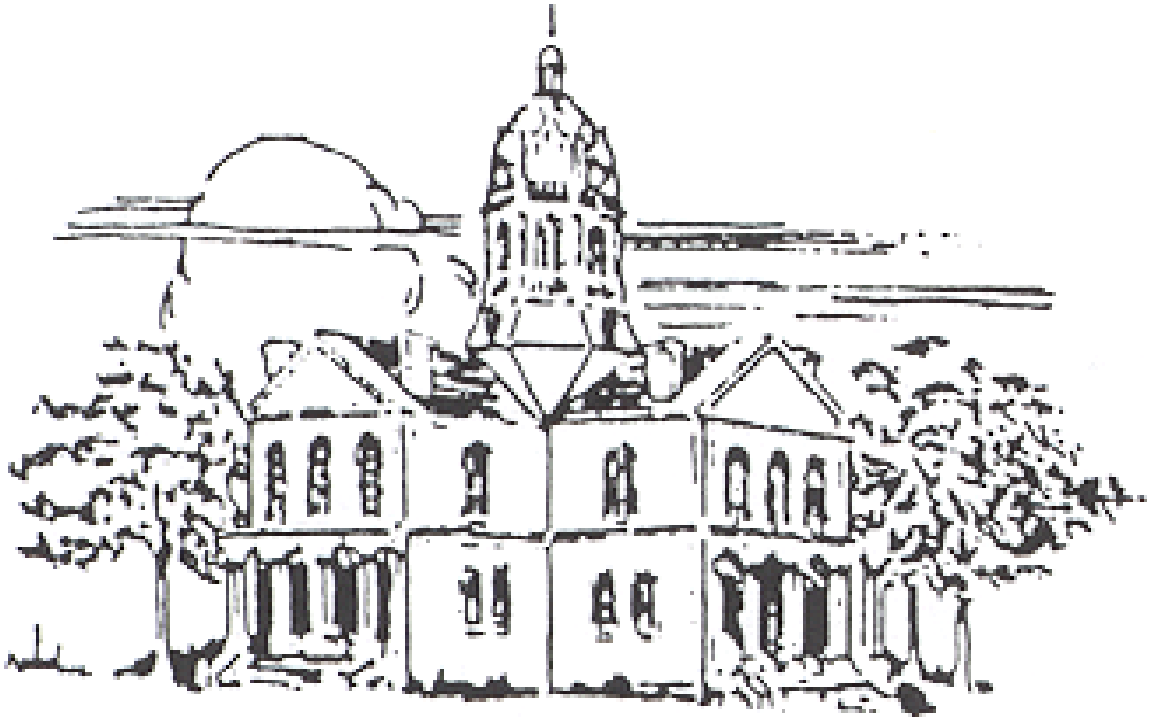


Madison County



General Environmental Health Regulations

MADISON COUNTY, IOWA

HEALTH REGULATIONS

CHAPTER 1

GENERAL ENVIRONMENTAL HEALTH REGULATIONS

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PURPOSE. This is a regulation of the Madison County Board of Health to implement the provisions and enforcement of State Law by the designated employees of the County Board of Health, and further to implement such additional measures as may be determined by the County Board of Health established by rule, procedure, or enacted by ordinance.

1. 01 DEFINITIONS. The following terms are defined:

1. **“Environmental Health Officer”** means the Madison County Environmental Officer, also known as “Sanitarian”.
2. **“Garbage”** means any putrescible organic waste resulting from the handling, preparation and consumption of food or of material intended for use as food.
3. **“Health Hazard”** means any condition which can or has the potential to cause injury or sickness to human or animal life or to the environment
4. **“Nuisance”** means whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. This includes all definitions in Section 657.2 of the Code of Iowa.
5. **“Open Dumping”** means the depositing of solid wastes on the surface of the ground or into a body or stream of water.
6. **“Rat Harborage”** means any condition, which provides shelter or protection for rodents, thus favoring their multiplication and continued existence in, under or outside any structure.

7. **“Refuse”** means putrescible and nonputrescible waste, including, but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings and market and industrial solid waste.
 8. **“Sanitary Disposal Project”** means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Executive Director of the Department of Natural Resources.
 9. **“Solid Waste”** means garbage, refuse and other similar discarded solid or semi-solid material including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.
- 1.02 **GARBAGE AND REFUSE.** No owner or lessee of any public or private premises shall permit to accumulate upon his or her premises any garbage or refuse except in covered containers. Such containers shall be constructed in such a manner as to be strong, not easily corrodible, rodent proof, insect proof, and shall be kept covered at all times except when garbage and refuse is being deposited therein or removed there from.
 - 1.03 **HEALTH HAZARD.** It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste or refuse, either in containers or not, that constitute a health or sanitation hazard.
 - 1.04 **OPEN DUMPING PROHIBITED.** No person shall dump or deposit or permit the open dumping or depositing of any solid waste at any place other than the sanitary landfill facilities designated by the County, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Department of Natural Resources. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.
 - 1.05 **SANITARY DISPOSAL REQUIRED.** It is the duty of each owner to provide for the sanitary disposal of all the refuse and solid waste accumulating on the owner’s premises. All refuse and solid waste shall be removed from the property as often as necessary to prevent health and nuisance conditions or shall be deemed a nuisance.

