

Chapter 21 Door County Code

PRIVATE ONSITE WASTEWATER TREATMENT SYSTEMS

21.01 AUTHORITY

- A. This ordinance is enacted under the authority granted by Sections 59.02, 59.03, 59.54, 59.70(5), 66.119, 145.01, 145.20 and /or 145.245 Wisconsin Statutes and Chapters Comm 83 and/or 91 Wisconsin Administrative Code.
- B. This ordinance supplants existing, and shall be designated as, Ch. 21 of the Door County Code.

21.02 SCOPE, APPLICATION AND IMPLEMENTATION

- A. Purpose.
 - (1) The purpose of this chapter is to establish minimum standards and criteria for the design, installation, inspection and management of a private onsite wastewater treatment system, ("POWTS"), so that the system is safe and will protect public health and the waters of the state.
- B. Scope.
 - (1) Wastewater Generation. Except as delineated in sub. (2), this chapter applies to all of the following:
 - (a) A situation where domestic wastewater is collected and conducted by means of plumbing drain systems and is not conveyed to a wastewater treatment facility regulated by the Department of Natural Resources.
 - (b) A POWTS where domestic wastewater is treated and dispersed to the subsurface.
 - (c) A holding tank that is utilized as a POWTS or as part of a POWTS to collect and hold domestic wastewater for transport and treatment elsewhere.
 - (2) Exemptions. This chapter does not apply to:
 - (a) A POWTS owned by the federal government and located on federal lands.
 - (b) A POWTS located or to be located on land held in trust by the federal government for Native Americans.
 - (3) Subdivision Standards.
 - (a) This chapter does not establish minimum lot sizes or lot elevations under s. 145.23, Stats., for the purpose of review of proposed subdivisions which will not be served by public sewers under s. 236.12, Stats.
- C. Application.
 - (1) Installations.
 - (a) The design, installation and management of a new POWTS shall conform with this chapter.
 - (b) A modification to an existing POWTS, including the replacement, alteration or addition of materials, appurtenances or POWTS components, shall require that the modification conform to this chapter.
 - (c) 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 the 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 rules of this chapter.
 - (2) Soil and Site Evaluation
 - (a) Soil and site evaluations, acceptable to Sanitarian, are required
 - (b) Soil pits, at all sites with soil types other than sand, shall be performed with a backhoe/excavator.
 - (3) Retroactivity.
 - (a) This chapter does not apply retroactively to an existing POWTS installed prior to July 1, 2000, or for which a sanitary permit has been issued prior to July 1, 2000, except as provided in ss. Comm 83.32(1)(a) and (c) to (g), 83.54(4) and 83.55(1)(b) Wis. Adm. Code.
 - (b) Except as provided in subd. (c), (d), or (e) and ss. Comm 83.32 (1)(a) and (c) to (g), 83.54(4) and 83.55(1)(b) Wis. Adm. Code, an existing POWTS installed prior to July 1, 2000, shall conform to the siting, design, construction and maintenance rules in effect at the time the sanitary permit was obtained or at the time of installation, if no sanitary permit was issued.
 - (c) An existing POWTS installed prior to December 1, 1969 with an infiltrative surface of a treatment and dispersal component that is located 3 feet or more above groundwater or

bedrock shall be considered to discharge final effluent that is not sewage, unless proven otherwise.

- (d) An existing POWTS installed prior to December 1, 1969 with an infiltrative surface of a treatment and dispersal component that is located less than 2 feet above groundwater or bedrock shall be considered to discharge final effluent that is sewage, unless proven otherwise.
 - (e) An existing POWTS which conforms with this chapter and all other applicable laws, regulations and rules, shall be permitted to remain as installed.
- (4) Plat Restrictions.
- (a) A restriction or a prohibition placed on a lot or an outlot prior to July 1, 2000, as a result of a plat review under s. 236.12, Stats., shall be deemed waived, if a POWTS proposed for the lot complies with this chapter.
- (5) Groundwater Standards.
- (a) Pursuant to s. 160.255, Stats., the design, installation, use or maintenance of a POWTS is not required to comply with the nitrate standard specified in ch. NR 140 Table 1, Wis. Adm. Code, except as provided under sub. (6).
 - (b) Pursuant to s. 160.19(2)(a), Stats., the Department of Commerce has determined that it is not technically or economically feasible to require that a POWTS treat wastewater to comply with the preventative action limited for chloride specified in ch. NR 140 Table 2 Wis. Adm. Code as existed on June 1, 1998.
- (6) Zoning.
- (a) This chapter does not affect municipal requirements relating to land use, zoning, or other similar requirements, including, pursuant to s. 59.69, Stats., establishing nitrate requirements to encourage the protection of groundwater resources.
- D. Implementation.
- (1) Inspection Responsibilities and Services
- (a) For the purpose of facilitating inspection responsibilities and services, Sanitarian may not issue a sanitary permit for the construction or use of a POWTS that utilizes any of the technologies, designs or methods delineated in Table 83.04-1 Wis. Adm. Code and that has been recognized under s. Comm 84.10 (3) or 83.22 Wis. Adm. Code, unless the Sanitarian utilizes one or more individuals, who have obtained approved training under s. Comm 83.05 Wis. Adm. Code for the POWTS technology, design or method, to provide the inspections under s. Comm 83.26(2) to (4) Wis. Adm. Code, except as provided in par. (b).
 - (b) Sanitarian may issue a sanitary permit for the construction or use of a POWTS that utilizes any of the technologies, designs or methods delineated in Table 83.04-1 Wis. Adm. Code and that has not been recognized under s. Comm 84.10(3) Wis. Adm. Code, but has been approved by the Department of Commerce under s. Comm 83.22 Wis. Adm. Code, provided that Sanitarian has arranged with the Department of Commerce to provide the inspections under s. Comm 83.26(2) to (4).
- (2) Planning and Administration
- (a) For the purpose of facilitating planning and administration, the Sanitarian may, allot, limit or deny, until January 1, 2003, the issuance of sanitary permits for the construction or use of POWTS designs that utilize one or more of the technologies, designs or methods delineated in Table 83.04-2 Wis. Adm. Code.
 - (b) For the purpose of facilitating planning and administration, the Sanitarian may, allot, limit or deny the issuance of sanitary permits for the construction or use of POWTS designs that utilize a method or technology that is added to the list under s. Comm 83.61 Wis. Adm. Code after July 1, 2001 for not more than 18 months after that type of method or technology has been recognized under that section.
 - (c) The Sanitarian's option to allot, limit or deny the issuance of sanitary permits hereunder shall be limited to permits intended to serve new development.
 - (d) For the purpose of this subsection, a new development shall be considered a property without an existing habitable building.
 - (e) Limitation options include, but are not limited to, a prohibition for all new development or in certain geographical areas, a quota system for new development, a requirement for a permit to operate for a specific POWTS method or technology, or a service/performance bond for a specific POWTS method or technology.

