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Subject: Leelanau County Board of Commissioner"s Meeting - BLDHD Proposed District Sanitary Code Action Item Request
Date: Thursday, December 1, 2022 10:42:58 AM
Attachments: [image003.png](#)
[BLDHD Sanitary Code Ver 1.2.zip](#)
[BLDHD Proposed San Code - Summary of Major Changes.pdf](#)

Hello Chet, Laurel, & Ms. Crocker,

As you may or may not be aware, our office has been tasked by our Board of Health with developing a unified sanitary code for our district. Currently, there is a separate regulation for each county. At last night's (November 30, 2022) BLDHD Board of Health meeting, the board approved the attached proposed Benzie Leelanau District Health Department – District Sanitary Code.

Moved by Dr. Conley to approve the District Sanitary Code with the amendment to remove the last sentence of Section 2.43 and with a stipulation that Benzie-Leelanau District Health Department will create a policy for affirming Benzie County's current practice for family property transfer. Seconded by Wessell. Roll Call Vote: Yeas: Sauer, Kuiper, Nye, Conley, Wessell, and Soutas-Little. Nays: None. Motion Carried.

For the proposed sanitary code to become effective, it must be approved by the Board of Commissioners of Benzie AND Leelanau County. To that end, I am requesting that an action item be added to the next appropriate Leelanau County Board of Commissioners meeting for their consideration and approval of the proposed BLDHD District Sanitary Code. For the commissioners convenience, In addition to the proposed sanitary code (a strikethrough and non-strikethrough version), I have attached a summary of major changes sheet for their review. Please let me know if you have any questions or need anything else.

Thank you,
Eric

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Current Environmental Health Regulations

- Each County has their own Environmental Health (EH) Regulation which are very similar
 - Benzie EH Regulations has *Chapter II, Article IX – Evaluation Required upon Transfer of Ownership* and *Chapter IV, Article III - Tattooing* where the Leelanau EH Regulations does not.
 - Leelanau EH Regulations allow for variances from the requirements of the regulations whereas Benzie EH Regulations do not.
- It was decided to combine the two sets of regulations into one unified District Sanitary Code, using the Benzie EH Regulations as a starting point.

Proposed Benzie-Leelanau District Health Department – District Sanitary Code Summary of Amendments

General Revisions

- Reorganized & renumbered chapters and sections for easier reading and legal referencing.
- Updated referenced laws and eliminated repealed laws.
- Added more definitions to provide more legal clarification.

Sewage Disposal Regulations

- Required that all approved privies have a sealed watertight vault (tank) under them. (Sec. 3.2)
- Included isolation distances that were required by policy but were not listed in the current code. (Sec. 3.8.2(a) & 3.8.5(a))
- Provided more guidance on septic tank access riser sizing and depth requirements. (Sec. 3.8.2(b))
- Provided better guidance on double compartment septic tanks and when they are required. (Sec. 3.8.2(e))
- Required access risers on pump chambers for better ease of maintenance. (Sec. 3.8.3)
- Modernized Alternative Treatment System (ATS) requirements.
 - Provided better clarification of when an ATS can and cannot be utilized. (Sec. 3.9)
 - Updated aspects of the ATS requirements to reflect a better understanding of their capabilities to treat effluent. (Sec. 3.9(B)(1))
 - Increased the treated effluent quality standard of Total Inorganic Nitrate (TIN) from 25 mg/L to 30 mg/L to reflect National Sanitation Foundation (NSF) standards.
 - Decreased the distance to surface water from 500 feet to 200 feet, for when an owner must monitor their ATS's treated effluent to ensure it is meeting the phosphorous standard set by the Code.
 - Increased the treated effluent quality standard of phosphorous from 2 mg/L to 4 mg/L.
 - Removed the use of disinfection to reduce isolation to groundwater (12").
 - Changed the minimum site suitability criteria for an ATS to a minimum of 12" of suitable soil above high-water table and a limiting layer. (Sec. 3.9(B)(2))
 - Increased the minimum vertical separation to a limiting layer and high groundwater to 24" for all ATS. (Sec. 3.9(B)(3))
 - Allow owner's of National Sanitation Foundation (NSF)/American National Standards Institute (ANSI) certified systems to forego submitting an annual effluent quality monitoring report. (Sec. 3.9(B))
 - Provided clarification of the owner's responsibilities associated with the permitting, installation, and maintenance of an ATS (previously only in procedures and owner contract). (Sec. 3.9)

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Proposed Benzie-Leelanau District Health Department – District Sanitary Code Summary of Amendments (continued)

Sewage Disposal Regulations (Continued)

- Provided more guidance regarding holding tanks (aka pump and haul systems). (Sec. 3.11)
 - Clarified when holding tanks maybe permitted.
 - Officially eliminated the permitting of holding tanks on any new parcel of record as desired by past Benzie and Leelanau Boards of Commissioners (September 17, 2002).

Water Well Regulations

- Eliminated duplication of regulations already contained in the Michigan Groundwater Quality Control Act (Part 127 of Act 368 of P.A. 1978) Rules.
- Requires that a permit be obtained to drill geothermal wells. (Sec. 2.45(d))

Time of Transfer Evaluation Requirement

- Requirement will now apply countywide in Leelanau County.
- Eliminated the classification, notification, filing notification, and right of use sections from the Benzie EH regulations due the requirement's fulfillment on December 31, 2001.
- Provided clarification for when a transfer is exempt from the evaluation requirement. (Sec. 6.2(b))
- Included water well evaluation language.
- Decreased the amount of time for a report to be issued by BLDHD for a system that is not in significant compliance from 120 days to 30 days from the date of inspection of the premises is completed and all relevant information to make the determination has been received by the Health Department. (Sec. 6.4)

Tattooing

- This article of the regulations was removed due to Body Art being regulated by State of Michigan law, Act 375 of Public Acts of 2010.

Appeals Board

- Provided clarification on the make-up of the Appeals Board members and how they are assigned. (Sec. 9.2)
- Defined the Appeals Board duties. (Sec. 9.3)
- Provided parameters on how the Appeals Board must base their determinations. (Sec. 9.4, 9.5, & 9.6)
- Allows Sanitarians to use their professional judgement to grant a variance to the Code when certain conditions are met and properly documented. (Sec. 9.7)



**BENZIE-LEELANAU
DISTRICT HEALTH DEPARTMENT
DISTRICT SANITARY CODE**

DRAFT
Version 1.2

DISTRICT SANITARY CODE
OF THE
BENZIE-LEELANAU DISTRICT HEALTH DEPARTMENT

TABLE OF CONTENTS

CHAPTER I – GENERAL PROVISIONS		<u>Page</u>
Section 1.1	Purpose	1
Section 1.2	Title	1
Section 1.3	Authority	1
Section 1.4	Jurisdiction.....	1
Section 1.5	Fee Schedule.....	2
Section 1.6	Other Laws and Regulations.....	2
Section 1.7	Effective Date	2
Section 1.8	Pre-Existing Violations	3
Section 1.9	Conditional Permits.....	3
Section 1.10	Severability	3
Section 1.11	Repeal	4
 CHAPTER II – DEFINITIONS		
Section 2.1	Definitions	4
Section 2.2	Words and Terms	4
Section 2.3	Abandoned Water Supply	4
Section 2.4	Approved or Acceptable	5
Section 2.5	Auxiliary Intake	5
Section 2.6	Bedroom	5
Section 2.7	Board of Health.....	5
Section 2.8	Cross Connection	5
Section 2.9	Dosing Tank or Pump Chamber	5
Section 2.10	Dwelling	6
Section 2.11	Dwelling “Unfit for Human Habitation”.....	6
Section 2.12	Flush Toilets	6
Section 2.13	Garbage Grinder.....	6
Section 2.14	Habitable Building.....	6
Section 2.15	Health Department.....	7
Section 2.16	Health Hazard.....	7
Section 2.17	Health Officer.....	7
Section 2.18	Holding Tank.....	7
Section 2.19	Inspection	7
Section 2.20	Interconnection	7
Section 2.21	Michigan Criteria for Subsurface Disposal.....	8
Section 2.22	Municipality	8
Section 2.23	Other Toilet and Septic Devices	8
Section 2.24	Owner & Occupant	8
Section 2.25	Parcel of Land.....	8
Section 2.26	Person	8

Section 2.27	Premises.....	9
Section 2.28	Privies.....	9
Section 2.29	Public Health Nuisance.....	9
Section 2.30	Public Water Supply.....	9
Section 2.31	Pump and Haul.....	9
Section 2.32	Pump Installer.....	10
Section 2.33	Seasonal High-Water Table.....	10
Section 2.34	Septic Tank.....	10
Section 2.35	Sewage.....	10
Section 2.36	Sewage Disposal Facilities.....	10
Section 2.37	Sewage System.....	11
Section 2.38	Sewer.....	11
Section 2.39	Sub-Surface Disposal Field.....	11
Section 2.40	Substantial Conformance.....	11
Section 2.41	Suitable Soil.....	11
Section 2.42	Surface Water.....	12
Section 2.43	Transfer.....	12
Section 2.44	Water Supply.....	12
Section 2.45	Well.....	12

CHAPTER III – SEWAGE DISPOSAL

Section 3.1	Sewage Disposal on All Premises.....	13
Section 3.2	Construction and Maintenance of Privies and Similar Toilet Devices.....	13
Section 3.3	Sewage Flowing in a Public Ditch.....	13
Section 3.4	Privies Where Municipal Sewerage System is Provided....	14
Section 3.5	Other Sewage Disposal Facilities Where a Municipal Sewerage System is Provided.....	14
Section 3.6	Disposal of Water Carried Sewage on Premises Where a Publicly Operated Sewerage System is Not Available.....	14
Section 3.7	Sewage Discharge.....	15
Section 3.8	Construction Requirements.....	15
3.8.1	Sewers.....	15
3.8.2	Septic Tanks.....	16
3.8.3	Dosing Tank/Pump Chamber.....	19
3.8.4	Effluent Pumps.....	19
3.8.5	Sub Surface Disposal System.....	19
Section 3.9	Alternative Treatment Systems.....	22
Section 3.10	Permit Denial.....	25
Section 3.11	Holding Tanks.....	26
Section 3.12	Change of Use.....	26
Section 3.13	New and Existing Septic Systems.....	27
Section 3.14	Permit.....	27
Section 3.15	Registration Requirement.....	28

