



# Kewaunee County Sanitary Ordinance

Number 172-5-14

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## **KEWAUNEE COUNTY SANITARY ORDINANCE**

The Kewaunee County Board of Supervisors does hereby ordain as follows:

### **KEWAUNEE COUNTY SANITARY ORDINANCE**

#### **1.0 TITLE, AUTHORIZATION, PURPOSE AND INTENT, AND SEVERABILITY AND LIABILITY**

##### **1.1 Title**

This chapter shall be known as, referred to or cited as the "Kewaunee County Sanitary Ordinance."

##### **1.2 Authorization and Incorporation of Provisions by Reference**

This ordinance is adopted under the authority and responsibility granted to Kewaunee County in Sections 59.70(1), 59.70(5), 145.04, 145.19, 145.20, 145.245, and 968.10 Wisconsin Statutes. This ordinance incorporates by reference the following rules, regulations, and laws as set forth in Wisconsin Statutes and the Wisconsin Administrative Code governing the location, construction and use of POWTS (Private Onsite Wastewater Treatment System): Chapters 145 and 146, Wisconsin Statutes; Chapters NR 112 and NR 113, and SPS 362.2900(2), 381, 383, 385, 387, and 391 of the Wisconsin Administrative Code. These rules, regulations, and laws shall apply until amended or renumbered and then shall apply as amended and renumbered.

##### **1.3 Purpose and Intent**

The purpose of this ordinance is to protect and promote the health, safety, prosperity, aesthetics, and general welfare of the people and Communities within Kewaunee County. The general intent of this ordinance is to regulate the location, design, construction, installation, alteration, maintenance, inspection, management, and use of POWTS and non-plumbing sanitation systems so as to protect the health of residents and transients and to secure safety from disease, nuisance, and pestilence.

##### **1.4 Severability and Liability**

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

This ordinance shall not create a liability on the part of or a cause of action against the county or any employee thereof for any 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 Wisconsin Statute or Administrative Code requirements.

## **2.0 GENERAL REQUIREMENTS**

### **2.1 Applicability**

The requirements of this ordinance shall apply to all geographic areas within Kewaunee County.

### **2.2 Compliance**

- (1) All buildings, or other sources of domestic wastewater in Kewaunee County that are permanently or intermittently intended for human habitation or occupancy which are not serviced by a public sanitary sewer, shall have an approved system for holding or treatment and dispersal of sewage and wastewater which complies with the provisions of this ordinance.
- (2) No POWTS or part thereof shall be located, installed, moved, reconstructed or substantially altered 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.
- (3) The POWTS for newly constructed buildings shall be approved, installed, and inspected before the building can be occupied.
- (4) No object may be installed or constructed that will adversely affect the performance of a POWTS.

### **2.3 Limitations**

- (1) Installation of a holding tank is prohibited if a conventional, mound, at-grade, or in-ground pressure system may be utilized. However, a holding tank may be used in place of any other type of POWTS permitted by SPS 383, Wisconsin Administrative Code.

Installation of a holding tank for condo, multifamily, or other non-residential buildings shall be approved at the discretion of the Zoning Administrator and Kewaunee County Zoning Committee.

- (2) Any POWTS or portions thereof, installed within a floodplain shall comply with all applicable requirements of NR 116, Wisconsin Administrative Code, and the Kewaunee County Shoreland/Floodplain Zoning Ordinance.

### **2.4 Public Sanitary Sewer Connection**

All buildings served by plumbing fixtures shall be connected to a public sanitary sewer system where available. Where such a public sewer is not available, a POWTS may be used. When a public sewer becomes available to the building, the POWTS shall be disconnected within one year and a connection made to the public sewer. The disconnected POWTS shall be properly abandoned according to the provisions of SPS 383 of the Wisconsin Administrative Code.

## **2.5 Non-Plumbing Sanitation System**

A non-plumbing sanitation system may be permitted only when the building served is not provided with water service or plumbing. If plumbing is installed in the structure or running water 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. Non-plumbing sanitation systems are prohibited on lands adjacent to or on back lots of lakes except on public lands and parks, private campgrounds, and group camps and except in remote locations without electrical service available.

## **2.6 Abandoned Systems**

POWTS which have not been used for five years or longer shall be abandoned by complying with all of the required specifications per SPS 383.33 Wisconsin Administrative Code.

## **3.0 SANITARY PERMITS**

### **3.1 State Sanitary Permit**

No person shall install, perform work to a POWTS unless the owner of the property on which the system is located holds a valid state sanitary permit. No person shall sell a septic tank or holding tank for installation unless the purchaser holds a valid state sanitary permit.

### **3.2 County Sanitary Permit**

A county sanitary permit shall be obtained by the property owner, his agent or contractor, before any POWTS or part thereof may be reconnected, or repaired. A county sanitary permit is not required for the addition of manhole risers or for the replacement of manhole covers, manhole risers, baffles or pumps. A county sanitary permit shall be obtained prior to constructing or erecting a non-plumbing sanitation system.