21.03 ADMINISTRATION AND ENFORCEMENT

A. Purpose

- (1) This subchapter establishes the following:
 - (a) Regulatory processes and procedures which are to be followed when designing, installing or maintaining a POWTS.
 - (b) Responsibilities and actions of the various offices, departments, committees, boards, commissions, positions or employees involved with the administration and enforcement of this chapter.
- (2) Nothing in this chapter shall limit the authority and power of Door County in exercising administration and enforcement responsibilities regarding a POWTS, including requiring and issuing other types of permits for activities not covered under this subchapter relating to sanitary permits.

B. Sanitary Permits.

(1) General

- (a) Pursuant to ss. 145.135 and 145.19, Stats., the installation or construction of a POWTS may not commence or continue unless all of the following have been fulfilled:
 1. The owner of the property on which the POWTS is to be installed possesses a valid sanitary permit.
 2. Plan approval for the POWTS has been obtained in accordance with s. Comm 83.22 Wis. Adm. Code.
- (b) The modification of an existing POWTS may not commence or continue unless the owner of the property on which the POWTS is located possesses a valid sanitary permit and has obtained plan approval for the modification under s. Comm 83.22 Wis. Adm. Code, if the modification involves the addition or replacement of any of the following:
 1. A POWTS holding component.
 2. A POWTS treatment component.
 3. A POWTS dispersal component.
 4. Reconnection of a POWTS
 5. Any repair of a POWTS

(2) Application

- (a) The application for a sanitary permit shall be made in a format prescribed by the Sanitarian.
- (b) Except as provided in par. (c), the application for a sanitary permit shall be submitted to the Sanitarian.
- (c) The application for a sanitary permit shall be submitted to the State of Wisconsin, Department of Commerce, for a POWTS that is located or will be located on property owned by the State.
- (d) The application for a sanitary permit to the Sanitarian shall be accompanied by all of the following:
 1. At least one set of clear and legible plans and specifications delineating the information under s. Comm 83.22(2)(a) 3. and (c) Wis. Adm. Code.
 2. A set of plans bearing the Department of Commerce's conditional approval and the approval letter issued by the department, if required to be reviewed by the department under s. Comm 83.22(1) Wis. Adm. Code.
 3. Sufficient supporting information to determine whether the proposed design, installation and management of the POWTS or the proposed modification to an existing POWTS conforms with this chapter.
 4. Documentation that the master plumber or the master plumber-restricted who is to be responsible for the installation or modification of the POWTS has completed approved training on the proposed POWTS technology or method, if the application for the sanitary permit involves one or more of the technologies or methods specified in s. Comm 83.04(1) Wis. Adm. Code.
 5. Documentation that maintenance requirements for the proposed POWTS technology or method have been recorded with the deed for the property, if the management plan for the installation or modification under s. Comm 83.54(1) Wis. Adm. Code involves one or more of the following:
 - a. Evaluating or monitoring any part of the system at an interval of 12 months or less.
 - b. Servicing or maintaining any part of the system at an interval of 12 months or less.
 6. Any other information as specified by the Sanitarian relating to POWTS installations.
 7. A fee as specified by the Sanitarian.

