

**MENOMINEE  
COUNTY  
ORDINANCE #40**

**PRIVATE ON-SITE WASTEWATER  
TREATMENT SYSTEMS (POWTS)**

Amended and approved April 21, 2016

**MENOMINEE COUNTY ORDINANCE NO. 40  
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**MENOMINEE COUNTY ORDINANCE NO.40  
PRIVATE ON-SITE WASTEWATER  
TREATMENT SYSTEMS (POWTS)**

**1.0 ADOPTION AND AUTHORITY**

- 1.1 Pursuant to Secs. 59.06, 59.14, 59.70(5) and Chapter 145, Wis. Stats., the Menominee County Board of Supervisors hereby adopts the Menominee County Private On-site Wastewater Treatment Systems (POWTS) Ordinance. These rules, regulations, and laws shall apply until amended and then shall apply as amended.
- 1.2 Incorporation of Provisions by Reference: This ordinance incorporates by reference the following rules, regulations, and laws as set forth in Wisconsin Statutes and the Wisconsin Administrative Code governing the location, construction, and use of POWTS:  
Chapter 145, Wis. Stats.;  
SPS 381 through 391, Wisconsin Administrative Code; and  
Chapter NR 113, Wisconsin Administrative Code.

**2.0 JURISDICTION, INTENT, AND ABROGATION**

- 2.1 Jurisdiction: The jurisdiction of this ordinance shall include all lands and water within Menominee County as provided in Sec. 59.06, Wis. Stats.
- 2.2 Intent: The purpose of this ordinance is to protect and promote the health, safety, prosperity, aesthetics, and general welfare of the people and communities within Menominee County. The general intent of this ordinance is to regulate the location, construction, installation, alteration, design, maintenance, and use of POWTS so as to protect the health of humans and for the protection of the groundwater and surface water resources of Menominee County.
- 2.3 Abrogation: It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law except that, where this ordinance imposes greater restrictions, the greater restrictions shall apply.

**3.0 DEFINITIONS**

- 3.1 General: Except as specifically defined below, words and phrases used in this ordinance are to be interpreted as having the same meaning as they have in the Wisconsin Statutes, Administrative Code, and in Common Law. Words in the present tense include the future: words in singular include the plural and words in the plural include the singular.

- 3.2 Specific Definitions: The following terms used in this Ordinance mean:
- (a) **Alternative system:** Any POWTS other than a conventional, mound, in-ground pressure or at-grade system.
  - (b) **County Zoning Office:** Office of the Zoning Administrator or the County Sanitarian.
  - (c) **Department or DSPS:** The State of Wisconsin Department of Safety and Professional Services –Division of Industry Services Programs.
  - (d) **Effluent:** Liquid discharged from any POWTS treatment component.
  - (e) **Failing POWTS:** As defined in Chapter 145.245(4), Wisconsin Statutes.
  - (f) **Holding Tank:** An in-ground watertight receptacle, approved by DSPS, and used for the collection and holding of sewage.
  - (g) **In-ground Pressure System:** A pressurized system placed entirely within the natural soil and based on the mound system design.
  - (h) **Licensed Pumper:** A person or firm licensed by the State of Wisconsin to pump, haul, and dispose of sewage and septage.
  - (i) **Mound:** A system where sand is mounted over the original topsoil and the aggregate and distribution piping is placed within of the sand and covered over with soil.
  - (j) **Plumber:** A person licensed by the State of Wisconsin as a Master Plumber or Master Plumber Restricted Service.
  - (k) **Plumbing:** Any piping, fixtures, equipment, devices or appurtenances in connection with water supplies, water distribution, and drainage systems, including hot water storage tanks, water softeners and water heaters connected with such water and drainage systems.
  - (l) **POWTS:** Private On-site Wastewater Treatment System.
  - (m) **Privy:** An outhouse or structure used for deposition of human excrement.
  - (n) **Privy-pit:** A privy with earthen sidewalls and/or bottom.
  - (o) **Privy-vault:** A privy with a watertight vault.
  - (p) **Sanitary Permit, County:** A permit issued by the County for repair, reconnections, privies and non-plumbing toilets.