CHAPTER IV – WATER SUPPLY

Section 4.1	Provision of Water Requirement.....	28
Section 4.2	Scope.....	28

Section 4.3	Well Construction	28
Section 4.4	Connections Required	29
Section 4.5	Hand Pump Platform	29
Section 4.6	Cooling Water.....	29
Section 4.7	Inspection of Well Construction	29
Section 4.8	Water Supply Approval.....	29
Section 4.9	Treatment of Unsatisfactory Water Supply	30
Section 4.10	Abandonment of Wells	30
Section 4.11	Connection with an Unsafe Water Supply	30
Section 4.12	Outlets from Unsafe Water Supplies	31
Section 4.13	Well First Area Designations	31
Section 4.14	Permit	31
Section 4.15	Stop Work Order – Void Permit	32
Section 4.16	Permit Denial.....	32
 CHAPTER V – PERMIT REVOCATION		
Section 5.1	Revocation of Permit	33
Section 5.2	Permit Revocation Procedure.....	33
 CHAPTER VI – TIME OF TRANSFER EVALUATION OF ON-SITE WATER AND SEWAGE DISPOSAL SYSTEMS		
Section 6.1	Purpose	34
Section 6.2	Evaluation.....	34
Section 6.3	Evaluation Determination	35
Section 6.4	Inspection Notification	35
Section 6.5	Corrective Action	36
Section 6.6	Enforcement	36
Section 6.7	Determination Hearings and Appeals.....	36
 CHAPTER VII – HOUSING		
Section 7.1	Complaints Concerning Public Health Nuisances	37
Section 7.2	Vacation Order	37
Section 7.3	Public Health Nuisance	37
Section 7.4	Health Officer Duty.....	38
 CHAPTER VIII – CODE ENFORCEMENT		
Section 8.1	Enforcement	38
Section 8.2	Violation of the Code	38
Section 8.3	Restraining Order	39
Section 8.4	Civil Fines or Penalty.....	39
Section 8.5	Injunction	40
Section 8.6	Issuance of a Civil Citation	40
Section 8.7	Assessment Against the Property	41
Section 8.8	Removal of a Nuisance	41
Section 8.9	Inspections and Investigations	42
Section 8.10	Right to Obtain Samples.....	42
Section 8.11	Obstruction of Health Officer	42

CHAPTER IX – HEARINGS AND APPEALS

Section 9.1 Purpose42
Section 9.2 Appeals Board Members42
Section 9.3 Duties of the Appeals Board43
Section 9.4 Procedures of the Appeals Board43
Section 9.5 Determination Review by the Appeals Board43
Section 9.6 Decisions of the Appeals Board44
Section 9.7 Variances44

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CHAPTER I – GENERAL PROVISIONS

Section 1.1 PURPOSE

The purpose of **these** regulations is to protect the public health, safety and welfare, including preventing the spread of disease, sources of contamination of property, surface waters and ground waters, the public health and the environment; this purpose includes the implementation for carrying out of duties and functions vested in the **Benzie-Leelanau District Health Department (the Health Department)** by law; further, but not by way of limitation, this purpose includes the regulation of sewage and sewage disposal, water supplies, sanitation of habitable buildings, dwellings and property for protecting surface and ground water, drinking water and the environment from improper or malfunctioning sewage disposal facilities, systems and devices and from sewage or related liquids and wastes; **and**, finally, the purpose includes preventing or minimizing degradation of the environment as it relates to public health.

Section 1.2 TITLE

These regulations shall be known as the Benzie Leelanau District Health Department Sanitary Code and also may be called the “Code” elsewhere in these regulations.

Section 1.3 AUTHORITY

Under the authority of Act 368 of the Public Acts of 1978 (the Public Health Code), the Board of Health of the District health Department (the Board of Health), hereby adopts this Code for the Purpose stated in Section 1.1. Further, this Code has been adopted to implement the duties imposed by the Michigan Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, and its successor statutes and to prevent or minimize degradation of the environment as it relates to public health.

Section 1.4 JURISDICTION

Pursuant to the agreement which established the Health Department, the Health Department shall have jurisdiction throughout Benzie County and Leelanau County, including cities, villages and townships in the administration and the enforcement of this Code, unless otherwise stated in this Code.

Nothing in this Code shall restrict the authority of any city, village or township in Benzie County or Leelanau County to adopt or enforce more restrictive ordinances which are authorized by law. If such ordinance requires compliance with any portion of this Code, then the municipality shall not find or determine that there has been compliance until it has obtained written approval from the Health Officer affirmatively stating that there is compliance with applicable sections of this Code. No ordinance shall conflict with this Code.

Section 1.5 FEE SCHEDULE

The Board of Health shall establish the fees charged for services rendered by the Health Department and license/permit applications, identified in this Code by adopting a written fee schedule at a regular or special meeting of the Board of Health. The Board of Health may revise the fee schedule by adopting a written amendment to the fee schedule at a special or regular meeting of the Board of Health.

Section 1.6 OTHER LAWS AND REGULATIONS

This Code contains minimum standards and are supplemental to the rules and regulations duly enacted by the Michigan Department of Agriculture and Rural Development, Michigan Department of Environment, Great Lakes, and Energy, the Michigan Department of Health and Human Services, and the Michigan Department of Licensing and Regulatory Affairs and any successor agencies; the laws of the State of Michigan relating to public health; and federal laws relating to public health. This Code supersedes inconsistent or conflicting local regulations or ordinances. The approval of plans or the issuance of a permit pursuant to this Code does not relieve an individual from complying with all consistent applicable provisions of building and construction laws, zoning requirements and other state and local statutes, ordinances, rules, regulations, and orders.

Section 1.7 EFFECTIVE DATE

These regulations or amendments thereto shall become effective as provided by the Public Health Code or any successor statute. This Code becomes effective on the 45th day after the date of approval by the Boards of Commissioners for each county within the jurisdiction of the Health Department.

Section 1.8 PRE-EXISTING VIOLATIONS

Any act, situation or condition of premises or things in Benzie County which, as of the effective date of this Code, violated any provision of the Environmental Health Regulations for Benzie County, shall continue to be a violation of this Code, if a similar section or provision is a part of this Code. Any action, issuance of permit or maintenance of a condition that was mandatory under the Environmental Health Regulations for Benzie County shall continue to be required if a similar provision is contained in this Code. Any act, situation or condition of premises or things in Leelanau County which, as of the effective date of this Code, violated any provision of the Environmental Health Regulations for Leelanau County, shall continue to be a violation of this Code, if a similar section or provision is a part of this Code. Any action, issuance of permit or maintenance of a condition that was mandatory under the Environmental Health Regulations for Leelanau County shall continue to be required if a similar provision is contained in this Code.

Section 1.9 CONDITIONAL PERMITS

Nothing in this Code shall limit the power of the Health Officer to issue conditional permits and to impose as a condition of a permit, certain or specific conditions, limitations or restrictions which the Health Officer determines are reasonably necessary to attain compliance with this Code, and/or applicable state law, regulations or rules. Such conditions, limitations or restrictions which may be imposed and/or required shall include, but are not limited to, conditions or restrictions based upon inclement weather conditions during construction, property size or use limitations, specific placement or location of sanitary facilities, limiting the total number of bedrooms or the maximum occupancy capacity of a dwelling or habitable building; and shall include the power to require or obtain deed restrictions or to file deed affidavits.

Section 1.10 SEVERABILITY

The provisions of this Code are severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by a court of competent jurisdiction, the remaining portions of said Code shall remain in full force and effect.

Section 1.11 REPEAL

The sanitary code of Benzie County (also called the Environmental Health Regulations for Benzie County Health Department) which was effective January 1, 1964 and all amendments thereto and the sanitary code of Leelanau County (also called the Environmental Health Regulations for Leelanau County Health Department) which was effective June 14, 1966 and all amendments thereto are hereby repealed.

CHAPTER II - DEFINITIONS

Section 2.1 DEFINITIONS

When not inconsistent with the context, words used in the present tense include the future, words used in the singular number include the plural, and words in the plural include the singular number. The word "shall" is always mandatory and not merely directional. Words and terms not defined herein shall be interpreted in the manner of their common usage.

Section 2.2 WORDS AND TERMS

The following words and terms used in **this** Sanitary Code, unless otherwise expressly stated, shall have the following meaning:

Section 2.3 ABANDONED WATER SUPPLY

An "abandoned water supply" means a water supply whose use has been permanently discontinued, a water supply or portion thereof which is in such disrepair that its continued use for the purpose of obtaining water is impractical, a water supply which has been left uncompleted, a water supply which is a threat to other sources of water, or a water supply which is or may be a health or safety hazard.

Section 2.4 APPROVED OR ACCEPTABLE

Suitable for the intended use in accordance with the intent and purpose of these regulations as determined by the Health Officer, based on examination and evaluation, and/or on evidence of compliance with acts, rules or specifications developed by the Health Department or other recognized agency.

Section 2.5 AUXILIARY INTAKE

An "auxiliary intake" is any piping connection or other device whereby water may be secured from a source or location other than that normally used.

Section 2.6 BEDROOM

Any space in a dwelling unit or accessory structure which is used on a regular basis for sleeping or could reasonably be expected to be used for the placement of beds or other furniture used for sleeping and which conforms to the definition of bedroom as defined by the International Residential Code (IRC), as amended.

Section 2.7 BOARD OF HEALTH

The term "Board of Health" shall mean the Board of Health of the Benzie-Leelanau District Health Department.

Section 2.8 CROSS CONNECTION

A "cross connection" is any physical connection or plumbing arrangement whereby an approved water supply, whether public or private, **and whether** inside or outside **of a** building, is physically connected with any unapproved water supply.

Section 2.9 DOSING TANK or PUMP CHAMBER

A "dosing tank" or "**pump chamber**" is a watertight tank or receptacle used for the purpose of the automatic discharge of **sewage** or effluent to a selected point.

Section 2.10 DWELLING

The term "dwelling" shall mean any building, structure, tent, shelter, trailer, or vehicle or portion thereof, which is occupied, will be occupied, or was **previously** occupied in whole or part as home, residence, living or sleeping, or other gathering place designed or used by one or more human beings either permanently or transiently, or occupied in whole or in part as a business wherein one or more human beings is engaged in commercial or industrial activities on either a permanent or temporary basis. **As used in this Code and as described above, the term "dwelling" is not limited to residential use.**

Section 2.11 DWELLING "UNFIT FOR HUMAN HABITATION"

When it is dangerous or detrimental to life or health because of **lack** of repair, defects in the drainage, plumbing, lighting, ventilation, water supply, or their construction, infection with contagious disease or the existence on the premises of an unsanitary, unsafe or hazardous condition likely to cause sickness, illness, or to endanger the health of occupants of the dwelling, such dwelling shall be unfit for human habitation. **Occupants of a dwelling also include patrons or visitors to a business, office or other non-residential use.**

Section 2.12 FLUSH TOILETS

A "flush toilet" shall mean a type of closet or plumbing device containing a portion of water which receives human excreta and is so designed as by a means of a flush of water to discharge the contents of the receptacle into a sewage system.

