



# Dodge County Wisconsin



## Sanitary Ordinance



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## **Section 1 – Sanitary Ordinance**

### **1.1 TITLE**

The regulations of this Code shall be officially known and cited as the “Sanitary Ordinance” of Dodge County, Wisconsin,” although it may be referred to hereafter as “this Code” or “the Code.”

### **1.2 STATUTORY AUTHORITY**

**1.2.1** This Code is adopted pursuant to the enabling authority contained in Wisconsin Statutes (Wis. Stat.) generally, and specifically:

**1.2.1.A** 59.70(5) (Private Sewage System Ordinance);

**1.2.2** Whenever any provision of this Code refers to or cites a section of the Wisconsin Statutes or Administrative Code and that section is later amended or superseded, the Code shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

### **1.3 STATEMENT OF PURPOSE AND INTENT**

The purpose and intent of this Code is to promote the health, safety, prosperity, aesthetics, and general welfare of the people and Communities within Dodge County, under the authority granted by the Wisconsin Statutes. It is the specific intent of this Code to regulate the location, construction, installation, alteration, design, maintenance and use of all Private Onsite Wastewater Treatment Systems (POWTS), so as to protect the health of residents and transients; to assure safety from disease and pestilence; to prevent and control further pollution of surface and subsurface waters; to further the appropriate use and conservation of lands and water resources; and to preserve and promote the beauty of Dodge County, and its Communities. It is also further intended to provide for the administration and enforcement of this Code and to provide penalties for its violation.

### **1.4 JURISDICTION**

The provisions of this Code shall apply to all structures, lands, and waters within the boundaries of Dodge County, including the incorporated cities and villages except as otherwise provided by the Wisconsin Statutes and Administrative Code.

### **1.5 GENERAL PROVISIONS**

#### **1.5.1 Compliance**

All premises intended for human habitation or occupancy shall be provided with a public sewer, POWTS, or other approved method of sewage disposal.

#### **1.5.2 Sewage Disposal**

All plumbing located in structures intended for human habitation or occupancy shall be connected to a public sanitary sewer system, POWTS, or other approved method of sewage disposal system.

### **1.5.3 Cesspools, Privies and Portable Restrooms**

#### **1.5.3.A Cesspools**

The construction, location, installation or use of a cesspool as a POWTS is prohibited including any cesspool existing prior to July 1, 2000.

#### **1.5.3.B Privies and Portable Restrooms**

The construction, location or installation of vault privies and portable restrooms are prohibited, except:

**1.5.3.B.1** Portable Restrooms may be used temporarily at construction and agricultural work sites, public parks and recreational areas and special events in accord with the applicable Wisconsin Statutes and Wisconsin Administrative Code.

**1.5.3.B.2** Vault privies may be permitted in public or private parks by the Committee, provided no public sanitary sewer system is available and such privies are constructed as watertight privies in accordance with the applicable provisions of the Wisconsin Administrative Code. Vault privies shall be maintained in a clean condition so that insects and rodents cannot enter the vault. Vault Privies shall be located in accordance with the applicable provisions of the Wisconsin Administrative Code.

**1.5.3.B.3** Pit Privies shall meet the requirements of SPS 391.12 Wis. Adm. Code.

## **1.6 INTERPRETATION AND CONFLICT**

### **1.6.1 Meaning and Intent**

All provisions, terms, phrases, and expressions contained in this Code shall be construed according to the stated purposes set out in Section 1.3 of this Code.

### **1.6.2 Text Controls**

In case of any difference of meaning or implication between the text of this Code and any heading, drawing, table, illustration, or figure, the text shall control.

### **1.6.3 Authority for Interpretation**

The Land Use Administrator is responsible for interpreting the text of this Code in accordance with the standards set forth in this section and applicable Code standards, criteria, and requirements. Disagreements with interpretations of the Land Use Administrator may be appealed to the Board of Adjustment.

### **1.6.4 Statutory References**

All references to state law in this Code refer to Wisconsin Statutes (2009-2010), as amended.

### **1.6.5 References to Other Regulations, Publications, and Documents**

Whenever reference is made to a resolution, ordinance, statute, rule, regulation, or document, it shall be construed as a reference to the most recent edition of such resolution, ordinance, statute, rule, regulation, or document, unless otherwise specifically stated.

### **1.6.6 Computation of Time**

Periods of time defined by a number of days shall mean a number of consecutive calendar days, including all weekend days, holidays, and other non-business days. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the County, the deadline or required date of action shall be the next workday.

### **1.6.7 Delegation of Authority**

Whenever a provision appears requiring the head of a department or another officer or employee of the County to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

## **1.7 RELATIONSHIP TO OTHER REGULATIONS AND PRIVATE AGREEMENTS**

### **1.7.1 Conflicts with Other Regulations**

When the provisions of this Code are inconsistent with one another or when the provisions of this Code conflict with provisions found in other adopted ordinances or regulations, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.

### **1.7.2 Relationship with Private-Party Easements, Covenants, or Agreements**

This Code is not intended to interfere with, abrogate, or annul any easements, covenants, or agreements between parties, provided that wherever this Code imposes a greater restriction upon the use of buildings or land, upon the location or height of buildings or structures, or upon requirements for open space than those that are imposed or required by such easements, covenants, or agreements between parties, the provisions of this Code shall govern. In no case shall the County be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

### **1.7.3 Repeal of Inconsistent or Conflicting Provisions**

All other ordinances or parts of ordinances of the County inconsistent or conflicting with this Code, to the extent of the inconsistency only, are hereby repealed or modified.

## **1.8 LIABILITY FOR DAMAGES**

This Code shall not be construed to hold the County or its authorized representatives responsible for any damage to persons or property by reason of the inspection or re-inspection authorized in this Code.

## **1.9 SEVERABILITY**

It is the legislative intent of the County Board of Supervisors in adopting this Code that all provisions shall be liberally construed to protect and preserve the peace, health, safety, and general welfare of the inhabitants of the County. If any Section, subsection, sentence, clause or phrase of this Code is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Code. The County Board of Supervisors hereby declares that it would have passed this Code and Section, subsection, sentence, clause and phrase, thereof, irrespective of the fact that any one or more Sections, subsections, sentences, clauses or phrases be declared invalid.

## **1.10 EFFECTIVE DATE / TRANSITIONAL PROVISIONS**

### **1.10.1 Effective Date**

This Code shall be effective on April 19, 2011.

Code Amendment: August 18, 2020 – Published 8-27-2020

## **2.0 ADMINISTRATION**

Where a Land Use Administrator, Planning Agency or a Board of Adjustment has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692, 60.62(1) or 62.23(7), Wisconsin State Statutes, these officials shall also administer this Code.

### **2.1 Land Use Administrator**

The land use administrator is authorized to administer this Code and shall have the following duties and powers:

#### **2.1.1 Duties**

**2.1.1.A** Advise applicants of the Code provisions, assist in preparing permit applications and appeals.

**2.1.1.B** Inspect existing POWTS and sites as needed to determine that all components are in compliance with the applicable provisions of the Wisconsin Administrative Code and this Code.

**2.1.1.C** Require inspections of the construction, installation, operation or maintenance of a POWTS to ascertain whether the POWTS conforms to the sanitary permit approved by the County, the conditions of approval and the provisions of this Code.

**2.1.1.D** Review soil test data required for POWTS to assure compliance with the Administrative Code.

**2.1.1.E** Verify soil test data by an onsite investigation of soil profiles when deemed necessary by authorized department personnel.

**2.1.1.F** Issue permits and inspect properties for compliance with provisions of this Code.

**2.1.1.G** Record all permits issued, inspections made, work approved and other official actions.

**2.1.1.H** Investigate complaints made relative to POWTS and complaints relative to contamination of surface and subsurface water where a POWTS is a possible contaminant source.

**2.1.1.I** Investigate, prepare reports, and report violations of this Code to the Dodge County Corporation Counsel for prosecution.

**2.1.1.J** Order corrections to new installation, repairs and existing POWTS which do not comply with applicable standards contained in this Code or the applicable Administrative Code.

