall issue the violator a written order. This order shall specify the following:

- (a) The nature of the violation and the steps needed to abate and/or correct it.
- (b) The time period in which the violation must be corrected and/or abated, (usually 1 to 5 days or 10 to 30 days depending on the nature of the violation).
- (c) The penalty or penalties the violator would be subject to if the apparent violation is not abated and/or corrected within the given time period (see Subsections (3) and (4) below, and Section 9.09).

(2) **Exceptions to Written Order.** In cases where a violation poses an immediate health hazard as determined by the Health Officer or in the case of repeated occurrences of the same violation by the same person, the action(s) specified in Subsection (3) below can be initiated immediately.

(3) **Noncompliance with Order.** If a person does not comply with a written order from the Health Officer, or his/her designee, the person may be subject to one or more of the following actions and/or penalties:

(a) Commencement of legal action against the person seeking a court imposed forfeiture and/or imprisonment (see Section 9.09).

(b) Commencement of legal action against the person seeking an injunction to abate the violation and/or correct the damage created by the violation.

(c) The suspension or cancellation of any license or permit issued by this Department.

(d) Any other action authorized by this Ordinance or by other applicable laws as deemed necessary by the Health Officer.

(e) The initiation of one action or penalty under this section does not exempt the apparent violator from any additional actions and/or penalties listed in this section.

(4) **Ordered Abatement of Certain Nuisances.** Where nuisance as defined in this Code and Section 146.14, Wisconsin Statutes, are encountered which may require ordered abatement and/or correction as per Section 146.14, Wisconsin Statutes, the Health Officer shall serve upon the responsible person a written order as per Subsection (1) of this Section. A copy of this order shall be forwarded to the local governing body. If the nuisance is not abated and/or corrected within the time period specified in the order, the local governing body shall enter upon the property and abate and/or correct the nuisance or cause it to be abated and/or corrected. If the local governing body fails to abate and/or correct the nuisance or cause it to be abated and/or corrected the County may enter on the property and do the same. The cost of such abatement and/or correction is to be recovered, by the local governing body, and, if not the local governing body, the County, either directly from the responsible person or as a special tax assessment on the property as per Section 146.14 (2) and (5), Wisconsin Statutes.

#### 9.09 Penalties, Public Health Code.

(1) In case any person is convicted of violating any of the provisions of this Code, a judgment of forfeiture not to exceed \$500 shall be entered against the person in addition to court costs. In default of payment of the judgment the person shall be imprisoned in the County Jail for such time as the court deems fit not exceeding sixty (60) days unless the judgment is sooner paid. In the case of court imposed forfeitures as per County Ordinance and Subsection (3) of this section, a separate offense shall be deemed committed during each ten (10) day period during or upon which a violation occurs or continues. In cases where the violation poses an immediate health hazard as determined by the Health Officer, this ten (10) day period can be reduced to 24 hours with written notice of such reduction given to the violator.

(2) **Initiation of Legal Action.** Legal action shall be initiated against a violator, on request of the Health Officer, by the Corporation Counsel.