Section 2.13 GARBAGE GRINDER

A mechanical device generally located in a sink drain and so designed to macerate garbage prior to discharge into a sewer. Garbage grinder are also referred to as a garbage disposal unit.

Section 2.14 HABITABLE BUILDING

The term "habitable building" shall mean any structure where persons reside, are employed or congregate.

Section 2.15 HEALTH DEPARTMENT

The term "Health Department" shall mean the Benzie-Leelanau District Health Department.

Section 2.16 HEALTH HAZARD

The term "Health Hazard" shall mean a condition, or practice exists which could reasonably be expected to cause death, disease, or physical harm if not abated or eliminated

Section 2.17 HEALTH OFFICER

"Health Officer" shall mean the person appointed by the Board of Health as Health Officer pursuant to Act 368, PA 1978 as amended (The Public Health code). Any action which the Health Officer may perform pursuant to this Code may be performed by an authorized representative of the Health Officer. Such authorization may be made by the Health Officer or Board of Health, in the absence or incapacity of the Health Officer.

Section 2.18 HOLDING TANK

A watertight tank of material approved by the Health Officer which is a closed system with no onsite disposal or discharge of sewage and is equipped with an audio/visual high level alarm.

Section 2.19 INSPECTION

"Inspection" means an official examination or observation including but not limited to tests, surveys and monitoring to determine compliance with rules, orders, requirements and conditions.

Section 2.20 INTERCONNECTION

An "interconnection" is any system of piping or other arrangement whereby a public or private water supply system is connected directly with a sewer, drain, conduit, swimming pool, storage reservoir, stock watering tank, or other similar device which contains or may contain sewage or other waste liquid capable of importing **contamination** to an approved water supply.

Section 2.21 MICHIGAN CRITERIA FOR SUBSURFACE SEWAGE DISPOSAL

A Michigan Department of Environmental Quality publication adopted by the Michigan Water Resources Commission as a policy statement to provide minimum standards for the underground disposal of sanitary sewage from 1000 gallons per day up to no more than 9,999 gallons per day. The criteria apply to all semi-public or public subsurface sewage disposal systems.

Section 2.22 MUNICIPALITY

The term "Municipality" shall mean any **village, township or** incorporated city, within the **jurisdiction of the Health Department.**

Section 2.23 OTHER TOILET AND SEPTIC DEVICES

"Other toilet and septic devices" shall mean privies, septic toilet, chemical toilet or closet, holding tanks, or other similar devices used for the collection, storage, disposal of sewage or other wastes as defined in **this Code.**

Section 2.24 OWNER AND OCCUPANT

"Owner" means the owner of title or record of any property, premise or business. "Occupant" means any person(s) occupying or in possession of any property or premises.

Section 2.25 PARCEL OF LAND

The term "parcel of land" means a single contiguous parcel of real property as identified by the county assessor's parcel number, which is used to identify real property and its boundaries for legal purposes.

Section 2.26 PERSON

The term "person" shall mean any individual, firm, partnership, **cooperative, party, or private or public corporation, personal representative, company, society, association, receiver, trustee, assignee, or other governmental, public or private legal entity, as well as the agent or entity acting on behalf of any person.**

Section 2.27 PREMISES

"Premises" shall mean any tract of land, or portion thereof, or combination of tracts of land under single or common ownership, operation or control, on which is located a dwelling, structure, water well or septic tank, drains, drain field, underground tank or pipes or similar appurtenances containing sewage or other contaminants or combination thereof.

Section 2.28 PRIVIES

"Privies" shall mean outdoor toilets utilizing a septic tank or "vault" for the collection and storage of sewage.

Section 2.29 PUBLIC HEALTH NUISANCE

The term "public health nuisance" shall mean a condition on private or public property, which threatens, or could reasonably be expected to threaten, the health or safety of the public. A threat to the health and safety of the public shall include any condition or activity which is reasonably likely to cause death, disease, illness, physical harm, or is likely to cause an unsanitary condition, which may cause disease, illness or death.

Section 2.30 PUBLIC WATER SUPPLY

"Public water supply" means a water supply which provides water for drinking or household purposes to persons other than the supplier of water, except those water supplies which supply water to only one (1) single-family living unit.

Section 2.31 PUMP AND HAUL

"Pump and Haul" means the on-site storage, hauling, and final disposal at an off-site receiving facility and is considered as a method of "last resort" (Water Resources Commission Policy Statement for Pump and Haul Facilities (12/15/83).

Section 2.32 PUMP INSTALLER

“Pump installer” means a person who is qualified and legally authorized to engage in the installation, removal, alteration, or repair of water well pumping equipment in connection with a water well.

Section 2.33 SEASONAL HIGH-WATER TABLE

The highest elevation reached by the water table during the wet season of a normal year as determined by an evaluation of the Health Officer using physical measurements, physical examination of the soils, historical records, or other verifiable evidence and information.

Section 2.34 SEPTIC TANK

A "septic tank" shall mean a watertight tank or receptacle of sufficient size and constructed of concrete or other approved non-corrodible material and used for the purpose of receiving sewage and to provide for the separation of substantial portions of the suspended solids in such sewage and for the partial treatment by bacterial action on the solids so separated.

Section 2.35 SEWAGE

"Sewage" shall mean the liquid and waste, or combination thereof, from all habitable buildings, dwellings, and commercial or industrial establishments, and shall include human excreta and waste or other hazardous, toxic, or chemical waste pollutants or contaminants from sinks, lavatories, bathtubs, showers, laundries, drains or other conduits or method of collecting, carrying, storage, enclosing, decomposing, and disposing of waste of an organic or inorganic nature, singularly or in any combination thereof.

Section 2.36 SEWAGE DISPOSAL FACILITIES

"Sewage Disposal Facilities" shall mean a sanitary privy, flush toilet, septic tank, drain, sub-surface disposal absorption system, **holding tank**, or other similar toilet device or method used in the collection, storage, enclosure, decomposing and/or disposal of sewage, human excreta or other waste including but not limited to hazardous, toxic, or chemical wastes or other pollutants or contaminants, singularly or in combination with sewage or human excreta. "Sewage Disposal Facilities" shall include all similar contrivances used in the

collection, storage, enclosing, decomposing and disposal of sewage or such other waste whether specifically enumerated herein or not; however, the term shall not include a solid waste disposal facility or hazardous waste disposal facility that has been approved pursuant to **Michigan Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended**. and its successor statutes.

Section **2.37** SEWAGE SYSTEM

A "sewage system" **means** the sewage collection system and the sewage disposal facilities.

Section **2.38** SEWER

A "sewer" is a **watertight** conduit for carrying sewage.

Section **2.39** SUB-SURFACE DISPOSAL FIELD

A "sub-surface disposal field" shall mean a system for distributing septic tank effluent beneath the ground surface by means of a line or a series of branch lines of drain tile or other methods of distribution as approved by the Health Officer so as to allow the effluent to be absorbed by the surrounding soil.

Section **2.40** SUBSTANTIAL CONFORMANCE

The term "substantial conformance" shall mean that there shall not be more than a minimal likelihood of degradation of ground water or surface water by improper or malfunctioning sewage disposal systems or water supply systems. In making this determination, the criteria in Section 6.3 shall be applied

Section **2.41** SUITABLE SOIL

"Suitable soil" shall mean naturally occurring soils with suitable soil textures listed in Section 3.8.5(i) including non-muck topsoil.

Section 2.42 SURFACE WATER

“Surface water” shall mean any of the following: The Great Lakes and their connecting waterways, inland lakes, rivers, streams and ponds. Ponds provided with an impermeable liner are exempt from this definition.

Section 2.43 TRANSFER

“Transfer” shall mean a conveyance of a legal or equitable title or interest to a premises to a person, who at the time of the conveyance did not have an ownership interest in the premises. The conveyance may be by any legal means including, but not limited to a deed, land contract or inheritance (testate or intestate). In addition, a transfer includes a change in more than 50% of the ownership interest of a legal entity when that legal entity owns a premises. The amount of consideration, if any, is not relevant. A transfer includes, but is not limited to, a traditional sale of a premises.

Section 2.44 WATER SUPPLY

A “water supply” is an integrated system of pipes, controls, reservoirs, and mechanical devices used for the purpose of extracting and providing potable water for domestic or commercial use.

Section 2.45 WELL

“Well” means a man-made opening in the surface of the earth used for the purpose of removing ground water. Wells, regulated by this Code, include:

- a. A water supply well used to obtain water for drinking or domestic purposes.**
- b. An irrigation well used to provide water for plants, livestock, or other agricultural processes.**
- c. A test well used to obtain information on ground water quantity, quality, or aquifer characteristics, for the purpose of designing or operating a water supply well.**
- d. A heat exchange well used for the purpose of utilizing the geothermal properties of earth formation for heating or air conditioning.**
- e. An industrial well used to supply water for industrial processes, fire protection, or similar non-potable uses.**

CHAPTER III – SEWAGE DISPOSAL

Section 3.1 SEWAGE DISPOSAL ON ALL PREMISES

It shall be unlawful for any reason to occupy, or permit to be occupied, any premises which **is** not equipped with adequate facilities for the disposal in a sanitary manner as prescribed.

Section 3.2 CONSTRUCTION AND MAINTENANCE OF PRIVIES AND SIMILAR TOILET DEVICES

All privies and other similar toilet devices shall be constructed and maintain in accordance with Act 368 of the Public Acts of 1978, as amended (Section 12771). In addition, the privy must be of a vault construction which provides a durable watertight barrier between the sewage and the soil and groundwater.

Section 3.3 SEWAGE FLOWING IN A PUBLIC DITCH

Whenever the Health Officer shall determine that sewage is flowing or is being discharged from the outlet of any private drain into any public drainage system so as to create a public health hazard, **the Health Officer** shall notify in writing the person or persons owning, leasing or residing on such premises from which such sewage originates to connect such sewage flow to a sewage system which meets these minimum standards. If at the end of 30 days after such written notice has been served on the owner, lessee, or resident, the sewage system has not been brought into compliance with these minimum standards, the Health Officer with the approval of the Drain Commissioner **of the County where the violation exists** shall cause the outlet of such a drain carrying sewage to be plugged until such time as the sources of the sewage have been eliminated, or the sewage system meets these minimum standards.