### **3.3 Application**

Application for a sanitary permit shall be made on forms specified by the Kewaunee County Zoning Department.

### **3.4 Applications Requirements**

The sanitary permit application shall include the following information:

- (1) A completed sanitary permit application form.
- (2) A site plan.
- (3) An approved soil test on forms acceptable to the Department of Safety & Professional Services.
- (4) A copy of approved plans for systems requiring plan review by the Department of Safety & Professional Services.
- (5) A pump chamber cross section and pump information for systems that utilize a pump.

- (6) Agreements and/or affidavits required to install and/or utilize an existing system or for servicing holding tanks.
- (7) A Maintenance Plan and Contingency Plan for all POWTS in accordance with section 7 of this ordinance.
- (8) Required fee.

### **3.5 Issuance**

- (1) After review and verification of the information submitted in the application, the Zoning Administrator shall approve or deny applications for sanitary permits. When an application for a sanitary permit is denied, the Zoning Administrator shall issue a written notice to the unsuccessful applicant, stating specifically the reasons for disapproval and whether an amendment to the application could be made which would render the application approvable. The Zoning Administrator shall also inform the applicant of his/her right to appeal the denial under the provision of this ordinance and Chapter 68 of the Wisconsin Statutes. The Zoning Administrator reserves the right to refuse incomplete or incorrect permit applications, and/or delay permit issuance until corrected and/or completed applications are received.

### **3.6 Permit Cards**

When the application for sanitary permit is approved, the Zoning Administrator shall issue a permit card to the property owner. The permit card shall be posted in plain view, visible from the road fronting the lot during construction. The permit card shall not be removed from the site until the POWTS has been installed, inspected and approved by the Zoning Administrator.

### **3.7 Permit Validity**

- (1) A sanitary permit is valid for two years from date of issuance. Permits may be renewed following written application to the Zoning Administrator by the property owner, his/her agent, or contractor, prior to the expiration date of the original permit provided that the proposed site and system comply with applicable codes in effect at the time the renewal is requested. If a permit has expired and the owner wants to build on the site, a new sanitary permit must be obtained before a building permit can be issued.
- (2) If the soil test is older than four years, the soil test must be verified by the Zoning Administrator prior to the issuance of a sanitary permit or renewal of a sanitary permit. The soil test shall be examined to determine reliability and the soil test report and soils at the proposed site verified in accordance with section 6.1 of this ordinance.

### **3.8 Permit Transfers**

When there is a change of ownership, a transfer form shall be submitted to the Kewaunee County Zoning Department with a set of new plans if necessary, and a fee as prescribed by this ordinance.

- (1) Plans associated with a transferred sanitary permit cannot be utilized by a different licensed plumber unless the plan bears the stamp of an architect, engineer, or a designer of private

sewage systems. Otherwise, a new set of plans must be submitted by the new plumber and approved by the appropriate agency.

### **3.9 Fees**

A sanitary permit shall not be issued until the fees required by this ordinance have been received.

## **4.0 RECONNECTION OF EXISTING POWTS**

### **4.1 Requirements**

A county sanitary permit shall be required when an existing POWTS is to be connected to a structure that has been rebuilt or where an existing structure has been replaced with a new or different structure.

### **4.2 Evaluation**

Prior to issuing the sanitary permit for the reconnection to the new structure, an evaluation of the existing POWTS must be made. The following is the procedure that must be followed in evaluating the private sewage system:

- (1) Existing sanitary permits and soil test information on file shall be examined to determine reliability.
- (2) If there is not adequate or reliable soils information, a soil boring(s) shall be examined by a Certified Soil Tester to determine if there are suitable soils for the system in use and to identify a replacement area if there is not one available. This information shall be reported to the department which may verify the report and conduct an on-site study when considered appropriate.
- (3) The existing septic tank shall be pumped and inspected by a licensed pumper or plumber to determine the condition and size of the tank and whether it is in good repair. A pumping report signed by the pumper or plumber shall be submitted to the department.
- (4) The existing POWTS should be examined to:
  - (a) Determine the location of the septic and/or dose tank and soil absorption system to determine that all minimum setbacks of SPS 383 will be maintained.
  - (b) Determine, where possible, the size of the soil absorption system, if it corresponds to the county's files (if available), and whether it is capable of handling the proposed wastewater load.
  - (c) Determine whether the system is surfacing or has had an outfall pipe connected to it thereby creating a nuisance of surface discharge.
  - (d) Determine by examining through the vent whether or not the system is ponded, and to what degree it is ponded and whether the ponding represents a failing or nonfunctioning soil absorption system.
  - (e) Confirm based on file information, landscape position and vegetation that suitable soils should be present below the system installation.

- (f) Ensure that if any tank covers are installed above grade that they are installed with locks and warning labels visible.