**2.1.1.K** Issue Citations in accord with this Ordinance.

#### **2.1.2 Powers**

The Land Use Administrator shall have all of the powers necessary to enforce the provisions of this Code without limitation by reason of enumeration, including the following:

**2.1.2.A** To conduct inspections at reasonable hours as deemed necessary to insure compliance with this Code. However, upon refusal of their entry to any premises for inspection purposes, they shall, except in cases of emergency, obtain a special inspection warrant in accordance with the Wisconsin Statutes or Administrative Code.

**2.1.2.B** To prohibit the use of any new POWTS until such systems have been inspected and approved.

**2.1.2.C** To order any person, firm or corporation owning, using, operating or installing a POWTS to modify it, repair it, or place it in a safe and sanitary condition if found by the department personnel to be failing, defective, unsafe, in an unsanitary condition or creating a nuisance.

**2.1.2.D** To order any person, firm or corporation owning, using, operating or installing a POWTS to test the system to determine functional status.

**2.1.2.E** To request assistance and cooperation from the State personnel, local sanitary district personnel and any other local and County officials.

**2.1.2.F** To condemn and prohibit the use of any POWTS which is found so constructed, operated or maintained so as to meet the definition of a failing POWTS.

**2.1.2.G** To cooperate with the State, local and County personnel in County health programs and in the enforcement of local, County and State health regulations.

**2.1.2.H** To revoke sanitary permits issued on data which conflicts with data collected by department personnel on the subject premises or on surrounding properties.

**2.1.2.I** To enforce all of the rules or orders and amendments thereto of the State applicable to POWTS and the rules of the State applicable to solid, liquid and other wastes.

**2.1.2.J** To issue Citations in accord with this Ordinance.

## **2.2 Board of Adjustment**

The Board of Adjustment, created under s. 59.694, Stats. is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Land use administrator may not be the secretary of the Board.

### **2.2.1 Powers and Duties**

**2.2.1.A Appeals** – The Board of Adjustment shall be responsible for hearing and deciding appeals of orders, requirements, decisions, and determinations made by the Land Use Administrator or the Committee. (See Section 2.3.9)

**2.2.1.B Variances** - The Board of Adjustment shall be responsible for hearing and granting variances where, owing to special conditions, a literal enforcement of this Code would result in practical difficulty or unnecessary hardship. (See Section 2.3.8)



## **2.3 Licenses, Inspections and Permits**

### **2.3.1 Licenses**

All persons performing any work on POWTS shall obtain the required license from the State prior to Commencing such work and be supervised where required. Licensing and supervision shall be in accordance with Wisconsin Statutes and Administrative Code and pertinent sections of this Code.

### **2.3.2 Inspections**

All permits issued for POWTS, additions to POWTS, vault privies, and repairs to POWTS are required to be inspected by this Department before use.

#### **2.3.2.A Random Inspections**

This Department may make random inspections of all data received for sanitary permit applications before or after issuance; and may report errors found to the State agency in charge of licensing the person making the error. The Department is also authorized to enter onto any premises during normal working hours for the purpose of ascertaining compliance with the requirements of this Code and as otherwise authorized by law.

#### **2.3.2.B Verification of Soil Test Report Data**

This Department may, at its discretion, verify such data as is supplied on forms relating to soil tests for POWTS, including a request to reopen soil boring sites if deemed necessary.

#### **2.3.2.C Inspection Procedure – POWTS**

**2.3.2.C.1** The plumber in charge shall immediately inform this Department of new, replacement, repair or additions to POWTS installations. The Department shall then inspect such installation within the time limits specified in the Administrative Code. Department personnel may require additional inspections at any time during the construction process.

**2.3.2.C.2** When the Department has reason to believe work has commenced on a POWTS without the proper sanitary permit; or when the Department deems it necessary to determine whether a sanitary permit is required, the Department may order an inspection of the POWTS or portion thereof to the extent necessary to determine compliance with the County and State requirements.

**2.3.2.C.3** When a POWTS meets requirements of this Code, the Department personnel shall approve the system. The system may not be backfilled prior to approval by Department personnel.

**2.3.2.C.4** If, upon inspection of a POWTS, it is found that said POWTS is not in compliance with the requirements of this Code, the Department personnel shall review the incomplete or noncompliant aspects with the plumber in charge at the site. The Department personnel shall also make a written copy of the noncompliant aspects and shall establish a deadline for completion or compliance which shall be made available to the plumber.

**2.3.2.C.5** At the time of the inspection, either a Master/Journeyman Plumber or Master/Journeyman Plumber Restricted Service shall be present at the site and shall furnish the proper equipment as needed to determine the elevation of the system and its components.

### **2.3.3 Private Onsite Wastewater Treatment and Other Sanitation Systems**

All applicable rules, regulations, and laws as set forth in the Wisconsin Statutes and the Wisconsin Administrative Code: Chapters 145 and 146, Wisconsin Statutes and Chapters NR 812, SPS 381, 382, 383, 384, 385, and 391, Wisconsin Administrative Code, are hereby adopted by reference and made a part of this section as if fully set forth herein.

### **2.3.4 Sanitary Permit**

No POWTS or parts thereof shall hereafter be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or their use changed without a Sanitary Permit and without full compliance the applicable provisions of Wisconsin Administrative Code Chapters SPS 381, 382, 383, 384, and 385, and all other applicable local, county, and state regulations, except as allowed under Subsection 2.3.4.G - Emergency Repairs.

**2.3.4.A** Applications for a sanitary permit shall be made by the property owner pursuant to the Wisconsin Administrative Code to the Department on forms furnished by the Department.

**2.3.4.B** A sanitary permit application and three sets of complete plans shall be submitted to the Department for review. One of the complete set of plans that are submitted to the Department shall be an original set of plans.

#### **2.3.4.C Application Completeness**

An application will be considered complete if it is submitted in the required number and form, includes all mandatory information, and is accompanied by the applicable fee. The Land Use Administrator shall make a determination of application completeness within 30 days of application filing. If an application is determined to be incomplete, the Land Use Administrator shall notify the applicant of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 1 year of receiving notice of the deficiencies, the application shall be considered withdrawn. Failure to meet the processing goal for the review of the application for completeness shall not result in automatic approval of the sanitary permit application.

#### **2.3.4.D Application Filing Fees**

Applications must be accompanied by the fee that has been established by the County Board of Supervisors. No further processing of the application shall occur until the appropriate fees are submitted. Application fees are non-refundable, except that refunds shall be made to applicants who provide written notification to the Land Use Administrator of a withdrawal of an application prior to issuance or denial of the permit by the Department.

#### **2.3.4.E Permit Application Review Process**

Upon receipt of a complete application, sanitary permits will be approved or denied within 30 working days by authorized Department personnel. Such approval or denial shall be based upon the submittal of the information and fees required by this Code, verification of test data if deemed necessary by Department personnel and compliance with all other provisions of this Code and the applicable Wisconsin Statute and Administrative Code. If subsequent data is obtained, as required by this Code, demonstrating noncompliance with these regulations, said sanitary permit can be revoked immediately as provided in Section 2.3.10.D of this code. The applicant for any sanitary permit which has been denied shall be informed in writing of the reasons for such denial by Department personnel.

#### **2.3.4.F Expiration of Approval**

All sanitary permits shall expire 2 years from the date of issuance, except where revoked under Section 2.3.10.D.

**2.3.4.F.1** Sanitary permits may be revoked when the data submitted for the sanitary permit conflicts with the data collected by the Department personnel on the subject premises.

#### **2.3.4.G Emergency Repairs**

Emergency repairs or the removal of stoppages may be performed before a sanitary permit is obtained, provided such work is reported to the Land Use Administrator by the next working day so a determination can be made whether a sanitary permit is required. Excavations shall be left open for this determination to be made and work completed must be exposed for inspection if deemed necessary by the Department personnel.

#### **2.3.4.H Construction Affecting Wastewater Flow or Contaminant Load.**

When an addition or alteration is proposed to an existing building, structure or facility that is served by an existing POWTS and the proposed addition or alteration will result in a change that affects wastewater flow or wastewater contaminant load beyond the minimum or maximum capabilities of the existing POWTS, the POWTS shall be modified to conform to the applicable rules of SPS 383, Wisconsin Administrative Code and this Ordinance.