- (3) Processing
 - (a) A sanitary permit may not be issued until the plans and specification have been approved by the Department of Commerce or Sanitarian.
 - (b) Sanitarian may not issue a sanitary permit for the installation or modification of the POWTS that involves one or more of the technologies or methods specified in s. Comm 83.04(1) Wis. Adm. Code unless the master plumber or the master plumber-restricted who is to be responsible for the installation has completed approved training on the proposed POWTS technology or method in accordance with s. Comm 83.05 Wis. Adm. Code.
 - (c) Sanitarian shall review and make a determination on the submission of an application for a sanitary permit within 30 days after receiving all the required information and fees.
 - (d) If upon review of the application and the supporting information, the Sanitarian or the Department of Commerce determines that the proposed design, installation and management of the POWTS or the proposed modification of an existing POWTS conforms with this chapter, and all applicable laws, regulations, and rules, a sanitary permit shall be issued.
 - (e) If upon review of the application and the supporting information, the Sanitarian or the Department of Commerce determines that the proposed design, installation and management of the POWTS or the proposed modification of an existing POWTS does not conform with this chapter, and all applicable laws, regulations, and rules, a sanitary permit may not be issued.
 - (f) When the issuance of a sanitary permit is denied, the Sanitarian, if reviewing the application, shall provide in writing to the applicant the reasons for denial, a notice for the right to appeal and the procedures for appeal.
 - (g) An applicant denied a sanitary permit by Sanitarian may appeal the decision in accordance with ch. 68, Stats.
 - (h) The appeal of the denial by the Sanitarian for a sanitary permit shall be made in writing within 30 days from the date of the decision.
 - (i) A sanitary permit shall be issued by the Sanitarian in a format prescribed by the Department of Commerce or Sanitarian.
 - (4) Transfers.
 - (a) A sanitary permit may be transferred from an owner to a subsequent owner, pursuant to s. 145.135(1), Stats.
 - (5) Expiration.
 - (a) Pursuant to s. 145.135(1), Stats., a sanitary permit shall expire 2 years from the date of issuance unless renewed in accordance with sub. (5).
 - (6) Renewals.
 - (a) The application for renewal of a sanitary permit shall be made in a format prescribed by the Department of Commerce or Sanitarian.
 - (b) The application for renewal of a sanitary permit shall be submitted to the Sanitarian prior to expiration and in accordance with sub. (c).
 - (c) The renewal of a sanitary permit shall be contingent upon the proposed POWTS or the proposed modification of an existing POWTS conforming with the rules of this chapter in effect at the time the sanitary permit is renewed.
 - (7) Revocation
 - (a) The Sanitarian may revoke a sanitary permit issued under this section for any false statements or misrepresentation of facts on which the sanitary permit was issued.
 - (b) The revocation of a sanitary permit and the reasons for revocation shall be conveyed in writing to the individual to whom the sanitary permit was issued or transferred.
 - (c) If a sanitary permit is revoked, the installation or modification or use of a POWTS may not commence or continue until another sanitary permit is obtained.
 - (8) Posting.
 - (a) When a sanitary permit is obtained, the sanitary permit shall:
 - 1. Be posted in such a location and manner on the proposed site where the POWTS is to be installed or modified so that the information on the permit is visible for inspection.
 - 2. Remain posted until the POWTS installation or modification is completed and an opportunity for a final inspection occurs in accordance with s. Comm 83.26 Wis. Adm. Code.
- C. Plan Review and Approval
- (1) Submission of Plans
 - (a) Plans shall be submitted to the Department of Commerce or Sanitarian in accordance with s. Comm 83.22 Wis. Adm. Code for all of the following types of installations or modifications:

1. The installation or construction of a POWTS.
 2. The replacement or addition of a POWTS treatment component.
 3. The replacement or addition of a POWTS holding component.
 4. The replacement or addition of a POWTS dispersal component.
- (b) Plans for the types of POWTS delineated in Table 83.22-1 Wis. Adm. Code shall be submitted to the Department of Commerce for review.
 - (c) Plans for the types of POWTS delineated in Table 83.22-2 Wis. Adm. Code shall be submitted for review to the Department of Commerce or a designated agent.
 - (d) Plans for the types of POWTS delineated in Table 83.22-3 Wis. Adm. Code shall be submitted for review to the Sanitarian.
 - (e) The Sanitarian may, pursuant to s. 145.19(2) Stats., require separate plan examination fees or include these fees in the cost of a sanitary permit.
- (2) Plans and Specifications
- (a) When plans are submitted to the Sanitarian for review, at least 3 sets of plans and one set of specifications shall be provided. (Note: Specifications for a project do not have to be a separate document but may be delineated on the plans).
 - (b) Plans and specifications submitted for review shall be clear, legible and permanent copies.
 - (c) Plans submitted for review shall include all of the following:
 1. Details and configuration layouts depicting how the design is to be constructed and how the design is to accomplish the treatment in accordance with ss. Comm 83.43 and 83.44 Wis. Adm. Code and dispersal that is claimed or the holding of wastewater.
 2. Specifications, including a description of the materials for the project and the installation or construction practices and methods to be employed.
 3. A site plan with a bench mark either scaled or dimensioned, delineating all treatment and dispersal components and their relationship to any items listed in Table 83.43-1 Wis. Adm. Code.
 - (d) All plans submitted for review shall be accompanied by sufficient data and information to determine if the proposed POWTS or modification of an existing POWTS and their performance will conform with chs. Comm 82 to 84 Wis. Adm. Code including, but not limited to all of the following:
 1. A plan review application form specified by the Department of Commerce or Sanitarian.
 2. The minimum and maximum wastewater flow and load of the proposed project and the method or rationale for determining the flow and load.
 3. Documentation to support treatment and dispersal claims.
 4. A management plan for the proposed design reflecting conformance with applicable criterion.
 5. A soil and site evaluation report in accordance with s. Com 85.40 Wis. Adm. Code for those POWTS components that consist in part of in situ soil.
 6. A description of a contingency plan in the event the proposed POWTS fails and cannot be repaired.
 - (e) In addition to the information required above, plans for one or more holding tanks serving a large commercial, industrial, recreational or residential development with an estimated daily wastewater flow of 3,000 gallons or more shall include information pursuant to s. NR 113.07(1)(e) Wis. Adm. Code.
 - (f) In addition to the information required above, plans for a POWTS that is to serve a dwelling where the design of the POWTS is not based upon the number of bedrooms within the dwelling shall be accompanied by information documenting that design condition on the deed for the property.
 - (g) In addition to the information required under above, plans for an experimental POWTS shall be accompanied by information required under s. Comm 83.27(3) Wis. Adm. Code.
 - (h) In addition to the information required above, plans for a POWTS which is to serve more than one structure or building shall be accompanied by information that does all of the following:
 1. Describes the legal entity, public or private, that has responsibility for the operation and maintenance of the POWTS.
 2. Includes a copy of a recorded legal document that identifies all the parties that have ownership rights and are responsible for the operation and maintenance of the POWTS.
 - (i) In addition to the information required above, plans for a POWTS with a design wastewater flow exceeding 12,000 gallons per day shall not be approved until documentation has been

submitted to the Department of Commerce indicating that the Department of Natural Resources has issued a WPDES permit for the project under ch. 283, stats.