1.06 NUISANCES PROHIBITED.

It shall be unlawful for any property owner, occupant, or person in charge of any property to create, allow the creation of, or maintain a nuisance on any lot or parcel of land within Madison County. The property owner, occupant, or person in charge of any property shall be responsible for the abatement of any nuisance.

1.07 NOTICE OF ABATEMENT OF NUISANCE. The Environmental Health

Officer shall order the owner, occupant or person in charge of any property, building or other place to remove at his or her own expense any nuisance, source of filth, cause of sickness or health hazard found thereon. Notice shall be made by personal service, or if the person being served is a nonresident of Madison County, the property is unoccupied, or where reasonable attempts of personal service have failed, service shall be made by certified mail, return receipt requested, to the last known address of such person. The notice of abatement shall state

- 1) A common or legal description of the property, or both;
- 2) That the property is in violation of the Madison County Environmental Health Regulation.
- 3) The nature of the violation, including relevant and sufficient information that would reasonably allow the recipient to determine the nature of the violation to allow for self abatement.
- 4) That the condition creating the violation shall be abated within 10 days from the date of the notice.
- 5) That failure to comply with the notice of abatement shall result in Madison County abating the violation with the assessment of costs made against the property or by filing for judgment against the recipient.
- 6) That failure to pay such assessments within 30 days of the notice of costs shall result in the filing of a tax lien against the property, or the filing of a judgment against the recipient, or both.
- 7) That such violations are subject to prosecution as provided for in chapter 4.

1.08 COST OF ABATING NUISANCE. All expenses incurred by the Madison

County Environmental Health Office in proceeding to abate a nuisance may be recovered by suit in the name of the Board of Health, or, the Board of Health may certify the amount of said expenses, together with a description of the property to the County Treasurer, who shall enter the same upon the tax books as costs for removing a nuisance and said amount shall be collected as other taxes.

1.09 RODENT ATTRACTION. It is unlawful for any person to place, allow to be placed, or allow to remain any garbage, rubbish or trash in any structure or on any property so that the same may afford food or harborage for rodents.

- 1.10 RAT HARBORAGE.** It is unlawful for any person to permit to accumulate on any property any articles or materials that may constitute a rodent harborage. Such articles or materials shall be placed on racks that are elevated not less than eighteen (18) inches above the ground and evenly piled or stacked.
- 1.11 RODENT CONTROL.** Upon receipt of a written notice or order from the Board of Health, the owner of any property specified therein shall take immediate measures for rodent control. In the event such control measures are not instigated within the time designated, the Board of Health may instigate condemnation and destruction proceedings or proceed to abate the condition as outlined in the nuisance Sections 1.06 through 1.08.
- 1.12 INTERFERENCE WITH ENFORCEMENT.** No person shall interfere with members of the Board of Health, the County Environmental Health Officer (Sanitarian) or peace officers in the discharge of any duty imposed by law or the regulations of the Board of Health.
- 1.13 RIGHT TO ENTER PREMISES.** The Board of Health or the County Environmental Health Officer (Sanitarian), or his designee, may enter any building, property, or other place for the purpose of examining any possible nuisance, source of filth, source of sickness or health hazard. In case any member of the Board of Health or the County Environmental Health Officer (Sanitarian) shall be refused entry to any place, complaint may be made under oath to any court of competent jurisdiction and said court shall thereupon issue its order authorizing any member of the Board of Health or the County Environmental Health Officer (Sanitarian) to enter such place.
- 1.14 APPEAL.** Any person who feels aggrieved by any notice or order made by the Board of Health or the County Environmental Health Officer (Sanitarian) shall have the right to appeal to the Board of Health at the next regular meeting of the Board of Health. The Board of Health by majority vote shall modify, withdraw or order compliance with said order.
- 1.15 SPECIAL PENALTY.** Any person who violates any of the provisions of this chapter may be prosecuted as a civil infraction under the provisions of Iowa Code Section 331.307 (2004) and may include a \$750 fine for each day the violation is in place or by imprisonment of not more than thirty (30) days. In addition thereto, such persons may be enjoined from continuing such violations. Each additional day of neglect or failure to comply with such provision, rule or lawful order after notice of violation by the Board of Health shall constitute a separate offense.

