

CHAPTER 5.50
ONSITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS ORDINANCE

CHAPTER 5.50.01
GENERAL PROVISIONS

- 5.50.01.005 **ADOPTION BY REFERENCE**: Department of Natural Resources 567, Iowa Administrative Code, [Chapter 69](#), “Onsite Wastewater Treatment and Disposal Systems” is adopted by reference subject to additions and amendments hereinafter set forth in this Chapter after the effective date of the ordinance codified in this Chapter.
- 5.50.01.010 **TITLE**: This Ordinance shall be known and may be cited and referred to as “Pottawattamie County, Iowa, Onsite Wastewater Treatment and Disposal Systems Ordinance”.
- 5.50.01.020 **PURPOSES AND OBJECTIVES**: This Onsite Wastewater Treatment and Disposal Systems Ordinance is adopted to preserve, protect and promote the public health, safety and general welfare of the citizens of Pottawattamie County, Iowa, all in accordance with and as permitted by the provisions of Chapter 137, Code of Iowa, as amended. More specifically, this Ordinance is adopted in order to establish minimum standards and procedures for governing the design, location, construction, installation, alteration, operation, use and maintenance of all sewage treatment systems to insure that waste discharged therein shall not:
- .01 Pollute or contaminate any ground water supply.
 - .02 Be accessible to insects, rodents or other possible carriers of disease, which may come in contact with food or drinking water.
 - .03 Pollute or contaminate the waters of any lake or stream used for public or domestic water supply purposes, or for recreational purposes.
 - .04 Be a health hazard by being accessible to children or animals.
 - .05 Be a nuisance due to odor or other potential health hazards.
 - .06 Violate any other laws or regulations governing water pollution or wastewater treatment disposal.
- 5.50.01.030 **JURISDICTION**: The provisions of this Ordinance shall apply to all of the territory of Pottawattamie County, Iowa, including the territory within the corporate limits of all cities, except those cities having a population of twenty-five thousand (25,000) or more, according to the latest federal census.
- 5.50.01.040 **APPLICATION OF REGULATIONS**: The regulations set by this Ordinance shall be applicable only to onsite wastewater treatment and disposal systems.
- 5.50.01.050 **INTERPRETATION OF STANDARDS**: In interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Whenever the requirements of this Ordinance are at variance with the requirements of any lawfully

adopted rules, regulations, ordinances, deed restrictions, covenants, or other provisions of law, the most restrictive or that imposing the higher standards, shall govern.

5.50.01.060 **CESSPOOLS PROHIBITED**: The use of cesspools is prohibited.

CHAPTER 5.50.02 DEFINITIONS

5.50.02.010 **CONSTRUCTION OF TERMS**: Except as otherwise defined in Section 5.50.01, for the purpose of this Ordinance, certain terms and words are hereby defined. The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Ordinance.

.01 **TENSE**: Words used in the present tense include the future tense.

.02 **NUMBER**: Words used in the singular include the plural, and words used in the plural include the singular.

.03 **SHALL AND MAY**: The word “shall” is mandatory; the word “may” is permissible.

.04 **GENDER**: The masculine shall include the feminine and the neuter.

.05 **PERSON**: The word “person” includes a firm, associate, organization, partnership, trust, company, or corporation as well as an individual.

.06 **USED OR OCCUPIED**: The word “used” or “occupied” includes the words intended, designed, or arranged to be used or occupied.

.07 **HEADINGS**: In the event that there is a conflict or inconsistency between the heading of a chapter, section or subsection of this Ordinance and the context, thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

5.50.02.020 **ADMINISTRATIVE AUTHORITY**: The Board of Health of Pottawattamie County, Iowa, as authorized by Chapter 137, Code of Iowa, as amended.

5.50.02.040 **BOARD**: The Board of Health of Pottawattamie County, Iowa, as authorized by Chapter 137, Code of Iowa, as amended.

5.50.02.050 **COMMERCIAL INSTALLER**: Any person who contracts with the owner or tenant of property to construct, alter or repair any onsite wastewater treatment and disposal system upon said property or any portion thereof within the County for which a septic permit is required by this Ordinance for a fixed price, fee, percentage, or other compensation; or who advertises or otherwise represents to the public to have the capacity or ability to undertake to construct, alter or repair any onsite wastewater treatment and disposal system upon said property or any portion thereof. An individual may install a septic system on property which they own and live; however, if the subject property is a rental property, such person shall not be allowed to install a septic system unless they are licensed as a “commercial installer”.

