

Chapter 58

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CHAPTER 58 – FOND DU LAC COUNTY

Private Onsite Wastewater Treatment System (POWTS) Chapter

Sec. 58-1. Title.

This chapter shall also be known as the “Fond du Lac County Private Onsite Wastewater Treatment System (POWTS) Chapter”, or hereinafter referred to as “this Ordinance”.

Sec. 58-2. Authority.

This Ordinance is adopted pursuant to the authority granted by s. 59.70(5), 145.01(5), 145.20, 145.245 Wis. Stats., and, Ch. SPS 383, 387 and 391 Wis. Admin. Code.

Sec. 58-3. Purpose.

The purpose of this Ordinance is to establish minimum standards and criteria for the design, installation, operation, inspection and management of private onsite wastewater treatment systems (‘POWTS’), so that each system is designed, installed and operated appropriately so public health and safety is protected, and waters of the State, including drinking water, are safe from any potentially harmful effects of a POWTS.

Sec. 58-4. Scope and Intent.

The scope and intent of this Ordinance is to regulate wastewater generation and the location, construction, installation, alteration, design and use of all POWTS as to protect the health of the residents and transients; to protect drinking water from harmful bacteria; to secure safety from disease and pestilence; to further the appropriate use and conservation of land and water resources; and to preserve and promote the beauty of Fond du Lac County and its communities. It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for violation of this Ordinance.

Sec. 58-5. Compliance.

No POWTS or part thereof shall hereafter be located, installed, moved, reconstructed, reconnected, extended, enlarged, converted, substantially altered or their use changed without a sanitary permit and without full compliance with the provisions of this Ordinance and all other applicable County and State regulations. No person shall install, repair, add to or perform work on a POWTS except as permitted by this Ordinance. The owner of the property on which the system is located and the company or individual doing the work are both responsible for compliance with this Ordinance.

Sec. 58-6. Jurisdiction.

The jurisdiction of this ordinance shall include all lands and waters within the incorporated and unincorporated areas of Fond du Lac County that are not served by public sewer.

Sec. 58-7. Effective Date.

This Ordinance, upon enactment by the Fond du Lac County Board of Supervisors, shall be effective the day after adoption and shall not require approval or be subject to disapproval by any town, village or city in Fond du Lac County.

Sec. 58-8. Abrogation and Greater Restrictions.

(a) *Repeal.* The Fond du Lac County Private Sewage Disposal Ordinance of 2010, and any amendments thereto, are hereby repealed upon enactment of this Ordinance.

(b) *Greater Restrictions.* Wherever this Ordinance imposes greater restrictions than other similar regulations, the provisions of this Ordinance shall govern. This Ordinance may be more restrictive than Wis. Admin. Code where expressly allowed.

(c) *Deed Restrictions, Etc.* It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easement, covenant, deed restriction, or agreement. Fond du Lac County shall not enforce any easement, covenant, deed restriction, or agreement to which it is not a party.

(d) *Prior Permits.* It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any permit previously issued pursuant to law.

Sec. 58-9. Interpretation and Application.

The provisions of this Ordinance shall be construed to be the minimum requirements and shall be broadly and literally construed in favor of Fond du Lac County, shall not be deemed a limitation or repeal of any other power granted by the Wis. Stats. and the Wis. Admin. Code, and, is limited only by express language. Further interpretation and application of the provisions of this Ordinance shall take into account the purposes of this Ordinance and any adverse affects that an interpretation may have upon such purposes.

Sec. 58-10. Severability.

If any section, paragraph, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If any application of this Ordinance to a particular private onsite wastewater treatment system, part thereof, use, structure, land, or waters is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other private onsite wastewater treatment system, part thereof, use, structure, land, or water, not specifically included in said judgment.

Sec. 58-11. Warning and Disclaimer of Liability.

This Ordinance shall not create a liability on the part of or a cause of action against the County or any employee thereof for any POWTS 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 Wis. Stats. or Wis. Admin. Code requirements.

Sec. 58-12. Vesting of Rights.

No rights to any particular system or use vest in any property owner simply because the system or use is permitted by this Ordinance. Such system or use may be prohibited by future amendments to this Ordinance. However, the approval and issuance of a permit shall vest in the property owner the right to use the system or use in the manner specifically approved by the permit, unless or until the permit expires. No amendment to this Ordinance which prohibits a particular system or use shall be applicable to any system or use developed under a previously issued permit, except to that extent that such system or use is rendered nonconforming.

Sec. 58-13. Headings.

Headings are used throughout this Ordinance to assist users of this Ordinance. If a heading should conflict with the text in interpreting this Ordinance, the text shall control.

Sec. 58-14. Definitions.

(a) *Word Usage.* In the interpretation of this Ordinance, the provisions and rules of this Ordinance shall be observed and applied, except when the context clearly requires otherwise:

- (1) *Tense.* Words used or defined in 1 tense or form shall include other tenses and derivative forms.
- (2) *Singular and Plural.* Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- (3) *Gender.* The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- (4) *Shall.* The word “shall” is mandatory.
- (5) *May.* The word “may” is permissive.

(b) *Definitions.* Definitions provided in SPS 381, 382, 383, 384, 385, 387, and 391, and NR 113, 811, and 812 of the Wis. Admin. Code, are hereby adopted by reference, and as amended from time to time. When used in this Ordinance, the following terms shall have the meanings herein assigned to them. Words used in this Ordinance, but not defined herein or in any of the Wisconsin Administrative Code Chapters adopted by reference, shall carry the meanings as defined in Webster’s Third New International Dictionary Unabridged, or a dictionary based on it. For purposes of easy reference within this section, the following terms will appear in italicized print.

Bedrock. The rocks that underlie soil material or are at the earth's surface. Bedrock is encountered when the weathered-in place consolidated material, larger than 2mm in size, is greater than 50% by volume.