MADISON COUNTY, IOWA

HEALTH REGULATIONS

CHAPTER 2

ON-SIGHT WASTEWATER TREATMENT AND DISPOSAL SYSTEMS

2.01	Definitions	2.05	Wells
2.02	General Requirements	2.06	Variances
2.03	Permit Requirements	2.07	Appeal
2.04	Inspection	2.08	Special Penalty

2. 01 DEFINITIONS. All terms defined in chapter 69, On-Site Wastewater Treatment and Disposal Systems, of the Iowa Administrative Code 567, Environmental Health, and Chapter 2, General Environmental Health Regulations of the Madison County have the same definitions in this regulation. Additionally, the following terms are defined:

1. **“Board of Health”, “Board”.** Unless otherwise specified herein, all references herein to “Board of Health” refer to the Madison County, Iowa, Board of Health, or a subsequent district board of health for Madison County, as duly appointed and functioning pursuant to Chapter 137 of the Iowa Code.
2. **“County Sanitarian”** means the Madison County Environmental Health Officer.
3. **“Department”** means the Iowa Department of Natural Resources.
4. **“Failed System”** A failed system is one which by any deficiency, whether by design, operation, or maintenance, whether caused by abuse or interference of any nature or other reason, after receiving a permit to operate, subsequently fails to meet one or more of the criteria under which the permit was granted.
5. **“Nuisance”** means whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. his includes all definitions in Section 657.2 of the Code of Iowa.
6. **“On-site Wastewater Treatment and Disposal System”** means all equipment and devices necessary for the proper conduction, collection, storage, treatment and disposal of wastewater from a dwelling or other facility.
7. **“Public Sewer”** means a wastewater treatment and disposal facility owned and operated by a corporate public entity such as a City or sanitary sewer district.

8. **“Registered professional engineer,” “engineer”.** Unless otherwise specified herein, all references herein to “Registered professional engineer” or “engineer” are to a person who, by education and degree obtained thereby, and by subsequent licensing has displayed his or her qualifications to make recommendations for the design of an on-site waste water treatment and disposal system.
9. **“Surface discharging system”.** A “surface discharging system” is an on-site wastewater treatment system that by approved design and approved installation is intended and does discharge effluent from the system to the surface of the ground or into a waterway.

All terms defined in Chapter 69.3(1) of the Iowa Administrative Code 567 have the same definitions in this chapter.

2.02 GENERAL REQUIREMENTS.

1. **Discharge Restrictions.** It is prohibited for any household drainage and/or sewer to discharge to any ditch, stream, lake, pond, natural or artificial waterway, County drain tile, surface water drain tile or to the surface of the ground. Such waste material shall be disposed of in such a sanitary manner as is prescribed by this chapter.
2. **State Code Adopted.** All on-sight wastewater treatment and disposal systems located in the County, shall be constructed and equipped in accordance with the specifications and requirements set forth by the Department in the most current edition of the Iowa Administrative Code 567, Chapter 69, and to such additional requirements as are prescribed by the regulations of the Board of Health.
3. **Amendments to Chapter 69.** The following deletions, modifications, and/or amendments are hereby made to Chapter 69 of the Iowa Administrative Code 567:
 - A. The following is added to Section 69.5(1) Septic Tanks – General requirements:
 - d. **Abandonment.** Any septic tank, which is abandoned, shall be pumped, pierced through the bottom, and filled with sand or fill dirt.
 - B. The following is added to Section 69.8(1) Individual Mechanical Aerobic Wastewater Treatment Systems – General requirements:
 - f. The owner shall keep written records of maintenance performed (back washing, pump repair, etc.) and these shall be available to the administrative authority upon request.

- g. Sampling of the effluent at the discharge point shall be conducted semiannually. Sample results for CBOD5 and Fecal Coliform shall be submitted to the Madison County Environmental Sanitarian Office. Administrative authority may require other testing
 - h. A maintenance contract with a firm approved by the manufacturer of the unit, for the proper servicing of the unit, shall be in force for the life of the unit. A copy of each year's contract shall be recorded in the office of the Madison County Recorder with a property reference to the subject property.
4. **Permit Required.** No person shall begin construction or repair of any on-sight wastewater treatment and disposal system for any purpose in the County without first having obtained a permit as set out in this chapter. The permit for installation of the on-sight wastewater treatment and disposal system shall be obtained prior to the construction of or addition to any dwelling or building to be served by this system.
 5. **Alteration Requires Compliance.** No person shall begin construction, reconstruction, alteration or repair of any on-sight wastewater treatment and disposal system until the owner has complied with all of the applicable regulations of the Board of Health and the Department.
 6. **Connection to Public Sewer.** No on-sight wastewater treatment and disposal system shall be installed when a public sewer is reasonably accessible, as determined by the Board of Health.
 7. **Update of Failed Systems.** In the event an on-sight wastewater treatment and disposal system should fail, or otherwise be found to cause a nuisance, said system shall be made to conform to these regulations. If subject system is not made to conform to the aforementioned regulations, habitation of the contributing structure shall be discontinued.
 8. **Prohibited Wastes.** Septic tanks shall not be used for the disposal of any water, which is not considered "sewage wastewater" as defined in Chapter 69 I.A.C.
 9. **System Verification Required.** No person shall begin construction of any building as defined in the Madison County Zoning Ordinance, without first having verified an existing compliant on-sight wastewater treatment and disposal system exists on the property where the construction is proposed. The verification of the on-sight wastewater treatment and disposal system shall be reviewed and approved by the Zoning & Environmental Health Office.