Section 3.4 PRIVIES WHERE MUNICIPAL SEWERAGE SYSTEM IS PROVIDED

All privies on premises connected to a publicly operated sewerage system shall be removed from over the vault when said connection is made. The privy vault shall then be **filled with soil and** covered with at least twelve inches of compacted earth, and the building rendered unusable as a toilet facility. All other sewage disposal facilities replaced by connection to a publicly operated sewerage system shall be abandoned in such a manner as to prevent any **public health** nuisance.

Section 3.5 OTHER SEWAGE DISPOSAL FACILITIES WHERE A MUNICIPAL SEWERAGE SYSTEM IS PROVIDED

All flush toilets, lavatories, sinks, bathtubs, showers, and laundry drains hereafter constructed on a premise where the service of a publicly operated sewerage system is available shall be connected with said publicly operated system. When any existing sewage disposal facility serving any premises where a publicly operated sewerage system is available and required by law, or **Act 368 of the Public Acts of 1978, MCL 333.12751-333.12758**; is found to be in violation of any provision or standard of these **regulations**, or of any other applicable health or contamination laws, ordinances or regulations, the owner or occupier of the premises shall connect to said publicly operated sewerage system within sixty (60) days after receipt of written notice of such violation from the Health Officer. In the event that such correction is not made within the sixty (60) day period, then the Health Officer or Health Department, or their duly authorized representative, is hereby authorized to seek court enforcement for injunctive relief, fines, civil penalties or damages as authorized by this Code or as **otherwise** authorized by **law**.

When an owner of the premises receives such written notice provided in this section, the owner shall furnish written notice of such fact to any prospective purchaser of the premises after receipt of written notice from the Health Officer up until the date that the corrections are completed and certified by a Health Officer.

Section 3.6 **DISPOSAL OF WATER CARRIED SEWAGE ON PREMISES WHERE A PUBLICLY OPERATED SEWERAGE SYSTEM IS NOT AVAILABLE**

All flush toilets, lavatories, bathtubs, showers, laundry drains, sinks, and any other similar fixtures or devices to be used to conduct or receive water carried

sewage shall be connected to a septic tank or some other device in compliance with these minimum standards and **other local, state, and federal** regulations and finally disposed of in a manner in compliance with these minimum standards and **other local, state, and federal** regulations and any other applicable law, ordinance, or regulations.

All such facilities, which in the opinion of the Health Officer may become a **public health** nuisance, shall be connected to a septic tank or other approved device and finally disposed of in a manner in compliance with these standards and **other local, state, and federal** requirements. Footing drains, **floor drains, discharge water from water softeners, backwash from swimming pool or spa filters, storm drain water**, roof water, and any other similar waste not defined as sewage shall not be connected into the sewage disposal system.

Section 3.7 SEWAGE DISCHARGE

Under no condition may sewage, the overflow of a septic system, or any other waste be permitted to discharge to any land, surface water, or ground water or thing other than to an approved sewage disposal facility or municipal sewerage system in accordance with law or this Code.

Section 3.8 CONSTRUCTION REQUIREMENTS

3.8.1 SEWERS

a. Materials

All sewer lines located within fifty (50) feet of any spring, well, or water suction line shall be constructed of cast-iron soil pipe with sealed joints, schedule-40 plastic or similarly approved materials. Any buried sewer line shall be located at least ten (10) feet from any well, spring, or well water service pipe, and five (5) feet from any municipal water service pipe. The required separation distance to a water service pipe does not apply where the water service pipe is sleeved to a point not less than the required separation distance horizontally from the closest point of the sewer pipe. The effluent line between the initial septic tank and the other components of the sewage disposal facilities must be constructed of schedule-40 PVC, SDR 35 or similar approved materials. All sewer lines and sleeves used in construction and operation of an individual sewage disposal system shall meet the requirements of the Michigan Plumbing Code or a nationally recognized uniform plumbing code. Isolation

distances between sewers and public and non-community water supplies may be more restrictive based on state and/or federal regulations.

b. Size

Such pipes or sewers shall have a minimum diameter of 3 inches or larger.

c. Grade

Sewers shall be laid at such a grade as to maintain a sewage flow velocity of not less than two feet per second when flowing full. Sewers three (3) to six (6) inches in diameter shall have a grade of not less than twelve (12) inches per 100 feet or one (1) inch per eight (8) feet of sewer pipe.

d. Cleanouts

Bends in a sewer line located between the building and the septic tank cannot exceed 45 degrees without the installation of a cleanout. A cleanout is required to be provided at each 100 feet of sewer line between the building and the septic tank. All exterior cleanouts shall be properly sized and installed and shall be exposed at final grade level.

3.8.2 SEPTIC TANKS

a. Location

Septic tanks shall be located at least:

1. 50 feet from any potable water supply, well, spring, or unprotected suction line (75 feet from Type IIb and III wells, **200 feet from Type I and IIa wells, as defined the Safe Drinking Water Act, Act 399 of PA 1976 and related administrative rules, such as, but not limited to R325.10502**).
2. A minimum isolation distance of 50 feet shall be maintained from **surface water** or other surface water flooding or its highest flood plain elevation.
3. No septic tank shall be located closer than 5 feet to any footing or foundation wall.
4. No septic tank shall be located closer than 10 feet to any lot line.
5. **No septic tank shall be located closer than 10 feet from a**

wastewater easement boundary. For the purposes of this Code, this requirement does not apply to road, utility, and other similar easements.

6. No septic tank shall be placed where it is inaccessible for cleaning or inspection, nor shall any structure be placed over any septic tank rendering it inaccessible for cleaning or inspection.

b. Access Holes/Manholes

Every septic tank shall be provided with a minimum of two (2) openings with one of them located over the outlet to permit inspection and cleaning. A service access hole (18 inch minimum diameter) shall be provided. For all septic tanks where the top of the tank is greater than eighteen inches (18") below finished grade, they shall have a septic tank riser installed on each compartment opening of the tank and terminated no deeper than six (6) inches below finished grade. Septic tank risers shall be installed to provide access for routine maintenance, minimize odors and to prevent unauthorized and unsupervised entry.

c. Inlets and Outlets

The bottom of the inlet line into the septic tank shall be at least two (2) inches above the operating water level of the tank. The outlet shall be constructed to permit withdrawal of liquid from the middle third of the depth of the liquid in the tank. To prevent the escape of floating or settled solids, the tank must have a minimum scum clearance of eight (8) inches. The inlet must be so designed to permit gas above the liquid level to pass through the inlet line and out the vent pipe servicing the sewer line leading to the tank. A septic tank's outlet, including the outlet from one tank compartment to the next compartment, shall consist of a sanitary "T" or baffle designed to draw from the middle third depth of the septic tank. All pipe connections to a septic tank shall be watertight and sturdy.

d. Construction Material

A septic tank shall be constructed of sound and durable materials, which are not subject to excessive corrosion or decay, and which are structurally capable of supporting the stress to which they will be subjected.

A septic tank shall be water-tight, and the materials used to

construct the tank shall prevent water from surrounding soils from flowing into the septic tank. Acceptable materials include reinforced concrete, polyethylene, fiberglass, or similar materials approved by the Health Officer.

For any septic tank, pump chamber or other tank which has a burial depth of greater than thirty-six (36) inches to the top of the tank below finished grade, information must be provided by the tank manufacturer that certifies the tank's structural integrity allows for greater burial depths.

e. Capacity

The following **minimum** capacity septic tanks shall be required except in the opinion of the Health Officer where increased capacities may be required. **Dwellings with two (2) or more bedrooms and a garbage disposal unit must use multiple compartmented tanks. In compartmental tanks, the first compartment must equal 2/3 of the total capacity of the tank.**

1. One or Two-bedroom dwelling - 1000 gallons
(with garbage grinder – 1200 gallons)
2. Three-bedroom dwelling - 1200 gallons
(with garbage grinder - 1600 gallons)
3. Four-bedroom dwelling - 1600 gallons
(with garbage grinder - 2000 gallons)
4. Five bedrooms or greater will require special computation by the Health Officer to determine the size of tank to be installed.
5. **Septic tanks for a commercial establishment, industry, public, or semi-public establishment shall be sized in accordance with the 1994 Michigan Criteria for Subsurface Sewage Disposal, or its successor requirements.**

f. Septic Tank Manufacturers Responsibility

It shall be the responsibility of any septic tank manufacturer delivering septic tanks within the Benzie Leelanau District Health Department, upon request of the Health Officer, to make available the place, name, address, size, type and date septic tanks were delivered within the district.

3.8.3 DOSING TANK/PUMP CHAMBER

The dosing tank or pump chamber shall have a reserve volume that provides for temporary loss of power or other pump failure, shall have a high-level warning device and shall be provided with a tank riser with a watertight connection to the top of the tank and which extends to the ground surface and has a cover or lid which provides access for routine maintenance, minimize odors and to prevent unauthorized and unsupervised entry.

3.8.4 EFFLUENT PUMPS

- a. Effluent pump shafts and the pump's fasteners shall be constructed of corrosion proof material such as stainless steel or PVC.
- b. The pump shall be UL approved.
- c. The effluent pump's discharge line shall have an acceptable union that allows for the easy removal of the pump from the dosing chamber.
- d. All effluent pump connections shall be water-tight.
- e. The effluent pump shall be installed in accordance with manufacturer specifications.
- f. All effluent pump electrical connections shall meet applicable electrical codes.
- g. The pump shall have an audio-visual alarm for a high-water warning device.

3.8.5 SUB SURFACE DISPOSAL SYSTEM

A sub surface disposal system for a commercial establishment, industry, public, or semi-public establishment treating 1,000 gallons per day or greater shall be sized in accordance with the 1994 Michigan Criteria for Subsurface Sewage Disposal, or its successor requirements.

- a. Location
 1. 50 feet from any potable water supply, well, spring, or unprotected suction line (75 feet from Type IIb and III wells, **200 feet from Type I and IIa wells**).
 2. A minimum isolation distance of 50 feet shall be maintained from any surface water, or other surface water flooding or its highest flood plain elevation.