Prior to beginning construction on the addition or alteration, the owner or their agent shall provide documentation to this Department demonstrating 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, Wisconsin Administrative Code and this Ordinance or that a code compliant POWTS will be installed to accommodate the change in wastewater flow and contaminant loads. Documentation shall include the following:

**2.3.4.H.1** An existing sanitary permit demonstrating compliance; or

**2.3.4.H.2** A sanitary permit for installation of a new code compliant POWTS; or

**2.3.4.H.3** For POWTS that utilize in situ soil for treatment or disposal, a Soil and Site Evaluation report verifying that the vertical separation distance between the infiltrative surface of the existing treatment or dispersal component and estimated high ground water elevation and/or bedrock complies with SPS 383.03 requirements unless a valid report meeting these criteria is on file with the Department.

If the existing POWTS is not sized properly, an affidavit in the format prescribed by the Department shall be recorded in the Dodge County Register of Deeds Office demonstrating use of an undersized POWTS or the POWTS shall be modified to comply with SPS 383 and this Ordinance;

**2.3.4.H.4** A report provided by a licensed plumber, certified septage servicing operator or a POWTS inspector relative to the condition, capacities, baffles and manhole covers for any existing treatment or holding tanks.

**2.3.4.H.5** A report provided by a licensed plumber or POWTS inspector relative to the condition and capacities of all other system components and verifying that the system is not a failing system.

**2.3.4.H.6** A clear and legible detailed plot plan (site plan) dimensioned or drawn to scale, on paper no smaller than 8 ½ inches by 11 inches in size. The plot plan shall delineate the lot size and the location of all existing and proposed POWTS components, wells, water mains, or water services, existing buildings and proposed buildings that will be hooked to a sewer system or impact a sewer system, lot lines, swimming pools, navigable waters, and the benchmark established on the Soil and Site Evaluation report. Adjoining properties shall be checked to insure that the horizontal setback parameters in SPS 383.43 are complied with. All separating distances and dimensions shall be clearly shown on the plot plan.

**2.3.4.I Reconnections to existing POWTS**

A County reconnection sanitary permit shall be obtained prior to reconnecting a structure to an existing POWTS for any of the following:

- Construction of a structure to be connected to an existing POWTS;
- Disconnection of a structure from an existing POWTS and reconnection of another structure to the same system; or
- Reconstruction of a structure that is connected to a POWTS and that has become uninhabitable due to damage resulting from fire, wind, natural or manmade disasters.

**2.3.4.I.1** Application for a County reconnection permit shall include the following:

**2.3.4.I.1.a** A County reconnection sanitary permit application with the applicable application fees;

**2.3.4.I.1.b** For all systems that utilize in situ soil for treatment or disposal, a Soil and Site Evaluation report verifying that the vertical separation distance between the infiltrative surface of the existing treatment or dispersal component and estimated high ground water elevation and/or bedrock complies with SPS 383.03 requirements unless a valid report meeting these criteria is on file with the Department.

**2.3.4.I.1.c** A report provided by a licensed plumber, certified septage servicing operator or a POWTS inspector relative to the condition, capacities, baffles and manhole covers for any existing treatment or holding tanks.

**2.3.4.I.1.d** A report provided by a licensed plumber or POWTS inspector relative to the condition and capacities of all other system components and verifying that the system is not a failing system.

**2.3.4.I.1.e** A clear and legible detailed plot plan (site plan) dimensioned or drawn to scale, on paper no smaller than 8 ½ inches by 11 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, wells, water mains, or water services, existing buildings and proposed buildings that will be hooked to a sewer system or impact a sewer system, lot lines, swimming pools, navigable waters, and the benchmark established on the Soil and Site Evaluation report. Adjoining properties shall be checked to insure that the horizontal setback parameters in SPS 383.43 are complied with. All separating distances and dimensions shall be clearly shown on the plot plan.

**2.3.4.I.1.f** Reconnection to existing holding tanks may require a new servicing contract and an updated holding tank agreement which meets the requirements of this Ordinance.

**2.3.4.I.1.g** Reconnection to an existing system other than a holding tank may require a new maintenance agreement or contract.

**2.3.4.I.1.h** When reconnection to an undersized system is permitted, an affidavit for the use of the undersized system shall be recorded in the Register of Deeds office.

#### **2.3.4.J Transfer of Ownership**

A sanitary permit may be transferred from an owner to a subsequent owner, pursuant to s 145.19(8) Wisconsin State Statutes. The transfer shall be processed in accord with SPS 383.21(4) Wisconsin Administrative Code.

#### **2.3.4.K Change of Plumbers**

When an owner wishes to change plumbers, it will be considered a revision of the sanitary permit and shall be processed in accord with SPS 383.22(4) Wisconsin Administrative Code.

### **2.3.5 Holding Tanks**

#### **2.3.5.A Applications**

Applications for permits for the installation of holding tanks shall be considered on an individual basis. Plans shall be submitted in accordance with Section 2.3.4 for each application to install a holding tank. Each application shall be accompanied by an executed holding tank agreement and a valid servicing contract for the servicing of said holding tank and it shall be approved by the Land Use Administrator prior to the approval of the application. The holding tank agreement shall be recorded in the Office of Register of Deeds of Dodge County by the applicant before a permit shall be issued. The installation of a holding tank is prohibited if:

**2.3.5.A.1** Any other type of private sewage system may be utilized as permitted under SPS 383, Wisconsin Administrative Code; and

**2.3.5.A.2** The property contains an area of soil suitable for any other type of private sewage system as permitted under SPS 383, Wisconsin Administrative Code.

#### **2.3.5.B Exceptions**

Holding tanks may be permitted for Commercial or industrial establishments with a daily wastewater flow of less than 100 gallons per day, by the Land Use Administrator or the Committee, provided no public sewer system is available and provided that a soil evaluation has been conducted on this lot and it has been determined that the lot contains sufficient soil and area in which to install a code compliant POWTS for this lot. If a holding tank is allowed under this section of the code, the following shall apply:

**2.3.5.B.1** The owner shall, pursuant to s. SPS 383.54(2) have a water meter or monitoring device installed. The water meter or monitoring device shall be installed by a plumber authorized by the State to conduct such installations, with said installation complying with State regulations and manufacturers specifications. The owner shall be financially responsible for the purchase, installation, maintenance and repair of the water meter or monitoring device, and agrees to allow the County to enter the above described property, as needed, to read and/or inspect the water meter or monitoring device.

**2.3.5.B.2** The owner of a POWTS or the owner's agent shall comply with the reporting requirements of SPS-383.55 Wis. Adm. Code. In addition to the reporting information required under SPS 383.55 (3) Wis. Adm. Code, the report shall include water meter readings or the metering device for each servicing event. In the case of licensing under s. 281.48(3)(d) Stats, the owner shall submit the report to the County. The County may enter upon the property to investigate the condition of the holding tank when pumping reports and/or meter or monitoring device readings may indicate that the holding tank is not being properly maintained.

**2.3.5.B.3** The owner shall preserve the area designated by the soil tester for future installation of the POWTS seepage field for as long as the holding tank is located on this property.

### **2.3.5.C Servicing Contract**

The owners of all existing and future holdings tanks are required to enter into an agreement with a licensed certified septage servicing operator to service the holding tank in accordance with State Statutes, Administrative Code and this Ordinance. The owner shall file a copy of a valid holding tank servicing contract with the Department prior to the sanitary permit being issued. The property owner shall submit a new or revised servicing contract to the Department whenever there is a change to such document.

### **2.3.6 POWTS and Alternative Sanitation System Maintenance Requirements**

All POWTS, POWTS components, holding tanks and alternative sanitation systems, including a POWTS, a holding tank and an alternative sanitation system existing prior to July 1, 2000, shall be maintained at all times so as not to create a human health hazard. Failure to maintain a POWTS a POWTS Component, a holding tank and/or an alternative sanitation system in accord with the following maintenance requirements shall be considered a human health hazard and a violation of this code and shall be subject to the remedies and penalties provided for in Section 2.3.10.D of this Code.

