

## Chapter 24.38

### ON-SITE WASTEWATER TREATMENT SYSTEMS

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#### **24.38.010 Purpose.**

The City Council finds that properly planned, constructed, installed, operated, and maintained on-site wastewater treatment systems:

- (a) Promote the health and welfare of the citizens of this city by preventing the pollution of ground and surface water;
- (b) Prevent nuisance;
- (c) Eliminate hazards to the public health by minimizing pollution of water supplies and hazards to recreational areas; and
- (d) Minimize disease transmission potential.

It is, therefore, declared to be the public policy of this city to eliminate and prevent health and safety hazards by regulating the design, construction, installation, operation, and maintenance

of on-site wastewater treatment systems, requiring registration of those who clean systems and dispose of wastes therefrom; and providing penalties for violations. (Ord. 17939 §1; November 26, 2001; prior Ord. 9150 §1; January 16, 1967).

#### **24.38.020 Definitions.**

**Certified professional** shall mean a private onsite wastewater treatment system professional certified under the Nebraska Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act to perform the tasks defined in Nebraska Title 124, Chapter 20, for which the certification has been issued.

**Chemical toilet** shall mean a portable structure containing toilet facilities which discharge into a holding tank containing bactericidal liquid.

**Cleaner** shall mean a person who removes and transports for disposal the contents, including sludge and septage, from on-site wastewater treatment systems, wastewater lagoons, or wastewater works as defined hereinafter or who hauls special or industrial wastes of a liquid nature or of a nature that it can be pumped.

**Community sewage system** shall mean a wastewater works.

**Department** shall mean the Lincoln-Lancaster County Health Department.

**Development area** shall mean an area of land subdivided into lots where an on-site wastewater treatment system will be used. Such subdivision shall include the dividing of an area of land into smaller areas to be sold, transferred, leased, rented, or allowed to be used for the purpose of constructing or locating a dwelling, or non-dwelling facility that generates wastewater.

**Domestic waste or domestic wastewater** shall mean human body waste and household type wastes including bath and toilet wastes, laundry wastes, kitchen wastes, and other similar wastes from a dwelling or a non-dwelling facility. Domestic waste or domestic wastewater does not include drainage from roofs; footing or foundation drains; process waste from any industrial, agricultural, or commercial establishment; automotive or industrial chemicals or petroleum products; kitchen waste or wastewater from a restaurant or food preparation facility; water carrying animal waste or commercial process water or wastewater; or similar waste.

**Ground water** shall mean water occurring beneath the surface of the ground that fills available openings in rock or soil materials such that they may be considered saturated.

**Health Director** shall mean the Director of Health of the Lincoln-Lancaster County Health Department or his or her authorized representative.

**Industrial wastes** shall mean wastewater not otherwise defined as domestic wastewater, including the runoff and leachate from areas that received pollutants associated with industrial or commercial storage, handling or processing.

**Lot** shall have the same definition of the term "lot" as set forth in Section 27.02.130 of the Lincoln Municipal Code.

**Non-standard on-site wastewater treatment system** shall mean a system which does not meet the requirements of design standards adopted pursuant to this chapter or generates over 1,000 gallons per day.

**On-site wastewater treatment system** shall mean any system of piping, treatment devices, or other appurtenances that convey, store, treat, or dispose of domestic or non-domestic wastewater, but not including wastewater from a livestock waste control facility, on the property where it originates, or on nearby property under the control of the user, where the system is not connected to a public sewer system. An onsite wastewater treatment system begins at the end of the building drain. A system using a lagoon is limited to a maximum design flow of 1,000 gallons per day to be

considered an onsite wastewater treatment system. The word “onsite” used in this Code is equivalent to the word “on-site.”

**Person** shall mean an individual, firm, partnership, company, corporation, trustee, association, organization, or other public or private entity.

**Privy or earth pit privy** shall mean a device or structure for the disposal of human excreta in a pit in the earth; the pit is covered by a structure affording privacy and shelter and containing a riser and seat.

**Septage** shall mean those solids and liquids removed during periodic cleaning of a septic tank.

**Sludge** shall mean the accumulated settled solids deposited from wastewater and containing water to form a semi-liquid mass.

**Standard on-site wastewater treatment system** shall mean a system which meets the requirements of this chapter and design standards and regulations adopted pursuant to this chapter.