3. No system shall be located closer than 10 feet to any footing or foundation wall.
4. **No system shall be located closer than 25 feet from a footing drain without direct connection to surface water.**
5. **No system shall be located closer than 50 feet from any drain with a direct connection to surface water.**
6. **No system shall be located closer than 5 feet to any slab on grade.**
7. The bottom of the disposal system shall not be over 42 inches below the finished grade and not less than 48 inches above the maximum seasonal high-water table.
8. **No system shall be located closer than 10 feet from the top edge of steep slopes (> 25% slope).**
9. **No system shall be located closer than 10 feet from a wastewater easement boundary. For the purposes of this Code, this requirement does not apply to road, utility, and other similar easements.**

b. Size

Sub-surface disposal system lines shall have a diameter of not less than four inches, or in the case of pressure distribution, 1-1/2 inches.

c. Quality

Sub-surface disposal system lines shall be constructed from perforated plastic tile or other equivalent material as approved by the Health Officer.

d. Depth, Slope, and Length of Lines

1. The top of the sub-surface distribution lines shall not be less than 12 inches nor more than 30 inches below the finished grade.
2. Slopes of the distribution lines shall be not more than 1-1/4 inch per 50 feet.
3. Length of any one lateral line shall not exceed 75 feet **for non-pressurized distribution lines.**

e. Headers

The watertight header shall be constructed from solid plastic tile or such other material as approved by the Health Officer. Headers shall be **designed and** set true and level so as to afford an even distribution of all septic tank effluent throughout the sub-surface disposal area.

All non-pressurized sub-surface disposal systems with laterals or similar design shall have a footer connecting the lateral ends together.

f. Filter Material

Sub-surface disposal system lines for distributing septic tank effluent for direct soil absorption shall be laid over at least six inches of clean and/or washed stone from one-half to one and one-half inches in size. A total minimum depth of 12 inches filter material is required. **The Health Officer may approve the use of other types of aggregate in place of stone.**

Straw, untreated building paper or other approved materials shall be placed between the stone and the final cover of soil to keep backfill material out of the stone, yet allow the evaporation of moisture.

g. Trench Construction

Trenches shall not be less than 24 inches nor greater than 48 inches wide at the bottom. The use of trenches as a means of sewage disposal shall be at the discretion of the Health Officer.

h. Other Sewage Disposal Systems

In addition to the conventional bed and trench system, the Health Officer may approve other sewage disposal systems. If not otherwise specified by the Health Officer, these systems shall be installed according to manufacturer's guidelines. The Health Officer may require additional construction specification and maintenance beyond the manufacturer's guidelines that are reasonably necessary to meet or maintain compliance with this Code. The Health Officer may also require additional inspections based on the technology or the difficulty of the development site. The Health Department may charge a fee for the additional inspections.

Variations in general sewage disposal system requirements may be permitted by the Health Officer based on written policies and

procedures established by the Health Department. These policies and procedures shall state specific site conditions and design criteria which must be met.

i. Sub-surface Disposal System

The minimum sub-surface disposal system area is depended upon average daily volume of septic tank effluent and the type of natural soils, **as defined by the United States Department of Agriculture, Natural Resources Conservation Service, Soil Taxonomy, Soil Classification System**, present in the proposed disposal area. The following minimum sizing shall be used except where in the opinion of the Health Officer a variation in sizing is necessary:

<u>Soil</u>	<u>Minimum disposal area per single family residence</u>		
	<u>2bdrm/less</u>	<u>3bdrm/less</u>	<u>4bdrm/less</u>
Coarse sand or gravel	450 sq ft	600 sq ft	750 sq ft
Medium sand	600 sq ft	750 sq ft	900 sq ft
Fine sand and Loamy sand	750 sq ft	900 sq ft	1050 sq ft
Sandy Loam	900 sq ft	1050 sq ft	1200 sq ft
Loam and Sandy Clay Loam	1050 sq ft	1200 sq ft	1350 sq ft
Clay, Clay Loam and Silt Loam	<u>not suitable</u>	<u>not suitable</u>	<u>not suitable</u>

Section 3.9 ALTERNATIVE TREATMENT SYSTEMS

This section applies to residential building sites requiring on-site sewage treatment and disposal for compliance under this Code. The provisions of this section shall apply if a site does not meet the minimum requirements of Section 3.8.5 and Section 3.10. This section does not apply to semi-public or public sites regulated by the Michigan Criteria for Subsurface Sewage Disposal, or this Code. This section does not apply to subdivision, site condominiums or condominiums regulated under Act 288 of 1967, as

amended, effective January 1, 1968. This section does not apply to land divisions of less than 1 acre in size, regulated under the Land Division Act (Act 288, as amended), effective date of March 31, 1997.

A. Technological advances in on-site waste treatment and disposal have made it possible to have treatment systems that are alternatives to the septic systems described in **Sections 3.8.5 and Section 3.10** and that are consistent with protection of public health and environmental resources. These alternative systems are particularly advantageous when any of the following conditions prevail:

1. Drainfield construction criteria described in **Sections 3.8.5 and Section 3.10** cannot be achieved, or
2. Holding tank substitutes are sought, or
3. Owner(s) believe the public health and/or environment will benefit.

B. **The property owner shall retain the services of persons demonstrating competence in alternative treatment system (ATS) design such as a State of Michigan licensed professional engineer or other qualified individual (i.e. registered sanitarian, professional surveyor) as approved by the Health Officer to design the ATS.** It is the responsibility of the owner to establish that a particular alternative treatment system meets the requirements for approval. The Health Officer shall permit the use of alternative on-site waste treatment and disposal systems **that are certified by National Sanitation Foundation Standards: Residential Wastewater Treatment Systems (NSF/ANSI 40) and Residential Wastewater Treatment Systems – Nitrogen Reduction (NSF/ANSI 245) or their successor standards. For those Alternative Treatments Systems that do not meet NSF/ANSI Standards 40 and 245, the following criteria shall be achieved:**

1. The treatment facility is capable of producing an effluent with:
 - a) **Biological Oxygen Demand (BOD)** less than or equal to 30 mg/L
 - b) **Total Suspended Solids (TSS)** less than or equal to 30 mg/L
 - c) **Total Inorganic Nitrogen (TIN)** less than or equal to **30** mg/L
 - d) For discharges within **200** feet of **surface water**, total phosphorous less than or equal to **4** mg/L

2. **No less than 12 inches of suitable soils shall exist below the natural ground surface in the disposal field area to be approved for an alternative treatment and disposal system.**
 - a) **The 12 inches of suitable soil shall include 6 inches minimum of soils free of mottling or actual water below the topsoil to demonstrate the absence of seasonal high groundwater in the topsoil**
 3. **The infiltrative Surface of the dispersal media (i.e. bottom of stone) shall be elevated no less than 24 inches above seasonal high water table or restrictive soil layer.**
 4. **The effluent discharge from the treatment system shall be constructed in such a manner that surface flooding will not occur.**
- C. The owner shall obtain a maintenance agreement, for the life of the system, with a State of Michigan licensed professional engineer or other qualified individual approved by the Health Department, to properly monitor and maintain the system as prescribed by the system's designer. Prior to permit issuance, a copy of this maintenance agreement must be submitted to the Health Department.**
- D. The property owner shall ensure that a professional engineer or other qualified individual approved by the Health Department certifies the construction of the ATS as approved by the Health Department and provides such certification to the Health Department prior to the system start up.**
- E. After an alternative on-site waste system is approved by the Health Officer, the owner of the system shall comply with all of the following:**
1. **The owner shall at his or her sole expense comply with a specific maintenance, monitoring and inspection program specified by the Health Officer to ensure the optimum operation of the alternative treatment system.**
 2. **It is the responsibility of the owner to submit the required monitoring report and sample results to the Health Department. Alternative Treatment Systems that are certified by NSF/ANSI 40 and NSF/ANSI 245 are not required to submit annual sample results for BOD, TSS, and TIN.**
 3. **The owner shall pay an annual fee as established by the Board of Health for Benzie Leelanau District Health Department. The fee will be for the tracking of system maintenance and monitoring compliance. The fee must be paid by February 1st of each year**

that the system is in use. Penalty fees will be assessed for late payment.

4. If the system substantially fails to meet the performance standards of **Section 3.9(B)(1)**, the owner shall, at his or her sole expense and within the time frame (based on the degree of harm or potential harm to the environment or to public health) required by the Health Officer, corrections shall be made to the system so that the performance standards are substantially met. Failure to correct the system as required shall be deemed a violation of **this Code** and shall subject the owner to the enforcement provisions within Chapters **VII and VIII** of the Code.

Section 3.10 PERMIT DENIAL

A permit to install an on-site sewage disposal system may be denied for any of the following reasons:

- a. Where an **unsuitable soil (see Section 3.8.5(i))** or impervious **soil or bedrock** is encountered at less than **48 inches** from the natural ground surface. (See exception in **3.10(f)**)
- b. Where the known high ground water table is encountered within **48 inches** of the natural ground surface. (See exception in **3.10(f)**)
- c. Where silts, mucks, or unstable soils are encountered.
- d. Where lot size does not provide adequate area to maintain requirements as set forth in **Section 3.6 through Section 3.9**.
- e. Where it has been determined that one or more of the following exists:
 1. The proposed sewage disposal system is likely to adversely affect the public health, or the environment where the adverse **effect** on the environment endangers the public health.
 2. The proposed sewage disposal system is likely to pollute, impair, or destroy air, water, or other natural resources or the public trust therein contrary to **Michigan Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended and its successor statutes**.
 3. The proposed sewage disposal system will violate any other health or contamination law, regulation or ordinance.
 4. A publicly operated sewerage system is available as defined in **Act 368, P.A. of 1978, as amended, MCL 333.12751-8**.
 5. The proposed site of the sewage disposal system is subject to recurring flooding and/or is located within the fifty (50) year flood plain, or is located within a wetland **or falls within a high risk erosion zone** as defined by **Michigan Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended**

and its successor statutes.

- f. Where an existing dwelling has a **minimum of 24 inches of suitable soil below the natural ground surface** and a seasonal high-water table of greater than or equal to **24 inches** and the seasonal high water table is less than **48 inches** from the natural surface, clean fill soils may be added to the existing soils to meet the **48 inch** minimum isolation distance. **For the purposes of this subsection, an existing dwelling is defined as a dwelling which was constructed without the requirement that holding tanks or an Alternative Treatment System be installed at the time of construction and currently has an existing on-site septic system.**

Section 3.11 HOLDING TANK SYSTEMS

Pump-and-haul as a means of sewage disposal may be used for existing dwellings and parcels of land recorded and on file with the appropriate County, prior to the effective date of this Code, unless prohibited by local, State, or Federal laws and regulations.

