

## 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, ~~establishment, or other development feature~~ or non-dwelling facility that generates wastewater.

**Domestic wastewater** 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 dwellings and establishments, or a non-dwelling facility. Domestic Waste or 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-

**Inspector** shall mean ~~a certified professional holding a certificate issued by the Nebraska Department of Environmental Quality in the category of Inspector Specialist and is validly registered as a Inspector, pursuant to Section 24.38.044.~~

**Journeyman Installer** shall mean any person who is a certified professional holding a ~~certificate issued by the Nebraska Department of Environmental Quality in the category of~~

~~Journeyman Installer and is validly registered as a Journeyman Installer, pursuant to Section 24.38.044 and who is employed by and works under the general supervision of a Master Installer.~~

~~**Layout Specialist** shall mean a certified professional holding a certificate issued by the Nebraska Department of Environmental Quality in the category of Layout Specialist and is validly registered as a Layout Specialist, pursuant to Section 24.38.044.~~

~~**Lot** shall have the same definition of the term "lot" as set forth in Section 27.03.360 of the Lincoln Municipal Code.~~

~~**Master Installer** shall mean any person who is a certified professional holding a certificate issued by the Nebraska Department of Environmental Quality in the category of Master Installer and is validly registered as a Master Installer, pursuant to Section 24.38.044.~~

~~**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 wastewater works, public sewer system. All systems are limited to a maximum size of 1000 gallons per day to be considered an on-site wastewater treatment 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.~~

~~**Professional engineer** shall mean a person licensed by the State of Nebraska as a Professional Engineer.~~

~~**Registered Environmental Health Specialist** shall mean a person who has the educational requirements and experience in the field of environmental sanitation required by Nebraska Revised Statutes 71-3703 and is registered with the Nebraska Board of Registration for Environmental Health Specialists in accordance with Nebraska Revised Statutes 71-3702 through 71-3715.~~

~~**Repair** shall mean the correction of a mechanical, electrical, or minor structural defect in an existing onsite wastewater system component such as, but not limited to, sealing a crack in a tank lid, repairing or replacing a tank baffle or access manhole riser, repairing or replacing a pump or electrical switch, leveling a distribution box, replacing a building sewer pipe, or replacing a cracked pipe between the septic tank and soil absorption system. Repair does not include replacement, reconstruction or modification of a tank or soil absorption system; extension or enlargement of a soil absorption component and system; replacement of a distribution pipe; or repair or replacement of a metal or concrete block tank.~~

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

~~**Septic tank** shall mean a watertight covered receptacle designed and constructed to receive wastewater from a building sewer, separate solids from liquids, digest organic matter,~~

store digested solids through a period of detention, and allow the clarified liquid to discharge to a soil absorption system or other approved system.

**Site Evaluator** shall mean a certified professional holding a certificate issued by the Nebraska Department of Environmental Quality in the category of Site Evaluator Specialist and is validly registered as a Site Evaluator, pursuant to Section 24.38.044.

**Soil Evaluator** shall mean a certified professional holding a certificate issued by the Nebraska Department of Environmental Quality in the category of Soil Evaluator Specialist and is validly registered as a Soil Evaluator, pursuant to Section 24.38.044.

**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 and which meets the requirements of this chapter and standards and regulations adopted pursuant to this chapter.

**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. 18628 §1; October 17, 2005: prior 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 ~~design~~ 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 ~~adopted and amended by the City Council by resolution,~~ filed with the City Clerk and incorporated into the City of Lincoln Design Standards. 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, and 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 Registered Master Installer or Professional Engineer (P.E.) licensed in the State of Nebraska. (Ord. 17939 §3; November 26, 2001; prior 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 ~~to the owner or lessee of the lot property on which the work is to be done and on the condition that he be responsible for all of the labor in connection with the job.~~ 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 repair permit issued by the Health Director. ~~No person shall 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 repair permit issued by the Health Director to the owner or lessee of the lot on which the work is to be done. A repair permit is not needed to repair existing structural components, including distribution boxes, mechanical devices, pumps, blowers and electrical equipment. An alteration permit shall not be required for a repair as defined in this chapter.~~

(a) Application for a permit to construct or alter repair 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 repair 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 repair permit shall be denied.