**Tank** shall mean a watertight structure or container used to hold wastewater for such purposes as aeration, dilution, disinfection, equalization, mixing, sedimentation, storage, collection for transport, treatment, or addition of chemicals.

**Three-mile zone** shall mean that area within three miles of the corporate limits of the City of Lincoln.

**Wastewater lagoon** shall mean a shallow body of water in which organic wastes are decomposed by bacteria in the presence of free oxygen.

**Wastewater works** shall mean facilities for collecting, transporting, pumping and treating wastewater and the disposal of treated effluent and sludges.

**Waters of the state** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, water courses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground natural or artificial, public or private, situated wholly or partly within or bordering upon the state. (Ord. 20134 §1; January 12, 2015: prior Ord. 18628 §1; October 17, 2005: Ord. 17939 §2; November 26, 2001: Ord. 16468 §1; September 13, 1993: Ord. 11430 §1; August 11, 1975: Ord. 9150 §2; January 16, 1967).

#### **24.38.030 Requirements for On-site Wastewater Treatment Systems.**

Minimum requirements are hereby prescribed in this chapter together with standards and regulations adopted pursuant to this chapter governing the design, construction, installation, operation, and maintenance of on-site wastewater treatment systems. All standards and regulations for the design, operation and maintenance of on-site wastewater treatment systems referred to herein shall be filed with the City Clerk. Except as hereinafter provided by specific amendment, the standards and regulations set forth in Neb. Rev. Stat. §§ 81-1505(8), and Nebraska Department of Environmental Quality, Title 124 Rules and Regulations For The Design, Operation and Maintenance of Onsite Wastewater Treatment Systems chapter 1, chapters 5 through 19, and chapter 20 sections 001 to 006, as amended from time to time, are hereby adopted by reference and incorporated into Chapter 24.38 of the Lincoln Municipal Code. No person shall construct an on-site wastewater treatment system on a property which is less than three (3) acres in size. No person shall construct, alter, extend, operate, or clean any on-site wastewater treatment system within the City of Lincoln or the three-mile zone contrary to the provisions of this chapter or design standards adopted pursuant to this chapter; no privies shall be constructed or installed for use after the effective date of the ordinance codified in this chapter. Any on-site wastewater treatment system that does not conform to the requirements of this chapter and design standards adopted pursuant to this chapter

shall be designed by a Master Installer as defined by Title 124 of the Nebraska Administrative Code or a Professional Engineer (P.E.) licensed in the State of Nebraska. (Ord. 20134 §2; January 12, 2015; prior Ord. 17939 §3; November 26, 2001: Ord. 9150 §3; January 16, 1967).

**24.38.040 On-site Wastewater Treatment Systems; Construction Permit; Alteration Permit.**

No person shall construct a new on-site wastewater treatment system or cause the same to be done without an on-site wastewater treatment system construction permit issued by the Health Director. No person shall resize or alter the dike of a lagoon, replace tanks, soil absorption, infiltrative or evaporative systems, or extend the laterals to an existing system or cause the same to be done without an on-site wastewater treatment system alteration permit issued by the Health Director. An alteration permit shall not be required for a repair as defined in this chapter.

(a) Application for a permit to construct or alter an on-site wastewater treatment system shall be submitted to the Health Director on forms furnished by the Health Director and shall include information as required by Section 4 of the design standards, information specified in the application form, and any other necessary information to determine whether the construction, alteration, or extension will conform to the provisions of this chapter and the design standards adopted pursuant to this chapter. The application shall include evidence to demonstrate to the satisfaction of the Health Director that there is no community sewer (wastewater works) or other part of the community sewage system within 300 feet of such building or premises into which the sewage can be discharged.

(b) When, upon review of the application, the Health Director determines that the proposed design meets the requirements of this chapter and all applicable fees have been paid, a written construction or alteration permit shall be issued.

(c) The on-site wastewater treatment system must be constructed according to the Health Director approved design.

(d) When, upon review of the application, the Health Director determines the proposed design does not meet the requirements of this chapter, or soil or geological conditions are such as to preclude safe and proper operation of the desired installation or installations, a construction or alteration permit shall be denied.

(e) A construction or alteration permit shall be valid for one year after the date of issuance. A construction or alteration permit can be extended for a period of six months with the payment of applicable fees. (Ord. 20134 §3; January 12, 2015; prior Ord. 17939 §4; November 26, 2001: Ord. 12368 §1; August 28, 1978: Ord. 9150 §4; January 16, 1967).