- (q) **Sanitary Permit, State:** A permit issued for POWTS installations and modifications listed in SPS 383.21.
- (r) **Septic Tank:** An anaerobic treatment tank, which is part of a soil absorption system and receives and partially treats sewage before discharging and partially treated sewage to a dispersal component.
- (s) **Sewage:** As defined in SPS 381.01(216).
- (t) **Structure:** Anything erected, constructed or installed that is supported by the ground.

#### **4.0 GENERAL REQUIREMENTS**

- 4.1 Applicability: This ordinance applies to all unsewered areas of Menominee County.
- 4.2 Compliance:
  - (a) All buildings or structures with plumbing fixtures in Menominee County that are permanently or intermittently intended for human habitation or occupancy, which are not serviced by a public sanitary sewer, require an approved POWTS.
  - (b) No POWTS or part thereof shall be located, installed, moved, reconstructed, or substantially altered except as permitted by this ordinance. The owners of the property on which the system is located and the company or individual doing the work are both responsible for compliance with this ordinance.
  - (c) The POWTS for newly constructed buildings shall be approved, installed, and inspected before the building can be occupied.
- 4.3 Unused Systems: POWTS that have not been used for five years or longer shall be considered unused. In order to be used again, the unused system must conform with SPS 383.03(2) and be inspected by the County Zoning Office.
- 4.4 Retroactivity: Pursuant to SPS 383.03(2), non-existent and failing POWTS shall be replaced in compliance with standards for a new POWTS. If any component of an approved POWTS has failed, only that component must be replaced. However, installation of an effluent filter is required for all treatment tanks.

## **5.0 ADMINISTRATION AND ENFORCEMENT**

- 5.1 Issuing Agent: The Menominee County Zoning Office shall be responsible for administering this Private On-site Wastewater Treatment Systems Ordinance.
- 5.2 Powers and Duties: The County Zoning Office shall have all the responsibility and authority necessary to enforce the provisions of this ordinance without limitations by reason of enumeration including the following:
- (a) Delegate duties to and supervise Zoning and Sanitation personnel for Administration and enforcement of this ordinance.
  - (b) Explain the provisions of this ordinance to licensed professionals and interested persons and assist applicants in preparing permit applications.
  - (c) Review all applications and plans for POWTS submitted to the County.
  - (d) Issue, deny, and rescind Sanitary Permits: maintain records of permits, Inspected made, work approved and performed, and other information as appropriate.
  - (e) Inspect all POWTS after construction, but before backfilling no later than the next workday, excluding Saturdays, Sundays, and holidays, after receiving notice from the plumber in charge.
  - (f) Investigate all complaints relative to POWTS.
  - (g) Order any person, firm, or corporation owning, using, operating, or installing a POWTS to modify it, repair it, or replace it to a safe or sanitary condition if the system is found to be defective, unsafe, unsanitary, malfunctioning, or otherwise in violation of this ordinance or applicable State Statutes, Rules, or Regulations.
  - (h) Have access to any structure or land between the hours of 8:00 am and 4:30 p.m. for the purpose of performing said duties or at other times set by mutual agreement by the property owner or his/her agent and County authorized personnel. If access is denied, County personnel shall seek a special inspection warrant as provided in S. 66.0119, Wis. Stats.
  - (i) Report unresolved violations of this ordinance to the Corporation Counsel.
  - (j) Administer the Wisconsin Fund Program and distribute grant monies to eligible applicants.



- (k) Request assistance and cooperation in enforcing any or all Statutes, Rules, Regulations, or Orders and amendments thereto of the Department of Commerce applicable to POWTS.
- (l) Cooperate with local, County, and State personnel in County health programs and perform any other duties relating to POWTS as assigned by the Planning and Zoning Committee or as required by State Statutes, Rules, or Regulations.

## **6.0 SANITARY PERMITS**

### **6.1 Permit Required:**

- (a) A land use permit may not be issued until the sanitary permit for the structure has been issued.

