

**ENROLLED ORDINANCE**  
No. 99-527

AN ORDINANCE to abate water pollution caused by failing on-site sewage disposal systems; to minimize infiltration of seepage from septic systems into the storm water drainage system; to prescribe the powers and duties of the Wayne County Department of Public Health and its Environmental Health Section; to provide for the administration and enforcement of this Ordinance; and to establish penalties for its violation.

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# CHAPTER 1

## GENERAL PROVISIONS

### Section 101. TITLE

This Ordinance shall be known and may be cited as the "Wayne County On-Site Sewage Disposal System Evaluation and Maintenance Ordinance."

### Section 102. FINDINGS, POLICIES AND PURPOSES

#### A. County Commission Findings

The Wayne County Commission finds as follows:

1. Wayne County's Rouge River National Wet Weather Demonstration Project and other recent studies have plainly and consistently demonstrated that surface waters of the County are being impacted by point and nonpoint source pollution.
2. Nonpoint source pollution is contamination of which cause or source cannot be easily identified. Failing on-site sewage disposal systems are traditional contributors to point and nonpoint source pollution. Research indicates that at least twenty percent of Wayne County's on-site sewage disposal systems are failing or manifest indications of probable failure.
3. These failures result in sewage discharges to ditches, drains or directly to surface waters. To minimize the water quality problems that originate from failed on-site sewage disposal systems, and to reduce premature failure of these systems, a program to regularly evaluate on-site sewage disposal systems and effect their periodic maintenance is necessary.
4. Wayne County's National Pollutant Discharge Elimination System Certificate of General Permit Coverage No. MIG610040, issued June 1, 1999 by the Michigan Department of Environmental Quality, provides for implementation, in cooperation with local communities, of a County-wide evaluation and maintenance program for on-site sewage disposal systems.
5. Approximately ten thousand on-site sewage disposal systems continue to be used in the County. All of these systems are considered to be temporary means of sewage disposal, and are subject to failure.
6. A program of systematic evaluation can identify the need for maintenance of disposal systems. Regular maintenance of disposal systems will optimize the useful life-span of the systems, so minimizing threats to public health, safety and welfare and combating the degradation of the County's surface and subsurface waters.

#### B. Policies

In recognition of the right of the citizens of Wayne County to the conservation and development of the County's natural resources and to the protection of its surface and ground waters; and in recognition of the Charter mandate to protect the health, safety and welfare of the citizens of Wayne County, it is hereby declared the policy of the County of Wayne:

1. To protect and enhance the quality of the County's surface and groundwater resources and to avert adverse impact upon the public health by abating sources of water contamination;
2. To safeguard the County's water resources against pollution or destruction, to prevent damage to property and injury to plant or animal life, and to preserve the public's enjoyment of the County's recreational resources;

3. To assist prospective buyers of parcels containing on-site sewage disposal systems by identifying system failures or potential failures and securing remedial actions.

C. Purposes

It is therefore the purpose of this Ordinance:

1. To protect the health, safety and welfare of the citizens of Wayne County and to achieve the policy declarations enumerated above by providing an evaluation and maintenance program for on-site sewage disposal systems in the County;
2. To comply with the County's responsibility to minimize infiltration of seepage from septic systems into the storm water drainage system as described in National Pollutant Discharge Elimination System General Permit No. MIG610000 and mandated by Certificate of Coverage No. MIG610040;
3. To provide for the implementation, administration and enforcement of this Ordinance by the Wayne County Department of Public Health, Health Officer and Environmental Health Section, to prescribe the powers and duties of the Health Officer and the Division and to provide penalties for violation of this Ordinance;
4. To establish a registration list for evaluators who will evaluate on-site sewage disposal systems and to empower the Health Officer to remove individuals from the registration list;
5. To authorize the Section to approve or withdraw its approval of an organization which trains and certifies evaluators of on-site sewage disposal systems, which training and certification may constitute a component of the County's registration process;
6. To prohibit the sale or transfer of parcels containing on-site sewage disposal systems until authorization is issued by the Section;
7. To effect compliance with the provisions of the Public Health Code, Public Act No. 368 of 1978, as amended, being Sections 333.1101 et seq. of the Michigan Compiled Laws;
8. To provide a service to prospective buyers of parcels containing on-site sewage disposal systems by requiring evaluation of disposal systems prior to sale, or at other intervals, and by maintaining records of the systems' evaluations for use by prospective buyers;
9. To encourage compliance with this Ordinance and increase public awareness through direct communication and the dissemination of educational materials;
10. To provide Wayne County communities with information regarding the locations and conditions of existing on-site sewage disposal systems.