Building. A structure for support, shelter or enclosure of persons or property.

Cesspool. An excavation which receives domestic wastewater by means of a drain system without pretreatment of the wastewater and retains the organic matter and solids permitting the liquids to seep from the excavation.

Certified Soil Tester. A person licensed by the State as a Certified Soil Tester.

Code Administrator. An authorized representative of the Land Information Department /Code Enforcement Office hired by Fond du Lac County for the purposes of carrying out the terms of this Ordinance. The Code Administrator shall be specifically trained or experienced in performing those tests necessary to determine the feasibility of the safe disposal of sanitary works on proposed building sites and so certified by the department.

Community. A town, village, city or group of adjacent towns, villages or cities, or portions thereof, having common social, economic or physical interests.

County. The Fond du Lac County Land Information Department/Code Enforcement Office or staff thereof which also serves as the Issuing Agent and has the authority to sign documents necessary to carry out the intent of this Chapter.

Department. The State of Wisconsin Department of Safety and Professional Services.

DNR. The State of Wisconsin Department of Natural Resources.

Dwelling. A structure or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by 1 person or by 2 or more persons maintaining a common household, to the exclusion of others.

Effluent. Any untreated or partially treated domestic wastewater constituent, which includes the untreated discharge from any treatment tank or soil dispersal component.

Failing POWTS. A failing POWTS is one, which causes or results in any of the following conditions:

- (1) The discharge of sewage into surface water or groundwater.
- (2) The introduction of sewage into zones of saturation, which adversely affects the operation of a POWTS.
- (3) The discharge of sewage to a drain tile or into zones of bedrock.
- (4) The discharge of sewage to the surface of the ground.
- (5) The failure to accept sewage discharges and backup of sewage into the structure served by the POWTS.

Fee Schedule. The fee schedule established by the Fond du Lac County Board of Supervisors on file in, and implemented by, the Land Information Department/Code Enforcement Office. The fee schedule may also include fees established by the Fond du Lac County Board of Supervisors, which are placed on the landowner's tax bill to cover the expense of a maintenance program.

Field Verification. An evaluation of a soil profile conducted by a licensed County staff member at a site that was tested by a certified soil tester.

Flood Plain. Has the meaning specified under s. NR 116.03 (16).

High Groundwater. Zones of soil saturation, which include: perched water tables, shallow regional groundwater tables or aquifers, or zones that are seasonally, periodically or permanently saturated.

Holding Tank. A watertight receptacle for the collection and holding of wastewater.

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

Human Health Hazard. Has the meaning specified under Wis. Stats. Ch. 254.01 (2)

Infiltrative Surface (System Elevation). The plane within a treatment or dispersal component at which effluent is applied to in situ (native) soil or engineered soil.

Issuing Agent. The Fond du Lac County Code Administrator shall act as the Issuing Agent and is hereby assigned the duties of administering the POWTS program.

Licensed Pumper. A person or firm licensed by the State of Wisconsin to pump, haul and dispose of sewage and septage (also known as a 'certified septage servicing operator').

Licensed Staff Member. Any member of the Fond du Lac County Land Information Department/Code Enforcement Office, who is licensed by the State of Wisconsin as a Certified Soil Tester and POWTS Inspector, depending on the type of inspection.

Limiting Factor. Estimated depth to seasonal saturation, bedrock, or high groundwater.

Non-plumbing Sanitation System. Sanitation systems and devices within the scope of Wis. Admin. Code SPS 391, which are alternatives to water carried waste plumbing fixtures and drain systems; including, but not limited to, incinerating toilets, composting toilets, and privies.

Occupancy. The purpose for which a building is used or intended to be used. A change of occupancy is not intended to include a change of tenants or proprietors.

Owner. The person or persons indicated as the property owner on the *Fond du Lac County Land Records System*, unless a signed warranty deed has been submitted to indicate otherwise.

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

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

Principal Residence. Means a residence that is occupied at least 51% of the year by the owner. Principal residence includes a residence occupied by a trust or estate of an individual, if the residence is occupied at least 51% of the year by a person who has an ownership interest in the residence as a beneficiary of the trust or estate.

Private Onsite Wastewater Treatment System (POWTS). A sewage treatment and disposal system serving a single structure with a treatment tank, pre-treatment component, and/or soil dispersal component located on the same parcel as the structure; an alternative sewage system approved by the County including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than 1 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. For purposes of this Ordinance, a private onsite wastewater treatment system is also referenced as a 'POWTS'.

Privy. An enclosed non-portable toilet into which non-water carried human wastes are deposited.

(1) *Pit Privy.* Constructed in soils which pass a soil evaluation for a conventional POWTS.

(2) *Vault Privy.* Designed to retain contents in a water proof vault or holding tank.

Redoximorphic feature. Means a feature formed in the soil matrix by the process of reduction, translocation, and oxidation of iron and manganese compounds in seasonally saturated soil

Register of Deeds. The Office of the Fond du Lac County Register of Deeds.

Sanitary Permit. A permit issued by the Department or County for the installation of an approved POWTS.

(1) *State Sanitary Permit.* A permit issued by the Department for the installation or modification of a POWTS.

(2) *County Sanitary Permit.* A permit issued by the County for the reconnection of a POWTS, for the installation of a privy, and repairs or mechanical restoration activities.

Septic Tank. An anaerobic treatment tank which receives and partially treats sewage through processes of sedimentation, oxygenation, flotation and bacterial action so as to separate solids from the liquid in the sewage and discharges the liquid to a soil absorption system.

Sewage. The water carried wastes (organic) created in and to be conducted away from residences, private accessory buildings, commercial or industrial establishments, and public buildings.