**24.38.041 Requirements for Certification to Construct On-site Wastewater Treatment System.**

No person other than a Certified Professional who holds a valid registration certificate issued by the Health Director or a person under their direct supervision may engage in the inspection, pumping, siting, layout, construction, reconstruction, alteration, modification, closure or otherwise changing of an onsite wastewater treatment system. (Ord. 20134 §4; January 12, 2015; prior Ord. 18628 §2; October 17, 2005: Ord. 17939 §5; November 26, 2001).

**24.38.043 Registration of Certified Professionals; Application.**

Application for a certificate of registration of a Certified Professional shall be made to the Health Director on forms furnished by the Health Director for such purpose. Such forms shall require the name, address, business address, daytime phone number of the applicant, which

certificate of registration the applicant is applying for, and such other relevant information as may be required by the Health Director. The applicant shall complete the required forms. (Ord. 20134 §5; January 12, 2015: prior Ord. 18628 §4; October 17, 2005: Ord. 17939 §7; November 26, 2001).

#### **24.38.044 Registration of Certified Professionals; Requirements.**

(a) Before a registration certificate shall be issued, the applicant, after October 1, 2002, shall be required to satisfactorily complete a training and testing program approved by the Health Director to determine their qualifications and fitness for executing the work to be performed by a Certified Professional. The Health Director shall issue a registration certificate if:

- (1) The applicant has properly completed the required application forms;
- (2) The registration fee has been paid pursuant to Section 24.38.070;
- (3) The training and testing program has been satisfactorily completed;
- (4) The applicant agrees to up-date all pertinent registration data as it changes, including applicant's address, business address, daytime phone number, and such other information as the Health Director requires.

(b) Once issued, said registration certificate shall be valid for two years from its date of issue, except that the certificate may be revoked as provided for in Section 24.38.045. (Ord. 20134 §6; January 12, 2015: prior Ord. 18628 §5; October 17, 2005: Ord. 17939 §8; November 26, 2001).

#### **24.38.045 Certification of Registration; Revocation.**

(a) The Health Director, after conducting a hearing as herein provided, shall have the power to revoke the certificate of registration of a Certified Professional registered pursuant to this title if the same was obtained by error or fraud, or if the holder thereof is shown to be no longer qualified, or if such holder fails to comply with the provisions of law.

(b) Where the Health Director has reason to believe a revocation of a Certified Professional certificate of registration is warranted, the Health Director may serve written notice as follows:

- (1) By personal service to the Certified Professional, or
- (2) By certified mail, postage prepaid, return receipt requested to the Certified Professional's last known business address.

(c) The person making personal service may provide a written declaration under penalty or perjury identifying the person served and the time, date and manner of service as proof of service.

(d) The notice shall set forth a time, place and date for said hearing before the Health Director and shall identify the facts alleged to constitute revocation of the certificate of registration

(e) The Health Director shall conduct hearings within ten days of the date of notice.

(f) The Health Director may appoint a suitable hearing officer to hear the matter. Such hearing officer shall make recommendations based on the evidence adduced at the hearing for the Health Director's final determination of the matter.

(g) The hearing need not be conducted according to the technical rules of evidence relating to evidence and witnesses. At such hearing, the Health Director and all parties concerned may:

- (1) Call and examine witnesses on any matter relevant to the issues of the hearing;
- (2) Introduce documentary and physical evidence;
- (3) Cross-examine opposing witnesses on any matters relevant to the issues of the hearing; and
- (4) Rebut evidence.

The Health Director shall, within ten days after the hearing, render a final written decision, setting forth his or her findings and conclusions. If a certificate is revoked, holder of the same shall not apply for a new registration until one year after the date of such revocation. Decisions of the

Health Director are final and may be appealed to the District Court as provided by state law. (Ord. 20134 §7; January 12, 2015; prior Ord. 18628 §6; October 17, 2005: Ord. 17939 §9; November 26, 2001).