(e) A construction or alteration repair permit shall be valid for one year after the date of issuance. A construction or alteration repair permit can be extended for a period of six months with the payment of applicable fees. (Ord. 17939 §4; November 26, 2001; prior 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.**

~~After October 1, 2002, it shall be unlawful for any person other than a registered Master Installer or a registered Journeyman Installer to construct any on-site wastewater treatment system or similar waste treatment, holding, or disposal facility; or replace tanks, soil absorption, infiltrative or evaporative systems; to cause the same to be done. No such work shall be performed unless a registered Master Installer or Journeyman Installer is present on-site.~~

No person other than a Registered Certified Professional 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. 18628 §2; October 17, 2005; prior Ord. 17939 §5; November 26, 2001).

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

~~After October 1, 2002, a~~Application for a certificate of registration of a ~~Master Installer, Journeyman Installer, Inspector, Layout Specialist, Site Evaluator, or Soil Evaluator~~ 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. 18628 §4; October 17, 2005; prior 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 necessary for a ~~Master Installer, Journeyman Installer, Inspector, Layout Specialist, Site Evaluator, or Soil Evaluator~~ 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 ~~remain in force~~ 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. 18628 §5; October 17, 2005; prior 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 ~~Master Installer, Journeyman Installer, Inspector, Layout Specialist, Site Evaluator, or Soil Evaluator~~ 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 registered Certified Professional ~~Master Installer, Journeyman Installer, Inspector, Layout Specialist, Site~~

~~Evaluator, or Soil Evaluator~~ certificate of registration is warranted, the Health Director may serve written notice as follows:

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

(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. 18628 §6; October 17, 2005; prior Ord. 17939 §9; November 26, 2001).

#### **24.38.050 Inspections.**

It shall be the duty of the ~~holder of a permit issued pursuant to Section 24.38.040 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 ~~final written~~ 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, or repaired~~ shall not be given until all pertinent data required has been submitted. (Ord. 17939 §10; November 26, 2001; prior 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.~~**

~~No person shall operate or utilize a non-standard on-site wastewater system without first obtaining an operating permit for each non-standard on-site wastewater treatment system.~~

~~Applications for the operating permit shall be submitted to the Health Director on forms furnished by the Health Director and shall include a signed written assurance from the owner that the system is in proper operating condition, and shall be accompanied with payment of the annual operating fee. Upon receipt and review of applications submitted in the proper form and with all pertinent information as determined by the Health Director, and payment of the fee, the Health Director shall cause an operating permit to be issued to the applicant. (Ord. 17939 §11; November 26, 2001; prior 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 repair 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 the following:
  - ~~Master Installer~~
  - ~~Journeyman Installer~~
  - ~~Inspector~~
  - ~~Soil Evaluator~~
  - ~~Multiple category~~
  - 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. 20078 §1; August 18, 2014: prior 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 or premises shall be discharged directly into the community sewerage system when the system is available and within 300 feet from the building or premises measured along a street, alley, or easement to the encasement of 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 sewage system; such connection to

the community sewerage system shall be accomplished in compliance with the Lincoln Plumbing Ordinance and shall be completed within six months of the day the community sewage 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. 17939 §14; November 26, 2001: prior Ord. 9150 §8; January 16, 1967).

#### **24.38.090 Design Standards and Regulations.**

~~All~~ On-site wastewater treatment systems shall be constructed or repaired in conformance with this chapter and the design standards and regulations adopted pursuant to this chapter governing the design standards, operation, and maintenance of on-site wastewater treatment systems. (Ord. 17939 §15; November 26, 2001: prior 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 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. 11430 §5; August 11, 1975: prior 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 ~~on a separate basis. Such systems must be designed by a Professional Engineer licensed in the State of Nebraska.~~ 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. ~~When additional information is provided or requested, three sets shall be submitted to the Health Director including stamped and signed drawings.~~ 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 ~~permittee~~ 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. ~~Fees shall be assessed as provided for in Section 24.38.070.~~ (Ord. 17939 §16; November 26, 2001; prior Ord. 9150 §11; January 16, 1967).

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

~~All standard and non-standard~~ 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. 17939 §17; November 26, 2001; prior 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.~~

Any person who owns or is in control of any on-site wastewater treatment system or property on which an on-site wastewater treatment system exists or is proposed may apply to the Health Director for a variance from regulations and standards. Such variance request must be accompanied by the appropriate fee. The Director may grant such variance if he or she finds that:

A. The proposed variance will not substantially reduce the capability or capacity of the on-site wastewater treatment system to treat sewage;

B. The discharges occurring or proposed to occur do not (or will not) pose an imminent or substantial risk to public health or safety or create or contribute to pollution of air, land or water; and

C. Compliance with the regulations and standards from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(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).