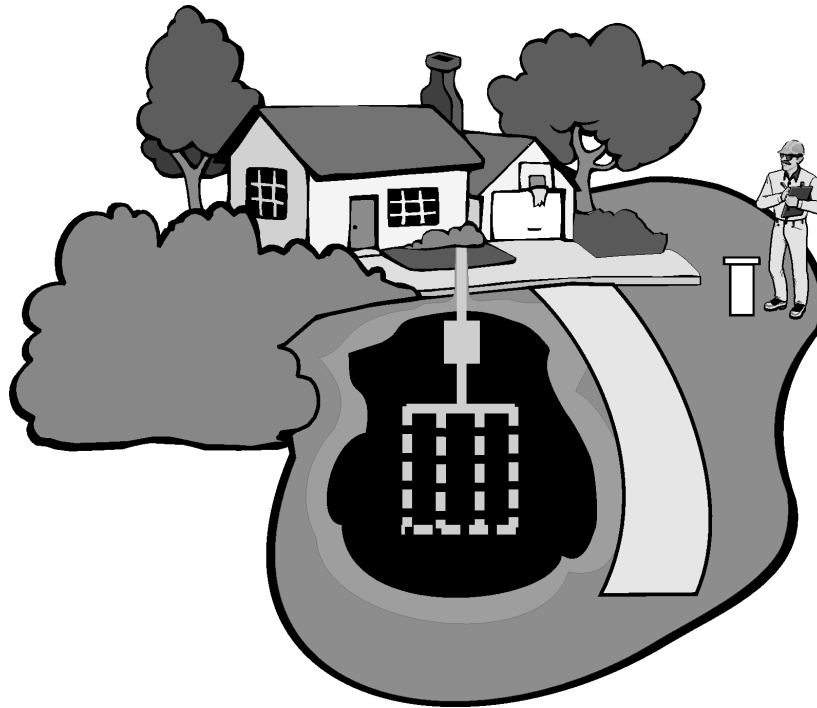


Regulations Governing On-Site Sewage Disposal And On-Site Water Supply System Evaluation and Maintenance In Macomb County, Michigan



Effective August 1, 2002

**Macomb County Health Department
Environmental Health Services Division**



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ARTICLE 1 – TITLE, PURPOSE, AUTHORITY AND JURISDICTION

SECTION 1.1 – Title

These Regulations shall be identified by the title “Regulations Governing On-site Sewage Disposal and On-site Water Supply System Evaluation and Maintenance in Macomb County, Michigan”.

SECTION 1.2 – Purpose

These Regulations are adopted to protect the quality of water resources, on-site water supplies and the natural environment and to protect the public health by providing an evaluation and maintenance program for on-site sewage disposal and on-site water supply systems in Macomb County by: (1) regulating the sale or transfer of parcels containing on-site sewage disposal or on-site water supply systems; (2) regulating on-site sewage disposal and water supply system evaluations; and (3) effecting compliance with the provisions of the Public Health Code. It is not the intent of this Regulation to cause existing functional systems which do not meet current construction standards, and in the case of on-site water supply systems which are not subject to contamination, to be brought into compliance with such standards.

SECTION 1.3 – Authority

These Regulations are adopted pursuant to authority conferred upon local Health Departments by Section 2441(1) of the Public Health Code.

SECTION 1.4 – Jurisdiction

The responsibility for administration and enforcement of these Regulations shall reside with the Health Officer of the Macomb County Health Department. These Regulations, including all amendments, shall be in full force and effect throughout all areas of Macomb County, incorporated and unincorporated.

ARTICLE II – DEFINITIONS

SECTION 2.1 – General Provisions

When not inconsistent with the context, words used in the present tense include the future, words in singular number

include the plural number, and words in the plural number include the singular number. The word “shall” is always mandatory, and not merely directory. Words and terms not defined herein shall be interpreted in the manner of their common usage.

SECTION 2.2 – Definitions

Absorption system - That part of a disposal system in which septic tank effluent is distributed to a subsurface trench or bed that allows the effluent to be absorbed and treated by the surrounding soil; also called drain field, disposal field, tile field or disposal bed.

Appeal – A formal written request for administrative review of any decision, action, or failure to act, on the part of the Health Officer, pursuant to the provisions of these Regulations.