- (j) Solely for the purpose of determining the applicability of subpar. (i), the design wastewater flow of 12,000 gpd shall be deemed equivalent to 85 bedrooms for residential dwellings, including one – and two-family dwellings, multi-family dwellings and mobile homes.
 - (k) Solely for the purpose of determining the applicability of subpar. (i), the design wastewater flow of 12,000 gpd for commercial facilities shall be calculated using the estimated wastewater flows specified in s. A-83.43(6) Wis. Adm. Code (of the appendix).
 - (l) Solely for the purpose of determining the applicability of subpar. (i), for residential dwellings combined with commercial facilities the design wastewater flow of 12,000 gpd shall be calculated by prorating the number of bedrooms on the basis of 85 bedrooms equaling 12,000 gpd for the residential dwellings and using the estimated flow under s. Comm 83.43(3)(a) and s. A-83.43(6) Wis. Adm. Code (of the appendix) to calculate the design flow for the commercial facilities.
 - (m) For purpose of determining the applicability of subpar. (i), the design wastewater flow of 12,000 gpd shall include the design wastewater flow of all POWTS that are located on the same property or on properties under the same ownership and where the perimeter of a distribution cell of a POWTS dispersal component for one POWTS is less than 1,500 feet from the perimeter of a distribution cell of a POWTS dispersal component of any other POWTS under the same ownership.
 - (n) For the purpose of determining the applicability of subpar. (i), the combined design wastewater flow shall include that of any existing POWTS which falls within the parameters of subpar. (m).
 - (o) Under subpar. (i), the same ownership is defined to be a person, group of persons or a corporation which owns a majority interest in the properties where majority ownership is based upon a majority of the issued voting stock, a majority of the members if no voting stock is issued, a majority of the board of the directors or comparable governing body or participation of each general partner in the profits of a partnership.
 - (p) Plans and specifications which are required to be submitted for review under sub. (1) shall be one of the following:
 - 1. Signed and sealed in accordance with s. A-E 2.02 Wis. Adm. Code by an individual who is registered by the Department of Regulation and Licensing as an architect, engineer, designer of plumbing systems or designer of private sewage systems.
 - 2. Signed, including license number, and dated by an individual who is responsible for the installation of the POWTS and who is licensed by the Department of Commerce as a master plumber or master plumber-restricted service.
 - (q) Plans submitted to the Sanitarian for review shall be accompanied by the established fee.
- (3) Plan Review Process.
- (a) Time limits.
 - 1. The Sanitarian shall review and make a determination on the submission of a plan within 20 business days after receiving all the required information and fees.
 - (b) Conditional approval.
 - 1. If, upon review, the Sanitarian determines that the plans conform to this chapter and chs. Comm 82 and 84 Wis. Adm. Code and all applicable laws, regulations and rules, a conditional approval shall be granted in writing.
 - 2. All conditions indicating nonconformance to this chapter and chs. Comm 82 and 84 Wis. Adm. Code and all applicable laws, regulations, and rules shall be corrected before or during installation.
 - (c) Denial of Approval
 - 1. If, upon review, the Sanitarian determines that the plans do not conform to this chapter or chs. Comm 82 and 84 Wis. Adm. Code or any applicable law, rule or regulation, the request for conditional approval shall be denied in writing.
- (4) Revisions.
- (a) A modification to the design of a POWTS for which a plan has been previously granted approval shall be submitted to the Sanitarian or Department of Commerce for review in accordance with this chapter and s. Comm 83.22 Wis. Adm. Code, if the proposed modification involves any one of the following:
 - 1. The replacement or addition of a POWTS treatment component.
 - 2. The replacement or addition of a POWTS holding component.
 - 3. The replacement or addition of a POWTS dispersal component.