- 5.50.02.060 **COUNTY:** Pottawattamie County, Iowa.
- 5.50.02.070 **COUNTY INFRACTION:** A civil offense punishable by a civil penalty and issued by means of a citation.
- 5.50.02.080 **PERMIT:** A formal written order issued by the Board of Health or designee, to construct, alter, modify, or repair an onsite wastewater treatment and disposal system.
- 5.50.02.090 **PLANNING DIRECTOR:** The Director of Planning and Development or designee of Pottawattamie County, Iowa.
- 5.50.02.100 **REPEAT OFFENSE:** A recurring violation of the same section of the Pottawattamie County, Iowa, Onsite Wastewater Treatment and Disposal System Ordinance.
- 5.50.02.470 **VARIANCE:** A variance is a relaxation of the terms of the Onsite Wastewater Disposal and Treatment System Ordinance where such variance shall not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship.

CHAPTER 5.50.03 COMMERCIAL INSTALLERS

- 5.50.03.010 **PURPOSE AND APPLICABILITY:** The purpose of this Chapter is to provide a list to direct information and also to provide the citizens and other consumers of the County the protection that the commercial installer has at least the minimum amount of insurance required.
- 5.50.03.020 **COMMERCIAL INSTALLERS LICENSE REQUIRED:** Effective April 1, 1995, it shall be unlawful for any commercial installer to engage in the business of installing any onsite wastewater treatment and disposal system in the County, unless such commercial installer shall have first applied for and obtained a license from the County to install onsite wastewater treatment and disposal systems. The license shall be issued by the Board of Health pursuant to procedures listed below.
- 5.50.03.030 **APPLICATION FOR COMMERCIAL INSTALLER LICENSE:** All applications for a commercial installers license shall be filed with the Planning Director on approved forms, together with the filing fee as specified in Chapter 1.50. An application of a commercial installer license shall include, but not be limited to, the following information:

- .01 The business name, the business owner's name, mailing and physical address and telephone number of the business. State of Iowa Contractor's registration number and such other pertinent information as may be required.
- .02 A Certificate of Insurance indemnifying the County and the public in the amounts of not less than the following:

Commercial General Liability	\$1,000,000 per occurrence
	\$1,000,000 general aggregate
Products & Completed Operations	\$ 500,000 aggregate
Personal and Advertising Injury	\$ 250,000
	\$ 250,000 per occurrence
Fire Damage	\$ 50,000 any one fire

Medical Expense	\$ 5,000 any one person
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The insurance company shall notify the Planning Director within ten (10) calendar days whenever their insured commercial installer is no longer covered by insurance in the minimum amounts specified.

5.50.03.030 **ACTION ON LICENSE**: The Board of Health shall take action on an application for a commercial installer license which has been filed in compliance with the provisions of this Chapter.

.01 If it is determined by the Board of Health that the commercial installer has provided the appropriate information as required, and that the appropriate proof of insurance is submitted, a commercial installer's license shall be issued.

.02 If it is determined by the Board of Health that the commercial installer has not provided the appropriate information or that the appropriate proof of insurance is not submitted, he shall notify the commercial installer of the deficiencies and deny the application. When the application is resubmitted, it shall then be treated as a new application and the same procedure noted above shall be followed.

5.50.03.040 **LICENSE NOT TRANSFERABLE**: Commercial installers license issued and authorized by this Chapter shall not be transferred from the original applicant to another person or commercial installer.

5.50.03.050 **EXPIRATION OF LICENSE**: No commercial installer license shall be valid for a period of longer than twelve (12) months from the date of issuance of said license.

5.50.03.060 **SUSPENSION AND REVOCATION OF LICENSE**: The Board of Health may suspend or revoke a commercial installers license for any of the following reasons, after conducting a hearing as outlined in .06 below:

.01 Willful and deliberate disregard and violation of the provisions of this Ordinance.

.02 Misrepresentation of a material fact by the applicant in obtaining a commercial installers license or a septic permit.

.03 Fraudulent use of the license to obtain a septic permit for other persons or companies.

.04 Failure to obtain a septic permit as required.

.05 A commercial installer may appeal the suspension or revocation of a license to the Board.

.06 The Board of Health will require a Commercial Installer to appear before the Board of Health for a hearing concerning the revocation of his license. The Planning Director shall notify said Commercial Installer of said hearing by serving written notice in person or by certified mail at least five (5) days prior to the hearing.