**24.38.050 Inspections.**

It shall be the duty of the Certified Professional acting as a representative of the property owner to notify the Health Director when the installation is ready for inspection. The Health Director may make inspections during construction to determine compliance with this chapter. No part of any installation shall be covered until inspected or given approval by the Health Director. If any part of an installation has been covered prior to final approval, the Health Director may order it uncovered or require probing, excavation, or any other reasonable action necessary to assure the system meets the requirements of this chapter. Final written approval of the system as constructed or altered shall not be given until all pertinent data required has been submitted. (Ord. 20134 §8; January 12, 2015; prior Ord. 17939 §10; November 26, 2001: Ord. 16468 §2; September 13, 1993: Ord. 9150 §5; January 16, 1967).

**24.38.055 Annual Operating Permit for Non-Standard On-Site Wastewater System.**

(Repealed by Ord. 20134 §9; January 12, 2015; prior Ord. 17939 §11; November 26, 2001: Ord. 15241 §1; August 7, 1989).

**24.38.060 Cleaner's and Liquid Waste Hauler's Permit.**

No person shall engage in the business or the act of cleaning on-site wastewater treatment systems or similar waste facilities and community sewage systems, or hauling and disposing of the waste therefrom without a permit issued by the Health Director as provided below. In addition, no person shall engage in the business or the act of hauling or disposing of any liquid waste or waste of a nature that it can be pumped, including industrial wastes and wastewater, industrial wastewater, or special waste, as defined in Section 17.58.010, without a permit issued by the Health Director. Any permit issued pursuant to this section shall not be transferable, shall be issued on an annual basis (all such permits expire on May 31 of each year) and shall remain in force upon payment of the annual fee so long as the registrant complies with the applicable requirements of this chapter. Any person may file an application for a permit under this section with the Health Director in writing upon forms provided for that purpose by the City. The Health Director shall issue such permit upon the completion and filing of such forms at the Health Department and upon compliance by the applicant with the terms and conditions of this section and any other applicable law. Failure of the registrant to comply with all the applicable requirements of this chapter shall be sufficient grounds for revocation or denial of such permit by the Health Director. No permit shall be granted to any such applicant until such applicant shall execute and file with the City Clerk a bond in the sum of \$500.00 with one or more sufficient sureties thereon to be approved by the City Attorney, which bond indemnifies and saves harmless the city from any damage or injury due to any act of such applicant. At all times the permittee shall act in accordance with the following requirements:

(a) The name, address and permit number of the permittee shall be legibly lettered with not less than three-inch high letters on the cab doors on both sides of each vehicle used for permitted purposes.

(b) Every vehicle used in conjunction with the activities for which a permit has been issued shall be suitably equipped for the safe transport and disposal of the applicable waste. Tank trucks or vehicles shall be equipped with a completely enclosed watertight tank or body and be maintained

in a clean, well-painted, and sanitary condition and stored, when not in use, in a building provided for that purpose. Sewage wastes shall not be transported in an open-body vehicle. All tanks on vehicles shall be cleaned immediately following each use.

(c) All tanks, pumps, hose lines, containers, and other appurtenances shall be maintained and secured at all times so as to prevent rupture, damage, or leakage.

(d) The permittee shall obtain approval from the Health Director for every site at which the permittee plans to dispose of the waste material collected. Such approval may be in the form of a valid special waste permit. Waste material collected by the permittee shall not be discharged into ditches, watercourses, lakes, ponds, or at any point where it can pollute any water supply, recreation area, or where it may create a nuisance or health hazard.

Any person authorized by Lancaster County to engage in activities otherwise requiring a permit under this section shall not be required to obtain a separate permit. (Ord. 17939 § 12; November 26, 2001: prior Ord. 16468 §3; September 13, 1993: Ord. 11430 §2; August 11, 1975: Ord. 9150 §6; January 16, 1967).

#### **24.38.070 On-Site Wastewater Treatment Facilities; Fees.**

(a) The City Council may, by resolution, from time to time establish or revise fees for the following:

- (1) On-site wastewater treatment system construction permit fee
- (2) On-site wastewater treatment system alteration permit fee
- (3) Cleaner's permit  
(This permit is issued on an annual basis, expires on May 31 of each year, and is renewable on payment of the annual fee and demonstrated compliance with the requirements of this chapter. )
- (4) Any person who secures a registration certificate pursuant to this chapter, including a Certified Professional
- (5) Permit Extension Fee
- (6) Variance Fee
- (7) Reinstatement Fee
- (8) Development area review fees

A base fee and a per lot fee shall be paid for Health Director review of any development area.