4. A change to one or more dispersal components involving any of the following:
 - a. Location outside suitable evaluated areas or proposed depths.
 - b. Size.
 - c. Orientation.
 - d. Type.
- (b) The installer of a POWTS may not implement or undertake the proposed revisions until written approval is obtained from the Sanitarian.
- (c) Revisions to previously approved plans shall be reviewed in accordance with sub. (3).
- (d) If revisions under par. (a) are submitted to and approved by the Department of Commerce, the owner of the site for the POWTS shall file the revisions with the Sanitarian.
- (5) Limitation of Responsibility.
 - (a) A conditional approval of a plan shall not be construed as an assumption by Door County of any responsibility for the design of the POWTS or any component of the system.
 - (b) Door County shall not be liable for any defects in construction, or for any damages that may result from a specific installation.
- (6) Revocation of Approval
 - (a) The Sanitarian may revoke any plan approval issued under this section for any false statements or misrepresentation of facts on which the approval was based.
 - (b) The revocation of a plan approval and the reasons for revocation shall be conveyed in writing to the submitter of the plans as noted on the application.
 - (c) If a plan approval is revoked, the installation or alteration or use of a POWTS may not continue until another plan approval is obtained.
- (7) Evidence of Approval
 - (a) When plans are required to be approved by the Sanitarian, the plumber responsible for the installation of a POWTS or the modification of an existing POWTS shall keep at the construction site at least one set of plans bearing evidence of approval and at least one copy of specifications.
 - (b) The plans and specifications shall be maintained at the construction site until the POWTS installation or modification is completed and an opportunity for a final inspection occurs.
 - (c) The plans and specifications shall be made available to the Sanitarian upon request.
- D. Governmental Programs
 - (1) Issuance of Building Permits
 - (a) General. Pursuant to s. 66.036, Stats., the issuance of building permits by a municipality for unsewered properties shall be in accordance with this subsection.
 - (b) New construction. A municipality may not issue a building permit to commence construction or installation of a structure that necessitates the use of a POWTS to serve the structure, unless:
 1. The owner of the property possesses a valid sanitary permit for the installation of a POWTS in accordance with s. Comm 83.21 Wis. Adm. Code and 145.135 and 145.19, Stats.
 2. A POWTS of adequate capability and capacity to accommodate the wastewater flow and contaminant load already exists to serve the structure.
 3. Appropriate plumbing systems, fixtures, and devices exist within the structure.
 - (c) Construction affecting wastewater flow or contaminant load.
 1. A municipality may not issue a building permit to commence construction of any addition or alteration to an existing structure when the proposed construction will modify the design wastewater flow or contaminant load, or both, to an existing POWTS, unless the owner of the property:
 - a. Possesses a valid sanitary permit to either modify the existing POWTS or construct a POWTS to accommodate the modification in wastewater flow or contaminant load, or both.
 - b. Provides documentation to verify that the existing POWTS is sufficient to accommodate the modification in wastewater flow or contaminant load, or both.
 - c. Appropriate plumbing systems, fixtures, and devices exist within the structure.
 2. For the purpose of this paragraph, a modification in wastewater flow or contaminant load shall be considered to occur:
 - a. For commercial facilities, public buildings, and places of employment, when there is a proposed change in occupancy of the structure; or the proposed modification affects either the type or number of plumbing appliance, fixtures or devices discharging to the system.
 - b. For dwellings, when there is an increase or decrease in the number of bedrooms.

- (d) Documentation of Existing Capabilities
 1. Documentation to verify whether an existing POWTS can accommodate a modification in wastewater flow or contaminant load, or both, shall include at least one of the following:
 - a. A copy of the plan for the existing POWTS that delineates minimum and maximum performance capabilities and which has been previously approved by the Department of Commerce or Sanitarian.
 - b. Information on the performance capabilities for the existing POWTS that has been recognized through a product approval under ch. Comm 84 Wis. Adm. Code.
 - c. A written investigative report prepared by an architect, engineer, designer of plumbing systems, designer of private sewage systems, master plumber, master plumber-restricted service or certified POWTS inspector analyzing the proposed modification and the performance capabilities of the existing POWTS.
 2. For POWTS serving a one or two family residence and installed on or subsequent to July 1, 1980, one additional bedroom may be added upon the following conditions:
 - a. A detailed estimate of wastewater flow based upon per capita occupancy of usage of the dwelling or per function occurrence within the dwelling per Comm 83.43 (3)(b), Wisconsin Administrative Code, which demonstrates the proposed system sizing is appropriate for the dwelling.
 - b. Execution of an "Affidavit of Wastewater Flow", and execution and recording of a "Restrictive Agreement", by the owner in a manner, in a form, and with terms and conditions as designated by Sanitarian.

- (e) Setbacks.
 1. A municipality may not issue a building permit for construction of any structure or addition to a structure on a site where there exists a POWTS, unless the proposed construction conforms to the applicable setback limitations under s. Comm 83.43(8)(i) Wis. Adm. Code.
 2. The applicant for a building permit shall provide documentation to the municipality issuing the building permit showing the location and setback distances for the proposed construction relative to all of the following:
 - a. Existing POWTS treatment components.
 - b. Existing POWTS holding components.
 - c. Existing POWTS dispersal components.

E. Inspections and Testing

(1) General

- (a) In accordance with state law (e.g., Ch. 145 Wis. Stats. and Ch. SPS 383 Wis. Adm. Code) the Sanitarian may inspect at any time, with or without notice, the construction, installation, operation or maintenance of a POWTS to ascertain whether the POWTS conforms to plans approved, the conditions of approval and this chapter, or any applicable law, regulation or rule.
 1. At least once every three years all POWTS shall be inspected and a written inspection report (the required form is available from the Sanitarian's Department) must be fully completed, executed and then timely filed with the Sanitarian's Department. This inspection must be conducted, and written report completed and executed, by a master plumber, journeyman plumber, a restricted plumber licensed under Ch. 145 Wis. Stats., certified POWTS inspector, certified septage servicing operator, registered POWTS maintainer, or other person who is qualified to undertake the required inspection. The person conducting the inspection must certify that the system is operating and functioning properly, within the applicable standards (e.g., Ch. 145 Wis. Stats. and Ch. 83 Wis. Adm. Code). Pumping of the POWTS is required when the combined sludge and scum volume equals 1/3 of the tank volume.
 2. Any conveyance of real property and/or transfer of any interest therein may prompt a review of any POWTS situated on the subject real property by the Sanitarian or her/his designee. Should this review disclose the need for maintenance, repair, rehabilitation or replacement of a POWTS, necessary corrective action must be taken by the owner within a reasonable time period after such review. What constitutes a reasonable time period is left to the discretion of the Sanitarian. Nothing herein may be interpreted to restrict the ability of an owner of real property to sell or otherwise transfer title to or refinance the property. The intent is to require a real property owner to ensure that a POWTS is safe and will protect public health and the waters of the state.