After the Board of Health hears all pertinent evidence, the Board of Health shall have the power to suspend for a temporary period, or permanently revoke, the Commercial

Installer's license if the Board of Health makes the finding that the Commission Installer has committed any one or more the acts or admissions listed in Subsection .01 through .05 of this Section.

5.50.03.070 **LICENSEE'S OBLIGATION**: It shall be the duty, responsibility and obligation of the commercial installer to:

- .01 Apply for and/or secure a copy of a septic permit prior to the construction, alteration or repair of any onsite wastewater treatment and disposal system.
- .02 Construct onsite wastewater treatment and disposal system in accordance with this Ordinance.

CHAPTER 5.50.04 PERMITS

5.50.04.010 **SEPTIC PERMIT REQUIRED**: It shall be unlawful for any person to construct, alter or repair any onsite wastewater treatment and disposal system until a Septic Permit has been issued by the Planning Director, except as provided in Section 5.50.04.090, for emergency repairs. No Septic Permit shall be issued by the Planning Director unless the proposed onsite wastewater treatment and disposal system complies with all provisions of this Ordinance, except when so ordered by the Board of Health in the case of an application for a variance granted in accordance with this Ordinance.

- .01 The septic permit issued by the Planning Director shall be in addition to the Zoning Permit or any other permit required by the County and shall be obtained prior to construction, alteration, and extension of the structure to be served.
- .02 A septic permit shall be obtained for each separate piece of extensive work.

5.50.04.020 **APPLICATION FOR SEPTIC PERMITS**: All applications for Septic Permits shall be filed with the Planning Director on approved forms, together with the filing fee as specified in Chapter 1.50, and shall be accompanied by such documentation as may be necessary for the Planning Director to make an appropriate determination on the application.

- .01 The application shall include the name and business address of the person, or commercial installer that is to do the work; the commercial installer's license number; the name of the property owner; the legal description of the property where the work is to be done; and such other pertinent information as may be required.
- .02 The required documentation shall include:
 - A. Plans and specifications, drawn to scale, accurately showing the shape and dimensions of the parcel to be built upon;
 - B. The location and size of all existing and proposed structures;
 - C. The location of the features denoted in Department of Natural Resources 567, Iowa Administrative Code, Chapter 69, "Onsite Wastewater Treatment and Disposal Systems", Table 1, within the minimum distances set forth in said Table;

- D. The location and size of any existing onsite wastewater treatment and disposal systems on the subject property;
- E. The location and size of all proposed construction, alteration, or repair of said onsite wastewater treatment and disposal system;
- F. The location of the percolation test holes and the borehole and other pertinent information as may be required.

.03 Such documentation shall also include the results of a percolation test or of a professional soil analysis, as required. Percolation tests shall be certified by an Iowa registered professional engineer or by the Planning Director or designated County employee. The test and analysis shall be taken in the location of the proposed subsurface absorption system or mound system.

5.50.04.030 **ACTION BY PLANNING DIRECTOR:** The Planning Director shall take action as soon as reasonably possible, but in no case longer than seven (7) days on all Septic Permit applications which are filed in accordance with the provisions of this Ordinance. The Planning Director shall give due consideration to said applications, negotiate with the applicants on changes deemed advisable and the kind and extent of construction, alteration, or repair to be done, and pass on the applications as originally submitted or modified.

.01 In the event an application is disapproved by the Planning Director, such disapproval shall be expressed in writing and shall point out wherein said proposed application is objectionable. Upon disapproval, the applicant may submit a revised application, together with the revised plans and specifications, without payment of any additional fee.

.02 In the event an application is found to be acceptable and in accordance with the provisions of this Ordinance, the Planning Director shall accept same and issue a Septic Permit.

.03 In the event that during the course of work, it is found necessary to make any changes from the plans and specifications on which a Septic Permit was issued, such change shall first be approved by the Planning Director.

.04 In no case shall the issuance of a Septic Permit be construed as waiving any of the provisions of this ordinance.

5.50.04.040 **DISPLAY OF PERMIT:** Septic Permits shall be displayed so as to be plainly visible from the street or public roadway during the construction period.

5.50.04.050 **EXPIRATION OF PERMITS:** If the work described in any Septic Permit has not been completed within twelve (12) months of the date of issuance thereof, said permit shall expire and shall be cancelled by the Planning Director; a written notice thereof shall be given to the applicant, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new Septic Permit has been obtained.