#### **2.3.6.A Responsibilities**

The owner of a POWTS, a POWTS component, a holding tank and/or an alternative sanitation system shall be responsible for ensuring that the operation, maintenance and the reporting of the inspection, maintenance, and servicing events of the POWTS, the POWTS components, the holding tanks and/or the alternative sanitation system occur in accordance with the provisions of this section, and in accordance with the applicable provisions of Wisconsin Administrative Code, Chapters SPS 381, 382, 383, 384, 385 and 391, or as specified in a maintenance plan that was approved at the time of the issuance of a sanitary permit.

#### **2.3.6.B Maintenance**

All POWTS, POWTS components, holding tanks and alternative sanitation systems shall be serviced in accordance with SPS 383, 384 and 391 of the Wisconsin Administrative Code, the Dodge County Sanitary Ordinance, or as specified in a maintenance agreement that was approved at the time the sanitary permit was issued.

#### **2.3.6.C Reporting and Maintenance Fee Requirements**

The owner of a POWTS, a POWTS Component, a holding tank, and/or an alternative sanitation system, or the owner's agent, shall report to the Department at the completion of each inspection, maintenance or servicing event, in accordance with the following requirements:

**2.3.6.C.1** All POWTS inspections, maintenance, or servicing shall be completed within 90 days from the date the owner is notified by the code enforcement office unless a more restrictive time frame for compliance is specified in the notice.

**2.3.6.C.2** Reports shall include all applicable inspection, servicing, certification and maintenance information required in SPS 383, 384 and 391 of the Wisconsin Administrative Code. Inspection, maintenance and servicing reports required under this subsection shall be submitted to the Department with the maintenance fee required under Subsection 2.3.6.C.3. The Department shall not be authorized to accept such reports without payment of the maintenance fee.

**2.3.6.C.3** A fee shall be assessed by this Department for the inspection, maintenance or servicing of a POWTS, POWTS component, holding tank or an alternative sanitation system. The fee shall be established by ordinance and may be amended from time to time. A fee schedule ordinance shall be kept by the Department. The owner of a POWTS, POWTS component, holding tank or alternative sanitation system, is responsible for submitting the required maintenance fee to the Department with the inspection, maintenance and servicing reports required by section 2.3.6 of this Ordinance.

**2.3.6.C.4** A POWTS, POWTS component, holding tank and/or an alternative sanitation system that is not maintained in accordance with SPS 383, 384 and 391 of the Wisconsin Administrative Code, Section 2.3.6 of this Ordinance, or as specified in a maintenance agreement, shall be considered a human health hazard and a violation of the Dodge County Sanitary Ordinance and shall be subject to the enforcement and penalty provisions of Section 2.3.10 of this Ordinance.

#### **2.3.6.D Department Notification Procedures**

The Department shall transmit a notice by United States 1<sup>st</sup> Class mail, or post said notice on the property or deliver said notice in person to the owner of the property which contains a POWTS at 3 year intervals, or as specified in a maintenance plan that was approved at the time of the issuance of a sanitary permit, which requires the following certification:

**2.3.6.D.1** That the POWTS is in proper operating condition at the time of inspection, and

**2.3.6.D.2** That the septic tank, and pump chamber if applicable, was recently pumped and/or that it was inspected and was less than one third full of sludge and scum at the time of inspection and that any sludge or scum present was removed.

**2.3.6.D.3** That no effluent from the septic system was ponding on the ground surface.

#### **2.3.6.E Certification**

Such certification shall be made by a licensed Master/Journeyman Plumber or Master/Journeyman Plumber Restricted Service, a certified POWTS inspector, a certified septage servicing operator under ch. NR 114 or a registered POWTS maintainer.

#### **2.3.6.F Limits**

A 90 day period from the time of mailing of the form to the owner shall be allowed for return of the certification to the Department unless a more restrictive time frame for compliance is specified in the notice. An additional 30 days may be granted by the Department because of unusual circumstances.

#### **2.3.6.G Testing**

The Department shall prepare and keep updated a list of persons who are certified to perform required tests.

### **2.3.6.H Servicing of POWTS, Holding Tanks and/or Alternative Sanitation Systems**

Septic tanks, holding tanks, pump chambers or tanks, POWTS treatment components, and other disposal facilities, and alternative sanitation systems shall be serviced in accordance with the applicable provisions of the Wisconsin Statutes and the Wisconsin Administrative Code.

### **2.3.6.I Posted Notice**

When the provisions of this Code require that a notice be posted on the subject property, the department shall (1) post the notice in a weatherproof container; (2) place the notice on the property that is the subject of the notice; and (3) place the notice in a manner that makes the notice clearly visible to the owner/occupant of the property.

## **2.3.7 Public Hearing Notices**

### **2.3.7.A Content**

All public hearing notices required under this Code shall comply with the Class I or Class II notice requirements of Wis. Stat. Chapter 985. In addition, all such notices required under this Code must: (1) indicate the time and place of the public hearing or action; (2) describe the property involved by street address or by legal description and nearest cross road; (3) describe the nature, scope and purpose of the application or proposal being advertised; and (4) indicate where additional information can be obtained.

### **2.3.7.B Written (Mailed) Notice**

When the provisions of this Code require that written or mailed notice of the public hearing be provided, the County shall be responsible for preparing and mailing the written notice. The County shall mail notice to all property owners within 300 feet of the subject property boundary, unless otherwise specified in this Code. Ownership information shall be provided by the applicant and obtained from the County Property Description Department.

### **2.3.7.C Published Notice**

When the provisions of this Code require that public hearing notice be published, the County shall be responsible for preparing the content of the notice and publishing the notice in the newspaper of general circulation that has been selected by the County.

### **2.3.7.D Timing of Notices**

Unless otherwise expressly provided in state statutes or this Code, public hearing notices, when required, shall be mailed or published at least 8 days prior to the hearing or action for changes or amendments to the Code, rezonings, or appeals to the Board of Adjustment in accordance with Class II notice requirements. For all other actions requiring notice, notice shall be mailed or published at least 7 days prior to the hearing or action in accordance with Class I notice requirements.

### **2.3.7.E Constructive Notice**

Minor defects in a public hearing notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Failure of a party to receive written notice shall not invalidate any subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date and place of a hearing and the location of the subject property shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding regarding whether there was substantial compliance with the notice requirements of this Code before proceeding with the hearing.



#### **2.3.7.F Continuation of Public Hearings**

A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Code, provided that the continuance is set for a date within 60 days and the date and time of the continued hearing is announced at the time of the continuance.

#### **2.3.7.G Burden of Proof or Persuasion**

The burden of demonstrating that an application complies with applicable review and approval criteria is on the applicant. The burden is not on the County or other parties to show that the criteria have not been met.

#### **2.3.7.H Conditions of Approval**

In approving development applications, the decision-making body shall be authorized to impose such conditions upon the premises benefited by the approval as may be necessary to reduce or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and intent of this Code, so long as the condition relates to a situation created or aggravated by the proposed use or development and is roughly proportional to its impact.

#### **2.3.7.I Findings of Fact**

Final decisions of all review and decision-making bodies shall be accompanied by written findings of fact based upon the applicable standards and criteria. The findings shall be filed with the Department. In the event of denial, the written findings shall specify the provisions of the County's adopted regulations that the proposal failed to satisfy.

## **2.3.8 Variances**

### **2.3.8.A Application Filing**

Applications for variances shall be submitted to the Land Use Administrator.

### **2.3.8.B Public Hearing Notice**

Notice of the public hearing shall be published and mailed pursuant to the general notice provisions of Section 2.3.7.

### **2.3.8.C Review and Action**

The Board of Adjustment shall hold a public hearing on each variance application and, following the public hearing, act to approve, approve with conditions, or deny the variance based on the Approval Criteria of Section 2.3.8.D.

### **2.3.8.D Approval Criteria**

No variance to the provisions of this Code shall be granted by the Board of Adjustment unless it finds a reasonable factual basis for all the following facts and conditions and so indicates in the minutes of its proceedings.