[An amendment to §21.03 E. (1), This ordinance shall be in full force and effect from and after enactment and publication. (Adopted 1/26/16; Ordinance 2016-01)]

- (b) The Sanitarian may issue an order directing an immediate cessation of the installation of a POWTS or the modification to an existing POWTS or the immediate cessation of the use of a POWTS for failure to comply with a corrective order.
 - (c) Pursuant to ss. 145.02(3)(f) and 145.20(1)(a) and (2)(f), Stats., the Sanitarian may issue orders to abate human health hazards relating to this chapter.
 - (d) Pursuant to s. 145.20(3)(e) and (g), Stats., nothing in this chapter shall limit the Sanitarian's authority and power to inspect or require an evaluation of a POWTS, including an existing POWTS at times or for activities not covered under this section.
 - (e) When a sanitary permit is required under s. Comm 83.21(1) Wis. Adm. Code, no part of a POWTS component may be covered nor any POWTS component put into service until the Sanitarian or the Department of Commerce has had an opportunity to inspect the system in accordance with this subsection.
 - (f) The master plumber or the master plumber-restricted service responsible for the installation of a POWTS or the modification to an existing POWTS shall notify the Sanitarian when the work will be or is ready for inspection. The notification shall be in writing and in a format acceptable to the Sanitarian.
 - (g) The master plumber or the master plumber-restricted service responsible for the installation of a POWTS or the modification shall maintain records of the inspection notification. The records shall include the date and time of notification and the name of the person contacted.
 - (h) The master plumber or master plumber-restricted service responsible for the POWTS installation or modification shall provide the necessary equipment and properly licensed personnel required for the inspection as requested by the Sanitarian or Department of Commerce.
 - (i) If an inspection is not made by the end of the next workday, excluding Saturdays, Sundays and holidays, after the requested inspection day, the master plumber or the master plumber-restricted service may proceed with the installation of the POWTS, including backfilling and covering.
- (1) Pursuant to s. 145.20(2)(g), Stats., Sanitarian may require other inspections in addition to that specified under this section.
 - (2) The Sanitarian shall maintain a written record of each inspection conducted for a POWTS. The record shall include information relative to all of the following:
 - (a) The location of the POWTS.
 - (b) The date of the inspection.
 - (c) The nature and findings of the inspection.
 - (3) Before being put into service, components of a POWTS shall be tested in accordance with the manufacturer's specifications or as specified as a condition of approval under ss. Comm 83.22 and 84.10 Wis. Adm. Code.
- F. Penalties and Range of Responses
- (1) Penalties
 - (a) Penalties for violations of this chapter shall be assessed as deemed appropriate by the Sanitarian.
 - (b) Any person who violates this chapter or any order, rule or standard adopted under this chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation.
 - (c) Each violation of this chapter, or an order or any rule or standard adopted under this chapter, constitutes a separate offense and each day of continued violation is a separate offense.
 - (2) Range of Responses
 - (a) This chapter shall not be construed to limit the range or responses available to Door County in administering, managing, regulating, or enforcing POWTS or sanitation systems and devices which are alternatives to water-carried waste plumbing fixtures and drain systems.

21.04 GENERAL REQUIREMENTS

- A. Purpose.
 - (1) This subchapter establishes parameters for the types of POWTS that may be used and how a POWTS may be used.
- B. Principles.
 - (1) A POWTS shall be operated and used in such a manner so as not to render the POWTS inoperative or beyond its capabilities, and thereby, create a human health hazard.
- C. Prohibitions and limitations.
 - (1) Prohibitions.