Pump-and-haul as a means of sewage disposal shall not be permitted on parcels of land recorded and filed with the appropriate County, after the effective date of this Code.

Vehicles to be used for pump-and-haul shall be licensed under Part 117 of Act 117 of Act 451, Public Acts of 1994, as amended. The method of disposal shall be in accordance with Act 381, Public Acts of 2004 under the authority of the Michigan Department of Environment, Great Lakes, and Energy.

Section 3.12 CHANGE OF USE

A change in use of a premise which may result in an increase in the generation of wastewater shall not be allowed unless it can be shown that the sewage treatment facility is in compliance with the applicable regulations for the anticipated new use. This would include, but not be limited to, adding bedrooms to an existing dwelling, adding seating in a food establishment, additions to industrial or commercial establishments, construction of garages, and/or outbuildings.

The Health Officer shall determine if an existing sewage disposal system is sufficient and adequate to allow an increase in living or working area to existing buildings and/or that the proposal will not interfere with current or future use of onsite sewage disposal.

Section 3.13 **NEW AND EXISTING SEPTIC SYSTEMS**

Every sewage treatment system installed subsequent to the effective day of this Code shall conform to the design, location and construction requirements contained in this Code.

Sewage treatment systems in use prior to the effective date of this Code may continue to be used so long as they are in substantial conformance with this Code and its usage does not create a hazard to public health and safety, a public health nuisance or excessive degradation of the natural environment.

Section 3.14 **PERMIT**

No person or their contractor or agent shall construct any dwelling or any addition thereto, or install, modify or repair any sewage disposal facility as defined in this Code, without a permit and approval from a Health Officer as required by this Code. Such construction permit shall be issued only when plans and specification for the proposed installation of the average system are not less than the requirements set forth in these minimum standards. The Health Officer may attach conditions to the permit or approval. Any such conditions shall be designed to implement compliance with this Code.

Said permit shall contain a sketch showing all pertinent plans and specifications of the proposed sewage disposal installation. Said permit shall be signed by the Health Officer. One copy of the permit shall be **provided** to the applicant. One copy of the permit shall be retained by the Health Officer and remain on file in the Health Department.

The Health Officer shall inspect the **septic disposal system installation** and premises. Failure to construct the septic disposal system in accordance with **this** Code or other laws, regulations or ordinances shall be deemed a violation of this Code and shall subject **the** person and/or his/her contractor or agent to the fines, penalties and enforcement actions authorized by this Code. Modification or repair of any existing sewage disposal facility shall require a permit and approval as provided **in this Code.**

Section 3.15 **REGISTRATION REQUIREMENT FOR SEWAGE SYSTEM
RELATED BUSINESSES**

All persons engaged in any way in the manufacture, installation, construction, maintenance, cleaning or servicing of sewage systems in the **counties** of Benzie **and Leelanau**, Michigan, shall register with the Health Department. No fee shall be required for such registration.

CHAPTER IV – WATER SUPPLY

Section 4.1 **PROVISION OF WATER REQUIREMENT**

No person shall construct, occupy, or inhabit, offer for rent or lease, with or without compensation in whole or in part, any habitable building or dwelling unless the same is equipped with a safe and adequate water supply approved by a Health Officer in accordance with the provisions of this Code. Further, no water supply or alteration of existing water supply shall be installed or made unless the same is approved by a Health Officer in accordance with the provisions of this Code.

Section 4.2 **SCOPE**

These regulations shall apply to all premises not connected to Type I public water supplies, as defined by Michigan’s Safe Drinking Water Act, Act 399 of the Public Acts of 1976, and related Administrative Rules, as amended

Section 4.3 **WELL CONSTRUCTION**

The construction of water wells and the installation of water well pumps shall comply with the requirements set forth in the Groundwater Quality Control Rules, Part 127 of Act 368 of the Public Acts of 1978, as amended, being MCL 333.12714; Act 399 of the Public Acts of 1976, as amended, being MCL 325.1001 et. seq; and/or Part 201 of Act 451 of the Public Acts of 1994, as amended, being MCL 324.20101 et seq.

Section 4.4 CONNECTIONS REQUIRED

Where connection can be made to an available approved public or municipal water supply, the Health Officer shall not issue a permit to construct a private water supply system unless approved by the local municipality. No cross connections between a public and private water supply system shall be allowed.

Section 4.5 HAND PUMP PLATFORM

In hand pump installations the well top or platform shall be constructed of a water-tight concrete reinforced slab of a minimum thickness of four inches extending at least **24 inches** from the well casing in all directions. The slab shall rest on compact earth. The concrete slab shall be sloped from the well casing to the edge of the slab. The surface of the slab at outer edges shall be four inches above the surrounding ground surface.

Section 4.6 COOLING WATER

Water used for cooling parts of engines, air compressors, pumps, or other equipment shall not be returned to any part of the potable water supply.

Section 4.7 INSPECTION OF WELL CONSTRUCTION

The Health Officer may enter and inspect, at any reasonable hour, on private or public property, an installation for the development or abandonment of a water supply as allowed by the Michigan Public Health Code and other applicable law.

Section 4.8 WATER SUPPLY APPROVAL

A new water supply shall not receive final approval by the Health Officer until the following conditions have been met:

- a. **A completed “Water Well and Pump Record”, prepared by the well driller and/or pump installer, as applicable, has been submitted to the Health Officer.**
- b. **The Health Officer has completed an on-site water well component construction inspection.**

- c. **The Health Officer has received copies of the results of the analysis of water samples indicating that raw water quality meets minimum public health standards. Water sample analysis shall include coliform bacteria, nitrate, and any other parameter deemed necessary by the Health Officer to determine compliance with this Code or other applicable law. Analysis of water samples shall be performed by laboratories certified by the Michigan Department of Environment, Great Lakes, and Energy.**

Section 4.9 TREATMENT OF UNSATISFACTORY WATER SUPPLY

Groundwater supplies shall comply with the bacteriological, geological, physical, radiological, or chemical requirements **outlined in Act 399 of the Public Acts of 1976, as amended, and Administrative Rules, Part 127 of Act 368 of P.A. 1978, as amended, and Administrative Rules**, and the "National Primary Drinking Water Regulations" pursuant to **CFR 40 Part 141**.

If it is not possible to secure satisfactory compliance with these requirements or standards, said water supply shall be **permanently** abandoned to protect the water bearing formation against further contamination.

Section 4.10 ABANDONMENT OF WELLS

A permanently abandoned well shall be sealed by filling with materials in accordance with the specifications and procedures as provided in Act 368 of the Public Acts of 1978, as amended and Act 399 of the Public Acts of 1976, as amended. It shall be accomplished to prevent it from acting as a channel for vertical contamination movement or the escape of subterranean gases.

Section 4.11 CONNECTION WITH AN UNSAFE WATER SUPPLY

There shall be no cross-connection, auxiliary intake, by-pass, interconnection or other arrangement including overhead leakage whereby an unsafe water supply or water from a source that does not comply with these minimum standards, may be discharged or drawn into any drinking culinary, or ablutionary supply which does not comply with the minimum standards **contained in this Code**.

Section 4.12 OUTLETS FROM UNSAFE WATER SUPPLIES

All outlets from water supplies which do not comply with these minimum standards shall be sealed or at the discretion of the Health Officer, be provided with a permanent and easily readable tag or label reading "**UNSAFE WATER - DO NOT DRINK**". Removal of said tag or label except by permission of the Health Officer shall be a violation of these minimum standards.

Section 4.13 WELL FIRST AREA DESIGNATIONS

In known critical water supply areas where obtaining satisfactory yields of quality and quantity ground water may be a problem, a "well first" requirement may be instituted before development of the premises. A well first designation by the Health Department will require the owner or applicant to construct or install a test well before site preparation and development, including excavation and construction of any type of structure or on-site sewage disposal system, occurs on the premises. In "well first" areas, the following process will be followed:

- a. A valid permit must be obtained before construction or installation of the test well.
- b. Upon completion of the water supply system, the well shall be tested for satisfactory yield of quantity or quality, dependent on the critical water supply problem.
- c. Approval of the test well water supply must be obtained from the Health Department before further development of the premise. Upon approval of the test well water supply, the Health Department shall authorize, in writing, the use of the test well for its intended purpose.

Section 4.14 PERMIT

No person or his/her agent or contractor shall construct any habitable building or dwelling, any private, semi-public and other certain water supplies as defined in these minimum standards, or no person shall install any new or make any alteration of an existing water supply unless and until such person or **the person's** duly authorized agent or contractor has obtained approval and permit from a Health Officer as required by this Code.

The Health Officer may attach conditions to the permit or approval. Any such conditions shall be designed to implement compliance with this Code.

Said permit shall contain a sketch showing all pertinent plans and specifications

of the proposed water supply installation. Said permit shall be signed by the Health Officer. One copy of the permit shall be **provided** to the applicant. One copy of the permit shall be retained by the Health Officer and remain on file in the Health Department.

Any construction, installation, or alteration, **or extensive changes** of a water supply without permit and approval or in violation of the minimum standards of this Code and its regulations shall be deemed to be a violation of this Code and subject to enforcement and penalties as specified herein. **This provision shall not encompass the normal routine maintenance of a water supply system or when minor changes or repairs are made to the system (i.e. replacing pump, well cap, screen, pressure tank, piping, wiring, treatment devices, or installation of a pitless adaptor).** Extensive changes include, but are not limited to, replacing the casing, removing a casing from the ground for any reason, installing a liner, or increasing the depth of the well casing.

Section 4.15 STOP WORK ORDER – VOID PERMIT

When during construction, any new work or change to an onsite water supply system is found in violation of the provisions of this Code, the Health Officer may issue a “Stop Work Order” by posting said notice at the site. Any valid water supply construction permit shall be deemed to be in abeyance and no longer in effect when a “Stop Work Order” is posted and for such time as the “Stop Work Order” is in effect.

Section 4.16 PERMIT DENIAL

The Health Officer may deny all applications for a water supply permit when incomplete, inaccurate, or false information has been supplied by the applicant, or when the Health Officer determines that the requirements of this Code and/or applicable state statutes have not or cannot be met.