Soil Absorption System. This definition shall include conventional (in-ground gravity), in-ground pressure, at-grade and mound components. This definition shall also include systems previously authorized as seepage bed or seepage trench systems.

Soil and Site Evaluation. The procedure specified in SPS 385, Wis. Admin. Code, conducted by a Certified Soil Tester used for the purposes of specifying, designing, and installing a POWTS to serve a structure.

Soil Pit. An excavation large enough for a person to stand in for the purpose of evaluating a soil profile.

Soil Profile. A vertical section of the soil containing 1 or more soil horizons.

Structure. Anything constructed, erected, or relocated from another premises, that is either permanently or temporarily attached to or resting on or in the ground, stream, lake bed, or another structure. 'Structures' shall include, but not limited to, buildings (regardless of size or use), mobile homes, manufactured homes, dwellings, gazebos, and swimming pools.

Suitable Soil Material. Any clean mineral soil fill material not containing any debris such as wood, plastic, metal, glass, paper, rubber, or any other similar materials.

Wash Water. Water, which has been contaminated by soap, detergent, or any other cleaning agent.

Waters of the State. Includes all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems, and other surface or groundwater, natural or artificial, public or private, within the State or its jurisdiction.

Wis. Admin. Code: The Wisconsin Administrative Code.

Wis. Stats.: The Wisconsin State Statutes.

Zone of Seasonal Saturation. The zone in which all soil pores are filled with water during some period of a year as determined by redoximorphic features.

Sec. 58-15. Prohibitions and Limitations.

- (a) All domestic wastewater shall enter a POWTS unless otherwise exempted by the State or this Ordinance.
- (b) Every building intended for human habitation or occupancy shall be provided with public sewer, a properly functioning POWTS or where there is no plumbing in the structure, a non-plumbing sanitation system that complies with SPS 391.

- (c) Portable restrooms shall be permitted for recreational or temporary use only. A sanitary permit is not required for a portable restroom.
- (d) Travel trailers and recreational vehicles connected to a self-contained unit dumped at an approved sanitary dump station are excluded from this section.
- (e) Any POWTS or portions(s) thereof installed within a floodplain shall comply with all applicable requirements of NR 116, Wis. Admin. Code and the Floodplain Ordinance (Chapter 28) of the Fond du Lac County Code.
- (f) Holding Tanks.
 - (1) The installation and use of a holding tank for new principal residence is prohibited.
 - (2) The installation and use of a holding tank shall only be permitted when there is no possibility of installing a POWTS, approved by Wis. Admin. Code SPS 383 that provides onsite treatment and disposal of domestic wastewater. A holding tank may be installed for the following situations:
 - A. As a replacement system; or
 - B. A holding tank may be installed to serve public recreational facilities located in County, City, Village or Town parks.
 - C. A holding tank may be installed to serve a use, other than a principal residence, with a design wastewater flow of 150 gallons per day or less.
- (g) Failing Systems.
 - (1) When a failing POWTS is identified, it shall be brought into compliance with current code requirements, replaced with a code-compliant system, or its use discontinued within that period of time specified by the Code Administrator.
 - (2) An unlawfully modified POWTS which is discharging untreated or partially treated sewage into the ground, onto ground surface, or into surface waters may be ordered by the County to be corrected or replaced with a compliant system.

Sec. 58-16. POWTS Abandonment.

- (a) The components of an existing POWTS that are not part of the approved design of a replacement system shall be abandoned at the time of the installation of the replacement system by the plumber installing the system. The abandonment shall comply with SPS 383, Wis. Admin. Code.

Sec. 58-17. Soil and Site Evaluation.

- (a) Soil and site evaluations shall be done prior to the issuance of permits as specified in SPS 383 and 385 of the Wis. Admin. Code.

(b) County verification of a soil and site evaluation may be necessary to determine the suitability of a lot for a POWTS. This verification will be made at the discretion of the County and will be made prior to the issuance of the sanitary permit.

- (1) To ensure that accurate soil interpretations can be made, field verifications will be performed when weather and lighting conditions are suitable.
- (2) All field verifications for soil tests shall be done by evaluating a soil profile. Soil pits shall be constructed which allow adequate visual observation of the soil profile in place. This is best accomplished by the excavation of backhoe pits.

(c) A certified soil tester may request County verification of a soil evaluation report before a complete sanitary permit application is submitted.

Sec. 58-18. Sanitary Permits.

- (a) Every POWTS shall require a separate application and State sanitary permit.
- (b) A State sanitary permit shall be obtained by the property owner, his agent or contractor, in the name of the property owner, before any POWTS or part thereof may be installed, replaced, reconnected, or modified. A State sanitary permit is not required for minor repairs (e.g. addition of manhole risers, replacement of manhole covers, risers, baffles, pumps).
- (c) A State sanitary permit shall be obtained by the property owner, his agent or contractor, in the name of the property owner, prior to the issuance of a building permit for the construction of any structure which requires a POWTS.
- (d) A County sanitary permit shall be obtained prior to constructing or installing a privy.
- (e) A sanitary permit shall be valid for 2 years from the original date of issuance.
- (f) If any part of an existing POWTS has failed or requires replacement or modification, a new State Sanitary permit shall be obtained for the modification, replacement, alteration or addition of the POWTS. Prior to the issuance of the new State sanitary permit:
 - (1) The remainder of the system shall be evaluated for compliance with codes in effect at the time the system was originally installed.
 - (2) A soil and site evaluation report shall be submitted for those components that utilize soil for treatment or dispersal, unless a report acceptable to the County is already on file with the County.
 - (3) If any part of a POWTS is found to be defective or not in conformance with the applicable provisions of this Ordinance, the State sanitary permit application shall include specifications for the repair, renovation, replacement or removal of that part.