Approved/Approval – Approved or approval denotes that a condition, facility, thing, premise, action or use, is in satisfactory compliance with the intent, purpose and applicable standards of these Regulations.

Available Public Sanitary Sewer – A public sewerage system located not more than 200 feet at its nearest point to a premises from which sanitary sewage originates, the use of which is permitted by the responsible governmental entity.

Dosing Chamber – An approved tank or receptacle used for the purpose of retaining overflow from a septic tank for controlled discharge to an on-site sewage disposal system by means of pumps or siphon devices.

Effluent – The partially treated sanitary sewage outflow discharge of a septic tank or similar detention device.

Failure of On-site Sewage Disposal System - The backup of sewage into the structure; direct discharge of effluent to a water course, surface drain or the ground surface; discharge from the disposal system to a storm sewer; presence of liquid in the septic tank above the invert of the septic tank outlet; failure or dilapidation of the physical septic tank structure, other system components; or discharge of sewage from the structure which does not reach the disposal system.

Failure of On-site Water Supply System – Unsafe water sample, substantial non-conformance with water well construction requirements

or substantial non-conformance with water well isolation from contamination source requirements.

Habitable Building – A part or all of a temporary or permanent building, facility or structure, where persons reside, sleep, cook, are employed or congregate.

Health Department – The Macomb County Health Department.

Health Officer - The Administrative Officer who is in charge of the Macomb County Health Department or his/her authorized designee.

On-site Sewage Disposal System – Any device or facility installed or constructed to store, treat or dispose of sanitary sewage or human excreta from premises where a public sanitary sewer is, or was, unavailable for use at the time for such construction or installation.

On-site Subsurface Sewage Disposal System, Conventional – A system which includes a building sewer, one or more septic tanks, a drain field, and all associated connections, fittings, and appurtenances.

On-site Subsurface Sewage Disposal System, Engineered Alternative – A facility constructed in accordance with a plan prepared by a professional currently licensed under Act 299, P.A. 1980 or Act 368, P.A. 1978, Part 184, which employs design features, processes, construction or operational methods significantly different from those which apply to a conventional on-site subsurface sewage disposal system.

On-site Water Supply - A system of pipes and structures through which water is obtained, including but not limited to: the source of the water such as wells, or hauled water storage tanks, pumping and treatment equipment, storage tanks, pipes and appurtenances used or intended to furnish water for potable use.

Owner – Any person, agency, firm or corporation having a legal or equitable interest in the property.

Parcel – A lot or a distinct portion or tract of land containing an on-site sewage disposal or on-site water supply system.

Person – Any individual, natural person, trustee, court appointed representative, agency, group, association, organization, firm, corporation, club, institution, partnership, or other legally definable entity.

Premises – Any house, building, structure, facility or improvement from which sanitary sewage originates or which is served by an on-site water supply system.

Public Health Code – Public Act 368, 1978, as amended; MCLA 333.1101 et.seq.

Public Sanitary Sewer – A system of pipes and conduits used or intended to be used for the collection and transportation of sanitary sewage, which is owned, operated and maintained by a governmental entity.

Public Water Supply - A water supply which provides water for drinking or household purposes to persons other than the supplier of water, as defined in MCL 325.1002, A copy of which may be obtained at the Macomb County Health Department.

Registered Evaluator - An individual who is certified, who satisfactorily complies with the registration requirements of these Regulations, and whose name is on the Health Department's registration list.

Registered Well Drilling Contractor - A person holding a valid certificate of registration as a well drilling contractor, as provided in Sections 12703 to 12715 of the Public Health Code.

Regulations – Regulations governing on-site sewage disposal and on-site water supply system evaluation and maintenance in Macomb County, Michigan.

Sanitary Sewage – Any water transported waste material produced by any toilet, sink, bathtub, urinal, garbage disposal, shower, or laundry device; and human body waste material in any form, originating within or upon any premise. Excluded from the definition are storm drainage, and waste waters from roofs, foundation drains, water softening devices, industrial and commercial processes, and commercial laundries.

Septage - Any human excrement or other domestic waste, including gray water and other material or substance removed from a portable toilet, septic tank, seepage pit, cesspool, sewage lift station or other enclosure, but does not include liquid industrial waste.