- (a) Except as provided in s. Comm 83.03 (4) Wis. Adm. Code, the introduction of wastewater or substances in such quantities or concentrations to a POWTS, including a POWTS existing prior to July 1, 2000, that results in exceeding the enforcement standards and preventive action limits specified in ch. NR 140 Tables 1 and 2 Wis. Adm. Code at a point of standards application shall be prohibited.
 - (b) Pursuant to s. 160.19(2)(a), Stats., the Department of Commerce has determined that it is not technically or economically feasible to require that a POWTS treat wastewater to comply with the preventive action limit for chloride specified in ch. NR 140, Table 2 Wis. Adm. Code, as existed on June 1, 1998.
 - (c) Substances deleterious to a POWTS shall be intercepted, diluted or treated in accordance with s. Comm 82.34 Wis. Adm. Code prior to the substance discharging into a POWTS.
 - (d) The use of a cesspool as a POWTS is prohibited, including any cesspool existing prior to July 1, 2000.
 - (e) The discharge of domestic wastewater or effluent to the surface waters of the state is prohibited, including by means of plumbing outfall pipes existing prior to July 1, 2000.
 - (f) The discharge of domestic wastewater or effluent to the ground surface is prohibited, including by means of plumbing outfall pipes existing prior to July 1, 2000.
 - (g) The infiltrative surface of a treatment or dispersal component of a POWTS existing prior to December 1, 1969, which consists in part of soil may not be located in bedrock or groundwater.
 - (h) The use of camping unit transfer containers as a POWTS holding component shall be restricted to campgrounds permitted by the Department of Health and Family Services under ch. HFS 178 Wis. Adm. Code
- (2) Discretionary Prohibitions.
- (a) Sanitarian may, at his/her sole discretion and consistent with the purpose of this chapter, prohibit or limit the installation and use of the following technologies, designs or methods as POWTS components:
 - 1. A holding tank.
 - 2. A constructed wetland as a POWTS treatment component.
 - 3. An evapotranspiration bed as a POWTS treatment component.
 - (b) Sanitarian may, in his/her sole discretion and consistent with the purpose of this chapter, restrict the ownership of a POWTS to a governmental entity or agency when the POWTS is to serve 2 or more structures or buildings that are located on more than one property.
- (3) Limitations.
- (a) Industrial wastes and wastewater may not, unless approved by the Department of Natural Resources, be introduced into a plumbing drain system that is served by a POWTS.
 - (b) Storm and clear water wastes may be introduced into a plumbing drain system that is served by a POWTS, if the POWTS is designed to accept those wastes. A POWTS may accept wastes permitted under s. Comm 82.36(3)(b) Wis. Adm. Code.
 - (c) Except as provided in ch. NR 116 Wis. Adm. Code, no part of a POWTS may be installed in a floodway.
- D. Abandonment.
- (1) Cessation of Use.
- (a) A subsurface tank or pit that is no longer used as a POWTS component shall be abandoned by complying with all of the following:
 - 1. Disconnecting all piping to the tanks and pits.
 - 2. Sealing all disconnected piping to the tanks and pits in accordance with s. Comm 82.21(2)(h) Wis. Adm. Code.
 - 3. Pumping and disposing of the contents from all tanks and pits. (NOTE: The disposal of the contents from treatment tanks, distribution tanks, seepage pits and holding components is addressed in ch. NR 113 Wis. Adm. Code which is administered by the Department of Natural Resources).
 - 4. Removing all tanks or removing the covers of the tanks or pits and filling the tanks and pits with soil, gravel or an inert solid material.
- E. Design and Installation
- (1) Purpose. This subchapter established minimum parameters for the designing and installation of a POWTS for the purpose of:
- (a) Safeguarding public health:

- (b) Minimizing the level of substances which have a reasonable probability of entering waters of the state.
 - (c) Delineating measures, conditions and performance standards by which to evaluate designs.
- F. Principles
- (1) A POWTS shall be designed to hold wastewater or reduce the contaminant load and disperse the flow of wastewater as specified in this subchapter.
 - (2) A POWTS shall be designed to have sufficient capacity to accommodate the anticipated quantities of wastewater that will be discharged into the system.
 - (3) A POWTS intended to treat and disperse wastewater shall be designed to have sufficient ability to treat or separate out the anticipated types, quantities and concentrations of wastewater contaminants to be discharged into the system so that the dispersed wastewater will not create a human health hazard.
 - (4) A POWTS shall be designed to disperse wastewater below the surface of the ground at a rate that promotes long term assimilation into the soil and limits the possibility of surfacing.
- G. Design and Installation
- (1) Design and installation shall be in accordance with the requirements set out in Ch.'s Comm 83.30 – 83.45 Wis. Adm. Code inclusive, or as subsequently amended or revised, which are incorporated herein by reference.
- H. Management
- (1) Purpose. The purpose of this subchapter is to:
 - (a) Establish monitoring and maintenance requirements for POWTS in order to ensure that POWTS will operate as designed and thereby protect the public health and the waters of the state.
 - (b) Provide the Department of Commerce with data by which to make regulatory decisions.
- I. Principles
- (a) A POWTS, including a POWTS existing prior to July 1, 2000, shall be maintained at all times so as not to create a human health hazard.
 - (b) When upon inspection of a POWTS, including a POWTS existing prior to July 1, 2000, any part of the system that is found to be defective in conformance with the applicable provisions of this chapter, ch. Comm 83 Wis. Adm. Code, Sec. 145.20, or 145.245 Wis. Stats., or any other applicable regulation, rule or law, the installation or modification plan, or the approvals, the part shall be repaired, renovated, replaced or removed.
- J. Responsibilities
- (1) Owner of a POWTS
 - (a) The owner of a POWTS shall be responsible for ensuring that the operation and maintenance of the POWTS occurs in accordance with this chapter, the approved management plan under s. Comm 83.54(1) Wis. Adm. Code, and any other applicable regulation, rule or law.
 - (b) The owner of a POWTS existing prior to July 1, 2000, shall be responsible for ensuring that the maintenance of the POWTS occurs in accordance with s. Comm 83.54(4) Wis. Adm. Code and any other applicable regulation, rule or law.
 - (c) The owner of a POWTS, including a POWTS existing prior to July 1, 2000, shall maintain a maintenance or service contract with a POWTS maintainer or a business utilizing a POWTS maintainer for the POWTS as long as the POWTS is utilized and, if the management plan for the POWTS under s. Comm 83.54(1) Wis. Adm. Code involves one or more of the following:
 - 1. Evaluating or monitoring any part of the system at an interval of twelve months or less.
 - 2. Maintaining any part of the system at an interval of twelve months or less.
 - (d) The owner of a POWTS, including a POWTS existing prior to July 1, 2000, shall maintain a maintenance or service contract with a certified septage servicing operator under ch. NR 114 Wis. Adm. Code for the POWTS as long as the POWTS is utilized and, if the management plan for the POWTS under s. Comm 83.54(1) Wis. Adm. Code involves the servicing of any holding, treatment or dispersal component at an interval of 12 months or less.
 - (2) Per Se Human Health Hazard
 - (a) A POWTS, including a POWTS existing prior to July 1, 2000, that is not maintained in accordance with the approved management plan, as required under s. Comm 83.54(4) Wis. Adm. Code, or as mandated by any other applicable regulation, rule, or law, shall be considered a human health hazard.
 - (3) The activities relating to evaluating and monitoring mechanical POWTS components after the initial installation of the POWTS in accordance with an approved management plan shall be conducted

by a person who holds a registration issued by the Department of Commerce as registered POWTS maintainer.