### **6.2 Sanitary Permit, State:**

- (a) No person shall install or modify an existing POWTS to a structure unless the owner or the property on which the system is located holds a valid State Sanitary Permit. No person shall sell a septic tank or holding tank for installation as specified in this ordinance unless the purchaser holds a valid Sanitary Permit.
- (b) No POWTS component shall hereafter be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or its use changed without a State Sanitary Permit and without full compliance with the provisions of this ordinance and all other applicable County Ordinances and State Statutes, Rules, and Regulations.

### **6.3 Sanitary Permit, County:**

- (a) No reconnection of a POWTS can be completed without a valid County Sanitary Permit per Sec. 7 of this ordinance.
- (b) No person may repair an existing POWTS or install a privy or non-plumbing toilet without a valid County Sanitary Permit.
- (c) Emergency repairs or the removal of stoppages may be performed without a Sanitary Permit provided each work is reported to the County Zoning Office Personnel as soon as possible for a determination as to whether a Sanitary Permit is required.
- (d) If new or replacement POWTS installed by a licensed plumber and inspected by personnel from the County Zoning Office is later found to be defective by flawed materials, misuse, or is damaged during backfilling or by other construction on the property, the owner and/or

licensed plumber shall notify the County Zoning Office for a re-inspection of the POWTS.

- 6.4 Application: Application for a Sanitary Permit shall be made on forms specified by the DSPS. Completed forms shall be submitted to the Menominee County Zoning Office. The Sanitary Permit shall include information required by SPS 383.21(2) & 383.22(2).
- 6.5 Issuance: After review and verification of the information submitted in the application, the County Zoning Office shall approve or deny applications for Sanitary Permits. When an application for a Sanitary Permit is denied, the County Zoning Office shall issue a written notice to the unsuccessful applicant, stating specifically the reasons for disapproval. The written notice may include whether an amendment to the application could be made for approval of the application.
- The County Zoning Office shall also inform the applicant of his/her right to appeal the denial under the provisions of this Ordinance and Chapter 68, Wis. Stats. The County Zoning Office reserves the right to refuse incomplete or incorrect permit applications, and/or delay permit issuance until corrected and/or complete applications are received.
- 6.6 Permit Cards: When the applicant for Sanitary Permit is approved, the county Zoning Office shall issue a permit card to the property owner. The permit card shall be posted in plain view, visible from the road fronting the lot during construction. The permit card shall not be removed from the site until the POWTS has been installed, inspected, and approved by the County Zoning Office.
- 6.7 Permit Validity: A Sanitary Permit is valid for two (2) years from date of issuance. Permits may be renewed following written application to the County Zoning Office by the property owner, his agent, or contractor, prior to the expiration date of the original permit provided that the proposed site and system comply with applicable codes in effect at the time the renewal is requested. The original permit card shall be returned to the department and a new permit card shall be issued when the permit is renewed. If a permit has expired and the owner wants to build in the site, a new Sanitary Permit must be obtained.
- 6.8 Permit Transfer: Transfers of Sanitary Permits are permitted where a change of ownership of the parcel has occurred. The request for transfer shall be made in writing on forms provided by the Department. Transfers do not affect the expiration date or renewal requirements for the permit. Permits issued for systems requiring state approval cannot be transferred to another plumber.
- 6.9 Fees: Fees shall be set by the County Zoning Committee and may be amended from time-to-time as deemed necessary.