#### **4.3 System Capacity**

- (1) Where a POWTS is intended for connection to a dwelling and does not appear to meet the capacity of the estimated flow based upon the number of bedrooms per SPS 383.43(3)(a) or 383.43(4)(a) Wisconsin Administrative Code, a detailed estimate of wastewater flow may be performed by a person holding an appropriate credential per SPS 383.43(3)(b) or 383.43(4)(b) Wisconsin Administrative Code. Flow estimation for dwelling that is not based upon the number of bedrooms must have this design condition recorded on the deed for the property.
- (2) Where a POWTS is intended for connection to a public building and/or a place of employment, adequate capacity shall be established by a person holding an appropriate credential by the methods for estimating wastewater flow and load provided by SPS 383.43(6) and 383.43(7) Wisconsin Administrative Code.
- (3) The Kewaunee County Zoning Administrator may require that a contingency plan and a management plan be submitted to the Kewaunee County Zoning Department and approved prior to issuing a county reconnection permit if the facility is considered to be at risk of producing wastewater exceeding the POWTS capacity.

#### **4.4 Nonconforming Systems**

If during the evaluation of the existing POWTS it is determined that the POWTS is failing or does not conform to the siting, design, construction, and maintenance rules in effect at the time the original permit was issued, the building permit shall not be issued until the noncompliance is rectified or a sanitary permit has been issued for a new POWTS. The new system must be installed before the facility can be occupied.

#### **4.5 Holding Tank Reconnection**

Reconnection to an existing holding tank will require an inspection of the location of the tank to determine if the minimum setback requirements of SPS 383 will be maintained and to ensure that the tank covers, locking devices, warning labels, and alarm systems are functioning properly. An updated holding tank agreement and holding tank servicing agreement which meets the current requirements of SPS 383 must be submitted as part of the application for the sanitary permit for reconnection.

#### **4.6 Inspection of Reconnections**

All systems shall be inspected at the time of reconnection to ensure that proper materials and methods are being used.

**5.0 EXISTING SYSTEMS EVALUATIONS FOR BUILDING ADDITIONS/CHANGE OF USE**

**5.1 When there is a proposed addition, remodeling or change of use to an existing structure, the proposal shall be evaluated for the following and the results provided to the Kewaunee County Zoning Administrator:**

- (1) That the proposed construction will conform to all applicable setback limitations of SPS 383.43 Wisconsin Administrative Code
- (2) The proposed construction will not result in an increase in wastewater flow or contaminant load as determined per SPS 383.25 Wisconsin Administrative Code.
- (3) That the existing POWTS is not a failing system and conforms to the siting, design, construction, and maintenance rules in effect at the time the original permit was issued. Documentation and/or evaluation shall be performed by procedures and methods acceptable to the Kewaunee County Zoning Administrator.
- (4) A determination that the above conditions are met must be made by the Kewaunee County Zoning Administrator before a building permit can be issued for the proposed construction.

**5.2 Where it has been determined that the POWTS is failing or does not conform to the siting, design, construction, and maintenance rules in effect at the time the original permit was issued, the building permit shall not be issued until the noncompliance is rectified or a sanitary permit has been issued for a new POWTS.**

**5.3 Increase in wastewater flow or contaminant load**

- (1) Where it has been determined that the proposed construction will result in an increase in wastewater flow or contaminant load, then a building permit cannot be issued unless the owner:
  - (a) Possesses a sanitary permit to either modify the existing private sewage system or construct a new private sewage system to accommodate the increased wastewater flow and/or contaminant load; or
  - (b) Provides documentation to verify that the existing private sewage system has sufficient size and soil conditions to accommodate the increased wastewater load.
- (2) Where it has been determined that the proposed addition to a dwelling will result in an increase in wastewater flow and does not appear to meet the capacity of the estimated flow based upon the number of bedrooms per SPS 383.43(3)(a) or 383.43(4)(a) Wisconsin Administrative Code, a detailed estimate of wastewater flow maybe performed by a person holding an appropriate credential per SPS 383.43(3)(b) or 383.43(4)(b) Wisconsin Administrative Code. Flow estimation for dwellings that is not based upon the number of bedrooms must have this design condition recorded on the deed for the property.
- (3) Where is has been determined that the proposed construction or change of use of a public building and/or place of employment will result in an increase in wastewater flow or contaminant load, sufficient size and treatment capacity of the existing POWTS shall be established.

- (4) The Kewaunee County Zoning Administrator may require that a contingency plan and a management plan for the existing POWTS to be submitted to the Kewaunee County Zoning Department and approved prior to allowing the issuing of a building permit if the facility is considered by the Kewaunee County Zoning Administrator to be at risk of producing wastewater exceeding the POWTS capacity.

## **6.0 SOIL TEST REPORTS AND SITE EVALUATIONS**

### **6.1 Soil Test Reports**

A sanitary permit shall not be issued until a soil and site report has been approved by the zoning administrator. The report and evaluation must be in accordance with SPS 383, SPS 385 and SPS 391, Wisconsin Administrative Code and submitted to the county within 30 days of the observations/tests.