- (g) Any sanitary permit provisions, stipulations or conditions of approval shall have the same authority as any provision of this Ordinance.

Sec. 58-19. Application Requirements.

(a) A sanitary permit application shall include the following information which shall be furnished by the applicant on forms required by the State and/or the County along with all applicable fees:

- (1) Names and addresses of the applicant (owner of the site) and the plumber employed (when applicable).
- (2) Legal description of the subject site and the tax identification or parcel number.
- (3) All lot dimensions.
- (4) Building use (single family, duplex, etc.).
- (5) Soil evaluation report.
- (6) System plans (Sec. 58-20, *System Plans*).
- (7) Appropriate agreements and contracts for system management and maintenance.
- (8) Copies of any documents required in Sec. 58-19(e), *Application Requirements*.
- (9) Any other information required by the County.

(b) When any official State action is required prior to the issuance of a State sanitary permit, an original copy of the official action shall accompany the application.

(c) A State sanitary permit for the installation of a holding tank shall be granted only if the owner enters into a holding tank agreement and servicing contract.

(d) A State sanitary permit for the installation of a holding tank shall not be issued unless a soil and site evaluation determines that the property is unsuitable for any other type of system permitted by SPS 383, Wis. Admin. Code.

- (1) The County may waive the soil testing requirement on a case by case basis if lot size and/or topography would prevent the installation of a soil absorption system.

(e) The following documents must be recorded with the Register of Deeds prior to sanitary permit issuance:

- (1) Maintenance agreements or other POWTS documents, when recording is required by SPS 383, Wis. Admin. Code or this Ordinance.
- (2) When a POWTS, or part thereof, are located on a different parcel than the structure served, an appropriate easement must be recorded.

- (3) When a POWTS serves more than 1 structure under different ownership, an agreement document identifying all parties that have ownership rights and are responsible for the operation and maintenance must be recorded.
 - (4) When the design wastewater flow of a POWTS for a dwelling is not based upon the number of bedrooms within the dwelling, a deed restriction affidavit limiting occupancy to that used in the design must be recorded.
- (f) The County reserves the right to require floodplain delineation for a proposed POWTS area prior to State sanitary permit issuance. The County may require elevations on plans to be tied to floodplain elevation datum by a registered land surveyor.
- (g) The County reserves the right to refuse incomplete or incorrect permit applications or to delay permit issuance until corrected or completed applications are received.

Sec. 58-20. System Plans.

- (a) System plans shall be submitted for approval to the County or to the State in accordance with SPS 383, Wis. Admin. Code. Plans shall comply with the requirements of SPS 383, Wis. Admin. Code, and this Ordinance.
- (b) Plans submitted to the County shall include the original plan and 2 copies.
- (c) When plans are reviewed and approved by the State, at least 1 set of the plans submitted to the County shall bear an original State approval stamp or seal.
- (d) Plans submitted shall be clear, legible, and permanent copies.
- (e) Plans submitted shall comply with SPS 383, Wis. Admin. Code and include the following:
 - (1) The name of the property owner and the legal description of the site.
 - (2) Estimated daily wastewater flow and design wastewater flow.
 - (3) A detailed plot plan (site plan), dimensioned or drawn to scale, on paper no smaller than 8 ½ inches by 11 inches in size or no larger than 11 inches by 17 inches in size. The plot plan shall delineate the lot size and the location of all existing and proposed: POWTS components; building sewers; private interceptor main sewers; active and unused or abandoned wells or well drill holes; water mains or water services; buildings; lot lines; swimming pools; navigable waters; known sinkholes; and the benchmark established on the soil evaluation report. Adjoining properties shall be checked to ensure that the horizontal setback parameters in SPS 383.43, Wis. Admin. Code, are complied with. All separating distances and dimensions shall be clearly shown on the plot plan.
 - (4) Details and configuration layouts depicting how the system is to be constructed.

- (5) A management plan for the proposed POWTS.
 - (6) A description of a contingency plan in the event the proposed POWTS fails and cannot be repaired.
 - (7) Sufficient supporting information to determine whether the proposed design, installation, and management of the proposed POWTS or modification to an existing system complies with this Ordinance.
- (f) Plans shall be signed or sealed as specified in SPS 383, Wis. Admin. Code.
 - (g) A copy of the approved plans shall be maintained at the construction site until the POWTS installation is completed, inspected, and accepted. The plans shall be made available to the County or the State upon request.
 - (h) A modification to the design of a POWTS which has been previously approved shall be submitted to the County or the State as specified in SPS 383, Wis. Admin. Code. Plan revisions must be approved prior to system installation.

Sec. 58-21. Sanitary Permit Cards.

- (a) The permit card issued by the County to the property owner or their agent shall serve as the sanitary permit.
- (b) The permit card shall be displayed at the site in such a manner that it will be visible from a road abutting the lot during all construction phases.
- (c) The permit card may not be removed until the POWTS has been installed, inspected, and approved by the County.
- (d) Failure to display the permit card shall be considered a violation of this section and may subject the property owner, their agent or contractor, to penalty provisions of this Ordinance.

Sec. 58-22. Permit Renewal.

- (a) A property owner may renew a sanitary permit for which a POWTS has not been installed, replaced, repaired, modified or reconnected prior to the expiration date of the original permit by submitting a new sanitary permit application to the County indicating the renewal.
- (b) The sanitary permit application shall contain the owners name and the signature of the licensed plumber responsible for the installation of the POWTS.
- (c) The sanitary permit application shall be submitted to the County with the appropriate fee as specified in the fee schedule.

- (d) The renewal shall be based on regulations in force at the time of renewal.
- (e) If a permit expires, a new sanitary permit shall be obtained by the owner or their agent prior to beginning construction.

Sec. 58-23. Permit Denial.