**Section 103. EFFECTIVE DATE**

This Ordinance shall become effective upon its approval by the Wayne County Board of Commissioners and the Wayne County Executive.

**Section 104. OTHER LEGISLATION**

A. Authorization

This Ordinance is adopted pursuant to the Home Rule Charter for Wayne County and is authorized by Section 2435(d) of Public Act No. 368 of 1978, being MCL 333.2435(d); MSA 14.15(2435d).

B. State and Federal Rules

State or federal rules or regulations referenced herein are the state or federal rules or regulations in

effect on the Effective Date of this Ordinance.

**Section 105. ADMINISTRATION**

This Ordinance shall be implemented, administered and enforced by the Wayne County Department of Public Health, Health Officer and Environmental Health Section.

**Section 106. APPLICABILITY**

A. Initial Applicability

As of the date specified in Section 103 hereof, this Ordinance shall be:

1. Immediately effective and enforceable in all municipalities which are located in Wayne County and which have received Certificates of Coverage under General Permit No. MIG610000;
2. Effective and enforceable, upon municipal enactment, in all municipalities which enact, in accordance with applicable, authorized municipal processes, resolutions or other legislation manifesting an intention to be bound by the provisions of this Ordinance; and
3. Effective and enforceable, upon a finding by the Health Officer, in municipalities which have been determined by the Health Officer to require application of this Ordinance prior to the date specified in Section 106(B).

As of four years from the date specified in Section 103, the Section will have fulfilled its responsibility under Section 706(G) and this Ordinance shall be effective and enforceable throughout Wayne County.

C. Types of On-Site Sewage Disposal Systems

The provisions of this Ordinance apply to land parcels on which on-site sewage disposal systems service residential, commercial, industrial, institutional and other facilities or structures.

D. Exemptions

On-site sewage disposal systems whose operation and maintenance are regulated by state or federal law are exempt from the provisions of this Ordinance.

E. Plumbing Codes

Provisions of municipal plumbing codes which address the operation of on-site sewage disposal systems or the remediation of on-site sewage disposal system failures remain in effect and are not superseded by this Ordinance.

**Section 107. ADMINISTRATIVE RULES**

The Section may promulgate rules reasonably needed to facilitate performance of its powers and duties under this Ordinance. These rules shall be adopted in conformity with the requirements of the Administrative Procedures Ordinance, being Ordinance No. 90-847.

**Section 108. FEES AND CHARGES**

The Section shall recommend to the Wayne County Board of Commissioners a proposed schedule of fees and charges, which fees and charges will specifically pertain and refer to the performance of defined services necessitated hereby or provided for herein. The fees and charges shall be related to actual costs incurred by Wayne County, directly or indirectly.

**Section 109. SEVERABILITY**

If any chapter, section, subsection, paragraph, clause, phrase or portion of this Ordinance is for any reason held invalid or unenforceable by any court of competent jurisdiction, such chapter, section, subsection, paragraph, clause, phrase or portion shall be deemed to be a separate, distinct and wholly independent provision from the remainder of this Ordinance, and such holding shall have no effect or bearing on the validity or enforceability of the remainder of this Ordinance.

## **CHAPTER 2**

### **DEFINITIONS**

#### **Section 201. GENERAL**

The words and phrases used in this Ordinance shall have the meanings ascribed to them by this Chapter or by rules promulgated pursuant to this Ordinance. Words and phrases not defined in this Chapter shall be interpreted according to their plain meaning, or as the context implies.