2.03 PERMIT REQUIREMENTS.

- 1. Permit Application.** Any person desiring a permit must file with the Environmental Health Officer, an application stating the owner's name, current mailing address, phone number and other information as required by the Board of Health on the most current application form available at the office of the Environmental Health.
- 2. Engineering recommendation required.** Application for a permit to construct, reconstruct, or alter a private on-site wastewater treatment and disposal system, or any subsystem thereof, shall also include the recommendations of a certified registered professional engineer, which shall include the results of a professional soil analysis or soil percolation test. Such recommendation shall comply with preferences for certain systems as otherwise set forth in the Iowa State Code, the Iowa Administrative Code, and these regulations.

If the proposed design is for a surface discharge onto or over another's property, the application shall contain a copy of the easement(s) required in the state code or administrative code.

- 3. Sketch Required.** The application must also include a sketch of the property with approximate dimensions showing the dwelling served, the location of any wells and ground source water on the property, the location of any wells and ground source water on neighboring property which might be affected by the system, the location of any streams, ponds and ravines, and the location of easements, if easement is required for discharge across another's property, as well as a sketch of the proposed system to be installed. Any deviation from the plans or specifications appearing on the application must be approved by the original design engineer, submitted in writing by amendment to the application and be approved in writing by the Environmental Health Officer pursuant to law and ordinances, as if an original application. Amendments do not require re-submitting the original permit fees, but may bear additional fees conforming to the type of system sought in the amendment. If the application is for a surface discharging system, the sketch shall annotate the location and distance to any Class A waterway within 1 miles of the proposed system.
- 4. Maintenance Contract Required.** Owners of On-site Wastewater Treatment and Disposal Systems that are required by State Code or County Regulation to have a maintenance contract for such system shall sustain a maintenance contract at all times. Such maintenance contract shall provide for the required periodic maintenance of such system, together with the periodic testing required of such systems. The maintenance contractor shall perform the required maintenance and testing, reporting such testing and maintenance to the Environmental Health Officer. The maintenance contractor shall report any lapse in maintenance contract to the Environmental Health Officer. Failure to sustain a maintenance contract or failure to have the required periodic maintenance performed shall cause the Environmental Health Officer to

deem the system a failed system, and take steps to abate the nuisance caused thereby. The Environmental Health Officer may, for good cause documented, waive the maintenance contract requirement for systems not required by State law to maintain a maintenance contract. The maintenance shall, at a minimum:

1. Periodically, as required, test the quality of the discharge effluent in accordance with provisions of Chapter 69 of Title 567 of the Iowa Administrative Code.
2. Ensure the level of sludge in the septic tank and ensure the integrity of the tank are adequate to ensure the continued proper operation of the system.
3. Ensure the operational integrity of any safety features on the system.
4. Perform maintenance in conformity with all the manufacturer's instructions of all components of the wastewater treatment system, ensuring proper operation and maintenance of any and all components of the system, including in-line filters in the system. Perform any cleaning or pumping of the system that is appropriate. If sludge has collected in the tank to interfere with the operation of the system, the sludge shall be pumped out, reducing the level of sludge to a level that will ensure continuous proper operation.

The entity performing the maintenance shall report to the Environmental Health Officer that the maintenance and testing was accomplished. The report shall include a description of deficiencies noted, corrective action taken, and notation of deficiencies not corrected at that maintenance visit.

5. **Sanitarian to maintain records.** The County Sanitarian shall maintain records of the maintenance contracts, sampling reports, and systems requiring such contracts or reports. The County shall maintain a system to enforce codes and ordinances, in consonance with the IDNR, upon those that fail to maintain maintenance contracts, and shall monitor the results of maintenance and tests to ensure that testing and proper maintenance visits are according to the requirements of the law.
6. **Manufacturer recommended safety devices.** All devices which are a part of an on-site wastewater treatment system which are equipped or recommended to be equipped with alarms or other safety devices, the purpose of which is to ensure the safe or intended operation of the device in all respects, including environmental, shall have such alarms installed in such a manner as to ensure their adequate visibility/audibility and function. Alarms shall be both audible and visible. All wiring for safety features must be underground rated, or installed in conduit. Proper operation of safety devices shall be checked and ensured at each maintenance visit or inspection, and proven before an operational permit or occupancy permit is granted. Failure of an installed or recommended safety device is cause for declaration of a failed system.
7. **Fee Requirement.** Upon approval of the application by the Environmental Health Officer, the permit will be issued upon payment of the required applicable fees made payable to the County Treasurer's Office.

8. Fees.

Time of Sale Inspection	\$250.00
New & Replacement System Permit and Inspection	\$150.00
Sand filter (includes 2 inspection visits)	\$200.00
Revised System Permit and Inspection	\$100.00
Follow-up and re-inspections	\$ 75.00
Illegal or Failed System investigation	(up to) \$ 75.00

Annual On-Site Wastewater Operational Permit for all surface discharging systems, (Includes the cost of a physical on-site inspection every 3 years) and samples determined necessary and taken by the Environmental Health Officer will be charged to the property owner with laboratory rates in addition to the fee indicated. \$ 50.00

An additional fee of \$25.00 shall be charged annually for each additional system on the same property.

