

PRIVATE SEWAGE SYSTEM ORDINANCE

INTRODUCTION

1. **STATUTORY AUTHORITY.** This ordinance is adopted pursuant to the authorization in §59.70(5), 145.04, 145.19, 145.20, 145.245 Wisconsin Statutes.
2. **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.
3. **REPEAL AND EFFECTIVE DATE.** After public hearing, adoption by the county Board and publishing or posting as required by law. The existing sanitary provisions for the County shall be repealed effective on the date of the enactment of this ordinance.
4. **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 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.

5. **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.
6. **DEFINITIONS.** The following terms shall have the meanings indicated in this section.

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.

Conventional Mound. A POWTS which uses a minimum of 24" of existing natural soil for the installation of a mound system.

County. The County Authority; the Rusk County Zoning Department.

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

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

Human Habitation. The act of occupying a structure as a dwelling or sleeping place, whether intermittently or as a principal residence.

Modification in Wastewater Flow or Contaminant Load. A modification is 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.

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

Private Sewage System. Also referred to as a “Private Onsite 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.

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

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

Septic Tanks. An anaerobic treatment tank.

State. The Wisconsin Department of Commerce.

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. Such incidental structures may include (but are not limited to) truck campers, travel trailers, park or model units, buses, and motor homes.

GENERAL REQUIREMENTS

7. COMPLIANCE.

- (1) All structures or premises in the County that are permanently or intermittently intended for human habitation or occupancy, where plumbing fixtures exist and pressurized water service is provided and 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.

8. 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 system: §59.70(5), Chs. 145, 281.48 and 968.10, Wisconsin Statutes; Chs Comm 52.63, Comm 81, Comm 82, Comm 83, Comm 84, Comm 85, 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.

9. APPLICABILITY.

The requirements of this ordinance shall apply to all geographic areas of the County except lands owned by the Federal Government or held in trust by the Federal Government.

10. LIMITATIONS

- (1) All domestic wastewater shall enter a private sewage system unless otherwise exempted by the State or this ordinance.
- (2) A non-plumbing sanitation system may be permitted 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 or in addition to, a non-plumbing sanitation system must be provided.

- (3) A holding tank may be used as a POWTS unless soil and site conditions allow the installation of any of the following POWTS components:
 - (a) Conventional Private Sewage System
 - (b) Conventional Mound System
 - (c) At-Grade
 - (d) Pressurized In-Ground System
- (4) A thorough soil and site evaluation shall be completed in all areas within 300' of the structure being served for Compliance with 10.00(3).
- (5) 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. An application for a sanitary permit to install a temporary holding tank shall include written statements from:
 - (a) The municipality or sanitary district, verifying the date that public sewer will be installed and available to serve the property;
 - (b) The Department of Natural Resources, verifying approval of the public sewer; and
 - (c) The property owner, agreeing to connect to public sewer when it becomes available and to abandoned the temporary holding tank. If public sewer does not become available within 2 years of the date of sanitary permit issuance, Section 10.00(3) shall apply.
- (6) A holding tank may be installed to serve a use with a Design Wastewater Flow of less than 150 gallons per day with the following condition:
 - (a) An application for a sanitary permit to install a holding tank to serve a use with less than 150 gallons design wastewater flow per day shall include a written statement from the property owner, agreeing to install another type of system approved under Comm 83, if any change of occupancy or use occurs which results in a Design Wastewater Flow which equals or exceeds 150 gallons per day and such document shall be recorded with the property description in the Register of Deeds.

PERMITS AND APPLICATIONS

11. SANITARY PERMITS.

- (1) A County Sanitary Permit shall be obtained prior to constructing or installing a non-plumbing sanitation system, for reconnections as outlined in 13.00 and for repairs or physical restoration/rejuvenation of existing systems. A privy installation agreement shall be recorded with Register of Deeds prior to the issuance of a Sanitary Permit for a privy.
- (2) A State Sanitary Permit shall be obtained per Comm 83.21, Wis. Adm. Code.

12. REVISIONS

- (1) Revisions as outlined in 83.22(4)(a) WI Administrative Code shall also include the change of plumbers responsible for the POWTS installation. The plans submitted with a change of plumber shall be designed by the applying plumber or a licensed designer, architect or engineer per Comm 83.22(2)(c)1., Wis. Adm. Code.

13. RECONNECTION

- (1) A County Sanitary Permit for a reconnection 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 §13.00(4); or
 - (c) Rebuilding a structure that is connected to a private sewage system.
 - (d) Construction affecting a modification in wastewater flow or contaminant load.
- (2) Prior to issuing a County Sanitary 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 building to be served.
 - (c) Determine that all minimum setback requirements of Comm 83, Wisconsin Administrative Code, will be maintained. All setbacks are pursuant to NR811 and NR 812 Wis. Adm. Code.
- (3) Application for a County Sanitary Permit for a reconnection shall include the following:
- (a) For all systems that utilize in situ soil for treatment or dispersal, a 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 ground water elevation and bedrock complies with Comm 83, Wisconsin Administrative Code, unless a valid report meeting these criteria is on file with the County;
 - (b) A report provided by a licensed plumber, certified septage servicing operator, a POWTS inspector or other person(s) authorized to do so by Comm 83, Wis. Adm. Code relative to the condition, capacities, baffles and manhole covers for any existing treatment or holding tanks;
 - (c) A report provided by a licensed plumber, POWTS inspector or other person(s) authorized to do so by Comm 83, Wis. Adm. Code relative to the condition and capacities of all other system components and verifying that the system is not a failing system;
 - (d) Complete plans and specifications for any system components which will be modified or replaced.
 - (e) Reconnection to existing holding tanks may require a new servicing contract and updated holding tank agreement which meets the requirements of this ordinance
 - (f) 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 of 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, a plot plan that documents all setbacks between the structure and system components.
- (5) A Flows and Loads Affidavit shall be recorded with the Register of Deeds for any clarification in the occupancy or use limitations of a structure.
- (6) 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.