**2.3.8.D.1** There are exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this Code should be amended.

**2.3.8.D.2** The granting of the variance will not have an adverse impact upon the public health, safety, morals or the welfare of the Community or surrounding properties.

**2.3.8.D.3** The special circumstances and conditions are such that the strict application of provisions of this Code would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property.

**2.3.8.D.4** The granting of the variance is the minimum necessary to relieve the applicant of the practical difficulties and exceptional and undue hardship in the use of the land or building.

**2.3.8.D.5** Literal interpretation of the provisions of this Code will leave no practical use of the land or building; and

**2.3.8.D.6** A variance may not be granted where the primary reason for obtaining a variance is to obtain a more profitable use of the property, personal inconvenience, construction error, economic gain, self-created hardship or where the property is presently a non-conforming use.

### **2.3.9 Appeals**

Appeals of decisions of the Land Use Administrator shall be made to the Board of Adjustment, unless otherwise provided for in this Code. The Board of Adjustment shall hold a public hearing on each appeal and, following the public hearing, act to approve or deny the appeal. Within 60 days of the filing of an appeal, the Board of Adjustment shall fix a reasonable time and place for the hearing and give notice in accordance with Section 2.3.7 of this Code to the parties-in-interest. Written and published notice for public hearings on appeals shall be provided pursuant to the general notice requirements this Code. The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of the Land Use Administrator.

#### **2.3.9. A Timing**

Such appeals shall be filed with the Land Resources and Parks Department or the review and decision-making body from whom the appeal is taken within 30 days after the date of written notice of the decision or order of the review and decision-making body.

#### **2.3.9.B Format of Appeal**

All appeals shall be in writing and on such forms as shall be prescribed by the decision-making body and accompanied by the appropriate filing fee. Every appeal shall state, at a minimum, what provision(s) of the Code is/are involved, what relief from the provision(s) is being sought, and the grounds on which the relief should be granted to the appellant.

#### **2.3.9.C Appeals from Board of Adjustments' Decisions**

Any further appeal of decisions made by the Board of Adjustment shall be made to the courts, as provided by law, unless otherwise provided for in the Code.

#### **2.3.9.D Appeals of County Board of Supervisors' Decisions**

Appeals of decisions of the County Board of Supervisors shall be made to the courts, as provided by law.

## **2.3.10 Enforcement and Penalties**

### **2.3.10.A RESPONSIBILITY FOR INSPECTION AND ENFORCEMENT**

The Land Use Administrator shall have primary responsibility for enforcing all provisions of this Code, pursuant to the policies and procedures set forth in this Code. The Land Use Administrator is hereby empowered to cause any building, other structure, or tract of land to be inspected and examined for suspected or potential violations of this Code after proper notification. If permission to enter the property is withheld, the Land Use Administrator may seek a court order to require inspection of the property.

### **2.3.10.B VIOLATIONS**

It shall be unlawful to construct any POWTS or to use POWTS, land, or water in violation of any of the provisions of this Code. It shall be unlawful to resist, obstruct, or interfere with the Land Use Administrator in the lawful discharge of his duties and it shall be unlawful to neglect, refuse, or fail to obey the lawful orders issued by the Land Use Administrator. The County Board of Supervisors, the Land Use Administrator, Boards of Health of municipalities within Dodge County, municipalities within Dodge County, and Dodge County may institute appropriate legal actions or proceedings to enjoin any violation of this Code in accord with the enforcement procedures listed in this code.

Any violation of this Code shall be subject to the remedies and penalties provided for in this Code. Violations shall include:

#### **2.3.10.B.1 Use, Place, Construct or Install a POWTS Without Approval**

To use, place, construct or install any POWTS, POWTS component or addition to a POWTS upon land that is subject to this Code without all of the permits and approvals required by this Code;

#### **2.3.10.B.2 Development Without Permit or Approval**

To construct or occupy any structure that requires connection to a POWTS without all of the permits or approvals required by this Code;

#### **2.3.10.B.3 Development, Construction or Use Inconsistent with Permit**

To engage in any development, use, construction, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization required in order to engage in such activity;

#### **2.3.10.B.4 Development or Use Inconsistent with Conditions of Approval**

To violate, by act or omission, any term, condition, or qualification placed by a Decision-Making Body upon any permit or other form of authorization;

#### **2.3.10.B.5 Development Inconsistent with Code**

To erect, construct, reconstruct, alter, maintain, move, or use any building, structure, or POWTS, or to engage in development of any land in violation of any provision of this Code;

#### **2.3.10.B.6 Use of a Failing POWTS**

To use a POWTS which causes or results in any of the following conditions:

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

#### **2.3.10.B.7 Failure to service a POWTS treatment Component**

To fail to maintain a POWTS treatment component in accord with the servicing requirements listed in this Code or as specified in a maintenance agreement that has been approved at the time of issuance of the sanitary permit;

#### **2.3.10.B.8 Failure to Comply with Orders**

To fail to comply with a violation order issued under the provisions of this Code.

#### **2.3.10.B.9 Removing or Defacing Required Notice**

To remove, deface, obscure, or otherwise interfere with any notice required by this Code;

#### **2.3.10.B.10 All Other Violations**

To establish or operate other activities, structures, or land uses in violation of any specific provisions, or the general purpose and intent, of this Code.

#### **2.3.10.C Continuing Violations**

Each day that a violation remains uncorrected after receiving notice of the violation from the County by certified or registered mail, by posted notice or by delivery in person shall constitute a separate violation of this Code.

### **2.3.10.D REMEDIES AND ENFORCEMENT POWERS**

In case of any violation, Dodge County, the County Board of Supervisors, the Board of Adjustment, the Land Use Administrator, the Committee, or any owner of property affected by any violation may institute appropriate action or proceeding for relief pursuant to the procedures set forth in this Code. The County shall have the following remedies and enforcement powers:

#### **2.3.10.D.1 Revoke Permits**

Any development permit or other form of authorization required under this Code may be revoked when the Land Use Administrator determines that:

**2.3.10.D.1.i** There is departure from the plans, specifications, or conditions as required under terms of the permit;

**2.3.10.D.1.ii** The development permit was procured by false representation or was issued in error; or

**2.3.10.D.1.iii** Any of the provisions of this Code are being violated.

#### **2.3.10.D.2 Injunctive Relief**

The County may seek an injunction or other equitable relief in court to stop any violation of this Code or of a permit, certificate, or other form of authorization granted hereunder.

#### **2.3.10.D.3 Abatement**

The County may seek a court order in the nature of mandamus, abatement, injunction, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

#### **2.3.10.D.4 Citations**

Pursuant to ss.66.0113, Wis. Stats., the County may use the citation method of enforcement of ordinances, including those for which a statutory counterpart exists.

#### **2.3.10.D.5 Other Remedies**

The County shall have such other remedies as are and as may be from time to time provided by Wisconsin law for the violation of this Code.

#### **2.3.10.D.6 Other Powers**

In addition to the enforcement powers specified in this Code, the County may exercise any and all enforcement powers granted by Wisconsin law.

#### **2.3.10. D.7 Penalties**

Any person, firm, or corporation who fails to comply with the provisions of this Code shall, upon conviction thereof, forfeit not less than \$50 nor more than \$500 dollars and costs of prosecution for each violation. In default of payment of such forfeiture and costs, violators shall be imprisoned in the County Jail until payment thereof, for a period not to exceed 6 months.

#### **2.3.10.E Continuation**

Nothing in this Code shall prohibit the continuation of previous enforcement actions, undertaken by the County pursuant to previous and valid ordinances and laws.

**2.3.10.F Remedies Cumulative**

The remedies and enforcement powers established in this chapter shall be cumulative, and the County may exercise them in any order.

## **2.3.11 ENFORCEMENT PROCEDURES**

### **2.3.11.A Non-Emergency Matters**

In the case of violations of this Code that do not constitute an emergency or require immediate attention, the Land Use Administrator shall give notice of the nature of the violation to the property owner or to any other person who is party to the agreement or to any applicant for any relevant permit in the manner hereafter stated, after which the persons receiving notice shall have 30 days to correct the violation before further enforcement action shall be taken. Notice shall be given in person, by United States Registered or Certified Mail, or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

Failure to comply with the 30 day order will be considered a violation of the Dodge County Sanitary Ordinance.