- 5.50.04.060 **NOTIFICATION**: The Planning Director shall be notified orally by telephone, or in writing not less than eight (8) working hours between 8:00 A.M. and 4:30 P.M. before the work is to be inspected or tested.
- 5.50.04.070 **INSPECTIONS**: The Planning Director is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this Ordinance. It shall be the duty of the owner or occupant of the property to give the Planning Director free access to the property at reasonable times for the purpose of making such inspections as are necessary to determine compliance with the requirements of this Ordinance. No part of any sewage treatment system shall be used, covered or so constructed as to deny the mandatory final inspection by the Planning Director. With prior approval of the Planning Director, a portion of the septic system may be backfilled prior to final inspection; however, this shall not be construed to allow the full and complete backfilling of the system. In the event approval is given for partial backfilling, the following shall be left exposed: the line from the house to the septic tank, the entire top of the septic tank, along with the inlet and outlet, the pipe leading to the distribution box, the distribution box, the pipes leading to the head of the each lateral and the first 5' of each lateral, along with the last 5' of each lateral.
- 5.50.04.080 **CERTIFICATE OF COMPLIANCE**: Upon completion of the work described in a Septic Permit and after the final inspection, as provided for in Section 5.5070.070 and approval thereof, the Planning Director shall issue a Certificate of Compliance, which shall certify that the construction, alteration or repair is in substantial compliance with the provisions of this Ordinance, and may show any deviations from the provisions thereof.
- 5.50.04.090 **EMERGENCY REPAIRS**: In the event of an emergency situation, the removal of stoppages or other such minor repairs may be initiated without a Septic Permit; provided such work is reported to the Planning Director as soon as possible for a determination as to whether a Septic Permit is required. All such emergency work shall be done in conformity with the regulations.

CHAPTER 5.50.05 FEES

- 5.50.05.010 **FILING FEE REQUIRED**: A filing fee in accordance with the established fee schedule shall be charged for each application to assist in deferring the cost of administrative review and inspections. The applicant shall be held responsible for submitting the required filing fee upon submission of the completed application. No action shall be taken on any application until the required fee is paid in full.
- 5.50.05.020 **FEE SCHEDULE**: The fee schedule as set forth in Chapter 1.50 is hereby established for matters pertaining to this Ordinance.
- 5.50.05.030 **PAYMENT OF FEES**: All fees mentioned above shall be paid to the County Treasurer of Pottawattamie County, Iowa. The receipt shall be attached to the application submitted to the Planning Director.
- 5.50.05.040 **FEE REFUND**: Whether the request is granted or denied, the applicant shall not be entitled to a refund of the fee paid.

CHAPTER 5.50.10

ADMINISTRATIVE, ENFORCEMENT AND LEGAL STATUS PROVISIONS

5.50.10.010 **ENFORCEMENT**: It shall be the duty of the Planning Director to administer and enforce this Ordinance in accordance with its provisions. All departments, officials, and public employees of the County vested shall comply with the provisions of this Ordinance and shall issue no permit, license or certificate for any use, building or purpose in conflict with the provisions of this Ordinance. In the enforcement of this Ordinance, the Planning Director shall exercise the following powers and duties:

- .01 All questions of interpretation and enforcement of this Ordinance shall be presented to the Planning Director.
- .02 Whenever a violation occurs, or is alleged to have occurred, any person may file with the Planning Director a written complaint which states fully the causes and basis thereof. The Planning Director shall record properly such complaint, immediately investigate and take appropriate action thereon.
- .03 Upon discovery of any violation, the Planning Director shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The Planning Director shall order discontinuance of any illegal activity; removal of any illegal activity; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.
- .04 The Planning Director shall prepare reports of those violations which continue unabated after exhaustion of reasonable administrative remedies towards their abatements and shall submit said reports to the County Attorney for such legal action as the facts of each report may require.
- .05 In the event the County Attorney after analysis of the report, institutes legal proceedings, the Planning Director will cooperate fully with the County Attorney in perfecting of such proceedings.
- .06 In all cases where the county commences court action, the Planning Director shall cooperate with the County Attorney by performing such additional investigative work as the County Attorney may reasonably require.

5.50.10.20 **VIOLATIONS AND PENALTIES**: The penalty for violating any of the provisions of this Chapter shall be as set forth in Chapter 1.75.