### **6.2 Verification**

The county shall verify the report and soils at the proposed site as deemed necessary by the zoning administrator. Backhoe pits are required whenever the county verifies soil boring data. The soil test pits shall be left in such a manner that will permit access to them for the evaluation of the soil profile. All backhoe pits must be covered or fenced within one week after inspection. Unattended backhoe pits are the liability of the Certified Soil Tester and/or property owner.

## **7.0 POWTS MAINTENANCE AND MANAGEMENT**

### **7.1 Maintenance and Management**

- (1) All POWTS shall be managed and maintained in accordance with SPS 383 and 384, Wisconsin Administrative Code, and this ordinance.
- (2) The property owner shall report to the County each inspection, maintenance or servicing event, in accordance with SPS 383, Wisconsin Administrative Code, and this ordinance.
- (3) The property owner shall submit a copy of an appropriate maintenance agreement and/or servicing contract to the County prior to sanitary permit issuance.
- (4) The property owner shall submit a new or revised maintenance agreement and/or servicing contract to the County whenever there is a change to such document(s).
- (5) The property owner shall submit a new maintenance agreement and/or servicing contract to the County prior to expiration of any existing maintenance agreement and/or servicing contract.
- (6) An ANNUAL fee will be assessed to all properties where a POWTS is located. The fee will be used to cover the cost of administrating the maintenance program and will be included on the property tax bill mailed each year.

### **7.2 Septic Tanks**

All systems, shall be visually inspected and have the septic tank pumped by a licensed pumper within three years of the date of installation and at least once every three years thereafter, or when

the sludge level reaches one-third of the liquid capacity of the tank. The sludge level of the tank must be determined by a licensed pumper.

### **7.3 Postponements**

Circumstances such as inclement weather, road weight restrictions and site limitations may necessitate a delay in the maintenance until conditions permit at the discretion of the Zoning Administrator.

### **7.4 Disposal**

Sludge, scum or sewage pumped from a septic tank, must be disposed of in accordance with NR 113 of the Wisconsin Administrative Code.

### **7.5 Reports**

The property owner shall submit to Kewaunee County every three years, a report signed by the licensed pumper and the property owner verifying the condition of the tank, whether wastewater or effluent from the POWTS is ponding, and certifying that the owner's septic tank has been pumped and properly maintained or is less than one-third full. Reports shall be furnished to the County within 30 calendar days of the inspection and pumping. Reports shall include all information required in SPS 383.55, Wisconsin Administrative Code. Other maintenance or management reports required by SPS 383 or 384, Wisconsin Administrative Code, should be included with this report.

### **7.6 Inspections**

The Kewaunee County Zoning Administrator shall make or cause to be made by staff inspectors, or a licensed plumber, necessary inspections to determine the condition of the tank and whether wastewater or effluent from the POWTS is ponding, and to insure an effective program of maintenance of POWTS.

## **8.0 HOLDING TANKS**

### **8.1 Holding Tank Pumping Agreements**

In cases where holding tanks are allowed, the applicant for a holding tank shall enter into a Holding Tank Pumping Agreement with Kewaunee County before the sanitary permit is issued. The agreement shall be signed on forms provided by the Zoning Administrator. The agreement shall require the applicant to conform to state regulations regarding the maintenance and pumping of the holding tank. If the tank is not maintained and pumped in conformance with state regulations, the Zoning Administrator shall order it to be maintained or pumped by a private pumper, at county expense. The county shall then invoice the property owner for all such costs incurred. If the invoice is not paid within 30 days, the county may place the amount on the tax roll as a special assessment against the property in question.

### **8.2 Holding Tank Service Contract**

The owners of all existing and future tanks are required to enter into an agreement with a licensed pumper to service the holding tank on a regular basis. The applicant shall file a copy of the Holding Tank Service Contract with the Zoning Administrator before the sanitary permit may be

issued. The contract must be written in accordance with SPS 383.54, Wisconsin Administrative Code.

### **8.3 Pumping Report Forms**

The owners of all existing and future holding tanks are required to submit pumping reports to the Kewaunee County Zoning Administrator. The pumping reports shall be submitted on forms provided by the county, and shall certify that the holding tank was pumped according to the terms of the Holding Tank Pumping Agreement and of the Service Contract, and that each time the tank was pumped in the subject period, it was pumped by a licensed pumper. The licensed pumper shall also fill out and submit a Pumping Report Form for each holding tank serviced.

### **8.4 Locks and High Water Alarm**

All holding tanks shall be equipped with functional locking devices and high water alarms. In cases where the Zoning Administrator finds the locking devices and/or high water alarms missing or not functioning properly, the Administrator shall order them replaced or repaired.

### **8.5 Inspections**

The Zoning Administrator shall cause to be conducted, inspections of at least 5 percent of all existing holding tanks each year.