Extensions to the 30 day orders may be granted at the discretion of the Department, provided good faith efforts are being made to correct the problem.

If the violation is not corrected within the time period specified in the order, the owner may be subject to:

- a) The issuance of an enforceable citation; and/or
- b) Commencement of legal action against the owner seeking an injunction to abate the violation and/or correct the damage created by the violation;
- c) Any and all other enforcement powers specified in this Ordinance and any and all enforcement powers granted by Wisconsin law.

### **2.3.11.B Emergency Matters**

In the case of violations of this Code that constitute an emergency as a result of health, safety or public concerns or violations that require immediate attention or violations that will create increased problems or costs if not remedied immediately, the County may use the enforcement powers available under this chapter, including the issuance of an enforceable citation, without prior notice, but the Land Use Administrator shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who is party to the agreement, and to applicants for any relevant permit.

Violations that are considered by the County as constituting an emergency as a result of health, safety or public concerns or as a violation that requires immediate attention or a violation that will create increased problems or costs if not remedied immediately include, but are not limited to, the following violations:

- a) *Pumping sewage from a holding tank, septic tank, pump chamber, cesspool or other POWTS component onto the ground surface, into waters of the State or into an unauthorized area.*
- b) *The discharge of sewage onto the ground surface and/or into the waters of the state.*



### **2.3.11.C Revocation**

#### **2.3.11.C.1 Duties of Land Use Administrator**

The revocation process shall be initiated by the Land Use Administrator upon a determination that there are reasonable grounds for revocation of the subject permit or development approval.

#### **2.3.11.C.2 Authority to Revoke**

The Decision-Making Body that approved the permit or development approval shall be authorized to revoke the permit or development approval.

#### **2.3.11.C.3 Notices and Public Hearing**

##### **2.3.11.C.4 Notice**

If a public hearing was required for the approval of the permit, then a public hearing shall be held for the permit revocation process. The notice of a revocation hearing, when required, shall be given in the same manner as required for the public hearing at which approval was granted.

If no public hearing was required for approval, then no public hearing shall be required for the revocation process. If no public hearing is required for the revocation process, then the Department shall transmit said revocation notice by United States 1<sup>st</sup> Class mail, or post said revocation notice on the property or deliver said revocation notice in person to the owner of the use, structure, POWTS or POWTS component for which the permit was granted at least 7 days prior to the revocation of the permit by the decision making body. Failure to receive the revocation notice or within the specified time limit shall not constitute grounds for dismissal of the revocation process.

##### **2.3.11.C.5 Testimony**

At the public hearing, the Committee and the Decision-Making Body shall hear testimony of County staff, the owner of the use, structure, POWTS or POWTS component for which the permit was granted, if present, and any other interested person.

If no public hearing is required, then the Decision-Making Body may accept testimony from County staff, the owner of the use, structure, POWTS or POWTS component for which the permit was granted and any other interested person prior to the revocation of said permit.

##### **2.3.11.C.6 Required Findings**

The Committee and/or the Decision-Making Body shall revoke the permit upon making one or more of the following findings:

**2.3.11.C.6.i** That the permit was issued on the basis of erroneous or misleading information or misrepresentation;

**2.3.11.C.6.ii** That the terms or conditions of approval of the permit have been violated or that other laws or regulations have been violated; or

**2.3.11.C.6.iii** That there has been a discontinuance of the exercise of the entitlement granted by the permit for 180 consecutive days.

##### **2.3.11.C.7 Decision and Notice**

**2.3.11.C.7.i Matters Subject to Public Hearing**

For decisions on a revocation matter that is the subject of a public hearing, following the revocation hearing, the Committee and the Decision-Making Body shall render a decision, and shall mail notice of the decision to the owner of the use, structure, POWTS or POWTS component for which the permit was revoked and to any other person who has filed a written request for such notice.

**2.3.11.C.7.ii Matters Not Subject to Public Hearing**

For decisions on a revocation matter that is not the subject of a public hearing, the Decision-Making Body shall mail notice of the decision to the owner of the use, structure, POWTS or POWTS Component for which the permit was revoked and to any other person who has filed a written request for such notice.

**2.3.12 Amendments**

The County Board of Supervisors may from time to time, alter, supplement or change the regulations contained in this ordinance in accordance with the applicable requirements of s. 59.69(5)(e), Wisconsin Statutes, Chapter SPS 383.03(5)(b), Wis. Adm. Code and this ordinance where applicable.

### **2.3.13 Citations**

**2.3.13.A. Information Required.** The citation shall contain the following:

- 1) The name and address of the alleged violator.
- 2) Factual allegations describing the alleged violation.
- 3) The time and place of the offence.
- 4) The section of the ordinance violated.
- 5) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.
- 6) The time at which the alleged violator may appear in court.
- 7) A statement which, in essence, informs the alleged violator, as follows:
  - a. A cash deposit of a specified amount may be made which shall be delivered or mailed to the Clerk of Courts prior to the time of the scheduled court appearance.
  - b. If such deposit is made, the alleged violator need not appear in court unless he is subsequently summoned.
  - c. If such deposit is made and the alleged violator does not appear in court, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees and surcharges, imposed under Ch. 814, Wis. Stats., not to exceed the amount of the deposit, or will be summoned into court to answer the complaint if the court does not accept the plea of no contest.
  - d. If no deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgement under ss. 66.0113(3)(d), Wis. Stats., or the municipality may commence an action against the alleged violator to collect the forfeiture, plus costs, fees and surcharges, imposed under Ch. 814, Wis. Stats.
- 8) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under Subsection B(7) above has been read. Such statement shall be sent or brought with the cash deposit.
- 9) Such other information as the County Board deems necessary.

### **2.3.13.B Deposits**

- 1) Each citation issued under this section, except those to which Subsection 2.3.13.B 4) below applies, shall specify a cash deposit as set forth in the Dodge County Code of Ordinances, Chapter 30.04(b) schedule of cash deposits where applicable, which is hereby adopted by reference, which consists of the appropriate forfeiture, the current penalty assessment, the jail assessment, the automation fee and the court support service fee.
- 2) The deposits shall be made in cash, money order or check to the Dodge County Clerk of Courts, who shall provide a receipt therefor.
- 3) The penalty assessment, the jail assessment, the automation fee and the court support fee shall be added to all forfeitures hereunder.
- 4) The deposit, including costs, pertaining to any minor receiving a citation under this section shall in no event exceed the maximum penalties provided in Ch. 938, Wis. Stats., Juvenile Justice Code, plus the penalty assessment, the jail assessment, the automation fee and the court support service fee, except that costs and penalties shall not be assessed against minors unless Wisconsin Law so provides.

**2.3.13.C Deposit Schedule**

- 1) Any law enforcement officer issuing a citation for any violation of this Ordinance shall indicate on the citation the amount of the deposit, as provided in Subsection B above, that the alleged violator may make in lieu of court appearance.

**2.3.13.D Issuance of Citation**

- 1) Any sworn Sheriff's Deputy may issue citations authorized under this section.
- 2) The following County officials may issue citations with respect to those specific sections of this Ordinance which relate to their official duties:
  - a. Land Resources and Parks Director, Manager of Code Administration, Land Use / Sanitation Specialists

**2.3.13.E Procedure**

- 1) Section 66.0113(3), Wis, Stats., relating to a violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

**2.3.13.F Nonexclusivity**

- 1) The issuance of a citation hereunder shall not preclude the County Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
- 2) The issuance of a citation hereunder shall not preclude the County or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

## **Section 3 Definitions**

### **3.1 WORD CONSTRUCTION**

#### **3.1.1 Lists and Examples**

Unless otherwise specifically indicated, lists of items or examples that use terms such as “for example,” “including,” and “such as,” or similar language are intended to provide examples; not to be exhaustive lists of all possibilities.

#### **3.1.2 Technical and Nontechnical Terms**

Words and phrases not otherwise defined in this Code shall be construed according to the Common and approved usage of the language, but technical words and phrases not otherwise defined in this Code that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

#### **3.1.3 Public Officials and Agencies**

All public officials, bodies, and agencies to which references are made are those of Dodge County, unless otherwise indicated.