## **7.0 RECONNECTION OF EXISTING POWTS**

- 7.1 Requirements: A County Sanitary Permit shall be required when an existing POWTS is to be connected to a structure that has been rebuilt or where an existing structure has been replaced with a new or different structure. ALL systems shall be inspected at the time of reconnection to ensure that proper materials and methods are being used.
- 7.2 Evaluation: Prior to issuing the County Sanitary Permit for the reconnection to the new structure; an evaluation of the existing POWTS must be made. The following is the procedure that must be followed in evaluating the POWTS:
- (a) Existing Sanitary Permits and soil test information on file shall be examined to determine reliability.
  - (b) If there is not adequate or reliable soil information, a soil boring(s) shall be examined by a Certified Soil Tester to determine if there are suitable soils for the system per SPS 383.03(2)(b)2. This information shall be reported to the County Zoning Office, which shall review the report and verify the soils, when considered appropriate.
  - (c) The existing septic tank shall be pumped and inspected by a licensed pumper if it has not been pumped in the last three (3) years prior to reconnection, to determine the condition and size of the tank and whether it is in good repair. (Septic and holding tanks shall not be entered without an Entry Permit and life support equipment.) A pumping report signed by the pumper shall be submitted to the County Zoning Office stating that the tank has been pumped and appears to be in good repair.
  - (d) The existing POWTS shall be examined to:
    - 1) Determine the location of the septic and/or dose tank and soil absorption system to determine that all minimum setbacks of SPS 383 will be maintained.
    - 2) Determine, where if possible, the size of the soil absorption system, if it corresponds to the county's files (when available), and whether it is capable of handling the proposed wastewater load.
    - 3) Determine whether the system is surfacing or has had an outfall pipe connected to it thereby creating a nuisance or surface discharge.
    - 4) Determine by examining through the vent whether or not the system is ponded, to what degree, and whether the ponding represents a failing or nonfunctioning soil absorption system.
    - 5) Confirm landscape position and vegetation that suitable soils shall be present below the system installation.
    - 6) Ensure that if any tank covers are installed above grade that they are installed with locks and warning labels visible or will be covered with soil in accordance with SPS 383.

- 7.3 Nonconforming Systems: If, during the evaluation of the existing POWTS, it is determined that the system does not conform to the applicable Statutes, Rules, Regulations, and Codes in effect at the time the State Sanitary Permit was obtained (per SPS 383.03(2)(b)), a Land Use Permit shall not be issued until a Sanitary Permit has been issued for a new POWTS that meets the applicable Statutes, Rules, Regulations, and Codes.
- 7.4 Holding Tank Reconnection: Reconnection to an existing holding tank will require an inspection of the location of the tank to determine if the minimum setback requirements of SPS 383 will be maintained and to ensure that the tank covers, locking devices, warning labels and alarm systems are functioning properly. A holding tank servicing agreement which meets the requirements of SPS 383 must be submitted as part of the application for the Sanitary Permit for reconnection.

## **8.0 EXISTING SYSTEM EVALUATIONS FOR BUILDING ADDITIONS/CHANGE OF USE**

- 8.1 Addition/Change of Structure: When there is a proposed addition, remodeling, or change of use to an existing structure, the sanitary system must be evaluated as specified by Department. Depending upon whether the proposed addition or change has a significant increase in wastewater generated, a complete evaluation of the existing POWTS as specified in Section 7 may be required except a County Sanitary Permit for reconnection shall not be required.

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

- 9.1 Soil and Site Evaluation Report: A sanitary permit shall not be issued until a soil and site evaluation report has been reviewed and approved by the issuing agent. The report and evaluation must be in accordance with SPS 383 & 385 and submitted to the County Zoning Office. If the report is not acceptable, the issuing agent shall notify the applicant in writing and state the reasons for noncompliance consistent with SPS 385.50(1)(d).
- 9.2 Verification: DSPS or the County Zoning Office may verify the report and soils at the proposed site. Prior to the issuance of permits for in-ground pressure, mound, or at-grade systems the County Zoning Office or DSPS will conduct an on-site evaluation of the soils.

For all new or replacement construction, at least one backhoe pit is required for each system area submitted for approval. The soil test pits shall be left in such a manner that will permit access to them for the evaluation of the soil profile. All backhoe pits must be covered or fenced

for safety. Unattended backhoe pits are the responsibility of the Certified Soil Tester or property owner.

## **10.0 POWTS MAINTENACE PROGRAM**

- 10.1 Notification: The applicant for a Sanitary Permit shall be provided written notice of the maintenance program at the time the Sanitary Permit is issued. The County Zoning Office shall maintain the records of this notification. Upon sale of the property the owner shall provide written notification of the maintenance program to the buyer.
  