Septic Tank – A buried watertight, covered tank designed and constructed to receive and partially treat sanitary sewage by physical settling and anaerobic decomposition prior to its release to a drainfield.

System – An on-site sewage disposal system and/or on-site water supply system.

Transfer Evaluation - The process of determining, in relation to the sale or transfer of a parcel containing a system, the condition and state of acceptability of the system. This process includes observations, sample collection, information gathering, the exercising of judgments, and preparation of a report of findings.

ARTICLE III – GENERAL PROVISIONS

SECTION 3.1 – Restrictions on Sale or Transfer of a Parcel Containing an On-Site Sewage Disposal System or an On-Site Water Supply

- Subject to the provisions of Section 5.2, there shall be no sale or transfer of a parcel containing an on-site sewage system or on-site water supply system until all of the following have occurred:
 - A. The report of a transfer evaluation by a registered evaluator has been submitted to the Health Department.
 - B. At the time of the transfer evaluation, the Health Department has determined that the condition or operation of the system has not failed or any necessary system remediation has been completed or assured and accepted by the Health Department.
 - C. The Health Department has issued its authorization for sale or transfer of the parcel.

ARTICLE IV – POWERS AND DUTIES OF THE HEALTH OFFICER

SECTION 4.1 - General Provisions

The Health Officer is responsible for regulating the evaluation, operation and maintenance of all on-site sewage disposal and on-site water supply systems within Macomb County. The Health Officer is also empowered to exercise control over on-site sewage disposal and on-site water supply systems regulated by others when so authorized by the public agencies possessing statutory jurisdiction over such on-site sewage disposal and on-site water supply systems.

SECTION 4.2 - Power to Establish Policy, Criteria and Standards

The Health Officer is empowered to establish criteria, policies and standards concerning the application and interpretation of these Regulations, and for the purpose of carrying out the responsibilities delegated to the Health Officer by law.

ARTICLE V – TYPES OF EVALUATIONS

SECTION 5.1 – Transfer Evaluations

A transfer evaluation shall consist of visual and olfactory observations of the on-site sewage disposal system, information gathering, pumping of septage, inspection of the condition of the septic tank, absorption system, pumps, filters and other important features of the disposal system; visual observation and water quality sampling of an on-site water supply system; and the preparation of a report. Water samples shall be collected and analyzed at a laboratory certified by the Michigan Department of Environmental Quality to determine the presence of coliform bacteria, nitrate concentration, and other contaminants as determined by the Health Department. Transfer evaluations shall be valid for one year from the date of evaluation.

SECTION 5.2 – Exemptions

A system evaluation is not required by Section 3.1:

- A. If as a condition of sale or transfer, and upon written demonstration to the Health Department, the structure is to be connected to an available public sanitary sewer and/or public water supply within six months of the sale or transfer.
- B. During the first three years after original occupancy.
- C. If a transfer evaluation occurred within one year of the date of sale or transfer, and the pertinent transfer evaluation report was filed with the Health Department.
- D. When a mortgage or other payment obligation is refinanced.
- E. If the premises shall be demolished and shall not be occupied after the property transfer.
- F. If the value of the consideration of the sale or transfer is less than \$100.00.
- G. Transfers from a husband or wife or husband and wife creating or disjoining a tenancy by the entireties in the grantor or the grantor and his or her spouse.
- H. Judgments or orders of courts of record making or ordering transfers, except where a specific monetary consideration is specified or ordered by the court.
- I. Transfers that create a joint tenancy between two or more persons where at least one of the persons already owned the property.

ARTICLE VI - EVALUATION REPORTS

SECTION 6.1 – Transfer Evaluation Reports

Evaluation reports shall be prepared on forms approved by the Health Department and submitted as follows:

A report of each transfer evaluation shall be provided by the registered evaluator to the owner, and the Health Department within 20 days of the evaluation. In addition, the report of a transfer evaluation shall be provided to the Health Department no less than five business days prior to scheduled closing of the sale or transfer. A report of an evaluation shall include, at a minimum, information prescribed by the Health Department including observations, findings and recommendations to prevent premature failures. With the evaluation report, the registered evaluator shall provide the owner or owner's agent, with educational materials about system maintenance that have been approved by the Health Department.