14. PRIVIES AND PORTABLE RESTROOMS.

- (1) Privies and portable restrooms shall be constructed and maintained in a clean condition so that insects and rodents cannot enter the vault.
- (2) Privies and portable restrooms shall be located at a minimum horizontal distance of 25 feet from dwellings, 25 feet from a lot line, 50 feet from the water supply wells, 75 feet from a stream, lake or other water course, and 25 feet from the edge of a 20% slope.

15. PERMIT FEES.

- (1) Permit fees shall be set and amended from time to time by the Zoning Committee.

INSPECTIONS

16. INSPECTIONS; GENERAL.

- (1) Notice for final inspections shall be given to the County for all POWTS and non-plumbing systems installed or modified.

17. REINSPECTION.

- (1) A reinspection fee may be assessed when a reinspection of a private sewage system is required because 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. Each additional reinspection required at the site will require a fee.
- (2) The reinspection fee shall be due within ten working days of written notification by the County. Failure to pay this fee within that period shall constitute a violation of this ordinance.

SYSTEM MANAGEMENT AND MAINTENANCE

18. WISCONSIN FUND.

- (1) The Rusk County Board of Supervisors hereby designates the Zoning Administrator to administer the Private Onsite Wastewater Treatment System Replacement or Rehabilitation Financial Assistance Program (Wisconsin Fund Program), to submit grant applications, to accept grant awards from the State and to make payments in accordance with the provisions of Section 145.245 WI Stats and Chapter Comm 87 of the Wis. Adm. Code and conditions of the grant.
- (2) Each WI Fund grant award and recipient shall be charged a fee of ten percent (10%) of their individual award for filing and administration.

18.5 MAINTENANCE PROGRAM

- (1) Rusk County shall complete and maintain an inventory of all POWTS located within the governmental unit jurisdiction by October 1, 2011.
- (2) Rusk County shall implement a maintenance program pursuant to 145.20(2)(i) Wis. Stats. and Comm 83.255 Wis. Adm. Code.
- (3) All POWTS shall be maintained in accordance with Comm 83.54(3) and Comm 83.54(4) Wis. Adm. Code.
- (4) A holding tank which discharges sewage to the ground surface, including intentional discharges and discharges caused by neglect, shall be considered a failing private sewage system.
- (5) Circumstances such as inclement weather, road weight restrictions and site limitations may necessitate a delay in maintaining a treatment tank or component until conditions permit.
- (6) Reporting Requirements
 - (a) Pursuant to Comm 83.55, Wis. Adm. Code, a POWTS owner or owner's agent shall submit a report to Rusk County at the completion of each

- inspection, evaluation, maintenance or servicing event.
- (b) The report shall be completed within 30 calendar days from the date of the inspection, evaluation, maintenance or servicing event.
- (c) Reporting shall be done in the manner prescribed by the county through an internet based program.

19. MAINTENANCE DOCUMENTATION

- (1) Pursuant to Comm 83.21(2)(c)5. Wis. Adm. Code, owners of POWTS requiring service, maintenance, monitoring or evaluation at an interval of 12 months or less shall record documentation of such with the deed to the property.
- (2) Pursuant to 145.20(4) Wis. Stats., a governmental unit may assess the owner of a private sewage system for costs related to the pumping of a septic or holding tank.

20. ADMINISTRATION. The Zoning Administrator shall be responsible for the administration of this ordinance. The Zoning Administrator may delegate responsibilities to personnel employed by the Zoning Department and in the case of issuing abatement orders, to the County Health Department.

21. POWERS AND DUTIES. In the administration of this ordinance, the Zoning Administrator 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 applicant 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 or as approved through agent status by the State.
- (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) Have access to any premises for the purpose of performing official duties between 8 a.m. and 8 p.m. or at other times set by mutual agreement between the property owner or his agent and the Zoning Administrator or upon issuance of a special inspection warrant in accordance with §66.122, Wisconsin Statutes. Application for a sanitary permit is considered for the purposes of this ordinance as the owner's consent to enter the premises.
- (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 building 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 or delegate this authority to the County Health Department.
- (10) Apply for and distribute grants obtained through the Wisconsin Fund Grant Program.
- (11) Withhold or deny permit(s) or approvals(s) pursuant to Comm 83.21(3) Wis. Adm. Code.

- (12) Perform other duties regarding private sewage systems as considered appropriate by the County or the State.

22. ZONING COMMITTEE

- (1) Consider and approve or deny requests for a waiver to §10.00(3) 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 waiver, the Zoning Committee may require recording of affidavits, 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 Zoning Committee. Any appeal shall be made on forms furnished by the County within 30 days of the date of that administrative action. Other substantiating evidence will be accepted.

23. VIOLATIONS AND PENALTIES.

- (1) Any person who fails to comply with the provisions of this ordinance, or any order of the County issued in accordance with this ordinance, or resists enforcement, shall be subject to a citation or other enforcement action. Citation authority is pursuant to Rusk County Resolutions 96-09, 96-59 and 98-50.
- (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.