K. Management Requirements

(1) Management Plan

- (a) The management plan for each POWTS shall include information and procedures for maintaining the POWTS to operate and function within the standard of this chapter, s. Comm 83.54 Wis. Adm. Code, or any other applicable regulation, rule, or law, and as designed and approved.

L. Reporting Requirements

(1) Owner Responsibilities

- (a) The owner of a POWTS or his or her agent shall report to the Sanitarian at the completion of each inspection, maintenance or servicing event specified in the approved management plan, except for camping [unit] transfer containers.
- (b) The owner of a POWTS existing prior to July 1, 2000, or their agent shall report to the Sanitarian the completion of each inspection, maintenance or servicing event required under s. Comm 83.54(4) Wis. Adm. Code, except for camping [unit] transfer containers.

(2) Reports

- (a) The inspection, maintenance and servicing reports required shall be submitted to the Sanitarian:
1. In a manner specified by the Sanitarian;
 2. Within 10 business days from the date of inspection, maintenance or servicing;
 3. By the owner or the owner's agent.
- (b) The inspection, maintenance and servicing reports required under sub. (1) shall include the following information:
1. A POWTS identifying number;
 2. The location of the POWTS;
 3. The date of inspection, maintenance or servicing
 4. The license, certifications or registration number of the individual performing the inspection, maintenance or servicing;
 5. Other information required by the approved management plan
- (c) The Sanitarian may require verification of any information contained in an inspection maintenance and servicing report.

21.05 RECOGNIZED METHODS AND TECHNOLOGIES

A. Acceptable Methods and Technologies

- (1) Those methods and technologies recognized by the Department of Commerce pursuant to ss Comm 83.61 and 84.10(3) Wis. Adm. Code and approved by the Sanitarian are acceptable.

B. Parameters

- (1) Any deviation from the specifications and limitations relative to the installation and maintenance of that method or technology shall constitute a violation of this chapter.

21.06 PERFORMANCE MONITORING

A. Monitoring Program

- (1) Sanitarian may maintain a performance-monitoring program for the various POWTS methods and technologies.

B. Purpose

- (1) The purpose of any performance monitoring program for the various POWTS methods and technologies includes the following:
- (a) Confirm their reliability;
 - (b) Evaluate long-term compliance with applicable criteria and standards;
 - (c) Provide data for improvements;
 - (d) Development of performance monitoring protocol;
 - (e) Determine their viability.

21.07 ALTERNATIVES TO WATER-CARRIED SANITATION SYSTEM AND DEVICES

A. Purpose

- (1) The purpose of this subchapter is to establish minimum standards and criteria for the design, installation and maintenance of sanitation systems and device which are alternatives to water-

carried waste plumbing fixtures and drain systems so that these sanitation systems and devices are safe and will safeguard public health and the waters of the state.

B. General

- (1) Standards, criteria, limitations and/or requirements relative to the design, installation, maintenance or use of sanitation systems and devices which are alternatives to water-carried waste plumbing fixtures and drain systems shall include those set out in Chapter Comm 92 Wis. Adm. Code or as subsequently amended or revised.
- (2) Sanitarian may, in his/her discretion and consistent with the purpose of this sub-chapter, prohibit, restrict or place more stringent standards, criteria, limitations and/or requirements relative to the design, installation, maintenance or use of sanitation systems and devices which are alternatives to water-carried waste plumbing fixtures and systems.
- (3) Sanitation systems and devices which are alternatives to water-carried waste plumbing fixtures and drain systems include, but are not limited to, composting toilet systems, incinerating toilets, pit privies, and vault privies.
- (4) Earthen pit privies are prohibited.

C. Incorporation By Reference

- (1) Chapter Comm 91 Wis. Adm. Code, or as subsequently amended or revised, is incorporated by reference into this subchapter.

D. Sanitary Permits

- (1) A sanitary permit is required for alternatives to water-carried sanitation system and devices.
- (2) The application, process, and fee for a sanitary permit shall be as set out in ch. III.B. above.

E. Inspection and Testing

- (1) Sanitarian may inspect at any time, with or without notice, the proposed site for, construction of, installation of, operation of, or maintenance of systems and devices which are alternatives to water-carried waste plumbing fixtures and drain systems to ascertain whether such site, fixtures, or systems conform to this chapter or any applicable law, regulation or rule.

21.08 RESERVATION OF RIGHTS

- A. Nothing in this chapter shall limit the authority, discretion and power of Door County to administer, manage, regulate, and enforce private onsite wastewater treatment systems or sanitation systems and devices which are alternatives to water-carried waste plumbing fixtures and drain systems as otherwise provided by law.

21.09 SUBORDINATION

- A. This ordinance shall be subject and subordinate to pertinent provisions of the Wisconsin Statutes and Wisconsin Administrative Code.

21.10 EFFECTIVE DATE

- A. This ordinance shall take effect on the day following the date of publication.
B. This amendatory ordinance [Ordinance 2010-07] shall take effect on the first day of July, 2010

(Ordinance 16-00; 7/27/00)

(Ordinance 13-02; 9/30/02)

(Ordinance 03-03; 5/27/03)

(Ordinance 2010-07; 6/22/10)

Ordinance 2016-02; 1/26/16)