Evaluation reports shall include, but are not limited to:

- A. The address of the site.
- B. The parcel identification number.
- C. The name of the owner.
- D. The location of the system(s).
- E. A description of the current operational or functional status of the system(s).
- F. Identification of any necessary repairs or replacement of all or portions of the system(s).
- G. The results of a bacteria and nitrate drinking water test, and other water quality parameters as required by the Health Department.
- H. Other relevant or unusual observations related to the system(s).
- I. Educational materials about system maintenance that have been approved by the Health Department.
- J. Evaluation reports shall be completed on forms approved by the Health Department.

A certified copy of the registered evaluator's report shall be provided to the owner and a copy filed with the Health Department. Such reports shall be freely available to the public through the Freedom of Information Act, MCLA 15.231 et seq.

ARTICLE VII – EVALUATION FREQUENCY

SECTION 7.1 – Transfer Evaluations

All on-site sewage and water supply systems shall have a transfer evaluation prior to the sale or transfer of the parcel; except as provided in Sections 5.2 and/or 7.2.

SECTION 7.2 – Vacant Premises/Winter Conditions

- A. If the parcel or structure served by a system is vacant for more than 10 days prior to closure of transfer or sale, the transfer evaluation shall be delayed until after re-occupancy. In accordance with Section 10.1(C) and Section 10.1(G), notice shall be given to the Health Department not less than 30 and not more than 45 days after the date of re-occupancy of the parcel or structure, and a system shall have a transfer evaluation between 30 and 60 days of the date of re-occupancy of the parcel or structure.
- B. If winter weather conditions preclude completing the transfer evaluation specified in Section 5.1, the transfer evaluation may be delayed at the owners request and with the concurrence of the Health Department.

SECTION 7.3 – Other Evaluations

The Health Department may determine a different frequency of disposal system evaluations:

- a. For non-residential structures;
- b. For unique, unusual or alternative disposal systems; or
- c. When the disposal system is determined by the Health Department to be inadequate for the current use or size of the structure it serves.

ARTICLE VIII – EVALUATOR REQUIREMENTS

SECTION 8.1 – Registration

Persons performing, or intending to perform, a transfer evaluation to comply with the Regulations shall be registered with the Health Department prior to performing such an evaluation.

Registration shall be based on filing an application for registration, payment of a registration fee, evidence of evaluator certification, and the demonstration of knowledge of these Regulations and other criteria deemed necessary by the Health Officer.

The name of the applicant for registration who fulfills all requirements of this ordinance, and other information prescribed by the Health Department, shall be placed on the Health Department registration list. Health Department staff representing the Health Department are exempt from the requirements of this Section.

SECTION 8.2 - Certification Requirements

Individuals shall be certified by an agency or organization approved by the Health Department. The Health Department is authorized to:

- A. Approve a certifying agency or organization after determining that the agency has an acceptable program for training and certifying individuals, and;
- B. Withdraw approval if the organization fails to certify or improperly certifies evaluators;
- C. A registered well drilling contractor is exempt from certification for the evaluation of on-site water supply systems.
- D. If no certifying agency or organization is approved by the Health Department within 90 days after the effective date of these Regulations, the Health Department may, after determining the adequacy of pertinent experience and knowledge, register individuals for up to one year, and subsequently for one year intervals until a certifying agency or organization is approved.

SECTION 8.3 – Removal from Registration List

- A. An evaluator may be removed from the registration list for failure to comply with these Regulations; submittal of unacceptable evaluation reports; submittal of false information on an application for registration or on an evaluation report; or failure to submit missing information within three days of a Health Department request.
- B. The Health Officer may remove an individual from the registration list if that individual is unable to properly perform the evaluation of a disposal system or is negligent in the discharge of his or her duties or responsibilities.
- C. Before the Health Officer removes an evaluator from the registration list, the Health Department shall give written notice to the evaluator.

ARTICLE IX – FAILURES

SECTION 9.1 – Notice

When the Health Department determines or concurs with an evaluator that a system is failing, a notice shall be sent by the Health Department, to inform the owner regarding remedial actions needed to bring the system into compliance.