9. Permit Posted. The permit must be maintained on the site before and during construction.

10. Valid Period. Permits shall have validity for a maximum of one (1) year from the time of issuance, during which time the on-site wastewater treatment and disposal system shall be completed.

11. Prohibited Wastes. Septic tanks shall not be used for the disposal of any water which is not considered “sewage wastewater” as defined in Chapter 69 I.A.C.

12. Surface Discharging Tests. All On-Site Wastewater Treatment Systems that pass through a secondary treatment to surface discharge must have a valid NPDES permit and meet the minimum standards of the NPDES permit and I.A.C. 567 Chapter 69. All surface discharging systems will be tested as indicated below and test results provided to the Environmental Health Office no later than the dates indicated.

Type System	Required Test	Number of Tests Required per year	Test Results Due Date
Mechanical Systems & Open Access Sand Filters	CBOD ₅ & TSS	1 each	Apr 30
	CBOD ₅	1	Oct 31
Subsurface Sand Filters	CBOD ₅ & TSS	1 each	Jun 1
Peat Filters	CBOD ₅ & TSS	1 each	Jun 1
Constructed Wet Lands	CBOD ₅ & TSS	1 each	Apr 30
	CBOD ₅	1	Oct 31

In addition to the above testing requirements, all surface discharging systems within one mile of Class “A” waters will require Fecal Coliform Bacteria test results for each test period. All tests are to be taken within the 30 days prior to the specified test due dates. If test results are not received within 15 days of the due date the Environmental Health Officer will take the required tests. Actual cost of testing will be charged to the system owner along with an administrative fee of \$200.00. This test will **not** relieve the homeowner from any contractor requirements as specified by IAC 567 Chapter 69 or Madison County Health Regulations.

2.03 INSPECTION AND INSTALLATION.

1. Applications

- a.** Upon a home owner/contractor/developer application for a permit to install, construct, reconstruct, alter or repair a system, or sale of real property, the Environmental Health Officer inspects the application, ensuring that:
 - A qualified septic contractor is slated to install the system
 - The system plan conforms to the engineer’s recommendations;
 - The engineer has given preference to sand filters, if consideration is given to alternative systems or constructed wetlands (and has specified why the site is unacceptable for a full-sized soil absorption;
 - The system plan meets engineering requirements of the code, e.g. that the soil loading rates are adequate for the plan, that the seasonal high groundwater table has adequate separation from the disposal system, the soil type and compaction (not in “fill” dirt) etc.;
 - Application includes drawing, description, required information;
 - The required fees for the proposed system are attached (and valid);
 - Copies of any easements, if required, are attached;
 - Verifies the distance to class “A” waterways, if a discharging system is proposed;
 - Verifies the plan to protect wells and potential for contamination of groundwater if present;
 - The Environmental Health Officer, if so deemed necessary, conducts a site evaluation, physically viewing the site and evaluating the permit against the actual topography of the site.
 - The Environmental Health Officer ensures that if the system is proposed as a surface discharging system to discharge over another’s property that the requirements of easement are proven.

- b. The Environmental Health Officer notifies the applicant that the proposal does or does not meet criteria for approval. If the proposal meets criteria for approval, the EHO issues a permit for the installation/repair/correction of the system, and the plan may proceed to installation. If the proposal does not meet the initial review criteria, the application is rejected. The EHO shall inform the applicant of the reason for rejection. A rejected application may be revised and resubmitted.

2. Installation

- a. Work of any kind on an on-site wastewater treatment system may only be done by a qualified septic contractor unless other arrangements are made. For the purposes of pumping a septic system, or hauling sludge from a pumped septic system, a state of Iowa licensed contractor may perform such duties pursuant to State licensure.
- b. The septic contractor shall install, construct, reconstruct, alter or repair the system to the specifications of proposal as contained in the application.
- c. Should the proposed system require amendment due to unforeseen circumstances, the septic contractor shall ensure that the amended proposal is approved by the original design engineer, is submitted in writing to the EHO and approval in writing is received prior to installation of the amendment to the proposal.
- d. Upon anticipated completion of the work, an inspection shall be scheduled with the EHO. The contractor shall notify the EHO at least 24 hours before the time the contractor is requesting the inspection and shall be at the convenience of the EHO.
- e. All work shall be left uncovered and open for inspection by the EHO. All contact with the EHO shall be during regular office hours of the County.
- f. Systems requiring periodic inspection, maintenance, sampling, or testing shall be constructed with adequate inspection, sampling, maintenance, or observation access ports to allow readily availability of such parts of the system as shall indicate access thereto. Sand filters will be constructed with an observation port to allow inspection of the in-flow to the filter, as well as the out-flow, if other observation of the status of the filter media is not provided.