(a) When applicable provisions of Wis. Stats., Wis. Admin. Code or this Ordinance have not been complied with when applying for a sanitary permit, the permit shall be denied. Reasons for the denial shall be forwarded to the plumber, landowner, and when appropriate, the State.

Sec. 58-24. Transfer of Ownership.

- (a) A property owner may transfer a valid sanitary permit to a new property owner by submitting a new sanitary permit application to the County indicating the transfer of ownership.
- (b) The sanitary permit application shall contain the name of the new owner and the signature of the licensed plumber responsible for the installation of the POWTS.
- (c) The sanitary permit application shall be submitted to the County with the appropriate fee as specified in the fee schedule.
- (d) Transfer of ownership shall not affect the expiration date or renewal requirements.

Sec. 58-25. Change of Plumbers.

- (a) A property owner may change plumbers by submitting a new sanitary permit application to the County indicating the change of plumber.
- (b) The sanitary permit application shall contain the name of the owner and the signature of the new licensed plumber responsible for the installation of the POWTS.
- (c) The sanitary permit application shall be submitted to the County with the appropriate fee as specified in the fee schedule.
- (d) Sanitary permits for systems requiring State plan approval shall not be transferred to a different plumber unless the plan bears the stamp of an architect or engineer, plumbing designer, or a new State level approval is obtained by the new plumber. All permits shall not be transferred to a different plumber if the design bears the certifying signature of a plumber.

Sec. 58-26. Emergency Repairs and Installations.

- (a) Emergency tank installations may be performed provided the owner, or owner's agent, makes acceptable arrangements with the County to secure a sanitary permit.

(b) Emergency repairs or removal of stoppages may be performed without a sanitary permit provided such work is reported to the County as soon as possible to make a determination as to whether a sanitary permit is required.

(c) The plumber performing the emergency repairs or installations must notify the County prior to performing any work in accordance with the inspection section of this Ordinance.

Sec. 58-27. Reconnection.

(a) A County sanitary permit for a reconnection shall be obtained prior to:

- (1) Construction of a structure to be connected to an existing POWTS.
- (2) Disconnection of a structure from an existing POWTS and connection of another structure to the system (e.g. replacement of a mobile home).
- (3) Conversions (change in use) of public buildings and/or places of employment.
- (4) Replacement or repair of piping other than distribution piping (e.g. building sewer, conveyance pipe or force-main piping).

(b) Prior to issuing a County sanitary permit for a reconnection, the existing POWTS shall be examined to:

- (1) Determine if it is functioning properly or whether it is a failing system.
- (2) Determine if it will be capable of handling the proposed wastewater flow and contaminant load from the building to be served.
- (3) Determine that all minimum setback requirements of SPS 383, Wis. Admin. Code will be maintained.

(c) Application for a County sanitary permit for a reconnection shall include the following:

- (1) All items listed in Sec. 58-19(a)1-4 and (a)7-9, *Application Requirements*.
- (2) A POWTS evaluation report, as specified in Sec. 58-28, *POWTS Evaluation*.
- (3) Complete plans and specifications, as specified in Sec. 58-20, *System Plans*, for any system components which will be modified or replaced.
- (4) If reconnection to an existing holding tank is required it shall require a new servicing contract.
- (5) If reconnection to an existing system, other than a holding tank, is required, it shall require a new maintenance agreement or contract.

- (d) If wastewater flow is to be based upon per capita occupancy or usage of the structure to which the POWTS is connected, a completed and approved 'Per Capita Sizing Affidavit' shall be signed and recorded with the Register of Deeds.
- (e) Replacing a structure with a new or different structure within 3 years of the date of permit issuance will only require a statement that the system has not been altered, a statement that a modification in wastewater flow or contaminant load will not occur, and, a plot plan that documents all setbacks between the structure and system components.
- (f) All systems shall be inspected at the time of reconnection, prior to backfilling, to ensure that proper materials and methods are being used.

Sec. 58-28. POWTS Evaluation.

(a) When an evaluation of an existing POWTS is required by this Ordinance, a POWTS evaluation report shall be completed which shall include all of the following, except where noted:

- (1) A soil and site evaluation report provided by a certified soil tester verifying that the vertical separation distance between the infiltrative surface of the existing treatment or dispersal component and estimated high groundwater and/or bedrock complies with SPS 383, Wis. Admin. Code.
 - A. Submittal of a soil and site evaluation report will not be required if:
 - 1. The existing POWTS is a code compliant holding tank; or
 - 2. An acceptable sanitary permit and soil evaluation report are already on file at the County for the existing POWTS.
- (2) A report provided by a licensed plumber, certified septage servicing operator, POWTS inspector or other person(s) authorized to do so by SPS 383, Wis. Admin. Code relative to the:
 - A. Condition, capacities, baffles, and manhole covers for any existing treatment or holding tanks; and
 - B. Condition and capacities of all other system components and verifying that the system is not a failing system; and
 - C. A plot plan depicting the layout of the existing system components, including the location of tanks, sewer lines, treatment/dispersal areas, vents and/or observation pipes, etc. The location of each component shall be shown in relation to any existing structures, driveways, waterlines, property lines, navigable waterways and private wells.
 - D. An evaluation of the use and wastewater flow of the structure(s) served relative to the capacity of the existing POWTS.

E. Verification that all domestic wastewater from the structure discharges into the POWTS.

(b) POWTS evaluation reports must be on forms provided by or in a format approved by the County and must be signed by the licensed or certified person(s) performing the evaluation(s).

(c) POWTS evaluation reports must be submitted to the County within 30 days of completion of the evaluation.

Sec. 58-29. Inspections.

(a) Notice for final inspection shall be given to the County at least 24 business hours in advance of the requested time and date of the inspection for all POWTS installed, modified, or reconnected.