(b) All fees are payable to the Lincoln-Lancaster County Health Department and shall be credited to the Health Fund. No fees will be refunded. (Ord. 20134 §10; January 12, 2015: prior Ord. 20078 §1; August 18, 2014: Ord. 19938 §1; October 21, 2013: Ord. 19789 §1; October 8, 2012: Ord. 19612 §1; September 12, 2011: Ord. 19449 §1; September 13, 2010: Ord. 19301 §1; September 14, 2009: Ord. 19142 §1; September 15, 2008: Ord. 18985 §1; August 27, 2007: Ord. 18801 §1; September 18, 2006: Ord. 18628 §7; October 17, 2005: Ord. 18598 §10; August 22, 2005: Ord. 17939 §13; November 26, 2001: Ord. 17714 §5; August 14, 2000: Ord. 16468 §4; September 13, 1993: Ord. 15241 §2; August 7, 1989: Ord. 12368 §2; August 28, 1978: Ord. 11430 §3; August 11, 1975: Ord. 9150 §7; January 16, 1967).

#### **24.38.080 General Provisions.**

(a) Sewage from any building shall be discharged directly into the abutting community sewerage system when the system is available and within 300 feet from the building to the sewer system. Availability shall be determined by the community sewerage system owner or operator.

(b) When the conditions of (a) above do not exist, an on-site wastewater treatment system, except privies and the restricted use of chemical toilets, may be used.

(c) Whenever conditions change and the conditions of (a) above can be met, an on-site wastewater treatment system existing at that time shall be abandoned and the building or premises served shall discharge its sewage directly into the community sewerage system; such connection to the community sewerage system shall be accomplished in compliance with the Lincoln Plumbing Code and shall be completed within six months of the day the community sewerage system becomes available.

(d) Any person who abandons or discontinues the use of an on-site wastewater treatment system shall, within thirty days of the abandonment or discontinuance of use, have the contents of tanks or pits or such systems removed and disposed of in compliance with Section 17 of the design standards adopted pursuant to this chapter. Any part of a discontinued system shall be abandoned in such a manner as not to create a health or safety hazard. (Ord. 20134 §11; January 12, 2015: prior Ord. 19973 §11; December 16, 2013: Ord. 17939 §14; November 26, 2001: Ord. 9150 §8; January 16, 1967).

#### **24.38.090 Design Standards.**

On-site wastewater treatment systems shall be constructed, altered, or repaired in conformance with this chapter and the design standards adopted pursuant to this chapter governing the design, construction, operation, and maintenance of on-site wastewater treatment systems. (Ord. 20134 §12; January 12, 2015: prior Ord. 17939 §15; November 26, 2001: Ord. 13347 §1; March 29, 1982: Ord. 11430 §4; August 11, 1975: Ord. 9655 §1; December 9, 1968: Ord. 9150 §9; January 16, 1967).

#### **24.38.100 Chemical Toilets.**

Chemical toilets may be used only on a temporary basis under the following conditions or circumstances: when water-carriage systems are not available (such as construction projects, emergencies, or similar situations), and where there is no prohibitive ordinance.

When permitted, chemical toilets shall comply with the following constructional and operational details:

##### **(a) CONSTRUCTION DETAILS.**

(1) Provide a leakproof receiving tank of acid-resisting material with an opening easily accessible for cleaning.

(2) The bowl must be constructed of nonabsorbent material and be sufficiently elevated above the receiving basin.

(3) The tank and bowl shall be vented with at least a three-inch pipe, extending above the roof line of the superstructure.

##### **(b) OPERATIONAL DETAILS.**

(1) The facility shall be maintained in a sanitary condition so as not to create a health hazard or nuisance.

(2) The tank shall be recharged at proper intervals, with chemicals of a bactericidal nature and concentration.



(3) Contents of the chemical toilet shall be removed as often as may be required or whenever the contents are within six inches of the underside of the floor.

(4) Chemical toilet waste shall be disposed of in compliance with Section 24.38.360 of this chapter. Only persons holding a cleaner's registration certificate pursuant to this ordinance shall be allowed to collect and transport chemical toilet waste. (Ord. 20134 §13; January 12, 2015: prior Ord. 11430 §5; August 11, 1975: Ord. 9150 §10; January 16, 1967).