Other applicable definitions and rules of construction are provided in Section 1-2 of the Wayne County Code of Ordinances.

#### **Section 202. WORDS AND PHRASES**

##### **A. Definitions: A**

1. Absorption system means 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.
2. Alternative system means any on-site sewage disposal system that is not a conventional system but which provides for an equivalent or better degree of protection for public health and the environment.
3. Available public sanitary sewer means a public sewerage system which is located not more than 200 feet, at its nearest point, from the structure in which sanitary sewage originates, to which system a connection is permitted by the responsible governmental entity.

##### **C. Definitions: C**

1. Conventional system means a disposal system containing a septic tank with discharge of effluent to a subsurface absorption system.
2. Contested case hearing means a proceeding during which the legal rights, duties or privileges of the parties are exercised.

##### **D. Definitions: D**

1. Department means the Wayne County Department of Health as referenced in the Wayne County Charter section 4.341, the Director of this department or his/her designee. The County Executive's reorganization plan identifies this department as the Section under the Department of Community Service and Health. This Section by state statute is the Department of Public Health.
2. Disposal system means an on-site sewage disposal system.

##### **F. Definitions: F**

1. Failure means the backup of sewage into the structure; direct discharge of effluent to a watercourse, surface drain or the ground surface; discharge of 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; or discharge of sewage from the structure which does not reach the disposal system.

Definitions: G

1. General permit means voluntary State of Michigan Department of Environmental Quality, National Pollutant Discharge Elimination System, General Wastewater Discharge Permit, Storm Water Discharges from Separate Storm Water Drainage Systems, General Permit MIG610000.
2. Graywater means domestic wastewater discharged from water-using fixtures and appliances, but does not include discharges from toilets or urinals.

H. Definitions: H

1. Health Officer means the Director of the Department.

M. Definitions: M

1. Municipality means a city, village or township.

N. Definitions: N

1. NPDES permit means the National Pollutant Discharge Elimination System permit issued pursuant to Section 402 of the Clean Water Act, 33 USC '1342, as amended, for discharge of wastewater into the surface waters of the state.

O. Definitions: O

1. On-site sewage disposal system means the devices, including but not limited to all septic tanks, pipes, pumps, vents and absorption systems used to treat and/or dispose of all wastewater from a structure.
2. Ordinance means the Wayne County On-Site Sewage Disposal System Evaluation and Maintenance Ordinance.

P. Definitions: P

1. Parcel means a lot or a distinct portion or tract of land containing a disposal system.
2. Potential failure means the existence of indicators of possible disposal system failure, including but not limited to heavy vegetative growth over or near the absorption system, the presence of structures or parking surface or pavement over portions or all of the disposal system, and the possibility of site drainage inundating the disposal system.

R. Definitions: R

1. Registered evaluator means an individual who is certified, who satisfactorily complies with the registration requirements of this Ordinance, and whose name is on the Section's registration list.

S. Definitions: S

1. Section means the Environmental Health Division of the Wayne County Department of Public Health and Community Service, the Director of this section or his/her designee.
2. Septage means any human excrement or other domestic waste, including graywater 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.
3. Septage servicer means an individual employee of a state-licensed septage waste servicing business which pumps, hauls or disposes of septage.
4. Septic tank means a watertight receptacle which receives sewage and is designed to separate solids from liquids, to digest organic matter during a period of retention, and to allow the liquids to discharge into a second treatment unit or to a soil absorption system.
5. Sewage means human wastes from residences, buildings, industrial establishments or other places, including but not limited to kitchen, bath and laundry wastes.

T. Definitions: T

1. Transfer evaluation means the process of determining, prior to sale or transfer of a parcel containing a disposal system, the condition and state of acceptability of the disposal system. This process includes observations, information gathering, the exercising of judgments, and preparation of a report of findings.