- 3. **Inspection.** The Sanitarian shall inspect the work on site in a timely manner, ensuring that the installation is as approved for the proposed system. The Environmental Health Officer inspects work to ensure that the system that is installed is as presented in the application, verifying the type of system, the depth of the installation, and ensuring that other engineering criteria are met (not in fill dirt, etc.)

2.04 TIME OF SALE INSPECTION

1. Time of Sale Inspection

Purpose.

Illegal, nonconforming septic systems, discharging effluent to groundwater and drain tile systems can cause serious health and financial risks to citizens. Elimination of non-conforming, illegal septic systems creates a healthier environment. Inspection of on-site wastewater treatment systems shall be conducted prior to the sale of any land where there is any existing sewage or on-site wastewater treatment system, unless one of the exemptions set forth below applies.

Inspection of on-site wastewater treatment systems at the time of real estate sale provides assurance to the citizens at large, as well as to the purchaser of the real estate, that the system conforms to the required standards. Requiring disclosure and remediation of non-conforming, illegal systems at time of sale reduces health risks and demonstrates the conformity of the system.

2. Applicability.

The inspection shall determine whether the system conforms to the applicable standards as set forth in the Madison County Board of Health Regulations as well as the Iowa Administrative Code 567, Chapter 69. Systems which do not conform to all applicable standards are declared “failed systems” and must be brought into conformity.

3.Procedure.

The seller, grantor or conveyor shall make application, with a fee, for the time of sale inspection with the Environmental Health Officer (EHO).

- (a) The seller, grantor or conveyor shall have the septic tank pumped prior to the inspection by the EHO or qualified contractor to allow inspection of the interior of the septic tank. The septic tank shall be uncovered to allow the EHO or qualified contractor to inspect the interior of the tank to verify that all baffles are intact and working properly. If the septic tank has been pumped and visually inspected by a qualified septic contractor, or by the EHO, within 3 years of the time of application, and documentation of the results of that inspection are provided to the EHO, then the pumping of the septic tank may be waived.
- (b) The seller, grantor or conveyor shall have the distribution box uncovered to allow inspection by the EHO or qualified contractor for speed levelers and to verify that all laterals are accepting effluent.

3.Procedure (continued)

- (c) The seller, grantor or conveyer shall have a mechanical aerobic unit uncovered to allow inspection of the interior of the tanks, including pre-tanks, sand filters and any other components.
- (d) The seller, grantor or conveyer shall have a surface discharging system uncovered to allow inspection of the inlet and outlet.
- (e) The seller, grantor or conveyer shall ensure that the property is inspected prior to the closure of the sale. The inspection report shall state what remedial action, if any, shall be required. If remedial action is required, the seller shall promptly inform the EHO as to which party shall perform the remedial action.
- (f) The seller, grantor or conveyer shall notify the EHO of the inspection request by telephone or in person, between the hours of eight o'clock (8:00) a.m. and four-thirty o'clock (4:30) p.m. Monday through Friday. The request shall be made at least eight (8) working hours before the inspection is to take place.

4. Failed System

If the on-site wastewater treatment system is determined by such inspection to not meet the appropriate standards for the system, the system shall be declared a "failed system" and the provisions of section 2.02 (7) shall apply. A system shall be considered a "failed system" if it does not meet the standards as required and set forth in the Madison County Health Regulations and the Iowa Administrative Code 567 Chapter 69. Once declared a "failed system", to be approved for use, the system must meet all standards in effect at the time of repair, replacement or alteration.

5. Procedure When Conditions Prevent Conformity Prior To Sale

- (a) The property owner acknowledges the system is a "failed system".
- (b) Application for a legal system must be submitted with a completed percolation test.
- (c) An estimate for a new system shall be submitted.
- (d) An escrow account shall be established to cover the cost of the new system.
- (e) The new system must be installed and inspected within 6 months of the establishment of the escrow account.
- (f) Only after the installed system is inspected and found to be conforming shall the escrow account funds be released.

6. Waiver

- (a) If the EHO has on file documentation, or is provided documentation that evidences the adequacy of the existing system, the EHO may waive the requirements of this section.
- (b) If the transfer of the property falls under any of the following exemptions, the transfer shall be exempt and the requirements of this section shall be waived:

Qualifying Exemptions

- (1) Any deed given in fulfillment of a recorded real estate contract, provided that the deed has on it a notation that it is given in fulfillment of a recorded real estate contract, and provided that the requirements for inspection at the time of transfer were satisfied at or about the time that the recorded real estate contract was recorded, which was at a time prior to the effective date of these rules.
- (2) Any deed transferring distributions of assets to heirs at law or devisees under a will.
- (3) Any transfer when a property is “gifted” from one party to another party without valuable consideration.
- (4) Any transfer where the State of Iowa, or any agency, instrumentality, or governmental or political subdivision thereof is the grantor, assignor, transferor, or conveyor, and also where such a unit of government is the grantee or assignee.
- (5) Any deed which secures a debt or other obligation, except those included in the sale of real property.
- (6) Any deed given to release a security interest in property, rather than the sale of real estate.
- (7) Any deed given without additional consideration to confirm, correct, modify or supplement a deed previously recorded.
- (8) Any deed between husband and wife, parent and child or stepchild, without actual consideration, or where the only consideration is cancellation of indebtedness existing between family members.
- (9) Any deed granted as a tax deed
- (10) Any deed granted as a sheriff’s deed
- (11) Any deed granted for acquisition of lands by deed or contract for public purposes through an exercise of the power of eminent domain.
- (12) Any deed granted for the conveyance of real property, or an interest in such property, between spouses, or former spouses, mandated by a dissolution of marriage decree or similar court order.
- (13) Deeds of partition where the interest is conveyed without actual consideration.
- (14) Deeds granted for the conveyances of easements.
- (15) Any deeds granted for conveyances of real property to lienholders in lieu of forfeiture or foreclosure actions.
- (16) Deeds executed by public officials in the performance of their official duties.
- (17) Any deed where the consideration is five hundred dollars or less.

7. Fees

If the Environmental Health Officer conducts the inspection, there shall be a fee in the amount of \$250 dollars charged for the initial inspection. An additional fee of \$75.00 shall be charged for any and all follow up inspections that may be required. Any and all applicable permit and permit inspection fees for a “failed system” shall be in addition to the above listed fees.

- 2.05 WELLS** If an on-site wastewater treatment and disposal system is to be constructed, reconstructed, altered or repaired and a well is located less than the minimum distance as set out in the Iowa Administrative Code 567, Chapter 69.3 (2), the well must be abandoned and properly plugged. The well must be plugged according to rules established in the Iowa Administrative Code 567, Chapter 39, “Requirements for Properly Plugging Abandoned Wells.”
- 2.06 VARIANCES.** Variances to these regulations may be granted by the Board of Health provided sufficient and proposed alternative information is afforded to substantiate the need and propriety for such action. Variances shall be requested in writing and addressed to the Board of Health. All decisions regarding this topic shall be issued in writing to the requester.
- 2.07 APPEAL.** Any person who feels aggrieved by any notice or order made by the County Sanitarian or the Board of Health shall have the right to appeal to the Board of Health at the next regular meeting. The Board of Health, by majority vote, may modify, withdraw or order compliance with said notice or order.
- 2.08 SPECIAL PENALTY.** Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment of not more than thirty (30) days. Each additional day of neglect or failure to comply with such provision, rule or lawful order after notice of violation by the Board of Health shall constitute a separate offense.

CHAPTER 3

DANGEROUS BUILDINGS

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|-----------------------------------|--------------------------|
| 3.01 Enforcement Officer | 3.05 Conduct of Hearings |
| 3.02 General Definition of Unsafe | 3.06 Posting of Signs |
| 3.03 Unsafe Building | 3.07 Right to Demolish |
| 3.04 Notice to Owner | 3.08 Cost |

3.01 ENFORCEMENT OFFICER. The Madison County Environmental Sanitarian shall be responsible for the enforcement of this chapter.

3.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitutes a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, as specified in this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

3.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home specified in this chapter

1. **Collapse of Member.** Whenever any portion or member or appurtenance thereof is to fall, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
2. **Wind Resistance.** Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of twenty (20) pounds per square foot.
3. **Material Deterioration.** Whenever any portion thereof has cracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
4. **Various Inadequacies.** Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
5. **Manifestly Unsafe.** Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
6. **Exterior Walls.** Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
7. **Damaged Structurally.** Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children (b) a harbor for vagrants, criminals or immoral persons; or (c) as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
8. **Inadequate Maintenance.** Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

9. **Fire Hazard.** Whenever any building or structure because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal to be a fire hazard.
10. **Public Nuisance.** Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
12. **Abandoned.** Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

3.04 NOTICE TO OWNER Whenever the enforcement officer finds a building or structure or portion thereof dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer. (Code of Iowa, Sec 331.384)

1. **Notice Served.** Such notice shall be served by Certified Mail to owner of record, according to Section 331,384 [2] of the Code of Iowa. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the notice is sent.
2. **Hearing.** Such notice shall also advise the owner that he may request a hearing before the Board of Health on the notice by filing a written request for hearing within the time provided in the notice.

3.05 CONDUCT OF HEARING. If requested, the Board of Health shall conduct a hearing in accordance with the following:

1. **Notice.** The owner shall be served with written notice specifying the day, time and place of hearing.
2. **Owner's Rights** At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. **Determination.** The Board of Health shall make and record findings of fact and may issue such order as it deems appropriate.