#### **24.38.110 Non-standard On-site Wastewater Treatment Systems.**

Other types of on-site wastewater treatment systems which do not meet the requirements of this chapter or the design standards adopted pursuant to this chapter, or which generate over 1,000 gallons per day, shall be reviewed and approved or disapproved by the Health Director. Information describing such other types of on-site wastewater treatment systems shall be submitted on application forms with all information as required in Section 24.38.040, and any additional information the Health Director deems necessary to determine if the on-site wastewater treatment system will treat sewage adequately to protect the public's health and safety, prevent nuisance conditions, and prevent pollution of air, land and waters of the state. The non-standard on-site wastewater treatment system shall be constructed according to the Health Director approved design. The Health Director may require, as a condition of approval, groundwater monitoring for any on-site wastewater treatment system if there is a significant potential for groundwater pollution. The Health Director may require, as a condition of approval, an operation and maintenance manual to insure proper operation of the on-site wastewater treatment system. The property owner shall operate and maintain his/her on-site wastewater treatment system in compliance with this chapter and design standards adopted pursuant to this chapter. (Ord. 20134 §14; January 12, 2015: prior Ord. 17939 §16; November 26, 2001: Ord. 9150 §11; January 16, 1967).

#### **24.38.120 Operation and Maintenance of On-site Wastewater Treatment Systems.**

On-site wastewater treatment systems shall be operated and maintained so as not to create a nuisance or a health hazard and not to pollute air, land, or water, including but not limited to the following: the emission of offensive odors, pollution of water supplies and recreational areas, pollution of groundwater, surface waters, or waters of the state, affording access to untreated sewage by insects, rodents, or humans; the unregulated discharge of sewage onto the ground surface. Any person responsible for violation of the conditions described herein shall be subject to the penalties hereinafter set forth. (Ord. 20134 §15; January 12, 2015: prior Ord. 17939 §17; November 26, 2001: Ord. 9150 §12; January 16, 1967).

#### **24.38.140 Inspections and Enforcement.**

The Health Director is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this chapter and the design standards adopted pursuant to this chapter.

Upon presentation of proper credentials issued by the Mayor, the Health Director may enter at reasonable times any building, structure, or premises in the city or within the three-mile zone to determine compliance with the requirements of this chapter, and it shall be unlawful for any owner or occupier of the premises or person in charge of the premises to deny right of entry to the Health Director to make such inspection.

Whenever the Health Director has reasonable grounds for believing that there has been a violation of this chapter or the design standards adopted pursuant to this chapter, the Health Director

shall give written notice to the person or persons alleged to be in violation. Such notice shall identify the provision of this chapter alleged to be violated and the facts alleged to constitute such violation. Should such violation create a nuisance or a health hazard, the Health Director may cause abatement of such conditions in accord with Lincoln Municipal Code Chapter 8.26, Nuisances. (Ord. 17939 §19; November 26, 2001; prior Ord. 9150 §14; January 16, 1967).

**24.38.160 Variance.**

Whenever it has been demonstrated to the Health Director that compliance with this chapter cannot be effectively and promptly made, the Health Director may grant a variance as provided in Section 3 of the design standards adopted pursuant to this chapter and after payment of applicable fees. (Ord. 17939 §21; November 26, 2001).

**24.38.170 Stop Orders.**

Whenever any on-site wastewater treatment system is being installed, replaced, extended or repaired contrary to the provisions of this chapter or design standards, the Health Director shall order the work stopped by notice served on any person or persons engaged in the doing or causing such work to be done, and any such work shall forthwith stop until the Health Director has authorized the work to proceed again. (Ord. 17939 §22; November 26, 2001).

**24.38.180 Revocation or Suspension of Permit.**

Any permit granted under this chapter shall be subject to revocation or suspension in the following manner:

- (a) The Health Director shall notify the property owner as provided in Section 24.38.220.
- (b) If the Health Director determines that the permit holder is in violation of this chapter or design standards adopted pursuant to this chapter, the Health Director may revoke the permit or the Health Director may suspend the permit for an appropriate period of time not to exceed ninety days.
- (c) The Health Director shall conduct the hearing in accordance with Section 24.38.190. (Ord. 17939 §23; November 26, 2001).

**24.38.190 Enforcement Hearings.**

(a) Unless this chapter provides otherwise, the Health Director shall conduct hearings allowed or required under this chapter as soon as practicable, but in no event later than:

- (1) Three (3) working days after a request for hearing under Section 24.38.200; or
- (2) Ten (10) working days after any other request.