## **CHAPTER 3**

### **SALE RESTRICTIONS**

**Section 301. RESTRICTIONS ON SALE OR TRANSFER OF A PARCEL CONTAINING A DISPOSAL SYSTEM**

Subject to the provisions of Section 401(B), there shall be no sale or transfer of a parcel containing a disposal system until:

- A. The report of an evaluation by a registered evaluator has been submitted to the Section;
- B. The Section has determined that, at the time of evaluation, the condition or operation of the disposal system has not failed, and the Section has issued its authorization for sale or transfer of the parcel; and
- C. Any necessary disposal system remediation has been completed or assured and accepted by the Section.

## **CHAPTER 4**

### **EVALUATION REQUIREMENTS AND EXEMPTIONS**

**Section 401. EVALUATION REQUIREMENTS**

- A. Every disposal system shall be evaluated at the following frequencies unless the Section determines that public health or environmental conditions require more frequent evaluations.
  1. Unless Section 106(D) or Section 401(B) is applicable, all disposal systems shall have a transfer evaluation prior to the sale or transfer of the parcel.



2. A septic tank evaluation shall be performed by a septage servicer each time a septic tank is pumped.
  3. The Section 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 Section to be inadequate for the current use or size of the structure it serves.
- B. If the parcel or structure served by a disposal system is vacant for more than 10 days prior to the closure of transfer or sale, a transfer evaluation may be delayed until after re-occupancy. In accordance with Section 701(F) and Section 705(C), notice shall be given to the Section not less than 30 and not more than 45 days after the date of re-occupancy of the parcel or structure, and the disposal system shall have a transfer evaluation within 60 days of the date of re-occupancy of the parcel or structure.

**Section 402. EXEMPTIONS**

A disposal system evaluation is not required by Section 401(A)(1):

- A. If as a condition of sale or transfer, and upon written demonstration to the Section, the structure is to be connected to an available public sewer within six months of the sale or transfer.
- B. During the first two years after original installation, unless there is evidence of failure or potential failure.
- C. If a transfer evaluation occurred within six months prior to the date of sale or transfer, and the pertinent transfer evaluation report was filed with the Section.
- D. When a mortgage or other payment obligation is refinanced.

**Section 403. TYPES OF EVALUATIONS**

The general purpose of each evaluation is to determine if there is evidence of a disposal system's failure, or if failure is likely to occur, and to provide advice about how to reduce the likelihood of premature failure of a disposal system.

- A. A transfer evaluation shall consist of visual and olfactory observations of the disposal system, information gathering, pumping of septage, an inspection of the condition of the septic tank, absorption system, pumps, filters and other important features of the disposal system, and the preparation of a report. Transfer evaluations shall be valid for six months from the date of the evaluation.
- B. A septic tank evaluation shall consist of observations of the tank and appurtenances, observations of the dosing or siphon chamber, and observations of any evident disposal system inadequacies.

**Section 404. EVALUATION REPORTS**

Evaluation reports shall be prepared and submitted as follows:

- A. A report of each transfer evaluation shall be provided by the registered evaluator to the owner, or owner's agent, and to the Section within ten days of the evaluation. The transfer evaluation report must be submitted to the Section at least five business days prior to scheduled closing of the sale or transfer.
- B. A report of an evaluation shall include, at a minimum, information prescribed by the Section including observations, findings and recommendations to prevent premature failures. With the report of an evaluation, the registered evaluator shall provide the owner, or owner's agent, educational materials

regarding disposal system maintenance which have been approved by the Section.

- C. A report of a septic tank evaluation shall include the address of the site, name of owner or agent, estimated capacity in gallons of the septic tank, condition of the outlet device of the tank, any backflow that occurs, the estimated amount of septage removed, the date of pumping, the location of septage off-loading and any other relevant or unusual observations related to the disposal system. The report of a septage servicer's evaluation shall be provided to the owner, or owner's agent, and to the Section within 10 days of the evaluation.