(b) When a sanitary permit is required, no part of a POWTS component may be covered nor any POWTS component put into service until the County has had an opportunity to inspect the system.

(c) If an inspection is not made by the end of the next workday, after the requested inspection day (excluding Saturdays, Sundays and holidays), the completed system can be backfilled.

(d) The plumber in charge shall provide the necessary equipment and properly licensed personnel for the inspection.

(e) The interior plumbing of a structure may be inspected to verify that all domestic waste discharges to a State approved POWTS.

(f) POWTS may be inspected periodically, after initial installation inspections, to determine whether the construction, operation or maintenance of a POWTS conforms to the Wis. Stats., Wis. Admin. Code and this Ordinance.

Sec. 58-30. Fees and Charges.

(a) Fees shall be as determined and adjusted from time to time by the Fond du Lac County Board of Supervisors and as maintained by the County in its fee schedule. Pursuant to Wis. Stats. §66.0628(2), any fee imposed shall have a reasonable relationship to the service for which the fee is imposed.

(1) After a sanitary permit application has been processed, the fees shall not be refunded.

(2) No sanitary permit shall be issued until the required fee has been paid in full to the County. The fee for an after-the-fact permit shall be doubled.

(3) Each owner of a POWTS shall annually be charged a fee of per POWTS for the recordkeeping attributable to the inventory and tracking of the pumping and maintenance of each system, pursuant to Wis. Stat. Sec. 66.0628. The fee shall be recovered in the same manner as municipalities may make property assessments pursuant to Wis. Stat. Sec. 145.20(4) and Wis. Stat. Sec. 66.0703.

Sec. 58-31. Construction Affecting Wastewater Flow or Contaminant Load.

- (a) A modification in wastewater flow or contaminant load shall be considered to occur:
 - (1) For commercial facilities, public buildings and 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
 - (2) For dwellings, when there is an increase or decrease in the number of bedrooms.
- (b) Prior to commencing the construction of an addition to or modification of a structure which will affect the wastewater flow and/or contaminant load to an existing POWTS, the owner(s) of the property shall:
 - (1) Possess a State sanitary permit to either modify the existing POWTS or construct a POWTS to accommodate the modification in wastewater flow or contaminant load; or
 - (2) Provide the following to the County:
 - A. Documentation that a POWTS of adequate capability and capacity to accommodate the wastewater flow and contaminant load already exists to serve the structure, as specified in SPS 383, Wis. Admin. Code;
 - B. Documentation showing that the location of the proposed structure conforms to the applicable setback distances to all of the existing POWTS components; and
 - C. A POWTS evaluation report, as specified in Sec. 58-28, *POWTS Evaluation*.
 - D. If wastewater flow is to be based upon per capita occupancy or usage of the structure to which the POWTS is connected, a completed and approved 'Per Capita Sizing Affidavit' shall be signed and recorded with the Register of Deeds.
 - (3) Unless otherwise authorized by the County any installation, addition, or modification of a system must be completed, inspected and accepted before the addition or modified area of the structure may be occupied.

Sec. 58-32. Construction Not Affecting Wastewater Flow or Contaminant Load.

- (a) Prior to commencing construction of any structure or addition to a structure on a site where there exists a POWTS the owner or their agent shall determine that the proposed structure conforms with applicable setback limitations and daily wastewater flows identified in SPS 383, Wis. Admin. Code. Documentation, shall be submitted to the County.

Sec. 58-33. County Inventory and Maintenance Program.

- (a) All POWTS shall be managed and maintained in accordance with SPS 383, 384, Wis. Admin. Code and this Ordinance.
- (b) Anaerobic treatment tanks (septic tanks) comprised of a single chamber or compartment, containing an effluent filter for the reduction of solids within the effluent wastewater, are prohibited. The purpose of this is to prevent the likelihood of human health hazards and to extend the life of the POWTS dispersal component. And it is meant to extend the service frequency of the effluent filter to avoid the effluent filter from clogging and causing a sewage back up into the structure or surface discharge of sewage.
- (c) The property owner or the owner's agent shall report to the County each inspection, maintenance or servicing event, in accordance with SPS 383.55, Wis. Admin. Code and this Ordinance.
- (d) The property owner shall submit a new or revised servicing contract to the County whenever there is a change to such document(s).
- (e) An initial inspection of all POWTS not being maintained in the County's septic tank or holding tank maintenance program shall be required. The initial inspection shall be conducted and reported in accordance with Sec. 58-28(a)(2) and 58-28(b) and (c), *POWTS Evaluation*.
- (1) If an existing POWTS is found to be non-compliant or failing the existing system shall be repaired or replaced within 2 years.
 - (2) If the existing POWTS passes the initial inspection it will be added to the County's septic tank or holding tank maintenance program.
 - (3) A County inspection to verify the results of the initial inspection may be required. Any costs associated with the County inspection, including, but not limited to, backhoe pits or pumping fees are the responsibility of the owner.

Sec. 58-34. POWTS Maintenance.

- a) The County will make a reasonable attempt to notify all property owners by mail when an inspection, maintenance, or servicing event is required under this section. Failure to receive such notification shall not void the need for inspection, maintenance, or servicing when applicable.
- b) Visual inspection of a POWTS shall be conducted by a licensed plumber or other person (s) authorized to do so by SPS 383, Wis. Admin. Code to determine the condition of the tank and whether wastewater or effluent from the POWTS is ponding on the ground surface.
- c) All POWTS served by a septic tank that is 750 gallons or larger in capacity shall be inspected, maintained, or serviced at intervals of three (3) years or less.
- d) All POWTS served by a septic tank that is 300 gallons and less than 750 gallons in capacity shall be inspected, maintained, or serviced at intervals every two (2) years or less.
- e) All POWTS served by a septic tank that is 300 gallons or less in capacity shall be inspected, maintained, or serviced at intervals of 13 months or less.