SECTION 9.2 - Conformance with Permit

If a failing disposal system cannot be connected to an available sewer, any remediation of the failing or potentially failing system must be in conformance with a system repair permit issued by the Health Department.

SECTION 9.3 – Failure Remediation

Upon receiving written notice from the Health Department of non-compliance with these Regulations, the owner, buyer or authorized agent shall, within 30 days, submit a proposed corrective action plan and a good faith estimate or contract for services in order to bring the affected system into compliance with applicable laws. In addition, the owner, buyer or authorized agent shall place into an escrow account, a deposit of a surety or performance bond or cash in an amount equal to one and one-half times the estimated cost of performance of such plan. The Health Department shall review the proposed corrective action plan and amend it as required to conform to federal, state and local laws, rules and regulations. All necessary corrective action shall be completed within 180 days following Health Department approval of the proposed corrective action plan. Once the Health Department gives final approval of the completed corrective action, the system shall be deemed to be in substantial conformance with these Regulations and any affidavit previously filed with the Registrar of Deeds shall be discharged at no cost to the owner. If a system presents an immediate health hazard, the owner or other responsible party shall take such measures, in cooperation with the Health Department, that will immediately reduce or eliminate the impact of such failure until the full remediation plan can be implemented as described earlier in this paragraph.

ARTICLE X – RESPONSIBILITIES OF PERSONS

SECTION 10.1 – Owner

The responsibilities of the owner of a parcel containing a system include:

- A. Maintaining the system to prevent failure and resulting public health hazards or environmental pollution.
- B. Notifying the Health Department of any known or suspected system failure.
- C. Acquiring a transfer evaluation prior to sale or transfer of the parcel; or complying with Section 10.1(F).
- D. Cooperating with the registered evaluator or Health Department representative by allowing access to the parcel, structures and the system, providing pumping of the septic tank when necessary, providing pertinent information to the evaluator and paying any required fee or charge.
- E. Remediating any system failure:
 - 1. The owner must present documentation to a prospective buyer, prior to closure, that the corrective action plan required in Section 9.3 has been approved by the Health Department concerning who is responsible and how and when the remediation will be completed.
 - 2. If a public sanitary sewer is available, the owner shall apply to the municipality for a permit to connect the structure to the available public sanitary sewer or public water supply system.
 - 3. If no public sanitary sewer is available, the owner shall apply for a permit from the Health Department for any remediation which involves repair, expansion or replacement of the system.
- F. If a system evaluation is exempted under Section 5.2, notifying the Health Department of the sale or transfer and the reason a system evaluation is not required.
- G. Notifying the Health Department of the purchase or acquisition of a parcel or structure served by a system not more than 45 days after the date of occupancy of the parcel or structure if the disposal system had not been evaluated prior to the closing of the sale or transfer because the parcel or structure was vacant or winter conditions prevented the transfer evaluation specified in Section 5.1 prior to purchase or acquisition.

SECTION 10.2 - Registered Evaluator

The responsibilities of the registered evaluator include:

- A. Providing reports of each transfer evaluation in accordance with Section 5.1, Section 6.1 and other applicable provisions hereof.
- B. Providing owners with information on system maintenance. Such information may be in the form of brochures or fact sheets approved by the Health Department.
- C. Participating, upon notice from the Health Department, in administrative conferences, administrative hearings or other compliance or enforcement actions.

SECTION 10.3 – Municipality

Responsibilities of the municipality include:

- A. Notifying the Health Department prior to:
 - 1. Issuance of a permit for additions to a premises served by an on-site disposal system or on-site water supply;
 - 2. Authorization of initial connection of pre-existing premises to the public water system; or
 - 3. Authorization of use changes that would increase the quantity or change the characteristics of wastewater discharged to the disposal system.
- B. Notifying the Health Department when premises formerly connected to an onsite sewage disposal system are connected to the available public sanitary sewer.

ARTICLE XI – APPEALS

SECTION 11.1 – General Provisions

Any person taking exception to, or aggrieved by, a decision, ruling, requirement, violation notice, denial, disapproval or order issued by the Health Officer under these Regulations, after an opportunity for an Administrative Conference with the Health Officer or his/her designated representative, has the right to a contested case hearing in the matter. Such contested case hearings shall be conducted in accordance with written policies and procedures adopted by the Health Department and applicable provisions of the Administrative Procedures Act of 1969.