## **CHAPTER 5**

### **EVALUATOR REQUIREMENTS**

#### **Section 501. REGISTRATION**

- A. Anyone performing or intending to perform a transfer evaluation pursuant to this Ordinance shall be registered with the Section prior to performing any such evaluation.
- B. In order to become registered with the Section, an evaluator must file an application for County registration, pay the County registration fee, produce evidence of evaluator certification and demonstrate knowledge and understanding of the provisions of this Ordinance and the administrative rules adopted pursuant hereto.
- C. The name of each individual evaluator who satisfies the requirements set out in this Ordinance and in its attendant administrative rules and who fulfills any other applicable specifications prescribed by the Section shall be placed on a registration list which shall be maintained by the Section in accordance with Section 502, Section 706(C) and Section 806(A)(2).

#### **Section 502. REMOVAL FROM REGISTRATION LIST**

- A. An evaluator may be removed from the registration list for failure to comply with this Ordinance, 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 5 days of a Section 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 Section shall give written notice, personally or by mail, to that evaluator.

#### **Section 503. CERTIFICATION REQUIREMENTS**

Individual evaluators may be certified by an agency or organization approved by the Section. The Section is authorized to:

- A. Approve a certifying agency or organization after determining that the agency or organization has an acceptable program for training and certifying individuals; and
- B. Withdraw its approval if the agency or organization fails to certify or improperly certifies evaluators.

#### **Section 504. DISCLOSURE**

Current disposal system evaluation reports shall be maintained by the Section and shall be made accessible to prospective buyers of parcels containing disposal systems and to any other interested persons.

## **CHAPTER 6**

## **FAILURES**

### **Section 601. NOTICE**

When the Section determines or concurs with an evaluator that a disposal system is failing, the Section shall send a notice to the owner informing the owner of the modifications and remedial actions which are necessary to bring the failing disposal system into compliance.

### **Section 602. REPAIR PERMIT**

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

### **Section 603. FAILURE REMEDIATION**

The owner of a parcel containing a failing disposal system shall remedy the failure upon receipt of notice from the Section.

## **CHAPTER 7**

### **RESPONSIBILITIES OF ENTITIES / PERSONS**

#### **Section 701. OWNERS**

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

- A. Maintaining the disposal system to prevent failure and resulting public health hazards or environmental pollution.
- B. Notifying the Section of any known or suspected disposal system failure.
- C. Acquiring a transfer evaluation prior to sale or transfer of the parcel, unless the conditions of Section 401(B) apply, in which case the purchaser or transferee of the parcel must comply with Section 701(F).
- D. Cooperating with registered evaluators by allowing access to the parcel, structures and the disposal system, by providing pumping of the septic tank when necessary, by providing pertinent information to the evaluator and by paying any required fee or charge.
- E. Remediating any disposal system failure.
  - 1. If a public sanitary sewer is available, the owner or the owner's agent shall apply to the municipality for a permit to connect the structure to the available public sewer.
  - 2. If no public sewer is available, the owner or the owner's agent must apply for a permit from the Section for any remediation which involves repair, expansion or replacement of the disposal system.
- F. Notifying the Section of the purchase or acquisition of a parcel or structure served by a disposal system not less than 30 and 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 closure of the sale or transfer because the parcel or structure was vacant for more than 10 days prior to purchase or acquisition.

#### **Section 702. REGISTERED EVALUATORS**

The responsibilities of the registered evaluator include:

- A. Providing timely reports of each transfer evaluation in accordance with Section 403(A), Section 404(A), Section 404(B) and other applicable provisions hereof.
- B. Providing owners of potentially failing disposal systems with information on reducing premature failures of disposal systems.
- C. Participating, upon timely notice from the Section, in administrative hearings or other compliance or enforcement actions.

**Section 703. SEPTAGE SERVICERS**

The responsibilities of the septage servicer include:

- A. Conducting a septic tank evaluation, in accordance with Section 403(B), Section 404(B), Section 404(C) and other applicable provisions hereof, each time a septic tank is pumped.
- B. Providing a report of the evaluation to the owner and to the Section within 10 days of the evaluation.