- f) If, upon inspection, it is determined that less than 1/3 of the volume of the septic tank is occupied by sludge and scum, pumping may be deferred until the next scheduled maintenance cycle.
- g) Pumping of an anaerobic and/or an aerobic treatment tank shall be done by a licensed pumper in accordance with NR 113, Wis. Admin. Code.
- h) Inspection, maintenance, or servicing reports required under this ordinance shall be submitted electronically to the County by a licensed master plumber, a licensed master plumber-restricted service, a certified POWTS Inspector, a certified septage servicing operator under Wis. Admin. Code Ch. NR 114, or a registered POWTS Maintainer within thirty (30) calendar days from the date of inspection, maintenance, or servicing. Electronic forms created by the County shall be used for each submittal.
- i) The County may require verification of any information contained in an inspection, evaluation, maintenance and/or servicing report.

Sec. 58-35. Holding Tank Maintenance.

(a) Holding Tank Agreement:

- (1) The owner of each holding tank shall enter into a holding tank agreement with the County guaranteeing that the County will service the holding tank if the owner fails to have the holding tank properly serviced in response to orders issued by the County to prevent or abate a human health hazard as described in s. 254.59, Stats., the County may enter upon the property and service the tank or cause to have the tank to be serviced and charge the owners by placing the charges on the tax bill as a special assessment for current services rendered. The charges will be assessed as prescribed by s. 66.0703 Stats.
- (2) The property owner shall maintain the holding tank(s) so as to conform to all requirements of SPS 383, Wis. Adm. Code, relating to holding tanks.
- (3) The holding tank agreement shall be submitted to the County prior to the issuance of a State sanitary permit for a holding tank(s).
- (4) The holding tank agreement shall be binding upon the owner, the heirs of the owner and assignees of the owner.
- (5) The agreement shall be filed with the Register of Deeds and shall be recorded in a manner which will permit the existence of the agreement to be determined by reference to the property where the holding tank is installed.
- (6) The property owner shall properly maintain the holding tank(s) by notifying the contracted licensed pumper to have the holding tank(s) pumped out when the tank(s) are full.

(b) Holding Tank Servicing Contract:

- (1) All owners of existing and future holding tank(s) shall enter into a holding tank servicing contract with a licensed pumper.
 - (2) The property owner shall permit the pumper to have access and enter upon the property for the purpose of servicing the holding tank(s).
 - (3) The property owner shall provide and maintain an all-weather access road or drive from the riser(s) of the holding tank(s) so that the pumper can service the holding tank(s) with the pumping equipment.
 - (4) The holding tank servicing contract shall be filed with the County prior to the issuance of a State sanitary permit for a holding tank(s).
 - (5) If the property owner decides to contract with a licensed pumper who is not named on the holding tank servicing contract filed at the County, a new holding tank servicing contract must be filed in the same office within 10 business days from the date of change.
- (c) Holding Tank Inspection, Maintenance, or Servicing Reports:
- (1) Inspection, maintenance, or servicing reports shall be submitted for every existing and future holding tank(s) installed in Fond du Lac County, using the online system provided by Fond du Lac County. The County shall provide sufficient and secure access to said system.
 - (2) It shall be the responsibility of the licensed pumper to submit the inspection, maintenance, or servicing reports to the County within 30 days of the date of pumping.
 - (3) If upon review of a submitted inspection, maintenance, or servicing report, the County finds that a holding tank is not being maintained properly, the County may enter the property and inspect the holding tank(s) for compliance and to determine whether it is a failing system.
 - (4) Any holding tank which is found to discharge sewage to the ground surface, including intentional discharges and discharges caused by neglect, shall be considered a failing POWTS. When a failing POWTS is identified, it shall be brought into compliance with current code requirements, replaced with a code compliant system, or its use discontinued within that period of time required by County order.

Sec. 58-36. Pumping.

- (a) All persons that pump septic and/or holding tanks shall be licensed and/or registered by the State of Wisconsin except as permitted by NR 113.05(4).
- (b) Any septic tank or holding tank wastes that are to be field-spread shall be limited to those sites that have been inspected and approved by written permit from the Wisconsin DNR, and, such spreading shall be performed in accordance with State regulations of NR 113 of the Wis. Admin. Code.

Sec. 58-37. Privies.

- (a) Vault or pit privies are prohibited, except in permitted in parks and campgrounds whether public or private.
- (b) Self-contained non-plumbing sanitation devices may be allowed in cases where adequate plumbing facilities are also provided. Self-contained non-plumbing sanitation devices must comply with Wis. Admin. Code Ch. SPS 391

Sec. 58-38. Public Sewer.

(a) When public sewer approved by the DNR becomes available to the structure or premises served, the use of an existing POWTS shall be disconnected and the system abandoned in accordance with the provisions of SPS 83, Wis. Admin. Code within 1 year. The determination of whether sewer is available shall be made by the local sanitary district.

(b) All new development within a sewer service area shall be by public sewer only, with the following exceptions:

- (1) Where a property is located within a sewer service area, and a sanitary district is physically unable to provide sewer to the property, a State sanitary permit for a POWTS may be issued provided that the property owner, in conjunction with the sanitary district, provide written approval for the issuance of a sanitary permit and installation of a POWTS.
- (2) Where a property is located within a sewer service area, and the nearest sanitary district(s) cannot provide public sewer in a cost effective manner at this time, a State sanitary permit for a POWTS may be issued provided the property owner in conjunction with the sanitary district, provide written approval for the issuance of a sanitary permit and installation of a POWTS.

Sec. 58-39. Discharges Prohibited.