SECTION 11.2 – Contested Case Hearings

Contested case hearings shall be convened and conducted in accord with rules promulgated by the Health Department.

ARTICLE XII – COMPLIANCE AND ENFORCEMENT

SECTION 12.1 – Investigations

If the Health Department believes that a person is violating these Regulations, or a rule promulgated under these Regulations, the Health Department shall make a prompt investigation. If after this investigation the Health Department finds that a violation exists, the Health Department shall attempt to enter into a voluntary agreement with the person.

If a voluntary agreement is not entered into, the Health Department may issue a violation notice or a citation to the owner or violator.

SECTION 12.2 – Enforcement and Compliance

Following the procedures of Section 12.1, which may include a hearing, the Health Officer may record an affidavit that details the non-compliance with the Macomb County Registrar of Deeds. Upon compliance with these Regulations, either through a voluntary agreement, resolution through the appeal process or contested case hearing, or other resolution satisfactory to the Health Department, the Health Officer shall record a release of affidavit with the Macomb County Register of Deeds.

SECTION 12.3 – Assessment Against the Property

If an owner does not have his/her property evaluated as specified by these Regulations; the Health Department shall cause an evaluation to be performed and may charge all costs and fees for the evaluation to the owner of the premises.

SECTION 12.4 – Right to Obtain Samples

An evaluation under Section 5.1 shall include the right to obtain samples where the Health Officer has reason to believe that there is a likelihood of contamination of surface water, ground water, water supply or other unsanitary conditions. Upon written notice, an owner or occupant of premises from which such evaluation is sought shall cooperate with the Health Officer.

ARTICLE XIII – FEES

SECTION 13.1 – General Provisions

Fees for registrations or other services required or authorized by these Regulations shall be assessed according to the current fee schedule established by the Macomb County Board of Commissioners.

ARTICLE XIV – SEVERABILITY

SECTION 14. 1- General Provisions

These Regulations and the various articles, sections and clauses are declared to be severable. If any article, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid, the remainder of these Regulations shall not be affected.

ARTICLE XV – AMENDMENTS

SECTION 15.1 – General Provisions

The Health Officer may adopt amendments and revisions to these Regulations with the consent and approval of the Macomb County Board of Commissioners, pursuant to Sections 2441 and 2442 of the Public Health Code.

ARTICLE XVI – OTHER AGENCY REQUIREMENTS

SECTION 16.1 – Conflicts and Inconsistencies

Where conflicts or inconsistencies exist between the provisions of these Regulations and any regulations, requirements, rules, standards, criteria or guidelines of the federal government or the State of Michigan, the more restrictive requirements shall govern and prevail.

SECTION 16.2 – Local Ordinances

These Regulations shall supersede inconsistent or conflicting local ordinances, pursuant to Section 2441 of the Public Health Code.

SECTION 16.3 – Validity Of Property Transfer

A property transfer subject to these regulations shall not be invalidated solely because of the failure of any person to comply with a provision of these regulations.

ARTICLE XVII – PENALTIES

SECTION 17.1 – Violations

Any person who violates the provisions of these Regulations shall be deemed guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than \$200.00 or both pursuant to Section 2441(2) of the Public Health Code. Each day that a violation of these Regulations continues shall be deemed a separate offense.

SECTION 17.2 – Civil Penalties

The Macomb County Board of Commissioners may adopt a schedule for monetary civil penalties to be assessed for violations of these Regulations as provided in Sections 2461 and 2462 of the Public Health Code.

SECTION 17.3 – Injunctive Proceedings

When any person has been found to have violated a provision of these Regulations, the Director may maintain injunctive action to restrain, enjoin, prevent or correct a violation of these Regulations, or a condition which adversely affects the public health, as provided in Section 2465 of the Public Health Code.

ARTICLE XVIII – APPROVAL AND EFFECTIVE DATE

SECTION 18.1 – General Provisions

These Regulations have been adopted by the Macomb County Board of Commissioners on August 9, 2001, as amended on December 13, 2001, and shall be effective August 1, 2002. Contracts or purchase agreements executed on or after August 1, 2002 shall be subject to these Regulations.