**Section 704. MUNICIPALITIES**

The responsibilities of the municipality include:

- A. Preventing pollution of the waters of the State in accordance with Section 3109(2) of Public Act No. 451 of 1994, being MCL 324.3109(2); MSA 13A.3109(2), and in accordance with Section 12753 of Public Act No. 368 of 1978, being MCL 333.12753; MSA 14.15(12753).
- B. Notifying the Section prior to:
  - 1. Issuance of a permit for additions to a structure served by an on-site disposal system;
  - 2. Authorization of initial connection to the public water system or addition of plumbing fixtures to a structure; or
  - 3. Authorization of use changes that would increase the quantity or change the characteristics of wastewater discharged to the disposal system.
- C. Facilitating connection of structures to an available public sewer when there is evidence of disposal system failure.
- D. Notifying the Section when a structure is connected to an available public sewer and when the disposal system is properly abandoned.
- E. Providing, upon request, to the Section any information maintained in the municipality's records, including but not limited to information regarding location, installation, service, repair, seepage, failure, potential failure, inspection, use or other details pertaining to any on-site sewage disposal system or any parcel containing an on-site sewage disposal system, including information or records regarding wastewater treatment or disposal charges or fees.

**Section 705. REALTORS**

- A. A real estate broker, or representative of a broker, must notify the owner of a parcel containing a disposal system that the report of a transfer evaluation must be filed with the Section at least five business days prior to closing of sale or transfer.
- B. A real estate broker, or representative of a broker, must present evidence to a prospective buyer, prior to closure, of the remediation of any disposal system failure or of information acceptable to the

Section concerning who is responsible and how and when the remediation will be completed.

- C. If a disposal system is not to be evaluated prior to purchase or acquisition because the parcel or structure served by the disposal system is vacant for more than 10 days prior to the closure of transfer or sale, a real estate broker, or representative of a broker, must do the following:
  - 1. Notify any prospective purchaser or transferee, prior to closure of acquisition, that in the case of acquisition, the purchaser or transferee must comply with the provisions of Section 701(F) in order to ensure that the disposal system has a transfer evaluation within 60 days of the date of re-occupancy of the parcel or structure.
  - 2. Notify the Section of the date of the closure of acquisition.

**Section 706. ENVIRONMENTAL HEALTH SECTION**

The responsibilities of the Section include:

- A. Administering and enforcing this Ordinance.
- B. Maintaining the most current disposal system evaluation report as long as a structure is served by a disposal system, and for three years thereafter.
- C. Maintaining a registration list of evaluators who comply with the provisions of Chapter 5 of this Ordinance.
- D. If no certifying agency or organization is approved by the Section within 90 days after the effective date of this Ordinance, the Section may, in accordance with Section 501, register individuals for up to one year, and subsequently for one year intervals until a certifying agency or organization is approved.
- E. Requiring and enforcing remediation where there is evidence of disposal system failure.
- F. Creating and maintaining a database record of extant disposal systems.
- G. Collecting and analyzing empirical data pertaining to the practical application of this Ordinance under Section 106(A), beginning on the date specified in Section 103 and continuing for four years: the Section shall then employ the conclusions rendered by the processing of said data so as to most efficiently implement Section 106(B).

**CHAPTER 8**

**COMPLIANCE AND ENFORCEMENT**

**Section 801. COMPLIANCE**

All regulated entities are encouraged to cooperate with the Section. The Section will seek assistance from municipal officials or others to obtain compliance prior to initiating enforcement measures.

**Section 802. INVESTIGATIONS**

If the Section believes that a person is violating this Ordinance, or a rule promulgated hereunder, the Section shall make a prompt investigation. If, after investigation, the Section finds that a violation of this Ordinance or a rule promulgated under this Ordinance exists, the Section shall attempt to enter into a voluntary agreement with the person.

If a voluntary agreement is not entered into, the Section may issue a violation notice or a citation to the owner or violator. If the Section issues a violation notice, it shall be accompanied by a statement of the

facts upon which the notice is based. If the Section issues a citation to which civil penalties apply, the conditions of subsections (A) through (E) of Section 810 of this Ordinance shall also apply.