(b) The Health Director may appoint a suitable hearing officer to hear the matter. Such hearing officer shall make recommendations based on the evidence adduced at the hearing for the Health Director's final determination of the matter.

(c) The hearing need not be conducted according to the technical rules relating to evidence and witnesses. The person requesting the hearing and the Health Director may:

- (1) Call and examine witnesses on any matter relevant to the issues of the hearing;
- (2) Introduce documentary and physical evidence;
- (3) Cross examine opposing witnesses on any matter relevant to the issues of the hearing; and
- (4) Rebut evidence.

(d) The Health Director may uphold, reverse, or modify the act or findings prompting the request or the Health Director may take such other reasonable action as the Health Director may determine proper related to the request.

(e) The Health Director shall make a final determination within ten (10) days after the hearing.

(f) The Health Director's decision shall be final and binding upon the City and upon the person making the request. The Health Director's decision may be appealed to the district court as provided by state law. (Ord. 17939 §24; November 26, 2001).

#### **24.38.200 Immediate Suspension.**

(a) The Health Director may suspend any permit issued under this chapter if the Health Director finds that a permit holder, installer, or other person in charge of constructing or operating an on-site wastewater treatment system is in serious violation of this chapter or permit conditions approved by the Health Director whereby such violation causes an imminent health hazard.

(b) The Health Director shall provide the notice required in Section 24.38.220. The suspension shall be effective immediately upon notice and the period of time shall not exceed 90 days.

(c) It shall be unlawful to operate or cause, permit or allow any permitted operations under a suspended permit after service upon the permit holder. (Ord. 17939 §25; November 26, 2001).

#### **24.38.210 Application for Reinstatement After Suspension.**

(a) Any person whose permit has been suspended may apply for reinstatement of such permit. The application shall include a statement signed by the applicant that the conditions causing suspension of the permit have been corrected.

(b) The Health Director shall inspect or review the application as for a new permit except that the Health Director shall make the inspection within three working days after receiving the application for reinstatement and the applicable fees.

(c) The Health Director shall reissue the permit if the conditions causing suspension of the permit have been corrected. The permit shall be reinstated upon payment of any reinstatement fee provided in this chapter.

(d) Actions for reinstatement, hearing, or appeal shall not stay or delay the suspension provided in this section in any manner. (Ord. 17939 §26; November 26, 2001).

#### **24.38.220 Notice; Service.**

(a) The Health Director may serve notice authorized or required by this chapter as follows:

(1) By personal service to the permit holder, installer, or other person in charge of the on-site wastewater treatment system; or

(2) By certified mail, postage prepaid, return receipt requested to the permit holder's or permittee's last known address.

(b) The person making personal service may provide a written declaration under penalty of perjury identifying the person served and the time, date, and manner of service as proof of service.

(c) If the service is to a person other than the permit holder, the Health Director may send a copy of the notice to the permit holder by certified mail. The copy is not required as a part of the notice, and receipt of the copy does not affect the notice.

(d) The notice shall set forth a time, place and date for said hearing before the Health Director and shall identify the provisions of this chapter, design standard or permit condition alleged

to be violated and the facts alleged to constitute such violation. (Ord. 17939 §27; November 26, 2001).

**24.38.230 Appeal.**

(a) Any person whose application for a permit under this chapter has been denied shall be notified in writing as to the reasons for denial and such person may within ten working days after official notification of such action file a written request for a hearing before the Health Director. Such hearing shall be held within ten working days after the receipt of the request by the Health Director and upon reasonable notice to the applicant. The Health Director shall affirm, modify, or revoke the denial, or issue the permit on the basis of the evidence presented at the hearing.

(b) Any person aggrieved by any final decision of the Health Director in the administration or enforcement of this chapter may appeal such decision to the district court as provided by state law. (Ord. 17939 §28; November 26, 2001).

**24.38.240 Penalty.**

Any person who is found to have violated any provision of this chapter or any design standard adopted hereunder shall be subject to a fine of no more than \$500.00, or imprisonment in the county jail for a period not to exceed six months, or both such fine and imprisonment. Each day that a violation of this chapter continues is punishable as a separate and distinct offense. In addition to any penalty sought or obtained under this chapter or other applicable law, the City Attorney may institute injunctive or other appropriate civil proceedings necessary to obtain compliance or to abate any nuisance resulting from violations of this chapter. (Ord. 17939 §29; November 26, 2001).