CHAPTER V – PERMIT REVOCATION

Section 5.1 REVOCATION OF PERMIT

Any permit issued pursuant to these regulations may be revoked by the Health Officer if the Health Officer finds that one or more of the following circumstances exist:

- a. Changes have taken place on or to the site or premises so that the construction or operation of the object of the permit cannot comply with this Code;
- b. The object of the permit is not constructed, is not operated, is not maintained or does not perform as required by this Code or the applicable permit;
- c. The premises to be served by the object of the permit or on which a permit is used to conduct a business is not constructed or operated as stated in the permit application;
- d. The permit holder does not comply with the requirements of these regulations or the terms of the applicable permit; or
- e. The permit application is incomplete or inaccurate.

Section 5.2 PERMIT REVOCATION PROCEDURE

The revocation of a permit shall be taken pursuant to notice to the permit holder by the mailing of the notice of revocation via first class mail to the permit holder at the mailing address of the permit holder as provided in the application for the permit **or by personal service on the permit holder**. The Health Officer may, but is not required to post the notice of revocation on the premises. **When the permit has been issued to more than one (1) person, then service by first class mail or personal service may be to any person named in the permit.**

The notice of revocation shall contain the reasons for the revocation and notice that the permit holder has the right to request a meeting with the Health Officer. The request for the meeting shall be in writing and shall be made within thirty (30) days of the date of the mailing of the notice of revocation. After the meeting, the Health Officer may continue the revocation, rescind the revocation or impose such conditions of the reinstatement of the permit as are necessary to require compliance with this **Code**. If the permit holder is not satisfied with the decision

of the Health Officer after the meeting, then the permit holder may appeal the Health Officer's decision to the Board of Appeals. **A meeting with the Health Officer, as described in this section is a mandatory prerequisite for the Board of Health's Appeal Board to have jurisdiction to hear an appeal related to the notice of revocation.**

CHAPTER VI – TIME OF TRANSFER EVALUATION OF ON-SITE WATER AND SEWAGE DISPOSAL SYSTEMS

Section 6.1 PURPOSE

The purpose of **Chapter VI** and its provisions is to protect public health and to prevent or minimize degradation of ground water or surface water by improper or malfunctioning sewage disposal systems or water well systems through the regulation of the transfer of the property or premises.

Section 6.2 EVALUATION

- a. **Except as provided in subsection 6.2(b) below, an owner of premises or a dwelling shall not sell, convey, assign nor transfer ownership of, or exclusive rights in, any dwelling and/or habitable building or premises unless and until the owner or the owner's designated agent has requested a Health Officer to evaluate the existing on-site water well system and/or the existing on-site sewage disposal system and unless and until such evaluation by the Health Officer has been conducted and the results thereof have been reduced to writing and furnished to any prospective purchaser or transferee and the seller or transferor as part of the said transaction on a form established by the Health Department.**
- b. **The following are exempt from the requirement for the evaluation of an existing on-site sewage disposal system and/or water well, excluding water quality compliance sampling for on-site water wells with no water quality standard results for samples collected by the Health Department and analyzed by a State of Michigan certified laboratory within six (6) months prior to the proposed transfer:**
 1. **A transfer of premises that has had an on-site sewage disposal system and/or water well installed and approved by the Health Department within thirty-six (36) months prior to the proposed transfer pursuant to a permit issued by the Health Department for the on-site sewage disposal system and/or water well.**

2. **A transfer of premises where written evidence exists that the on-site sewage disposal system and/or water well on the premises has been inspected by a Health Officer as required by these regulations within thirty-six (36) months prior to the proposed transfer and has been found to be in compliance with this Code.**

Section 6.3 EVALUATION DETERMINATION

The evaluation shall consist of a determination that the sewage disposal system and/or water well system are in substantial conformance with the standards of this Code. In making this determination, the following criteria shall be considered:

- a. Vertical isolation distance between the high ground-water table and the point of sewage discharge;
- b. Isolation distance from surface waters or wetlands, as defined by federal or state law and **this Code**;
- c. Isolation distance between water well and sewage system;
- d. The on-site conditions of the property, including **but** not limited to soil types, groundwater elevation, flow and direction;
- e. Whether the sewage system meets the construction and design criteria (size and capacity) **as required by federal or state law and this Code**;
- f. Lot size and useable area for on-site sewage disposal;
- g. Operational condition of existing sewage system **and/or water well**;
- h. **Whether the water well meets the construction standards as defined by state law and this Code**;
- i. **Compliance with bacteria and nitrate water quality standards as a minimum with other water quality parameters as required by the health department.**

Section 6.4 INSPECTION NOTIFICATION

If, upon notice of transfer and inspection, it is determined that there is not substantial conformance or that there is an endangerment of water well systems, groundwater or surface water or public health, then the septic system or water supply shall be subject to enforcement as provided in the Code. The Health Officer shall provide a copy of such written determination to the owner and/or purchaser or transferee of the property within **thirty (30) days** from the date that the inspection of the premises is completed **and all relevant information to make the determination has been received by the Health Department.**

Section 6.5 CORRECTIVE ACTION

- a. Upon receipt by an owner, purchaser or transferee of written notice, as set forth in **Section 6.4**, the owner, purchaser or transferee shall, within thirty (30) days, submit a proposed corrective action that will remediate, abate or prevent any such substantial nonconformance or endangerment. The Health Department shall review the proposed corrective action. All necessary corrective action shall be completed within one hundred twenty (120) days of Health Department approval. Upon approval by the Health Department of the completed corrective action, the system shall be deemed to be in substantial conformance with this Code.
- b. Before the completion or closing of any real estate transaction for the transfer of premises having a system provided for in **Section 6.4**, the owner, purchaser or transferee shall notify the Health Department that the premises and its sewage system **and/or water well** either: (1) are in substantial conformance with this Code as defined in **Section 6.3**; or (2) submit to the Health Department proof of the following: (a) written contract to cause the sewage system **and/or water well** to be brought into conformance; (b) deposit of a surety or performance bond or cash guaranteeing performance of such contract in an amount equal to one and one-half times the estimated cost provided for in such contract; (c) covenant that the performance called for by such contract shall be completed within one hundred and fifty (150) days of transfer of the premises.

Section 6.6 ENFORCEMENT

In the event that the Health Officer is not notified as required by **Section 6.5**, or in the event an owner, transferee or purchaser does not comply with the requirements of **Section 6.5**, **then it shall be deemed to be a violation of this Code and subject to enforcement and penalties as specified herein.** The Health Officer or his/her duly authorized representative may **also** record an Affidavit Concerning Status of Sewage Disposal System **and/or Water Well** with the Register of Deeds office in the County where the premises are located setting forth the fact that it may not **be** in substantial conformance with this Code as defined in **Section 6.3**.

Section 6.7 DETERMINATION HEARINGS AND APPEALS

Any owner, transferee, purchaser or person aggrieved by **the determination** required by this **Chapter**, shall have the right to a hearing and appeal as provided in **Chapter IX** of this Code.

CHAPTER VII – HOUSING

Section 7.1 COMPLAINTS CONCERNING PUBLIC HEALTH NUISANCES

All complaints concerning alleged public health nuisances shall be submitted to the Health Officer. Such complaints shall include specific details regarding the situation, including the nature and location of the alleged nuisance condition, the date and time of the occurrence, the person responsible, the names of the witnesses, and the name and address of the complainant. The Health Officer may require such complaints to be submitted in writing and signed.

Section 7.2 VACATION ORDER

Whenever it is determined by the Health Officer that a dwelling is unfit for human habitation, the Health Officer may issue an order requiring all persons living in the dwelling to vacate it within not fewer than 10 days nor more than 30 days. The order shall mention the specific reasons upon which such determination is based. The Health Officer may post a notice on such premises declaring that they are unfit for habitation, and it shall be unlawful for any person to move into, reside in, or offer for rent, lease, or transfer, a dwelling which has been declared by the Health Officer to be unfit for human habitation until such dwelling has been brought within the requirements of this Code. **After the dwelling has been vacated, it must be secured against unauthorized entry by the property owner.** It shall be unlawful for any person to remove, deface, or destroy any posted notice declaring the premises unfit for human habitation.

Section 7.3 PUBLIC HEALTH NUISANCE

Whenever a sewage disposal facility or part thereof, a water supply or part thereof, or a dwelling is in violation of the Code or otherwise is determined unfit for human habitation, then such dwelling, structure, excavation, alteration, business pursuit or thing in or about a dwelling or its lot or the plumbing, sewage, drainage, light, ventilation, or condition of premises is unfit for human habitation shall be deemed a public **health** nuisance, and subject to enforcement as provided herein or by law.

Section 7.4 HEALTH OFFICERS DUTY

The Health Officer may order purified, cleaned, disinfected, renewed, altered, repaired, or improved any dwelling, excavation, building, structure, sewer, plumbing pipe, passage, premises, ground or thing in or about a dwelling or its lot, where such condition constitutes a hazard to the public health, safety or welfare. The Health Officer shall cause such orders to be served on the tenant and owner or his rental agent, but such order also may be served on any person who by contract has assumed the duty of doing the things which the order specifies. In event of non-compliance, the Health Officer shall within 10 days after such refusal institute appropriate legal action to enforce said order.

CHAPTER VIII – CODE ENFORCEMENT

Section 8.1 ENFORCEMENT

To ensure compliance with this Code, the Health Officer may inspect, investigate, or authorize an inspection or investigation to be made of any matter, thing, premises, place, person, record, vehicle, incident or event to enforce the provisions of this Code. The Health Officer may apply for an inspection or an investigation warrant pursuant to Section 2241 to 2246 or Section 7504 to 7507, Act 368 of P.A. 1978, as amended, or any other type of administrative or search warrant authorized by law.

Section 8.2 VIOLATION OF THE CODE

Upon receipt of information that there is a violation of the Code ~~or its regulations~~ the Board of Health, or the Health Officer or **the Health Officer's** designated representative may:

- A. Issue a Cease and Desist Order and suspend any permit, Certificate or other approval issued pursuant to this Code to the owner or other person violating this **Code**. **The Cease and Desist Order may be appealed by the owner or other interested person as provided in Chapter IX;**
- B. Request the prosecuting attorney in the County where the violation has occurred or is occurring to commence an action to enjoin the act or practice and obtain injunctive relief and abatement upon a showing that a person has violated, or is continuing to violate, any Article or provision of the Code in a manner that may become injurious to public health, safety or welfare. Upon approval of the Board of Health, the Health Officer may obtain the services of a special attorney to commence and prosecute such

action for injunctive relief or abatement. The action authorized by this paragraph shall include all injunctive relief to restrain, prevent or correct a violation of law, rule or order which the Health Officer has a duty to enforce; or to restrain, prevent or correct any activity or condition which the Health Officer believes "adversely effects the public health" as authorized by **Act 368, P.A. of 1978, as amended**, or other law. In addition to injunctive or other relief as authorized herein, the Health Officer may seek costs of avoiding, correcting, removing or abating the violation requiring immediate response, including any other costs authorized by law in such action.