**Section 803. RIGHT OF ENTRY**

The Section may, upon presentation of appropriate identification, and upon stating the authority and purpose for the investigation, enter and inspect any property at a reasonable time in order to ascertain compliance or noncompliance with this Ordinance or with rules promulgated hereunder. The Section or its authorized representative may:

- A. Inspect, at reasonable times, a parcel containing a disposal system, the disposal system, and building piping or wastewater lines that may or should discharge to the disposal system.
- B. Collect evidence and information for the purpose of determining compliance with this Ordinance or with rules promulgated hereunder.

**Section 804. DUE PROCESS**

An applicant, registered evaluator or other person whose legal rights, duties, or privileges are determined by the Section, and who is aggrieved by a Section determination, has the right to an administrative hearing.

It is the intent of the County and the Department to afford each party to a contested case a fair and impartial hearing conducted in a manner which recognizes fundamental principles of justice including procedural fair play and due process. To the extent practicable, each administrative proceeding shall be conducted in accordance with the spirit and purpose of Chapters 4 and 5 of the Administrative Procedures Act, Sections 71 et seq. of Public Act No. 306 of 1969, as amended, being MCL 24.271 through MCL 24.292; MSA 3.560(171) through MSA 3.560(192).

An applicant, evaluator or other person may request reevaluation or other action by the Section at any time before a contested case hearing is held. Rescission of an adverse action upon reevaluation or other event shall not entitle the applicant, evaluator or other person to a refund of the filing fee required to initiate the contested case hearing.

**Section 805. ADMINISTRATIVE HEARINGS**

A person who is issued a citation, may, within 10 days from the date of receipt of said citation, request an administrative hearing at which the person may indicate why he or she believes that he or she is not in violation of this Ordinance. The administrative hearing shall be held within 30 days of receipt of the request. If a request is not submitted to the Section within 10 days from the date of receipt of the citation, the citation shall be considered still in force and affirmed.

After an administrative hearing, the Section Director may affirm, dismiss or modify the citation.

**Section 806. PARTIES ENTITLED TO A CONTESTED CASE HEARING**

- A. Any registered evaluator or applicant for registration, any owner, or any other person who is aggrieved by one of the following actions of the Section may petition for a contested case hearing:
  - 1. denial of a request for evaluator registration or re-registration;
  - 2. removal from the registration list;
  - 3. disposal system evaluation frequencies not specifically established herein;
  - 4. refusal to rescind the conclusions of an evaluation report;
  - 5. unreasonable time lapse between the submittal of a report of a transfer evaluation and the determination of whether the condition or operation of the subject disposal system is acceptable;
  - 6. failure to approve a certifying organization or agency or to provide an interim registration mechanism absent such approval; or
  - 7. an unfavorable determination after an administrative hearing.

- B. A municipality may petition for a contested case hearing regarding a finding by the Health Officer under Section 106(A)(3) of this Ordinance.

**Section 807. CONTESTED CASE HEARINGS**

The decision of the Section Director under Section 805 of this Ordinance shall be final, unless within 60 days of the decision, the Section grants review of the decision, pursuant to Section 2462 of Public Act No. 368 of 1978, being MCL 333.2462; MSA 14.15(2462). Contested case hearings shall be convened and conducted in accord with rules promulgated by the Section. Contested cases shall be heard by a three-member Hearing Board. After each hearing, the Board may affirm, dismiss or modify the citation, decision, order or intent of the Section.

- A. The three members of the Hearing Board shall satisfy the following criteria:
  - 1. The first member shall be the Chief Executive Officer of the County or his or her designee.
  - 2. The second member shall be the Director of the Section or his or her designee.
  - 3. The third member shall sit on the faculty of a university or college located in the County.
  - 4. All members of the Hearing Board shall serve at the pleasure of the Chief Executive Officer of the County.
- B. Two members of the Hearing Board shall constitute a quorum for the conduct of business, except that there shall be no quorum nor any business transacted when the Board member representing the Director of the Section is not present. Decisions or determinations of the Board shall be made by majority vote of those members who are present. All meetings of the Board shall comply with Public Act No. 267 of 1976, being Sections 15.261 et seq. of the Michigan Compiled Laws, as amended.
- C. If the Chief Executive Officer of the County finds that wholly voluntary service would place an unreasonable burden upon any member of the Hearing Board, that member may receive as much as forty dollars for each day upon which he or she attends a full length meeting of the Board, in addition to the County's standard mileage allowance.