### **8.6 Existing Holding Tanks**

Holding tanks installed before the effective date of this ordinance with existing Holding Tank Pumping Agreements and Holding Tank Servicing Contract shall be administered in the same manner as section 8.1 through 8.6

## **9.0 NON-PLUMBING SANITATION SYSTEMS**

### **9.1 Non-Plumbing Sanitation Systems Installation Agreement**

Prior to the issuance of a sanitary permit for a non-plumbing sanitation system, the property owner must sign a non-plumbing sanitation system installation agreement and have it recorded in the Register of Deeds Office.

## **10.0 INSPECTIONS**

### **10.1 Inspections; General**

- (1) Notice for final inspection shall be given to the Zoning Administrator for all POWTS installed, modified or reconnected.
- (2) Installation or modification of a POWTS system shall be inspected by the Zoning Administrator for compliance with SPS 382, SPS 383, SPS 384, Wisconsin Administrative Code, other appropriate Wisconsin Statutes and Administrative Codes and this ordinance.
- (3) Notification for final inspection shall be given in accordance with the requirements of SPS 383, Wisconsin Administrative Code or as specified in this ordinance.

- (4) The entire system shall be left completely open until it has been inspected and accepted, in accordance with the requirements of SPS 383, Wisconsin Administrative Code.
- (5) POWTS may be inspected periodically, after the initial installation inspection(s) and/or after the system is operative, as deemed necessary by the Zoning Administrator.

#### **10.2 Inspections; Non-Plumbing Sanitation Systems**

- (1) All non-plumbing sanitation systems installed shall be inspected for compliance with Comm 91, Wisconsin Administrative Code, or as amended, and this ordinance. Non-plumbing sanitation systems serving uses other than one and two family dwellings shall also be inspected for compliance with Comm 62.2900(2) Wisconsin Administrative Code.
- (2) The property owner shall notify the Zoning Administrator for inspection immediately after the non-plumbing sanitation system has been constructed or installed.

#### **10.3 Inspections; Conventional, Mound, At-Grade and In-Ground Pressure Systems**

All conventional, mound, at-grade and in-ground pressure systems shall be inspected at the time the distribution piping installation has been completed, prior to backfilling, and after all work has been completed. Other inspections may be necessary depending upon site conditions or as required by SPS 383. The plumber installing these systems shall notify the Zoning Administrator two working days in advance of the installation. The Zoning Administrator shall inspect these systems regularly as specified by the Department of Safety & Professional Services.

#### **10.4 Inspections; Sand Filters**

Sand filters shall be inspected at the time the liner or tank and underdrain are in place, before placement of any treatment media, at the time the distribution piping installation has been completed and after all work has been completed. The plumber installing these systems shall notify the Zoning Administrator two working days in advance of the installation. The Zoning Administrator shall inspect these systems regularly as specified by the Department of Safety & Professional Services.

#### **10.5 Inspections; Other Systems Recognized by SPS 383**

- (1) The plumber installing the system shall coordinate any required preconstruction meeting(s).
- (2) The plumber installing the system shall notify the Zoning Administrator at least five workdays prior to beginning the installation of the system to schedule the inspection(s) and shall notify the Department of Safety & Professional Services or State as may be required by the approved plans.

#### **10.6 Reinspections**

When a reinspection of a POWTS is required because the initial inspection disclosed that the installation was incomplete or does not comply with applicable Wisconsin Statutes, Wisconsin Administrative codes, the approved plans, or this ordinance, a reinspection fee may be required.

Additional reinspections required at the site may require a new fee. The reinspection fee will be due within 10 working days of written notification by the county. Failure to pay the fee within the period shall constitute a violation of this ordinance.

#### **10.7 Testing**

- (1) If testing of new systems or new system components is required by SPS 382, 383 or 384, Wisconsin Administrative Code, or as a condition of plan approval, notice shall be given to the Zoning Administrator so that an inspection can be made during the test.
- (2) Zoning Administrator shall verify that required testing has been completed, by:
  - (a) Performing an inspection during the test;
  - (b) Requiring written verification from the responsible person; or
  - (c) Both (a) and (b).

#### **10.8 Inspections; At the Time of Property Transfer or Land Division**

- (1) An existing septic system inspection is required for all property transfers and land divisions in which the property contains a structure served by a POWTS (private onsite wastewater treatment system). The Kewaunee County Zoning Administrator may waive the inspection requirement if the system is one regulated by the mandatory maintenance program specified in Section 7 of the Kewaunee County Sanitary Ordinance, is less than 15 years old based on the installation date at the time of transfer, and compliance with the maintenance program is confirmed by documentation satisfactory to the Administrator. The inspection of the septic systems will help protect the waters of the county, ensure a properly functioning POWTS for the owner and enhance public health.
- (2) To adequately determine whether an existing POWTS is failing under conditions defined in s.145.245(4), Statutes, an existing system inspection must include:
  - (a) An observation soil boring described by a certified soil tester extending 3 feet below the bottom of the absorption area which is large enough to clearly depict the presence of groundwater, bedrock, or seasonally saturated soils which adversely affect the operation of the system. The Zoning Office may allow use of a previously filed soil test conducted in an area near the failing system to verify soil conditions if deemed reliable by the Zoning Administrator.
  - (b) A written evaluation of the general condition of the POWTS by a Master Plumber, Master Plumber-Restricted Service, POWTS Inspector or Certified Soil Tester including, but may not be limited to, the following:
    1. Inlet and outlet baffles
    2. Vents, observation ports
    3. High water alarms
    4. Treatment tanks including risers and covers
    5. Absorption area including ponding, surface discharge
    6. Presence of any outfall pipe or connection to a drain tile