#### **3.1.4 Mandatory and Discretionary Terms**

The words “shall,” “will,” and “must” are always mandatory. The words “may” and “should” are discretionary terms.

#### **3.1.5 Conjunctions**

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

“and” indicates that all connected items, conditions, provisions or events apply; and

“or” indicates that one or more of the connected items, conditions, provisions or events apply.

#### **3.1.6 Tenses and Plurals**

Words used in the past, present, or future tense include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.

#### **3.1.7 Gender**

The masculine shall include the feminine.

## **3.2 TERMS DEFINED**

### **Alternative Sanitation System**

Systems and devices which are alternatives to water-carried waste plumbing fixtures and drain systems as defined in SPS 391.03 Wis. Stats. Alternative Sanitation Systems include but are not limited to composting toilet systems, incinerating toilets, pit privies, vault privies and portable restrooms.

### **Certified Septage Servicing Operator**

Certified Septage servicing operator means a person or firm licensed by the state to pump, haul and dispose of sewage and septage.

### **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.

### **Committee**

The Dodge County Land Resources and Parks Committee or any successor Committee duly charged by the Dodge County Board of Supervisors with general planning responsibilities under Wisconsin Statute 59.97.

### **Community**

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

### **Comprehensive Plan**

The extensively developed plan, also called a master plan, developed by the Committee and adopted by the County Board, including proposals for future land use, transportation, recreation, and public facilities. Devices for the implementing of these plans, such as zoning, land division, sanitary, highway setback ordinances, and capital improvement programs shall also be considered a part of the comprehensive plan.

### **Contaminated Soil**

Soil which contains one or more substances or environmental pollution in sufficient quantity to pose a present or potential hazard to human health, or to the quality of the drinking water or surface water.

**DSPS**

Department of Safety and Professional Services

**Department**

“Department” means Dodge County Land Resources and Parks Department.

**Development**

Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

**Dwelling**

A structure, or that part of a structure, which is used or intended to be used as a home, a residence or a sleeping place by one or more persons.

**Effluent**

Liquid flowing from any treatment tank or device.

**Encroachment**

An encroachment or obstruction such as any fill, POWTS, POWTS component, structure, building, accessory use, use, or development in or on any right-of-way, or adjacent land.

**Enlargements**

Any construction that increases the size of a building or structure in terms of the building or structure height, length, width or floor area and any construction that increases the size of a POWTS.

**Essential Services**

Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electricity, steam, water, sanitary sewage, storm water drainage, and Communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

**Expansion**

Any addition to an existing structure or POWTS that is horizontal, vertical or both.

**Failing private onsite wastewater treatment system (POWTS)**

Failing private onsite wastewater treatment system has the meaning:

A failing private on-site wastewater treatment system is one which causes or results in any of the following conditions:

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

**Flood Insurance Rate Map (Firm)**

A map of a Community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the Community. This map can only be amended by the Federal Emergency Management Agency.

**Flood Insurance Study Map**

A map prepared by the U.S. Department of Housing and Urban Development, designating areas of special flood hazard and flood insurance rate zones for a given Community. Flood hazard and insurance rate zones are designated as A-Zones. Said maps form the basis for the regulatory and/or the insurance aspects of the National Flood Insurance Programs.

**Flood, or Flooding**

A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- The overflow or rise of inland waters,
- The rapid accumulation or runoff of surface waters from any source,
- The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
- The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

**Floodfringe**

That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

**Flood Hazard Boundary Map**

A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.



**Flood Insurance Study**

A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

**Floodlands**

Those lands, including the floodplains, floodways, and channels, subject to inundation by the 100 year recurrence interval flood or, where such data are not available, the maximum flood of record.

**Floodplain**

Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

**Floodproofing**

Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

**Flood Protection Elevation**

An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood.

**Flood Storage**

Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

**Floodway**

The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

**Foundation**

The underlying constructed base of a building or structure, including pillars, footings, timber posts, concrete slabs and concrete and masonry walls.

**Hazardous Waste**

Solid or liquid waste products of any product, materials, or process that by reason of their toxic, corrosive, flammable, or otherwise harmful properties, may be detrimental or has the potential to be detrimental to humans, animals, or property.

**Habitable Rooms**

Any room or portion thereof used or designed for living, sleeping, eating or cooking or combinations thereof. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry and utility spaces, basement recreation rooms, and similar areas are not considered habitable rooms.

**Habitable Structure**

Any structure or portion thereof used or designed for human habitation.

**Holding Tank**

Holding tank means an in-ground watertight receptacle used for the collection and holding of sewage.

**Historic Structure**

Any structure that is:

- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- Individually listed on a local inventory of historic places in Communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs.

**Human Habitation**

The use of a structure for living for any period of time, for activities such as sleeping, eating or cooking, or combinations thereof.

**Human Health Hazard**

Human Health Hazard has the meaning specified under 254.01 (2) Wisconsin Statutes.

Note: Section 254.01 (2), Stats reads: Human Health Hazard means a substance, activity or condition that is known to have the potential to cause acute or chronic illness or death if exposure to the substance, activity or condition is not abated.

**Improvement, Public**

Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip, or other facility for which the County or town may ultimately assume responsibility for maintenance and operation.

**Incidental Repairs**

See Ordinary Maintenance and Repair

**Junkyard**

See **Salvage Yard** definition.

**Land Spreading**

The application of substance onto the land or into the groundwater or surface water in any manner including dumping, pouring, leaking, spraying or burial.

**Land Use**

See **Development** definition.

**Land Use Administrator**

The administrative officer or their designee, designated to administer this Code.

**Land Use/Sanitation Specialist**

A person employed by the County and under the general direction of the Land Use Administrator which is responsible for assisting in the enforcement of the this Code.

**Lot**

A contiguous and continuous quantity of land in possession of, owned by, or recorded as property of the same claimant, person, persons, or company and having frontage on a public street, occupied by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other space provisions of this Code. For zoning and subdivision purposes, tax parcel identification numbers shall not be used in defining a lot.

**Municipality or Municipal**

The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

**NGVD or National Geodetic Vertical Datum**

Elevations referenced to mean sea level datum, 1929 adjustment.

### **Navigable Waters**

All natural inland lakes and all streams, ponds, sloughs, flowages, and other waters which are navigable under the laws of this state. Under Section 144.26(2)(d), Wisconsin Statutes, notwithstanding any other provision of law or administrative rule promulgated thereunder, Shoreland Ordinances required under Section 59.971, Wisconsin Statutes, and Chapter NR 115, Wisconsin Administrative Code, do not apply to lands adjacent to farm drainage ditches if:

- Such lands are not adjacent to a natural navigable stream or river;
- Those parts of such drainage ditches adjacent to such lands were nonnavigable streams before ditching or had no previous stream history; and
- Such lands are maintained in nonstructural agricultural use.

Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492 (1952) and DeGaynor and Company, Inc., v. Wisconsin Department of Natural Resources, 70 Wis. 2d. 936 (1975)]. A stream that is navigable by skiff or canoe during normal spring highwater is navigable in fact under the laws of this state, though it may be dry during other seasons.

### **Nonconforming Structure**

Any structure lawfully used, occupied, or erected at the time of the effective date of this Code or amendments conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements.

### **Nonconforming Structure – Illegal**

Any structure which was constructed or erected either before or after the adoption or amendment of this Code, which was constructed without all of the required Department permits and approvals and which does not conform in respect to the frontage, width, height, area, yard, parking, loading, or distance requirements in this Code. An illegal nonconforming structure remains an illegal nonconforming structure until the structure has been brought into compliance with all of the applicable codes and the owner has received all of the required Department permits and approvals that are necessary to bring the illegal nonconforming structure into compliance with this Code.

### **Nonconforming Structure – Legal**

Any structure lawfully used, occupied, or erected before the adoption or amendment of this Code, conforming in respect to use but not in respect to the frontage, width, height, area, yard, parking, loading, or distance requirements in this Code. A legal-nonconforming structure differs from an illegal-nonconforming structure in that the reason for the nonconformance is caused by a change to the Land Use Code. The structure location or dimensions have not changed, but due to the Code change, the existing structure no longer conforms to the policies and standards of the applicable Code requirements.