**Section 808. ENFORCEMENT**

The Section, subject to the provisions of this Ordinance, is empowered to determine the type and timing of necessary enforcement actions, pursuant to MCL 333.2441; MSA 14.15(2441).

**Section 809. CRIMINAL ENFORCEMENT**

A person who violates this Ordinance, or a rule promulgated hereunder is guilty of a misdemeanor. By authority of Act 368, P.A. of 1978, Section 2441, as amended by P.A. 1986, No. 76, Section 1, a misdemeanor committed under this Ordinance is punishable by imprisonment for not more than 90 days, or fine of not more than \$200, or both.

Each independent violation shall constitute a separate offense.

**Section 810. CIVIL ENFORCEMENT**

Whenever the Health Officer determines that this Ordinance or a rule promulgated hereunder has been violated, the Health Officer may issue a citation to the person responsible in accordance with Section 2461 of Public Act No. 368 of 1978, being MCL 333.2461; MSA 14.15(2461). The Health Officer may issue this citation no later than 90 days after the discovery of the alleged violation. A civil penalty becomes final if a petition for administrative hearing or review is not received within the pertinent time specified in this Ordinance. The citation shall be in writing and include the following information:

- A. The nature of the violation, including reference to the section or the rule alleged to have been violated.
- B. The civil penalty, if any, established for the violation.

- C. A statement that failure to correct or abate the violation in the prescribed manner may result in criminal enforcement.
- D. A statement that the alleged violator has the right to appeal the citation.
- E. The citation shall be served upon the alleged violator by delivering the citation in person or by sending a copy of the citation by certified mail, or by regular mail with proof of mailing, to the last known address; or if the person to be served is unknown, by posting the citation in a conspicuous place on the premises.

**Section 811. SCHEDULE OF CIVIL PENALTIES**

- A. Monetary civil penalties may be imposed according to the following schedule:
  - 1. First violation: Up to \$200.00;
  - 2. Second violation: \$500.00;
  - 3. Third and subsequent violations: \$1,000.00.
- B. A civil penalty levied under this Section may be for each violation or day that the violation continues. The civil penalty may be assessed for a specified violation of this Ordinance, or a rule promulgated hereunder, which the Health Officer has the authority and duty to enforce. A civil penalty may be recovered in a civil action brought in the County.

**Section 812. APPEARANCE TICKETS**

The Health Officer is authorized, by authority of Act 368, P.A. of 1978, Section 2463, pursuant to Sections 9a to 9g of Chapter 4 of Act No. 175, P.A. of 1927, as amended, being MCL 764.9a to 764.9g, to issue and serve appearance tickets for violations of this Ordinance.

No appearance ticket shall be issued for a violation of this Ordinance without the Section first having notified the violator with a written notice of violation.

**Section 813. INSPECTIONS AND WARRANTS**

To enforce this Ordinance, the Health Officer may inspect or investigate any matter, thing, premises, place, person, record, vehicle, incident or event. The Health Officer may collect samples for laboratory examination. The standards and procedures for obtaining an inspection or investigation warrant shall be in accordance with MCL 333.2242 through MCL 333.2247.

**Section 814. OBSTRUCTION OF HEALTH OFFICER**

It shall be unlawful for any person to molest, wilfully oppose, or otherwise obstruct the Health Officer, or any other person charged with the enforcement of this Ordinance, during the performance of his or her duties.

**Section 815. APPEALS**

A person who has exhausted all other opportunities for relief may petition the Circuit Court of the County for review. The petition shall be filed not later than 60 days following receipt of the final decision issued pursuant to Section 807 of this Ordinance.

(99-70-081)