- 10.2 Septic Tanks: All POWTS in Menominee County shall have the treatment tank serviced by an individual qualified per SPS 383 within three (3) years of the date of installation, and at least once every three (3) years thereafter, or when the combined sludge and scum level reaches one-third (1/3) of the liquid capacity of the tank. The sludge level of the tank must be determined by a licensed pumper or licensed plumber.  
  
An existing POWTS visual inspection interval may be extended by the County Zoning Office to a maximum period of five (5) years for occasionally occupied structures or facilities per SPS 383.54(4)(d)(3).  
  
There shall, at the time of service by a qualified person, be a visual inspection of the dispersal component to determine whether wastewater or effluent from the POWTS is ponding on the surface of the ground. This section (10.2) is per SPS 383.54(4).
  
- 10.3 Disposal: Sludge, scum, or sewage pumped from a septic tank must be disposed of in accordance with NR 113.
  
- 10.4 Reports: The property owner shall submit, to the Menominee County Zoning Office (at least every three 3 years) a maintenance report form, to be provided by the Zoning Office. The report must be filled out and signed by someone qualified by SPS 383.54 and certifying that the owner's septic tank has been recently pumped and properly maintained or was inspected and is less than one-third (1/3) full of sludge and scum.
  
- 10.5 Postponements: Circumstances, such as inclement weather, road weight restrictions, and site limitations may necessitate a delay in septic tank maintenance until conditions permit.
  
- 10.6 Inspections: The Menominee County Zoning Office shall make, or cause to be made, necessary inspections by a licensed plumber to ensure an effective program of maintenance of POWTS.

## **11.0 HOLDING TANKS**

- 11.1 Holding Tank Agreements: Prior to the issuance of a Sanitary Permit for a holding tank, the property owner shall sign an agreement with the municipality (Town, or Village, as applicable) will have the tank pumped at the owner's expense. The owner and or licensed pumper must submit annual pumping reports to the County Zoning Office. The holding tank agreement must be recorded in the Register of Deeds Office prior to Sanitary Permit issuance.
- 11.2 Holding Tank Servicing Agreement: Prior to the issuance of a Sanitary Permit for a holding tank, a holding tank servicing agreement signed by the property owner and a licensed pumper must be submitted to the County Zoning Office.
- 11.3 Pumping Report Forms: Pumping shall be submitted to the County Zoning Office on forms provided by the County Zoning Office on an annual basis. The annual pumping report shall be due by the 31<sup>st</sup> of December of each year.
- 11.4 Limitations: Holding tanks are limited to two thousand (2,000) gallons or less holding capacity.
- 11.5 Locks and High Water Alarms: All holding tanks shall be equipped with functional locking devices and high water alarms. The alarm shall be either an audible or illuminated alarm. If the latter, it shall be conspicuously mounted. The electrical relay system for a high water alarm shall be located outside the tank, unless it is housed in waterproof, explosion-proof enclosure.
- 11.6 Compliance: All holding tanks, including those installed prior to July 1980, must comply with SPS 384.25.

## **12.0 PRIVIES**

- 12.1 Privy Usage: No privies shall be permitted on land zoned residential, except in the following circumstances:
- (a) A County Sanitary Permit may be issued for a privy only when the building served by the privy is not provided with plumbing or water service and when there is no electrical service available to the site.
  - (b) A County Sanitary Permit may be issued for a privy on public lands or campgrounds, parks, private campgrounds and group camps operating as a non-profit service organization.

### **13.0 POWTS ABANDONMENT**

- 13.1 Public Sewer or Discontinued Use: When a municipal sewage district orders a structure or premises to be connected to a public sewer, or an existing POWTS will no longer be used, the POWTS serving the structure or premises shall be abandoned according to SPS 383.33.
- 13.2 Mounds: All mounds shall be inspected at the time the ground's surface is plowed, while the sand fill is being placed, at the time the distribution piping has been installed and after all work has been completed. Other inspections may be necessary depending upon site conditions or as required by SPS 383. The licensed installer should notify the County Zoning Office five (5) working days in advance of starting construction.