7. All applicable setbacks require an accurate site diagram if none exists on file at the Zoning Office
  8. Presence of any surface discharge of sewage
  9. Evident ponding in a vent or observation port
  10. Clean effluent filter
- (c) A county inspection to verify the results of the existing system inspection may be required. Any costs associated with the inspection including, but not limited to, backhoe pits or pumping fees are the responsibility of the owner at the time of inspection.
- (d) Septic system inspection reports shall be submitted within 30 days after said transfer or land division to the Kewaunee County Zoning Office on forms obtained from the Zoning Office.
- (e) A failing POWTS shall be replaced or corrected and made code complying within 1 year of transfer or land division.
- (3) POWTS (Private Onsite Wastewater Treatment System) Defined
- (a) Failing POWTS – State Statutes 145.245(4): 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 the POWTS
  3. The discharge of sewage into 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 the backup of sewage into the structure served by the POWTS
- (4) Transfers and Land Divisions Defined
- (a) All property transfers in which the property contains a POWTS, except as listed below:
1. Addition/Subtraction - The addition of a name to or dropping of a name from property ownership is considered a transfer, except between spouses.
  2. Lease Option - A lease with an option to purchase or a lease giving credit for rent paid to the lessee is not considered a transfer until the option is exercised.
  3. Land Contract - Inspection of existing POWTS must occur prior to the land contract buyer taking first physical possession of the land being

transferred under the terms of a land contract, whether or not the land contract is recorded by the Register of Deeds.

4. Transfers of Property Ownership Within 24 Months of a Previous Transfer - If an inspection, evaluation and upgrade has been accomplished or if the system was inspected and found to be code complying, a second transfer within 24 months will not require an evaluation. The 24-month time period will be within the discretion of the Kewaunee County Zoning Administrator and Zoning Committee.
5. Proposed Sales That Fall Through - If a seller has a contract to sell and meets his/her obligation by having the existing system evaluated, that seller must replace a system determined to be failing even if the sale or transfer does not go through.

If an order is outstanding when a new buyer takes property ownership, the new buyer does not have a year from time of sale to replace the failing system. The new buyer is bound by the requirements of the order issued to the seller.

6. Hardship Extension - A buyer may apply to the Kewaunee County Zoning Committee for an extension of time in which to have the inspection of an existing POWTS made. The buyer will have the burden of establishing a hardship that is unique to the land in question. A hardship exists when compliance with the strict letter of the ordinance would unreasonably prevent the buyer from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. Financial impact is not considered a hardship for a variance. The Committee may grant an extension of time for such period as it considers appropriate, but in no case for longer than 12 months from the date of transfer.
7. Abandonment - A buyer can enter into an agreement for ceasing use of the property. This agreement shall establish a deadline to have an acceptable POWTS ready to receive and treat the expected wastewater load prior to the resumed use of the property. Use of the property prior to the installation of a code complying POWTS, shall result in prosecution.
8. Recording of Transfers - Transfers are considered made when the deed, land contract, etc. is dated. Subsequent recording of the document will revert back to the date on the instrument indicating when the property was transferred.
9. Mistakes - A deed filed to correct a mistake in the spelling of a name or legal description is not a transfer. A deed by an owner to himself to combine two (2) lots is not considered a transfer. If a transfer is made and no inspections have been made, the grantees can deed back to the grantor without the requirement of further inspection under the ordinance.

10. Mortgage - Obtaining a loan and mortgaging property does not constitute a conveyance or transfer.
11. Transfers by Operation of Law - Transfers by operation of law or court order will not require a POWTS inspection.

Compliance is established when the information required is accepted and approved by the Kewaunee County Zoning Office.

- (b) All land divisions in which the property contains a POWTS.

## **11.0 ADMINISTRATION**

### **11.1 Zoning Administrator**

The Kewaunee County Zoning Administrator shall be responsible for administering this ordinance.