### **Nonconforming Use**

Any land or water, lawfully used, occupied, or erected at the time of the effective date of this Code or amendments thereto, which does not conform to the regulations of this Code or amendments thereto.

### **Nonfarm Residence:**

A single family residence or duplex other than a farm residence.

**Official Floodplain Zoning Map**

That map, which has been approved by the Dodge County Board of Supervisors, the Department of Natural Resources and the Federal Insurance Administration Office of the Federal Emergency Management Agency (FEMA).

**Ordinary Highwater Elevation**

The average annual highwater level of a pond, stream, river, lake, flowage, or wetland referred to an established datum plan or where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distance mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic geological or vegetative characteristic.

**Ordinary Highwater Mark**

The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

**Ordinary Maintenance and Repair**

Any work that is done on a structure that does not constitute structural alteration, replacement or expansion and does not involve the alteration, replacement or removal of any portion of a structure's foundation. Ordinary maintenance and repair includes painting, decorating, paneling, re-roofing or re-shingling a roof, replacing siding, replacement of doors, windows and other non-structural components, the repair of cracks in foundations and the application of waterproof coatings to foundations.

**Parcel**

A tract or plot of land of any size that may or may not be subdivided or improved. A parcel shall not be considered a separate lot for purposes of this code unless it meets the definition of a lot.

**Parcel Identification Number**

Numbers assigned to a parcel(s) by the Dodge County Property Description Unit for the purpose of identifying a tax parcel(s) in a tax roll or assessment roll. A parcel identification number (PIN) is assigned to uniquely identify that parcel from any other parcel within a given taxing jurisdiction. Also known as tax key numbers. Land with separate parcel identification numbers shall not be considered separate lots unless they meet the definition of a lot.

**Parties-in-interest**

Includes all property owners within 300 feet of the applicant or appellant's affected premises.

**Person**

Any individual, group of individuals, firm, partnership, corporation, company, association, joint stock association, body politic, municipality, or state agency and includes any trustee, receiver, assignee, or other similar representative thereof.

**Pit Privy**

An enclosed non-portable toilet or structure into which non-water carried human wastes is deposited to a subsurface storage chamber that is not watertight.

**Plumbing**

Plumbing has the meaning specified under s. 145.01 (10) stats.

**Portable Restroom**

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

**POWTS**

"POWTS" means a private onsite wastewater treatment system.

**Private Onsite Wastewater Treatment System (POWTS)**

Private Onsite Wastewater Treatment System means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Department of Safety and Professional Services including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure. A POWTS may be owned by the property owner or by a special purpose district.

**Public Utilities**

Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

**Public Way**

Any public road, street, highway, walkway, drainageway, or part thereof.

**Reasonable Accommodation**

Allowing a disabled person to deviate from the strict requirements of this code if an accommodation is necessary and reasonable, in order not to unlawfully discriminate against the disabled person and to allow them equal housing opportunity. An accommodation shall be considered reasonable if it does not cause any undue hardship or fiscal or administrative burdens on the municipality, or does not undermine the basic purpose that the code seeks to achieve.

**Repair**

Any activity that restores the character, scope, size, or design of a structure or building to its previously existing, authorized, and undamaged three-dimensional condition.

**Replacement**

Construction in which an existing POWTS, POWTS component, structure or building or a portion thereof, is removed and replaced by a new POWTS, POWTS component, structure or building or portion thereof.

**Residence**

A structure or part of a structure containing dwelling units or rooming units, including single-family or two-family houses, multi-family dwellings, boarding or rooming houses, or apartments. Residences do not include: such transient accommodations as transient hotels, motels, tourist cabins, or trailer courts; dormitories, fraternity or sorority houses; in a mixed-use structure, that part of the structure used for nonresidential uses, except accessory to residential uses; recreational vehicles.

**Right of Way**

A linear strip of land within which linear facilities such as roads, highways, railroads, or power lines are built.

**SPS**

Safety and Professional Services.

**Salvage Yard**

A parcel of land upon which wastes or used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials shall include, but are not limited to scrap iron and other metals, paper, rag, rubber tires, vehicles, equipment, and bottles.

**Seepage Pit**

An underground receptacle with or without a manhole and cover brought to the ground level for observation and cleaning purposes, so constructed as to ensure the disposal of effluent or clear wastes by soil absorption through its walls and bottom.

**Septic Tank**

A reservoir or tank that receives crude sewage and by bacterial action and sedimentation effects a process of clarification and decomposition of solids.

**Setback Lines**

Lines established along road right-of-ways, water bodies, property lines, structures and wells at specified distances from the centerline, encroachment line, right-of-way line, property line, structure or well which prohibit POWTS and POWTS components within the setback area between the setback line and the POWTS or POWTS component.

**Sewage**

Sewage means the water-carried wastes containing fecal coliform bacteria exceeding 200 CFU, colony forming units, per 100 ml, created in and to be conducted away from residences, accessory buildings, industrial establishments, commercial establishments, and public buildings as defined in s. 101.01(12) Wis. Stats., with such surface water or ground water as may be present.

**Shorelands**

Those lands lying within 1,000 feet from the highwater elevation of navigable lakes, ponds, and flowages or 300 feet from the highwater elevation of navigable streams or to the landward side of the floodplain, whichever is greater.

**Shoreland Setback Area**

An area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of buildings or structures has been limited or prohibited under an ordinance enacted under s 59.692 Wisconsin Statutes.

**Sludge**

Solid or liquid waste from sanitary waste treatment facilities.

**Soil Mapping Unit**

Soil types, slopes, and erosion factors delineated on operational soil survey maps prepared by the USDA Natural Resources Conservation Service.

**Soil Test**

Soil and site evaluation conducted relative to the treatment or dispersal of wastewater, treated wastewater, final effluent or non-water-carried human wastes into soil.



**Structural Alterations**

Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

**Structure**

Any construction, excluding fills, or any production or piece of work artificially built or composed of parts joined together in some definite manner having form, shape and utility.

**Substantial Completion**

The point in time of construction, in which a structure or POWTS complies with or meets the minimum requirements of the applicable Dodge County Code as determined by the Department and the structure or POWTS can be occupied or utilized for its intended use regardless of the completion of the installation of the utilities including interior plumbing, water and electrical work, interior finishing items such as trim, dry walling, painting and installation of flooring, and the completion of exterior items such as siding, shingles and painting.

**Substantial Damage**

Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

**To Place**

The putting of a building or structure in a particular situation, whether this is by original construction or erection or by moving a building or structure to the particular situation.

**Unnecessary Hardship**

Where unique and extreme conditions affecting a particular property, which were not self-created or solely related to economic gain or loss, have made strict conformity with provisions of the Code governing dimensional standards such as areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the Code. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.

**Utility Companies**

Offices and/or equipment storage buildings for privately owned businesses for such utilities as telephone, natural or propane gas, cable, or electrical service. This classification includes propane gas distributors.

**Utilities**

Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and Communication transmission lines, electrical power and substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.

**Variance**

An authorization by the Board of Adjustment for the construction or maintenance of a POWTS, building or structure in a manner that is inconsistent with provisions of this Code upon determination of an unnecessary hardship and other approval criteria listed in Section 2.3.8.

**Vault Privy**

An enclosed non-portable toilet or structure into which non-water carried human wastes is deposited to a subsurface storage chamber that is watertight.

**Wastewater**

Wastewater means clear water, stormwater, domestic wastewater, industrial wastewater, sewage or any combinations of these.

**Well**

An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

**Wetlands**

Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophilic vegetation and which have soils indicative of wet conditions, including lands which are partially or wholly covered by marshland flora and generally covered with shallow standing water or lands which are wet and spongy due to high water table.

**Wisconsin Administrative Code**

The rules of administrative agencies having rule making authority in Wisconsin published in a loose leaf, continual revision system as directed by Section 35.93 and Chapter 227 of the Wisconsin Statutes.