### **14.0 INSPECTIONS**

- 14.1 Notice for Inspection: Reasonable notice for final inspection shall be given to the County Zoning Office for a POWTS being installed. If a plumber desires an inspection in the afternoon of a given day, he must notify the County Zoning Office by 9 a.m. of that day. If the plumber desires an inspection in the morning, the County Zoning Office shall be notified the day before.

### **15.0 VIOLATIONS AND PENALTIES**

- 15.1 Violations: No person shall construct, repair, maintain, alter, or use a POWTS in violation of any of the provisions of this ordinance. No person shall resist, obstruct, threaten, or interfere, in any way, with the County Zoning Office in the lawful enforcement of this ordinance. No person shall fail to obey the County Zoning Office's enforcement Orders.
- 15.2 Notifications: Persons in violation of this ordinance and S. 254.59, Wis. Stats., shall be notified by the County Zoning Office of said violation(s) and corrective action(s) needed to abate the violation, if any. If the violation is not corrected by the specified deadline, the County Zoning Office shall refer the violation(s) to the Corporation Counsel.
- 15.3 Penalties: Any person who fails to comply with the provisions of this ordinance or who permits the use of any POWTS in violation of this ordinance shall upon conviction thereof forfeit not more than \$200.00, and pay costs of prosecution for each violation. Default of payment shall result in imprisonment not to exceed six (6) months. Each day a violation exists or continues shall constitute a separate offense. Violations of this ordinance are subject to the provisions of 66.0113 Wis. Stats., providing a Uniform Deposit and Forfeiture Schedule. The County Zoning Office may also institute appropriate actions or proceedings to enjoin violations

of this ordinance or the applicable Wisconsin Statutes, Rules, or Regulations.

- 15.4 Remedial Action: Whenever an Order of the County Zoning Office has not been complied with within the time specified, the Corporation Counsel shall institute appropriate legal action or proceedings to prohibit the owner, resident, agent, or occupant of the premises from the use of such POWTS or use of the premises until such Order is complied with.
- 15.5 Nonexclusive: The remedies set forth in the Section shall not be exclusive.

## **16.0 APPEALS AND VARIANCES**

- 16.1 Appeals: Any person, firm, or corporation, or any office, department, or Board of the County aggrieved by any Order requirement, interpretation, or determination by the County Zoning Office may appeal to the Planning and Zoning Committee within fifteen (15) days of the notification to the decision or Order. The Committee shall fix a reasonable time and place for a Public Hearing on the appeal, give a Class 1 notice thereof and give notice by mail to the parties in interest.

On a finding of fact, the Committee may affirm, modify, or reverse the decision appealed from except that their decision must conform to the provisions of this ordinance, Wisconsin Statutes, and appropriate Administrative Codes. A written decision shall be issued as soon as practical.

- 16.2 Variances: Upon petition by the applicant, the County Board of Adjustment or the Department may grant variances from the Sanitary Provisions of this ordinance where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. No variance shall be permitted which does not meet minimum Department or other State requirements or which will threaten health or safety or cause nuisances.

## **17.0 FEES**

- 17.1 Fees: All persons, firms, or corporations performing any work on any POWTS shall pay a fee to the County Zoning Office according to the most recent *Sanitary Fee Schedule* approved by the Zoning Committee. See the County Zoning Office for the current Fee Schedule.
- 17.2 Due Dates: Sanitary Permit Fees are due at the time of application. After any Sanitary Permit has been issued, the fee(s) will not be refunded.



- 17.3 Submittal Requirement: The County Zoning Office shall forward a copy of each valid Sanitary Permit and the amount required by DSPS within ninety days after the permit is issued, along with the required Department of Natural Resources groundwater surcharge fee.

**18.0 SEVERABILITY**

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

**19.0 VALIDITY AND EFFECTIVE DATE**

- 19.1 Validity: All other ordinances or part of ordinance in conflict with the provisions of this ordinance are hereby repealed.
- 19.2 Effective Date: This ordinance shall be effective, upon publication, provided the requirements of Public Hearing, adoption by the Menominee County Board of Supervisors, and Publishing or posting as required by law are complied with.