### **11.2 Powers and Duties**

The Zoning Administrator shall have the following responsibilities and authority in the administration of this ordinance:

- (1) Delegate duties to and supervise the County Zoning Staff and other employees to assure full and complete compliance with this ordinance and related Wisconsin Statutes and the Administrative Code.
- (2) Explain the provisions of this ordinance to licensed professionals and interested persons and assist applicants in preparing permit applications. Review all applications and plans submitted to the county.
- (3) Issue, deny, and rescind permits; maintain records of permits, inspections made, work approved and performed, and other information as appropriate.
- (4) Investigate all complaints relative to this ordinance. Order any person, farm, firm, or corporation not in compliance with these provisions or otherwise in violation of this ordinance or applicable state regulations to comply with same.
- (5) Have access to any structure, land or water between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing said duties or at other times set by mutual agreement by the property owner or his/her agent and the administrator. Access may be at any time upon determination that an emergency exists.
- (6) Enforce any or all of the rules or orders and amendments thereto of the Department of Safety & Professional Services applicable to POWTS. Enforce any or all of the rules or orders and amendments thereto of the Department of Natural Resources applicable to the Septage and Sludge programs. Enforce any order of the Health Officer applicable to Nuisances.
- (7) Administer the Wisconsin Fund Program for Failing Septic Systems and distribute grant monies to eligible applicants.

- (8) Refer all unresolved violations of this ordinance to the Corporation Counsel for appropriate legal or other action.
- (9) Any other duties relating to these programs as assigned by the Planning and Zoning Committee or as required by state regulations or law.

## **12.0 ENFORCEMENT**

### **12.1 Violations**

No person shall construct, repair, maintain, alter or use a private sewage system POWTS, dispose of septage or sludge, or create any nuisance in violation of any provisions of this ordinance. No person shall resist, obstruct or interfere in any way with the Zoning Administrator or Health Officer in the lawful enforcement of this ordinance. No person shall fail to obey the Zoning Administrator or Health Officer's enforcement orders.

### **12.2 Notification**

Persons in violation of this ordinance shall be notified by the Zoning Administrator or Health Officer of said violation and corrective actions needed to abate the violation, if any. If the violation is not corrected by the specified deadline, the Zoning Administrator or Health Officer shall refer the violation to the Corporation Counsel.

### **12.3 Penalties**

Any persons, firm, or corporation who fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit not less than \$25.00 nor more than \$500.00 and the cost of prosecution as set by the Wisconsin Statutes for each violation and in default of payment of such forfeitures and costs, shall be imprisoned by the county jail until payment thereof, but not exceeding 30 days. Each day a violation occurs or continues shall constitute a separate offense. As appropriate, the Kewaunee County Uniform Citation Ordinance shall apply to the enforcement of this ordinance.

### **12.4 Remedial Action**

Whenever an order of the Zoning Administrator or Health Officer has not been complied within the time specified, the Corporation Counsel shall institute appropriate legal action or proceedings to resolve the violation, prevent the use of premises, lands or waters until such order is complied with and to seek appropriate penalties.

### **12.5 Appeals**

Persons seeking to appeal a decision of the Zoning Administrator under this ordinance shall file written letters of appeal with the Zoning Administrator. The Zoning Administrator shall place the appeal on the agenda of the Zoning Committee and the appeal shall be given a due process proceeding in accord with Chapter 68, Wisconsin Statutes. The Zoning Committee shall decide whether to uphold, uphold with modifications or reverse the Zoning Administrator's decision based upon the terms and intent of this ordinance and of relevant state laws and administrative rules. No appellate decision of the board shall have the effect of approving an existing or proposed condition that would violate this ordinance or state law or administrative rule. Zoning

Committee appellate decisions shall be made in writing and shall be filed in the Zoning Administrator's office. Appeals of decisions made by authorized agents on the behalf of the administrator shall be made first to the administrator and then be appealable as provided herein.

### **13.0 FEES**

#### **13.1 All persons, firms or corporations performing any work on any POWTS disposal system shall pay a fee for the following:**

- (1) New POWTS  
Conventional System  
Holding Tank  
At-Grade System  
In-Ground Pressure System  
System in Fill  
Mound System
- (2) New POWTS (Other Systems Recognized by SPS 383)
- (3) Reconnection of Existing System
- (4) Non-Plumbing Sanitation System
- (5) Transfer Fee
- (6) Renewal Fee
- (7) Reinspection Fee
- (8) Wisconsin Fund Application
- (9) Appeals
- (10) Soil Evaluation Report Fee
- (11) POWTS Maintenance Fee
- (12) Plan Approval for a Holding Tank

#### **13.2 All fees shall be established by separate resolution by the Kewaunee County Board from time-to-time as deemed appropriate.**

#### **13.3 Sanitary permit fees are due at the time of application. After any sanitary permit has been issued, the fee(s) will not be refunded.**

### **14.0 DEFINITIONS**

#### **14.1 General**

Except as specifically defined below, words and phrases used in this ordinance are to be interpreted as having the same meaning as they have in the State Statutes and Administrative

Codes and in Common Law. Words in the present tense include the future; words in singular include the plural and words in the plural include the singular. The word "shall" is mandatory.