- 3.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: “*DO NOT ENTER. UNSAFE TO OCCUPY. COUNTY OF MADISON, IOWA.*” Such notice shall remain posted until the required repair, demolition, or removal is completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.
- 3.07 RIGHT TO DEMOLISH.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Board of Supervisors may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Board of Supervisors. (Code of Iowa, Sec. 331.384)
- 3.08 COST.** Costs incurred under Section 3.07 shall be paid out of the County Treasury. Such costs shall be charged to the owner of the premises involved and levied as special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. (Code of Iowa, Sec 331.384)

CHAPTER 4

COUNTY INFRACTIONS

- 4.01 DEFINITIONS.** The following terms are defined:
- 1. “Civil Infraction”** A county infraction that is brought by the county in a civil proceeding, and upon which the possible sanctions are those allowed at civil law, but not including confinement, imprisonment or jail.
 - 2. “County Infraction”** A county infraction is a civil offense punishable by a civil penalty of not more than seven hundred fifty dollars for each violation or if the infraction is a repeat offense a civil penalty not to exceed one thousand dollars for each repeat offense, except for those provisions specifically provided for under state law as a felony, an aggravated misdemeanor, a serious misdemeanor or a simple misdemeanor under chapters 687 through 747 of the Code of Iowa, the commission of any act prohibited, or declared to be in violation, or an offense by this regulation, or any ordinances or amendments hereto, or the omission or failure to perform any act or duty herein required.
 - 3. “Repeat Offense”** means a recurring violation of the same section of these regulations. Each day that a violation occurs or is permitted to exist constitutes a repeat offense.

4.02 VIOLATIONS, PENALTIES AND ALTERNATIVE RELIEF.

It shall be unlawful to violate any provisions, amendments or supplements to this regulation adopted by the Madison County Board of Supervisors. Any person, firm or corporation found in violation of any provisions, amendments or supplements to this regulation, shall be guilty of a county infraction and a civil proceeding (civil infraction) may be filed as provided by the Iowa Code, and herein.

4.03 CIVIL INFRACTIONS.

1. Any officer authorized by Madison County to enforce a county code or regulation may issue a civil citation to a person who commits a county infraction. The citation may be served in the manner as provided in rules of civil procedure. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
 - a) The name and address of the defendant.
 - b) The name or description of the infraction attested to by the officer issuing the citation.
 - c) The location and time of the infraction.
 - d) The amount of civil penalty to be assessed or the alternate relief sought, or both.
 - e) The manner, location, and time in which the penalty may be paid.
 - f) The time and place of court appearance.
 - g) The penalty for failure to appear in court.

2. In proceedings before the court for a county infraction:
 - a) The matter shall be tried before a magistrate or district associate judge in the same manner as a small claim.
 - b) The county has the burden of proof that the county infraction occurred and that the defendant committed the infraction. The proof shall be by clear, satisfactory, and convincing evidence.
 - c) The court shall ensure that the defendant has received a copy of the charges and that the defendant understands the charges. The defendant may question all witnesses who appear for the county and produce evidence or witnesses on the defendant's behalf.
 - d) The defendant may be represented by counsel of the defendant's own selection and at the defendant's own expense.
 - e) The defendant may answer by admitting or denying the infraction.
 - f) If a county infraction is proven, the court shall enter judgment against the defendant. If the infraction is not proven, the court shall dismiss it.

3. If the person named in the citation is served as provided in this section and fails without good cause to appear in response to the civil citation, judgment shall be entered against the person cited.
7. A person against whom judgment is entered, shall pay court costs and fees as in small claims under chapter 631. If the action is dismissed, the county is liable for the court costs and court fees. Where the action is disposed of without payment, or provision for assessment, of court costs, the clerk shall at once enter judgment for costs against the county.
8. Seeking a civil penalty as authorized in this section does not preclude a county from seeking alternative relief from the court in the same action.
9. When judgment has been entered against a defendant, the court may do any of the following:
 - a. Impose a civil penalty by entry of a personal judgment against the defendant.
 - b. Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court.
 - c. Grant appropriate alternative relief ordering the defendant to abate or cease the violation.
 - d. Authorize the county to abate or correct the violation.
 - e. Order that the county's costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both.

If a defendant willfully violates the terms of an order imposed by the court, the failure is contempt. The magistrate or district associate judge shall have jurisdiction to assess or enter judgment for costs of abatement or correction in an amount not to exceed the jurisdictional amount for a money judgment in a civil action pursuant to section 631.1, subsection 1, for magistrates and section 602.6306, subsection 2, for district associate judges. If the county seeks abatement or correction costs in excess of those amounts, the case shall be referred to the district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appeal pursuant to section 631.13.

10. A defendant or the county may file a motion for a new trial or may appeal the decision of the magistrate or district associate judge to the district court. The procedure on appeal shall be the same as for a small claim pursuant to section 631.13. A factual determination made by the trial court, supported by substantial evidence as shown in the record, is binding for purposes of appeal relating to the violation at issue, but shall not be admissible or binding as to any future violation for the same or similar ordinance provision by the same defendant.

- 11.** This section does not preclude a peace officer of a county from issuing a criminal citation for a violation of a county code or regulation if criminal penalties are also provided for the violation. Each day that a violation occurs or is permitted by the defendant to exist, constitutes a separate offense.

- 12.** The issuance of a civil citation for a county infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or malicious prosecution.