(a) Every POWTS shall be designed, located, and constructed to prevent any discharge of sewage or partially treated sewage into drain tiles, onto the ground surface, into the structure served, into the surface waters of the State, including the groundwater of the State including zones of seasonal saturation or zones of bedrock.

(b) The discharge of wash water (e.g. laundry water) to the ground surface, road ditch, sump-pump, cesspool, or any other place other than a septic tank or holding tank is prohibited.

(c) The discharge of sewage or partially-treated sewage from a septic tank or holding tank to the ground surface, road ditch, cesspool or any waters of the State by any means is prohibited.

Sec. 58-40. Violations and Penalties.

- (a) It is unlawful to violate any provision of this Ordinance or fail to comply with any of its requirements.
- (b) It is unlawful to alter, construct, repair or cause work to be performed on a POWTS in violation of any permit issued under the provisions of this Ordinance.
- (c) It is unlawful to interfere, resist or obstruct the Code Administrator or any other employees of the County in the reasonable and proper discharge of their duties authorized under the provision of this Ordinance.
- (d) Any person that violates a provision of this ordinance shall, upon conviction, forfeit not less than \$100 nor more than \$500, for each offense, together with the costs of prosecution.
- (e) Every violation of this Ordinance is deemed a public health hazard per Wis. Stats. 254.01(2) and the creation and/or continuation thereof may be abated by action at the suit of the County, the State or any citizen thereof in accordance with the enforcement provisions of this ordinance, and Wis. Stats. Ch. 145.20 and 254.59, as amended from time to time.
- (f) Each day a violation continues to exist shall constitute a separate offense.
- (g) Citations.
 - (1) The County, by its Code Administrator or designee, may, pursuant to Chapter 1, Sec. 1-9, County Uniform Citation, of the Fond du Lac County Code, issue a citation to the offender for violation of this Ordinance. Issuance of a citation and payment of the required forfeiture does not negate the requirement of compliance with this Ordinance. Citations issued shall conform to Ch. 1-9 of the County code and Wis. Stats. Ch. 66.0113(1)(b) and as amended from time to time.
- (h) Circuit Court Action
 - (1) The County may, or as an alternative, institute or pursue other appropriate legal action in court, or injunctive order.
 - (2) Such appropriate legal action shall be taken by the Fond du Lac County Corporation Counsel upon request of the Code Administrator.
 - (3) Each day a violation continues to exist shall constitute a separate offense.

Sec. 58-41. Administration, Powers and Duties.

- (a) The County shall have the duty and power to enforce the provisions of this Ordinance and all other ordinances, laws, and orders of Fond du Lac County and the State of Wisconsin which relate to the construction, installation, and maintenance of a POWTS.
- (b) In the administration of this Ordinance, the County shall have the following duties and powers:

- (1) Appoint a Code Administrator to enforce the provisions of this Ordinance.
- (2) Review certified soil tester reports. Verify the reports at the proposed site, if necessary.
- (3) Approve and disapprove applications for sanitary permits and assist applicants in preparing an approvable application.
- (4) Record all permits issued, inspections made, work approved, and other official actions.
- (5) Inspect all POWTS after construction but before backfill, no later than the end of the next workday, excluding Saturdays, Sundays or holidays, after receiving notice from the plumber in charge.
- (6) Inspect or require an evaluation of an existing POWTS, to determine compliance with this Ordinance, Wis. Stats. and the Wis. Admin. Code.
- (7) Order any person owning, using, operating, or installing a POWTS to modify it, repair it or place it in a safe or sanitary condition if the County finds such system to be in a defective, unsafe or unsanitary condition.
- (8) Condemn and prohibit the use of any POWTS which the County finds so constructed, operated or maintained as to be a menace or direct hazard to the health of the users, neighbors or community as a human health hazard.
- (9) Investigate all violations of this Ordinance, applicable sections of the Wis. Admin. Code and the Wis. Stats., and, issue orders to abate the violations and submit orders to the Corporation Counsel for enforcement.
- (10) Issue citations for violations of this Ordinance pursuant to Chapter 1, Sec. 1-9, *County Uniform Citation*, of the Fond du Lac County Code and Wis. Stats. Ch. 66.0113(1)(b) and as amended from time to time.
- (11) Have access to any premises during reasonable hours, or upon issuance of a special inspection warrant in accordance with the Wis. Stats., for inspecting POWTS or investigating any violations of this Ordinance. Application for a sanitary permit is considered for the purposes of this Ordinance as the owner's consent to enter the premises.
- (12) Apply for and distribute grants obtained through the Wisconsin Fund Grant Program.
- (13) Perform other duties regarding POWTS as considered appropriate by the County or as required by the Department.

Sec. 58-42. Appeals and Variances.

- (a) 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 Fond du Lac County Sanitation, Shoreland, and

Floodplain Zoning Board of Adjustment. Any appeal shall be made within 30 days of the date of that administrative action.

- (b) Any person who wants a variance from the terms of this Ordinance for any provision which is more restrictive than the minimum standards required by the Department may seek a variance from the Fond du Lac County Sanitation, Shoreland, and Floodplain Zoning Board of Adjustment pursuant to the Shoreland Zoning Chapter 44 of the Fond du Lac County Code. Any requests for variance shall be made on forms furnished by the County within 30 days of the date of the administrative determination from which the person seeks the variance. Other substantiating evidence will be accepted. Variances from the provisions required by the Department shall not be allowed.

Sec. 58-43. Amendments.

- (a) The County Board of Supervisors may alter, supplement, amend or change any or all of this Ordinance in accordance with Wis. Stats. Ch. 59.70(5) and the procedures provided in Wis. Stats. 59.69(5), as amended. All amendments shall be made by the County Board of Supervisors upon recommendation of and after public hearing by the Fond du Lac County UW-Extension Education, Agriculture, and Recreation Committee.