- (1) "Buildings" (see structure)
- (2) "SPS" shall mean the State of Wisconsin Department of Safety & Professional Services.
- (3) "Conventional Private Sewage System" POWTS is defined as a POWTS consisting of a septic tank and in-ground soil absorption component with gravity distribution of effluent.
- (4) "County Sanitary Permit" is defined as a permit issued by the Kewaunee County Zoning Administrator for the reconnection and repair of a private sewage system or for the installation of a non-plumbing sanitation system, pursuant to Wisconsin Statutes 59.70 and 145.04.
- (5) "Failing" POWTS has the meaning specified under Wisconsin Statute 145.245(4).
- (6) "Holding Tank" is defined as an in-ground watertight receptacle, approved by the Department of Safety & Professional Services, and used for the collection and holding of sewage.
- (7) "Human Habitation" is defined as the act of occupying a structure as a dwelling or sleeping place, whether intermittently or as a principal residence.
- (8) "In-ground Pressure System" is defined as a pressurized system placed entirely within the natural soil.
- (9) "Kewaunee County Zoning Administrator" is defined as a person appointed by the Kewaunee County Board of Supervisors to administer and enforce this ordinance, or any of his/her assistance or employees.
- (10) "Licensed Pumper" is defined as a person or firm licensed by the State of Wisconsin to pump, haul and dispose of sewage and septage.
- (11) "Non-plumbing sanitation system" shall mean sanitation systems and devices within the scope of SPS 391, 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.
- (12) "Plumber" is defined as a person licensed by the State of Wisconsin as a Master Plumber or Master Plumber Restricted Services.
- (13) "Plumbing" is defined as any piping, fixtures, equipment, devices or appurtenances in connection with water supplies, water distribution and drainage systems, including hot water storage tanks, water softeners and water heaters connected with such water and drainage systems.
- (14) "Ponding" is defined as an increase in water surface elevation upstream of a blockage or an obstruction.

- (15) "Private Sewage System" shall have the meaning as given under Wisconsin Statute 145.01(12), also referred to as a Private On-site Wastewater Treatment System or (POWTS).
- (16) "Privy" is defined as an enclosed nonportable toilet into which nonwater-carried human wastes are deposited.
- (17) "Privy - pit" is defined as a privy with earthen sidewalls and/or bottom. The privy shall be so constructed so as to be insect and rodent proof per IND 62.29 Wisconsin Administrative Code.
- (18) "Privy - vault" is defined as a privy with a watertight vault consisting of:
  - (a) Concrete sidewalls and bottom (poured in place).
  - (b) A prefabricated concrete tank.
  - (c) An asphalt - coated steel tank.
  - (d) The privy shall be constructed insect and rodent proof per IND, 62.29 Wisconsin Administrative Code.
- (19) "Sanitary Permit" is defined as a permit issued by the Zoning Administrator or designated issuing agent for the installation of a POWTS or for the installation of a non-plumbing sanitation system, pursuant to Wisconsin Statutes 59.70 and 145.04.
- (20) "Septic Tank" is defined as a tank which is an anaerobic treatment component of a POWTS and receives and partially treats sewage before discharging to a downstream component.
- (21) "Sewage" is defined as the liquid and liquid - carried wastes created in and to be conducted away from residences, businesses, industries, public building and other buildings in which people live, stay or work.
- (22) "Structure" is defined as anything constructed or erected, the use of which requires a more or less permanent location in or on a premise, or any other attachment to something having a permanent location on the ground and which encloses a space with walls and roof. Structure includes any underground construction within this definition.

## **15.0 VALIDITY, ADOPTION, AND EFFECTIVE DATE**

### **15.1 Validity**

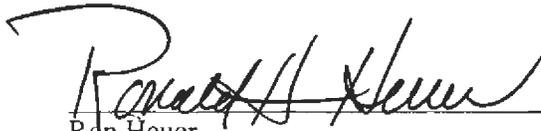
All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. Specifically, Ordinance No. 166-09-10, Kewaunee County Sanitary Ordinance is hereby repealed.

### **15.2 Adoption and Effective Date**

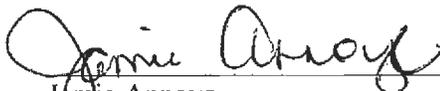
This ordinance shall be effective after public hearing, adoption by the County Board of Supervisors and publication as required by law.

Adopted this 20<sup>th</sup> day of May, 2014 by the Kewaunee County Board of Supervisors.

Attest:

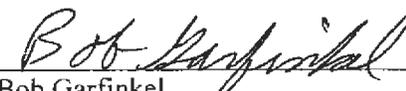
  
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Ron Heuer  
County Board Chairperson

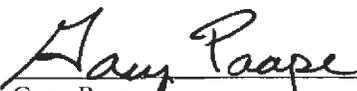
  
\_\_\_\_\_  
Edward J. Donner  
County Administrator

  
\_\_\_\_\_  
Jamie Annoye  
County Clerk

Submitted by:  
Zoning Committee

  
\_\_\_\_\_  
Tom Romdenne, Chairperson

  
\_\_\_\_\_  
Bob Garfinkel

  
\_\_\_\_\_  
Gary Paape

  
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Ron Paider