Section 8.3 RESTRAINING ORDER

Notwithstanding any other provision herein, if a Health Officer reasonably believes that any activity or condition in violation of this Code adversely affects the public health, then such Health Officer is authorized to seek to obtain an injunction to restrain, prevent or correct any such activity or condition and to assess the costs thereof, including the costs of coming upon the premises and correcting, abating, removing or remediating any such activity or condition in the event that the owner refuses to take such action on a reasonable request.

Section 8.4 CIVIL FINES OR PENALTY

Any person who violates a provision of the Code **or order of the Health Officer shall be subject to the penalties authorized by section 2443 of the Public Health Code (MCL333.2443), which is in effect as of the effective date of this Code, or as authorized by any amendment to the Public Health Code. As of the effective date of this Code, the Public Health Code provides that a person, who commits any such a violation, shall be guilty of a misdemeanor and subject to imprisonment for not more than 6 months or a fine of up to \$200.00.** If a violation is of a continuing nature, then each day that a violation occurs shall be considered a separate offense and shall be subject to a separate fine or penalty for each such occurrence. Any person who violates a provision of this Code, or who makes a false statement under the Code, shall be subject to an assessment of costs for enforcement action authorized and required, including, but not limited to the cost of abatement, remediation, prevention of further violation, expert witness fees and actual attorney fees. Any enforcement action taken under this provision shall not constitute a waiver of any other claims or remedy of a Health Officer or the Health Department as provided for in this Code, or other law.

Section 8.5 INJUNCTION

Notwithstanding the existence of any other remedy, a Health Officer, without posting a bond, may maintain an injunction or equitable action to restrain, prevent or correct the violation of law, rule, or order which the Health Officer has the duty to enforce, or restrain, prevent or correct any activity or condition which the Health Officer reasonably believes adversely affects the public health. The costs of such action, including the costs of restraining, preventing or correcting such violation, and witness fees and attorney fees as authorized by law, shall be assessed against the defendant, **as authorized by law.**

Section 8.6 ISSUANCE OF A CIVIL CITATION

If a local Health Department representative or Health Officer believes that a person is violating a provision of this Code or an order issued pursuant to this Code which the local Health Department has the authority and duty to enforce, the representative may issue a citation at that time or not later than ninety (90) days after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation including reference to the section, rule, order or regulation believed to be, or have been, violated, the civil penalty established for such violation, if any, and a right to appeal the citation pursuant to Section 2462 of **Act 368, P.A. of 1978, as amended**; MCL 333.2462; or **Chapter IX** of this Code. The citation shall be delivered or sent by certified mail to the alleged violator. This provision is optional, and a decision by the Health Officer not to issue a citation shall not be construed to waive any other rights or remedies authorized by law or this Code.

- a. The alleged violator may petition the local Health Department for a Hearing not later than twenty (20) days after receipt of the citation, and the Hearing shall be held within thirty (30) days after receipt of the petition. The Administrative Hearing shall be conducted in accordance with **Chapter IX** of this Code, **except that for this Hearing the Health Officer shall conduct the hearing and make the decision and not the Appeals Board.** After the Hearing, the Health Officer may affirm, dismiss or modify the citation. The decision of the local Health Officer shall be final, unless within sixty (60) days of the decision the **Appeals Board** grants review of this citation, and after such review, affirms, dismisses or modifies the citation.
- b. A person aggrieved by a final decision of the Health Officer or the **Appeals Board**, may petition for review the Circuit Court of the county where the property or premises is located. In the event that the sewage disposal system or water supply crosses the boundaries of two counties, a petition for review may be filed not later than sixty (60) days following

receipt of the final decision from the Health Officer, **Appeals Board**, and not later than the time period provided by the Michigan Court Rules, as amended. The time periods for appeal shall begin to run the day after the date of such final decision.

- c. A civil penalty for violation pursuant to this Section shall be final if a petition for an Administrative Hearing or Review is not received by the **Health Department** or **Appeals Board** within the time specified in this Section. In the event a civil penalty is not paid, the Health Officer is authorized to commence a civil action to collect the same in the County in which the violation occurred or the defendant resides, and such action shall be an addition to any other action authorized by law.
- d. In addition to the authority to issue and serve a civil citation as described above, the Health Officer or a designee of the Health Officer may issue or serve an appearance ticket pursuant to 1927 PA 175, Chapter 4; MCL 764.9(a)-(g); MSA 28.868(1)-(7). The Sheriff's Department of the county in which the violation is alleged shall also have authority to issue or serve an appearance ticket pursuant to these regulations and applicable law.

Section 8.7 ASSESSMENT AGAINST THE PROPERTY

If the owner or person violating a provision of this Code refuses on demand to pay such expenses incurred by the **Health Department** to abate, correct or remove a violation, unsanitary condition or **public health** nuisance under Section 8.8, the sum shall be assessed against the property and shall be collected and treated in the same manner as taxes assessed under the general tax laws of this State.

Section 8.8 REMOVAL OF A NUISANCE

In the alternative, a Health Officer may petition a Circuit Court for removal of such nuisance, unsanitary condition or violation of this Code, and a Court, upon finding that a violation or nuisance may be injurious to the public health, may order the removal, abatement or destruction of the violation or **public health** nuisance at the expense of the defendant, and in such instance any order or bench warrant issued to the sheriff or other law enforcement officer may be fashioned to accomplish such purposes.

Section **8.9** **INSPECTIONS AND INVESTIGATIONS**

To **ensure** compliance with this Code, the Health Officer may inspect, investigate or authorize an inspection or investigation to be made of any matter, thing, premise, place, person, record, vehicle, incident or event where a Health Officer has reason to believe that noncompliance with the laws enforced by **the** Health Department exists. **The Health Officer may seek administrative warrants, search warrants or court orders for access to the person, real property or personal property to be inspected or investigated.**

Section **8.10** **RIGHT TO OBTAIN SAMPLES**

An inspection, under Section **8.9**, shall include the right to obtain samples where a Health Officer has reason to believe that there is a likelihood of contamination of surface water, ground water, water supply or other unsanitary conditions.

Section **8.11** **OBSTRUCTION OF HEALTH OFFICER**

It shall be unlawful for any person to refuse to permit the Health Officer to make an inspection or investigation authorized by law and it shall be unlawful for any person to molest or resist the Health Officer in the discharge of their duties.

Chapter IX – HEARINGS AND APPEALS

Section **9.1** **PURPOSE**

In order to provide for reasonable and equitable interpretations and applications of the provisions of this Code, there is hereby created an “Appeals Board”.

Section **9.2** **APPEALS BOARD MEMBERS**

The Appeals Board shall be comprised of six (6) members consisting of three (3) members from Benzie County and three (3) members from Leelanau County.

- 1. The Appeals Board members for each county are appointed by the individual County Boards of Commissioners**

2. Each Board of Commissioners appoint:
 - a. One (1) member of the Board of Commissioners
 - b. Two (2) Members-at-Large from their respective County

Section 9.3 DUTIES OF THE APPEALS BOARD

The Appeals Board shall have the following duties:

1. To resolve disputes on interpretation of this Code.;
2. To handle appeals from administrative decisions.;

Section 9.4 PROCEDURES OF THE APPEALS BOARD

In the event that an owner or interested person is adversely affected by any determination under this Code, the owner or such interested person may request in writing a hearing before the Appeals Board within thirty (30) days of the date of such determination. **Supporting documentation shall accompany the petition and shall include adequate information for the Appeals Board to adequately review, discuss and render a decision.** Upon receipt of such request, the Health Officer shall issue a Notice of Hearing within fifteen (15) days of the receipt of the request, and a Hearing shall be held at the next regular meeting of the Appeals Board scheduled for such purposes; provided, that a Hearing shall be conducted not later than sixty (60) days from the date of Notice of Hearing. The Hearing shall be conducted with flexibility in regard to rules of evidence and because of the quasi-administrative nature of the proceeding, and the decision of affirming, reversing or modifying, any such determination shall be based upon a majority vote of the Appeals Board, and based upon the whole record of testimony and exhibits received at the Hearing. **Any decision of the Appeals Board is final. The Appeals Board may impose conditions on any affirmative decision.**

Section 9.5 DETERMINATION REVIEW BY THE APPEALS BOARD

In reviewing a determination, the Appeals Board shall not reverse or modify any decision of the Health Officer unless the owner or an interested person can show any of the following:

- a. that there is no feasible and prudent alternative site, method or corrective action; or

- b. that the sewage disposal system, if applicable, will not contaminate or pollute a water supply, potable ground water, surface water and/or adversely affect or endanger the public health.

The determinations required under (a) and (b) shall be based upon facts presented at the hearing, the application, and any supporting documents.

Section 9.6 DECISIONS OF THE APPEALS BOARD

In considering a decision, the Appeals Board shall:

- a. Consider a questioned provision in light of other provisions of the Code;
- b. Consider the intent of the Code;
- c. Seek advice of legal counsel, if needed;
- d. Limit the scope of its decision to the subject of the appeal;
- e. State the grounds or reasons for its decision.

The Appeals Board shall furnish the petitioner and Health Officer with a written statement of its final decision to affirm, dismiss or modify the decision of the Health Officer, including the reasons and grounds for such decision, within thirty (30) days following the hearing of any appeal.

Section 9.7 VARIANCES

Individual variances from the requirements of the Code may be made by the Health Officer after having determined, based on the facts and applicable Code sections, that all of the following conditions exist:

- a. That no substantial health hazard or public health nuisance is likely to occur therefrom;
- b. That strict compliance with the Code requirements would result in unnecessary or unreasonable hardship;
- c. There are exceptional or extraordinary circumstances or conditions applicable to the subject property
- d. That no state statute or other applicable laws would be violated by such variances, and;
- e. That the proposed variance would provide essentially equivalent protection of the public interest.

A variance shall not be granted due to a self-created condition or the result of actions of the property owner or previous property owner(s) which

occurred after the enactment of the Code provisions for which the variance is sought.

The decision to grant a variance(s) shall be made in writing and shall include the facts and the basis for granting the variance. The decision of the Health Officer may be appealed to the Appeals Board. In considering such an appeal, the Appeals Board shall consider the factors contained in Section 9.6, which includes the conditions contained in Section 9.7.

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